



IOWA ADMINISTRATIVE BULLETIN

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PREFACE

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

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

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

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

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 2012

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

PRINTING SCHEDULE FOR IAB

<u>ISSUE NUMBER</u>	<u>SUBMISSION DEADLINE</u>	<u>ISSUE DATE</u>
9	Friday, October 12, 2012	October 31, 2012
10	Wednesday, October 24, 2012	November 14, 2012
11	Wednesday, November 7, 2012	November 28, 2012

PLEASE NOTE:

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

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

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

The Administrative Rules Review Committee will hold its regular, statutory meeting on Tuesday, October 9, 2012, at 9 a.m. in Room 116, State Capitol, Des Moines, Iowa. The following rules will be reviewed:

NOTE: See also Agenda published in the September 19, 2012, Iowa Administrative Bulletin.

ECONOMIC DEVELOPMENT AUTHORITY[261]

Endow Iowa tax credits—amounts available in 2012, 47.3(3) Notice **ARC 0344C** 10/3/12

EDUCATION DEPARTMENT[281]

Open enrollment—supplementary weighting for project lead the way courses, 17.10(8)
Notice **ARC 0384C** 10/3/12
 Senior year plus program—project lead the way courses, 22.32 Notice **ARC 0386C** 10/3/12
 Background checks for school bus drivers and driver applicants, 43.21, 43.24 Notice **ARC 0388C** 10/3/12
 Iowa reading research center, ch 61 Notice **ARC 0389C** 10/3/12
 Supplementary weighting—project lead the way courses, 97.1, 97.2 Notice **ARC 0385C** 10/3/12
 Categorical funding—statewide voluntary four-year-old preschool program, returning
 dropout and dropout prevention program, 98.13, 98.21 Notice **ARC 0387C** 10/3/12

ENGINEERING AND LAND SURVEYING EXAMINING BOARD[193C]

Professional Licensing and Regulation Bureau[193]

COMMERCE DEPARTMENT[181]“umbrella”

Land surveyors—title change to professional land surveyor, amendments to chs 1 to 9, 11,
 12 Filed **ARC 0362C** 10/3/12
 Land surveyor licensure by comity, 5.2 Filed **ARC 0363C** 10/3/12

HUMAN SERVICES DEPARTMENT[441]

Mental health and disability services redesign transition fund, ch 23
Notice **ARC 0348C**, also Filed Emergency **ARC 0346C** 10/3/12
 Application for state supplementary assistance, 50.2(3) Notice **ARC 0367C** 10/3/12
 HCBS waiver services—addition of assisted living on-call service providers, 77.33(23),
 78.37(18), 79.1(2) Notice **ARC 0366C** 10/3/12
 Payment of nonfederal share of medical assistance costs; waiver services cap and
 reimbursement rates; covered mental health services, amendments to chs 77 to 79, 82,
 83, 88 Filed **ARC 0359C** 10/3/12
 Medicaid provider enrollment—public health agencies, 77.42, 78.48, 79.1(2), 79.3(2)“d”(41)
Filed **ARC 0358C** 10/3/12
 Medicaid provider enrollment—speech-language pathologists, 77.48, 78.54, 79.1(2)
Filed **ARC 0360C** 10/3/12
 Medicaid reimbursement—readmission for inpatient hospital care, 78.3, 79.1(5)“g” Filed **ARC 0354C** 10/3/12
 Medicaid reimbursement rates for physician-administered drugs, 79.1 Filed **ARC 0355C** 10/3/12
 Two-year foster family home license; foster parent training, 112.4(6), 113.13(4), 117.7(3)“a,”
 117.9(1) Filed **ARC 0356C** 10/3/12
 Foster family home licensure—bedrooms, fire safety, 113.5, 113.7 Filed **ARC 0357C** 10/3/12
 Child care assistance half-day rate ceilings—increase, 170.4(7)“a” Notice **ARC 0368C** 10/3/12

INSPECTIONS AND APPEALS DEPARTMENT[481]

Tuberculosis (TB) screening, 51.24(3), ch 59 Notice **ARC 0353C** 10/3/12

NATURAL RESOURCE COMMISSION[571]

NATURAL RESOURCES DEPARTMENT[561]“umbrella”

State parks and recreation areas; state forest camping, amend ch 61; rescind ch 62 Filed **ARC 0383C** 10/3/12
 Gatherings with keg beer, 63.1 to 63.7 Filed **ARC 0382C** 10/3/12

PHARMACY BOARD[657]

PUBLIC HEALTH DEPARTMENT[641]“umbrella”

Licensure; fees, amendments to chs 2, 3, 5, 8, 10, 12, 17, 24 Notice **ARC 0351C** 10/3/12
 Duties of pharmacist in charge, 6.2 Notice **ARC 0375C** 10/3/12
 Transfer of prescriptions, 6.9(3) Filed **ARC 0343C** 10/3/12
 Hospital pharmacy practice—verification by remote pharmacist, 7.7 Notice **ARC 0372C** 10/3/12
 Pharmacy remodel or relocation; secure barrier, 8.5 Notice **ARC 0371C** 10/3/12
 Drugs in emergency medical programs, 11.1, 11.4(2), 11.11(1), 11.20 Filed **ARC 0342C** 10/3/12
 Sterile compounding practices, amendments to ch 13 Notice **ARC 0374C** 10/3/12
 Provision of emergency/first dose drug supply, 22.7(1), 23.5 Notice **ARC 0373C** 10/3/12

PROFESSIONAL LICENSING AND REGULATION BUREAU[193]

COMMERCE DEPARTMENT[181]"umbrella"

Social security number disclosure, amendments to ch 4 Notice **ARC 0345C** 10/3/12**PUBLIC HEALTH DEPARTMENT[641]**Immunizations—Tdap vaccine, registry, 7.1, 7.4(1), 7.7(1), 7.11, 7.12 Notice **ARC 0370C** 10/3/12Plumbing and mechanical systems board—licensure fees, 28.1(5)"c" Filed **ARC 0341C** 10/3/12Plumbing and mechanical systems board—renewal of lapsed license, 29.7(2) Filed **ARC 0340C** 10/3/12Radiation, 38.8(6), 41.1, 41.3(7), ch 42 Notice **ARC 0381C** 10/3/12

Lead-based paint activities—definition of "minor repair and maintenance activities," 70.2

Notice **ARC 0369C** 10/3/12Maternal and child health program, amendments to ch 76 Filed **ARC 0364C** 10/3/12Vital records, rescind chs 95, 96, 98 to 107; adopt chs 95 to 100 Notice **ARC 0376C** 10/3/12EMS scope of practice—adoption by reference, 131.3(3)"b," 132.2(4)"b" Notice **ARC 0377C** 10/3/12

Substance abuse and problem gambling treatment programs—tuberculosis screening of staff

 and residents, 155.21(16)"d," 155.36 to 155.38 Filed **ARC 0365C** 10/3/12**REVENUE DEPARTMENT[701]**Geothermal heat pump and solar energy system tax credits, 42.47, 42.48, 52.44 Filed **ARC 0361C** 10/3/12Geothermal heating and cooling systems installed on residential property, 80.29 Notice **ARC 0380C** 10/3/12

Sale or rental of farm machinery and equipment and attachments to self-propelled

 implements of husbandry, 226.1, 226.19 Notice **ARC 0379C** 10/3/12Local option sales tax urban renewal projects, 239.1, 239.4, 239.6, 239.9 Notice **ARC 0378C** 10/3/12**TRANSPORTATION DEPARTMENT[761]**

Issuance of driver's licenses and identification cards; REAL ID, amendments to chs 601,

 605, 625, 630 Filed **ARC 0347C** 10/3/12**ADMINISTRATIVE RULES REVIEW COMMITTEE MEMBERS**

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

Senator Merlin Bartz
2081 410th Street
Grafton, Iowa 50440

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

Senator Thomas Courtney
2609 Clearview
Burlington, Iowa 52601

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

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

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

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

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

Senator James Seymour
901 White Street
Woodbine, Iowa 51579

Representative Guy Vander Linden
1610 Carbonado Road
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Des Moines, Iowa 50319
Telephone (515)281-5211

EDUCATION DEPARTMENT[281]

Open enrollment—supplementary weighting for project lead the way courses, 17.10(8) IAB 10/3/12 ARC 0384C	State Board Room, Second Floor Grimes State Office Bldg. Des Moines, Iowa	October 23, 2012 12 noon to 1 p.m.
Senior year plus program—project lead the way courses, 22.32 IAB 10/3/12 ARC 0386C	State Board Room, Second Floor Grimes State Office Bldg. Des Moines, Iowa	October 23, 2012 11 a.m. to 12 noon
Background checks for school bus drivers and driver applicants, 43.21, 43.24 IAB 10/3/12 ARC 0388C	State Board Room, Second Floor Grimes State Office Bldg. Des Moines, Iowa	October 23, 2012 3 to 4 p.m.
Iowa reading research center, ch 61 IAB 10/3/12 ARC 0389C	State Board Room, Second Floor Grimes State Office Bldg. Des Moines, Iowa	October 23, 2012 9 to 10 a.m.
Supplementary weighting—project lead the way courses, 97.1, 97.2 IAB 10/3/12 ARC 0385C	State Board Room, Second Floor Grimes State Office Bldg. Des Moines, Iowa	October 23, 2012 10 to 11 a.m.
Categorical funding—voluntary preschool and returning dropout and dropout prevention programs, 98.13, 98.21 IAB 10/3/12 ARC 0387C	State Board Room, Second Floor Grimes State Office Bldg. Des Moines, Iowa	October 23, 2012 2 to 3 p.m.

PROFESSIONAL LICENSING AND REGULATION BUREAU[193]

Social security number disclosure, amendments to ch 4 IAB 10/3/12 ARC 0345C	Bureau Conference Room, Second Floor 1920 S.E. Hulsizer Rd. Ankeny, Iowa	October 25, 2012 9 a.m.
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PUBLIC HEALTH DEPARTMENT[641]

Immunizations—Tdap vaccine, registry, 7.1, 7.4(1), 7.7(1), 7.11, 7.12 IAB 10/3/12 ARC 0370C (ICN Teleconference System)	Room 415 Lucas State Office Bldg. Des Moines, Iowa <i>Also accessible via:</i> Teleconference Number: 1-866-685-1580 Conference Code: 5152817200	October 23, 2012 9 to 10 a.m.
Radiation, 38.8(6), 41.1, 41.3(7), ch 42 IAB 10/3/12 ARC 0381C	GoToWebinar meeting online at: https://www1.gotomeeting.com/register/916099336 <i>Or call (toll-free) in U.S. and Canada:</i> 1-877-739-5903; Access Code: 977-571-469	October 23, 2012 11 a.m. to 1 p.m. CST
Lead-based paint activities—definition of “minor repair and maintenance activities, 70.2 IAB 10/3/12 ARC 0369C	GoToMeeting online at: https://www1.gotomeeting.com/register/908112520 <i>Or call (toll-free) in U.S. and Canada:</i> 1-866-685-1580; Access Code: 7359884760#	October 23, 2012 9 to 10 a.m.
Vital records, rescind chs 95, 96, 98 to 107; adopt chs 95 to 100 IAB 10/3/12 ARC 0376C	Room 142 Lucas State Office Bldg. Des Moines, Iowa	October 23, 2012 10 a.m. to 12 noon

SECRETARY OF STATE[721]

Mechanics' notice and lien registry,
ch 45
IAB 9/19/12 **ARC 0339C**
(ICN Network)

Second Floor, Grimes State Office Bldg. E. 14th and Grand Ave. Des Moines, Iowa (Origination site)	October 9, 2012 2 to 4 p.m.
Room 106, Activity Center North Iowa Area Community College - 1 500 College Dr. Mason City, Iowa	October 9, 2012 2 to 4 p.m.
Fiber Optic Room 118, Attendance Center Iowa Lakes Community College 1900 N. Grand Ave. Spencer, Iowa	October 9, 2012 2 to 4 p.m.
Room 117, Kirkwood Community College 1816 Lower Muscatine Rd. Iowa City, Iowa	October 9, 2012 2 to 4 p.m.
Room 024, Looft Hall Iowa Western Community College - 1 2700 College Rd. Council Bluffs, Iowa	October 9, 2012 2 to 4 p.m.
Department of Workforce Development 1000 E. Grand Ave. Des Moines, Iowa (Location directed by receptionist)	October 9, 2012 2 to 4 p.m.
Room 204, Liberal Arts Bldg. Iowa Central Community College - 4 1 Triton Circle Fort Dodge, Iowa	October 9, 2012 2 to 4 p.m.
National Guard Armory 2858 N. Court Rd. Ottumwa, Iowa	October 9, 2012 2 to 4 p.m.
Human Services Dept., Pinecrest Office Bldg. 1407 Independence Ave. Waterloo, Iowa	October 9, 2012 2 to 4 p.m.
Room 300, Kahl Educational Center Eastern Iowa Community College District - 1 326 W. 3rd St. Davenport, Iowa	October 9, 2012 2 to 4 p.m.
Room 123, Jones Hall Kirkwood Community College - 4 6301 Kirkwood Blvd. SW Cedar Rapids, Iowa	October 9, 2012 2 to 4 p.m.
Matilda J. Gibson Memorial Library 200 W. Howard St. Creston, Iowa	October 9, 2012 2 to 4 p.m.
Le Mars Campus, Buena Vista University 940 Lincoln St. SW Le Mars, Iowa	October 9, 2012 2 to 4 p.m.

TRANSPORTATION DEPARTMENT[761]

Construction of curb ramps on
existing sidewalks, 150.4(3)"c"
IAB 9/19/12 **ARC 0333C**

South Conf. Room, Administration Bldg. 800 Lincoln Way Ames, Iowa	October 11, 2012 1 p.m. (If requested)
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The following list will be updated as changes occur.

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

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

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

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ARC 0344C

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 2011 Iowa Code Supplement section 15.106A, the Economic Development Authority hereby gives Notice of Intended Action to amend Chapter 47, “Endow Iowa Tax Credits,” Iowa Administrative Code.

The proposed amendment updates the rules to reflect a statutory increase in the amount of tax credits available and the corresponding increase in the amount of tax credits available to individual taxpayers.

Public comments concerning the proposed amendment will be accepted until 4:30 p.m. on October 23, 2012. Interested persons may submit written comments to Timothy Whipple, Economic Development Authority, 200 East Grand Avenue, Des Moines, Iowa 50309; telephone (515)725-3124; e-mail tim.whipple@iowa.gov.

The Authority Board approved the amendment on August 17, 2012.

After analysis and review of this rule making, no adverse impact on jobs has been found. The increased amount of tax credits may positively impact jobs and economic growth for businesses in the state of Iowa.

This amendment is intended to implement Iowa Code sections 15E.301 to 15E.306.

The following amendment is proposed.

Amend subrule 47.3(3) as follows:

47.3(3) The aggregate amount of tax credits available under this rule is limited according to Iowa Code section 15E.305, subsection 2. The aggregate amount is determined by taking a base authorization amount specified in Iowa Code section 15E.305, subsection 2, paragraph “a,” and adding an additional amount to be determined annually by calculating a certain percentage of the state’s gambling revenues, as provided in Iowa Code section 99F.11, subsection 3, paragraph “d,” subparagraph (3), for the prior fiscal year. For calendar year 2011 and for all subsequent calendar years, the annual base authorization amount of available tax credits is \$3.5 million. The additional amount varies each year according to the amount of gambling revenues collected in the prior year. For ~~2011~~ 2012, the aggregate amount of available tax credits is ~~\$4,551,813~~ \$4,642,945. The maximum amount of tax credit that an individual taxpayer may claim is limited to 5 percent of the aggregate amount available each year. For ~~2011~~ 2012, the maximum amount of tax credit available to a single taxpayer is ~~\$227,590.65~~ \$232,147.25. If the authority receives applications for tax credits in excess of the amount available, the applications shall be prioritized by the date the authority received the applications. If the number of applications exceeds the amount of annual tax credits available, the authority shall establish a wait list for the next year’s allocation of tax credits and applications shall first be funded in the order listed on the wait list.

ARC 0384C

EDUCATION DEPARTMENT[281]**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 256.7(5), the State Board of Education hereby gives Notice of Intended Action to amend Chapter 17, “Open Enrollment,” Iowa Administrative Code.

2012 Iowa Acts, Senate File 2284, section 37, amends Iowa Code section 257.11(3) to clarify that courses offered by a school district through collaboration with a community college in partnership with a nationally recognized, not-for-profit provider of rigorous and innovative science, technology, engineering, and mathematics curriculum are courses eligible for supplementary weighting. Such courses are commonly known as “Project Lead the Way” courses. The proposed amendment implements this legislation.

An agencywide waiver provision is provided in 281—Chapter 4.

Interested persons may submit written comments by October 23, 2012, at 4:30 p.m. Comments on the proposed amendment should be directed to Mike Cormack, Iowa Department of Education, Second Floor, Grimes State Office Building, Des Moines, Iowa 50319-0146; telephone (515)281-3399; e-mail mike.cormack@iowa.gov; or fax (515)242-5988.

A public hearing will be held on October 23, 2012, from 12 noon to 1 p.m. in the State Board Room, Second Floor, Grimes State Office Building, East 14th Street and Grand Avenue, Des Moines, Iowa, at which time persons may present their views either orally or in writing. Any persons who intend to attend the public hearing and have special requirements, such as those related to hearing or mobility impairments, should advise the Department of Education of their specific needs by calling (515)281-5295.

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

This amendment is intended to implement Iowa Code section 257.11 as amended by 2012 Iowa Acts, Senate File 2284, section 37.

The following amendment is proposed.

Amend subrule 17.10(8) as follows:

17.10(8) A student under open enrollment is eligible to be counted for supplementary weighting pursuant to 281—subrule 97.2(5) for qualifying concurrent enrollment classes in which the student is enrolled, including concurrent enrollment classes provided via the ICN, or supplementary weighting for project lead the way (PLTW) enrollment through sharing with a community college pursuant to 281—subrule 97.2(6). An open enrolled student who is under competent private instruction (CPI) shall be weighted in the student’s receiving district, and no tuition shall be billed to the resident district. An open enrolled student who is not under CPI shall be weighted in the resident district, and the funding shall be sent to the receiving district in addition to open enrollment tuition.

a. If the open enrolled student is present in the resident district on October 1 of the school year, the resident district shall count the student, excluding a student under CPI, for supplementary weighting.

b. The concurrent enrollment course must qualify for supplementary weighting in the receiving district pursuant to 281—subrule 97.2(5), and the PLTW course must qualify for supplementary weighting in the receiving district pursuant to 281—subrule 97.2(6).

c. The resident district shall forward the weighting generated for the concurrent or PLTW enrollment for that student using the district cost per pupil of the school year. The amount generated is calculated as the supplementary weighting full-time-equivalency for that one student for each qualified

EDUCATION DEPARTMENT[281](cont'd)

concurrent or PLTW enrollment course multiplied by the current school year's district cost per pupil in the resident district.

d. The receiving district shall pay the community college the tuition negotiated for the course. The tuition negotiated may cost the receiving district a different amount than that received from the resident district. No additional amount may be charged to the resident district, the student, or the parent, guardian, or legal custodian.

e. If the student was not present in the resident district on October 1 of the school year and is a late transfer, the receiving district bears all the tuition cost and shall not bill the resident district in the first year pursuant to subrule 17.10(7).

ARC 0386C**EDUCATION DEPARTMENT[281]****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 256.7(5), the State Board of Education hereby gives Notice of Intended Action to amend Chapter 22, “Senior Year Plus Program,” Iowa Administrative Code.

2012 Iowa Acts, Senate File 2284, section 37, amends Iowa Code section 257.11(3) to clarify that courses offered by a school district through collaboration with a community college in partnership with a nationally recognized, not-for-profit provider of rigorous and innovative science, technology, engineering, and mathematics curriculum are courses eligible for supplementary weighting. Such courses are commonly known as “Project Lead the Way” courses. The proposed amendment implements this legislation.

An agencywide waiver provision is provided in 281—Chapter 4.

Interested persons may submit comments orally or in writing on or before October 23, 2012, at 4:30 p.m. Comments on the proposed amendment should be directed to Mike Cormack, Iowa Department of Education, Second Floor, Grimes State Office Building, Des Moines, Iowa 50319-0146; telephone (515)281-3399; e-mail mike.cormack@iowa.gov; or fax (515)242-5988.

A public hearing will be held on October 23, 2012, from 11 a.m. to 12 noon in the State Board Room, Second Floor, Grimes State Office Building, East 14th Street and Grand Avenue, Des Moines, Iowa, at which time persons may present their views either orally or in writing. Any persons who intend to attend the public hearing and have special requirements, such as those related to hearing or mobility impairments, should advise the Department of Education of their specific needs by calling (515)281-5295.

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

This amendment is intended to implement Iowa Code section 257.11 as amended by 2012 Iowa Acts, Senate File 2284.

The following amendment is proposed.

Adopt the following **new** rule 281—22.32(261E):

DIVISION IX
PROJECT LEAD THE WAY

281—22.32(261E) Project lead the way.

22.32(1) Program established. A project lead the way program is established to be administered by the department to promote rigorous science, technology, engineering, and mathematics pursuits.

EDUCATION DEPARTMENT[281](cont'd)

22.32(2) Notification. A school district shall provide descriptions of the project lead the way courses available to students using a course registration handbook. The handbook shall identify which courses, if successfully completed, generate college credit under the program. Information about available project lead the way courses shall be provided to every junior high school student or middle school student prior to the development of a core curriculum plan pursuant to Iowa Code section 279.61.

22.32(3) Access. Students from accredited nonpublic schools and students receiving competent private instruction under Iowa Code chapter 299A may access the program through the school district in which the accredited nonpublic school or private institution is located.

22.32(4) Curriculum. A school district offering a project lead the way program must offer the curriculum developed by the national organization that administers the project lead the way program.

22.32(5) Instructor. A school district shall ensure that a teacher or instructor employed to provide instruction under this rule meets the following additional criteria:

a. The teacher shall have successfully completed the training required by the national organization that administers the project lead the way program.

b. The teacher shall meet the minimum requirements of the national organization that administers the project lead the way program.

22.32(6) Accreditation standards. A project lead the way course may apply toward high school program accreditation standards pursuant to 281—subrule 12.5(5). To meet the requirement, the instructor must be appropriately licensed and endorsed by the board of educational examiners to teach the subject area of the accreditation standard.

22.32(7) Shared district-to-community college courses.

a. A district-to-community college sharing program for project lead the way courses is established to be administered by the department to promote rigorous science, technology, engineering, and mathematics pursuits at or through community colleges established under Iowa Code chapter 260C. The program shall be made available to all resident students in grades 9 through 12.

b. A comparable course, as defined in rules adopted by the board of directors of the school district consistent with department administrative rule, must not be offered by the school district or accredited nonpublic school the student attends.

c. A school district shall be certified by the national organization that administers the project lead the way program and have a signed agreement with that organization.

d. To be eligible, institutions, instructors, and students shall meet the requirements of Iowa Code section 261E.3.

e. A school district may set additional eligibility requirements to ensure student readiness to achieve success. All students in the shared course shall meet the expectations of the national organization that administers the project lead the way program and shall be registered for college credit.

f. A student may make application to a community college and the school district to allow the student to enroll for college credit in a project lead the way course offered by the community college.

g. A district-to-community college sharing program for project lead the way courses that meets the requirements of 281—subrule 97.2(6) is eligible for funding under that provision for shared college credit career and technical education courses.

22.32(8) Credit.

a. The school district shall grant high school credit to a student enrolled in a project lead the way course not offered by a community college. At a school district's discretion, a project lead the way course may count toward a school district's graduation requirements provided that the teacher is licensed by the board of educational examiners and endorsed within the subject area of the graduation requirement.

b. The school district shall grant high school credit to a student enrolled in a project lead the way course for college credit under this chapter if the student successfully completes the course as determined by the community college and the course was previously approved by the school board pursuant to Iowa Code subsection 261E.8(3) and paragraph 22.2(2)“a.” If a student is not successful in completing a project lead the way course as determined by the community college, the student's high school transcript shall reflect the failing grade. The board of directors of the school district shall determine the number of

EDUCATION DEPARTMENT[281](cont'd)

high school credits that shall be granted to a student who successfully completes a project lead the way course.

c. The school district may offer a project lead the way course as an articulated course. Articulated courses shall be offered through an agreement between the district and postsecondary institution which allows students to receive college credit at the postsecondary institution upon matriculation based on the demonstrated mastery of concepts in the high school course. An articulated course shall not be delivered by a postsecondary institution or through a sharing agreement with a community college and shall not generate supplementary weighting.

ARC 0388C**EDUCATION DEPARTMENT[281]****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 256.7(5) and 321.376(1), the State Board of Education hereby proposes to amend Chapter 43, “Pupil Transportation,” Iowa Administrative Code.

Recent legislation requires that local school districts examine the driving record of all current school bus drivers pursuing recertification and all school bus driver applicants on the Iowa court information system available to the general public. In addition, any driver or applicant who is listed on the state sex offender registry, dependent adult abuse registry or child abuse registry is prohibited from being employed by any Iowa school district as a bus driver. These proposed amendments comply with that new legislation.

An agencywide waiver provision is provided in 281—Chapter 4.

Interested individuals may make written comments on the proposed amendments on or before October 23, 2012, at 4:30 p.m. Comments on the proposed amendments should be directed to Mike Cormack, Iowa Department of Education, Second Floor, Grimes State Office Building, Des Moines, Iowa 50319-0146; telephone (515)281-3399; e-mail mike.cormack@iowa.gov; or fax (515)242-5988.

A public hearing will be held on October 23, 2012, from 3 to 4 p.m. at the State Board Room, Second Floor, Grimes State Office Building, East 14th Street and Grand Avenue, Des Moines, Iowa, at which time persons may present their views either orally or in writing. Any persons who intend to attend the public hearing and have special requirements, such as those related to hearing or mobility impairments, should advise the Department of Education of their specific needs by calling (515)281-5295.

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

These amendments are intended to implement 2012 Iowa Acts, Senate File 2221, sections 3 and 4.

The following amendments are proposed.

ITEM 1. Amend rule 281—43.21(285) as follows:

281—43.21(285) Experience, traffic law knowledge and driving record. No driver applicant shall be employed or allowed to transport students until the board determines that the applicant has an acceptable driving record, demonstrates the ability to safely operate the vehicle(s) representative of the vehicle(s) required to be operated during employment and is knowledgeable of traffic laws and regulations pertaining to the operation of a school bus. Each local district, or the district’s contracted transportation service, must, at a minimum, check the driving record of each applicant or renewing driver on the Iowa court information system available to the general public. The local district shall determine what an acceptable driving record is based upon the district’s review and must maintain records of the review of each driver. Nothing in this rule precludes the district from examining other

EDUCATION DEPARTMENT[281](cont'd)

records to determine whether the driver has an acceptable driving record nor does it restrict the district to such examinations only at the time of hiring and renewal.

ITEM 2. Amend rule 281—43.24(321) as follows:

281—43.24(321) Authorization denials and revocations. A person who believes that a school bus driver who holds an authorization issued by the department of education or who seeks a school bus authorization has committed acts in violation of Iowa Code subsection 321.375(2) or rule 281—43.12(285) may file a complaint with the department against the driver or applicant. The department shall notify the driver or applicant that a complaint has been filed and shall provide the driver or applicant with a copy of the complaint. A hearing shall be set for the purpose of determining whether the bus driver's authorization shall be denied, suspended, or revoked, or whether the bus driver should receive a reprimand or warning. Hearing procedures in 281—Chapter 6 shall be applicable to such proceedings. No school bus driver or applicant shall retain or obtain employment if the local district finds that the individual is listed on the sex offender registry under Iowa Code section 692A.121 available to the general public, the central registry for child abuse information established under Iowa Code section 235A.14, or the central registry for dependent adult abuse information established under Iowa Code section 235B.5. A hearing conducted pursuant to 2012 Iowa Acts, Senate File 2221, section 4 or 5, shall be limited to the question of whether the school bus driver or applicant was incorrectly listed on the registry. The driver or applicant shall not serve in the capacity of a school bus driver while the appeal process is being conducted.

ARC 0389C

EDUCATION DEPARTMENT[281]

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 256.7(5) and 2012 Iowa Acts, Senate File 2284, section 31, the State Board of Education hereby gives Notice of Intended Action to adopt new Chapter 61, “Iowa Reading Research Center,” Iowa Administrative Code.

Proposed Chapter 61 describes a new Iowa Reading Research Center pursuant to 2012 Iowa Acts, Senate File 2284, sections 31 and 32.

An agencywide waiver provision is provided in 281—Chapter 4.

Interested persons may submit comments orally or in writing by October 23, 2012, at 4:30 p.m. Comments on proposed Chapter 61 should be directed to Mike Cormack, Iowa Department of Education, Second Floor, Grimes State Office Building, Des Moines, Iowa 50319-0146; telephone (515)281-3399; e-mail mike.cormack@iowa.gov; or fax (515)242-5988.

A public hearing will be held on October 23, 2012, from 9 to 10 a.m. in the State Board Room, Second Floor, Grimes State Office Building, East 14th Street and Grand Avenue, Des Moines, Iowa, at which time persons may present their views either orally or in writing. Any persons who intend to attend the public hearing and have special requirements, such as those related to hearing or mobility impairments, should advise the Department of Education of their specific needs by calling (515)281-5295.

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

These rules are intended to implement 2012 Iowa Acts, Senate File 2284, sections 31 and 32.

The following amendment is proposed.

EDUCATION DEPARTMENT[281](cont'd)

Adopt the following new 281—Chapter 61:

CHAPTER 61
IOWA READING RESEARCH CENTER

281—61.1(256) Establishment. There is established an Iowa reading research center. The director of the department of education shall select a public education entity to serve as the host for the Iowa reading research center. Preference shall be given to a school district, an area education agency, or the joint area education agencies system. The selection of a host shall be for a specified period of time.

281—61.2(256) Purpose. The purpose of the center shall be to apply current research on literacy to provide for the development and dissemination of all of the following, although each of the following will not necessarily be of equal priority or immediacy:

1. Instructional strategies for prekindergarten through grade 12 to achieve literacy proficiency that includes reading, reading comprehension, and writing for all students.
2. Strategies for identifying and providing evidence-based interventions for students, beginning in kindergarten, who are at risk of not achieving literacy proficiency.
3. Models for effective school, parent, and community partnerships to improve student literacy.
4. Reading assessments.
5. Professional development strategies and materials to support teacher effectiveness in student literacy development.
6. Data reports on attendance center, school district, and statewide progress toward literacy proficiency in the context of student, attendance center, and school district demographic characteristics.
7. An intensive summer literacy program, referred to in rule 281—61.3(256).

281—61.3(256) Intensive summer literacy program. The center shall establish program criteria and guidelines for implementation of the program by school districts, under rules adopted by the state board of education.

61.3(1) Program criteria. Reserved.

61.3(2) Guidelines for implementation by school districts. Reserved.

281—61.4(256) First efforts of the center. The first efforts of the center shall focus on improving reading performance and instruction in kindergarten through grade 3.

281—61.5(256) Nature of the center's operation. The center shall govern its work according to the following requirements.

61.5(1) Use of expertise. The center shall draw upon national and state expertise in the field of literacy proficiency, including experts from Iowa's institutions of higher education and area education agencies with backgrounds in literacy development.

61.5(2) Data and report development. The center and its director shall seek support from the Iowa research community in methodologies for the collection of student literacy data and in data report development, the analysis of available information from Iowa education data sources, and the analysis of progress toward literacy proficiency.

61.5(3) Coordination with the department. The center and its director shall work with the department of education to identify additional needs for tools and technical assistance for Iowa schools to help schools achieve literacy proficiency goals and seek public and private partnerships in developing and accessing necessary tools and technical assistance.

281—61.6(256) Nature of the center's products. The center's strategies, models, materials, and assessments, including the products referred to in subrule 61.6(3), shall be judged by and subject to the following requirements:

61.6(1) Research-based. To the extent possible, strategies, models, materials, and assessments shall be research-based.

EDUCATION DEPARTMENT[281](cont'd)

61.6(2) *Replicable.* The strategies, models, materials, and assessments produced by the center shall contain evidence establishing that they are replicable by Iowa school districts, area education agencies, and accredited nonpublic schools.

61.6(3) *Sustainable.* The strategies, models, and materials produced by the center shall contain evidence establishing that they are capable of sustainable implementation.

61.6(4) *Publicly available.* Due to the nature of the center, its products shall be widely and liberally distributed and used.

a. Regardless of any intellectual property right that may accrue to the center, the department of education shall have a perpetual, irrevocable, royalty-free, nonexclusive, nontransferable license to use any of the strategies, models, and materials produced by the center.

b. Regardless of any intellectual property right that may accrue to the center, each school district, area education agency, and accredited nonpublic school shall have a perpetual, irrevocable, royalty-free, nonexclusive, nontransferable license to use any of the strategies, models, and materials produced by the center.

c. Regardless of any intellectual property right that may accrue to the center, each school district, area education agency, accredited nonpublic school, and practitioner preparation program approved by the department of education shall have a perpetual, irrevocable, royalty-free, nonexclusive, nontransferable license to use any of the strategies, models, and materials produced by the center to provide training to current and prospective teachers and administrators.

d. Notwithstanding paragraphs 61.6(4) “a” through “c,” the center may seek reimbursement from a school district, area education agency, accredited nonpublic school, or practitioner preparation program approved by the department of education for the actual cost of delivering the center’s products. For purposes of this paragraph, actual costs may include printing, telecommunications expenses, personnel time, postage, and other costs, but shall not include any amount that represents a royalty or other compensation for the use of the center’s intellectual property.

281—61.7(256) Governance and leadership of the center. The center shall be governed in the following manner.

61.7(1) *Director and other personnel.* The center shall have a director who shall be an employee of the host referred to in rule 281—61.1(256). The director of the department of education or the director’s designee, in consultation with the host and the advisory council, shall select, determine the compensation of, and annually evaluate the director of the center.

a. Responsibilities of the director of the center will include the following:

- (1) Enacting the priorities of the reading research center, as defined by the department;
- (2) Achieving the Iowa reading research center’s mission and purpose;
- (3) Directing the center’s budget;
- (4) Managing the center’s staff;
- (5) Managing and overseeing the request for proposal (RFP) or contracting process or both to enact priorities of the center;
- (6) Providing oversight and management of all contracts and projects initiated by the center;
- (7) Establishing models for an intensive summer literacy program replicable in Iowa schools;
- (8) Disseminating literacy research and its application; and
- (9) Submitting required reports to the department and the general assembly.

b. The center may employ such other personnel as may be necessary to fulfill its responsibilities, upon approval of such positions by the director of the department of education.

61.7(2) *Advisory council.* When setting priorities for the center, the department of education shall seek advice and assistance from an advisory council. The advisory council shall establish its bylaws and shall govern itself by the following paragraphs:

a. The advisory council shall consist of representatives of the department, school districts, area education agencies, accredited nonpublic schools, institutions of higher education, organizations representing reading and literacy teachers, community-based nonprofit organizations that are focused on literacy, statewide literacy organizations, and parents. Members who offer other perspectives may

EDUCATION DEPARTMENT[281](cont'd)

be appointed. Members may serve in more than one role. Members shall be appointed by the director of the department of education or the director's designee. Actual expenses for members of the advisory council may be assumed by the reading research center.

b. The advisory council shall recommend and continually review center priorities, which shall be consistent with these rules. The advisory council shall annually submit to the department a recommended set of projects and priorities for the reading research center.

c. The advisory council shall provide input to the director of the department on the desired qualifications for the position of director of the reading research center.

d. The advisory council shall advise and assist the center in preparing the annual report required by rule 281—61.9(256).

e. The advisory council shall foster collaboration across the Iowa reading research and evaluation community and serve as a facilitator in identifying additional research needs and ways to apply research to practice in Iowa schools and communities.

f. The advisory council shall stay abreast of emerging trends, research, and effective literacy practices.

g. The advisory council shall assist the director of the center in reviewing proposals for quality, viability, and statewide impact.

h. Meetings of the advisory council are public meetings subject to statutory open meetings requirements.

61.7(3) *Use of advisory council recommendations.* The department shall consider the priorities established by its advisory council in determining which projects or activities to direct the center to enact, consistent with these rules and with the center's funding.

61.7(4) *Contracts and awards.* In the furtherance of its work, the center may contract with other entities or may make awards by competitive bid. The rules in this chapter shall be a term of any contract or award under this subrule. Any product produced pursuant to a contract or award shall be subject to these rules, including subrule 61.6(4).

281—61.8(256) *Financing of the center.* The center will be financed in the following manner:

61.8(1) *Host as fiscal agent.* The host shall be the fiscal agent for the center.

61.8(2) *Public or private funds.* The host and the center may solicit and accept funds from public and private sources for the fulfillment of the mission and purpose of the center.

61.8(3) *Oversight by the department.* The department shall have oversight responsibilities for the financial operations of the center.

281—61.9(256) *Annual report.* The center shall submit a report of its activities to the general assembly by January 15 annually.

These rules are intended to implement 2012 Iowa Acts, Senate File 2284, sections 31 and 32.

ARC 0385C

EDUCATION DEPARTMENT[281]

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 256.7(5), the State Board of Education hereby proposes to amend Chapter 97, “Supplementary Weighting,” Iowa Administrative Code.

EDUCATION DEPARTMENT[281](cont'd)

2012 Iowa Acts, Senate File 2284, section 37, amends Iowa Code section 257.11(3) to clarify that courses offered by a school district through collaboration with a community college in partnership with a nationally recognized, not-for-profit provider of rigorous and innovative science, technology, engineering, and mathematics curriculum are courses eligible for supplementary weighting. Such courses are commonly known as “Project Lead the Way” courses. The proposed amendments implement this legislation.

An agencywide waiver provision is provided in 281—Chapter 4.

Interested individuals may make written comments on the proposed amendments on or before October 23, 2012, at 4:30 p.m. Comments on the proposed amendments should be directed to Mike Cormack, Rules Coordinator, Iowa Department of Education, Second Floor, Grimes State Office Building, Des Moines, Iowa 50319-0146; telephone (515)490-4506; e-mail mike.cormack@iowa.gov; or fax (515)242-5988.

A public hearing will be held on October 23, 2012, from 10 to 11 a.m. in the State Board Room, Second Floor, Grimes State Office Building, East 14th Street and Grand Avenue, Des Moines, Iowa, at which time persons may present their views either orally or in writing. Any persons who intend to attend the public hearing and have special requirements, such as those related to hearing or mobility impairments, should advise the Department of Education of their specific needs by calling (515)281-5295.

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

These amendments are intended to implement Iowa Code section 257.11 as amended by 2012 Iowa Acts, Senate File 2284, section 37.

The following amendments are proposed.

ITEM 1. Adopt the following new definition of “Project lead the way” in rule **281—97.1(257)**:

“*Project lead the way*” means the nonprofit organization with 501(c)(3) tax-exempt status that provides rigorous and innovative science, technology, engineering, and mathematics education curriculum founded in fundamental problem-solving and critical-thinking skills while integrating national academic and technical learning standards.

ITEM 2. Amend rule 281—97.2(257) as follows:

281—97.2(257) Supplementary weighting plan.

97.2(1) Eligibility. Except if listed under subrule ~~97.2(6)~~ 97.2(7), a resident student is eligible for supplementary weighting if the student is eligible to be counted as a resident student for certified enrollment and if one of the following conditions is met pursuant to Iowa Code section 257.11:

- a. Resident student attends class in another school district pursuant to subrule 97.2(2), or
- b. Resident student attends class taught by a teacher employed by another school district pursuant to subrule 97.2(3), or
- c. Resident student attends class taught by a teacher jointly employed by two or more school districts pursuant to subrule 97.2(4), or
- d. Resident student attends class in a community college for college credit pursuant to subrule 97.2(5), ~~or~~
- e. Resident student attends class in a community college for college credit pursuant to subrule 97.2(6).

Other than as listed in paragraphs 97.2(1)“a” to “d”“e” above and in rules 281—97.3(257), 281—97.4(257), and 281—97.7(257), no other sharing arrangement shall be eligible for supplementary weighting.

97.2(2) to 97.2(5) No change.

97.2(6) Attend a project lead the way class in a community college. Students attending a science, technology, engineering, or mathematics class that uses an activities-based, project-based, and problem-based learning approach and that is offered collaboratively by the students’ school district and a community college in partnership with a nationally recognized provider of rigorous and innovative science, technology, engineering, and mathematics curriculum are eligible for supplementary weighting

EDUCATION DEPARTMENT[281](cont'd)

under paragraph 97.2(1) “e” if the curriculum provider is exempt from taxation under Section 501(c)(3) of the Internal Revenue Code.

97.2(6) 97.2(7) *Ineligibility.* The following students are ineligible for supplementary weighting:

a. to k. No change.

97.2(7) 97.2(8) *Whole-grade sharing.* If all or a substantial portion of the students in any grade are shared with another one or more school districts for all or a substantial portion of a school day, then no students in that grade level are eligible for supplementary weighting except as authorized by rule 281—97.5(257). No students in the grade levels who meet the criterion in this subrule are eligible for supplementary weighting even in the absence of an agreement executed pursuant to Iowa Code sections 282.10 through 282.12. A district that discontinues grades pursuant to Iowa Code section 282.7 is deemed to be whole-grade sharing the resident students in those discontinued grades for purposes of these rules.

a. and b. No change.

97.2(8) 97.2(9) *Due date.* Supplementary weighting shall be included with the certified enrollment which is due October 15 following the October 1, or the first Monday in October if October 1 falls on a Saturday or Sunday, on which the enrollment was taken.

ARC 0387C

EDUCATION DEPARTMENT[281]

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 256.7(5), the State Board of Education hereby proposes to amend Chapter 98, “Financial Management of Categorical Funding,” Iowa Administrative Code.

This chapter provides standards and procedures for proper management of public moneys for educational categorical funds. Changes in 2012 Iowa Acts, Senate File 451, require changes in the usage of dropout prevention funding. In addition, changes in 2012 Iowa Acts, House File 2465, change the requirements concerning how funds connected to the statewide voluntary four-year-old preschool program would be distributed from the state to community-based providers through the local district. Additionally, those providers will be reimbursed for up to 5 percent of those funds for documented program administration costs.

An agencywide waiver provision is provided in 281—Chapter 4.

Interested individuals may make written comments on the proposed amendments on or before October 23, 2012, at 4:30 p.m. Comments on the proposed amendments should be directed to Mike Cormack, Iowa Department of Education, Second Floor, Grimes State Office Building, Des Moines, Iowa 50319-0146; telephone (515)281-3399; e-mail mike.cormack@iowa.gov; or fax (515)242-5988.

A public hearing will be held on October 23, 2012, from 2 to 3 p.m. in the State Board Room, Second Floor, Grimes State Office Building, East 14th Street and Grand Avenue, Des Moines, Iowa, at which time persons may present their views either orally or in writing. Any persons who intend to attend the public hearing and have special requirements, such as those related to hearing or mobility requirements, should advise the Department of Education of their specific needs by calling (515)281-5295.

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

These amendments are intended to implement 2012 Iowa Acts, Senate File 451 and House File 2465.

The following amendments are proposed.

EDUCATION DEPARTMENT[281](cont'd)

ITEM 1. Amend rule 281—98.13(256C,257) as follows:

281—98.13(256C,257) Statewide voluntary four-year-old preschool program. The statewide voluntary four-year-old preschool program is a program for a specific category of students. Funding for the program is for the purpose of providing a high-quality early learning environment for four-year-old children whose families choose to access such programs.

98.13(1) *Appropriate uses of categorical funding.* Because the program is specifically instructional, expenditures generally are limited to the functions of instruction, student support services and staff support services, but include expenditures required in 281—Chapter 16 for actual documented costs of program administration up to 5 percent of the allocation.

98.13(2) *Pass-through funding to community-based providers.* The school district shall pass through to a community-based provider for each eligible pupil enrolled in the district's approved local program not less than 95 percent of the per pupil amount.

a. The community-based provider may use up to 5 percent of the 95 percent portion for documented allowable administrative and operational costs of providing the district's approved local program.

b. Any portion of the 95 percent not documented as expended for direct instruction or administrative and operational costs as allowed by this rule shall be refunded to the district annually on or before July 1.

c. Any portion refunded to the district shall be added to the total amount available for the district's approved local program for the subsequent school year.

98.13(2) 98.13(3) *Inappropriate uses of categorical funding.* Inappropriate uses of the statewide voluntary four-year-old preschool program funding include, but are not limited to, indirect costs or use charges, capital expenditures other than equipment, facility acquisition, debt service, operational or maintenance costs or administrative costs that supplant or that exceed 5 percent, or any other expenditures not directly related to providing the statewide voluntary four-year-old preschool program or that supplant existing public funding for preschool programming.

ITEM 2. Amend rule 281—98.21(257) as follows:

281—98.21(257) Returning dropout and dropout prevention program. Returning dropout and dropout prevention programs are funded through a school district-initiated request to the school budget review committee for modified allowable growth pursuant to Iowa Code sections 257.38 to 257.41. This amount must account for not more than 75 percent of the school district's total dropout prevention budget. The school district must also provide a local match from the school district's regular program district cost, and the local match portion must be a minimum of 25 percent of the total dropout prevention budget. In addition, school districts may receive donations and grants, and the school district may contribute more local school district resources toward the program. The 75 percent portion, the local match, and all donations and grants shall be accounted for as categorical funding.

98.21(1) *Purpose of categorical funding.* The purpose of the dropout prevention funding is to provide funding to meet the needs of identified students at risk of dropping out of school beyond the instructional program and services provided by the regular school program. The funding shall be used only for expenditures that are directly related to the returning dropout and dropout prevention program.

a. Returning dropouts are resident pupils who have been enrolled in a public or nonpublic school in any of grades 7 through 12 who withdrew from school for a reason other than transfer to another school or school district and who subsequently reenrolled in a public school in the school district.

b. Potential dropouts are resident pupils who are enrolled in a public or nonpublic school who demonstrate poor school adjustment as indicated by two or more of the following:

- (1) High rate of absenteeism, truancy, or frequent tardiness.
- (2) Limited or no extracurricular participation or lack of identification with school, including but not limited to expressed feelings of not belonging.
- (3) Poor grades, including but not limited to failing in one or more school subjects or grade levels.

EDUCATION DEPARTMENT[281](cont'd)

(4) Low achievement scores in reading or mathematics which reflect achievement at two years or more below grade level.

(5) Children in grades kindergarten through 3 who meet the definition of at-risk children adopted by the department of education.

98.21(2) *Appropriate uses of categorical funding.* Appropriate uses of the returning dropout and dropout prevention program funding include, but are not limited to:

a. Salary and benefits for the teacher(s) and guidance counselor(s) of instructional staff, instructional support staff, and school-based youth services staff who are working with students who are participating in the dropout prevention programs, alternative programs, and alternative schools when the teacher (or counselor), in a traditional or alternative setting, if the staff person's time is dedicated to working directly and exclusively with identified students with returning dropouts or students who are deemed, at any time during the school year, to be at risk of dropping out, in order to provide services beyond those which are provided by the school district to students who are not identified as at risk of becoming dropouts. If However, if the teacher (or counselor) is a staff person works part-time with students who are participating in returning dropout and dropout prevention and part-time regular classroom teacher (counselor), then programs, alternative programs, and alternative schools and has another unrelated staff assignment, only the portion of the staff person's time that is related to the returning dropout and dropout prevention program, alternative program, or alternative school may be charged to the program, but the portion of time that is related to the regular classroom shall not. For purposes of this paragraph, if an alternative setting is necessary to provide for a program which is offered at a location off school grounds and which is intended to serve student needs by improving relationships and connections to school, decreasing truancy and tardiness, providing opportunities for course credit recovery, or helping students identified as at risk of dropping out to accelerate through multiple grade levels of achievement within a shortened time frame, the tuition costs for a student identified as at risk of dropping out shall be considered an appropriate use of the returning dropout and dropout prevention program funding.

b. Professional development for all teachers and staff working with at-risk students and programs involving dropout prevention strategies.

c. Research-based resources, materials, software, supplies, and purchased services that meet all of the following criteria:

(1) Meet the needs of K through grade 12 identified students identified as at risk of dropping out ~~or and of~~ returning dropouts,

(2) Are beyond those provided by the regular school program,

(3) Are necessary to provide the services listed in the school district's dropout prevention plan, and

(4) Will remain with the K through grade 12 returning dropout and dropout prevention program.

d. Up to 5 percent of the total budgeted amount received pursuant to 2012 Iowa Acts, Senate File 451, section 1(1), may be used for purposes of providing districtwide or buildingwide returning dropout and dropout prevention programming targeted to students who are not deemed at risk of dropping out.

98.21(3) *Inappropriate uses of categorical funding.* Inappropriate uses of the returning dropout and dropout prevention program funding include, but are not limited to, indirect costs or use charges, operational or maintenance costs, capital expenditures other than equipment, student transportation, administrative costs other than those related to a separate school located off site and where the administrator is assigned exclusively to this program, expenses related to the routine duties of a school nurse, general support for a school guidance counselor including any activities performed with qualified students that are also provided to all students, or any other expenditures not directly related to providing the returning dropout and dropout prevention program beyond the scope of the regular classroom.

ARC 0348C**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 225C.6(1) and 2012 Iowa Acts, Senate File 2315, section 23, the Department of Human Services proposes to adopt a new Chapter 23, “Mental Health and Disability Services Redesign Transition Fund,” Iowa Administrative Code.

The rules developed pursuant to 2012 Iowa Acts, Senate File 2315, section 23, and Senate File 2336, sections 56 and 66, are intended to provide for the gathering of information and to guide the development of recommendations to the Governor and Legislature regarding appropriations for transition funds to continue non-Medicaid-funded current core county mental health and disability services.

The rules are divided into the following sections:

1. Definitions.
2. Eligibility requirements.
3. Establishment of application guidelines related to financial need, financial data, and sustainability plans.
4. Establishment of guidelines for the Department of Human Services for receiving, analyzing, and reporting of transition applications as relating to the transition funds.
5. Establishment of guidelines related to the allocation of transition funds.

The rules represent what the Mental Health and Disability Services Commission believes will demonstrate the county’s need for financial assistance to enable the county to continue current core county mental health and disability services in state fiscal year 2013 and sustain such services in future state fiscal years.

These rules were also Adopted and Filed Emergency and are published herein as **ARC 0346C**. The purpose of this Notice is to solicit comment on that submission, the subject matter of which is incorporated by reference.

Any interested person may make written comments on the proposed rules on or before October 23, 2012. Comments should be directed to Harry Rossander, Bureau of Policy Coordination, Department of Human Services, Hoover State Office Building, 1305 East Walnut Street, Des Moines, Iowa 50319-0114. Comments may be sent by fax to (515)281-4980 or by e-mail to policyanalysis@dhs.state.ia.us.

These rules do not provide for waivers in specified situations because the legislation does not specifically allow for waivers. 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 rules are intended to implement 2012 Iowa Acts, Senate File 2315, section 23, and 2012 Iowa Acts, Senate File 2336, sections 56 and 66.

ARC 0367C

HUMAN SERVICES DEPARTMENT[441]**Notice of Intended Action**

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

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

Pursuant to the authority of Iowa Code section 249A.4, the Department of Human Services proposes to amend Chapter 50, “Application for Assistance,” Iowa Administrative Code.

This amendment will allow the use of the same application for State Supplementary Assistance as is used for Medicaid, FIP, and Food Assistance. This will eliminate the need for an applicant to fill out a separate application when applying for State Supplementary Assistance as well as other programs administered by the Department.

Any interested person may make written comments on the proposed amendment on or before October 23, 2012. Comments should be directed to Harry Rossander, Bureau of Policy Coordination, Department of Human Services, Hoover State Office Building, 1305 East Walnut Street, Des Moines, Iowa 50319-0114. Comments may be sent by fax to (515)281-4980 or by e-mail to policyanalysis@dhs.state.ia.us.

This amendment does not provide for waivers in specified situations because none are needed. Requests for the waiver of any rule may be submitted under the Department’s general rule on exceptions at 441—1.8(17A,217).

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

This amendment is intended to implement Iowa Code section 249.4.

The following amendment is proposed.

Amend subrule 50.2(3) as follows:

50.2(3) Any person applying for payment for residential care shall make application at a local office of the department of human services or at the residential care facility where the person resides. Any person applying for a dependent person allowance or for payment for a protective living arrangement or in-home, health-related care shall make application at a local office of the department. An application may also be filed in any disproportionate share hospital, federally qualified health center or other facility in which outstationing activities are provided.

The application shall be made on the Health Services Application, Form 470-2927 or 470-2927(S) or the Health and Financial Support Application, Form 470-0462 or 470-0462(S). The application shall be signed by the applicant or the authorized representative. Someone acting responsibly for an incapacitated, incompetent, or deceased person may sign the application on the person’s behalf.

a. to d. No change.

ARC 0366C

HUMAN SERVICES DEPARTMENT[441]**Notice of Intended Action**

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

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

Pursuant to the authority of Iowa Code section 249A.4, the Department of Human Services proposes to amend Chapter 77, “Conditions of Participation for Providers of Medical and Remedial Care,” Chapter 78, “Amount, Duration and Scope of Medical and Remedial Services,” and Chapter 79, “Other Policies Relating to Providers of Medical and Remedial Care,” Iowa Administrative Code.

Currently there is no waiver service that pays for the 24-hour-per-day on-call aspect of an assisted living facility (ALF) for elderly waiver members. The only waiver avenues for ALF payment are consumer-directed attendant care (CDAC) (hands-on services), personal emergency response (PERS), and home-delivered meals. The nature of an ALF is that staff must be available 24 hours per day to meet the needs of the members. The definition of the current waiver services does not allow a per diem payment for on-call staff.

In addition, the federal Medicaid agency, the Centers for Medicare and Medicaid Services (CMS), has been strongly encouraging states to discontinue any policy that allows ALFs to bill CDAC services as one unit per month, regardless of the amount of service provision, for the balance of the waiver maximum. Iowa Medicaid has determined that ALF CDAC will be changed to a 15-minute unit with a corresponding 15-minute fee (addressed in another rule making). The application of this CDAC definition change has the potential to drastically reduce monthly payments to ALFs. Creating a new service at the same time will allow the member and provider to appropriately access maximized waiver funding.

Waiver funding may be transferred from CDAC to the on-call service. There should be minimal impact on members because the waiver will continue to pay for necessary CDAC, PERS, or meal services in addition to the on-call service. Providers will experience a change in the way they bill services to Medicaid.

The state will offer services through assisted living facilities that are in line with current guidance from the Centers for Medicare and Medicaid Services.

Any interested person may make written comments on the proposed amendments on or before October 23, 2012. Comments should be directed to Harry Rossander, Bureau of Policy Coordination, Department of Human Services, Hoover State Office Building, 1305 East Walnut Street, Des Moines, Iowa 50319-0114. Comments may be sent by fax to (515)281-4980 or by e-mail to policyanalysis@dhs.state.ia.us.

These amendments do not provide for waivers in specified situations because Medicaid has determined that the rule should be applicable to all members and providers who are eligible. 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.

The following amendments are proposed.

ITEM 1. Adopt the following **new** subrule 77.33(23):

77.33(23) Assisted living on-call service. Assisted living on-call service providers shall be assisted living programs that are certified by the department of inspections and appeals under 481—Chapter 69.

ITEM 2. Adopt the following **new** subrule 78.37(18):

78.37(18) Assisted living on-call service. The assisted living on-call service provides staff on call 24 hours per day to meet a member’s scheduled, unscheduled, and unpredictable needs in a manner that

HUMAN SERVICES DEPARTMENT[441](cont'd)

promotes maximum dignity and independence and provides safety and security. A unit of service is one day. To determine units of service provided, the provider will use census information based on member bed status each day.

ITEM 3. Amend subrule **79.1(2)**, provider category “HCBS waiver services providers,” by adopting the following new numbered paragraph “35”:

<u>Provider category</u>	<u>Basis of reimbursement</u>	<u>Upper limit</u>
35. Assisted living on-call service providers (elderly waiver only)	Fee agreed upon by member and provider.	\$25.00 per day.

ARC 0368C

HUMAN SERVICES DEPARTMENT[441]

Notice of Intended Action

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

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

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

The purpose of this amendment is to implement funding provided by the legislature to increase child care assistance half-day rate ceilings. This amendment will allow child care providers to be paid more for their services while not impacting the cost to families already eligible for child care assistance.

Any interested person may make written comments on the proposed amendment on or before October 23, 2012. Comments should be directed to Harry Rossander, Bureau of Policy Coordination, Department of Human Services, Hoover State Office Building, 1305 East Walnut Street, Des Moines, Iowa 50319-0114. Comments may be sent by fax to (515)281-4980 or by e-mail to policyanalysis@dhs.state.ia.us.

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

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

This amendment is intended to implement Iowa Code section 237A.13.

The following amendment is proposed.

Amend paragraph **170.4(7)“a”** as follows:

a. Rate of payment. The rate of payment for child care services, except for in-home care which shall be paid in accordance with 170.4(7)“d,” shall be the actual rate charged by the provider for a private individual, not to exceed the maximum rates shown below. When a provider does not have a half-day rate in effect, a rate is established by dividing the provider’s declared full-day rate by 2. When a provider has neither a half-day nor a full-day rate, a rate is established by multiplying the provider’s declared hourly rate by 4.5. Payment shall not exceed the rate applicable to the provider and age group in Table I, except for special needs care which shall not exceed the rate applicable to the provider and age group in Table II. To be eligible for the special needs rate, the provider must submit documentation to the child’s service worker that the child needing services has been assessed by a qualified professional and meets the definition for “child with special needs,” and a description of the child’s special needs, including, but not limited to, adaptive equipment, more careful supervision, or special staff training.

HUMAN SERVICES DEPARTMENT[441](cont'd)

Table I Half-Day Rate Ceilings for Basic Care				
Age Group	Child Care Center	Child Development Home Category A or B	Child Development Home Category C	Nonregistered Family Home
Infant and Toddler	\$15.81 \$16.13	\$12.24 \$12.48	\$11.73 \$11.96	\$8.19
Preschool	\$12.75 \$13.01	\$11.48 \$11.71	\$11.48 \$11.71	\$7.19
School Age	\$11.48 \$11.71	\$10.20 \$10.40	\$10.20 \$10.40	\$7.36

Table II Half-Day Rate Ceilings for Special Needs Care				
Age Group	Child Care Center	Child Development Home Category A or B	Child Development Home Category C	Nonregistered Family Home
Infant and Toddler	\$48.96 \$49.94	\$16.07 \$16.39	\$12.63 \$12.88	\$10.24
Preschool	\$28.69 \$29.26	\$14.92 \$15.22	\$12.63 \$12.88	\$ 8.99
School Age	\$28.60 \$29.17	\$13.77 \$14.05	\$11.48 \$11.71	\$ 9.20

The following definitions apply in the use of the rate tables:

(1) "Child care center" shall mean those providers as defined in 170.4(3) "a" and "g." "Registered child development home" shall mean those providers as defined in 170.4(3) "b." "Nonregistered family child care home" shall mean those providers as defined in 170.4(3) "f."

(2) Under age group, "infant and toddler" shall mean age two weeks to two years; "preschool" shall mean two years to school age; "school age" shall mean a child in attendance in full-day or half-day classes.

ARC 0353C**INSPECTIONS AND APPEALS DEPARTMENT[481]****Notice of Intended Action**

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

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

Pursuant to the authority of Iowa Code sections 10A.104(5) and 135B.7, the Department of Inspections and Appeals hereby gives Notice of Intended Action to amend Chapter 51, "Hospitals," and to adopt new Chapter 59, "Tuberculosis (TB) Screening," Iowa Administrative Code.

Proposed new Chapter 59 outlines requirements and procedures to conduct tuberculosis screenings for health care workers of Iowa licensed hospitals and health care workers and residents of Iowa licensed health care facilities, including the screening process to be used, the risk classification, and who may conduct TB screenings. Additionally, corresponding technical changes are proposed in subrule 51.24(3) to reference new Chapter 59.

The proposed language in Chapter 59 was substantially written by the Iowa Department of Public Health and provides uniformity in the requirements and procedures to conduct TB screening (see **ARC 0365B** herein for rules regarding tuberculosis screening adopted by the Department of Public Health).

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

The Department does not believe that the proposed amendments impose any financial hardship on any regulated entity, body, or individual. Rather, the proposed amendments provide uniformity in the requirements and procedures to conduct TB screening for health care workers and residents.

The Hospital Licensing Board reviewed and approved the proposed amendments at its August 7, 2012, meeting. The Board of Health also reviewed the proposed amendments at its September 12, 2012, meeting.

Any interested person may make written suggestions or comments on the proposed amendments on or before October 23, 2012. Such written materials should be addressed to the Director, Department of Inspections and Appeals, Lucas State Office Building, 321 East 12th Street, Des Moines, Iowa 50319-0083; faxed to (515)242-6863; or e-mailed to david.werning@dia.iowa.gov.

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

These amendments are intended to implement Iowa Code section 135B.7.

The following amendments are proposed.

ITEM 1. Amend subrule 51.24(3) as follows:

51.24(3) Health examinations. Health examinations for all personnel shall be required at the commencement of employment and thereafter at least every four years. The examination shall include, at a minimum, the health and tuberculosis status of the employee. Consideration shall be given to requiring health examinations at shorter intervals for those employees working in high-risk areas. Screening and testing for tuberculosis shall be conducted pursuant to 481—Chapter 59.

ITEM 2. Adopt the following new 481—Chapter 59:

CHAPTER 59 TUBERCULOSIS (TB) SCREENING

481—59.1(135B) Purpose. The intent of this chapter is to outline requirements and procedures to conduct tuberculosis screening for health care workers in health care facilities and hospitals and for residents of health care facilities regulated by the department.

481—59.2(135B) Definitions. For purposes of this chapter, the following definitions apply:

“*Bacille Calmette-Guérin (BCG) vaccination*” means a vaccine for TB. BCG is used in many countries with a high prevalence of TB to prevent childhood tuberculosis meningitis and military disease. BCG is not generally recommended for use in the United States because of the low risk of infection with *Mycobacterium tuberculosis*, the variable effectiveness of the vaccine against adult pulmonary TB, and the vaccine’s potential interference with tuberculin skin test reactivity.

“*Baseline TB screening*” means the screening of health care workers (HCWs) of health care facilities or hospitals and residents of health care facilities for latent tuberculosis infection (LTBI) and TB disease at the beginning of employment in a facility or hospital, or upon admission to a facility. Baseline TB screening includes a symptom screen for all HCWs and residents, and tuberculin skin tests (TSTs) or interferon-gamma release assay (IGRA) for *Mycobacterium tuberculosis* for those persons with previous negative test results for *M. tuberculosis* infection.

“*Baseline TST*” or “*baseline IGRA*” means the TST or IGRA, respectively, that is administered at the beginning of employment to newly hired HCWs or upon admission to residents of health care facilities.

“*Boosting*” means a phenomenon in which a person has a negative TST (i.e., false-negative) result years after infection with *M. tuberculosis* and then a positive subsequent TST result. The positive TST result is caused by a boosted immune response of previous sensitivity rather than by a new infection (false-positive TST conversion). Two-step testing reduces the likelihood of mistaking a boosted reaction for a new infection.

“*Department*” means the department of inspections and appeals.

“*Employment*” or “*employed*” means hired or retained for paid or unpaid work in a facility or hospital.

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“Extrapulmonary TB” means TB disease in any part of the body other than the lungs (e.g., kidney, spine, or lymph nodes).

“Health care facility” or *“facility”* means a health care facility as defined in Iowa Code section 135C.1 or a long-term care service of a hospital as defined in rule 481—51.38(135B).

“Health care worker” or *“HCW”* means any paid or unpaid person working in a health care facility or hospital, including any volunteer or person who is paid either by the health care facility or hospital, or paid by any other entity (i.e., temporary agency, private duty, Medicaid/Medicare or independent contractors).

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

“Interferon-gamma release assay” or *“IGRA”* means whole-blood tests that can aid in diagnosing *Mycobacterium tuberculosis* infection.

“Laryngeal TB” means a form of TB disease that involves the larynx and may be highly infectious.

“Latent TB infection” or *“LTBI”* means infection with *M. tuberculosis* without symptoms or signs of disease having manifested.

“Mantoux method” means a skin test performed by intradermally injecting 0.1 mL of purified protein derivative (PPD) tuberculin solution into the volar or dorsal surface of the forearm.

“Patient” means a person admitted to a hospital.

“Pulmonary TB” means TB disease that occurs in the lung parenchyma, usually producing a cough that lasts greater than three weeks. Pulmonary TB is usually infectious.

“Purified protein derivative (PPD) tuberculin” means a material used in diagnostic tests for detecting infection with *M. tuberculosis*.

“Resident” means a person admitted to a health care facility or a long-term care service of a hospital as defined in rule 481—51.38(135B). For purposes of this chapter, “resident” does not include a patient admitted to a hospital.

“Risk classification” means the category the infection control team, or designated other staff, determines is appropriate for the facility or hospital as a result of the TB risk assessment.

“Serial screening” refers to TB screening performed at regular intervals following baseline TB screening. Serial TB screening, also called annual or ongoing TB testing, consists of two components: (1) assessing for current symptoms of active TB disease, and (2) testing for the presence of infection with *M. tuberculosis* by administering either a TST or single IGRA.

“Symptom screen” means a procedure used during a clinical evaluation in which persons are asked if they have experienced any departure from normal in function, appearance, or sensation related to TB disease (e.g., cough).

“TB patient” means a person who had undiagnosed infectious pulmonary or laryngeal TB while in a health care facility or hospital during the preceding year. “TB patient” does not include persons with LTBI (treated or untreated), extrapulmonary TB disease, pulmonary, or laryngeal TB that have met criteria for noninfectiousness.

“TB risk assessment” means an initial and ongoing evaluation of the risk for transmission of *M. tuberculosis* in a particular health care setting.

“TB screening” means an administrative control measure in which evaluation for LTBI and TB disease is performed through baseline and serial screening of HCWs in hospitals and health care facilities and residents of health care facilities.

“TB screening plan” means a plan that health care facilities and hospitals develop and implement that comprises four major components: (1) baseline testing for *M. tuberculosis* infection, (2) serial testing for *M. tuberculosis* infection, (3) serial screening for signs or symptoms of TB disease, and (4) TB training and education.

“Treatment for LTBI” means treatment that prevents the progression of *M. tuberculosis* infection into TB disease.

“Tuberculin skin test” or *“TST”* means a diagnostic aid for finding *M. tuberculosis* infection. The Mantoux method is the recommended method to be used for TST.

“Tuberculosis” or *“TB”* means the namesake member organism of *M. tuberculosis* complex and the most common causative infectious agent of TB disease in humans. In certain instances, the species

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name refers to the entire *M. tuberculosis* complex, which includes *M. bovis* and *M. african*, *M. microti*, *M. canetti*, *M. caprae*, and *M. pinnipedii*.

“*Tuberculosis disease*” or “*TB disease*” means a condition caused by infection with a member of the *M. tuberculosis* complex that has progressed to causing clinical (manifesting symptoms or signs) or subclinical (early stage of disease in which signs or symptoms are not present, but other indications of disease activity are present) illness.

“*Two-step tuberculin skin test*” or “*two-step TST*” means the procedure used for the baseline skin testing of persons who will receive serial TSTs to reduce the likelihood of mistaking a boosted reaction for a new infection.

481—59.3(135B) TB risk assessment.

59.3(1) Annually, a health care facility or hospital shall conduct a TB risk assessment to evaluate the risk for transmission of *M. tuberculosis*, regardless of whether a person with suspected or confirmed TB disease is expected to be encountered in the facility or hospital. The TB risk assessment shall be utilized to determine the types of administrative, environmental, and respiratory protection controls needed and serves as an ongoing evaluation tool of the quality of TB infection control and for the identification of needed improvements in infection control measures.

59.3(2) The TB risk assessment shall include:

- a. The community rate of TB,
- b. The number of persons with infectious TB encountered in the facility or hospital, and
- c. The speed with which persons with infectious TB disease are suspected, isolated, and evaluated to determine if persons with infectious TB exposed staff or others in the facility or hospital. TB cases include persons who had undiagnosed infectious pulmonary or laryngeal TB while in the facility or hospital during the preceding year. This does not include persons with LTBI (treated or untreated), persons with extrapulmonary TB disease, or persons with pulmonary and laryngeal TB that have met criteria for noninfectiousness.

481—59.4(135B) Health care facility or hospital risk classification. The infection control team or designated staff in a health care facility or hospital is responsible for determining the type of risk classification. The facility or hospital risk classification is used to determine frequency of TB screening. The facility or hospital risk classification may change due to an increase or decrease in the number of TB cases during the preceding year. The following criteria are consistent with those of the Centers for Disease Control and Prevention (CDC), TB Elimination Division, as outlined in the MMWR December 30, 2005/Vol. 54/No. RR-17, “Guidelines for Preventing the Transmission of *Mycobacterium tuberculosis* in Health-Care Settings, 2005.”

59.4(1) Types of risk classifications.

- a. “Low risk” means that a facility or hospital is one in which persons with active TB disease are not expected to be encountered and in which exposure to TB is unlikely.
- b. “Medium risk” means that a facility or hospital is one in which health care workers will or might be exposed to persons with active TB disease or to clinical specimens that might contain *M. tuberculosis*.
- c. “Potential ongoing transmission” means that a facility or hospital is one in which there is evidence of person-to-person transmission of *M. tuberculosis*. This classification is a temporary classification. If it is determined that this classification applies to a facility or hospital, the facility or hospital shall consult with the department of public health’s TB control program.

59.4(2) Classification criteria—low risk.

- a. Inpatient settings with 200 beds or more: If a facility or hospital has fewer than six TB patients for the preceding year, the facility or hospital shall be classified as low risk.
- b. Inpatient settings with fewer than 200 beds: If a facility or hospital has fewer than three TB patients for the preceding year, the facility or hospital shall be classified as low risk.

59.4(3) Classification criteria—medium risk.

- a. Inpatient settings with 200 beds or more: If a facility or hospital has six or more TB patients for the preceding year, the facility or hospital shall be classified as medium risk.

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b. Inpatient settings with fewer than 200 beds: If a facility or hospital has three or more TB patients for the preceding year, the facility or hospital shall be classified as medium risk.

59.4(4) *Classification criteria—potential ongoing transmission.* If evidence of ongoing *M. tuberculosis* transmission exists at a facility or hospital, the facility or hospital shall be classified as potential ongoing transmission, regardless of the facility's or hospital's previous classification.

481—59.5(135B) Baseline TB screening procedures for health care facilities and hospitals.

59.5(1) All HCWs shall receive baseline TB screening upon hire. Baseline TB screening consists of two components: (1) assessing for current symptoms of active TB disease and (2) using a two-step TST or a single IGRA to test for infection with *M. tuberculosis*.

59.5(2) An HCW may begin working with patients or residents after a negative TB symptom screen (i.e., no symptoms of active TB disease) and a negative TST (i.e., first step) or negative IGRA. The second TST may be performed after the HCW starts working with patients or residents.

59.5(3) An HCW with a new positive test result for *M. tuberculosis* infection (i.e., TST or IGRA) shall receive one chest radiograph result to exclude TB disease. Repeat radiographs are not needed unless symptoms or signs of TB disease develop or unless recommended by a clinician. Treatment for LTBI should be considered in accordance with CDC guidelines.

59.5(4) An HCW with documentation of past positive test results (i.e., TST or IGRA) and documentation of the results of a chest radiograph indicating no active disease, dated after the date of the positive TST or IGRA test result, does not need another chest radiograph at the time of hire.

59.5(5) TB, TST or IGRA tests for *M. tuberculosis* infection do not need to be performed for HCWs with a documented history of TB disease, documented previously positive test result for *M. tuberculosis* infection, or documented completion of treatment for LTBI or TB disease. Documentation of a previously positive test result for *M. tuberculosis* infection can be substituted for a baseline test result if the documentation includes a recorded TST result in millimeters or IGRA result, including the concentration of cytokine measured (e.g., interferon-gamma (IFN-g)). All other HCWs should undergo baseline testing for *M. tuberculosis* infection to ensure that the test result on record in the setting has been performed and measured using the recommended diagnostic procedures.

59.5(6) A second TST is not needed if the HCW has a documented TST result from any time during the previous 12 months. If a newly employed HCW has had a documented negative TST result within the previous 12 months, a single TST can be administered in the new setting. This additional TST represents the second stage of two-step testing. The second test decreases the possibility that boosting on later testing will lead to incorrect suspicion of transmission of *M. tuberculosis* in the setting.

59.5(7) Previous BCG vaccination is not a contraindication to having an IGRA, a TST or two-step skin testing administered. HCWs with previous BCG vaccination should receive baseline and serial testing in the same manner as those without BCG vaccination. Evaluation of TST reactions in persons vaccinated with BCG should be interpreted using the same criteria for those not BCG-vaccinated. An HCW's history of BCG vaccination should be disregarded when administering and interpreting TST results. Prior BCG vaccination does not cause a false-positive IGRA test result.

481—59.6(135B) Serial TB screening procedures for health care facilities and hospitals.

59.6(1) *Health care facilities or hospitals classified as low risk.* After baseline testing of HCWs for infection with *M. tuberculosis*, additional TB screening of HCWs is not necessary unless an exposure to *M. tuberculosis* occurs.

59.6(2) *Health care facilities or hospitals classified as medium risk.*

a. After undergoing baseline testing for infection with *M. tuberculosis*, HCWs should receive TB screening annually (i.e., symptom screen for all HCWs and testing for infection with *M. tuberculosis* for HCWs with baseline negative test results).

b. HCWs with a baseline positive or new positive test result for *M. tuberculosis* infection or documentation of previous treatment for LTBI or TB disease shall receive one chest radiograph result to exclude TB disease. Instead of participating in serial testing, HCWs should receive a symptom screen annually. This screen should be accomplished by educating HCWs about symptoms of TB disease and

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instructing HCWs to report any such symptoms immediately to the occupational health unit. Treatment for LTBI should be considered in accordance with CDC guidelines.

59.6(3) *Health care facilities or hospitals classified as potential ongoing transmission.* Testing for infection with *M. tuberculosis* may need to be performed every eight to ten weeks until lapses in infection control have been corrected and no additional evidence of ongoing transmission is apparent. The potential ongoing transmission classification should be used only as a temporary classification. This classification warrants immediate investigation and corrective steps. After a determination that ongoing transmission has ceased, the setting shall be reclassified as medium risk for a minimum of one year.

481—59.7(135B) Screening of HCWs who transfer to other health care facilities or hospitals.

59.7(1) *HCWs transferring from a low-risk health care facility or hospital to another low-risk health care facility or hospital.* After a baseline result for infection with *M. tuberculosis* is established and documented, serial testing for *M. tuberculosis* infection is not necessary for HCWs transferring from a low-risk health care facility or hospital to another low-risk health care facility or hospital.

59.7(2) *HCWs transferring from a low-risk health care facility or hospital to medium-risk health care facility or hospital.* After a baseline result for infection with *M. tuberculosis* is established and documented, annual TB screening, including a symptom screen and TST or IGRA for persons with previously negative test results, should be performed for HCWs transferring from a low-risk health care facility or hospital to a medium-risk health care facility or hospital.

481—59.8(135B) Baseline TB screening procedures for residents of health care facilities.

59.8(1) TB screening is a formal procedure to evaluate residents for LTBI and TB disease. Baseline TB screening consists of two components: (1) assessing for current symptoms of active TB disease and (2) using two-step TST or a single IGRA to test for infection with *M. tuberculosis*.

59.8(2) All residents shall be assessed for current symptoms of active TB disease upon admission. Within 72 hours of a resident's admission, baseline TB testing for infection shall be initiated unless baseline TB testing occurred within three months prior to the resident's admission.

59.8(3) Residents with a new positive test result for *M. tuberculosis* infection (i.e., TST or IGRA) shall receive one chest radiograph result to exclude TB disease. Repeat radiographs are not needed unless symptoms or signs of TB disease develop or unless recommended by a clinician.

59.8(4) Residents with documentation of past positive test results (i.e., TST or IGRA) and documentation of the results of a chest radiograph indicating no active disease, dated after the date of the positive TST or IGRA test result, do not need another chest radiograph at the time of admission.

59.8(5) TB, TST or IGRA tests for *M. tuberculosis* infection do not need to be performed for residents with a documented history of TB disease, documented previously positive test result for *M. tuberculosis* infection, or documented completion of treatment for LTBI or TB disease. Documentation of a previously positive test result for *M. tuberculosis* infection can be substituted for a baseline test result if the documentation includes a recorded TST result in millimeters or IGRA result, including the concentration of cytokine measured (e.g., IFN-g). All other residents should undergo baseline testing for *M. tuberculosis* infection to ensure that the test result on record in the setting has been performed and measured using the recommended diagnostic procedures.

59.8(6) A second TST is not needed if the resident has a documented TST result from any time during the previous 12 months. If a new resident has had a documented negative TST result within the previous 12 months, a single TST can be administered in the new setting. This additional TST represents the second stage of two-step testing. The second test decreases the possibility that boosting on later testing will lead to incorrect suspicion of transmission of *M. tuberculosis* in the health care facility.

481—59.9(135B) Serial TB screening procedures for residents of health care facilities. After baseline TB screening is accomplished, serial TB screening of residents is not recommended.

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481—59.10(135B) Performance of screening and testing. Any nurse licensed in Iowa and properly trained to screen for TB and perform TB testing may screen for TB and perform TB testing.

These rules are intended to implement Iowa Code section 135B.7.

ARC 0351C**PHARMACY BOARD[657]****Notice of Intended Action**

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

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

Pursuant to the authority of Iowa Code sections 124.301 and 147.76, the Board of Pharmacy hereby gives Notice of Intended Action to amend Chapter 2, “Pharmacist Licenses,” Chapter 3, “Pharmacy Technicians,” Chapter 5, “Pharmacy Support Persons,” Chapter 8, “Universal Practice Standards,” Chapter 10, “Controlled Substances,” Chapter 12, “Precursor Substances,” Chapter 17, “Wholesale Drug Licenses,” and Chapter 24, “Pharmacy Internet Sites,” Iowa Administrative Code.

The amendments were approved at the August 29, 2012, regular meeting of the Board of Pharmacy.

The proposed amendments would reduce by at least 10 percent most initial and renewal license and registration fees and most penalty fees for late applications that are currently assessed by the Board. After the 10 percent reduction is calculated, some of the fees are rounded down to the next lowest \$10 increment to simplify accounting when a surcharge to support the Iowa Pharmacy Professional and Technician Recovery Network is added to the specific fee. Additional proposed amendments clarify the forms of payment currently accepted by the Board and provide that a late payment penalty fee is not to be imposed on an application for renewal of a delinquent pharmacy technician registration if the applicant has not been practicing as a pharmacy technician since the registration expired.

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

Any interested person may present written comments, data, views, and arguments on the proposed amendments not later than 4:30 p.m. on October 23, 2012. Such written materials may be sent to Terry Witkowski, Executive Officer, Board of Pharmacy, 400 S.W. Eighth Street, Suite E, Des Moines, Iowa 50309-4688; or by e-mail to terry.witkowski@iowa.gov.

After analysis and review of this rule making, no adverse impact on jobs has been found. The reduced license and registration fees may positively impact job and economic growth for businesses in the state of Iowa. The reduction in fees may allow a person to keep a job, get a raise, and spend more disposable income.

These amendments are intended to implement Iowa Code sections 124.301, 124.302, 124.303, 124B.11, 147.10, 147.11, 147.34, 147.36, 147.76, 147.80, 147.82, 155A.6, 155A.6A, 155A.6B, 155A.9, 155A.11, 155A.13, 155A.13A, 155A.13B, 155A.14, 155A.17, 155A.39, and 272C.3.

The following amendments are proposed.

ITEM 1. Amend subrule 2.3(1) as follows:

2.3(1) Fees to the board. The biennial license fee shall be the fee established by rule 657—2.11(147,155A), including surcharge. The processing fee shall be ~~\$80~~ \$72. No refunds of the processing fee shall be made for cancellation or withdrawal of applications. The license fee and processing fee shall be payable to the Iowa Board of Pharmacy and may be remitted in the form of personal check, money order, cashier’s check, or certified check. No refund of fees shall be made for failure to complete all licensure requirements within the period specified in subrule 2.1(2).

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ITEM 2. Amend rule 657—2.6(147) as follows:

657—2.6(147) Reexamination applications and fees. A candidate who fails to pass the NAPLEX once shall be allowed to schedule a time to retake the examination no less than 91 days following administration of the failed examination. A candidate who fails to pass the MPJE, Iowa Edition, once shall be allowed to schedule a time to retake the examination no less than 30 days following administration of the failed examination. A candidate who fails to pass either examination following a second or subsequent examination may petition the board for permission to take the examination again. Determination of a candidate's eligibility to take an examination more than two times shall be at the discretion of the board.

Each applicant for reexamination shall file an application on forms provided by the board. Processing fees of ~~\$40~~ \$36 each will be charged to take NAPLEX or MPJE, Iowa Edition, and shall be paid to the board as provided in subrule 2.3(1). In addition, candidates will be required to complete the appropriate examination registration application as provided in rule 657—2.2(155A) and to pay to NABP the registration and administration fees for each examination as provided in subrule 2.3(2). All applications, registration forms, and fees shall be submitted as provided in subrules 2.3(2) and 2.3(3).

ITEM 3. Amend subrule 2.9(4) as follows:

2.9(4) Fees. The fee for license transfer shall consist of the biennial license fee established by rule 657—2.11(147,155A) including surcharge and a processing fee of ~~\$100~~ \$90. No refunds of the processing fee shall be made for cancellation or withdrawal of an application. The license fee and processing fee shall be payable to the Iowa Board of Pharmacy and may be remitted in the form of personal check, money order, cashier's check, or certified check.

ITEM 4. Amend rule 657—2.11(147,155A) as follows:

657—2.11(147,155A) License expiration and renewal. A license to practice pharmacy shall expire on the second thirtieth day of June following the date of issuance of the license, with the exception that a new pharmacist license issued between April 1 and June 29 shall expire on the third thirtieth day of June following the date of issuance. The license renewal certificate shall be issued upon completion of the renewal application and timely payment of a ~~\$200~~ \$180 fee plus applicable surcharge pursuant to 657—30.8(155A).

2.11(1) Late payment penalty. Failure to renew the license before July 1 following expiration shall require payment of the renewal fee, a penalty fee of ~~\$200~~ \$180, and applicable surcharge pursuant to 657—30.8(155A). Failure to renew the license before August 1 following expiration shall require payment of the renewal fee, a penalty fee of ~~\$300~~ \$270, and applicable surcharge pursuant to 657—30.8(155A). Failure to renew the license before September 1 following expiration shall require payment of the renewal fee, a penalty fee of ~~\$400~~ \$360, and applicable surcharge pursuant to 657—30.8(155A). Failure to renew the license before October 1 following expiration may require an appearance before the board and shall require payment of the renewal fee, a penalty fee of ~~\$500~~ \$450, and applicable surcharge pursuant to 657—30.8(155A). In no event shall the combined fee and penalty fee for late renewal of the license exceed ~~\$700~~ \$630 plus applicable surcharge pursuant to 657—30.8(155A). The provisions of Iowa Code section 147.11 shall apply to a license that is not renewed within five months of the expiration date.

2.11(2) No change.

ITEM 5. Amend subrule 3.10(1) as follows:

3.10(1) Certified or uncertified pharmacy technician registration. The fee for obtaining an initial certified pharmacy technician registration or for biennial renewal of a certified pharmacy technician registration or an uncertified pharmacy technician registration shall be ~~\$50~~ \$40 plus applicable surcharge pursuant to rule 657—30.8(155A).

ITEM 6. Adopt the following **new** paragraph **3.11(2)“c”**:

c. A late payment fee shall not be assessed on an expired registration if the person was not employed as a pharmacy technician during the period following expiration of the registration.

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ITEM 7. Amend rule 657—5.9(155A) as follows:

657—5.9(155A) Registration fee.

5.9(1) Initial fee. The fee for obtaining an initial registration shall be ~~\$30~~ \$25.

5.9(2) Renewal fee. The renewal fee for obtaining a biennial registration shall be ~~\$30~~ \$25.

5.9(3) and 5.9(4) No change.

ITEM 8. Amend subrule 5.11(1) as follows:

5.11(1) Fee. A person required to register or to renew the person's registration who files a late application shall pay an additional ~~\$30~~ \$25 late payment fee.

ITEM 9. Amend subrule 8.35(4) as follows:

8.35(4) License expiration and renewal. General pharmacy licenses, hospital pharmacy licenses, special or limited use pharmacy licenses, and nonresident pharmacy licenses shall be renewed before January 1 of each year. The fee for a new or renewal license shall be ~~\$150~~ \$135.

a. Late payment penalty. Failure to renew the pharmacy license before January 1 following expiration shall require payment of the renewal fee and a penalty fee of ~~\$150~~ \$135. Failure to renew the license before February 1 following expiration shall require payment of the renewal fee and a penalty fee of ~~\$250~~ \$225. Failure to renew the license before March 1 following expiration shall require payment of the renewal fee and a penalty fee of ~~\$350~~ \$315. Failure to renew the license before April 1 following expiration shall require payment of the renewal fee and a penalty fee of ~~\$450~~ \$405 and may require an appearance before the board. In no event shall the combined renewal fee and penalty fee for late renewal of a pharmacy license exceed ~~\$600~~ \$540.

b. No change.

ITEM 10. Amend rule 657—10.3(124) as follows:

657—10.3(124) Registration and renewal. For each registration or timely renewal of a registration to manufacture, distribute, dispense, prescribe, import or export, conduct research or instructional activities, or conduct chemical analysis with controlled substances listed in Schedules I through V of Iowa Code chapter 124, registrants shall pay a biennial fee of ~~\$100~~ \$90.

10.3(1) No change.

10.3(2) Late renewal. Any registered person or business may apply, on forms provided by the board office, for registration renewal not more than 60 days prior to the expiration of the registration. Failure to renew a registration prior to the first day of the month following expiration shall require payment of the renewal fee and a penalty fee of ~~\$100~~ \$90. Payment shall be made as specified in subrule 10.3(1).

ITEM 11. Amend subrule 12.7(2) as follows:

12.7(2) Initial permit, renewal, and fees. The fee for an initial permit or permit renewal shall be paid at the time that the application for the permit or permit renewal is submitted for filing. Payment shall be made in the form of a personal, business, certified, or cashier's check or money order made payable to the Iowa Board of Pharmacy. Payments made in the form of foreign currency or third-party endorsed checks will not be accepted.

a. Initial and renewal fees. For each initial permit or timely renewed permit, an applicant shall pay a fee of ~~\$200~~ \$180.

b. Late application. Failure to renew a permit prior to January 1 following the permit's expiration shall require payment of the renewal fee plus a ~~\$200~~ \$180 late payment fee.

c. No change.

ITEM 12. Amend subrule 17.3(2) as follows:

17.3(2) License expiration and renewal. A wholesale drug license shall be renewed before January 1 of each year. The fee for a new or renewal license shall be ~~\$300~~ \$270.

a. Late payment penalty. Failure to renew the license before January 1 shall require payment of the renewal fee and a penalty fee of ~~\$300~~ \$270. Failure to renew the license before February 1 following expiration shall require payment of the renewal fee and a penalty fee of ~~\$400~~ \$360. Failure to renew the

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license before March 1 following expiration shall require payment of the renewal fee and a penalty fee of ~~\$500~~ \$450. Failure to renew the license before April 1 following expiration shall require payment of the renewal fee and a penalty fee of ~~\$600~~ \$540 and may require an appearance before the board. In no event shall the combined renewal fee and penalty fee for late renewal of a wholesale drug license exceed ~~\$900~~ \$810.

b. No change.

ITEM 13. Amend subrule 24.7(4) as follows:

24.7(4) Fees and term of registration. The following fees, as applicable, shall accompany an application for pharmacy Internet site registration or registration renewal:

a. *Initial registration.* The fee for initial registration of a pharmacy Internet site shall be ~~\$150~~ \$135. All registrations shall expire annually on December 31.

b. *Registration renewal.* The fee for renewal of a pharmacy Internet site registration shall be ~~\$150~~ \$135. Failure to renew a registration prior to expiration shall require payment of a late payment fee in the amount of ~~\$150~~ \$135 in addition to the renewal fee. Failure to renew a registration within 30 days following expiration shall require payment of a late payment fee in the amount of ~~\$250~~ \$225 in addition to the renewal fee. Failure to renew a registration within 60 days following expiration shall require payment of a late payment fee in the amount of ~~\$350~~ \$315 in addition to the renewal fee. Failure to renew a registration within 90 days following expiration shall require payment of a late payment fee in the amount of ~~\$450~~ \$405 in addition to the renewal fee. The total renewal and late payment fee shall not exceed ~~\$600~~ \$540. Failure to timely renew a registration may subject the registrant to disciplinary action.

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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 Pharmacy hereby gives Notice of Intended Action to amend Chapter 6, “General Pharmacy Practice,” Iowa Administrative Code.

The amendment was approved at the August 29, 2012, regular meeting of the Board of Pharmacy.

The proposed amendment clarifies that the pharmacist in charge of a general pharmacy is responsible for establishing, implementing, and periodically reviewing and revising written policies and procedures for the operations of the pharmacy and is also responsible for ensuring that all pharmacy personnel are familiar with the pharmacy’s established policies and procedures.

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

Any interested person may present written comments, data, views, and arguments on the proposed amendment not later than 4:30 p.m. on October 23, 2012. Such written materials may be sent to Terry Witkowski, Executive Officer, Board of Pharmacy, 400 S.W. Eighth Street, Suite E, Des Moines, Iowa 50309-4688; or by e-mail to terry.witkowski@iowa.gov.

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

This amendment is intended to implement Iowa Code section 155A.13.

The following amendment is proposed.

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Amend rule 657—6.2(155A) as follows:

657—6.2(155A) Pharmacist in charge. One professionally competent, legally qualified pharmacist in charge in each pharmacy shall be responsible for, at a minimum, the following:

1. to 13. No change.

14. Establishing, ~~and~~ implementing, and periodically reviewing and revising written policies and procedures to reflect changes in processes, organization, and other functions for all operations of the pharmacy and ensuring that all pharmacy personnel are familiar with those policies and procedures.

15. and 16. No change.

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PHARMACY BOARD[657]

Notice of Intended Action

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

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

Pursuant to the authority of Iowa Code section 147.76, the Board of Pharmacy hereby gives Notice of Intended Action to amend Chapter 7, “Hospital Pharmacy Practice,” Iowa Administrative Code.

The amendments were approved at the August 29, 2012, regular meeting of the Board of Pharmacy.

The proposed amendments authorize a hospital pharmacy to contract for remote order entry and medication order preview and verification with another licensed pharmacy to supplement hospital pharmacy services and to increase the availability of the pharmacist for involvement in cognitive and patient care activities.

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

Any interested person may present written comments, data, views, and arguments on the proposed amendments not later than 4:30 p.m. on October 23, 2012. Such written materials may be sent to Terry Witkowski, Executive Officer, Board of Pharmacy, 400 S.W. Eighth Street, Suite E, Des Moines, Iowa 50309-4688; or by e-mail to terry.witkowski@iowa.gov.

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

These amendments are intended to implement Iowa Code section 155A.13.

The following amendments are proposed.

ITEM 1. Amend rule 657—7.7(155A), introductory paragraph, as follows:

657—7.7(155A) Verification by remote pharmacist ~~when pharmacy is closed~~. A hospital pharmacy may contract with another pharmacy for remote pharmacist preview and verification of patient-specific drugs or devices ordered for a patient ~~when the hospital pharmacy is closed~~. Contracted services may include pharmacist order entry pursuant to subrule 7.8(3). Pharmacies entering into a contract or agreement pursuant to this rule shall comply with the following requirements:

ITEM 2. Amend subrule 7.7(1) as follows:

7.7(1) *Nonsupplanting service.* A contract or agreement for remote pharmacist services shall not relieve the hospital pharmacy from employing or contracting with a pharmacist to provide routine pharmacy services within the facility. The activities authorized by this rule are intended to supplement on-site hospital pharmacy services ~~when the pharmacy is closed~~ and are not intended to eliminate the need for an on-site hospital pharmacy or pharmacist. The activities authorized by this rule are intended to increase the availability of the pharmacist for involvement in cognitive and patient care activities when the pharmacy is open.

ARC 0371C**PHARMACY BOARD[657]****Notice of Intended Action**

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

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

Pursuant to the authority of Iowa Code section 147.76, the Board of Pharmacy hereby gives Notice of Intended Action to amend Chapter 8, “Universal Practice Standards,” Iowa Administrative Code.

The amendment was approved at the August 29, 2012, regular meeting of the Board of Pharmacy.

The proposed amendment clarifies the requirement for prior notification to the Board when a pharmacy plans to remodel or relocate a pharmacy department, establishing that the notification be submitted to the Board at least 30 days prior to commencement of the project. The proposed amendment also clarifies that the Board may require inspection of the proposed remodel or relocation site, including inspection of a temporary pharmacy location and inspection of a barrier constructed or intended to be constructed to provide security when the pharmacy department is closed. The proposed amendment combines two subrules that address requirements for light, ventilation, temperature, and humidity into a single subrule and rennumbers two subrules as a result of the rearrangement and the addition of a new subrule.

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

Any interested person may present written comments, data, views, and arguments on the proposed amendment not later than 4:30 p.m. on October 23, 2012. Such written materials may be sent to Terry Witkowski, Executive Officer, Board of Pharmacy, 400 S.W. Eighth Street, Suite E, Des Moines, Iowa 50309-4688; or by e-mail to terry.witkowski@iowa.gov.

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

This amendment is intended to implement Iowa Code section 155A.13.

The following amendment is proposed.

Amend rule 657—8.5(155A) as follows:

657—8.5(155A) Environment and equipment requirements. There shall be adequate space, equipment, and supplies for the professional and administrative functions of the pharmacy. Space and equipment in an amount and type to provide secure, environmentally controlled storage of drugs shall be available.

8.5(1) and 8.5(2) No change.

8.5(3) Secure barrier: A pharmacy department shall be closed and secured in the absence of the pharmacist except as provided in rule 657—6.7(124,155A) or 657—7.6(124,155A). ~~The~~ To ensure that secure closure, the pharmacy department shall be surrounded by a physical barrier capable of being securely locked to prevent entry when the department is closed. A secure barrier may be constructed of other than a solid material with a continuous surface if the openings in the material are not large enough to permit removal of items from the pharmacy department by any means. Any material used in the construction of the barrier shall be of sufficient strength and thickness that it cannot be readily or easily removed, penetrated, or bent. The plans and specifications of the barrier shall be submitted to the board for approval at least 30 days prior to the start of construction. ~~The board may also require on-site~~ pharmacy may be subject to inspection of the facility or pharmacy department prior to the pharmacy’s opening or relocation as provided in subrule 8.5(4). ~~The pharmacy department shall be closed and secured in the absence of the pharmacist except as provided in rule 657—6.7(124,155A) or 657—7.6(124,155A).~~

PHARMACY BOARD[657](cont'd)

8.5(4) *Remodel or relocation—inspection.* A pharmacy planning to remodel or relocate a licensed pharmacy department on or within the premises currently occupied by the pharmacy department shall provide written notification to the board at least 30 days prior to commencement of the remodel or relocation. The board may require on-site inspection of the facility or pharmacy department prior to or during the pharmacy's remodel, relocation, or opening. The board may also require on-site inspection of a temporary pharmacy location intended to be utilized during the remodel, construction, or relocation of the pharmacy department.

8.5(4) 8.5(5) *Orderly and clean.* The pharmacy shall be arranged in an orderly fashion and kept clean. All required equipment shall be in good operating condition and maintained in a sanitary manner. Animals shall not be allowed within a licensed pharmacy unless that pharmacy is exclusively providing services for the treatment of animals or unless the animal is a service dog or assistive animal as defined in Iowa Code subsection 216C.11(1).

8.5(5) 8.5(6) *Light, and ventilation, temperature, and humidity.* The pharmacy shall be properly lighted and ventilated. The temperature and humidity of the pharmacy shall be maintained within a range compatible with the proper storage of drugs.

8.5(6) *Temperature and humidity.* The temperature and humidity of the pharmacy shall be maintained within a range compatible with the proper storage of drugs.

8.5(7) and 8.5(8) No change.

ARC 0374C

PHARMACY BOARD[657]

Notice of Intended Action

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

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

Pursuant to the authority of Iowa Code sections 124.301 and 147.76, the Board of Pharmacy hereby gives Notice of Intended Action to amend Chapter 13, “Sterile Compounding Practices,” and Chapter 20, “Pharmacy Compounding Practices,” Iowa Administrative Code.

The amendments were approved at the August 29, 2012, regular meeting of the Board of Pharmacy.

The proposed amendments change definitions in Chapters 13 and 20 to clarify the terms used and to ensure uniformity of interpretation of like terms contained in both chapters. The proposed amendments also change the format of references to rules throughout by adding the Board's agency identification number to the references. Record requirements for sterile compounded drug products are added as new rule 657—13.8(155A), and the use of the same biological safety cabinet (BSC) or compounding aseptic isolator (CAI) for the compounding of nonhazardous sterile or nonsterile compounded drug products and for the compounding of hazardous drugs is prohibited unless the BSC or CAI is appropriately decontaminated between uses. The proposed amendments reorganize subrule 20.3(4) into paragraphs addressing specific sales and advertising issues and add a paragraph authorizing the compounding of drug products and placebos for dispensing to subjects in an approved university or college research project. The proposed amendments provide that a compounding production record is not required when personnel mix or reconstitute a drug according to the product's labeling or the manufacturer's directions and clarify that the record of an individual involved in any step of the compounding or verification process shall consist of the initials or other unique identification of that individual.

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

Any interested person may present written comments, data, views, and arguments on the proposed amendments not later than 4:30 p.m. on October 23, 2012. Such written materials may be sent to Terry

PHARMACY BOARD[657](cont'd)

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

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

These amendments are intended to implement Iowa Code sections 124.306, 124.308, 126.9, 126.10, 155A.2, 155A.4, 155A.13, 155A.13A, 155A.28, 155A.33, and 155A.35.

The following amendments are proposed.

ITEM 1. Amend rule 657—13.1(124,126,155A) as follows:

657—13.1(124,126,155A) Purpose and scope. These rules establish standards and procedures for the preparation, labeling, and distribution of sterile preparations by licensed pharmacies pursuant to a practitioner's order or prescription; for sterile product quality and characteristics; for personnel training, environmental quality, and equipment standards; and for pharmaceutical care. Sterile compounding differs from nonsterile compounding primarily by requiring the maintenance of sterility when preparations are compounded exclusively with sterile ingredients and components and by requiring the achievement of sterility when preparations are compounded with nonsterile ingredients and components. The standards and procedures outlined in this chapter apply to pharmacy practice when a preparation:

1. Is prepared according to the manufacturer's labeled instructions and requires other manipulations that expose the original contents to potential contamination;
2. Contains nonsterile ingredients or employs nonsterile components or devices that must be sterilized before administration; or
3. Is a biologic, diagnostic, drug, or nutrient that possesses characteristics of either "1" or "2" above and includes, but is not limited to, the following preparations that are required to be sterile when they are administered to patients: baths and soaks for live organs and tissues, into patient body cavities, central nervous and vascular systems, eyes, and joints, and when used as baths for live organs and tissues, such as injections (e.g., colloidal dispersions, emulsions, solutions, and suspensions), aqueous bronchial and nasal inhalations, irrigations for wounds and body cavities, ophthalmic drops and ointments, and tissue implants.

Standards and safe practices for the compounding of radioactive preparations are identified in 657—Chapter 16.

ITEM 2. Amend rule **657—13.2(124,126,155A)**, definitions of "Compounding," "High-risk preparation," "Low-risk preparation" and "Medium-risk preparation," as follows:

"Compounding" means the constitution, reconstitution, combination, dilution, or other process causing a change in the form, composition, or strength of any ingredient or of any other attribute of a product preparing, mixing, assembling, packaging, and labeling a drug or device for an identified individual patient as a result of a practitioner's prescription drug order or initiative based on the prescriber/patient/pharmacist relationship in the course of professional practice or for the purpose of, or incident to, research, teaching, or chemical analysis, and not for sale or dispensing. All compounding, regardless of the type of product, is to be done pursuant to a prescription. Compounding also includes the preparation of drugs or devices in which all bulk drug substances and components are nonprescription or in anticipation of prescription drug orders based on routine, regularly observed prescribing patterns pursuant to 657—subrule 20.3(3). Compounding does not include mixing or reconstituting a drug according to the product's labeling or to the manufacturer's directions.

"High-risk preparation" means a sterile preparation that is compounded from nonsterile ingredients; that is compounded with nonsterile components, containers, or equipment and requires terminal sterilization; or that meets the conditions of rule 657—13.13(155A).

"Low-risk preparation" means a sterile preparation that is compounded with sterile equipment, sterile ingredients, and sterile contact surfaces or that meets the conditions of rule 657—13.11(155A).

"Medium-risk preparation" means a sterile preparation that is compounded with sterile equipment, sterile ingredients, and sterile contact surfaces and involves complex or numerous manipulations of a sterile product or that meets the conditions of rule 657—13.12(155A).

PHARMACY BOARD[657](cont'd)

ITEM 3. Adopt the following **new** definition of “Nasal inhalation” in rule **657—13.2(124,126,155A)**:

“*Nasal inhalation*” means a drug product or preparation, including the delivery device if applicable, whose intended site of deposition is the respiratory tract or the nasal or pharyngeal region. Nasal inhalation does not include a topical nasal spray or irrigation that is deposited primarily in the nasal passages.

ITEM 4. Amend subrule 13.6(1) as follows:

13.6(1) *Quality assurance program.* The policy and procedure manual shall include a quality assurance program pursuant to rule **657—13.31(155A)**.

ITEM 5. Amend subrule 13.6(2) as follows:

13.6(2) *Sampling.* The policy and procedure manual shall include procedures that require sampling of a preparation as provided in rule **657—13.29(126,155A)** or if microbial contamination is suspected.

ITEM 6. Adopt the following **new** rule **657—13.8(155A)**:

657—13.8(155A) Record requirements.

13.8(1) *Production record.* A production record shall be prepared and kept for each drug product compounded for an individual patient. A production record is not required when mixing or reconstituting a drug according to the product’s labeling or the manufacturer’s directions. The record shall include the following information:

- a. Production date;
- b. List of ingredients and quantity of each ingredient used;
- c. Initials or unique identification of each person involved in each of the compounding steps;
- d. Initials or unique identification of each pharmacist verifying each of the compounding steps;
- e. Internal control or prescription number and, if the prescription is filled using a product compounded in bulk pursuant to rule **657—20.11(126)**, the internal control number assigned to the batch and recorded in the batch production record.

13.8(2) *Batch master formula record.* Pursuant to the provisions of **657—subrule 20.3(3)**, pharmacies may compound drugs in bulk quantities for subsequent prescription labeling and dispensing. For each drug product compounded in bulk quantity, a master formula record containing the following information shall be prepared:

- a. Name of the product;
- b. Specimen or copy of label;
- c. List of ingredients and quantities;
- d. Description of container used;
- e. Compounding instructions, procedures and specifications.

13.8(3) *Batch production record.* For each batch of drug product compounded, a production record containing the following information shall be prepared and maintained:

- a. The information from the master formula record;
- b. Records of each step in the compounding process including:
 - (1) Preparation date;
 - (2) Identification of ingredients (including lot numbers);
 - (3) Quantities of ingredients used;
 - (4) Initials or unique identification of person completing each step;
 - (5) Initials or unique identification of pharmacist verifying each step;
- c. Expiration/beyond-use date;
- d. Internal control number;
- e. Total yield.

ITEM 7. Amend rule **657—13.10(126,155A)** as follows:

657—13.10(126,155A) Microbial contamination risk levels. Preparations shall be assigned an appropriate risk level—low, medium or high—according to the corresponding probability of

PHARMACY BOARD[657](cont'd)

contaminating a preparation with microbial contamination such as microbial organisms, spores, and endotoxins, and chemical and physical contamination such as foreign chemicals and physical matter. The characteristics described in rules 657—13.11(155A), 657—13.12(155A), and 657—13.13(155A) are intended as guides to the diligence required in compounding at each risk level.

ITEM 8. Amend rule 657—13.14(155A) as follows:

657—13.14(155A) Immediate-use preparations. The immediate-use provisions of this rule are intended only for those situations where there is a need for emergency or immediate administration of a sterile preparation. Such situations may include cardiopulmonary resuscitation, emergency room treatment, preparation of diagnostic agents, or critical therapy where the compounding of the preparation under low-risk level conditions would subject the patient to additional risk due to delays in therapy. Immediate-use preparations are not intended for storage for anticipated needs or for batch compounding. Medium-risk and high-risk preparations shall not be compounded as immediate-use preparations. Immediate-use preparations are exempt from the provisions of rule 657—13.11(155A) for low-risk preparations only when all of the following criteria are met:

1. to 6. No change.

ITEM 9. Amend subrule 13.20(3) as follows:

13.20(3) Preparation area. All hazardous drugs shall be compounded in a vertical flow Class II or Class III biological safety cabinet or in a compounding aseptic isolator containment and control device with biohazard control capabilities. A BSC or CAI used for the compounding of hazardous drugs shall not be used for the compounding of nonhazardous sterile or nonsterile compounded products unless the BSC or CAI is decontaminated in compliance with industry standards appropriate for inactivating hazardous drugs.

a. and b. No change.

ITEM 10. Amend subrule 13.20(8) as follows:

13.20(8) Spills of hazardous drugs. Written procedures for handling both major and minor spills of hazardous drugs shall be developed, maintained, implemented, and adhered to. The procedures shall be maintained with the policies and procedures required in rule 657—13.6(155A).

ITEM 11. Amend paragraph **13.31(2)“c”** as follows:

c. Reviewing documented patient or caregiver education and training required pursuant to rule 657—13.32(155A).

ITEM 12. Amend rule 657—20.3(124,126,155A) as follows:

657—20.3(124,126,155A) General requirements.

20.3(1) No change.

20.3(2) Substances and components. Pharmacists shall receive, store, and use bulk drug substances manufactured by an establishment that is registered with the FDA under the Federal Food, Drug, and Cosmetic Act and that, if requested, will provide a valid certificate of analysis for each drug product. Certificates of analysis shall be maintained pursuant to rule 657—20.12(124,126,155A). Bulk drug substances to be used in compounding drugs:

a. to d. No change.

20.3(3) Prescriber/patient/pharmacist relationship. A prescription for a compounded drug shall be authorized by the prescriber for a specific patient. Prescriptions for all products compounded at the pharmacy shall be maintained on file at the pharmacy as required by Iowa law. Pharmacists may compound drugs prior to receiving a valid prescription based on a history of receiving valid prescriptions generated solely within an established pharmacist/patient/prescriber relationship. Compounding based on a prescription history is bulk compounding and shall comply with the requirements of rule 657—20.11(126).

PHARMACY BOARD[657](cont'd)

20.3(4) Advertising and resale of compounded drug products. The sale of compounded drug products to other pharmacies or to prescribers, except as provided in this subrule, is considered manufacturing.

a. Sale to practitioner for office use. ~~Pharmacists~~ A pharmacist shall not offer compounded drug products to other licensed persons or commercial entities for subsequent resale except in the course of professional practice for a practitioner to administer to an individual patient.

b. Sale to hospital pharmacy for administration to a specific patient. A pharmacy may sell to a hospital pharmacy a compounded drug product prepared pursuant to a prescriber's authorization for administration to a specific patient. The label affixed to the compounded drug product shall identify the pharmacy that compounded the product as the dispensing pharmacy. The original prescription drug order shall be maintained by the dispensing pharmacy. These rules shall not prohibit the hospital pharmacy from billing the patient or the patient's fiscal agent for a compounded product prepared for the patient and purchased by the hospital pharmacy pursuant to this subrule.

c. Advertising compounding services. ~~Compounding pharmacies or pharmacists~~ A compounding pharmacy or pharmacist may advertise or otherwise promote the fact that ~~they provide the pharmacy or pharmacist provides~~ prescription drug compounding services. ~~Compounding pharmacies or pharmacists~~ A compounding pharmacy or pharmacist shall not make a claim, assertion, or inference of professional superiority in the compounding of drug products that cannot be substantiated. All advertisements shall meet the requirements contained in rule 657—8.12(126,147).

d. Central fill or processing of compounded drug products. Nothing in these rules shall prohibit the centralized filling or processing of a prescription drug order for a compounded drug product by a central fill or processing pharmacy on behalf of an originating pharmacy as provided in 657—Chapter 18.

e. Compounding for research. A compounding pharmacy may compound drug products and placebos for dispensing to subjects involved in an approved blinded university or college research project. Drug products and placebos compounded for this purpose shall be labeled as provided in the research protocol and may be dispensed directly to patients, delivered to another pharmacy for delivery to patients, or delivered to the researcher for delivery to patients. Provisions of subrule 20.3(1) prohibiting the compounding of commercially available products shall not apply to the compounding of products and placebos for research pursuant to this paragraph.

20.3(5) No change.

ITEM 13. Amend subrule 20.6(2) as follows:

20.6(2) Radiopharmaceuticals. If radiopharmaceuticals are being compounded, the requirements of 657—Chapter 16 and rule 657—13.20(124,155A) shall be met.

ITEM 14. Amend subrule 20.10(3) as follows:

20.10(3) Record. A production record shall be prepared and kept for each drug product compounded for an individual patient. A production record is not required when a drug is mixed or reconstituted according to the product's labeling or the manufacturer's directions. The record shall include the following information:

- a.* Production date;
- b.* List of ingredients and quantity of each ingredient used;
- c.* Initials or unique identification of each person involved in each of the compounding steps;
- d.* Initials or unique identification of each pharmacist verifying each of the compounding steps;
- e.* Internal control or prescription number and, if the prescription is filled using a product compounded in bulk pursuant to rule 657—20.11(126), the internal control number assigned to the batch and recorded in the batch production record.

ITEM 15. Amend subrule 20.10(8) as follows:

20.10(8) Labeling and control of excess products. When a quantity of a compounded drug product is prepared in excess of that to be initially dispensed, the excess product shall be labeled, stored, and accounted for pursuant to rule 657—20.11(126).

PHARMACY BOARD[657](cont'd)

ITEM 16. Amend rule 657—20.11(126) as follows:

657—20.11(126) Bulk compounding.

20.11(1) No change.

20.11(2) *Production record.* For each batch of drug product compounded, a production record containing the following information shall be prepared and maintained:

- a. The information from the master formula record;
- b. Records of each step in the compounding process including:
 - (1) Preparation date;
 - (2) Identification of ingredients (including lot numbers);
 - (3) Quantities of ingredients used;
 - (4) Initials or unique identification of person completing each step;
 - (5) Initials or unique identification of pharmacist verifying each step;
- c. Expiration/beyond-use date;
- d. Internal control number;
- e. Total yield.

20.11(3) No change.

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PHARMACY BOARD[657]

Notice of Intended Action

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

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

Pursuant to the authority of Iowa Code sections 124.301 and 147.76, the Board of Pharmacy hereby gives Notice of Intended Action to amend Chapter 22, “Unit Dose, Alternative Packaging, and Emergency Boxes,” and Chapter 23, “Long-Term Care Pharmacy Practice,” Iowa Administrative Code.

The amendments were approved at the August 29, 2012, regular meeting of the Board of Pharmacy.

The proposed amendments authorize a pharmacy other than a facility’s primary provider pharmacy to provide to the facility to meet the needs of the facility’s patients an emergency/first dose drug supply containing those drugs and products not stocked or available from the primary provider pharmacy. This additional supply may include, but is not limited to, parenteral or compounded drug products.

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

Any interested person may present written comments, data, views, and arguments on the proposed amendments not later than 4:30 p.m. on October 23, 2012. Such written materials may be sent to Terry Witkowski, Executive Officer, Board of Pharmacy, 400 S.W. Eighth Street, Suite E, Des Moines, Iowa 50309-4688; or by e-mail to terry.witkowski@iowa.gov.

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

These amendments are intended to implement Iowa Code sections 124.301, 155A.13, and 155A.15.

The following amendments are proposed.

ITEM 1. Amend subrule 22.7(1) as follows:

22.7(1) *Emergency/first dose drug supplies.* ~~All contents~~ Contents of the emergency/first dose drug supply shall be provided by ~~one~~ a primary provider pharmacy designated by the facility, and the drug supply shall be available to meet the needs of all patients of the facility, without penalty or discrimination. A second provider pharmacy may provide an emergency/first dose drug supply consisting only of drugs and products not stocked or available from the primary provider pharmacy including, but not limited to,

PHARMACY BOARD[657](cont'd)

parenteral or compounded drug products. The provider ~~pharmacy~~ pharmacies shall be properly registered with the federal Drug Enforcement Administration (DEA) and the board and shall be currently licensed by the board. The provider pharmacist ~~or pharmacists~~, the consultant pharmacist, the director of nursing of the facility, and the medical director of the facility, or their respective designees, shall jointly determine and prepare a list of drugs necessary for prompt use in patient care that will be available in ~~the~~ each emergency/first dose drug supply. Drugs shall be listed by identity and quantity, shall be limited to drugs necessary to meet the emergency needs of the patients served, and shall be periodically reviewed pursuant to policy. Careful patient planning should be a cooperative effort between the ~~pharmacy~~ pharmacies and the facility to make drugs available, and ~~this supply~~ emergency/first dose drug supplies shall only be used for emergency or unanticipated needs. The intent of the emergency/first dose drug supply is not to relieve a pharmacy of the responsibility for timely provision of a patient's routine drug needs; the intent is to ensure that a supply of drugs is available to each patient in case of urgent need. The drugs in ~~the~~ the emergency/first dose drug ~~supply~~ supplies are the responsibility of the respective provider pharmacy and, therefore, shall not be used or altered in any way except as provided in this rule.

ITEM 2. Amend rule 657—23.5(124,155A) as follows:

657—23.5(124,155A) Emergency drugs. A supply of emergency drugs may be provided by one or more long-term care ~~pharmacy~~ provider pharmacies to the facility pursuant to rule 657—22.7(124,155A).

23.5(1) Emergency medication order—pharmacist review. When an emergency drug is provided pursuant to rule 657—22.7(124,155A), the medication order shall be reviewed by the resident's dispensing pharmacist prior to the administration of a second dose.

23.5(2) Other emergency drugs and devices. In addition to ~~an~~ one or more emergency ~~box~~ boxes or stat drug ~~box~~ boxes, a long-term care facility staffed by one or more persons licensed to administer drugs may maintain a stock of intravenous fluids, irrigation fluids, heparin flush kits, medicinal gases, sterile water and saline, and prescription devices. Such stock shall be limited to a listing to be determined by the provider pharmacist in consultation with the consultant pharmacist and the medical director and director of nursing of the facility.

ARC 0345C

PROFESSIONAL LICENSING AND REGULATION BUREAU[193]

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 546.3 and 546.10, the Professional Licensing and Regulation Bureau hereby gives Notice of Intended Action to amend Chapter 4, “Proof of Legal Presence,” Iowa Administrative Code.

These proposed amendments address a license applicant's requirement to provide a social security number under 42 U.S.C. Section 666(a)(13) and Iowa Code sections 252J.8(1), 261.126(1), and 272D.8(1).

All of the seven boards of the Professional Licensing and Regulation Bureau reviewed the proposed amendments without objection. The amendments are intended to clarify that applicants with social security numbers must disclose the numbers in order to be licensed. The amendments further provide a process to follow when applicants have applied for a social security number under a lawful visa but have not yet received the number at the time of application.

Consideration will be given to all written suggestions or comments on the proposed amendments received no later than 4:30 p.m. on October 25, 2012. Comments should be addressed to David Batts,

PROFESSIONAL LICENSING AND REGULATION BUREAU[193](cont'd)

State of Iowa Professional Licensing and Regulation Bureau, 1920 S.E. Hulsizer Road, Ankeny, Iowa 50021. E-mail may be sent to david.batts@iowa.gov.

A public hearing will be held on October 25, 2012, at 9 a.m. in the Second Floor Bureau Conference Room, 1920 S.E. Hulsizer Road, Ankeny, Iowa, at which time persons may present their views on the proposed amendments either orally or in writing. At the hearing, any person who wishes to speak will be asked to give the person's name and address for the record and to confine remarks to the subject of the proposed amendments.

These amendments do 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 amendments are intended to implement Iowa Code sections 252J.8(1), 261.126(1), 272D.8(1), and 546.10.

The following amendments are proposed.

ITEM 1. Amend **193—Chapter 4**, title, as follows:

SOCIAL SECURITY NUMBERS AND PROOF OF LEGAL PRESENCE

ITEM 2. Amend rule 193—4.1(546) as follows:

193—4.1(546) Purpose. This chapter outlines a uniform process for applicants and licensees of all boards in the bureau to establish proof of legal presence pursuant to the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (8 U.S.C.1621). This chapter also addresses the requirement that a license applicant provide a social security number under 42 U.S.C. 666(a)(13) and Iowa Code sections 252J.8(1), 261.126(1), and 272D.8(1) for purposes including the collection of child support obligations, college student loan obligations, and debts owed to the state of Iowa.

ITEM 3. Adopt the following **new** rule 193—4.4(252J,261,272D,546):

193—4.4(252J,261,272D,546) Social security number disclosure.

4.4(1) An individual applying for a license from a board within the bureau shall disclose the individual's social security number on the application form unless:

a. The applicant demonstrates to the satisfaction of the board that the applicant does not possess and is not eligible for a social security number, or

b. The applicant demonstrates or attests that the applicant is in the process of applying for a social security number and will provide such number within 60 days of the date on which the applicant submits the application to the board. The license of an applicant who is licensed pursuant to this subrule may be revoked for failure to provide a valid social security number within 60 days of the date on which application was filed.

4.4(2) An applicant who does not possess a social security number and is not eligible for a social security number will be required to demonstrate lawful presence in the United States, if applicable, and provide government-issued photo identification as needed to verify identity. If circumstances change and the applicant or licensee later attains a social security number, the applicant or licensee shall disclose the social security number to the board within 30 days of the date on which the social security number is issued.

ARC 0370C**PUBLIC HEALTH DEPARTMENT[641]****Notice of Intended Action**

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

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

Pursuant to the authority of Iowa Code sections 22.7(2) and 139A.8(8), the Iowa Department of Public Health hereby gives Notice of Intended Action to amend Chapter 7, “Immunization and Immunization Education: Persons Attending Elementary or Secondary Schools, Licensed Child Care Centers or Institutions of Higher Education,” Iowa Administrative Code.

The rules in Chapter 7 describe the immunization requirements of persons attending elementary or secondary school and licensed child care centers in Iowa. These amendments add language pertaining to vaccination for tetanus, diphtheria and pertussis (Tdap vaccine) for students in secondary school, as well as language pertaining to transition of the immunization registry to a web-based system.

Following is a summary of the changes from the existing rules:

In Item 1, references to Iowa Code chapters which no longer exist are stricken from the definition of “physician.”

In Item 2, the Immunization Requirements Table is replaced with a new Table which adds a vaccination for tetanus, diphtheria and pertussis (Tdap vaccine) for students in secondary school and adds a new footnote number 2, which requires renumbering the subsequent footnotes.

Item 3 amends subrule 7.7(1) to be consistent with language in subrule 7.6(1).

Item 4 amends the list of information which may be provided to the registry by enrolled users by removing “Contradictions, precautions” and replacing it with “Patient comments.”

Item 5 updates terminology by replacing “an identification code and password” with “an organization code and user name.”

Item 6 adds the admitting official of a postsecondary school to the list of persons to whom the Department may release information from the registry.

Item 7 adds postsecondary schools to the list of schools to which a physician, a physician assistant, a nurse, or a certified medical assistant shall disclose a student’s immunization information upon request.

Item 8 adds postsecondary schools to the list of schools and child care centers that shall disclose immunization information among the list upon request.

Any interested person may make written suggestions or comments on these proposed amendments on or before October 23, 2012. Such written materials should be directed to the Bureau of Immunization and TB, Department of Public Health, 321 East 12th Street, Des Moines, Iowa 50319; fax (800)831-6292. Persons who wish to convey their views orally should contact the Bureau of Immunization and TB at (800)831-6293.

Also, there will be a public hearing on October 23, 2012, from 9 to 10 a.m., at which time persons may present their views either orally or in writing. At the hearing, persons will be asked to give their names and addresses for the record and to confine their remarks to the subject of the amendments.

The public hearing will originate from Room 415 of the Lucas State Office Building and will be accessible over the Iowa Communications Network (ICN) teleconference system by calling 1-866-685-1580 and entering the conference code 5152817200 when prompted.

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

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

These amendments are intended to implement Iowa Code sections 139A.8 and 22.7(2).

The following amendments are proposed.

PUBLIC HEALTH DEPARTMENT[641](cont'd)

ITEM 1. Amend rule **641—7.1(139A)**, definition of “Physician,” as follows:

“*Physician*” means a person licensed to practice medicine and surgery or osteopathic medicine and surgery pursuant to Iowa Code chapter 148, 150, or 150A.

ITEM 2. Rescind the Immunization Requirements Table in subrule **7.4(1)** and adopt the following new table in lieu thereof:

IMMUNIZATION REQUIREMENTS

Applicants enrolled or attempting to enroll shall have received the following vaccines in accordance with the doses and age requirements listed below. If, at any time, the age of the child is between the listed ages, the child must have received the number of doses in the “Total Doses Required” column.

Institution	Age	Vaccine	Total Doses Required
Licensed Child Care Center	Less than 4 months of age	This is not a recommended administration schedule, but contains the minimum requirements for participation in licensed child care. Routine vaccination begins at 2 months of age.	
	4 months through 5 months of age	Diphtheria/Tetanus/Pertussis	1 dose
		Polio	1 dose
		<i>haemophilus influenzae</i> type B	1 dose
		Pneumococcal	1 dose
	6 months through 11 months of age	Diphtheria/Tetanus/Pertussis	2 doses
		Polio	2 doses
		<i>haemophilus influenzae</i> type B	2 doses
		Pneumococcal	2 doses
	12 months through 18 months of age	Diphtheria/Tetanus/Pertussis	3 doses
		Polio	2 doses
		<i>haemophilus influenzae</i> type B	2 doses; or 1 dose received when the applicant is 15 months of age or older.
		Pneumococcal	3 doses if the applicant received 1 or 2 doses before 12 months of age; or 2 doses if the applicant has not received any previous doses or has received 1 dose on or after 12 months of age.
	19 months through 23 months of age	Diphtheria/Tetanus/Pertussis	4 doses
		Polio	3 doses
		<i>haemophilus influenzae</i> type B	3 doses, with the final dose in the series received on or after 12 months of age, or 1 dose received when the applicant is 15 months of age or older.
		Pneumococcal	4 doses; or 3 doses if the applicant received 1 or 2 doses before 12 months of age; or 2 doses if the applicant has not received any previous doses or has received 1 dose on or after 12 months of age.
		Measles/Rubella ¹	1 dose of measles/rubella-containing vaccine received on or after 12 months of age; or the applicant demonstrates a positive antibody test for measles and rubella from a U.S. laboratory.
		Varicella	1 dose received on or after 12 months of age if the applicant was born on or after September 15, 1997, unless the applicant has had a reliable history of natural disease.
	24 months and older	Diphtheria/Tetanus/Pertussis	4 doses
		Polio	3 doses
		<i>haemophilus influenzae</i> type B	3 doses, with the final dose in the series received on or after 12 months of age; or 1 dose received when the applicant is 15 months of age or older. Hib vaccine is not indicated for persons 60 months of age or older.
		Pneumococcal	4 doses if the applicant received 3 doses before 12 months of age; or 3 doses if the applicant received 2 doses before 12 months of age; or 2 doses if the applicant received 1 dose before 12 months of age or received 1 dose between 12 and 23 months of age; or 1 dose if no doses had been received prior to 24 months of age. Pneumococcal vaccine is not indicated for persons 60 months of age or older.
		Measles/Rubella ¹	1 dose of measles/rubella-containing vaccine received on or after 12 months of age; or the applicant demonstrates a positive antibody test for measles and rubella from a U.S. laboratory.
		Varicella	1 dose received on or after 12 months of age if the applicant was born on or after September 15, 1997, unless the applicant has had a reliable history of natural disease.

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Elementary or Secondary School (K-12)	4 years of age and older	Diphtheria/Tetanus/Pertussis ^{4,5}	3 doses, with at least 1 dose of diphtheria/tetanus/pertussis-containing vaccine received on or after 4 years of age if the applicant was born on or before September 15, 2000 ² ; or 4 doses, with at least 1 dose of diphtheria/tetanus/pertussis-containing vaccine received on or after 4 years of age if the applicant was born after September 15, 2000, but before September 15, 2003 ² ; or 5 doses with at least 1 dose of diphtheria/tetanus/pertussis-containing vaccine received on or after 4 years of age if the applicant was born on or after September 15, 2003 ³ ; and 1 time dose of tetanus/diphtheria/acellular pertussis-containing vaccine (Tdap) for applicants in grades 7 and above, if born on or after September 15, 2000, regardless of the interval since the last tetanus/diphtheria-containing vaccine.
		Polio ⁷	3 doses, with at least 1 dose received on or after 4 years of age if the applicant was born on or before September 15, 2003; or 4 doses, with at least 1 dose received on or after 4 years of age if the applicant was born after September 15, 2003. ⁶
		Measles/Rubella ¹	2 doses of measles/rubella-containing vaccine; the first dose shall have been received on or after 12 months of age; the second dose shall have been received no less than 28 days after the first dose; or the applicant demonstrates a positive antibody test for measles and rubella from a U.S. laboratory.
		Hepatitis B	3 doses if the applicant was born on or after July 1, 1994.
		Varicella	1 dose received on or after 12 months of age if the applicant was born on or after September 15, 1997, but born before September 15, 2003, unless the applicant has had a reliable history of natural disease; or 2 doses received on or after 12 months of age if the applicant was born on or after September 15, 2003, unless the applicant has a reliable history of natural disease. ⁸

¹ Mumps vaccine may be included in measles/rubella-containing vaccine.

² DTaP is not indicated for persons 7 years of age or older, therefore, a tetanus-and diphtheria-containing vaccine should be used.

³ The 5th dose of DTaP is not necessary if the 4th dose was administered on or after 4 years of age.

⁴ Applicants 7 through 18 years of age who received their 1st dose of diphtheria/tetanus/pertussis-containing vaccine before 12 months of age should receive a total of 4 doses, with one of those doses administered on or after 4 years of age.

⁵ Applicants 7 through 18 years of age who received their 1st dose of diphtheria/tetanus/pertussis-containing vaccine at 12 months of age or older should receive a total of 3 doses, with one of those doses administered on or after 4 years of age.

⁶ If an applicant received an all-inactivated poliovirus (IPV) or all-oral poliovirus (OPV) series, a 4th dose is not necessary if the 3rd dose was administered on or after 4 years of age.

⁷ If both OPV and IPV were administered as part of the series, a total of 4 doses are required, regardless of the applicant's current age.

⁸ Administer 2 doses of varicella vaccine, at least 3 months apart, to applicants less than 13 years of age. Do not repeat the 2nd dose if administered 28 days or greater from the 1st dose. Administer 2 doses of varicella vaccine to applicants 13 years of age or older at least 4 weeks apart. The minimum interval between the 1st and 2nd dose of varicella for an applicant 13 years of age or older is 28 days.

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ITEM 3. Amend subrule 7.7(1) as follows:

7.7(1) A valid Iowa department of public health provisional enrollment certificate shall be submitted by the applicant or, if the applicant is a minor, by the applicant's parent or guardian to the admitting official of the school or licensed child care center in which the applicant wishes to enroll. Applicants who have begun but not completed the required immunizations may be granted provisional enrollment. To qualify for provisional enrollment, applicants shall have received at least one dose of each of the required vaccines or be a transfer student from another school system. A transfer student is an applicant seeking enrollment from one United States elementary or secondary school into another. To be valid, the certificate shall be the certificate of immunization issued by the department, a computer-generated copy from the immunization registry, or a certificate of immunization which has been approved in writing by the department. The certificate shall contain, at a minimum, the applicant's last name, first name, and date of birth, the vaccine(s) administered, the date(s) given, the remaining vaccine(s) required, the reason that the applicant qualifies for provisional enrollment, and the signature of a physician, a physician assistant, a nurse, or a certified medical assistant. Persons validating the provisional certificate of immunization are not held responsible for the accuracy of the information used to validate the provisional certificate of immunization if the information is from sources other than their own records or personal knowledge. Persons signing the provisional certificate of immunization shall certify that they have informed the applicant or, if the applicant is a minor, the applicant's parent or guardian of the provisional enrollment requirements.

a. and b. No change.

ITEM 4. Amend paragraph 7.11(3)"n" as follows:

n. ~~Contraindications, precautions~~ Patient comments;

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ITEM 5. Amend subparagraph 7.11(4)“a”(2) as follows:

(2) Enrolled users of the registry who have completed an enrollment form that specifies the conditions under which the registry can be accessed and who have been issued an ~~identification code and password~~ organization code and user name by the department;

ITEM 6. Amend subparagraph 7.11(4)“a”(6) as follows:

(6) The admitting official of a licensed child care center, elementary school, ~~or~~ secondary school, or postsecondary school; or medical or health care providers providing continuity of care.

ITEM 7. Amend subrule 7.12(1) as follows:

7.12(1) *Between a physician, physician assistant, nurse, or certified medical assistant and the elementary, ~~or~~ secondary, or postsecondary school or licensed child care center that the student attends.* A physician, a physician assistant, a nurse, or a certified medical assistant shall disclose a student's immunization information, including the student's name, date of birth, and demographic information, the month, day, year and vaccine(s) administered, and clinic source and location, to an elementary, ~~or~~ secondary, or postsecondary school or a licensed child care center upon written or verbal request from the elementary, ~~or~~ secondary, or postsecondary school or licensed child care center. Written or verbal permission from a student or parent is not required to release this information to an elementary, ~~or~~ secondary, or postsecondary school or licensed child care center that the student attends.

ITEM 8. Amend subrule 7.12(3) as follows:

7.12(3) *Among an elementary school, secondary school, postsecondary school, and licensed child care center that the student attends.* An elementary school, secondary school, ~~and~~ postsecondary school, or licensed child care center shall disclose a student's immunization information, including the student's last name, first name, date of birth, and demographic information, the month, day, and year of vaccine(s) administered, and clinic source and location, to another elementary school, secondary school, ~~and~~ postsecondary school, or licensed child care center that the student attends. Written or verbal permission from a student, or if the student is a minor, the student's parent or guardian, is not required to release this information to an elementary school, secondary school, ~~and~~ postsecondary school, or licensed child care center that the student attends.

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PUBLIC HEALTH DEPARTMENT[641]

Notice of Intended Action

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

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

Pursuant to the authority of Iowa Code sections 136C.3 and 136C.10, the Department of Public Health hereby gives Notice of Intended Action to amend Chapter 38, “General Provisions for Radiation Machines and Radioactive Materials,” and Chapter 41, “Safety Requirements for the Use of Radiation Machines and Certain Uses of Radioactive Materials,” and to rescind Chapter 42, “Minimum Certification Standards for Diagnostic Radiographers, Nuclear Medicine Technologists, and Radiation Therapists,” and adopt new Chapter 42, “Permit to Operate Ionizing Radiation Producing Machines or Administer Radioactive Materials,” Iowa Administrative Code.

The rules in Chapter 42 provide the certification standards for individuals who operate ionizing radiation machines or use radioactive materials. These amendments simplify the format of the chapter, clarify the language and move some items from other chapters to make Chapter 42 self-contained. The following paragraphs summarize the proposed changes:

1. Paragraphs from Chapter 38 are rescinded and incorporated into Chapter 42 in order to make Chapter 42 self-contained.

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2. Paragraphs in Chapter 41 are amended to remove language requiring the posting of the permit. Individuals will be required to make the permits available at each facility. This change is to prevent public access to last names of permit holders.

3. The requirements and process for obtaining a permit are clearly outlined for each classification.

4. Procedures for renewing permits and handling expired permits are clarified.

5. Continuing education requirements for radiologist assistants are made consistent with the national standards of the American Registry of Radiologic Technologists (ARRT).

6. Provisions for listing two modalities on one permit are added.

7. Continuing education requirements for podiatric X-ray equipment operator are increased from 2.0 hours to 4.0 hours to ensure maintenance of competencies. The topics of continuing education activities that will be accepted have been expanded for all permit holders to allow more variety and make permits easier to obtain.

8. A requirement for a permit for an individual who performs only bone densitometry radiography is added to ensure uniform radiation safety training. An individual who holds a general radiologic technologist or a limited radiologic technologist permit under this chapter will not need to apply for this permit because the radiation safety training is already completed.

9. Two permit classifications, limited in-hospital radiologic technologist and limited nuclear medicine technologist, and one limited permit category, paranasal sinus, are closed to new applicants. These permits were originally issued to meet special needs and are no longer necessary.

10. On the effective date of these amendments, the Department will no longer approve continuing education credit hours. All credit hours must be approved by other approval bodies accepted by the Department. This change will streamline the permit process and allow more options for continuing education. The Department has assessed the costs of administering the continuing education approval process and reviewed the practices of other licensing agencies and found that it is common to defer continuing education approval to the private sector.

11. All current continuing education credit hour approvals currently approved by the Department will no longer be eligible for renewal and will expire on the stated expiration date for the activity or January 1, 2015, whichever comes first.

12. Continuing education for all modalities will no longer be classification-specific. Permit holders may complete continuing education hours from any classification. This change is consistent with national standards of the ARRT and will allow permit holders more flexibility in choosing continuing education.

13. Specific requirements for the CT subcategory are removed. CT is included as a part of the general radiologic technologist permit. This change is also consistent with national standards of the ARRT.

14. The continuing education requirement for 1.0 hour in radiation protection for diagnostic technologists and radiation therapists is removed. The requirement for 1.0 hour each for radiation protection and quality assurance for nuclear medicine technologists is also removed. This change is consistent with national standards of the ARRT.

15. Requirements for curriculum and clinical competencies for formal education are clarified for limited diagnostic technologists. The revised requirements will help provide more uniform training.

16. The term “radiographer” is changed to “radiologic technologist” or “technologist” throughout. This change is consistent with ARRT language.

These rules are subject to waiver pursuant to the Department’s waiver provision contained at 641—38.3(136C). For this reason, the Department has not provided a specific provision for waiver of these particular rules.

Any interested person may make written suggestions or comments on the proposed amendments on or before October 23, 2012. Such written comments should be directed to Charlene Craig, Bureau of Radiological Health, Iowa Department of Public Health, Lucas State Office Building, 5th Floor, 321 East 12th Street, Des Moines, Iowa 50319; fax (515)281-4529; or e-mail charlene.craig@idph.iowa.gov.

A public hearing will be held on October 23, 2012, from 11 a.m. CST to 1 p.m. CST on GoToWebinar. Interested persons may join the meeting by computer by accessing the following Web site: <https://www1.gotomeeting.com/register/916099336>. The use of a microphone and speakers (VoIP) or a headset is recommended. Or interested persons may join the meeting by telephone in the United

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States and Canada (toll-free) at 1-877-739-5903; the access code is 977-571-469, and an audio PIN will be announced after the person joins the meeting online. Persons may present their views either orally or in writing. At the hearing, persons will be asked to give their names and addresses for the record and to confine their remarks to the subject of the amendments.

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

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

These amendments are intended to implement Iowa Code sections 136C.3, 136C.4, 136C.5, 136C.10, and 136C.14.

The following amendments are proposed.

ITEM 1. Rescind and reserve subrule **38.8(6)**.

ITEM 2. Amend numbered paragraph **41.1(3)“a”(2)“1”** as follows:

1. Operators in medical facilities shall meet the requirements of 641—Chapter 42, as applicable, and ~~have a current permit to practice in diagnostic radiography. The permit to practice shall be posted in the immediate vicinity of the general work area and visible to the public~~ shall make the permit available at the individual's place of employment. If the permit holder works at more than one facility, a duplicate of the permit shall be kept at each facility.

ITEM 3. Rescind and reserve paragraph **41.1(9)“c.”**

ITEM 4. Amend numbered paragraph **41.1(11)“d”(4)“1”** as follows:

1. The CT X-ray system shall not be operated except by a licensed practitioner or an individual who has been specifically trained in its operation ~~in accordance with 641—subrule 42.2(9).~~

ITEM 5. Amend subrule 41.3(7) as follows:

41.3(7) Qualifications of operators.

~~a.~~ Individuals who will be operating a therapeutic radiation machine for medical use shall be adequately instructed in the safe operating procedures, ~~be competent in the safe use of the equipment in accordance with 641—Chapter 42 as applicable,~~ and hold a current permit to practice in radiation therapy as a radiation therapist under the provisions of 641—Chapter 42.

~~b.~~ ~~Each operator's permit to practice under 641—Chapter 42 shall be posted in the immediate vicinity of the general work area and visible to the public.~~

ITEM 6. Rescind 641—Chapter 42 and adopt the following **new** chapter in lieu thereof:

CHAPTER 42 PERMIT TO OPERATE IONIZING RADIATION PRODUCING MACHINES OR ADMINISTER RADIOACTIVE MATERIALS

641—42.1(136C) Purpose. The purpose of this chapter is to specify the permit requirements of individuals who operate or use ionizing radiation producing machines or administer radioactive materials on or to human patients or human research subjects for diagnostic or therapeutic purposes. This chapter establishes minimum training standards and examination, continuing education, and disciplinary procedures.

641—42.2(136C) Definitions.

“ARRT” means the American Registry of Radiologic Technologists.

“Authorized user” means an Iowa-licensed physician identified on a specific radioactive materials license or a license of broad scope as defined in 641—subrule 41.2(2).

“Bone densitometry” means the art and science of applying ionizing radiation to the human body using a dual energy X-ray absorptiometry unit for the sole purpose of measuring bone density.

“Category” defines specific duties allowed in the limited radiologic technologist permit classification.

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“Classification” means a specific class of permit that allows the permit holder to perform the duties specified for that permit class.

“Continuing education activity” means a learning activity that is recognized as continuing education by the ARRT or NMTCB.

“Department” means the Iowa department of public health.

“Expiration date” means 11:59 p.m. on the stated date.

“Formal education” means a course of classroom and clinical instruction which meets the training standards set by the department.

“Ionizing radiation producing machine” or *“radiation machine”* means an assemblage of components for the controlled production of X-rays. An ionizing radiation producing machine includes minimally an X-ray high-voltage generator, an X-ray control, a tube housing assembly, a beam-limiting device, and the necessary supporting structures. Additional components which function with the system are considered integral parts of the system.

“NMTCB” means Nuclear Medicine Technology Certification Board.

“Nuclear medicine procedure” means any procedure utilizing radiopharmaceuticals for diagnosis or treatment of disease in human beings and any duties performed by the technologist during sealed source procedures, and includes, but is not limited to:

1. Administration of any radiopharmaceutical to human beings for diagnostic purposes.
2. Administration of radioactive material to human beings for therapeutic purposes.
3. Use of radioactive material for diagnostic purposes involving transmission or excitation.
4. Quality control and quality assurance.

“Nuclear medicine technologist” means an individual who performs nuclear medicine procedures while under the supervision of an authorized user. The classifications are as follows:

1. “General nuclear medicine technologist” performs any nuclear medicine procedures.
2. “Limited nuclear medicine technologist” performs nuclear medicine procedures only as approved by the department at the time the initial permit was issued.

“Permit” means the document issued to an individual by the department when the individual has met the requirements of this chapter. This document authorizes the individual to perform the duties allowed for the classification of permit issued.

“Radiation therapist” means an individual who performs radiation therapy under the supervision of a radiation oncologist licensed in Iowa.

“Radiation therapy” means the science and art of performing simulation radiography or applying ionizing radiation emitted from X-ray machines, particle accelerators, or radioactive materials in the form of sealed sources to human beings for therapeutic purposes.

“Radiography” means a technique for generating and recording an X-ray pattern for the purpose of providing the user with an image(s) during or after termination of the exposure.

“Radiologic technologist” means an individual, excluding X-ray equipment operators, who performs radiography of the human body as ordered by an individual authorized by Iowa law to order radiography. The classifications are as follows:

1. “General radiologic technologist” performs radiography of any part of the human body.
2. “Limited radiologic technologist” performs radiography for the chest, spine, extremities, shoulder or pediatrics, excluding CT and fluoroscopy.
3. “Limited in-hospital radiologic technologist” performs radiography of any part of the human body as approved by the department at the time the initial permit was issued.

“Radiologist assistant” means an advanced-level radiologic technologist who has completed the necessary requirements in order to perform procedures as outlined in ARRT guidance while under supervision of a radiologist.

“Student” means an individual enrolled in and participating in formal education.

“Therapeutic” means a medical treatment using radiation for therapy purposes.

“X-ray equipment operator” means an individual performing radiography of the human body using dedicated equipment as ordered by an individual authorized by Iowa law to order radiography. These individuals do not qualify for a permit in any other classification. The classifications are as follows:

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1. “Podiatric X-ray equipment operator” performs radiography of only the foot and ankle using dedicated podiatric equipment. Studies using CT, fluoroscopy, or nondedicated equipment are prohibited.

2. “Bone densitometry equipment operator” performs bone densitometry using only dual energy X-ray absorptiometry equipment. Studies using CT, fluoroscopy, or nondedicated equipment are prohibited.

641—42.3(136C) Exemptions.

42.3(1) The following are exempt from obtaining a permit as required by this chapter:

- a. A licensed physician.
- b. A licensed physician’s assistant.
- c. A licensed chiropractor.
- d. A licensed dentist.
- e. A licensed dental hygienist.
- f. A licensed podiatrist.
- g. An individual certified by the dental board in dental radiography.
- h. A student as a part of the student’s formal education.

42.3(2) The department may, upon application or upon its own initiative, grant such exemptions from the requirements of this chapter as it determines are authorized by law and will not result in undue hazard to public health and safety. Application for exemptions should be made in accordance with 641—Chapter 178.

PERMIT APPLICATION AND RENEWAL

641—42.4(136C) Permit application and renewal. An individual shall not operate ionizing radiation producing machines or administer radioactive materials for diagnostic or therapeutic purposes unless the individual possesses a current Iowa permit in the individual’s classification of practice.

641—42.5(136C) Permit to practice as general radiologic technologist.

42.5(1) An individual applying for an initial permit shall:

- a. Be at least 18 years of age.
- b. Submit the appropriate completed application.
- c. Submit a nonrefundable \$60 application fee.
- d. Submit proof of a passing score on the ARRT general radiography examination.

42.5(2) An individual renewing a current permit shall:

- a. Renew annually by submitting a renewal application and a nonrefundable \$50 renewal fee.
- b. Report 24.0 hours of continuing education obtained within the biennium indicated on the individual’s permit.

42.5(3) An individual reinstating an expired permit shall submit the following:

- a. Application to reinstate and nonrefundable \$60 application fee. If the permit is expired six months or more, all previous exemptions from this chapter are no longer valid and the individual is subject to all requirements of subrule 42.5(1).
- b. Any continuing education hours due at time of renewal. If the permit is expired more than one year past the expiration date, 24.0 hours of continuing education obtained within the previous 24 months must be submitted.
- c. Proof that all stipulations of any order(s) of disciplinary or enforcement action have been satisfied.

641—42.6(136C) Permit to practice as a general nuclear medicine technologist.

42.6(1) An individual applying for an initial permit shall:

- a. Be at least 18 years of age.
- b. Submit the appropriate completed application.
- c. Submit a nonrefundable \$60 application fee.

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d. Submit proof of a passing score on ARRT's nuclear medicine examination or the NMTCB nuclear medicine examination.

42.6(2) An individual renewing a current permit shall:

a. Renew annually by submitting a renewal application and a nonrefundable \$50 renewal fee.
b. Report 24.0 hours of continuing education obtained within the biennium indicated on the individual's permit.

42.6(3) An individual reinstating an expired permit shall submit the following:

a. Application to reinstate and nonrefundable \$60 application fee. If the permit is expired six months or more, all previous exemptions from this chapter are no longer valid and the individual is subject to all requirements of subrule 42.6(1).
b. Any continuing education hours due at time of renewal. If the permit is expired more than one year past the expiration date, 24.0 hours of continuing education obtained within the previous 24 months must be submitted.

c. Proof that all stipulations of any order(s) of disciplinary or enforcement action have been satisfied.

641—42.7(136C) Permit to practice as a radiation therapist.

42.7(1) An individual applying for an initial permit shall:

a. Be at least 18 years of age.
b. Submit the appropriate completed application.
c. Submit a nonrefundable \$60 application fee.
d. Submit proof of a passing score on the ARRT's radiation therapy examination.

42.7(2) An individual renewing a current permit shall:

a. Renew annually by submitting a renewal application and a nonrefundable \$50 renewal fee.
b. Report 24.0 hours of continuing education obtained within the biennium indicated on the individual's permit.

42.7(3) An individual reinstating an expired permit shall submit the following:

a. Application to reinstate and nonrefundable \$60 application fee. If the permit is expired six months or more, all previous exemptions from this chapter are no longer valid and the individual is subject to all requirements of subrule 42.7(1).
b. Any continuing education hours due at time of renewal. If the permit is expired more than one year past the expiration date, 24.0 hours of continuing education obtained within the previous 24 months must be submitted.

c. Proof that all stipulations of any order(s) of disciplinary or enforcement action have been satisfied.

641—42.8(136C) Permit to practice as a radiologist assistant.

42.8(1) An individual applying for an initial permit shall:

a. Submit the appropriate completed application.
b. Submit a nonrefundable \$60 application fee.
c. Submit proof of completion of formal education for a radiologist assistant.
d. Submit proof of one year of experience as a general radiologic technologist.
e. Submit proof of passing score on the ARRT Radiologist Assistant examination or another examination that is recognized by the department.

42.8(2) An individual renewing a current permit shall:

a. Renew annually by submitting a renewal application and a nonrefundable \$50 renewal fee.
b. Report 50.0 hours of continuing education obtained within the biennium indicated on the individual's permit. Radiologist assistant permit holders must obtain at least one-half of the required continuing education in subject areas specific to radiography. The remainder may be earned as physician credit hours.

42.8(3) An individual reinstating an expired permit shall submit the following:

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a. Application to reinstate and nonrefundable \$60 application fee. If the permit is expired six months or more, all previous exemptions from this chapter are no longer valid and the individual is subject to all requirements of subrule 42.8(1).

b. Any continuing education hours due at time of renewal. If the permit is expired more than one year past the expiration date, 50.0 hours of continuing education obtained within the previous 24 months must be submitted.

c. Proof that all stipulations of any order(s) of disciplinary or enforcement action have been satisfied.

641—42.9(136C) Permit to practice as a limited radiologic technologist with categories of chest, spine, extremities, shoulder, pediatric. An individual with a limited radiologic technologist permit shall perform radiography only within the scope of the category(ies) in which the permit is issued.

42.9(1) The scope of each category is defined as follows:

a. “Chest” allows the permit holder to perform radiography of the lung fields including the cardiac shadow, as taught in the limited radiography formal education standards. Chest radiograph techniques shall not be manipulated for the evaluation of the shoulder, clavicle, scapula, ribs, thoracic spine and sternum. Limited radiologic technologists who have completed the appropriate formal education after January 1, 2009, may perform lateral decubitus chest views.

b. “Extremities” allows the permit holder to perform radiography for body parts from:

(1) The distal phalanges of the foot to the head of the femur, including its articulation with the pelvic girdle. True hip radiographs are prohibited.

(2) The distal phalanges of the hand to the head of the humerus. These projections may include the acromioclavicular or glenoid-humeral areas. The radiograph shall not include any of the views in the shoulder category unless the individual holds a limited radiologic technologist permit that includes the shoulder category.

c. “Spine” allows the permit holder to perform radiography of the spine in the approved projections only. Approved projections and limitations are described as:

(1) Cervical vertebrae.

(2) Thoracic (dorsal) vertebrae.

(3) Lumbar vertebrae to include the articulations with the sacrum and coccyx and the sacral articulation with the pelvic girdle. True pelvis radiographs or other projections performed with the image receptor positioned perpendicular to the long axis of the torso are prohibited under this category.

(4) All projections shall be performed as taught in the limited radiologic technologist formal education standards.

d. “Shoulder” allows the permit holder to perform radiography of the shoulder in the approved projections only. Approved projections and limitations are described as:

(1) AP internal and external rotation.

(2) AP neutral.

(3) Transthoracic lateral views.

(4) The image may not include the proximal end of the clavicle on any AP projection. All other shoulder views are prohibited. The permit holder must hold a limited radiologic technologist permit with a category of either chest or extremity in order to be granted the shoulder category.

e. “Pediatric” allows the permit holder to perform radiography of either chest or extremities or both as defined in paragraphs 42.9(1) “*a*” and “*b*” above for patients aged 36 months and under. The permit holder must hold a limited radiologic technologist permit with the categories of either chest or extremities or both in order to be granted this category. All other projections on pediatric patients are prohibited by limited radiologic technologists.

42.9(2) An individual applying for an initial permit shall:

a. Be at least 18 years of age.

b. Submit the appropriate completed application.

c. Submit a nonrefundable \$60 application fee.

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d. Submit proof of completion of formal education in all limited diagnostic radiography categories for which the individual is applying. In order to apply for the shoulder category, the individual must also apply for the extremity category. In order to apply for the pediatrics category, the individual must also apply for the chest or extremity category.

e. Submit proof of completion of testing as applicable for each permit category for which the individual is applying on the limited radiologic technologist permit. No examination is required for the categories of shoulder or pediatrics.

(1) The following are passing scores:

1. A score of at least 70 percent on the ARRT limited scope of practice in radiography examination core section and at least 70 percent on each category; or

2. A score of at least 70 percent on the American Chiropractic Registry of Radiologic Technologists Limited Radiography examination; or

3. A score of at least 70 percent on a department-approved examination.

(2) Three failed attempts on the examination in 42.9(2) “e”(1) “1” or “3” will require the individual to repeat the formal education or complete a department-approved review program.

(3) Each individual making application to take an examination as a limited radiologic technologist in 42.9(2) “e”(1) “1” or “3” must submit an application and nonrefundable fee of \$110 to the department each time the individual takes the examination.

f. Submit proof of completion of formal education and examination in the category to be added and a nonrefundable \$25 amendment fee to add chest, extremity or spine category to an existing limited radiologic technologist permit. A score of at least 70 percent on each category is required.

g. Submit proof of completion of formal education and a nonrefundable \$25 amendment fee to add shoulder or pediatric category to an existing limited radiologic technologist permit. No examination is required.

42.9(3) An individual renewing a current permit shall:

a. Renew annually by submitting a renewal application and a nonrefundable \$50 renewal fee.

b. Report 12.0 hours of continuing education obtained within the biennium indicated on the individual’s permit.

42.9(4) An individual reinstating an expired permit shall submit the following:

a. Application to reinstate and nonrefundable \$60 application fee. If the permit is expired six months or more, all previous exemptions from this chapter are no longer valid and the individual is subject to all requirements of rule 641—42.9(136C).

b. Any continuing education hours due at time of renewal. If the permit is expired more than one year past the expiration date, 12.0 hours of continuing education obtained within the previous 24 months must be submitted.

c. Proof that all stipulations of any order(s) of disciplinary or enforcement action have been satisfied.

641—42.10(136C) Permit to practice as an X-ray equipment operator in either podiatric radiography or bone densitometry. After January 1, 2015, all individuals performing only bone densitometry must hold a bone densitometry permit.

42.10(1) An individual applying for an initial permit shall:

a. Be at least 18 years of age.

b. Submit the completed application.

c. Submit a nonrefundable \$25 application fee.

d. Submit proof of completion of a formal education that meets the department minimum training standards.

e. Submit proof of at least a 70 percent score on a department-approved examination.

(1) All podiatric X-ray equipment operators must pass the examination with a 70 percent score. After January 1, 2015, all bone densitometry equipment operators must submit proof of at least a 70 percent score on a department-approved examination.

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(2) Three failed attempts on the examination in 42.10(1)“e” above will require the individual to repeat the formal education or complete a department-approved review program.

42.10(2) An individual renewing a current permit shall:

- a. Renew annually by submitting a renewal application and a nonrefundable \$25 renewal fee.
- b. Report 4.0 hours of continuing education obtained within the biennium indicated on the individual's permit.

42.10(3) An individual reinstating an expired permit shall submit the following:

- a. Application to reinstate and nonrefundable \$25 application fee. If the permit is expired six months or more, all previous exemptions from this chapter are no longer valid and the individual is subject to all requirements of subrule 42.10(1).
- b. Any continuing education hours due at time of renewal. If the permit is expired more than one year past the expiration date, 4.0 hours of continuing education obtained within the previous 24 months, must be submitted.
- c. Proof that all stipulations of any order(s) of disciplinary or enforcement action have been satisfied.

641—42.11 Reserved.

641—42.12(136C) Closed classification or category permits.

42.12(1) The following classifications or categories are closed to new applicants. Permits in the following classifications or categories that are expired for more than six months are not eligible to be reinstated, and individuals shall maintain current permits as outlined below:

- a. Limited in-hospital radiologic technologist shall:
 - (1) Perform diagnostic radiography procedures, excluding CT and fluoroscopy, in a hospital setting only for specific body parts for which the individual is qualified.
 - (2) Renew annually by submitting a renewal application and a nonrefundable \$50 renewal fee.
 - (3) Report 24.0 hours of continuing education obtained within the biennium indicated on the individual's permit.
- b. Limited nuclear medicine technologist shall:
 - (1) Perform nuclear medicine procedures for which the individual is qualified and has been authorized by the department.
 - (2) Renew annually by submitting a renewal application and a nonrefundable \$50 renewal fee.
 - (3) Report 12.0 hours of continuing education obtained within the biennium indicated on the individual's permit.
- c. Limited radiologic technologist paranasal sinus shall:
 - (1) Perform diagnostic radiography procedures, excluding CT and fluoroscopy, specific to paranasal sinus.
 - (2) Renew annually by submitting a renewal application and a nonrefundable \$50 renewal fee.
 - (3) Report 6.0 hours of continuing education obtained within the biennium indicated on the individual's permit.

42.12(2) An individual renewing a permit expired less than six months shall submit the following:

- a. Application to reinstate and nonrefundable \$60 application fee.
- b. Any continuing education hours due at time of renewal.
- c. Proof that all stipulations of any order(s) of disciplinary or enforcement action have been satisfied.

641—42.13(136C) Combining permits for an individual qualifying for permits in more than one classification.

42.13(1) An individual applying for an initial permit in more than one classification at the same time shall combine classification on one permit by:

- a. Indicating each classification on the appropriate completed application;

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b. Submitting the required documentation for each classification as outlined in each classification section; and

c. Submitting a nonrefundable \$100 application fee.

42.13(2) Permit holders shall add a classification to an existing permit by:

a. Completing the appropriate application;

b. Submitting the required documentation as outlined in the section specific to the classification to be added; and

c. Submitting a nonrefundable \$25 fee.

42.13(3) An individual renewing a combined classification permit must submit the appropriately completed renewal application and submit a nonrefundable \$75 renewal fee.

42.13(4) An individual shall submit a total of 24.0 hours of continuing education obtained within the biennium indicated on the individual's permit. If the permit includes the radiologist assistant classification, then the individual must submit a total of 50.0 hours of continuing education obtained within the biennium indicated on the individual's permit.

PERMIT HOLDER SUBMISSION OF CONTINUING EDUCATION

641—42.18(136C) Submission of proof of completion of continuing education by permit holder to meet continuing education requirements to renew or reinstate a permit.

42.18(1) A permit holder who has a current ARRT or NMTCB registration that has been renewed within 60 days prior to the submission of the permit renewal application required by these rules shall be credited the number of hours recognized by the ARRT or NMTCB registration.

42.18(2) A permit holder must submit proof of completion of continuing education activities recognized by ARRT or NMTCB.

a. Acceptable proof of completion must be documentation signed and dated by the continuing education provider that includes the participant's name, title of the activity, approval number for the activity, dates of attendance, number of contact hours for the activity, and signature of the sponsor or instructor or authorized representative of the sponsor or instructor.

b. Continuing education activities that are lecture presentations may not be repeated for credit in the same biennium.

c. All continuing education activities that are not lecture presentations may not be repeated for credit in the same or any subsequent biennium.

641—42.19 and 42.20 Reserved.

ADMINISTRATIVE ITEMS AND GROUNDS FOR DISCIPLINARY ACTION

641—42.21(136C) Administrative items.

42.21(1) A nonrefundable \$25 fee shall be assessed for each check returned for any reason. All fees for returned checks plus original fees must be paid by certified bank check or money order.

42.21(2) A permit is valid from the date of issuance until the expiration date, unless otherwise revoked or suspended.

42.21(3) The department may at any time require further documentation to ensure compliance with these rules.

42.21(4) The permit holder shall make the permit available at the individual's place of employment. If the permit holder works at more than one facility, a duplicate of the permit shall be kept at each facility.

42.21(5) The permit holder must maintain proof of continuing education for at least three years.

42.21(6) Continuing education obtained to satisfy disciplinary or enforcement action or as part of a corrective action plan may not be reported to meet continuing education requirements.

42.21(7) All permit holders are subject to a department audit at any time.

641—42.22(136C) Rules of conduct, self-reporting requirements, and enforcement actions for all permit holders.

42.22(1) Rules of conduct. These are mandatory standards of minimally acceptable professional conduct intended to promote the protection, safety, and comfort of patients. Any individual who fails to meet or allows any other individual to fail to meet the following standards may be subject to enforcement actions as outlined in subrule 42.22(3). The following shall be grounds for disciplinary action:

a. Failing to perform with reasonable skill and safety all procedures accepted under this chapter's educational guidelines and allowed under the individual's permit.

b. Operating as a permitted individual without meeting the applicable requirements of this chapter. This includes performing procedures not allowed under the individual's current permit.

c. Failing to report immediately to the department any individual who may be operating as a permit holder and who does not meet the requirements of this chapter.

d. Engaging in any practice that results in unnecessary danger to a patient's life, health, or safety. This includes delegating or accepting the delegation of any function when the delegation or acceptance could cause unnecessary danger.

e. Engaging in any action that the department determines may jeopardize the health and safety of the public, other staff or the permit holder. These actions shall include but not be limited to:

(1) A misdemeanor or felony which may impair or limit the individual's ability to perform the duties authorized by the individual's permit.

(2) Any disciplinary action brought against the individual in connection with a certificate or license issued from a certifying or licensing entity.

(3) Being found guilty of incompetence or negligence during the individual's performance as a permit holder.

f. Failing to conform to applicable state and federal statutes and rules. This includes any action that might place a facility in noncompliance with Iowa statutes and rules.

g. Practicing when there is an actual or potential inability to perform with reasonable skill and safety due to illness, use of alcohol, drugs, chemicals, or any other material, or as the result of any mental or physical condition.

h. Engaging in any unethical conduct or conduct likely to deceive, defraud, or harm the public; or demonstrating a willful or careless disregard for the health, welfare, or safety of a patient.

i. Revealing privileged communication from or relating to former or current patients except as permitted by law.

j. Improperly managing patient records, including failing to maintain adequate records, failing to furnish records, or making, causing, or allowing anyone to make a false, deceptive, or misleading entry into a patient record.

k. Providing false or misleading information that is directly related to the care of a former or current patient.

l. Interpreting or rendering a diagnosis for a physician based on a diagnostic image or prescribing medications or therapies.

m. Failing to immediately report to a supervisor information concerning an error made in connection with imaging, treating, or caring for a patient. This includes any departure from the normal standard of care and behavior that is negligent.

n. Employing fraud or deceit to obtain, attempt to obtain or renew a permit under this chapter or in connection with a certification or license issued from a certifying or licensing entity. This includes altering documents, failing to provide complete and accurate responses or information, or indicating falsely in writing that a permit is valid when that is not the case.

o. Failure to provide truthful, accurate, unaltered, or nondeceptive information related to continuing education activities to the department or a record keeper.

p. Assisting others to provide false, inaccurate, altered, or deceptive information related to continuing education to this department or a record keeper. This includes sharing answers, providing or using false certificates of participation, or verifying continuing education hours that have not been earned.

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- q.* Failure to pay all fees or costs required to meet the requirements of this chapter. Penalties for working without a current permit will be considered on a case-by-case basis.
- r.* Failure to respond to an audit request or failure to provide proper documentation.
- s.* Submitting false information to a facility that might place the facility in noncompliance with any federal or state statutes or laws.
- t.* Engaging in any conduct that subverts or attempts to subvert a department investigation.
- u.* Failure to comply with a subpoena issued by the department or failure to cooperate with an investigation by the department.
- v.* Failure to comply with the terms of a department order or the terms of a settlement agreement or consent order.
- w.* Sexual harassment of a patient, student or supervisee. Sexual harassment includes sexual advances, sexual solicitation, requests for sexual favors, and other verbal and physical conduct of a sexual nature.
- x.* Violating a statute of this state, another state, or the United States, without regard to its designation as either a felony or misdemeanor, including but not limited to a crime involving dishonesty, fraud, theft, embezzlement, controlled substances, substance abuse, assault, sexual abuse, sexual misconduct, or homicide. A copy of the record of conviction or plea of guilty is conclusive evidence of the violation.
- y.* Having a permit, license or certification related to the classification of the permit issued to the individual suspended or revoked or having other disciplinary action taken by a licensing or certifying authority of this state or another state, territory or country. A copy of the record or order of suspension, revocation, or disciplinary action is conclusive or prima facie evidence.
- z.* Failure to respond within 30 days of receipt of communication from the department.

42.22(2) Self-reporting. Each permit holder shall:

- a.* Submit a report to the department within five days of the final disposition of all criminal proceedings, convictions, or military court-martials involving alcohol or illegal drug use while operating as a permit holder, sex-related infractions, or patient-related infractions in any state, territory, or country.
- b.* Submit a written report to the department within five days of the initial charge and within five days of the final disposition of any disciplinary action brought against the individual in connection with a certificate or license issued from a certifying or licensing entity, or any disciplinary action brought against the individual by an employer or patient.

42.22(3) Enforcement actions. Enforcement actions may include, but are not limited to, denial, probation, suspension or revocation of a permit, directed corrective action, and civil penalty.

641—42.23(136C) Procedures for demand for information, notice of proposed action, and orders for penalties, suspensions, revocations, and civil penalties for all individuals under this chapter. These actions may be imposed on any permit holder who violates any rule in this chapter.

42.23(1) Demand for information.

- a.* The department may issue a demand for information for the purpose of determining whether any further action shall be taken. The demand shall state the alleged violations and allow the individual 20 days from the date of the letter to file a written answer with the department.
- b.* The individual must file a written answer to the department. The answer shall specifically admit or deny each allegation or charge made in the demand for information and provide fact and law on which the answer relies, set forth reasons why the demand should not have been issued, and if the requested information is not provided, the reasons why it is not provided.
- c.* Upon review of the answer, the department may institute the next level of proceeding or consider the matter closed. If no answer is filed, the department shall institute the notice of proposed action.

42.23(2) Procedures for enforcement actions.*a. Notice of proposed action.*

- (1) In response to an alleged violation of any provision of the Iowa Code, these rules, or any order issued by the department, the department may issue a written notice of proposed action. The notice of

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proposed action shall concisely state the alleged violation(s), the action the department is proposing, the time period in which a written response must be received, and the process for requesting a hearing.

(2) A written response must state any facts, explanations, or arguments denying the violations or must demonstrate any extenuating circumstances, error in the notice, or other reason why the proposed actions should not be imposed. Responses may also request remission or mitigation of any penalty.

(3) If a request for a hearing is received within the allotted time period, the proposed action shall be suspended pending the outcome of the hearing. Prior to or at the hearing, the department may rescind the notice of proposed action upon satisfaction that the reason for the proposed action has been resolved.

(4) If no answer is filed, the department shall institute the order.

b. Order. An order may be issued upon response to the notice of proposed action or if no answer to the notice has been filed. The order may institute a proceeding to impose a penalty or suspend, revoke, or place on probation the individual's permit, or issue a civil penalty. An order shall concisely state the violation(s), the action the department has imposed, the effective date of the order, the time period for written response to be received by the department, and the process for requesting a hearing. If there has been consent in writing to the notice of proposed action, no written response to the order is necessary.

(1) If a request for a hearing is received within the allotted time period, the proposed action of the order shall be suspended pending the outcome of the hearing. Prior to or at the hearing, the department may rescind the order upon satisfaction that the reason for the proposed action has been resolved.

(2) If no answer is filed, the department shall institute the order. A consent to the order shall constitute a waiver to a hearing, findings of fact and conclusions of law, and of all right to seek department and judicial review or to contest the validity of the order in any form as to those matters which have been consented to or agreed to or on which a hearing has not been requested. An order that has been consented to shall have the same force and effect as an order made after hearing by a presiding officer or the department, and shall be effective as provided in the order. Failure to comply with an order either consented to or validated by a hearing officer shall result in further enforcement action.

c. Civil penalty. Before instituting any proceeding to impose a civil penalty, the department shall serve written notice of violation upon the individual charged. This notice shall be included in the notice of proposed action or order issued. The notice of proposed action or order shall specify the amount of each proposed penalty for each alleged violation. The notice or order shall state that the amount charged may be paid as specified or protested in its entirety or in part. Upon final action of a civil penalty, payment must be made within the specified time stated in the order or the department may refer the matter to the attorney general for collection.

d. Settlement and compromise. At any time after the issuance of a notice or order designating the time and place of hearing in response to an order, the department and the regulated individual may enter into a stipulation for a settlement or compromise of the notice or order. The stipulation of compromise shall be subject to approval by the designated presiding officer, or if none has been designated, by the chief administrative law judge. The presiding officer or chief administrative law judge may order such adjudication of the issued notice or order as deemed to be required in the public interest to dispose of the proceeding. If approved, the terms of the settlement or compromise shall be embodied in a decision or order settling and discontinuing the proceeding.

641—42.24 and 42.25 Reserved.

DEPARTMENT APPROVAL OF CONTINUING EDUCATION ACTIVITIES

641—42.26(136C) Department approval of continuing education activities.

42.26(1) All continuing education activities must meet the definition of continuing education activities as defined in 641—42.2(136C).

42.26(2) On [insert the effective date of these rules], the department will no longer review or approve continuing education activities.

42.26(3) All continuing education activities with department approval are valid until the expiration date issued for that activity and will not be renewed.

641—42.27 to 42.29 Reserved.

FORMAL EDUCATION

641—42.30(136C) Requirements for formal education. Formal education must meet the following minimum requirements:

42.30(1) General radiologic technology formal education must be recognized by the ARRT to allow students to qualify for the general radiography examination.

42.30(2) Nuclear medicine technology formal education must be recognized by the ARRT or NMTCB to allow students to qualify for the nuclear medicine technology examination.

42.30(3) Radiation therapy formal education must be recognized by the ARRT to allow students to qualify for the radiation therapy examination.

42.30(4) Radiologist assistant formal education must provide training to allow students to qualify for a department-approved radiologist assistant examination.

42.30(5) Limited radiologic technologist formal education must meet the minimum standards specified in 641—42.31(136C).

42.30(6) X-ray equipment operator formal education must meet the minimum standards as outlined in 641—42.32(136C) or 641—42.33(136C).

641—42.31(136C) Standards for formal education for limited radiologic technologists.

42.31(1) The formal education may be a single offering that meets all standards of all categories, or it may consist of individual training specific to the category the provider wishes to offer.

42.31(2) The following are the minimum standards:

a. A principal instructor shall:

(1) Be an Iowa-licensed chiropractor teaching spine and extremities categories only; or

(2) Be an Iowa-permitted general radiologic technologist and have at least two years of current experience in radiography; or

(3) Hold a current ARRT membership and have at least two years of current experience in radiography if the clinical site is located outside of Iowa.

b. A clinical instructor shall:

(1) Be an Iowa-licensed chiropractor teaching spine and extremities categories only; or

(2) Be an Iowa-permitted general radiologic technologist and have at least two years of current experience in radiography; or

(3) Be an Iowa-permitted limited radiologic technologist in the category of instruction and have at least two years of current experience in radiography; or

(4) Hold a current ARRT membership and have at least two years of current experience in radiography if the clinical site is located outside of Iowa.

c. Clinical instructors shall be supervised by the principal instructor.

d. A principal instructor may also act as clinical instructor, if applicable.

e. Classroom and clinical standards are listed below:

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Category	Classroom Hours	Clinical Practice Hours	Clinical Competency Projections
Core: completed by all trainees	60		
Chest	20	30 PA or LAT	5 PA, 5 LAT
Upper extremity	20	30 (any projections)	10 (only 2 of each projection allowed)
Lower extremity	20	30 (any projections)	10 (only 2 of each projection allowed)
Shoulder	20	20 (any projections)	6 (only 2 of each projection allowed)
Spine	20	30 (any projections)	10 (only 2 of each projection allowed)
Pediatric: add on to chest	8 of initial pediatrics	20 (any projections)	2 PA, 2 LAT
Pediatric: add on to upper extremity	8 of initial pediatrics	20 (any projections)	10 (only 2 of each projection allowed)
Pediatric: add on to lower extremity	8 of initial pediatrics	20 (any projections)	10 (only 2 of each projection allowed)
Training for current permit holder to add a category (classroom and clinical) or finish a category (clinical only)	Core is not required because it was completed		

(1) All competency testing for limited radiography shall be directly supervised by the principal or clinical instructor.

(2) Clinical instructors shall directly supervise all students before the student's competency for a specific projection is documented and indirectly supervise after the student's competency for a specific projection is documented.

42.31(3) Department approval is required before implementing any formal education or making any changes to a formal education offering.

42.31(4) Administrative items for all formal education:

a. The department reserves the right to audit or evaluate any aspect of the formal education or student progress.

b. The department may at any time require further documentation.

641—42.32(136C) Standards for formal education for X-ray equipment operators in podiatric radiography.

42.32(1) The following are the minimum standards:

a. A principal instructor shall:

(1) Be an Iowa-licensed podiatrist; or

(2) Be an Iowa-permitted general radiologic technologist and have at least two years of current experience in radiography; or

(3) Hold a current ARRT membership and at least two years of current experience in radiography if the clinical site is located outside of Iowa.

b. A clinical instructor shall:

(1) Be an Iowa-licensed podiatrist; or

(2) Be an Iowa-permitted limited radiologic technologist in the category of extremities and have at least two years of current experience in radiography; or

(3) Be an Iowa-permitted X-ray equipment operator in podiatry and have at least two years of current experience in radiography; or

(4) Be an Iowa-permitted general radiologic technologist and have at last two years of current experience in radiography; or

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(5) Hold a current ARRT membership and have at least two years of current experience in radiography if the clinical site is located outside of Iowa.

c. Clinical instructors shall be supervised by the principal instructor.

d. A principal instructor may also act as clinical instructor, if applicable.

e. The following are classroom and clinical standards:

(1) A minimum of 8.0 hours of classroom instruction to include radiation safety, equipment operation, patient care, and anatomy.

(2) Clinical instruction to include positioning and a minimum of 20 projections excluding the competency projections.

(3) Clinical competency projections shall include 10 projections with only 2 of any single projection allowed to count toward the competency projections.

(4) All competency testing shall be directly supervised by the principal or clinical instructor.

(5) Clinical instructors shall directly supervise all students before the student's competency for the specific projection is documented and indirectly supervise after the student's competency for the specific projection is documented.

42.32(2) Department approval is required before implementing any formal education or making any changes to a formal education offering.

42.32(3) Administrative items for all formal education:

a. The department reserves the right to audit or evaluate any aspect of the formal education or student progress.

b. The department may at any time require further documentation.

641—42.33(136C) Standards for formal education for X-ray equipment operators in bone densitometry.

42.33(1) The following are the minimum standards:

a. A principal instructor shall have at least two years of current experience in radiography and bone densitometry and shall:

(1) Be an Iowa-permitted general radiologic technologist; or

(2) Hold a current ARRT membership if the clinical site is located outside of Iowa.

b. A clinical instructor shall have at least two years of current experience in radiography and bone densitometry and shall:

(1) Be an Iowa-permitted limited radiologic technologist; or

(2) Be an Iowa-permitted X-ray equipment operator in bone densitometry; or

(3) Be an Iowa-permitted general radiologic technologist; or

(4) Hold a current ARRT membership if the clinical site is located outside of Iowa.

c. Clinical instructors shall be supervised by the principal instructor.

d. A principal instructor shall also act as clinical instructor, if applicable.

e. The following are classroom and clinical requirements:

(1) A minimum of 8.0 hours of classroom instruction to include radiation safety, equipment operation, quality control, patient care, and anatomy.

(2) Clinical instruction to include positioning and a minimum of 10 projections excluding the competency projections.

(3) Clinical competency projections shall include 5 projections.

(4) All competency testing shall be directly supervised by the principal or clinical instructor.

(5) Clinical instructors shall directly supervise all students before the student's competency for the specific projection is documented and indirectly supervise after the student's competency for the specific projection is documented.

42.33(2) Department approval is required before implementing any formal education or making any changes to a formal education offering.

42.33(3) Administrative items for all formal education:

a. The department reserves the right to audit or evaluate any aspect of the formal education or student progress.

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b. The department may at any time require further documentation.

These rules are intended to implement Iowa Code sections 136C.3, 136C.4, 136C.5, 136C.10, and 136C.14.

ARC 0369C

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Notice of Intended Action

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

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

Pursuant to the authority of Iowa Code section 135.102, the Department of Public Health hereby gives Notice of Intended Action to amend Chapter 70, “Lead-Based Paint Activities,” Iowa Administrative Code.

The proposed amendment amends the definition of “minor repair and maintenance activities.” The change in the definition will, in limited instances, increase the minimum area of disturbed painted surface that triggers regulation.

This proposed amendment was requested by the remodeling industry. The Department worked with the industry to expand the minimum area but still maintain the intent of the regulation. The overall intent of the regulation is to prevent children from being lead-poisoned due to unsafe renovations.

Any interested person may make written suggestions or comments on this amendment on or before October 23, 2012. Written materials should be directed to Kane Young, Department of Public Health, 321 E. 12th Street, Des Moines, Iowa 50319-0075; fax (515)242-6335; e-mail kane.young@idph.iowa.gov.

Also, a public hearing will be held on Tuesday, October 23, 2012, from 9 to 10 a.m. on GoToMeeting. Interested persons may join the meeting by computer by accessing the following Web site: <https://www1.gotomeeting.com/register/908112520>. Interested persons may also join the meeting by telephone in the U.S. and Canada, toll-free, at 1-866-685-1580; the access code is 7359884760#, and an audio PIN will be announced after the person joins the meeting. 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 amendment.

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

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

This amendment is intended to implement Iowa Code section 135.105A.

The following amendment is proposed.

Amend rule **641—70.2(135)**, definition of “Minor repair and maintenance activities,” as follows:

“Minor repair and maintenance activities” means activities, including minor heating, ventilation or air-conditioning work, electrical work, and plumbing, that disrupt less than ~~1-0 square feet~~ the minimum areas of a painted surface established in this definition where none of the work practices prohibited or restricted by this chapter are used and where the work does not involve window replacement or demolition of painted surface areas. When painted components or portions of painted components are removed, the entire surface area removed is the amount of painted surface disturbed. Projects, other than emergency renovation, performed in the same room within the same 30 days must be considered the same project for the purpose of determining whether the project is a minor repair and maintenance activity. Renovations performed in response to an elevated blood lead (EBL) inspection are not considered minor repair and maintenance activities. The minimum area for minor repair and maintenance activities is:

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1. Less than 1.0 square foot of an interior painted or finished wood surface per renovation;
2. Less than 6.0 square feet of a painted or finished drywall or plaster surface per room; or
3. Less than 20.0 square feet of an exterior painted or finished surface per renovation.

Projects performed pursuant to 24 CFR Part 35 shall comply with the de minimis levels in 24 CFR 35.1350 if these de minimis levels are more restrictive than the minimum areas of a painted surface established in this definition.

ARC 0376C**PUBLIC HEALTH DEPARTMENT[641]****Notice of Intended Action**

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

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

Pursuant to the authority of Iowa Code section 144.3, the Department of Public Health hereby gives Notice of Intended Action to rescind Chapter 95, “Certificate of Birth—Registration Fee,” Chapter 96, “Vital Records,” Chapter 98, “Forms Uniform,” Chapter 99, “Delayed Birth, Death and Marriage Registration,” Chapter 100, “Establishment of New Certificates of Birth,” Chapter 101, “Death Certification, Autopsy and Disinterment,” Chapter 102, “Correction and Amendment of Vital Records,” Chapter 103, “Confidentiality of Records,” Chapter 104, “Copies of Vital Records,” Chapter 105, “Declaration of Paternity Registry,” Chapter 106, “Reporting of Termination of Pregnancy,” and Chapter 107, “Mutual Consent Voluntary Adoption Registry,” and to adopt the following new Chapter 95, “Vital Records: General Administration,” Chapter 96, “Birth Registration,” Chapter 97, “Death Registration and Disposition of Dead Human Bodies,” Chapter 98, “Marriage Registration,” Chapter 99, “Vital Records: Modifications,” and Chapter 100, “Vital Records: Registries and Reports,” Iowa Administrative Code.

Proposed new Chapters 95 to 100 are the result of reorganizing the information currently contained in Chapters 95, 96, and 98 to 107, which are proposed for rescission, in an effort to make it easier to locate the information. The new chapters also include new and updated information. The following is a summary of the information in each new chapter. For purposes of comparison, a reference to the chapter or rule in which the information is currently found is also included.

Chapter 95, Vital Records: General Administration, includes definitions and establishes fees. Chapter 95 sets forth requirements relating to entitlement, confidentiality, and access to data. In addition, this chapter addresses certified copies, cancellation of fraudulent records and unlawful acts. The subject matter addressed in proposed Chapter 95 is currently addressed in existing Chapters 96, 98, 103, and 104.

Chapter 96, Birth Registration, defines time frames for registering births and specifies parties responsible for registration in various circumstances. The chapter also specifies registration fees and requirements for supporting evidence when needed. The subject matter addressed in proposed Chapter 96 is currently addressed in existing Chapters 95, 99, and 100.

Chapter 97, Death Registration and Disposition of Dead Human Bodies, defines time frames for registering deaths and specifies parties responsible for registration in various circumstances. The chapter also specifies requirements for medical certification for cause of death and includes burial-transit permits and disinterment permits. The subject matter addressed in proposed Chapter 97 is currently addressed in existing Chapters 98, 99, and 101.

Chapter 98, Marriage Registration, includes the process for marriage applications and obtaining the license to marry and the certificate of marriage. The chapter also defines time frames for registering marriages and specifies parties responsible for registration. The process for reporting dissolution of

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marriages or annulment is also included in this chapter. The subject matter addressed in proposed Chapter 98 is currently addressed in existing Chapter 99.

Chapter 99, Vital Records: Modifications, includes the processes for corrections, amendments, and court-ordered changes to records. The chapter also includes processes for adoptions, gestational surrogates, paternity establishment, and other legal actions. Requirements for supporting documentation are also specified. The subject matter addressed in proposed Chapter 99 is currently addressed in existing Chapters 100 and 102.

Chapter 100, Vital Records: Registries and Reports, includes requirements for the declaration of paternity registry, the mutual consent voluntary adoption registry, and the statistical report of termination of pregnancy. The subject matter addressed in proposed Chapter 100 is currently addressed in existing Chapters 105, 106 and 107.

Any interested person may make written comments on these proposed amendments on or before October 23, 2012. Such written comments should be directed to Jill France, Bureau of Health Statistics, Department of Public Health, 321 East 12th Street, Des Moines, Iowa 50319. E-mail may be sent to jill.france@idph.iowa.gov.

Also, a public hearing will be held on Tuesday, October 23, 2012, from 10 a.m. to 12 noon in Room 142, Lucas State Office Building, 321 E. 12th Street, Des Moines, Iowa. Persons may present their views either orally or in writing. At the hearing, persons will be asked to give their names and addresses for the record and to confine their remarks to the subject of the amendments.

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

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

These amendments are intended to implement Iowa Code chapter 144 and Iowa Code sections 135.11(7), 144C.5, 233.2(2)“c,” 252A.3A, 331.605(1)“f” and “g,” 331.802(3), 595.2(4), 595.4, 595.5, 595.10, 595.16, 600.15, 600.16A, 633.517 to 633.520, 674.2, 674.7 and 674.9.

The following amendments are proposed.

ITEM 1. Rescind 641—Chapter 95 and adopt the following **new** chapter in lieu thereof:

CHAPTER 95
VITAL RECORDS: GENERAL ADMINISTRATION

641—95.1(144) Definitions. For the purpose of 641—Chapters 95 to 100, the following definitions shall apply:

“*Administrative costs*” means costs for the registration, collection, preservation, modification and certification of records, including but not limited to costs related to copying, regular mailing, searching, staffing, and maintenance of systems.

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

“*Age of majority*” means the chronological moment when a child legally assumes majority control over the child’s own person and actions and decisions, thereby terminating the legal control and legal responsibilities of the child’s parents over and for the child. The period of minority extends to the age of 18 years, but every minor attains majority by marriage.

“*Amendment*” means a change made by the state registrar upon request from an entitled person as described in 641—95.8(144) to an obvious error, omission, or transposition of letters in a word of common knowledge one year or more after the event.

“*Birth center*” means a facility or institution, which is not an ambulatory surgical center or a hospital or in a hospital, in which births are planned to occur following a normal, uncomplicated, low-risk pregnancy.

“*Birthing institution*” means a private or public hospital licensed pursuant to Iowa Code chapter 135B that has a licensed obstetric unit or is licensed to provide obstetric services.

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“Burial-transit permit” means a permit which is required to assume custody of a dead body or fetus pursuant to Iowa Code section 144.32.

“Certificate of birth resulting in stillbirth,” pursuant to 2012 Iowa Acts, House File 2368, section 1, means a noncertified copy issued based upon a properly filed fetal death certificate to record the birth of a stillborn fetus.

“Certified copy” means an official copy of a registered vital record that is authenticated by the registrar in whose jurisdiction the record is registered. A certified copy contains a statement certifying the facts are true and accurate as recorded, is printed on security paper, and has authentication seals and signatures. A certified copy excludes all entries indicated as confidential or for statistical information.

“Commemorative certificate,” pursuant to Iowa Code section 144.45A, means a commemorative abstract of an Iowa birth or marriage record that has been properly filed.

“Confidential information” means data or information that is on a vital record, is not considered public information, and is restricted as to its release pursuant to Iowa Code chapter 144 or other provision of federal or state law.

“Correction” means a change made by the state registrar upon observation, upon query, or upon request from an entitled person as described in 641—95.8(144) to an obvious error, omission, or transposition of letters in a word of common knowledge within one year and prior to the first anniversary of the event.

“County registrar” means the county recorder with the authority to record vital records and issue certified copies. The county registrar operates under the state vital records laws and rules and the guidance of the state registrar pursuant to Iowa Code sections 144.5 and 144.9. Pursuant to Iowa Code section 331.601(4), if the office of the county recorder has been abolished, “county registrar” means the office to which the duties are assigned by the county board of supervisors.

“County resident copy” means a properly filed, clearly marked working copy of a decedent’s death certificate which is sent to and recorded by the county registrar of the county of the decedent’s residence in the event the death occurred outside the county of the decedent’s residence.

“Court of competent jurisdiction” means the appropriate court for the type of action. When used to refer to inspection of an original certificate of birth based upon an adoption, “court of competent jurisdiction” means the court in which the adoption was ordered.

“Custody” means guardianship or control of vital records, including both physical possession, referred to as physical custody, and legal responsibility, referred to as legal custody, unless one or the other is specified. The state registrar shall not transfer legal custody of vital records to another agency for purposes of granting public access until all the records have been purged of all confidential information.

“Day” means calendar day.

“Dead human body” means a lifeless human body or parts or bones of a body, if, from the state of the body, parts, or bones, it may reasonably be concluded that death recently occurred.

“Death” means the condition as defined in Iowa Code section 702.8.

“Declaration of paternity registry” means a registry for a putative father to declare paternity pursuant to Iowa Code section 144.12A. The declaration does not constitute an affidavit of paternity filed pursuant to Iowa Code section 252A.3A.

“Delayed birth record” means the registration of a live birth event occurring in Iowa one or more years after the date of birth which is clearly marked as delayed and shall show on its face the date of the delayed registration.

“Delayed death record” means the registration of a death event occurring in Iowa one or more years after the date of death which is clearly marked as delayed and shall show on its face the date of the delayed registration.

“Delayed marriage record” means the registration of a marriage event occurring in Iowa one or more years after the event which is clearly marked as delayed and shall show on its face the date of the delayed registration.

“Department” means the Iowa department of public health.

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“Disinterment permit” means a permit which allows the removal of a dead human body or fetus from its original place of burial, entombment or interment for the purpose of autopsy or reburial.

“Emancipated minor” means a person younger than 18 years of age who has obtained the age of majority by court order.

“Fetal death” means a death prior to the complete expulsion or extraction from its mother of a product of human conception, irrespective of the duration of pregnancy which is not an induced termination of pregnancy. The death is indicated by the fact that, after such expulsion or extraction, the fetus does not breathe or show any other evidence of life such as beating of the heart, pulsation of the umbilical cord or definite movement of voluntary muscles. In determining a fetal death, heartbeats shall be distinguished from transient cardiac contractions, and respirations shall be distinguished from fleeting respiratory efforts or gasps.

“Filing” means the presentation of a certificate, report, or other record of a live birth, death, fetal death, adoption, marriage, dissolution, or annulment for registration pursuant to Iowa Code chapter 144.

“Final disposition” means the burial, interment, cremation, removal from the state, or other disposition of a dead body or fetus.

“Foundling” means a living infant of unknown parentage whose place of birth is where the infant is found and whose date of birth shall be determined by approximation.

“Funeral director” means a person licensed in Iowa to practice mortuary science pursuant to Iowa Code chapter 156.

“Gestational surrogate arrangement” or *“surrogate mother arrangement,”* as defined in Iowa Code section 710.11, means an arrangement whereby a female agrees to be artificially inseminated with the sperm of a donor, to bear a child, and to relinquish all rights regarding that child to the donor or donor couple.

“Health care provider” means an individual licensed under Iowa Code chapter 148, 148C, 148D, or 152 or any individual who provides medical services under the authorization of the licensee.

“Induced termination of pregnancy” means the use of any means to terminate the pregnancy of a woman known to be pregnant with the intent other than to produce a live birth or to remove a dead fetus as defined in Iowa Code section 144.29A(8).

“Institution” means a facility as defined in Iowa Code section 144.1(10), including “hospital” as defined in Iowa Code section 135B.1(3) but not including “birth center” as defined in Iowa Code section 135.61(2).

“Institutional health facility” means a hospital as defined in Iowa Code section 135B.1, including a facility providing medical or health services that is open 24 hours per day, seven days per week and that is a hospital emergency room or a health care facility as defined in Iowa Code section 135C.1.

“Jurisdiction” means the state or county to which legal authority for the system of vital statistics has been granted by statute.

“Last name” means surname.

“Lineal consanguinity” means the existence of a line of descent in which one person is descended in a direct lineal relationship to another: as between the registrant and the registrant’s parent, grandparent, great-grandparent, and so upward, in the direct ascending line; or between the registrant and the registrant’s child, grandchild, great-grandchild and so downward in the direct descending line; or any siblings of the registrant.

“Live birth” means the complete expulsion or extraction from its mother of a product of human conception, irrespective of the duration of pregnancy, which after such expulsion or extraction, breathes or shows any other evidence of life, such as beating of the heart, pulsation of the umbilical cord, or definite movement of voluntary muscles, whether or not the umbilical cord has been cut or the placenta is attached. In determining a live birth, heartbeats shall be distinguished from transient cardiac contractions, and respirations shall be distinguished from fleeting respiratory efforts or gasps.

“Marriage license valid date” means the day on which the marriage license becomes valid and on or after which the parties are authorized to marry. When the marriage license valid date is computed, the date of application shall be excluded. The marriage license shall become valid after the expiration

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of three calendar days after the date of application, unless earlier validated by a court of competent jurisdiction.

“Medical certification” means a statement which attests that the medical information reported on the certificate of death or fetal death is accurate to the best of the medical certifier’s knowledge.

“Medical certifier” means an Iowa-licensed physician, physician assistant, advanced registered nurse practitioner, or medical examiner who attests that the death event has taken place and who determines the cause and manner of death.

“Medical examiner” means the medical legal officer who makes the determination of the cause of death in nonroutine deaths such as non-natural, sudden, or unattended deaths or other deaths which affect the public interest.

“Modification” means any change made to a record that has been accepted and registered, such as a correction, an amendment, a change after adoption or paternity determination, or any other change.

“Mutual consent voluntary adoption registry” means a registry which authorizes adult adopted children, adult siblings, and the biological parents of adult adoptees to register to obtain identifying birth information.

“Natural cause of death” means a death due to a disease or the aging process and not due to external causes.

“Newborn safe haven registration” means the registration of the birth of a living infant of unknown parentage who has been abandoned or left at some unknown time after birth in a location other than the place of delivery.

“Non-birthing institution” means a private or public hospital licensed pursuant to Iowa Code chapter 135B that does not have a licensed obstetric unit or is not licensed to provide obstetric services but may provide obstetric services on an emergency basis.

“Non-institution birth” means a live birth that occurs outside of an institution and not en route to an institution.

“Non-natural cause of death,” pursuant to Iowa Code section 144.28(1) “a,” means the death is a direct or indirect result of physical, chemical, thermal, or electrical trauma, or drug or alcohol intoxication or other poisoning.

“Notification of record search” means the document issued to the applicant when the record requested cannot be located through a search of registered records. The document contains a certification statement, is printed on security paper, and has authentication seals and signatures.

“Officiant” means (1) a judge of the Iowa supreme court, court of appeals, or district court, including a district associate judge, an associate juvenile judge, or a judicial magistrate, and including a senior judge as defined in Iowa Code section 602.9202(3), or (2) a person ordained or designated as a leader of the person’s religious faith.

“Physician” means an individual licensed pursuant to Iowa Code chapter 148.

“Physician assistant” means an individual licensed pursuant to Iowa Code chapter 148C.

“Presumptive death” means a death event presumed to have occurred in Iowa where no human body is found and a court of competent jurisdiction has determined the death has occurred.

“Putative father” means a man who is alleged to be or who claims to be the biological father of a child born to a woman to whom the man is not married at the time of the conception or birth of the child or at any time during the period between the conception and birth of the child.

“Record of death” means the compilation of those entries of a death, whether electronic or paper, which are contained in indexed systems which record the death event occurring in Iowa. “Record of death” shall include the certificate of death.

“Record of fetal death” means the compilation of those entries of a fetal death, whether electronic or paper, which are contained in indexed systems which record a fetal death event occurring in Iowa. “Record of fetal death” shall include the certificate of fetal death.

“Record of foreign born adoption” means the compilation of those entries of a live birth event for a child born in a foreign country and adopted by an Iowa resident. “Record of foreign born adoption” shall include the certificate of foreign birth and shall not constitute U.S. citizenship.

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“Record of live birth” means the compilation of those entries of a live birth event, whether electronic or paper, which are contained in indexed systems which record a live birth event occurring in Iowa. “Record of live birth” shall include the certificate of live birth.

“Record of marriage” means the compilation of those entries of a marriage event, whether electronic or paper, which are contained in indexed systems which record a marriage event occurring in Iowa. “Record of marriage” shall include the certificate of marriage.

“Registrant” means the person named on the certificate as the person who was born, died, or was married.

“Registration” means the process by which vital statistics records are completed, filed, and incorporated by the state registrar in the official records.

“Report of dissolution or annulment” means the statistical report of dissolution or annulment, whether electronic or paper, excluding all entries indicated as confidential or for statistical information only.

“Report of termination of pregnancy” means the aggregated compilation of the information received by the department on terminations of pregnancies for each information item listed, with the exception of the report tracking number, the health care provider code, and any set of information for which the number is so small that the confidentiality of any person to whom the information relates may be compromised.

“Research” means the systematic investigation designed primarily to develop or contribute to scientific, medical, public health or psychosocial disciplines and generalized knowledge and not for private gain.

“Sealed” means the removal from inspection of any copy of an original certificate in the custody of the county registrar and the state registrar.

“Security paper” means standardized paper for issuing certified copies of vital record events that meets, at a minimum, national requirements for security features embedded within the paper to deter tampering, counterfeiting, photocopying, or imaging in order to help prevent fraudulent use of the certified copy and prevent identity theft.

“Single parent birth” means any record of live birth for which there is a reference or statement on the certificate or entry which directly indicates “no” regarding “born in wedlock” or “married”; or any record of live birth for which there is reference or statement on the certificate or entry that either parent is “unknown” or “anonymous”; or any certificate or entry which reflects the omission or absence of the name of the father of the child.

“Spontaneous termination of pregnancy” means the occurrence of an unintended termination of pregnancy at any time during the period from conception to 20 weeks’ gestation and is not a spontaneous termination of pregnancy at any time during the period from 20 weeks or greater which is reported to the department as a fetal death under Iowa Code section 144.29.

“Standard birth registration” means a vital record of a live birth event that occurred in Iowa which was submitted and accepted for registration within one year of the event.

“State registrar” means the director of the department or the director’s designee.

“Stillbirth” means an unintended fetal death occurring after a gestation period of 20 completed weeks or more or an unintended fetal death of a fetus with a weight of 350 or more grams.

“System of vital statistics” or *“system”* means the registration, collection, preservation, amendment, and certification of vital statistics records, and activities and records related thereto including the data processing, analysis, and publication of statistical data derived from such records.

“Uncertified copy” means an unofficial copy of a registered vital record which is not printed on security paper and which does not contain any authentication by the issuing jurisdiction. Uncertified copies shall contain an overstamp such as: “Not for Legal Purposes,” “Administrative Use Only,” “Deceased,” “For Genealogical Purposes Only,” “Working Copy,” or any other overstamp as authorized by the state registrar.

“Vital records” means certificates or reports of birth, death, fetal death, marriage, dissolution, annulment, and related data.

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“Vital statistics” means data derived from reports, certificates, and records of live birth, death, fetal death, induced termination of pregnancy, marriage, dissolution of marriage or annulment, and data related thereto.

641—95.2(144) Vital records and statistics. There is established a division in the department which shall install, maintain, and operate the system of vital statistics throughout the state. No system for the registration of births, deaths, fetal deaths, adoptions, marriages, dissolutions, and annulments shall be maintained in the state or any of its political subdivisions other than the one provided for in Iowa Code chapter 144, including, but not limited to, a system maintained by any agency or private entity.

95.2(1) No person shall prepare or issue any certificate which purports to be an original certified copy or a copy of a certificate of birth, death, fetal death, adoption, marriage, dissolution, or annulment or any subset of the data items taken from a certificate except as provided for in Iowa Code chapter 144 and authorized by the state registrar.

95.2(2) A vital record, index, or subset of data shall not be maintained in any other system or manner except as provided for in Iowa Code chapter 144 and authorized by the state registrar.

95.2(3) The state registrar and the county registrar shall not maintain or issue copies of any vital record of an event occurring outside the state registrar's or county registrar's jurisdiction except as provided for in Iowa Code chapter 144 and authorized by the state registrar.

95.2(4) To protect the integrity of vital records and to ensure their proper use, no vital record, index, or subset of data shall be posted to the World Wide Web or published in any other manner except as provided for in Iowa Code chapter 144 and pursuant to subrule 95.10(3) or as authorized by the state registrar.

641—95.3(144) Forms—property of department. All forms, certificates and reports pertaining to the registration of vital events are the property of the department and shall be surrendered to the state registrar upon demand.

95.3(1) The forms supplied or approved for reporting vital events shall be used for official purposes as provided for by law, rules and instructions of the state registrar.

95.3(2) No forms, except those furnished or approved by the state registrar, shall be used in the reporting of vital events or the making of copies of vital records.

95.3(3) Security paper used to report vital events shall be maintained in a secure location accessible only to the state and county registrars and their employees for administrative purposes.

95.3(4) Security paper shall be used to issue certified copies of Iowa vital records and shall be maintained in a secure location accessible only to the state and county registrars and their employees for administrative purposes.

641—95.4(144) Information by others.

95.4(1) Any person having knowledge of the facts shall furnish information that the person possesses regarding any birth, death, fetal death, adoption, marriage, dissolution, or annulment, upon demand of the state registrar.

95.4(2) Every person in charge of an institution, or the person's designee, shall maintain a record of personal particulars and data concerning each person admitted or confined to the institution pursuant to Iowa Code section 144.47. This record shall include information required by the standard certificate of birth, death, and fetal death forms issued under the direction of the state registrar. The record shall be made at the time of admission based on the information provided by such person, but when information cannot be obtained from the person, it shall be obtained from the most knowledgeable relative or person acquainted with the facts. The name and address of the person providing the information shall be a part of the record.

95.4(3) Records maintained under this rule shall be retained for a period of not less than ten years and shall be made available for inspection by the state registrar upon demand.

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641—95.5(144) Handling of vital records.

95.5(1) State equipment and state vital records shall not be handled or accessed except by the state registrar, the state registrar's employees, or other authorized personnel for administrative purposes.

95.5(2) The county registrar shall provide assistance to the public in accessing vital records designated as public records in the custody of the county registrar.

641—95.6(144) Fees.

95.6(1) *Fees for services provided by state registrar or county registrar.* The following fees shall be charged and remitted for the various services provided by the state registrar or the county registrar.

a. The state registrar or county registrar, as applicable, shall charge a fee of \$15 to conduct a search for a record.

(1) The search fee shall include one certified copy of the record.

(2) For each additional certified copy of the same record, a \$15 fee shall be charged.

(3) If, following a search, no record is found, the \$15 fee shall be retained.

b. The state registrar shall charge a fee of \$15 to prepare an adoption certificate, to amend a certificate, to amend a certificate of live birth to reflect a legal change of name, to prepare a delayed certificate, to process other administrative or legal actions, or for the search and preparation of copies of supporting documents on file in the state registrar's office. No fee shall be charged for establishment of paternity.

c. The state registrar shall charge a fee of \$25 to file a completed application for the mutual consent voluntary adoption registry.

d. The state registrar shall charge a fee of \$5 to update applicant information maintained in the mutual consent voluntary adoption registry and the declaration of paternity registry.

e. The state registrar shall charge a fee of \$15 to amend an abstract or other legal documentation in support of the preparation of a new certificate.

f. The state registrar shall charge a fee of \$35 to conduct a search for a record for the purpose of issuing a commemorative copy of a certificate of birth or a certificate of marriage pursuant to Iowa Code section 144.45A. Fees collected shall be deposited in the emergency medical services fund established in Iowa Code section 135.25.

g. The state registrar shall charge a fee of \$15 to conduct a search for a certificate of fetal death for the purpose of issuing an uncertified copy of a certificate of birth resulting in stillbirth pursuant to 2012 Iowa Acts, House File 2368, section 1.

95.6(2) *Overpayments.* Any overpayment of less than \$15 received by the state registrar for the copying of or search for vital records, or for the preparation or amending of a certificate, shall not be refunded. The state registrar shall retain the first \$9 of any overpayment with any remaining amount to be deposited in the general fund of the state.

95.6(3) *Certified copy of modified vital record.* When an individual is in possession of a previously issued certified copy of a vital record and the original record is subsequently modified, the individual may request and receive a certified copy of the modified record without charge if the certified copy prior to modification is relinquished to the registrar's office that issued the certified copy, unless otherwise directed by the state registrar.

95.6(4) *Search of county registrar's records—fee for uncertified copy.* A person who is requesting an uncertified copy of a record in the custody of the county registrar shall conduct the search of the county files to locate the record. If a copy is requested, the county registrar shall charge a fee of \$4 for an uncertified copy of the county record. The fee shall be retained by the county.

95.6(5) Distribution of fees.

a. All fees collected by the county registrar and the state registrar shall be distributed as follows:

(1) For fees collected by a county registrar, with the exception of the fee in subrule 95.6(4), the county registrar shall retain \$4 of each \$15 fee collected by that office, which shall be divided as follows:

1. For a birth certificate or a marriage certificate, the state registrar shall receive \$8, and \$3 shall be deposited in the general fund of the state, except for the fee collected pursuant to paragraph 95.6(1) "f."

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2. For a death certificate, the state registrar shall receive \$6, the office of the state medical examiner shall receive \$3, and \$2 shall be deposited in the general fund of the state.

(2) For fees collected by the state registrar, the state registrar shall retain all fees, with the exception of the fees in paragraph 95.6(1) “a,” of which the state registrar shall retain \$9 of each \$15 fee collected for the issuance of certified copies. The \$6 balance of certified copy fees collected by the state registrar shall be divided as follows:

1. For a birth certificate or a marriage certificate, \$6 shall be deposited in the general fund of the state.

2. For a death certificate, the office of the state medical examiner shall receive \$3, and \$3 shall be deposited in the general fund of the state.

b. All fees retained by the state registrar shall be added to the vital records fund established by the department pursuant to Iowa Code section 144.46A.

c. All fees received by the office of the state medical examiner shall be added to the operating budget established for the operation of that office.

95.6(6) *Fee for search to verify vital statistics record.* A fee shall be charged by the state registrar for each search conducted for the purpose of providing verification of vital statistics data to an agency authorized to receive such data under subrule 95.12(2).

a. The amount of the fee shall be determined in an agreement with the department and shall be dependent on the nature and scope of the project and the resources required to obtain the data requested.

b. The state registrar shall retain the full amount of all fees collected under this subrule in the vital records fund established pursuant to Iowa Code section 144.46A.

95.6(7) *Fee for researcher access to vital statistics data.* A fee shall be charged to each researcher who is provided access to vital statistics data in accordance with Iowa Code section 144.44 and the required agreement executed with the department. The amount of the fee shall be based on the nature and scope of the research project and resources required to obtain the data requested.

a. The state registrar shall allocate the fees for copies of birth, marriage, and death certificates provided to researchers pursuant to the distribution of fees set forth in subrule 95.6(5).

b. The state registrar shall retain in the vital records fund established pursuant to Iowa Code section 144.46A the full amount of fees collected from researchers for searching files or records to create a data file.

95.6(8) *Service member who died while on active duty—waiver of fee.* The certified copy fee for a birth certificate or a death certificate of a service member, as defined in Iowa Code section 29A.90, who died while on active duty shall be waived for a period of one year from the date of death. Application for the certified copy shall be made by an entitled family member as described in 641—95.8(144) of the deceased service member or the entitled family member’s legal representative. Documentation shall be submitted at the time of application to substantiate the date of death and active duty status.

641—95.7(144) General public access of vital records in the custody of the county registrar. A vital record may be in the custody of the county registrar if the event occurred in that county and the record is not excluded by statute or definition for purposes of confidentiality.

95.7(1) There shall be public access and the right to inspect in person all vital records in the custody of the county registrar after they are purged of confidential information.

95.7(2) Electronic devices, including but not limited to scanners, cameras, cell phones or laptops, shall not be used to secure information from county vital records.

95.7(3) Information inspected and copied shall not be published or used to establish an index or record of information at any other location except as authorized by Iowa Code chapter 144.

95.7(4) County registrars may issue uncertified copies of vital records held in the registrars’ custody and accessible to the general public, except those records excluded by statute or at the direction of the state registrar.

a. Requests for uncertified copies shall be accepted solely through in-person application after the applicant has conducted the applicant’s own search for the record at the county registrar’s office.

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b. Uncertified copies shall be issued on plain white paper and clearly stamped “not for legal purposes.” Security paper provided by the state registrar shall not be used to produce records for uncertified copies.

95.7(5) County registrars shall not provide specific information from any vital record via telephone, fax, electronic file, Web site, written letter or verbally, except for administrative purposes with the state vital records office.

95.7(6) County registrars shall not produce lists of vital records for any agency, private business, or member of the general public.

95.7(7) Records of births prior to July 1, 1995, that have been determined to be single parent births shall not be in the custody of the county registrar or accessible to the public as a right under Iowa Code chapter 22.

95.7(8) Records of births on and after July 1, 1995, that have been determined to be single parent births shall be accessible to the public as a right under Iowa Code chapter 22.

95.7(9) For a record of death registered on or after April 5, 2012, for a decedent who died outside of the county of the decedent’s residence, the state registrar shall send a clearly marked copy of the decedent’s death certificate and any amendments to the county registrar of the county of the decedent’s residence. The county registrar shall incorporate the clearly marked copy of the county resident death certificate in the vital records system maintained by the county. All copies of county resident death certificates shall be clearly marked as “county resident copy.”

641—95.8(144) Direct tangible interest in and entitlement to a vital record. Certified copies of vital records may be issued by the state registrar or county registrar upon written application, payment of the required fee pursuant to paragraph 95.6(1) “a,” and demonstration of a verifiable, direct tangible interest and entitlement.

95.8(1) The following persons shall be considered to have a direct tangible interest and entitlement and are authorized to obtain a certified copy of a vital record:

a. The registrant, if the registrant is of legal age, has reached the age of majority, or is an emancipated minor.

b. A member of the registrant’s immediate legal family, including:

- (1) Current spouse or surviving spouse;
- (2) Children;
- (3) Mother or father if listed on the registrant’s birth certificate;
- (4) Sibling, if sibling has reached the age of majority;
- (5) Maternal grandparents, or paternal grandparents if the father is listed on the birth certificate; or
- (6) Step-parent or step-child if:
 1. Legal parent and step-parent are currently married at the time of application; or
 2. Step-parent is the surviving spouse of the legal parent and not remarried.

c. The documented legal representative of the registrant or the registrant’s immediate legal family, including:

- (1) An attorney;
- (2) A court-appointed guardian;
- (3) A foster parent;
- (4) A funeral director, for six months following the decedent’s date of death; or
- (5) A legal executor.

d. Other persons who demonstrate a direct tangible interest and entitlement when it is shown that the certified copy is needed to determine or protect a personal or property interest.

95.8(2) The following persons shall not be deemed to have direct tangible interest and entitlement or be authorized to secure vital records:

a. Biological parents of adopted persons in the absence of a court order from the court of competent jurisdiction;

b. Biological family members of adopted persons;

c. Adopted persons requesting biological family records; or

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d. Commercial firms or agencies requesting lists of vital record events, or lists of names, or lists of addresses.

641—95.9(144) Search and issuance of a certified copy of a vital record. The search and issuance of a certified copy of a vital record shall be requested from the state registrar or county registrar.

95.9(1) Only entitled applicants as described in rule 641—95.8(144) may submit requests for certified copies of vital records.

95.9(2) A person requesting a search and issuance of a certified copy of a vital record shall provide in writing the following:

- a.* The name of the person or persons whose vital record is to be searched;
- b.* The purpose of such request;
- c.* The relationship to the registrant of the person making the request; and
- d.* The notarized signature and the address of the person making the request.

95.9(3) In addition to a completed written application, the applicant shall provide:

- a.* A current, legible government-issued photo identification of the applicant making the request or other identification documents acceptable to the state registrar; and
- b.* Payment of the required fee before the search is conducted.

95.9(4) The state registrar and county registrar shall have the authority to require additional supporting documents to prove direct tangible interest and entitlement pursuant to rule 641—95.8(144).

95.9(5) If, after the search is conducted, no record is on file, the state registrar or county registrar shall issue a “notification of record search” on certified paper, and the fee for the search shall be retained pursuant to paragraph 95.6(1) “*a.*”

641—95.10(144) Search and issuance for genealogy or family history. The search and issuance of a vital record for genealogy may be requested from the state registrar or county registrar upon written application and payment of the required fee pursuant to paragraph 95.6(1) “*a.*”

95.10(1) The county registrar may issue certified copies of a vital record for genealogy or family history to an applicant who can satisfactorily demonstrate a line of direct lineal consanguinity and to aunts, uncles, and cousins not past twice removed.

95.10(2) The county registrar may issue uncertified copies of a vital record for genealogy or family history to any member of the general public except those records excluded by statute or at the direction of the state registrar. Requests for uncertified copies shall be accepted solely through in-person application after the applicant has conducted a search for the record at the county registrar’s office.

95.10(3) The state registrar may issue uncertified copies of a vital record for genealogy or family history to an applicant who is conducting genealogical research and can satisfactorily demonstrate a line of direct lineal consanguinity and to aunts, uncles, and cousins not past twice removed if the event occurred 125 years ago or more for birth records and 75 years ago or more for marriage and death records.

95.10(4) All copies issued for genealogy or family history shall be clearly marked “for genealogical purposes only.”

95.10(5) No copy shall be issued for genealogy or family history if the registrant is known to be living.

95.10(6) If, after the search is conducted, no record is on file, the state registrar or county registrar shall issue a “notification of record search” on certified paper, and the fee for the search shall be retained pursuant to paragraph 95.6(1) “*a.*”

641—95.11(144) Registrars’ responsibility for maintenance of confidentiality.

95.11(1) The state registrar and county registrar shall maintain the confidentiality of the following material, records, and information:

- a.* Entries indicated as confidential or statistical in nature on the face of the record or otherwise confidential by law;
- b.* Records of fetal death or stillbirth, adoption, legal change of name, and single parent births occurring prior to July 1, 1995; and

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c. Any record which is ordered sealed by the state registrar or pursuant to a court order.

95.11(2) The county registrar shall take all necessary steps to ensure that confidential information reflected on vital records has been redacted from general public access. If confidential information is included with accessible information, only accessible information shall be made available to the general public for examination.

95.11(3) The county registrar shall employ at a minimum all of the following methods to ensure confidentiality:

- a.* Permanently cover or remove, by appropriate means, confidential information;
- b.* Promptly process the notice to seal a record as directed by the state registrar; and
- c.* Seal and not reproduce confidential information when copies of vital records are made.

95.11(4) The county registrar may charge reasonable administrative costs to reflect the expenses for efforts required to allow general public access, examination and the assurance of confidentiality of this material and information pursuant to the authority of Iowa Code chapter 22.

a. The administrative cost is to be paid by persons who request the services provided by the county registrar, including supervising, copying or providing a suitable place for such work.

b. The county registrar shall retain all administrative costs collected to allow general public access, examination, and the assurance of confidentiality of the vital record and information pursuant to the authority of Iowa Code chapter 22.

641—95.12(144) Disclosure of data.

95.12(1) The state registrar may disclose data from the system of vital statistics to federal, state, county or municipal agencies of government that request such data in the conduct of their official duties, subject to conditions the state registrar may impose to ensure that the use of the data is limited to official purposes.

a. The aforementioned agencies shall not provide the certified copy or a copy of the vital record, or release information contained therein, to the person named on the certificate, a member of the person's legal family, or the person's legal representative.

b. Certified copies issued to the aforementioned agencies shall be appropriately stamped, for example, "administrative purposes only" or "for veteran affairs purposes only."

95.12(2) Confidential verifications of the facts contained in vital records may be furnished by the state registrar to any federal, state, county or municipal government agency or other entity in the conduct of the agency's or entity's official duties, subject to conditions the state registrar may impose to ensure that the verification is limited to official purposes.

a. Such confidential verifications shall be on forms prescribed and furnished by the state registrar or on forms furnished by the requesting agency or entity and acceptable to the state registrar, or the state registrar may authorize the verification in other ways.

b. The aforementioned agencies and entities shall not provide the original or a copy of the verified certificate, or release information contained therein, to the person named on the certificate, a member of the person's legal family, or the person's legal representative.

95.12(3) The state registrar may permit the use of data from vital statistics for research purposes subject to conditions the state registrar may impose to ensure the use of the data is limited to such research purposes. No data shall be furnished from vital statistics for research purposes until the state registrar has prepared in writing the conditions under which the data may be used and has received an agreement signed by a responsible agent of the research organization agreeing to meet and conform to such conditions.

95.12(4) The state registrar may transmit to the county registrar data needed to produce certified copies of vital records pursuant to rule 641—95.8(144).

95.12(5) The state registrar may transmit to the statewide immunization registry information from birth certificates for the sole purpose of identifying those children in need of immunizations. The state registrar may impose conditions to ensure that the use of the information is limited to official purposes.

95.12(6) The state medical examiner or the county medical examiner may request an uncertified copy of a death certificate before the death certificate is accepted and filed at the county registrar's office.

- a. The copy shall be clearly stamped “administrative purposes only.”
- b. The death certificate shall be for the sole use of the state medical examiner or county medical examiner and shall not be used as a legal document, be distributed, be copied or be maintained other than to be made a part of the investigatory file.
- c. If the state medical examiner or any county medical examiner determines the death does not warrant further investigation, the state medical examiner or county medical examiner shall destroy the uncertified copy of the death certificate.

641—95.13(144) Preparation of certified copies. Certified copies of vital records may be prepared and issued by the state registrar or the county registrar pursuant to rules 641—95.3(144) and 641—95.9(144).

95.13(1) Certified copies of vital records may be made by mechanical, electronic, or other reproductive processes, except for confidential information. Certified copies shall be issued using security paper that is prescribed by the state registrar.

95.13(2) When a certified copy is issued, each certification shall contain a statement certifying that the facts are the true facts recorded in the issuing office, the date issued, the name of the issuing office, the registrar's signature or an authorized copy thereof, and the seal of the issuing office.

95.13(3) No person shall prepare or issue any certificate which purports to be an original, certified copy, or copy of a certificate of birth, death, fetal death, or marriage.

641—95.14(144) Cancellation of fraudulent records.

95.14(1) When the state registrar determines that a certificate was registered through fraud or misrepresentation, the state registrar shall give to the registrant a notice in writing of the state registrar's intention to cancel said certificate.

95.14(2) The notice of cancellation shall give the registrant an opportunity to appear and show cause why the certificate shall not be canceled.

a. The notice may be served on the registrant, or, in the case of a minor or incompetent person, on the parent or guardian, by the forwarding of the notice by certified mail to the last-known address on file in the office of the state registrar.

b. The certificate shall not be available for certification unless the registrant, parent or guardian within 30 days after the date of mailing the notice shows cause satisfactory to the state registrar why the certificate shall not be canceled.

95.14(3) Upon presentation to the state registrar of a court order stating a marriage certificate was registered through fraud or misrepresentation, the state registrar shall remove said record from the vital statistics system. The state registrar shall order the county registrar to remove any record related to the marriage.

641—95.15(144) Unlawful acts.

95.15(1) Serious misdemeanors. Any person who reports information required under Iowa Code chapter 144 and who commits any of the following acts is guilty of a serious misdemeanor:

a. Willfully and knowingly makes any false statement in a report, record, or certificate required to be filed or in an application for an amendment or willfully and knowingly supplies false information intending that such information be used in the preparation or amendment of any such report, record, or certificate.

b. Without lawful authority and with the intent to deceive, makes, alters, amends, or mutilates any report, record, or certificate required to be filed or a certified copy of such report, record, or certificate.

c. Willfully and knowingly uses or attempts to use or furnish to another for use for any purpose of deception any certificate, record, or report or certified copy thereof.

d. Willfully and knowingly alters, amends, or mutilates any copy, certified copy, record or report.

e. Willfully, with the intent to deceive, uses or attempts to use any certificate of birth or certified copy of a record of birth knowing that such certificate or certified copy was issued based upon a record which is false in whole or in part or which relates to the birth of another person.

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f. Willfully and knowingly furnishes a certificate of birth or certified copy of a record of birth with the intention that it be used by a person other than the person to whose birth the record relates.

g. Disinterring a body in violation of Iowa Code section 144.34.

h. Knowingly violates a provision of Iowa Code section 144.29A.

95.15(2) *Simple misdemeanors.* Any person committing any of the following acts is guilty of a simple misdemeanor:

a. Knowingly transports or accepts for transportation, interment, or other disposition a dead body without an accompanying permit as provided in Iowa Code sections 144.32, 144.33, and 144.34.

b. Refuses to provide information required by Iowa Code chapter 144.

c. Willfully violates any of the provisions of Iowa Code chapter 144 or refuses to perform any of the duties imposed upon the person.

641—95.16(144) Enforcement assistance.

95.16(1) The department shall report cases of alleged violations to the proper county attorney, with a statement of the facts and circumstances, for such action as is appropriate.

95.16(2) Upon request of the department, the attorney general shall assist in the enforcement of the provisions of Iowa Code chapter 144.

These rules are intended to implement Iowa Code chapter 144.

ITEM 2. Rescind 641—Chapter 96 and adopt the following **new** chapter in lieu thereof:

CHAPTER 96
BIRTH REGISTRATION

641—96.1(144) Definitions. For the purpose of this chapter, the definitions in 641—Chapter 95 shall apply.

641—96.2(144) Forms—property of department. All forms, certificates and reports pertaining to the registration of vital events are the property of the department and shall be surrendered to the state registrar upon demand.

96.2(1) The forms supplied or approved for reporting birth events shall be used for official purposes as provided for by law, rules and instructions of the state registrar.

96.2(2) No forms, except those furnished or approved by the state registrar, shall be used in the reporting of birth events or the making of copies of vital records.

641—96.3(144) Standard birth registration—up to seven days.

96.3(1) A certificate of live birth for each live birth which occurs in this state shall be filed as directed by the state registrar within seven days after the birth.

96.3(2) The person responsible for registering the certificate of live birth pursuant to rules 641—96.5(144), 641—96.6(144) and 641—96.7(144) shall:

a. Utilize the official birth worksheet to report all information and any additional documentation as needed to complete the standard form for a certificate of live birth; and

b. Submit all required fees and reports with the birth registration.

641—96.4(144) Standard birth registration—seven days to one year.

96.4(1) After seven days but within one year, a certificate of live birth for each live birth which occurs in this state shall be filed as directed by the state registrar.

96.4(2) The person responsible for registering the certificate of live birth pursuant to rules 641—96.5(144), 641—96.6(144) and 641—96.7(144) shall:

a. Utilize the official birth worksheet to report all information and any additional documentation as needed to complete the standard form for a certificate of live birth; and

b. Submit all required fees and reports with the birth registration.

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641—96.5(144) Birthing institutions.

96.5(1) When a live birth occurs in an institution or en route to an institution, the person in charge of the institution or the person's designated representative, utilizing the official birth worksheet, shall within seven days:

- a. Obtain the personal data;
- b. Obtain the signature of the mother or her legal husband or other signature as directed by the state registrar;
- c. Provide the medical information required;
- d. Certify that the child was born alive at the place, date, and time stated; and
- e. File the certificate using the electronic birth registration system or as directed by the state registrar.

96.5(2) The birthing institution shall submit the fee report and remit the fees to the state registrar pursuant to rule 641—96.16(144).

96.5(3) The birthing institution shall maintain the birth worksheet for a minimum of ten years.

96.5(4) Upon demand of the state registrar, the birth worksheet and other information about the birth event shall be made available for inspection by the state registrar.

641—96.6(144) Non-birthing institutions.

96.6(1) Institutions that do not register birth records through the electronic birth registration system shall request instructions from the state registrar.

96.6(2) The person in charge of the non-birthing institution or the person's designee shall submit to the state registrar for registration of the live birth at a minimum the following:

- a. A cover letter that is on business letterhead of the institution and that identifies the live birth submitted for registration, supports the facts of the live birth, and contains the original signature of the person responsible for registering the live birth;
- b. A copy of the hospital delivery report, emergency department admittance, or physician notes;
- c. The original Iowa official birth worksheet completed and signed by the mother, or her legal husband, or as directed by the state registrar; and
- d. Payment of the fees, which shall be included with the birth worksheet.

641—96.7(144) Non-institution birth.

96.7(1) In case of a non-institution Iowa live birth, the official non-institution birth worksheet shall be completed and filed with the state registrar by one of the following in the indicated order of priority:

- a. The physician in attendance at or immediately after the live birth.
- b. Any other person in attendance at or immediately after the live birth.
- c. The father or the mother of the infant.
- d. The person in charge of the premises where the live birth occurred.

96.7(2) Evidence in support of the facts of live birth shall be included in a cover letter, which shall contain the notarized signature of the person responsible for registering the birth. A certificate of live birth shall be completed and filed upon presentation of the following clear and convincing evidence by the individual responsible for filing the certificate:

- a. Evidence of pregnancy including:
 - (1) Prenatal record;
 - (2) A statement from a physician, certified nurse midwife, or other health care provider qualified to determine pregnancy;
 - (3) A statement from a public health nurse or other health care provider documenting a prenatal home visit; or
 - (4) Other evidence acceptable to the state registrar.
- b. Evidence the infant was born alive including:
 - (1) A statement from the physician, certified nurse midwife or other health care provider who saw or examined the infant;

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(2) A statement from a public health nurse or other health care provider documenting a postnatal home visit; or

(3) Other evidence acceptable to the state registrar.

c. Clear and convincing evidence acceptable to the state registrar of the mother's presence in this state at the reported place and date of the live birth.

96.7(3) An Iowa-licensed certified nurse midwife may preregister with the state registrar by submitting a dated statement on business letterhead identifying the midwife's business name, if applicable, printed full name and original signature of the midwife, professional title, license number, address and telephone number.

a. Certified nurse midwives who are preregistered shall submit to the state registrar for registration of the live birth at a minimum the following:

(1) A cover letter that is on the business letterhead, that identifies the live birth submitted for registration, that supports the facts of the live birth, and that contains the original signature of the person responsible for registering the live birth;

(2) The original official non-institution birth worksheet completed and signed pursuant to subrule 96.7(5) or as directed by the state registrar; and

(3) Payment of fees, which shall be included with the birth worksheet.

b. It is the responsibility of the individual preregistering to update any information provided in the individual's original registration.

96.7(4) Certified nurse midwives not preregistered prior to submitting a certificate of live birth for registration shall follow subrules 96.7(1), 96.7(2) and 96.7(5) for all live births the midwives attend outside a birthing institution.

96.7(5) The official non-institution birth worksheet shall include a notarized signature of the mother or her legal husband and shall be accompanied by a clear photocopy of that person's current government-issued photo identification. If photo identification is unavailable, other identifying documentation may be acceptable to the state registrar.

641—96.8(144) Gestational surrogate arrangement birth registration. Establishment of a certificate of live birth for a child born of a gestational surrogate arrangement shall conform to the process established pursuant to rule 641—99.15(144).

641—96.9(144) Foundling birth registration.

96.9(1) The person assuming physical custody of a foundling shall, within one business day of finding the infant, contact the state registrar for specific directions and guidance for filing the certificate of live birth.

96.9(2) Foundling registration shall be completed in the standard manner by the state registrar pursuant to Iowa Code section 144.14. Within five days after assuming physical custody of the foundling, the custodian of the foundling shall provide on the official birth worksheet the following minimum birth data and other data required by the state registrar:

a. The date when and the place where the child was found;

b. The sex, color or race, and approximate age of the child;

c. The name and address of the person or institution that has assumed physical custody of the child;

d. The name given to the child by the custodian;

e. The name, title, and license number, if any, of the person acting as the certifier to the facts of the foundling registration;

f. Parentage information, if the parent is known;

g. A cover letter with supporting documentation; and

h. Any additional information known.

96.9(3) The place where the child was found shall be entered as the place of birth and the date of birth shall be determined by approximation. The information provided on the official birth worksheet shall constitute the certificate of live birth.

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96.9(4) The record shall be on file only at the state registrar's office, and all supporting documentation shall be placed in a sealed file, which shall be opened only by order of a court of competent jurisdiction or for vital records administrative purposes.

96.9(5) Pursuant to Iowa Code section 144.14, if the child is properly identified after the registration, the certificate of live birth shall be reestablished as needed and all records pertaining to the foundling registration shall be sealed along with the original supporting documentation, which shall be opened only by order of a court of competent jurisdiction or for vital records administrative purposes.

641—96.10(144) Newborn safe haven registration.

96.10(1) Newborn safe haven registration procedures shall apply to living infants who have been abandoned or left at an institutional health facility.

96.10(2) The person assuming physical custody of the living infant pursuant to Iowa Code section 233.2(2) "a" shall, within one business day of assuming custody, contact the state registrar for specific directions and guidance for registering the birth.

96.10(3) If the name of the parent is unknown, newborn safe haven registration shall be completed in the standard manner by the state registrar pursuant to Iowa Code section 144.14. Within five days after assuming physical custody of the infant, the custodian shall provide on the official birth worksheet the following minimum birth data and other data required by the state registrar:

- a. The date when and the place where the child was found;
- b. The sex, color or race, and approximate age of the child;
- c. The name and address of the person or institution that has assumed physical custody of the child;
- d. The name given to the child by the custodian;
- e. The name, title, and license number, if any, of the person acting as the certifier to the facts of the newborn safe haven registration;
- f. A cover letter with supporting documentation; and
- g. Any additional information known.

96.10(4) If the name of the parent is disclosed to the institutional health facility, the facility shall file the certificate of live birth as required pursuant to Iowa Code sections 144.13 and 233.2(2) "c."

96.10(5) Pursuant to Iowa Code section 144.14, if the child is properly identified after the newborn safe haven registration, the birth record shall be reestablished as needed and all records pertaining to the newborn safe haven registration shall be sealed along with the original supporting documentation, which shall be opened only by order of a court of competent jurisdiction or for vital records administrative purposes.

96.10(6) The record shall be on file only at the state registrar's office, and all supporting documentation shall be placed in a sealed file which shall be opened only by order of a court of competent jurisdiction or for vital records administrative purposes. The confidentiality of the live birth certificate shall be maintained pursuant to Iowa Code sections 233.2(2) "c" and 144.43.

641—96.11(144) Birth registration following a foreign-born adoption.

96.11(1) A certificate of foreign birth shall be established by the state registrar for a child born in a foreign nation upon the state registrar's receipt of a completed Certificate of Adoption Report form from an Iowa court of competent jurisdiction or upon request of the resident adoptive parent or parents and the state registrar's receipt of all of the following documents:

- a. The authenticated adoption decree in both the foreign language and the English translation, which shall contain the official signature of the translator, or a certified copy of an adoption decree from an Iowa court of competent jurisdiction;
- b. If the decree does not contain information to establish the certificate of foreign birth, the adoptee's authenticated birth certificate in both the foreign language and the English translation, which shall contain the official signature of the translator;
- c. Evidence of the adoptee's permanent residence such as a passport or citizenship papers;
- d. A certified copy of the certificate of live birth of each adoptive parent; and

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e. A notarized statement that is on letterhead from the licensed adoption agency or certified adoption investigator and that establishes the parent or parents were residents of Iowa at the time the adoption was final in the foreign nation. The statement will not be required if the parent's or parents' Iowa address is shown in the adoption documents.

96.11(2) The certificate of foreign birth shall not constitute U.S. citizenship.

96.11(3) The state registrar shall charge the adoptive parent or parents the appropriate fee for the registration of a certificate of foreign birth for a foreign-born child adopted by a parent who resided in Iowa at the time of adoption pursuant to Iowa Code section 144.13A.

96.11(4) Administrative and certified copy fees shall be charged and remitted as provided in rule 641—95.6(144).

96.11(5) The evidence presented shall be on file only at the state registrar's office, and all supporting documentation shall be placed in a sealed file which shall be opened only by order of a court of competent jurisdiction or for vital records administrative purposes.

641—96.12(144) Birth registration fees. A fee is required for each birth registered pursuant to Iowa Code sections 144.13, 144.13A, 144.15, 144.18, 144.23, 144.25A, and 600.15.

96.12(1) The parents shall be charged and the person responsible for filing the certificate of live birth shall remit to the state registrar the \$20 fee for the standard registration of a certificate of live birth and the \$15 fee for a certified copy of the birth certificate pursuant to Iowa Code section 144.13A.

96.12(2) The individual filing a delayed certificate of live birth shall be charged and shall remit to the state registrar the \$20 fee for the registration of a delayed certificate of live birth for a registrant 17 years of age or younger pursuant to Iowa Code sections 144.13A, 144.15, and 144.18.

96.12(3) The adoptive parents shall be charged and shall remit to the state registrar the \$20 fee for the registration of a certificate of foreign birth pursuant to Iowa Code sections 144.13A and 144.25A.

641—96.13(144) Fee collection. If a person responsible for the registration of a certificate of live birth under Iowa Code section 144.13 is not the parent, the person shall collect the fees from the parent and remit the fees to the state registrar.

96.13(1) The person collecting the fee on behalf of the state registrar shall not charge an administrative fee for collection of the registration and certified copy fees pursuant to Iowa Code section 144.13A(3).

96.13(2) A person is discharged from the duty to collect and remit the fees when the person has made a good-faith effort to collect the fees from the parent or has established that the fees are to be waived pursuant to Iowa Code section 144.13A(3).

641—96.14(144) Waivers. The registration fee and certified copy fee are waived if the expenses of the birth are reimbursed under the medical assistance program established by Iowa Code chapter 249A or if the parent is indigent and unable to pay the expenses of the birth and no other means of payment is available to the parent.

641—96.15(144) Fee deposit. Birth registration and certified copy fees collected on behalf of the state registrar and forwarded to the state registrar shall be remitted to the treasurer of state for deposit in the appropriate state fund.

641—96.16(144) Responsibilities of institutions. Institutions responsible for filing certificates of live birth shall collect both the registration fee and the certified copy fee from the parent.

96.16(1) The institution shall complete the Summary of Fee Report for Birth Registration and Certified Copy form. The institution shall submit the completed form and the total fee amount by check or money order, to the state registrar, within seven days of the live birth or as directed by the state registrar. All live births shall be reported and indicate for each birth that:

- a.* The fee was collected for the registration and certified copy;
- b.* The fee was waived, as applicable, and the reason for waiver; or
- c.* No fee was collected after a good-faith effort was made.

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96.16(2) If a late birth registration fee is received, it shall be noted on the original Summary of Fee Report for Birth Registration and Certified Copy form.

96.16(3) The institution shall maintain copies of the submitted Summary of Fee Report for Birth Registration and Certified Copy form for three state fiscal years.

641—96.17(144) Responsibility for births occurring in non-institutions and non-birthing institutions.

96.17(1) The state registrar shall collect the registration and certified copy fees and complete a Summary of Fee Report for Birth Registration and Certified Copy form.

96.17(2) If a late birth registration fee is received, it shall be noted on the original Summary of Fee Report for Birth Registration and Certified Copy form.

641—96.18(144) Delayed birth registration—one year or more after event. All Iowa births registered one year or more after the date of the birth shall be prepared on a Delayed Certificate of Live Birth form. The state registrar shall require documentary evidence to prove the facts of the birth pursuant to subrule 96.18(2). The delayed birth record shall be registered and maintained solely at the state registrar's office.

96.18(1) Application—certificate form. A completed Delayed Certificate of Live Birth form shall be signed before a notary and filed with the state registrar by the following applicants in the indicated order of priority:

- a.* The registrant, if 18 years of age or older, whose birth occurred in Iowa but was not recorded within one year of the birth;
- b.* The registrant's parent or current legal court-appointed guardian; or
- c.* If no parent or legal guardian exists, a member of the registrant's family who has direct tangible interest and entitlement and who is competent to affirm to the accuracy of the information.

96.18(2) Facts to be established.

a. The applicant shall submit a notification of record search certified by the state registrar, which shall indicate that no prior certificate of live birth is on file for the person whose delayed birth record is to be filed. The notification of record search shall be returned to the applicant and shall not be exchanged for a certified copy of delayed certificate of live birth.

b. The applicant shall substantiate the following with documentary evidence:

- (1) The full name of the registrant at the time of the birth, except that the delayed certificate may reflect the name established by adoption or legitimation when such evidence is submitted;
- (2) The date and place of the birth;
- (3) The full name of the mother prior to any marriage as it is listed on her birth certificate;
- (4) The full name of the mother at the time of the birth; and
- (5) The full name of the father. However, if the mother was not married to the father of the child at the time of conception or birth or at any time during the period between conception and birth, the name of the father shall not be entered on the delayed certificate unless the child has been adopted or legitimated or parentage has been determined by a court of competent jurisdiction or there is evidence of acknowledgment of paternity by both parents.

96.18(3) Documentary evidence.

a. To be acceptable for purposes of registration, the name of the registrant and the date and place of birth entered on a Delayed Certificate of Live Birth form shall be supported at a minimum by the following documentary evidence:

- (1) Two pieces of dated documentary evidence if the Delayed Certificate of Live Birth form is filed within seven years after the registrant's date of birth; or
- (2) Three pieces of dated documentary evidence if the Delayed Certificate of Live Birth form is filed seven years or more after the registrant's date of birth.

b. Each piece of documentary evidence must be from an independent source. Facts of parentage shall be supported by at least one of the documents.

c. Documentary evidence shall be in the form of the original record, a certified copy thereof, or a notarized statement from the custodian of the record or document on the custodian's letterhead.

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d. All documentary evidence submitted shall consistently support the facts of birth to be established.

e. All documentary evidence shall have been executed at least five years prior to the date of filing or shall have been established prior to the registrant's seventh birthday.

f. Documents not acceptable to establish a delayed certificate of live birth include, but are not limited to:

- (1) Baptismal record,
- (2) Confirmation record,
- (3) Family bible entries,
- (4) Hospital commemorative birth certificate,
- (5) Crib card,
- (6) Cradle roll,
- (7) Baby book memento, and
- (8) Personal affidavit.

96.18(4) *Abstraction and certification by the state registrar.* The state registrar shall abstract on the Delayed Certificate of Live Birth form a description of each document submitted to support the facts of birth. This description shall include:

- a.* The title or description of the document;
- b.* The name and address of the custodian who has attested to the fact on the original documents in the custodian's custody;
- c.* The date of the original filing of the document being abstracted; and
- d.* The information regarding the registrant's birth and parentage.

96.18(5) *Acceptance of documentary evidence for registration.*

- a.* The state registrar shall by signature certify that:
 - (1) No prior certificate of live birth is on file for the person whose birth is to be recorded;
 - (2) The evidence has been reviewed and substantiates the alleged facts of the birth; and
 - (3) The abstract of the evidence appearing on the Delayed Certificate of Live Birth form accurately reflects the nature and content of the documents.

b. All documents submitted in support of the delayed registration of live birth shall be returned to the applicant after review, abstraction, and registration.

96.18(6) *Denial of registration.*

a. When the applicant does not submit substantiating evidence or the state registrar finds reason to question the validity or adequacy of the evidence submitted to establish a delayed certificate of live birth, the state registrar shall not register the delayed certificate of live birth. The written notice of refusal from the state registrar shall include:

- (1) The rejected form;
- (2) The Delayed Birth Evidence Refusal form; and
- (3) Information related to the applicant's right of appeal to the district court pursuant to Iowa Code sections 144.17 and 144.18.

b. The application to establish a delayed certificate of live birth shall be dismissed if not actively pursued within six months of the date the notice of refusal was sent to the applicant.

96.18(7) *Duties of the county registrar.* The county registrar may assist the registrant, registrant's parent, or current court-appointed guardian in the completion and notarization of the delayed form, excluding the portion restricted for state use only. The county registrar may forward the form, documents and fees to the state registrar for final review and possible acceptance.

96.18(8) *Fees.* Administrative and certified copy fees shall be charged as provided in rule 641—95.6(144).

These rules are intended to implement Iowa Code sections 144.12, 144.13, 144.13A, 144.14, 144.15, 144.17, 144.18, 233.2(2) "c" and 600.15.

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ITEM 3. Adopt the following new 641—Chapter 97:

CHAPTER 97
DEATH REGISTRATION AND DISPOSITION OF DEAD HUMAN BODIES

641—97.1(144) Definitions. For the purpose of this chapter, the definitions in 641—Chapter 95 shall apply.

641—97.2(144) Forms—property of department. All forms, certificates and reports pertaining to the registration of death events are the property of the department and shall be surrendered to the state registrar upon demand.

97.2(1) The forms supplied or approved for reporting death events shall be used for official purposes as provided for by law, rules and instructions of the state registrar.

97.2(2) No forms, except those furnished or approved by the state registrar, shall be used in the reporting of death events or the making of copies of vital records.

641—97.3(144) Standard registration of death—up to one year. Iowa death records submitted for registration within one year from the date of death shall be prepared on the standard Certificate of Death form.

97.3(1) The county in which the death occurs or in which the dead human body is found is the county of death.

97.3(2) If the death occurs in a moving conveyance, the county in which the dead human body is first removed from the conveyance is the county of death.

97.3(3) A blank Certificate of Death form shall be used only by the state registrar or authorized agents.

97.3(4) If a funeral director uses a computer software program to generate death records, the certificate of death form shall be provided to the state registrar prior to the funeral director's use of the form. The state registrar shall review the form and provide written approval to the funeral director or shall deny approval of the form if the form does not conform to the standard certificate of death as prescribed. Denial shall be provided in writing.

641—97.4(144) Standard registration of fetal death—up to one year. Iowa fetal death records submitted for registration within one year from the date of fetal death shall be prepared on the standard Certificate of Fetal Death form. A fetal death certificate shall not be filed after one year from the date of the event.

97.4(1) When a fetal death occurs in an institution, the person in charge of the institution or the person's designee, the physician in attendance at or after delivery, or a medical examiner may assist in preparation of the Certificate of Fetal Death form as directed by the state registrar.

97.4(2) In cases in which a fetus has reached the gestation period of 20 completed weeks or more or a weight of 350 grams or more, a Certificate of Fetal Death form shall be:

- a. Registered and maintained solely at the state registrar's office; and
- b. Filed within three days after delivery and prior to final disposition of the fetus.

97.4(3) The county in which the dead human fetus is found is the county of death. The certificate shall be filed within three days after the fetus is found.

97.4(4) If the fetal death occurs in a moving conveyance, the county in which the fetus is first removed from the conveyance is the county of death.

97.4(5) A blank Certificate of Fetal Death form shall be used only by the state registrar or authorized agents.

97.4(6) If a funeral director uses a computer software program to generate fetal death records, the certificate of fetal death form shall be provided to the state registrar prior to the funeral director's use of the form. The state registrar shall review the form and provide written approval to the funeral director

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or shall deny approval of the form if the form does not conform to the standard certificate of death as prescribed. Denial shall be provided in writing.

641—97.5(144) Preparation of the certificate of death or fetal death.

97.5(1) The funeral director or person other than the funeral director who first assumes custody of a dead human body or fetus for the purposes of disposition shall:

- a. Obtain the personal data from the next of kin or the best-qualified person or source available;
- b. Obtain the medical certification of cause of death from the physician or medical examiner; and
- c. Within three days after the death and prior to final disposition of the dead human body, file the completed certificate of death in the county where the death occurred or, within three days after delivery and prior to disposition of the fetus, file the completed certificate of fetal death with the state registrar.

97.5(2) The funeral director or person other than the funeral director who first assumes custody of the dead human body or fetus for the purposes of disposition shall prepare the certificate of death or fetal death on the official paper issued by the state registrar by one of the following means:

- a. Use of a typewriter with dark blue or black ribbon to complete the standard certificate form;
- b. Use of a funeral director's computer program to complete the form that has been preapproved by the state registrar pursuant to subrules 97.3(4) and 97.4(6);
- c. Use of an electronic form prescribed by the state registrar; or
- d. As directed by the state registrar.

97.5(3) Unless otherwise directed by the state registrar, a certificate of death or fetal death shall be accepted for filing and registration only when:

- a. All names are typed in the spaces provided;
- b. All items are completed as required;
- c. No alterations or erasures are apparent;
- d. All signatures are original and genuine and are in dark blue or black ink;
- e. The certificate presented for registration is on the approved form and official paper prescribed by the state registrar;
- f. Data are consistent with the facts of death; and
- g. The form is prepared in conformity with these rules or instructions issued by the state registrar.

641—97.6(144) Medical certification of death. The funeral director shall submit the completed fact of death portion of the certificate of death to the physician, physician assistant, advanced registered nurse practitioner, or medical examiner for the completion of the medical portion.

97.6(1) For a natural cause of death, the physician, physician assistant or advanced registered nurse practitioner in charge of the patient's care for the illness or condition which resulted in death shall complete and sign the medical certification within 72 hours after receipt of the death certificate from the funeral director or individual who initially assumed custody of the body.

97.6(2) If there is a non-natural cause of death, the state medical examiner or county medical examiner shall be notified and shall conduct an inquiry.

97.6(3) If the decedent was an infant or child and the cause of death is not known, a medical examiner's inquiry shall be conducted and an autopsy performed as necessary to exclude a non-natural cause of death.

97.6(4) If upon inquiry into a death, the state medical examiner or county medical examiner determines that a preexisting natural disease or condition was the likely cause of death and that the death does not affect the public interest as described in Iowa Code section 331.802(3), the state medical examiner or county medical examiner may elect to defer to the physician, physician assistant or advanced registered nurse practitioner in charge of the patient's preexisting condition the certification of the cause of death.

97.6(5) When an inquiry is required by the state medical examiner or county medical examiner, the state medical examiner or county medical examiner shall investigate the cause and manner of death and shall complete and sign the medical certification within 72 hours after determination of the cause and manner of death.

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97.6(6) The authorized person completing the medical certification of cause of death shall attest to the accuracy of the medical certification either by signature or by an electronic process approved by the state registrar.

641—97.7(144) Medical certification of fetal death.

97.7(1) The medical certification for a fetal death shall be completed by the physician in attendance at or after delivery of the fetus within 72 hours after delivery, except when an inquiry is required by a medical examiner.

97.7(2) When an inquiry by a medical examiner is required, or when a fetal death occurs without medical attendance upon the mother at or after delivery, the medical examiner shall investigate the cause of fetal death and shall complete the medical certification of the fetal death within 72 hours after taking charge of the case.

97.7(3) The physician or medical examiner completing the medical certification of fetal death shall attest to the accuracy either by signature or by an electronic process approved by the state registrar.

641—97.8(144) Medical certifier.

97.8(1) Only an Iowa-licensed physician, physician assistant, advanced registered nurse practitioner, or medical examiner shall certify to the cause and manner of death.

97.8(2) If the medical certifier is unavailable, an alternate medical certifier may complete the cause and manner of death when:

- a. The alternate medical certifier has access to the medical history of the case;
- b. The alternate medical certifier views the deceased at the time of death or after death has occurred; and
- c. The death is from natural causes.

97.8(3) In all other cases in which a medical certifier is unavailable, the medical examiner shall prepare the medical certification of cause of death.

641—97.9(144) Report of autopsy findings.

97.9(1) In cases in which an autopsy is to be performed, it shall not be necessary to defer the entry of the cause of death pending a full report of microscopic or toxicological studies.

97.9(2) In any case in which the gross findings of an autopsy are inadequate to determine the cause of death, the medical certifier shall mark the cause of death as “pending investigation” on the certificate and sign the certificate. Immediately after the medical data necessary for determining the cause of death have been made known, the medical certifier shall provide to the state registrar a signed statement that identifies the decedent and the cause of death. The signed statement shall be on the medical certifier’s official letterhead.

97.9(3) In any case in which the autopsy findings significantly change the medical diagnosis of cause of death, the medical certifier shall make a report of the cause of death and submit it to the state registrar as soon as the findings are available. Such report shall be a signed statement that identifies the decedent and the revised cause of death and shall be on the medical certifier’s official letterhead. Such report shall amend the original certificate, and the report shall be maintained in a sealed file.

641—97.10(144) Extension of time. If the medical certifier is unable to complete the medical certification of cause of death or if the funeral director is unable to obtain the personal information about the deceased within the statutory time period, the funeral director shall file the certificate of death or fetal death with all available information.

97.10(1) Such certificate of death or fetal death shall be considered appropriate authority to issue a burial-transit permit.

97.10(2) As soon as possible, but in all cases within 15 days, the person responsible for completing the information missing from the original certificate shall file a supplemental report with the state registrar.

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641—97.11(144) Removal of a dead human body or fetus.

97.11(1) A person assuming custody of a dead human body shall:

a. Contact the attending physician, physician assistant, or advanced registered nurse practitioner and receive assurance that the death was from natural causes and that the physician, physician assistant, or advanced registered nurse practitioner will assume responsibility for certifying to the cause of death; or

b. Contact the medical examiner and receive authorization to remove the dead human body if the case is within the jurisdiction of the medical examiner.

97.11(2) A person assuming custody of a dead human fetus shall:

a. Contact the attending physician and receive assurance that the death was from natural causes and that the physician will assume responsibility for certifying to the cause of fetal death; or

b. Contact the medical examiner and receive authorization to remove the dead human fetus if the case is within the jurisdiction of the medical examiner.

97.11(3) A person other than a funeral director, medical examiner, or emergency medical service provider who assumes custody of a dead human body or fetus shall first register the certificate of death or fetal death and then secure a burial-transit permit pursuant to rule 641—97.12(144) prior to removal of the dead human body or fetus from the place of death.

641—97.12(144) Burial-transit permit.

97.12(1) The burial-transit permit required pursuant to Iowa Code section 144.32 shall be issued upon a form prescribed by the state registrar and shall state:

- a.* The name of the decedent;
- b.* The date and place of death;
- c.* If the death was from a communicable disease;
- d.* The name and location of the cemetery, crematory, or other location where final disposition of the remains is to be made;
- e.* The method of disposition;
- f.* That a certificate of death or fetal death has been filed; and
- g.* That permission is granted to inter, remove or otherwise dispose of the dead human body or fetus.

97.12(2) To be valid, the burial-transit permit must be issued by the county medical examiner, a funeral director, or the state registrar. The burial-transit permit shall be obtained prior to the removal of the dead human body or fetus from the place of death and shall accompany the body or fetus to the place of final disposition. The person responsible for obtaining the burial-transit permit shall provide the permit to the person in charge of the place of final disposition.

97.12(3) The person in charge of the place of final disposition shall ensure that all of the requirements of this chapter relative to the burial-transit permit have been complied with before the final disposition of the remains. Such person shall retain the burial-transit permit for a period of one year from the date of the final disposition.

97.12(4) The burial-transit permit shall not be issued prior to the presentation of the completed certificate of death or certificate of fetal death.

97.12(5) A burial-transit permit shall not be issued to a person other than a licensed funeral director if the death or fetal death was caused by a suspected or known communicable disease as defined by Iowa Code section 139A.2.

97.12(6) In cases in which a fetus has reached the gestation period of 20 completed weeks or more, or a weight of 350 grams or more, a burial-transit permit shall be obtained prior to the final disposition of the fetus.

641—97.13(144) Transportation and disposition of a dead human body or fetus.

97.13(1) A dead human body or fetus shall be transported only after enclosure in a container for transfer that will control odor and prevent leakage of body fluids, unless the body or fetus has been embalmed or is being transported by a licensed funeral director, emergency medical service provider or

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medical examiner. The transport of a dead human body or fetus shall be in a manner that is respectful of the dead, the feelings of relatives, and the sensibilities of the community.

97.13(2) When a dead human body or fetus is transported from the state for final disposition, the burial-transit permit shall accompany the body or fetus. When a dead human body or fetus is brought into the state for final disposition, a burial-transit permit under the law of the state in which the death occurred shall accompany the body or fetus.

97.13(3) If the final disposition of a dead human body or fetus is cremation at a licensed cremation establishment, scattering of cremated remains shall be subject to the local ordinances of the political subdivision and any and all regulations of the cemetery, if applicable, in which the scattering site is located. However, such local ordinances and cemetery regulations shall not allow the scattering of cremated remains upon public property or upon private property without the property owner's consent. In the absence of an applicable local ordinance or cemetery regulation, the scattering of cremated remains shall not be allowed upon any public property or upon private property without the property owner's consent. Cremation shall be considered final disposition by the department, and no further burial-transit permit shall be required.

97.13(4) If the final disposition of a dead human body or fetus is burial, interment, or entombment, local ordinances of the political subdivision in which the final disposition site is located and any and all regulations of the cemetery, if applicable, shall apply. In the absence of an applicable local ordinance, the depth of the grave at its shallowest point shall be at least three feet from the top of the burial container.

641—97.14(144) Disinterment permits.

97.14(1) Disinterment of a dead human body or fetus shall be allowed for the purpose of autopsy or reburial only, and then only if the disinterment is accomplished by a funeral director.

97.14(2) Disinterment permits shall be required for any relocation aboveground or belowground of remains from the original site of interment. Disinterment permits shall be valid for 30 days after the date the permit is signed by the state registrar. Disinterment permits are issued on a form as prescribed by the state registrar with copies to be distributed as follows:

- a.* One copy filed with the sexton or person in charge of the cemetery in which disinterment is to be made;
- b.* One copy to be used during transportation of the remains;
- c.* One copy filed with the sexton or person in charge of the cemetery of reburial; and
- d.* One copy to be returned to the state registrar by the funeral director within ten days after the date of disinterment.

97.14(3) When removed from the vault for final burial, a dead human body or fetus, properly embalmed and placed in a receiving vault, shall not be considered a disinterment.

97.14(4) The following persons who are competent adults may acquire a disinterment permit without a court order pursuant to Iowa Code sections 144.34 and 144C.5 in the following descending order:

- a.* A designee, or alternate designee, acting pursuant to the decedent's declaration.
- b.* The surviving spouse of the decedent, if not legally separated from the decedent, whose whereabouts are reasonably ascertainable.
- c.* A surviving child of the decedent or, if there is more than one surviving child, a majority of the surviving children whose whereabouts are reasonably ascertainable.
- d.* The surviving parent or parents of the decedent whose whereabouts are reasonably ascertainable.
- e.* A surviving grandchild of the decedent or, if there is more than one surviving grandchild, a majority of the surviving grandchildren whose whereabouts are reasonably ascertainable.
- f.* A surviving sibling of the decedent or, if there is more than one surviving sibling, a majority of the surviving siblings whose whereabouts are reasonably ascertainable.
- g.* A surviving grandparent of the decedent or, if there is more than one surviving grandparent, a majority of the surviving grandparents whose whereabouts are reasonably ascertainable.
- h.* A person in the next degree of kinship to the decedent in the order named by law to inherit the estate of the decedent under the rules of inheritance for intestate succession or, if there is more than

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one such surviving person, a majority of such surviving persons whose whereabouts are reasonably ascertainable.

i. A person who represents that the person knows the identity of the decedent and who signs an affidavit warranting the identity of the decedent and assuming the right to control final disposition of the decedent's remains and the responsibility to pay any expense attendant to such final disposition. A person who warrants the identity of the decedent pursuant to this paragraph is liable for all damages that result, directly or indirectly, from that warrant.

j. The county medical examiner, if responsible for the decedent's remains.

97.14(5) A funeral director may await a court order before proceeding with disinterment of a decedent's remains if the funeral director is aware of a dispute among:

a. Persons who are members of the same class of persons described in subrule 97.14(4); or

b. Persons who are authorized under subrule 97.14(4) and the executor named in the decedent's will or personal representative appointed by the court.

641—97.15(144) Delayed death registration—one year or more after event. Iowa deaths registered one year or more after the date of death shall be prepared on a Delayed Certificate of Death form developed by the state registrar. The state registrar shall require documentary evidence to prove the facts of the death pursuant to Iowa Code section 144.16. The delayed certificate of death shall be registered and maintained solely at the state registrar's office.

97.15(1) Application. Registration of a delayed certificate of death may be requested by the surviving next of kin of the deceased, or the surviving next of kin's legal representative, in the following descending order:

a. Spouse, if not legally separated from the decedent;

b. Child or legal guardian of the child if the child is under the age of majority;

c. Parent;

d. Grandchild or legal guardian of the grandchild if the grandchild is under the age of majority;

e. Sibling; or

f. Grandparent.

97.15(2) Facts to be established.

a. The applicant shall submit a notification of record search certified by the state registrar, which shall indicate that no prior certificate of death is on file for the person whose delayed death record is to be filed. The notification of record search shall be returned to the applicant and shall not be exchanged for a certified copy of the delayed certificate of death.

b. The applicant shall substantiate the following with documentary evidence:

(1) The full legal name and gender of the deceased at the time of the death;

(2) The date and place of birth;

(3) The date and time of death;

(4) The place of death, including the type of place and location where the death occurred;

(5) The method and location of the final disposition;

(6) The full name and address of the person responsible for the final disposition;

(7) Cause and manner of death; and

(8) The full name, address, and relationship to the decedent of the person applying to register the delayed certificate of death.

97.15(3) Documentary evidence.

a. The application to register the delayed certificate of death shall be supported by a minimum of the following:

(1) An affidavit of the person filing the certificate attesting to the accuracy of the information on the certificate; and

(2) Three dated documents from independent sources that consistently support the information required pursuant to subrule 97.15(2). The documents shall be in the form of the original record, a certified copy thereof, or a notarized statement from the custodian of the record or document on the custodian's letterhead. Personal affidavits are not acceptable.

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b. The state registrar may require additional documentary evidence to prove the facts of the death event.

97.15(4) *Abstraction and certification by the state registrar.* The state registrar shall abstract on the Delayed Certificate of Death form a description of each document submitted to support the facts of death. This description shall include:

- a. The title or description of the document;
- b. The name and address of the custodian who attested to the facts on the original documents in the custodian's custody;
- c. The date of the original filing of the document being abstracted; and
- d. The information regarding the death for delayed registration.

97.15(5) *Acceptance of documentary evidence for registration.* All documents submitted in support of the delayed registration shall be returned to the applicant after review, abstraction, and registration. The state registrar shall by signature certify that:

- a. No prior certificate of death is on file for the decedent;
- b. The evidence has been reviewed and substantiates the facts of death; and
- c. The abstract of the evidence appearing on the delayed certificate of death accurately reflects the nature and content of the documents.

97.15(6) *Denial of registration.* In the absence of adequate substantiating evidence or if the state registrar finds reason to question the validity or adequacy of the evidence required to establish a delayed certificate of death, the state registrar shall not register the delayed record.

- a. The written notice of rejection from the state registrar shall include:
 - (1) The Delayed Certificate of Death form stamped "rejected"; and
 - (2) The Delayed Evidence Refusal form.
- b. Applications for delayed certificates which have not been completed within one year from the date of application may be dismissed at the discretion of the state registrar. Upon dismissal, the state registrar shall advise the applicant, and all documents submitted in support of such registration shall be returned to the applicant.

97.15(7) *Duties of county registrar.* The county registrar may assist the applicant in the completion and notarization of the delayed form, excluding the portion restricted for state use only. The county registrar shall forward the partially completed delayed form, documents and fees to the state registrar for final review and possible acceptance.

97.15(8) *Fees.* Administrative and certified copy fees shall be charged as provided in rule 641—95.6(144).

641—97.16(144) Registration of presumptive death.

97.16(1) A petition shall be filed with the district court in the county where the presumptive death occurred and shall be supported with the completed Affidavit of Personal Knowledge of a Missing Person form. The form shall be completed by the surviving next of kin of the deceased, or the surviving next of kin's legal representative, in the following descending order:

- a. Spouse, if not legally separated from the decedent;
- b. Child or the child's legal guardian if the child is under the age of majority;
- c. Parent;
- d. Grandchild or the grandchild's legal guardian if the grandchild is under the age of majority;
- e. Sibling;
- f. Grandparent;
- g. Aunt or uncle;
- h. Niece or nephew; or
- i. A person in the next degree of kinship to the decedent in the order named by law to inherit the estate of the decedent pursuant to Iowa Code sections 633.210 to 633.226.

97.16(2) In addition to the Affidavit of Personal Knowledge of a Missing Person form or in the absence of the next of kin, the petition may be supported by the following:

- a. Affidavit by Employer for an Employee Who Was Working at Time of Disappearance form;

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b. Affidavit by Government Official for a Government Employee Missing While Involved in Rescue Efforts form; or

c. Affidavit by Reliable Informant of Missing Person form.

97.16(3) The state registrar shall provide the affidavit forms and the certificate of presumptive death. The affidavits and the certificate of presumptive death shall be registered and maintained solely at the state registrar's office.

97.16(4) Upon presentation of a certified copy of a court order, the state registrar shall file a certificate of presumptive death pursuant to Iowa Code sections 633.517 to 633.520. The order from the district court shall only establish the presumptive death record.

97.16(5) In cases under the jurisdiction of the medical examiner, the certified copy of the court order and the completed supporting affidavits listed in subrules 97.16(1) and 97.16(2) shall be delivered to the medical examiner. The medical examiner shall complete the certificate of presumptive death and certify to the cause of death.

97.16(6) If the missing person is located and found to be alive, the certificate of presumptive death shall be voided and removed from the vital records system of registration. Any issued certified copies shall be surrendered to the state registrar.

641—97.17(144) Release or final disposition of a dead human body or fetus by an institution.

97.17(1) When a dead human body or fetus is released by an institution, the person in charge of the institution shall maintain a record showing:

- a.* Name of the deceased;
- b.* Date, time, and place of death;
- c.* Name, title, and license number of person who pronounced death;
- d.* Name and address of the medical certifier;
- e.* Name and address of the person to whom the dead human body or fetus is released; and
- f.* Date of removal of the dead human body or fetus from the institution.

97.17(2) When a dead human body or fetus is released or final disposition is completed by an institution, the person in charge of the institution shall keep a record showing the date, place, and manner of release or final disposition.

97.17(3) At the direction of the state registrar, the institution shall provide the information listed in subrule 97.17(1) to the funeral director or person acting as such who assumes custody of the dead human body for purposes of final disposition.

97.17(4) Records maintained under this rule shall be retained for a period of not less than ten years and shall be made available for inspection by the state registrar upon demand.

641—97.18(144) Additional record by funeral director.

97.18(1) In addition to filing any certificate or other form required by Iowa Code chapter 144, a funeral director or other person who removes from the place of death or transports or completes final disposition of a dead human body or fetus shall maintain a record which shall identify the following:

- a.* Name of the deceased;
- b.* Date, time, and place of death;
- c.* Name and address of the person to whom the dead human body or fetus is released;
- d.* Name of institution or other place of death releasing the dead human body or fetus;
- e.* Date of removal from the place of death; and
- f.* Place and method of final disposition of the dead human body or fetus.

97.18(2) Records maintained under this rule shall be retained for a period of not less than ten years and shall be made available for inspection by the state registrar upon demand.

These rules are intended to implement Iowa Code sections 135.11(7), 144.12, 144.16 to 144.18, 144.26 to 144.29, 144.30 to 144.35, 144.47, 144.49 to 144.51, 144C.5, 331.802(3) and 633.517 to 633.520.

ITEM 4. Rescind 641—Chapter 98 and adopt the following **new** chapter in lieu thereof:

CHAPTER 98
MARRIAGE REGISTRATION

641—98.1(144,595) Definitions. For the purpose of this chapter, the definitions in 641—Chapter 95 shall apply.

641—98.2(144,595) Forms—property of department. All forms, certificates and reports pertaining to the registration of a marriage are the property of the department and shall be surrendered to the state registrar upon demand.

98.2(1) The forms supplied or approved for reporting a marriage shall be used for official purposes as provided for by statute, rules and instructions of the state registrar.

98.2(2) No forms, except those furnished or approved by the state registrar, shall be used in the reporting of a marriage or the making of copies of vital records.

641—98.3(144,595) Standard registration of marriage—up to one year. A marriage event that takes place in Iowa shall be prepared on the standard Certificate of Marriage form and submitted for registration within one year from the date of marriage.

98.3(1) Prior to marriage, the applicants shall:

- a. Obtain an Application for a License to Marry in Iowa form from the county registrar;
- b. Submit to the county registrar the completed application and fee pursuant to Iowa Code section 331.605(6); and
- c. Receive a license to marry in Iowa and a Certificate of Marriage form from the county registrar.

98.3(2) Once the marriage is solemnized, the completed certificate of marriage shall be filed with the county registrar where the license to marry was issued. The county registrar shall then forward the certificate of marriage to the state registrar for filing.

641—98.4(144,595) Application for a license to marry in Iowa.

98.4(1) The Application for a License to Marry in Iowa form is available from any county registrar. The applicants are the parties to be married.

98.4(2) The application shall not be processed until all items on the double-sided application form, including the affidavit of a competent and disinterested person, have been completed. The affidavit shall be completed and signed in front of a notary public by an individual of legal age who is acquainted with both applicants who plan to marry. A family member may serve as the competent and disinterested person.

98.4(3) Each applicant shall verify the applicant's age, name, and parents' names by providing a certified copy of the applicant's birth certificate at the time that the application is submitted to the county registrar. A foreign birth certificate must be translated into English. All documents shall be returned to the applicants.

98.4(4) If an applicant is 16 or 17 years of age, the Certificate of Consent of Underage Party to Marry form shall be completed in accordance with Iowa Code section 595.2(4) and shall be approved by a judge in the county's judicial district before the application for a marriage license may be accepted by the county registrar. Persons 15 years of age or younger may not marry in Iowa.

98.4(5) The Application for a License to Marry in Iowa form shall be signed in front of a notary public by both parties to be married and their competent and disinterested person. By signature, the applicants and their competent and disinterested person are attesting that the applicants are:

- a. Eighteen years of age or older or, if either or both are 16 or 17 years of age, that they have provided a signed Certificate of Consent of Underage Party to Marry form;
- b. Competent to enter into a civil contract pursuant to Iowa Code section 595.1A;
- c. Not legally married to each other and that neither is legally married to someone else who is living; and

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d. Acknowledging that they have provided accurate information on the application form.

98.4(6) An applicant is not required to be a U.S. citizen.

98.4(7) The application for a license to marry in Iowa shall be submitted to the registrar in the county where the application and marriage certificate are to be filed. The marriage license is valid in any county in Iowa.

98.4(8) A fee is due upon the submittal of a completed application for the license to marry pursuant to Iowa Code section 331.605(1) “g.”

98.4(9) At the time of completion of the Application for a License to Marry in Iowa form, the applicants shall indicate the adoption of the legal name to be used after marriage pursuant to Iowa Code section 595.5(1). When the application is filed, the county registrar shall enter the legal name on the License to Marry in Iowa form and the original Certificate of Marriage form. Once the application is filed, any changes to the legal name to be adopted shall only be made prior to the marriage by reapplication and repayment of the application fee unless it can be proven that an obvious typographical error was made when the license or the certificate was prepared. An individual shall have only one legal name at any one time pursuant to Iowa Code section 595.5(2).

98.4(10) The original certificate of marriage shall not later be modified to reflect a court-ordered legal change of name.

641—98.5(144,595) License to marry.

98.5(1) Upon receipt and acceptance of a completed application for a license to marry in Iowa, the county registrar may issue the license to marry. When the marriage license valid date is computed, the day of application shall be excluded. The license shall become valid after the expiration of three calendar days after the date of application to marry.

98.5(2) The three-day waiting period may be waived by a district judge in the county’s judicial district pursuant to Iowa Code section 595.4. An Application for Waiver of 3-Day Waiting Period form is available from the county registrar. If the waiver is granted, the county registrar shall collect the \$5 fee for the waiver pursuant to Iowa Code section 595.4.

98.5(3) When a license is issued, the county registrar shall deliver to the applicant the Certificate of Marriage form and provide instructions to ensure the return of a complete and accurate certificate of marriage for filing.

98.5(4) If the license to marry in Iowa is not retrieved from the county registrar within six months from the date of application, the application is void.

98.5(5) The license to marry is proof that proper application to marry in Iowa has been made. The parties to be married shall present the license to the person who will solemnize the marriage pursuant to Iowa Code section 595.10.

641—98.6(144, 595) Certificate of marriage.

98.6(1) At the time the license to marry in Iowa is issued, the county registrar shall also prepare the original copy of the Certificate of Marriage form. The person solemnizing the marriage shall complete the blank items pertaining to the marriage ceremony and obtain the required signatures.

98.6(2) All participants in the marriage ceremony shall be present at the same time and location within the geographic boundaries of the state of Iowa, including the parties to be married, two witnesses and the officiant. Marriage ceremonies shall not occur by proxy, telephone, or other electronic means.

98.6(3) After the marriage ceremony:

a. The parties married shall sign, at a minimum, their first and last legal name on the Certificate of Marriage form as indicated on the Application for a License to Marry in Iowa form; and

b. Two witnesses present at the ceremony and the officiant shall sign and print their names on the Certificate of Marriage form in the spaces provided. If there is more than one officiant, the signature and name of only one of the officiants shall be on the Certificate of Marriage form.

98.6(4) Photocopies of the certificate of marriage are prohibited prior to registration of the certificate with the county registrar. The officiant shall not affix any kind of seal to the certificate of marriage.

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98.6(5) Within 15 days after the marriage ceremony, the officiant who solemnized the marriage shall file for registration the certificate of marriage with the county registrar that issued the marriage license, except as directed pursuant to Iowa Code section 595.16.

98.6(6) Upon registration of the certificate of marriage, the application for a license to marry becomes part of the record of marriage, including the three-day waiver and consent to marriage of a minor, if applicable.

98.6(7) Original certificates of marriage registered by the county registrar shall be forwarded to the state registrar weekly or as directed by the state registrar.

641—98.7(144,595) Delayed registration of marriage—one year or more after date of event. All Iowa marriages registered one year or more after the date of the marriage shall be prepared on the Delayed Certificate of Marriage form. The state registrar shall require documentary evidence to establish the facts of the marriage pursuant to Iowa Code section 144.16 and subrule 98.7(2). The delayed marriage record shall be registered and maintained solely at the state registrar's office.

98.7(1) Application. A completed Delayed Certificate of Marriage form shall be signed before a notary by both parties to the marriage and filed with the state registrar.

98.7(2) Facts to be established.

a. The applicant shall submit a notification of record search certified by the state registrar, which shall indicate that no prior certificate of marriage is on file for the persons whose delayed marriage record is to be filed. The notification of record search shall be returned to the applicant and shall not be exchanged for a certified copy of delayed certificate of marriage.

b. The applicant shall substantiate the following with documentary evidence:

- (1) The county in Iowa where the license to marry was issued;
- (2) The full name of the registrants before and after the marriage;
- (3) The date and place of the marriage in Iowa;
- (4) The full names of the registrants' parents;
- (5) The full names of the two witnesses present at the marriage ceremony; and
- (6) The full name and address of the officiant who performed the marriage ceremony.

98.7(3) Documentary evidence.

a. To be acceptable for purposes of registration by the state registrar, the delayed certificate of marriage must be supported by:

(1) All of the following:

1. A copy of the issued license to marry in Iowa or the completed application for the license to marry in Iowa secured from the county registrar in the county where the license to marry was issued;
2. A notarized affidavit from two witnesses to the wedding ceremony attesting to the facts of the marriage; and
3. A certified copy transcribed from the official records where the marriage was performed including the date and place of such marriage as attested to by the custodian of such records; or

(2) An affidavit of the person who performed the ceremony documenting that there was a marriage and the date and place of such marriage.

b. The state registrar may require additional documentary evidence to prove the facts of the marriage event.

98.7(4) Abstraction and certification by the state registrar. The state registrar shall abstract on the Delayed Certificate of Marriage form a description of each document submitted to support the facts of the marriage event. This abstract shall include:

- a.* The title, description and signatory from each document presented;
- b.* The date of the original filing of the document being abstracted; and
- c.* The facts of the marriage event as established pursuant to paragraph 98.7(2) "b."

98.7(5) Acceptance of documentary evidence for registration. All documents submitted in support of the delayed registration shall be returned to the applicant after review, abstraction, and registration. The state registrar shall by signature certify that:

- a.* No prior certificate of marriage is on file for the registrants;

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- b. The evidence has been reviewed and substantiates the facts of the marriage event; and
- c. The abstract of the evidence appearing on the delayed certificate of marriage accurately reflects the nature and content of the document.

98.7(6) *Denial of registration.* In the absence of adequate substantiating evidence or if the state registrar finds reason to question the validity or adequacy of the evidence required to establish a delayed certificate of marriage, the state registrar shall not register the delayed record.

- a. The written notice of rejection from the state registrar shall include:
 - (1) The Delayed Certificate of Marriage form stamped “rejected”; and
 - (2) The Delayed Evidence Refusal form.
- b. Applications for delayed certificates which have not been completed within one year from the date of application may be dismissed at the discretion of the state registrar. Upon dismissal, the state registrar shall advise the applicant, and all documents submitted in support of such registration shall be returned to the applicant.

98.7(7) *Duties of county registrar.* The county registrar may assist the applicant in the completion and notarization of the delayed form, excluding the portion restricted for state use only. The county registrar shall forward the partially completed delayed form, documents and fees to the state registrar for final review and possible acceptance.

98.7(8) *Fees.* Administrative and certified copy fees shall be charged as provided in rule 641—95.6(144).

641—98.8(144,595) Dissolution of marriage or annulment.

98.8(1) The completed Report of Dissolution of Marriage or Annulment form shall be filed with the clerk of district court within one month from the date of the dissolution of marriage or annulment and be prepared on the official paper issued by the state registrar by one of the following means:

- a. Use of a typewriter using a dark blue or black ribbon on the standard form of the report;
- b. Use of a computer program that is preapproved by the state registrar;
- c. Use of an electronic form prescribed by the state registrar; or
- d. As directed by the state registrar.

98.8(2) If an attorney or clerk of district court uses a computer software program to generate the report of dissolution of marriage or annulment, the form shall be reviewed by the state registrar for approval. The state registrar shall deny approval if the form does not conform to the standard Report of Dissolution of Marriage or Annulment form as prescribed.

98.8(3) Clerks of district court shall submit reports of dissolution of marriage or annulment to the state registrar weekly or as directed by the state registrar.

These rules are intended to implement Iowa Code sections 144.12, 144.16, 331.605(1) “f” and “g,” 595.2(4), 595.4, 595.5, 595.10, and 595.16.

ITEM 5. Rescind 641—Chapter 99 and adopt the following new chapter in lieu thereof:

CHAPTER 99
VITAL RECORDS MODIFICATIONS

641—99.1(144) Definitions. For the purpose of this chapter, the definitions in 641—Chapter 95 shall apply.

641—99.2(144) Forms—property of department. All forms, certificates and reports pertaining to the registration of vital events are the property of the department and shall be surrendered to the state registrar upon demand.

99.2(1) The forms supplied or approved for reporting vital events shall be used for official purposes as provided for by law, rules and instructions of the state registrar.

99.2(2) No forms, except those furnished or approved by the state registrar, shall be used in the reporting or modification of vital events or the making of copies of vital records.

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641—99.3(144) Forms used in the establishment of new records. The standard certificate form for reporting of live birth, death, fetal death, or marriage in use at the time of the event shall be used to prepare a new certificate.

641—99.4(144) Corrections of minor error in vital record—within one year of event.

99.4(1) Corrections of minor errors may be made by the state registrar within one year and prior to the first anniversary of the date of the event upon observation, upon request of the data provider, upon query, or upon request from an entitled person. Minor errors include obvious errors, omissions, or transpositions of letters in words of common knowledge.

99.4(2) For a certificate of live birth, entitled persons include in the following descending order of priority:

- a. The single parent or both parents as shown on the child's certificate of live birth;
- b. The mother, in the case of the death or incapacity of the father;
- c. The father if listed on the birth certificate, in the case of the death or incapacity of the mother;

or

- d. The legal guardian or agency having legal custody of the child.

99.4(3) For a certificate of death or fetal death other than the medical certification, entitled persons include in the following descending order of priority:

- a. The surviving spouse as shown on the certificate of death;
- b. A parent as shown on the certificate of death or fetal death;
- c. The informant as shown on the certificate; or
- d. The data provider in the case of a data entry error.

99.4(4) For a certificate of marriage, entitled persons include:

- a. The county registrar that issued the license to marry; or
- b. Either of the parties married.

99.4(5) Entitled persons requesting a correction shall submit to the state registrar:

- a. A notarized statement and a legible copy of current government-issued photo identification or other identification documents acceptable to the state registrar; and
- b. Supporting evidence if requested by the state registrar.

(1) The state registrar shall determine a priority of best evidence and may, at the state registrar's discretion, require additional documentary evidence to support the requested correction.

(2) The state registrar shall evaluate the evidence submitted in support of any correction, and when there is reason to question the validity or adequacy of the evidence, the state registrar may reject the request for correction and shall advise the applicant of the reasons for this action.

99.4(6) Only the state registrar shall make corrections on a vital record. The source of information and the date of correction shall be documented on the record but shall not appear on the certified copy.

99.4(7) There are no administrative fees required to correct a certificate pursuant to this rule.

99.4(8) Certificates corrected pursuant to this rule shall not be marked "amended."

99.4(9) Any certified copies of the incorrect certificate shall be surrendered to the state registrar for replacement at no cost pursuant to 641—subrule 95.6(3). Additional certified copies of the corrected certificate may be obtained upon receipt of a notarized application, legible copy of a current government-issued photo identification or other identification documents acceptable to the state registrar and payment of the fee pursuant to 641—paragraph 95.6(1) "a."

99.4(10) The corrected certificate shall be on file at the county registrar's office pursuant to rule 641—95.7(144).

641—99.5(144) Amendment of certificate of live birth to add first or middle given name—within one year of event.

99.5(1) The first or middle given name for a child whose birth was reported without a first or middle given name may be amended to add the first or middle given name within one year and prior to the first anniversary of the date of the live birth based upon a completed and notarized Affidavit to Add Child's

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Given Name form as provided by the department pursuant to Iowa Code section 144.38. The affidavit shall be submitted to the state registrar by entitled persons in the following descending order of priority:

- a. The single parent or both parents as shown on the child's certificate of live birth;
- b. The mother, in the case of the death or incapacity of the father;
- c. The father if listed on the birth certificate, in the case of the death or incapacity of the mother;

or

- d. The legal guardian or agency having legal custody of the child.

99.5(2) A first or middle given name may be added to the certificate of live birth once in this manner. Thereafter, a first or middle given name shall be changed only upon submission of a court order for a legal change of name from a court of competent jurisdiction pursuant to Iowa Code chapter 674.

99.5(3) An administrative fee shall be charged and remitted pursuant to 641—paragraph 95.6(1) “b.”

99.5(4) The original certificate shall be marked “amended” and shall be endorsed on the certified copy. The date of amendment and a summary description of the evidence submitted in support of the amendment shall be made a part of the record.

99.5(5) The certificate shall be on file at the county registrar's office pursuant to rule 641—95.7(144).

99.5(6) Any certified copies of the incorrect certificate shall be surrendered for replacement at no cost. Additional certified copies of the amended certificate may be obtained upon the state registrar's receipt of a notarized application, legible copy of a current government-issued photo identification or other identification documents acceptable to the state registrar, and payment of the fee pursuant to rule 641—95.6(144).

641—99.6(144) Amendment of vital record—one year or more after the event.

99.6(1) Amendments of vital records may be made by the state registrar one year or more after the date of the event upon request from an entitled person. Amendments include the correction of obvious errors, omissions, or transposition of letters in words of common knowledge.

99.6(2) For a certificate of live birth, entitled persons include in the following descending order of priority:

- a. The single parent or both parents as shown on the child's certificate of live birth;
- b. The mother, in the case of the death or incapacity of the father;
- c. The father if listed on the birth certificate, in the case of the death or incapacity of the mother;

or

- d. The legal guardian or agency having legal custody of the child.

99.6(3) For a certificate of death or fetal death other than the medical certification, entitled persons include:

- a. The surviving spouse as shown on the certificate of death;
- b. A parent as shown on the certificate of death or fetal death; or
- c. The informant as shown on the certificate of death or fetal death.

99.6(4) Amendment of a medical certification of cause of death or fetal death shall be requested solely by the medical certifier listed on the certificate of death or fetal death.

99.6(5) For a certificate of marriage, entitled persons include either of the parties married.

99.6(6) Entitled persons requesting an amendment shall submit the following to the state registrar:

- a. A completed and notarized amendment request on the applicable form as follows:

- (1) Amendment to Certificate of Live Birth form.
- (2) Amendment to Certificate of Death or Fetal Death form.
- (3) Amendment to Certificate of Marriage form;

b. A legible copy of a current government-issued photo identification or other identification documents acceptable to the state registrar;

c. Certified copies of one or more pieces of documentary evidence supporting the amendment; and

- d. The required fees pursuant to rule 641—95.6(144).

99.6(7) The documentary evidence shall have been established at least five years prior to the date of the application or within seven years of the date of the event.

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a. The state registrar shall determine a priority of best evidence and may, at the state registrar's discretion, require additional documentary evidence to support the requested amendment.

b. The state registrar shall evaluate the evidence submitted in support of any amendment, and when there is reason to question the validity or adequacy of the evidence, the state registrar may reject the amendment and shall advise the applicant of the reasons for this action.

99.6(8) An administrative fee shall be charged and remitted pursuant to rule 641—95.6(144).

99.6(9) The original certificate shall be clearly marked “amended” and the date of the amendment shall be endorsed on the certified copy. A summary description of the evidence submitted in support of the amendment shall be made a part of the record.

99.6(10) The amended certificate shall be on file at the county registrar's office pursuant to rule 641—95.7(144).

99.6(11) Any certified copies of the incorrect certificate shall be surrendered for replacement at no cost. Additional certified copies of the amended certificate may be obtained upon the state registrar's receipt of a notarized application, legible copy of a current government-issued photo identification or other identification documents acceptable to the state registrar and payment of the fee pursuant to rule 641—95.6(144).

641—99.7(144) Method of amendment of vital records.

99.7(1) Records not on the electronic vital records system shall be amended by drawing a single line through the incorrect item and inserting the correct or missing data immediately above or to the side of the item or by completing a blank item. In all cases in which a line must be drawn through an original entry, the line must not obliterate the original entry. The following shall be endorsed on or made a part of the record:

- a.* The word “amended” and the date of the amendment action; and
- b.* A summary of the evidence submitted in support of the amendment.

99.7(2) Records on the electronic vital records system shall be amended by correction of the incorrect item. The following shall be endorsed on or made a part of the record:

- a.* The word “amended” and the date of the amendment action;
- b.* A statement identifying the amendment; and
- c.* A summary of the evidence submitted in support of the amendment.

641—99.8(144) Correction or amendment of same item more than once. After a correction or an amendment is made on a vital record, that entry shall not be corrected again unless:

99.8(1) It can be proven that an error was made in processing the first correction or amendment; or

99.8(2) A court order is received from a court of competent jurisdiction to correct or amend the item. If a court order for a correction or an amendment is received, an administrative fee shall be charged and remitted pursuant to rule 641—95.6(144).

641—99.9(144) Other amendments to certificate of live birth.

99.9(1) The parent's name or both parents' names as reported by the parent or parents on the birth worksheet used to establish the certificate of live birth shall not be corrected or amended except by an order from a court of competent jurisdiction.

99.9(2) Certificates of live birth of deceased persons shall not be amended.

641—99.10(144) Correction or amendment to medical certification of cause of death.

99.10(1) Corrections or amendments to the medical certification of cause of death shall be requested solely by the medical certifier listed on the certificate of death or fetal death.

99.10(2) The medical certifier may correct the medical certification of cause of death within 90 days following the date of death or fetal death. The request shall be submitted on official letterhead signed and dated by the medical certifier listed on the certificate of death or fetal death.

99.10(3) Any amendment after 90 days following the date of death or fetal death shall be made by order of a court of competent jurisdiction. However, the medical certification of cause of death may

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be amended at any time upon submission of a report of autopsy or toxicological findings or additional findings by the county or state medical examiner.

99.10(4) No fee shall be charged for correction or amendment made pursuant to this rule.

641—99.11(144) Correction or amendment to a certificate of marriage.

99.11(1) The request to correct a certificate of marriage during the first year may be made by the county registrar that issued the license to marry. The written request shall be submitted to the state registrar with supporting evidence.

99.11(2) The request to correct or amend a certificate of marriage may be made by either of the parties married. The written request shall be submitted to the state registrar with supporting evidence.

99.11(3) The correction or amendment process shall not be used to change a legal name after marriage.

641—99.12(144) Correction to a report of dissolution of marriage or annulment.

99.12(1) A written notice to correct a report of dissolution of marriage or annulment may be submitted to the state registrar by the clerk of district court maintaining the record from which the original report was prepared. The notice shall state in what manner the report shall be corrected.

99.12(2) Those items appearing on the Report of Dissolution of Marriage or Annulment form that are not a part of the divorce decree may be corrected either by query or upon application of either party to the dissolution of marriage or annulment or the legal representative.

99.12(3) Corrections to the report of dissolution of marriage or annulment shall be accepted only within the first year from the date of dissolution of marriage or annulment.

641—99.13(144) Minimum information required to establish a new certificate of live birth.

99.13(1) A request to establish a new certificate of live birth shall be submitted to the state registrar and include at a minimum the following information:

- a. The full name of the child as stated on the original certificate of live birth;
- b. The full name of the child to be listed on the new certificate of live birth;
- c. The date and place of birth as stated on the original certificate of live birth;
- d. The full name of the parent or parents as listed on the original certificate of live birth; and
- e. The full name, place of birth, date of birth, and complete residential address of the parent or parents to be listed on the new certificate of live birth.

99.13(2) The new certificate of live birth shall contain the same state file number and registration file date as were assigned to the original certificate of live birth.

641—99.14(144) Establishment of new certificate of live birth following adoption.

99.14(1) Upon receipt of a completed Certificate of Adoption Report form or a certified copy of the decree of adoption from a court of competent jurisdiction and the information required pursuant to rule 641—99.13(144), the state registrar shall establish a new certificate of live birth for a person who was born in Iowa and has been adopted.

99.14(2) The new certificate of live birth shall not be marked “amended.”

99.14(3) When a new certificate of live birth is established, the actual date and place of birth shall be shown on the certificate.

99.14(4) The county registrar and state registrar shall seal the original certificate of live birth. The state registrar shall place the original certificate of live birth and all related adoption information in a sealed file, and the file shall not be opened and inspected except by the state registrar for administrative purposes or upon an order from a court of competent jurisdiction pursuant to Iowa Code section 144.24.

99.14(5) The new certificate of live birth after adoption shall not be on file at the county registrar’s office.

99.14(6) The state registrar shall reveal the date of the adoption and the name and address of the court that issued the adoption decree upon the receipt of a completed, notarized Revelation of County of Adoption form from an adult adopted person, a biological parent, an adoptive parent, or the legal

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representative of the adult adopted person, the biological parent, or the adoptive parent pursuant to Iowa Code section 144.24.

99.14(7) Administrative and certified copy fees shall be charged and remitted pursuant to rule 641—95.6(144).

641—99.15(144) Establishment of new certificate of live birth following a birth by gestational surrogate arrangement.

99.15(1) All live births shall be considered the product of the woman who delivered the live infant and shall be filed in the standard manner, with that woman named as the birth mother on the original record submitted for registration.

99.15(2) For the purpose of filing for registration the record of a live birth by a gestational surrogate, the institution's or non-institution's person responsible for filing the certificate of live birth shall:

- a. Notify the state registrar of the birth of a child pursuant to a gestational surrogate arrangement;
- b. Follow directives for completion of the official birth worksheet;
- c. Submit the birth record for registration based on the birth mother's information; and
- d. Notify the state registrar when the birth record has been submitted for registration.

99.15(3) In addition, the institution's or non-institution's person responsible for filing the record for registration shall:

- a. Provide the prenatal and medical data on the medical portion of the birth worksheet pertinent to the pregnancy and the birth mother's prenatal care;
- b. Waive all birth registration and copy fees as collected on behalf of the state registrar;
- c. Indicate on the registration that the birth mother does not have custody of the infant;
- d. Assist in advising the intended parents of the procedures required to file the original birth record for registration and to reestablish the record to reflect the intended parents' information; and
- e. Advise the birth mother to complete the mother's portion of the birth worksheet and to mark "no" for the social security card for the child.

99.15(4) If the intended mother is the egg donor and the intended father is the sperm donor to the child being carried by the gestational surrogate:

- a. After the birth of the child, the intended parents shall petition a court of competent jurisdiction to establish legal paternity and maternity of the child.
- b. The court shall enter an order requiring the department to reestablish the birth certificate naming the intended mother and father as the legal mother and father and requiring the state registrar to seal the original birth certificate and all related documentation.

c. The court order shall:

- (1) Identify the child's full name as stated on the original certificate of live birth;
- (2) State the child's date of birth and place of birth;
- (3) Identify the full names of the birth mother and her legal husband, if married;
- (4) Disestablish the birth mother and her legal husband, if married, as the legal parents of the child; and
- (5) Identify the intended parents' full names prior to any marriage, full current legal names, dates of birth, birthplaces, social security numbers, and full current residential address including county.

d. The intended parents or their legal representative shall:

- (1) Submit a certified copy of the court order to the state registrar;
- (2) Remit administrative and certified copy fees pursuant to rule 641—95.6(144); and
- (3) Include a notarized written request with mailing instructions for the certified copy of the certificate of live birth.

99.15(5) If the surrogate birth mother is unmarried and the intended father is the sperm donor, the unmarried surrogate birth mother and the intended father may complete a Voluntary Paternity Affidavit form after the child's birth to place the intended father's name and information on the certificate of live birth.

99.15(6) If the surrogate birth mother is married and the intended father is the sperm donor, the married surrogate birth mother and the intended father shall by court order disestablish the surrogate

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birth mother's legal husband as the legal father and may complete a Voluntary Paternity Affidavit form pursuant to Iowa Code section 144.13.

a. The court order that disestablishes the married surrogate birth mother's legal husband and the completed Voluntary Paternity Affidavit form shall be submitted to the state registrar.

b. If a certified copy is requested, a notarized written request shall also be submitted to the state registrar with the certified copy fee and mailing instructions.

c. There is no administrative fee to process the completed Voluntary Paternity Affidavit form.

d. Adoption laws shall be followed to reestablish the certificate of live birth showing the nonbiological parent on the certificate of live birth pursuant to Iowa Code chapter 600.

99.15(7) If the intended mother is the egg donor but her legal husband is not the sperm donor, the intended mother shall petition a court of competent jurisdiction after the birth of the child to establish legal maternity.

a. The court shall order the state registrar to reestablish the certificate of live birth naming the intended mother as the legal mother and shall require the state registrar to seal the original certificate of live birth and all related documents.

b. The court order establishing legal maternity shall:

- (1) Identify the child's full name as stated on the original certificate of live birth;
- (2) State the child's date of birth and place of birth;
- (3) Identify the full names of the birth mother and her legal husband, if married;
- (4) Disestablish the birth mother and her legal husband, if married; and
- (5) Identify the intended mother's full name prior to any marriage, full current name, date of birth, birthplace, social security number, and full current residential address including county.

c. The intended mother or her legal representative shall:

- (1) Submit a certified copy of the court order to the state registrar;
- (2) Remit administrative and certified copy fees pursuant to rule 641—95.6(144); and
- (3) Include a notarized written request with mailing instructions for the certified copy of the certificate of live birth.

d. Adoption laws shall be followed to reestablish the certificate of live birth showing the nonbiological parent on the certificate of live birth pursuant to Iowa Code chapter 600.

99.15(8) If the intended parent is neither the egg donor nor sperm donor, adoption laws shall be followed to reestablish the certificate of live birth pursuant to Iowa Code chapter 600.

99.15(9) The state registrar shall seal the original certificate of live birth. The state registrar shall place the original certificate of live birth and all related documents in a sealed file, and the file shall not be opened and inspected except by the state registrar for administrative purposes or upon an order from a court of competent jurisdiction pursuant to Iowa Code section 144.24.

99.15(10) The new certificate of live birth shall not be marked "amended."

99.15(11) The new certificate of live birth shall not be on file at the county registrar's office pursuant to rule 641—95.7(144).

99.15(12) A certified copy fee and an administrative fee to replace a mother's or father's information on a certificate of live birth shall be charged and remitted pursuant to rule 641—95.6(144).

641—99.16(144) Certificate of live birth following voluntary paternity affidavit.

99.16(1) If the birth mother was legally married at the time of conception or birth or at any time during the period between conception and birth, the name of her husband shall be entered on the certificate of live birth as the father pursuant to Iowa Code section 144.13.

99.16(2) If the birth mother was not legally married at the time of conception or birth or at any time during the period between conception and birth, the birth mother and the alleged biological father may:

a. Complete a Voluntary Paternity Affidavit form after the birth of the child; and

b. Submit the completed form to the state registrar.

99.16(3) If the birth mother was legally married at the time of conception or birth or at any time during the period between conception and birth, and her legal husband is not the biological father, the birth mother and the alleged biological father may:

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- a. Complete a Voluntary Paternity Affidavit form after the birth of the child;
- b. Obtain a court order that disestablishes her legal husband as the biological father; and
- c. Submit the completed form and a certified copy of the court order to the state registrar.

99.16(4) If the birth mother and the biological father of an Iowa-born child subsequently marry each other after a voluntary affidavit of paternity has been processed, the parents may submit a second completed Voluntary Paternity Affidavit form with a certified copy of the parents' certificate of marriage to establish a new certificate changing the child's last name to that of the father.

99.16(5) If another man is shown as the father on the original certificate of live birth, a new certificate of live birth may be established only when a determination of paternity is made by a court of competent jurisdiction.

99.16(6) There is no age limitation and no fee for filing a completed Voluntary Paternity Affidavit form.

99.16(7) The county registrar and the state registrar shall seal the original certificate of live birth. The state registrar shall place the original certificate of live birth and all related documents in a sealed file, and the file shall not be opened and inspected except by the state registrar for administrative purposes or upon an order from a court of competent jurisdiction pursuant to Iowa Code section 144.24.

99.16(8) A copy of the completed and processed Voluntary Paternity Affidavit form may be acquired by either parent or either parent's legal representative upon notarized application and payment of the fee pursuant to rule 641—95.6(144). The notarized application shall include at a minimum the following items:

- a. The child's full name;
- b. The child's date and place of birth;
- c. The mother's full name prior to any marriage; and
- d. The full name and mailing address of the applicant.

99.16(9) The new certificate of live birth shall not be marked "amended."

99.16(10) The new certificate of live birth shall be on file at the county registrar's office pursuant to rule 641—95.7(144).

99.16(11) The birth mother and the biological father shall surrender any incorrect certified copies of the child's certificate of live birth for replacement at no cost. Additional certified copies of the new certificate of live birth shall be acquired upon receipt of a notarized application, legible copy of a current government-issued photo identification or other identification documents acceptable to the state registrar and payment of the fee pursuant to rule 641—95.6(144).

641—99.17(144) Certificate of live birth following court determination of paternity.

99.17(1) If the birth mother was married at the time of conception or birth or at any time during the period between conception and birth, the name of the husband shall be entered on the certificate of live birth as the father unless paternity has been determined otherwise by a court of competent jurisdiction pursuant to Iowa Code section 144.13.

99.17(2) Upon receipt of a certified copy of the court determination of paternity order from a court of competent jurisdiction or the completed Abstract From Court Determination of Paternity form, the state registrar shall establish a new certificate of live birth to be filed in place of the original certificate of live birth.

99.17(3) The new certificate of live birth shall list the name of the child as stated in the court determination of paternity order.

99.17(4) The state child support recovery unit may not change the child's name.

99.17(5) After a court determination of paternity has been completed, the parents as listed on the court order may submit a completed Voluntary Paternity Affidavit form to change the child's last name to that of the established father.

99.17(6) The county registrar and the state registrar shall seal the original certificate of live birth. The state registrar shall place the original certificate of live birth and all related documents in a sealed file, and the file shall not be opened and inspected except by the state registrar for administrative purposes or upon an order from a court of competent jurisdiction pursuant to Iowa Code section 144.24.

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99.17(7) The new certificate of live birth shall not be marked “amended.”

99.17(8) The new certificate of live birth shall be on file at the county registrar’s office pursuant to rule 641—95.7(144).

99.17(9) There are no administrative fees required to establish a new certificate of live birth following a court determination of paternity.

99.17(10) Any incorrect certified copy of the child’s certificate of live birth shall be surrendered for replacement at no cost. Additional certified copies of the new certificate of live birth shall be acquired upon receipt of a notarized application, legible copy of a current government-issued photo identification or other identification documents acceptable to the state registrar and payment of the fee pursuant to rule 641—95.6(144).

641—99.18(144) Certificate of live birth following rescision of paternity affidavit or disestablishment of paternity.

99.18(1) An application to rescind a voluntary paternity affidavit shall be made on the Rescission of Paternity Affidavit form by either the birth mother or the putative father who originally completed and signed the Voluntary Paternity Affidavit form pursuant to Iowa Code section 252A.3A.

a. The completed Rescission of Paternity Affidavit form shall be notarized and received by the state registrar within the earlier of either 60 days from the latest notarized parental signature on the original Voluntary Paternity Affidavit form or entry of a court order regarding the child by the Iowa child support recovery unit pursuant to Iowa Code section 252A.3A.

b. Acceptance of the completed Rescission of Paternity Affidavit form shall remove the alleged biological father’s information from the certificate of live birth and rescind the voluntary paternity affidavit.

c. The child’s last name shall revert to the last name as it was listed on the certificate of live birth prior to the voluntary paternity affidavit.

d. The state registrar shall send a written notice of the rescision to the last-known address of the signatory of the voluntary paternity affidavit who did not sign the Rescission of Paternity Affidavit form.

e. After the completed Rescission of Paternity Affidavit form has been accepted and processed, the state registrar shall not accept any subsequent Voluntary Paternity Affidavit forms signed by the same mother and putative father relating to the same child pursuant to Iowa Code section 252A.3A.

99.18(2) Upon receipt of a court-ordered disestablishment of paternity, the father’s information shall be removed from the certificate of live birth. The child’s last name shall revert to the last name as it was listed on the certificate of live birth prior to the establishment of paternity.

99.18(3) An administrative fee shall be charged and remitted pursuant to rule 641—95.6(144).

99.18(4) The county registrar and the state registrar shall seal the original certificate of live birth. The state registrar shall place the rescision of paternity information in the same sealed file as the original certificate of live birth and all previous related documents. The file shall not be opened and inspected except by the state registrar for administrative purposes or upon an order from a court of competent jurisdiction pursuant to Iowa Code section 144.24.

99.18(5) The new certificate of live birth shall not be marked “amended.”

99.18(6) The new certificate of live birth shall be on file at the county registrar’s office pursuant to rule 641—95.7(144).

99.18(7) Any incorrect certified copies of the child’s certificate of live birth shall be surrendered for replacement at no cost. Additional certified copies of the new certificate of live birth shall be acquired upon receipt of a notarized application, legible copy of a current government-issued photo identification or other identification documents acceptable to the state registrar and payment of the fee pursuant to rule 641—95.6(144).

641—99.19(144) Certificate of live birth following court-ordered change of name.

99.19(1) For a court-ordered name change, a certified copy of an order from a court of competent jurisdiction pursuant to Iowa Code chapter 674 or an Abstract to Change Registrant’s Legal Name form completed by the clerk of district court changing the name shall be submitted to the state registrar.

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99.19(2) Only the person named on the record, parent or parents if the registrant is a minor child, legal guardian, or legal representative may request a court-ordered change of name.

99.19(3) The court order or abstract shall contain:

- a. The registrant's full name as it appears on the original certificate of live birth;
- b. The registrant's date and place of birth;
- c. The mother's full maiden name and father's full name as it appears on the original certificate of live birth;
- d. The registrant's full new name; and
- e. The certification of the clerk of district court.

99.19(4) The certified copy of a certificate of live birth after a legal change of name shall be clearly marked "legal change of name" and note the following:

- a. The registrant's full name as shown on the original certificate;
- b. Any previous legal name changes;
- c. The registrant's full new name according to the court order;
- d. The date the legal change of name order was granted; and
- e. The name of the court that ordered the name change pursuant to Iowa Code chapter 674.

99.19(5) A parent cannot be added to the certificate of live birth with a court-ordered change of name.

99.19(6) The county registrar and the state registrar shall seal the original certificate of live birth. The state registrar shall place the original certificate of live birth and all related documents in a sealed file, and the file shall not be opened and inspected except by the state registrar for administrative purposes or upon an order from a court of competent jurisdiction pursuant to Iowa Code section 144.24.

99.19(7) After the court-ordered change of name, the certificate of live birth shall not be on file at the county registrar's office pursuant to rule 641—95.7(144).

99.19(8) An administrative fee shall be charged and remitted pursuant to rule 641—95.6(144).

99.19(9) Any incorrect certified copies of the certificate shall be surrendered for replacement at no cost. Additional certified copies of the new certificate shall be acquired upon receipt of a notarized application, legible copy of a current government-issued photo identification or other identification documents acceptable to the state registrar and payment of the fee pursuant to rule 641—95.6(144).

641—99.20(144) Certificate of live birth following sex designation change.

99.20(1) After surgery or other treatment to change a sex designation, the registrant shall submit to the state registrar a notarized affidavit from the physician and surgeon, or osteopathic physician and surgeon, completing the sex designation treatment stating the following:

- a. The sex designation has been permanently changed by surgery or other treatment;
- b. Description of the medical procedures; and
- c. The physician and surgeon or osteopathic physician and surgeon's full name, address, state of medical license, and medical license number.

99.20(2) The medical affidavit shall be accompanied by a completed and notarized Amendment to Certificate of Live Birth form.

99.20(3) If the registrant's name is to be changed on the certificate of live birth, the registrant shall submit to the state registrar a certified copy of the court-ordered change of name.

99.20(4) Pursuant to Iowa Code section 144.23, the state registrar may make further investigation or require further information necessary to determine whether a sex change has occurred.

99.20(5) The county registrar and the state registrar shall seal the original certificate of live birth. The state registrar shall place the original certificate of live birth and all related documents in a sealed file, and the file shall not be opened and inspected except by the state registrar for administrative purposes or upon an order from a court of competent jurisdiction pursuant to Iowa Code section 144.24.

99.20(6) The certificate of live birth after the sex designation change shall not be on file at the county registrar's office pursuant to rule 641—95.7(144).

99.20(7) The new certificate of live birth shall not be marked "amended."

99.20(8) Administrative fees shall be charged and remitted pursuant to rule 641—95.6(144).

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99.20(9) Any incorrect certified copies of the certificate shall be surrendered for replacement at no cost. Additional certified copies of the new certificate shall be acquired upon receipt of a notarized application, legible copy of a current government-issued photo identification or other identification documents acceptable to the state registrar and payment of the fee pursuant to rule 641—95.6(144).

These rules are intended to implement Iowa Code sections 144.19 to 144.21, 144.23, 144.24, 144.25A, 144.38 to 144.41, 252A.3A, 600.15, 600.16A, 674.2, 674.7 and 674.9.

ITEM 6. Rescind 641—Chapter 100 and adopt the following **new** chapter in lieu thereof:

CHAPTER 100 VITAL RECORDS REGISTRIES AND REPORTS

641—100.1(144) Definitions. For the purpose of this chapter, the definitions in 641—Chapter 95 shall apply. In addition, the following definitions shall apply solely to this chapter:

“Adult,” when used in reference to the mutual consent voluntary adoption registry, means an individual who has reached the age of 18 years at the time application is made.

“Aggregate form” means a compilation of the information received by the department on the Statistical Report of Termination of Pregnancy form for each item listed, with the exception of the report tracking number, the health care provider code, and any set of data for which the number is so small that the confidentiality of any person to whom the information relates may be compromised.

“Child,” when used in reference to the declaration of paternity registry, means a person under 18 years of age for whom paternity has not been established.

“Court” means the juvenile court when used in reference to the declaration of paternity registry.

“Father” means the male, biological parent of a child when used in reference to the declaration of paternity registry.

“Registrant,” when used in reference to the declaration of paternity registry, means a person who has registered and claims to be the father of a child.

“Registry” means the declaration of paternity registry or the mutual consent voluntary adoption registry.

“Sibling” means one of two or more persons who are born of the same parents or, sometimes, who have at least one parent in common. *“Sibling”* also means brother or sister when used in reference to the mutual consent voluntary adoption registry.

641—100.2(144) Forms—property of department. All forms, certificates and reports pertaining to the registration of vital events are the property of the department and shall be surrendered to the state registrar upon demand.

100.2(1) The forms supplied or approved for reporting vital events shall be used for official purposes as provided for by law, rules and instructions of the state registrar.

100.2(2) No forms, except those furnished or approved by the state registrar, shall be used in the reporting of vital events or the making of copies of vital records.

641—100.3(144) Declaration of paternity registry established. Pursuant to Iowa Code section 144.12A, there is established in the department a registry for the declaration of paternity of a putative father who wishes to register prior to the birth of a child and no later than the date of the filing of the petition for termination of parental rights.

100.3(1) The putative father who files a Declaration of Paternity Registry form with the state registrar shall provide the following:

- a. Registrant’s name, current address, social security number, and notarized signature and date signed;
- b. The name, last-known address, and social security number, if known, of the mother of the child; and
- c. The name of the child, if known, and the date and location of the birth of the child, if known.

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100.3(2) The putative father who files the Declaration of Paternity Registry form shall be responsible to notify the state registrar in writing of any change in address.

100.3(3) The state registrar shall forward a copy of the declaration of paternity to the mother as notification that the person has registered, if the mother's name and address have been provided.

100.3(4) There shall be no fee required to file the declaration of paternity.

100.3(5) A fee as established pursuant to rule 641—95.6(144) shall be charged and remitted for conducting a search of the registry. The fee shall be retained for the search.

100.3(6) Upon written request and remittance of the required fee, the department shall conduct a search of the registry. Written requests may be submitted by only:

- a. The biological mother of the child;
- b. A court;
- c. The department of human services;
- d. The child support recovery unit for an action to establish paternity or support; or
- e. The attorney of any party to an adoption, termination of parental rights, or establishment of paternity or support action.

100.3(7) If a declaration of paternity is on file, the department shall provide the name, address, and social security number of a registrant to the following:

- a. The biological mother of the child;
- b. A court;
- c. The department of human services;
- d. The child support recovery unit for an action to establish paternity or support; or
- e. The attorney of any party to an adoption, termination of parental rights, or establishment of paternity or support action.

100.3(8) If no declaration of paternity is on file, a written statement to that effect shall be provided to the person making the inquiry.

100.3(9) Information from the declaration of paternity registry shall not be divulged to any person other than those listed in subrule 100.3(6) and shall be considered a confidential record as to any other person, except upon order of the court for good cause shown.

100.3(10) Information provided to the registry may be revoked by the registrant by the submission of a written statement, signed and acknowledged by the registrant before a notary public.

- a. The statement shall include a declaration that to the best of the registrant's knowledge:
 - (1) The registrant is not the father of the named child; or
 - (2) That paternity of the true father has been established.
- b. Revocation shall nullify the registration, and the information provided by the registrant shall be expunged.
- c. Revocation is effective only following the birth of the child.

100.3(11) The Declaration of Paternity Registry form shall be available from the state registrar of vital records or the county registrar.

100.3(12) The declaration of paternity registry does not constitute an affidavit of paternity filed pursuant to Iowa Code section 252A.3A. Declarations filed shall be maintained in a registry separate and distinct from the affidavit of paternity registry.

100.3(13) A declaration of paternity filed with the registry may be used as evidence of paternity in an action to establish paternity or to determine a support obligation with respect to the putative father.

100.3(14) Failure or refusal to file a declaration of paternity shall not be used as evidence to avoid a legally established obligation of financial support for a child.

641—100.4(144) Mutual consent voluntary adoption registry established. There is established in the department a mutual consent voluntary adoption registry. Adult adopted children, adult siblings, and the biological parents of adult adoptees may register with the mutual consent voluntary adoption registry to obtain identifying birth information.

100.4(1) All identifying information maintained in the registry is confidential.

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100.4(2) All requests shall be completed on the Mutual Consent Voluntary Adoption Registry Application form available from the state registrar of vital records or the county registrar.

100.4(3) Pursuant to rule 641—95.6(144), a fee shall be charged and remitted for the filing of a completed application for the registry, and a fee shall be charged and remitted for updating applicant information maintained in the registry.

100.4(4) The state registrar shall reveal the identity of the biological parent to the adult adopted child or reveal the identity of the adult adopted child to the biological parent if all the following conditions are met:

- a.* A biological parent has filed a completed request form and provided consent to the revelation of the biological parent's identity to the adult adopted child, upon request of the adult adopted child;
- b.* An adult adopted child has filed a completed request form and provided consent to the revelation of the identity of the adult adopted child to a biological parent, upon request of the biological parent; and
- c.* The state registrar has been provided sufficient information to make the requested match with certainty.

100.4(5) The state registrar shall reveal the identity of the adult adopted child to an adult sibling or shall reveal the identity of an adult sibling to the adult adopted child if all of the following conditions are met:

- a.* An adult adopted child has filed a completed request form and provided consent to the revelation of the adult adopted child's identity to an adult sibling;
- b.* The adult sibling has filed a completed request form and provided consent to the revelation of the identity of the adult sibling to the adult adopted child; and
- c.* The state registrar has been provided sufficient information to make the requested match with certainty.

100.4(6) If the adult adopted child has a sibling who is a minor and who has also been adopted, the state registrar shall not grant the request of either the adult adopted child or the biological parent to reveal the identities of the parties.

100.4(7) A person who has filed a request or provided consent may withdraw the consent at any time prior to the release of any information by submitting a written withdrawal of consent statement with the state registrar.

100.4(8) The adult adoptee, adult sibling, and biological parent completing an application shall be responsible for updating the contact information.

100.4(9) The state registrar shall notify the parties via telephone, verify the address information, and provide written notice to the parties.

641—100.5(144) Statistical report of termination of pregnancy report. A health care provider who initially identifies and diagnoses a spontaneous termination of pregnancy or who induces a termination of pregnancy shall file with the department a Statistical Report of Termination of Pregnancy form for each termination.

100.5(1) The health care provider shall make a good-faith effort to obtain all of the following information that is available with respect to each termination:

- a.* The confidential health care provider code as assigned by the department.
- b.* The report tracking number.
- c.* The maternal health services region of the Iowa department of public health, as designated as of July 1, 1997, in which the patient resides. If the patient resides in another state, the residence shall be reported as "nonresident."
- d.* The race of the patient.
- e.* The age of the patient.
- f.* The marital status of the patient.
- g.* The educational level of the patient.
- h.* The number of previous pregnancies, live births, and spontaneous or induced terminations of pregnancies.
- i.* The month and year in which the termination occurred.

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j. The number of weeks since the patient's last menstrual period and a clinical estimate of gestation.

k. Whether the termination was spontaneous or induced.

l. The method used for an induced termination, including whether mifepristone was used.

100.5(2) The health care provider who identifies a spontaneous or induced termination shall prepare the report on the standard form and forward to the state registrar on or before the tenth day of each calendar month all records for the preceding month. Reports may be sent by certified mail to the state registrar. Termination reports shall be submitted within 30 days of the date of the occurrence.

100.5(3) The department shall provide the forms, or the provider may use the master copy of the form provided by the department to make copies for reporting.

100.5(4) The information shall be collected, reproduced, released, and disclosed in a manner which ensures the anonymity of:

a. The patient who experiences a termination of pregnancy;

b. The health care provider who identifies and diagnoses or induces a termination of pregnancy; and

c. The hospital, clinic, or health facility in which a termination of pregnancy is identified and diagnosed or induced.

100.5(5) The department may share information with federal public health officials for the purpose of securing federal funding or conducting public health research. However, in sharing the information, the department shall not relinquish control of the information, and any agreement entered into by the department with federal public health officials to share information shall prohibit the use, reproduction, release, or disclosure of the information by federal public health officials in a manner which violates Iowa Code section 144.29A.

100.5(6) The department shall annually publish a demographic summary of the information obtained, except that the department shall not reproduce, release, or disclose any information obtained which reveals the identity of any patient, health care provider, hospital, clinic, or other health facility, and shall ensure anonymity in the following ways:

a. The department may use information concerning the report tracking number or concerning the identity of a reporting health care provider, hospital, clinic, or other health facility only for the purpose of information collection. The department shall not reproduce, release, or disclose this information for any purpose other than for use in annually publishing the demographic summary.

b. The department shall enter information from any report of termination submitted within 30 days of receipt of the statistical report of termination of pregnancy and, following entry of the information, shall immediately destroy the report by shredding it. However, entry of the information from a report shall not include any health care provider, hospital, clinic, or other health facility identification information including, but not limited to, the confidential health care provider code, as assigned by the department.

c. To protect confidentiality, the department shall limit release of information in an aggregate form which prevents identification of any individual patient, health care provider, hospital, clinic, or other health facility.

d. The department shall establish and use a methodology to provide a statistically verifiable basis for any determination of the aggregate level at which information may be released so that the confidentiality of any person is not comprised. The methodology shall consider both the counts of the events for each item of information and the population that could be represented.

100.5(7) Reports, information, and records submitted and maintained are strictly confidential and shall not be released or made public upon subpoena, search warrant, discovery proceedings, or by any other means.

100.5(8) The department shall assign a code to any health care provider who may be required to report a termination. An application procedure shall not be required for assignment of a code to a health care provider.

PUBLIC HEALTH DEPARTMENT[641](cont'd)

100.5(9) A health care provider shall assign a report tracking number which enables the health care provider to access the patient's medical information without identifying the patient. The report tracking number shall be maintained by the provider for a period of six months after the end of the calendar year.

100.5(10) To ensure proper performance of the reporting requirements, it is preferred that a health care provider who practices within a hospital, clinic, or other health facility authorize one staff person to fulfill the reporting requirements.

100.5(11) Any person who knowingly violates a provision of these rules is guilty of a serious misdemeanor pursuant to Iowa Code section 144.52.

These rules are intended to implement Iowa Code sections 144.29A, 144.52 and 252A.3A.

ITEM 7. Rescind and reserve **641—Chapter 101 to Chapter 107.**

ARC 0377C

PUBLIC HEALTH DEPARTMENT[641]

Notice of Intended Action

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

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

Pursuant to the authority of Iowa Code section 147A.4, the Department of Public Health hereby gives Notice of Intended Action to amend Chapter 131, "Emergency Medical Services—Provider Education/Training/Certification," and Chapter 132, "Emergency Medical Services—Service Program Authorization," Iowa Administrative Code.

The rules in Chapter 131 describe the standards for the education, training, and certification of emergency medical services providers and establish a standard of conduct for training programs, students, and providers. The rules in Chapter 132 describe the standards for the authorization of EMS services. These proposed amendments update the reference to the Iowa EMS Scope of Practice document to the most recent edition, April 2012.

Any interested person may make written comments or suggestions on the proposed amendments on or before October 23, 2012. Such written comments should be directed to Gerd Clabaugh, Bureau of EMS, Department of Public Health, 321 East 12th Street, Des Moines, Iowa 50319. E-mail may be sent to gerd.clabaugh@idph.iowa.gov.

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

These amendments are intended to implement Iowa Code section 147A.8.

The following amendments are proposed.

ITEM 1. Amend paragraph **131.3(3)"b"** as follows:

b. Scope of Practice for Iowa EMS Providers (~~July 2011~~ April 2012) is hereby incorporated and adopted by reference for emergency medical care providers. For any differences that may occur between the Scope of Practice adopted by reference and these administrative rules, the administrative rules shall prevail.

ITEM 2. Amend paragraph **132.2(4)"b"** as follows:

b. Scope of Practice for Iowa EMS Providers (~~July 2011~~ April 2012) is incorporated and adopted by reference for EMS providers. For any differences that may occur between the adopted references and these administrative rules, the administrative rules shall prevail.

ARC 0380C

REVENUE DEPARTMENT[701]**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 421.14 and 422.68 and 2012 Iowa Acts, Senate File 2342, section 2, the Department of Revenue hereby gives Notice of Intended Action to amend Chapter 80, “Property Tax Credits and Exemptions,” Iowa Administrative Code.

The subject matter of new rule 701—80.29(427) is geothermal heating and cooling systems installed on property classified as residential. The proposed new rule provides an exemption from property tax on the value added to residential property by any new construction or refitted installation of a geothermal heating or cooling system if the geothermal heating or cooling system is constructed or installed on the residential property on or after July 1, 2012.

This amendment is proposed as a result of 2012 Iowa Acts, Senate File 2342.

The proposed new rule will not necessitate additional expenditures by political subdivisions or agencies and entities which contract with political subdivisions.

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

The Department has determined that this proposed new rule may have an impact on small business. The Department has considered the factors listed in Iowa Code section 17A.4A. The Department will issue a regulatory analysis as provided in Iowa Code section 17A.4A if a written request is filed by delivery or by mailing postmarked no later than November 5, 2012, to the Policy Section, Policy and Communications Division, Department of Revenue, Hoover State Office Building, P.O. Box 10457, Des Moines, Iowa 50306. The request may be made by the Administrative Rules Review Committee, the Administrative Rules Coordinator, at least 25 persons signing that request who each qualify as a small business or an organization representing at least 25 such persons.

Any interested person may make written suggestions or comments on this proposed new rule on or before October 23, 2012. Such written comments should be directed to the Policy Section, Policy and Communications Division, Department of Revenue, Hoover State Office Building, P.O. Box 10457, Des Moines, Iowa 50306.

Persons who want to convey their views orally should contact the Policy Section, Policy and Communications Division, Department of Revenue, at (515)281-8036 or at the Department of Revenue offices on the fourth floor of the Hoover State Office Building.

Requests for a public hearing must be received by October 23, 2012.

After analysis and review of this rule making, a positive impact on jobs exists. This rule implements a tax credit for individuals who own property on which geothermal heating and cooling systems are installed, and as a result of the credit, more geothermal heating and cooling systems will be purchased and installed. Increased demand for installation of geothermal systems will increase the need for employees at geothermal system retailers. Additionally, the increased installation of geothermal systems will increase demand for workers that install geothermal systems.

This amendment is intended to implement 2011 Iowa Code Supplement section 427.1 as amended by 2012 Iowa Acts, Senate File 2342, section 2.

The following amendment is proposed.

REVENUE DEPARTMENT[701](cont'd)

Adopt the following new rule 701—80.29(427):

701—80.29(427) Geothermal heating and cooling systems installed on property classified as residential.

80.29(1) *In general.* An exemption from property tax shall be allowed for any value added to property by any new construction or refitted installation of a geothermal heating or cooling system if the geothermal heating or cooling system is constructed or installed on or after July 1, 2012, on property classified as residential. The exemption shall also be allowed for a residential dwelling on agricultural land. The exemption does not have to be claimed the year subsequent to the year the geothermal system is constructed or installed. However, every individual claiming the exemption under this rule shall file with the appropriate assessor, not later than February 1 of the year for which the exemption is requested, an application for exemption. The assessor shall then allow or disallow the exemption.

Upon the filing and allowance of the claim, the claim shall be allowed on the property for ten consecutive years without further filing as long as the property continues to be classified as residential. However, if the property ceases to be classified as residential or if the geothermal heating and cooling system ceases to exist before the ten years have expired, no exemption is allowed for the year in which the change in classification took place or for any subsequent years. The exemption amount shall remain fixed at the same amount that was allowed in the first year the exemption was allowed.

The property tax exemption applies to any value added by the addition of mechanical, electrical, plumbing, ductwork, or other equipment, labor, and expenses included in or required for the construction or installation of the geothermal system that would not have been included in the home if not for the installation of the geothermal heating and cooling system. Additionally, the proportionate value of any well field associated with the system and attributable to the owner is exempt.

80.29(2) *Calculation of value added.* As used in this rule, the terms “any value added” and “value added” mean the amount of increase in the actual assessed value of the property that is directly attributable to the new construction or refit installation of a geothermal heating or cooling system as of the first year for which the geothermal heating and cooling system is actually assessed. “Any value added” does not include speculative or indirect increases in value which, for example, may be attributable to reductions in energy consumption or reductions in the negative impact to the environment. “Any value added” does not include changes in value which are attributable to general housing market fluctuations. Cost of the new construction or refit installation of the geothermal heating or cooling system is not determinative of the value added to a property. In the event the exemption is not filed in the same year the geothermal heating and cooling system is first assessed, the amount of the exemption, upon filing, shall be the same amount as it would have been had the exemption been filed in the year the geothermal heating and cooling system was first assessed.

In the case of new construction and refit installation of a geothermal heating or cooling system, the value added is the value that would not have been included in the home, if not for the construction or refit installation of the geothermal heating and cooling system. That is, the value of mechanical, electrical, plumbing, ductwork, or other equipment, labor, and expenses that would have been included with a standard heating and cooling system should not be considered in calculating the value added. To measure the value added by a geothermal heating and cooling system, the assessor should compute the difference between the assessed value of the residential property if the property were outfitted with a non-geothermal (standard) heating and cooling system and the assessed value of the property outfitted with the geothermal system. In the case that the new construction or refit installation takes more than one year, the assessor should make the comparison in the year the new construction or refit installation is completed.

EXAMPLE A: Mrs. Smith wants to upgrade her current standard heating and cooling system in her home with a geothermal system. The geothermal system installation is completed on August 1, 2012. On January 22, 2013, Mrs. Smith files a claim for exemption for the value added to her property that is directly attributable to the refit installation of the geothermal system. To determine the value added that is directly attributable to the geothermal system, the assessor should compare the value of the home as though it was outfitted with the standard heating and cooling system which was upgraded with the

REVENUE DEPARTMENT[701](cont'd)

value of the home outfitted with the geothermal heating and cooling system; the difference between the two values is the exemption amount. That exemption amount will remain fixed for the next ten years, until Mrs. Smith's home ceases to be classified as residential, or until the geothermal system ceases to exist, whichever occurs first. For years subsequent to 2013, any increase in the value of Mrs. Smith's home beyond the assessed value of the home outfitted with the geothermal heating and cooling system is not attributable to the geothermal system and is subject to property tax. The property tax exemption amount for the geothermal heating and cooling system will remain the same as the first year for which the exemption was received even if the assessed value of Mrs. Smith's home drops.

EXAMPLE B: Same facts as Example A, except that on January 1 of year seven, Mrs. Smith's home is reclassified as commercial property. No property tax exemption is allowed for the value added by the geothermal system for year seven or any subsequent years.

EXAMPLE C: Mr. Larson is building a new home and plans to construct a new geothermal system in lieu of a standard heating and cooling system. The home and geothermal system are completed on October 24, 2012. To determine the value added that is directly attributable to the installation of the geothermal system, the assessor should assess the home as though it had been outfitted with a standard heating and cooling system and compare that value with the assessed value of the home outfitted with the geothermal heating and cooling system. The difference between the two amounts is the value added that is directly attributable to the geothermal system and is the exemption amount. In 2013, the assessed value of Mr. Larson's home with a standard heating and cooling system is \$200,000. The assessed value of Mr. Larson's home with the geothermal system is \$210,000. Therefore, the value added to the property that is directly attributable to the geothermal system is \$10,000. Mr. Larson may claim an exemption amount of \$10,000 starting in assessment year 2013. Mr. Larson does not lose the exemption if he fails to claim the exemption by February 1, 2013; he may claim the exemption in any year subsequent to the completion of the construction of the home. An exemption amount of \$10,000 will continue for ten consecutive years after the exemption is claimed, until the property ceases to be classified as residential, or until the geothermal system ceases to exist, whichever occurs first.

EXAMPLE D: Same facts as Example C, except that Mr. Larson claims the exemption in 2019. The exemption amount in 2019, and the nine subsequent years, is the value added in the year the geothermal heating and cooling system was first assessed; here, \$10,000 in 2013. The value added and exemption amount is not calculated in the year Mr. Larson claims the exemption. The \$10,000 exemption will then continue until 2028, until the property ceases to be classified as residential or until the geothermal system ceases to exist, whichever occurs first.

This rule is intended to implement 2011 Iowa Code Supplement section 427.1 as amended by 2012 Iowa Acts, Senate File 2342, section 2.

ARC 0379C**REVENUE DEPARTMENT[701]****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 421.14 and 422.68, the Department of Revenue hereby gives Notice of Intended Action to amend Chapter 226, “Sale or Rental of Farm Machinery and Equipment,” Iowa Administrative Code.

The subject matter of rule 701—226.1(423) is the exemption for farm machinery and equipment and items used in agricultural production attached to and towed by self-propelled implements of husbandry. The proposed amendment in Item 1 exempts from sales tax, and defines, snow blowers,

REVENUE DEPARTMENT[701](cont'd)

rear- or front-mounted blades, and rotary cutters if they are used in agricultural production and are to be attached to or towed by a self-propelled implement of husbandry.

The subject matter of rule 701—226.19(423) is nonexclusive lists of items that are taxable or exempt. The proposed amendments in Items 2 and 3 clarify that certain items drawn or attached to self-propelled farm implements are exempt only if the items are directly and primarily used in agricultural production or dairy or livestock production.

These amendments are proposed as a result of 2012 Iowa Acts, House File 2470.

The proposed amendments will not necessitate additional expenditures by political subdivisions or agencies and entities which contract with political subdivisions.

Any person who believes that the application of the discretionary provisions of these amendments would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any.

The Department has determined that the proposed amendments may have an impact on small business. The Department has considered the factors listed in Iowa Code section 17A.4A. The Department will issue a regulatory analysis as provided in Iowa Code section 17A.4A if a written request is filed by delivery or by mailing postmarked no later than November 5, 2012, to the Policy Section, Policy and Communications Division, Department of Revenue, Hoover State Office Building, P.O. Box 10457, Des Moines, Iowa 50306. The request may be made by the Administrative Rules Review Committee, the Administrative Rules Coordinator, at least 25 persons signing that request who each qualify as a small business or an organization representing at least 25 such persons.

Any interested person may make written suggestions or comments on the proposed amendments on or before October 23, 2012. Such written comments should be directed to the Policy Section, Policy and Communications Division, Department of Revenue, Hoover State Office Building, P.O. Box 10457, Des Moines, Iowa 50306. Persons who want to convey their views orally should contact the Policy Section, Policy and Communications Division, Department of Revenue, at (515)281-8036 or at the Department of Revenue offices on the fourth floor of the Hoover State Office Building.

Requests for a public hearing must be received by October 23, 2012.

After analysis and review of this rule making, a positive impact on jobs exists. This rule making implements a tax exemption that benefits farmers and small businesses by providing an exemption for specific machinery and equipment used in agricultural production. The exemption will allow farmers to buy three specific types of machinery and equipment tax free, and, as a result, farmers will buy more of this equipment. This increased demand for these three specific types of machinery and equipment will, in turn, cause small businesses that sell the exempt machinery and equipment to hire more employees. Thus, a positive impact on jobs exists.

These amendments are intended to implement 2011 Iowa Code Supplement section 423.3(8) as amended by 2012 Iowa Acts, House File 2470.

The following amendments are proposed.

ITEM 1. Amend rule 701—226.1(423) as follows:

701—226.1(423) Sale or rental of farm machinery and equipment and items used in agricultural production that are attached to a self-propelled implement of husbandry. The sales price from the sale or rental of farm machinery and equipment directly and primarily used in production of agricultural products and certain items used in agricultural production that are attached to or towed by a self-propelled implement of husbandry is exempt from sales and use tax.

226.1(1) Farm machinery and equipment.

a. *Exempt.* ~~To~~ Under this rule, to be eligible under this rule for the exemption from the tax, the farm machinery or equipment must be directly and primarily used in production of agricultural products and must also be one of the following:

(1) to (5) No change.

b. *Taxable.* A vehicle subject to registration as defined in Iowa Code section 423.1, an implement customarily drawn by or attached to a vehicle subject to registration, an auxiliary attachment for a vehicle

REVENUE DEPARTMENT[701](cont'd)

subject to registration, or any replacement part for a vehicle, implement, or auxiliary attachment for a vehicle subject to registration is not eligible for the exemption allowed under this rule.

226.1(2) Attachments to self-propelled implements of husbandry.

a. Exempt. Exempt from the tax under this rule are the following items if, and only if, they are used in agricultural production:

- (1) A snow blower that is to be attached to a self-propelled implement of husbandry; or
- (2) A rear-mounted or front-mounted blade that is to be attached to or towed by a self-propelled implement of husbandry; or
- (3) A rotary cutter that is to be attached to a self-propelled implement of husbandry.

b. Used in agricultural production. Under this subrule, the items must be used in agricultural production, and not “directly and primarily” used in production of agricultural products as is required under subrule 226.1(1).

EXAMPLE: Farmer Jones purchases a front-mounted blade that will be attached to a self-propelled implement of husbandry (e.g., farming tractor). Farmer Jones primarily uses the blade to prepare previously uncultivated land—a use that is not for agricultural production. See subrule 226.1(3). However, Farmer Jones sporadically uses the front-mounted blade for agricultural production. Even though Farmer Jones does not directly and primarily use the front-mounted blade in agricultural production, the front-mounted blade is exempt from sales or use tax because the blade is occasionally used in agricultural production and it is attached to a self-propelled implement of husbandry.

226.1(2) 226.1(3) Definitions and specific provisions. For the purposes of this rule, the following definitions and provisions apply.

a. Production of agricultural products. The term “production of agricultural products” means the same as the term “agricultural production,” which is defined in rule 701—211.1(423) to mean a farming operation undertaken for profit by the raising of crops or livestock. ~~Not~~ Nonexclusive examples of items not included within the meaning of the term “agricultural production” is are the clearing or preparation of previously uncultivated land, the creation of farm ponds, ~~or~~ and the erection of machine sheds, confinement facilities, storage bins, or other farm buildings. See *Trullinger v. Fremont County*, 223 Iowa 677, 273 N.W. 124 (1937). Machinery and equipment used for these purposes would be used for activities which are preparatory to, but not a part of, the production of agricultural products and, therefore, are not exempt.

b. Farm machinery and equipment. The term “farm machinery and equipment” means machinery and equipment specifically designed for use in the production of agricultural products and machinery and equipment that are not specifically designed for use in the production of agricultural products but are directly and primarily used for that purpose.

EXAMPLE: Farmer Jones raises livestock, and his farming operation requires that fences be ~~built~~ repaired to confine the livestock. Farmer Jones purchases a posthole digger that is customarily attached to a tractor and uses the digger to ~~construct~~ repair the fences used to confine the livestock. The posthole digger is not specifically designed for use in the production of agricultural products but is directly and primarily used in the production of agricultural products. Therefore, the exemption would apply.

c. Self-propelled implement. The term “self-propelled implement” means an implement which is capable of movement from one place to another under its own power. An implement is not self-propelled merely because it has moving parts. The term “self-propelled implement” includes, but is not limited to, the following items: skid loaders and tractors. The term also includes, but is not limited to, the following machinery if capable of movement under its own power: combines, corn pickers, fertilizer spreaders, hay conditioners and windrowers, sprayers, and bean buggies.

d. Implements customarily drawn or attached to self-propelled implements. The following is a nonexclusive, representative list of implements ~~which are~~ customarily drawn or attached to self-propelled implements: augers, balers, blowers, combines, conveyers, cultivators, disks, drags, dryers (portable), farm wagons, feeder wagons, fertilizer spreaders, front- and rear-end loaders, harrows, hay loaders, hay mowers, hay rakes, husking machines, manure spreaders, planters, plows, rotary hoes, sprayers and tanks, and tillage equipment.

e. and f. No change.

REVENUE DEPARTMENT[701](cont'd)

g. Beginning and end of agricultural production. Agricultural production begins with the cultivation of land previously cleared for the planting of crops or begins with the purchase or breeding of livestock or domesticated fowl. Agricultural production ceases when an agricultural product has been transported to the point where it will be sold by the producer or processed for further use.

EXAMPLE: Farmer Brown uses a tractor and wagon to haul harvested corn from a field to a grain dryer located on the farm. After the corn is dried, the same tractor and wagon are used to move the grain to a storage bin, also located on the farm. Later, the same tractor and wagon are used to deliver the corn from the farm to the local elevator where the corn is sold. After Farmer Brown deposits the corn there, the local elevator uses its own tractor and wagon to move the corn to a place of relatively permanent storage. Farmer Brown has used the tractor and wagon in the production of agricultural products, and the exemption would apply to Farmer Brown's tractor and wagon. However, the elevator has not used its tractor and wagon in agricultural production; thus, the exemption would not be allowed for the elevator's tractor and wagon.

h. Grain dryer. The term "grain dryer" includes the heater and the blower necessary to force the warmed air into a grain storage bin. The term "grain dryer" does not include equipment, such as augers and spreaders, used in grain storage or movement, nor does it include any other equipment, such as specialized flooring, that is not a grain dryer. Equipment that is not a grain dryer but is used in grain drying may be exempt if the equipment is a self-propelled implement or customarily drawn or attached to a self-propelled implement and is directly and primarily used in agricultural production.

i. No change.

j. Implement of husbandry.

(1) The term "implement of husbandry" means any tool, equipment, or machinery necessary to the carrying on of the business of agricultural production and without which that could not be done. To be an implement of husbandry, the following must both be true:

1. The tool, equipment, or machine must be necessary to the carrying on of the business of agricultural production; and

2. Agricultural production must be impossible without the use of the tool, equipment, or machine.

(2) Whether a given item is an implement of husbandry depends on the facts of each particular case (*Hester v. State*, 108 So.2d 385, 388 (1959)), and in each particular case the person claiming the exemption has the burden of proving that the person is entitled to the exemption. *Dial Corp. v. Iowa Dep't of Revenue*, 634 N.W.2d 643, 646 (Iowa 2001).

k. Snow blower. "Snow blower" as used in this rule means an attachment that has the primary purpose of snow removal by the throwing of snow and that is ordinarily thought of as a snow blower.

l. Rear-mounted or front-mounted blade. "Rear-mounted or front-mounted blade" as used in this rule means a stationary attachment that has a primary purpose of pushing or leveling, for example, sand, dirt, snow, gravel, or manure. The term "rear-mounted or front-mounted blade" does not include mounted buckets or loaders that have a primary purpose of loading or digging.

m. Rotary cutter. "Rotary cutter" as used in this rule means an attachment used for mowing of grassy areas, pastures, and brush, but does not include attachments often referred to as "finishing mowers" and "mid-mount mowers."

~~226.1(3)~~ **226.1(4)** *Taxable and nontaxable transactions.* The following are nonexclusive examples of sales and leases of and services for farm machinery or equipment subject to or exempt from tax. Taxable services performed on farm machinery or equipment are subject to tax even when the replacement parts are exempt.

a. No change.

b. A lessor's purchase of a snow blower, rear-mounted or front-mounted blade, or rotary cutter is not subject to tax if such item is leased to a lessee who uses the item in agricultural production and the item will be attached to an implement of husbandry.

~~b. c.~~ The owner or lessee of farm machinery or equipment need not be a farmer as long as the machinery or equipment is directly and primarily used in the production of agricultural products and the owner or lessee and the machinery or equipment meet the other requirements of this rule. For example, a person who purchases an airplane designed for use in agricultural aerial spraying and who uses the

REVENUE DEPARTMENT[701](cont'd)

airplane directly and primarily for agricultural production is entitled to the benefits provided under this rule even though that person is not the owner or occupant of the land where the airplane is used.

d. The owner or lessee of a snow blower, rear-mounted or front-mounted blade, or rotary cutter need not be a farmer as long as the snow blower, rear-mounted or front-mounted blade, or rotary cutter is used in agricultural production and the snow blower, rear-mounted or front-mounted blade, or rotary cutter is attached to an implement of husbandry.

e. e. The sale or lease, within Iowa, of any farm machinery, equipment, or replacement part for direct and primary use in agricultural production outside of Iowa is a transaction eligible for the exemption if the transaction is otherwise qualified for an exemption under this rule.

f. The sale or lease, within Iowa, of any snow blower, rear-mounted or front-mounted blade, or rotary cutter which is used, outside of Iowa, in agricultural production while attached to an implement of husbandry is a transaction eligible for the exemption, if the transaction is otherwise qualified for an exemption under this rule.

~~226.1(4)~~ **226.1(5)** *Auxiliary attachments.* The following is a ~~noninclusive~~ nonexclusive list of auxiliary attachments for which the sale or use in Iowa is exempt from tax: auxiliary hydraulic valves, cabs, coil tine harrows, corn head pickup reels, dry till shanks, dual tires, extension shanks, fenders, fertilizer attachments and openers, fold kits, grain bin extensions, herbicide and insecticide attachments, kit wraps, no-till coulters, quick couplers, rear-wheel assists, rock boxes, rollover protection systems, rotary shields, stalk choppers, step extensions, trash whips, upper beaters, silage bags, and weights.

This rule is intended to implement Iowa Code subsections 423.3(8) and 423.3(11).

ITEM 2. Amend the footnote for subrule **226.19(1)** as follows:

*Exempt if drawn or attached to a self-propelled farm implement and directly and primarily used in agricultural production or, if portable, used directly and primarily in agricultural production.

ITEM 3. Amend footnote number “1” for subrule **226.19(2)** as follows:

¹Exempt if drawn or attached to a self-propelled farm implement and directly and primarily used in dairy or livestock production or, if portable, used directly and primarily in dairy or livestock production.

ITEM 4. Amend **701—Chapter 226**, implementation sentence, as follows:

This rule is intended to implement Iowa Code subsection 423.3(8) as amended by 2012 Iowa Acts, House File 2470, and subsections 423.3(6) and 423.3(11).

ARC 0378C

REVENUE DEPARTMENT[701]

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 421.14 and 422.68, the Department of Revenue hereby gives Notice of Intended Action to amend Chapter 239, “Local Option Sales Tax Urban Renewal Projects,” Iowa Administrative Code.

The subject matter of 701—Chapter 239 is Local Option Sales Tax (LOST) Urban Renewal Projects. The proposed amendments to this chapter add a requirement that, before a city can create a LOST urban renewal area by ordinance, the county board of supervisors from which county LOST revenues will be diverted must first approve the city’s collection and use of county LOST revenues.

These amendments are proposed as a result of 2012 Iowa Acts, House File 2460.

The proposed amendments will not necessitate additional expenditures by political subdivisions or agencies and entities which contract with political subdivisions. Any person who believes that the

REVENUE DEPARTMENT[701](cont'd)

application of the discretionary provisions of this amendment would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any.

The Department has determined that the proposed amendments will not have an impact on small business. The Department has considered the factors listed in Iowa Code section 17A.4A. The Department will issue a regulatory analysis as provided in Iowa Code section 17A.4A if a written request is filed by delivery or by mailing postmarked no later than November 5, 2012, to the Policy Section, Policy and Communications Division, Department of Revenue, Hoover State Office Building, P.O. Box 10457, Des Moines, Iowa 50306. The request may be made by the Administrative Rules Review Committee, the Administrative Rules Coordinator, at least 25 persons signing that request who each qualify as a small business or an organization representing at least 25 such persons.

Any interested person may make written suggestions or comments on these proposed amendments on or before October 23, 2012. Such written comments should be directed to the Policy Section, Policy and Communications Division, Department of Revenue, Hoover State Office Building, P.O. Box 10457, Des Moines, Iowa 50306.

Persons who want to convey their views orally should contact the Policy Section, Policy and Communications Division, Department of Revenue, at (515)281-8036 or at the Department of Revenue offices on the fourth floor of the Hoover State Office Building.

Requests for a public hearing must be received by October 23, 2012.

After analysis and review of this rule making, the Department has determined the proposed amendments will not have an adverse impact on jobs.

These amendments are intended to implement Iowa Code sections 423B.1 and 423B.7 and section 423B.10 as amended by 2012 Iowa Acts, House File 2460, section 23.

The following amendments are proposed.

ITEM 1. Amend rule 701—239.1(423B) as follows:

701—239.1(423B) Urban renewal project. ~~An~~ Only after the county board of supervisors from each county where the urban renewal area from which local option sales and services revenues are to be collected and used to fund urban renewal projects adopts a resolution approving the collection and use of local sales and services tax revenue for urban renewal projects may an eligible city ~~may~~ by ordinance of the city council provide for the use of a designated amount of the increased local sales and services tax revenues collected under this chapter which are attributable to retail establishments in an urban renewal area to fund urban renewal projects located in the urban renewal area. The designated amount to be used to fund urban renewal projects may be all or a portion of such increased revenues, subject to the limitations imposed by the resolution adopted by the county board, or boards, of supervisors. This rule applies to any urban renewal project to be funded by a city's collection and use of local option sales and services tax revenues on or after July 1, 2012.

ITEM 2. Amend rule 701—239.4(423B) as follows:

701—239.4(423B) Requirements for cities adopting an ordinance.

239.4(1) ~~At~~ Within at least 90 days following the adoption of an ordinance, an eligible city must notify the director of the department of revenue of its intent to pursue funding for an urban renewal project based upon the increase in local sales and services tax revenue. The notification must include the following information:

a. Effective July 1, 2012, a copy of the resolution of the board of supervisors from each county where the urban renewal area from which local sales and services tax revenues are to be collected approving the collection and use of local sales and services tax;

~~*a.*~~ *b.* A copy of the urban renewal plan and the resolution adopting the city's urban renewal plan;

~~*b.*~~ *c.* A copy of the adopted ordinance, including:

(1) The current and original, if applicable, purpose or purposes for which the local option sales and services tax was enacted; and

REVENUE DEPARTMENT[701](cont'd)

(2) The amount and proportion of revenue that will be redistributed from each current revenue purpose to fund urban renewal within the urban renewal area;

~~e. d.~~ The legal description of the urban renewal area covered by the ordinance;

~~d. e.~~ A map showing the geographic boundaries of the urban renewal area; and

~~e. f.~~ A geographic information system boundary file, if available, showing the geographic boundaries of the urban renewal area.

239.4(2) Each urban renewal area must have its own separate ordinance, and the department shall be notified separately for each urban renewal area. Notification shall be mailed or otherwise submitted to: Director, Iowa Department of Revenue, Hoover State Office Building, 1305 E. Walnut Street, Des Moines, Iowa 50319.

~~**239.4(3)** Notification shall be mailed or otherwise submitted to: Director, Iowa Department of Revenue, Hoover State Office Building, 1305 E. Walnut Street, Des Moines, Iowa 50319. Each urban renewal area must have its own separate resolution of the board of supervisors from each county from which local option sales and services tax revenues will be collected and used for urban renewal projects located within the urban renewal area.~~

ITEM 3. Amend rule 701—239.6(423B) as follows:

701—239.6(423B) Calculation of base year taxable sales amount. The base year taxable sales and services amount will be the total taxable sales and services subject to the local sales and services tax that are made by retail establishments within the urban renewal area during the base year. Taxable sales of tangible personal property and services that are subject to the local sales and services tax that are made by retail establishments or service providers located within the urban renewal area include only those sales that are sourced to the county in which the urban renewal area is located. Those sales made by retail establishments or service providers located within the urban renewal area that are sourced outside of the county are not subject to the local sales and services tax. For sourcing rules see Iowa Code section 423.15 and 701—Chapter 223.

ITEM 4. Amend rule 701—239.9(423B) as follows:

701—239.9(423B) Example Examples. The following examples illustrate the application of the rules in this chapter:

EXAMPLE 1. City A has an urban renewal area that covers a large portion of its downtown. City A and all of its downtown area are located in County B. City A also has in place a 1 percent local sales and services tax. ~~On October 30, 2008, City A's city council enacts~~ wants to enact an ordinance that establishes the urban renewal area as a local sales and services tax increment district which designates 100 percent of the tax growth increment amount to the special city account. Before City A's city council can establish the local sales and services tax district, County B's board of supervisors must adopt a resolution approving City A's local sales and services tax increment district. ~~The ordinance also designates 100 percent of the tax growth increment amount to the special city account.~~

The base year taxable sales amount for the urban renewal area will equal the amount of taxable sales made by retail establishments in the urban renewal area for the fiscal year in which the ordinance was adopted. Assume City A's urban renewal area has \$10,050,000 in taxable sales during the ~~2008-2009~~ 2013-2014 fiscal year.

At the end of the fiscal year following the fiscal year in which the ordinance was adopted (June 30, ~~2010~~ 2015, in this example), City A's urban renewal area has taxable sales of \$25,000,000. To determine the tax growth increment amount, the department subtracts the base year taxable sales amount from fiscal year two's taxable sales amount then multiplies the remainder by the local sales and services tax rate of 1 percent as follows:

$$\$25,000,000 - \$10,050,000 = \$14,950,000$$

$$\$14,950,000 \times .01 = \$149,500$$

The result is a tax growth increment amount of \$149,500. The department of revenue will deposit \$149,500 into the city's special account no later than November 10 following the end of the fiscal year.

REVENUE DEPARTMENT[701](cont'd)

EXAMPLE 2. Same facts as Example 1, but City A's urban renewal area is located in County B and County C. Before City A can enact an ordinance that establishes the urban renewal area as a local sales and services tax increment district, the boards of supervisors from County B and County C must adopt resolutions approving City A's local sales and services tax increment district.

ITEM 5. Amend **701—Chapter 239**, implementation sentence, as follows:

These rules are intended to implement Iowa Code sections 423B.1, and 423B.7 and section 423B.10 as amended by 2012 Iowa Acts, House File 2460, section 23.

USURY

In accordance with the provisions of Iowa Code section 535.2, subsection 3, paragraph “a,” the Superintendent of Banking has determined that the maximum lawful rate of interest shall be:

October 1, 2011 — October 31, 2011	4.25%
November 1, 2011 — November 30, 2011	4.00%
December 1, 2011 — December 31, 2011	4.25%
January 1, 2012 — January 31, 2012	4.00%
February 1, 2012 — February 29, 2012	4.00%
March 1, 2012 — March 31, 2012	4.00%
April 1, 2012 — April 30, 2012	4.00%
May 1, 2012 — May 31, 2012	4.25%
June 1, 2012 — June 30, 2012	4.00%
July 1, 2012 — July 31, 2012	3.75%
August 1, 2012 — August 31, 2012	3.50%
September 1, 2012 — September 30, 2012	3.50%
October 1, 2012 — October 31, 2012	3.75%

ARC 0346C

HUMAN SERVICES DEPARTMENT[441]

Adopted and Filed Emergency

Pursuant to the authority of Iowa Code section 225C.6(1) and 2012 Iowa Acts, Senate File 2315, section 23, the Department of Human Services adopts new Chapter 23, “Mental Health and Disability Services Redesign Transition Fund,” Iowa Administrative Code.

The rules developed pursuant to 2012 Iowa Acts, Senate File 2315, section 23, and 2012 Iowa Acts, Senate File 2336, sections 56 and 66, are intended to provide for the gathering of information and to guide the development of recommendations to the Governor and Legislature regarding appropriations for transition funds to continue non-Medicaid-funded current core county mental health and disability services.

The rules are divided into the following sections:

1. Definitions.
2. Eligibility requirements.
3. Establishment of application guidelines related to financial need, financial data, and sustainability plans.
4. Establishment of guidelines for the Department of Human Services for receiving, analyzing, and reporting of transition applications as relating to the transition funds.
5. Establishment of guidelines related to the allocation of transition funds.

The rules represent what the Mental Health and Disability Services (MHDS) Commission believes will demonstrate the county’s need for financial assistance to enable the county to continue current core county mental health and disability services in state fiscal year 2013 and sustain such services in future state fiscal years.

Pursuant to Iowa Code section 17A.4(3), the MHDS Commission finds that notice and public participation are impracticable because the Legislature mandated these changes in 2012 Iowa Acts, Senate File 2315, section 23, which states that the initial application date for use of the Mental Health and Disability Services Redesign Transition Fund shall be on or after October 15, 2012. These rules have been informally reviewed by several key stakeholders, including the Iowa State Association of Counties.

Pursuant to Iowa Code section 17A.5(2)“b”(1), the MHDS Commission further finds that the normal effective date of these rules, 35 days after publication, should be waived and the rules made effective September 11, 2012, because the statute so provides.

These rules are also published herein under Notice of Intended Action as **ARC 0348C** to allow for public comment.

These rules do not provide for waivers in specific situations because the legislation does not allow for waivers. Request 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 rules are intended to implement 2012 Iowa Acts, Senate File 2315, section 23, and 2012 Iowa Acts, Senate File 2336, sections 56 and 66.

These rules became effective September 11, 2012, after review by the Administrative Rules Review Committee.

The following amendment is adopted.

Adopt the following new 441—Chapter 23:

CHAPTER 23
MENTAL HEALTH AND DISABILITY SERVICES
REDESIGN TRANSITION FUND

HUMAN SERVICES DEPARTMENT[441](cont'd)

PREAMBLE

This chapter provides rules for gathering information and guiding the development of recommendations to the governor and legislature for the mental health and disability services transition fund for state fiscal year 2013.

441—23.1(225C,84GA,SF2315) Definitions.

“Commission” or *“MHDS commission”* means the mental health and disability services commission.

“County-operated program” means services directly provided by county employees.

“Current core county mental health and disability services” means those services defined in the county management plan approved by the commission and effective as of June 30, 2012.

“Department” means the Iowa department of human services.

“Documentation information and materials” means source documents, worksheets, notes, or any written material used in completing the application for transition funds.

“Independently verified” means a signed written opinion of accuracy and reasonableness of financial information submitted in the application by the county auditor based on a review and verification of the documentation information and materials used to complete the application.

“Subsidize” means that the county provides additional funding for county-operated services over and above amounts reimbursed from third-party payers, including Medicaid or Medicare, or costs in excess of usual and customary charges for the service.

“Sustainability plan” means financial estimates and a description of estimates and assumptions used to ensure that services requested to be funded by the transition fund can and will continue when the transition fund is discontinued at the end of state fiscal year 2013.

“Target population” means an adult diagnosed with a mental illness as defined in Iowa Code section 4.1(21A) or an individual with an intellectual disability as defined in Iowa Code section 4.1 as amended by 2012 Iowa Acts, Senate File 2247, section 1.

“Transition fund” means the mental health and disability services redesign transition fund that has been established pursuant to 2012 Iowa Acts, Senate File 2315, section 23, and, once funds have been appropriated, will provide one-time assistance in state fiscal year 2013 to support county continuation of current core county mental health and disability services to target populations not funded by Medicaid.

441—23.2(225C,84GA,SF2315) Eligibility. A county is eligible for one-time transition funds in state fiscal year 2013, once transition funds are appropriated, if the county meets the following eligibility requirements. Each county shall:

1. Demonstrate that the county levy certified for its services fund under Iowa Code section 331.424A for state fiscal year 2013 is the maximum amount authorized by law.
2. Demonstrate that the county’s projected expenditures for state fiscal year 2013, excluding increased costs for county administration and subsidies for county-operated programs, are in excess of the county’s projected available funds for state fiscal year 2013.
3. Demonstrate that a reduction in the amount, scope, and duration of current core county mental health and disability services is necessary in the absence of transition funding.
4. Submit an application that meets the application requirements.

441—23.3(225C,84GA,SF2315) Application requirements. All of the following requirements must be met for a county to be eligible for transition funds.

23.3(1) The application must be:

- a. Submitted using Form 470-5125, MHDS Transition Fund Application, prescribed by the department.
- b. Completed with all forms and information.
- c. Signed by the chairperson of the county board of supervisors, county auditor, and central point of coordination administrator.

HUMAN SERVICES DEPARTMENT[441](cont'd)

- d. Verified independently by the county auditor.
- e. Delivered no later than 4:30 p.m. on November 1, 2012.

23.3(2) The application for transition funds must include the following current core county mental health and disability services information:

- a. County eligibility criteria for an individual to receive county mental health and disability services.
- b. A copy of the copay and sliding fee schedule as established in the county management plan.
- c. A complete list of fees and copays that the county charges for each service provided.
- d. The number of individuals who received non-Medicaid-funded services paid for by the county in state fiscal year 2012.
- e. The projected number of individuals who will receive non-Medicaid-funded services paid by the county in state fiscal year 2013, state fiscal year 2014, and state fiscal year 2015.

23.3(3) The application for transition funds shall include actual unaudited county financial information for state fiscal year 2012 and projected county financial information for state fiscal year 2013, state fiscal year 2014, and state fiscal year 2015 reported on a cash basis.

- a. Financial information regarding available funds.

(1) Amount of funds carried forward from the previous state fiscal year excluding any amount received from the risk pool in state fiscal year 2012.

(2) Amount of county funding levied and how amount of county funding levied compares with the maximum amount authorized by law.

(3) Amount of state fiscal year 2012 risk pool funds awarded to the county listed by the state fiscal year in which risk pool funds were or will be used, including an explanation of any amounts of state fiscal year 2012 risk pool funds that are projected to be returned.

(4) Amount of funding received in state fiscal year 2012 through the state payment program for non-Medicaid-funded services for individuals for whom legal settlement has not been determined, including this same amount for projected state fiscal year 2013, state fiscal year 2014, and state fiscal year 2015.

- b. Financial information regarding expenditures.

(1) Amount for county administrative costs, excluding administrative costs of county-operated programs, determined using cost allocation methods consistent with principles contained in OMB Circular A-87.

(2) Total amount needed to pay for expenses due and owing that were incurred in previous state fiscal years including, but not limited to:

- 1. County administrative costs.
- 2. Provider payments including the cost of services for county-operated programs and excluding any costs that subsidize county-operated programs.

3. State charges for the cost of services listed by the state fiscal year in which the charge was incurred:

- Including the county's portion of the nonfederal share of Medicaid.
- Including the county's share of mental health institutes and state resource centers minus credits.
- Excluding any state charges that will be forgiven consistent with 2012 Iowa Acts, Senate File

2315, section 27.

(3) Amount paid to private service providers for non-Medicaid-funded services.

(4) Amount paid for non-Medicaid-funded county-operated programs including an allocation of administrative costs for such services consistent with principles contained in OMB Circular A-87 and excluding any amounts to subsidize county-operated programs.

(5) Service expenditures reported in subparagraphs 23.3(3) "b"(3) and (4) above shall be divided into the following eligibility categories:

- 1. Individuals in the target population whose income is equal to or less than 150 percent of the federal poverty level.
- 2. Individuals in the target population whose income is greater than 150 percent of the federal poverty level.

HUMAN SERVICES DEPARTMENT[441](cont'd)

3. Individuals with a disability other than the target population whose income is equal to or less than 150 percent of the federal poverty level.

4. Individuals with a disability other than the target population whose income is greater than 150 percent of the federal poverty level.

c. The county shall retain the county's documentation information and materials used to complete the application for transition funding and shall have this documentation information and materials available for review by the department or its designee.

23.3(4) For a county to be considered for transition funds, it must submit a sustainability plan that includes projected expenditures for state fiscal year 2014 and state fiscal year 2015 and a justification for the projections including:

a. A description of the facts and assumptions used when estimating revenues and expenditures for state fiscal year 2013, state fiscal year 2014, and state fiscal year 2015.

b. Identification of key steps that will be taken to ensure that the level of current core county mental health and disability services continues beyond state fiscal year 2013.

c. An explanation of how the requested moneys will be used during the transition year to provide services in a manner that shall enable the county to continue to provide services at current levels in future years within the amount of funding the county has available.

441—23.4(225C,84GA,SF2315) Guidelines for the management of transition funds. This rule establishes guidelines for the department for the receiving, analyzing, recommending, and reporting of transition fund applications.

23.4(1) The department shall provide each county's central point of coordination administrator and the county board of supervisors a set of rules for transition funds and a copy of the application form to be used for applying for transition funds.

23.4(2) The department shall only accept county applications that are complete, submitted on the required forms, properly signed, independently verified, and received by the department by 4:30 p.m. on November 1, 2012.

23.4(3) The department shall develop a recommendation regarding the amount of transition funding the county should receive to continue the current core county mental health and disability services. The department's recommendation shall:

a. Exclude projected costs that reflect an increase in the amount, scope, or duration of services above that provided in state fiscal year 2012 based on an analysis of the number of individuals served and the cost per individual in state fiscal year 2013, state fiscal year 2014, and state fiscal year 2015.

b. Exclude increased costs of county administration above that expended in state fiscal year 2012.

c. Include recommendations for adjustments based on a review of the county's documentation information and materials.

d. Include costs of current core county mental health and disability services that are in excess of available funds, excluding the costs as shown in paragraphs 23.4(3) "a" and "b" above.

23.4(4) The department's report to the governor and the legislature on December 1, 2012, shall include:

a. The names of counties that applied for transition funds.

b. The department's recommendation of the amount that the county shall receive to continue current core county mental health and disability services in state fiscal year 2013.

c. The department's opinion regarding whether or not the county has a viable sustainability plan.

441—23.5(225C,84GA,SF2315) Allocation of transition funds. The department shall allocate funds to eligible counties consistent with legislative appropriations. If the amount appropriated by the legislature for transition funds is insufficient to provide for the full cost recommended by the department, and the legislation does not state anything to the contrary, the department shall distribute funds based on the following priorities:

1. Individuals in the target population whose income is equal to or less than 150 percent of the federal poverty level.

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2. Individuals in the target population whose income is greater than 150 percent of the federal poverty level.

3. Individuals with a disability other than the target population whose income is equal to or less than 150 percent of the federal poverty level.

4. Individuals with a disability other than the target population whose income is greater than 150 percent of the federal poverty level.

These rules are intended to implement Iowa Code chapter 225C and 2012 Iowa Acts, Senate File 2315, section 23, and 2012 Iowa Acts, Senate File 2336, sections 56 and 66.

[Filed Emergency 9/11/12, effective 9/11/12]

[Published 10/3/12]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 10/3/12.

ARC 0362C**ENGINEERING AND LAND SURVEYING
EXAMINING BOARD[193C]****Adopted and Filed**

Pursuant to the authority of Iowa Code section 542B.6, the Engineering and Land Surveying Examining Board amends Chapter 1, “Administration,” Chapter 2, “Fees and Charges,” Chapter 3, “Application and Renewal Process,” Chapter 4, “Engineering License,” Chapter 5, “Land Surveying License,” Chapter 6, “Seal and Certificate of Responsibility,” Chapter 7, “Professional Development,” Chapter 8, “Professional Conduct of Licensees,” Chapter 9, “Complaints, Investigations and Disciplinary Action,” Chapter 11, “Minimum Standards for Property Surveys,” and Chapter 12, “Minimum Standards for U.S. Public Land Survey Corner Certificates,” Iowa Administrative Code.

These amendments reflect a recent change to the law in 2012 Iowa Acts, Senate File 2127, providing for the use of the title “professional land surveyor.”

Notice of Intended Action was published in the Iowa Administrative Bulletin on June 13, 2012, as **ARC 0156C**. A public hearing was held on Thursday, July 5, 2012, from 9 to 11 a.m. at the offices of the Professional Licensing Bureau, 1920 SE Hulsizer Road, Ankeny, Iowa. No comments were received. These amendments are identical to the amendments published under Notice of Intended Action.

These amendments were adopted by the Board on September 6, 2012.

These amendments are subject to waiver or variance pursuant to 193—Chapter 5.

After analysis and review of this rule making, no adverse impact on jobs has been found. The amendments provide for a title change to “professional land surveyor.” Although there should be no impact on jobs, the Board will continue to work with stakeholders to minimize any negative impact and maximize any positive impact towards jobs.

These amendments are intended to implement Iowa Code section 542B.2 as amended by 2012 Iowa Acts, Senate File 2127.

These amendments will become effective on November 7, 2012.

EDITOR’S NOTE: Pursuant to recommendation of the Administrative Rules Review Committee published in the Iowa Administrative Bulletin, September 10, 1986, the text of these amendments [amendments to Chs 1 to 9, 11, 12] is being omitted. These amendments are identical to those published under Notice as **ARC 0156C**, IAB 6/13/12.

[Filed 9/13/12, effective 11/7/12]

[Published 10/3/12]

[For replacement pages for IAC, see IAC Supplement 10/3/12.]

ARC 0363C**ENGINEERING AND LAND SURVEYING
EXAMINING BOARD[193C]****Adopted and Filed**

Pursuant to the authority of Iowa Code section 542B.6, the Engineering and Land Surveying Examining Board amends Chapter 5, “Land Surveying Licensure,” Iowa Administrative Code.

These amendments to Chapter 5 reflect the Board’s practice of granting land surveyor licenses by comity, which is consistent with its practice for granting engineer licenses by comity.

Notice of Intended Action was published in the Iowa Administrative Bulletin on June 13, 2012, as **ARC 0159C**. A public hearing was held on Thursday, July 5, 2012, from 9 to 11 a.m. at the offices of the Professional Licensing Bureau, 1920 SE Hulsizer Road, Ankeny, Iowa. No comments were received. One change from the Notice has been made: Items 3 and 4 were not adopted because they were published

ENGINEERING AND LAND SURVEYING EXAMINING BOARD[193C](cont'd)

under Notice in error. Otherwise, these amendments are identical to the amendments published under Notice of Intended Action.

These amendments were adopted by the Board on September 13, 2012.

These amendments are subject to waiver or variance pursuant to 193—Chapter 5.

After analysis and review of this rule making, no adverse impact on jobs has been found. The rule making allows for consistency in the Board's treatment of applicants for licensure by comity. Although there should be no impact on jobs, the Board will continue to work with stakeholders to minimize any negative impact and maximize any positive impact towards jobs.

These amendments are intended to implement Iowa Code section 542B.2.

These amendments will become effective on November 7, 2012.

The following amendments are adopted.

ITEM 1. Amend paragraph **5.2(3)“b”** as follows:

b. Second, the applicant must have successfully completed the Fundamentals of Land Surveying examination. The applicant may take the Fundamentals of Land Surveying examination anytime after the practical experience and educational requirements are completed, ~~but the applicant must successfully complete the Fundamentals of Land Surveying examination prior to taking the Principles and Practice of Land Surveying examination.~~

ITEM 2. Adopt the following new subrule 5.2(5):

5.2(5) Substantial equivalency. Pursuant to Iowa Code section 546.10(8), the board may grant a comity application for licensure as a professional land surveyor if the board concludes that the applicant has met or exceeded all requirements for licensure applicable to initial applicants in Iowa, other than the sequence in which experience must be attained.

[Filed 9/13/12, effective 11/7/12]

[Published 10/3/12]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 10/3/12.

ARC 0359C

HUMAN SERVICES DEPARTMENT[441]

Adopted and Filed

Pursuant to the authority of Iowa Code section 249A.4 and 2011 Iowa Acts, chapter 129, section 141, subsection 11, the Department of Human Services amends Chapter 77, “Conditions of Participation for Providers of Medical and Remedial Care,” Chapter 78, “Amount, Duration and Scope of Medical and Remedial Services,” Chapter 79, “Other Policies Relating to Providers of Medical and Remedial Care,” Chapter 82, “Intermediate Care Facilities for the Mentally Retarded,” Chapter 83, “Medicaid Waiver Services,” and Chapter 88, “Managed Health Care Providers,” Iowa Administrative Code.

These amendments implement directives included in 2012 Iowa Acts, Senate File 2336, enacted by the Eighty-Fourth General Assembly, that affect payment for Medicaid habilitation services; home health services; services provided under the elderly, intellectual disability, or brain injury waiver; targeted case management; and services provided in a psychiatric medical institution for children or a community-based intermediate care facility for persons with an intellectual disability (ICF/ID).

Items 1 through 10, 13, 14, 15, and 19 through 25 reflect that 2012 Iowa Acts, Senate File 2336, section 58, removes statutory requirements for county governments to pay the nonfederal share of medical assistance costs for the following services provided in the fiscal year beginning July 1, 2012:

- Habilitation.
- Targeted case management.
- Services provided under the home- and community-based services intellectual disability waiver or brain injury waiver.

HUMAN SERVICES DEPARTMENT[441](cont'd)

- Care in a community-based intermediate care facility for persons with an intellectual disability (ICF/ID).

With the elimination of county funding for these services, the county role in provider certification, ICF/ID placement, and determination of need for waiver services is also eliminated. These amendments remove requirements on waiver applicants and county governments and streamline eligibility determination.

Item 12 increases home health agency reimbursement rates by 2 percent effective July 1, 2012, as mandated by 2012 Iowa Acts, Senate File 2336, section 33. The basis of reimbursement for private duty nursing and personal care services is corrected to read “Interim fee schedule with retrospective cost-related settlement.” Increased income will help providers meet the cost of providing services.

Item 16 increases the cap on home- and community-based services elderly waiver costs from \$1,117 to \$1,300 for the nursing facility level of care as mandated by 2012 Iowa Acts, Senate File 2336, section 37. This change allows waiver members to receive additional services.

The final item of these amendments adds psychiatric medical institutions for children (PMICs) as covered mental health services under the Iowa Plan for Behavioral Health as directed by 2012 Iowa Acts, Senate File 2336, section 12. The transition of PMICs to the Iowa Plan is a benefit to Medicaid members because it will provide increased integration of mental health services for children with mental health conditions.

Inclusion of PMICs in the managed care plan will provide increased flexibility in payment methods and services and options for PMIC care. The transition will enhance discharge planning for children leaving PMICs to receive community-based services also managed by the Iowa Plan. This change will increase the opportunities for coordination of care and services and the permanency of community placement for children. This change was recommended by the workgroup appointed pursuant to 2011 Iowa Acts, chapter 121.

Notice of Intended Action for these amendments was published in the Iowa Administrative Bulletin as **ARC 0193C** on July 11, 2012. The amendments were also Adopted and Filed Emergency and published as **ARC 0191C** on the same date and became effective July 1, 2012.

Written comments were received by the Department regarding Item 11, which proposed a provider rate increase to the Elderly Waiver Consumer Directed Attendant Care Assisted Living Program. The rate increase was meant for the elderly waiver dollar cap per month, but did not extend to an increase in the monthly rate for assisted living. Therefore, the amendment in Item 11 herein restores the rate for assisted living to \$1117 per month or \$36.71 per day. Additional comments urged the Department to continue to work cooperatively with counties and regions. The amendments in Items 2 to 4 were changed to reflect these comments.

Subsequent to publication of Adopted and Filed Emergency **ARC 0191C**, rule 441—83.69(249A) in Item 19, subrule 83.82(4) in Item 22, and rule 441—83.89(249A) in Item 24 were affected by changes to Chapter 83 that were Adopted and Filed and published in the Iowa Administrative Bulletin as **ARC 0306C** on September 5, 2012. As a result, the item statements for Items 19, 22 and 24 have been rewritten to rescind the Emergency amendments and adopt in lieu thereof new rule 441—83.69(249A), subrule 83.82(4), and rule 441—83.89(249A), respectively, to harmonize the Emergency amendments with the interim amendments.

The Council on Human Services adopted these amendments on September 12, 2012.

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

There is an impact on private-sector jobs. The increase in reimbursement to home health agencies and the increase in the level-of-care dollar cap for the elderly waiver may result in increased wages for providers and a possible increase in jobs.

These amendments are intended to implement Iowa Code section 249A.4 and 2012 Iowa Acts, Senate File 2336.

These amendments will become effective December 1, 2012, at which time the Adopted and Filed Emergency amendments are hereby rescinded.

HUMAN SERVICES DEPARTMENT[441](cont'd)

The following amendments are adopted.

ITEM 1. Rescind subparagraph **77.37(10)“d”(3)**.

ITEM 2. Amend paragraph **77.37(11)“b”** as follows:

b. The decision of the department on initial certification of the providers shall be based on all relevant information, including:

(1) The application for status as an approved provider according to requirements of rules.
 (2) A determination of the financial position of the prospective provider in relation to its ability to meet the stated need.

(3) The prospective provider's coordination of service design, development, and application with the applicable region and other interested parties.

(4) The prospective provider's written agreement to work cooperatively with the state, counties and regions to be served by the provider.

ITEM 3. Amend subrule 77.37(12) as follows:

77.37(12) Period of certification. Provider certification shall become effective on the date identified on the certificate of approval and shall terminate in 270 calendar days, one year, or three calendar years from the month of issue. The renewal of certification shall be contingent upon demonstration of continued compliance with certification requirements.

a. to c. No change.

d. During the course of the review, if a team member encounters a situation that places a ~~consumer member~~ in immediate jeopardy, the team member shall immediately notify the provider, the department, and other team members. “Immediate jeopardy” refers to circumstances where the life, health, or safety of a ~~consumer member~~ will be severely jeopardized if the circumstances are not immediately corrected.

(1) The provider shall correct the situation within 24 to 48 hours. If the situation is not corrected within the prescribed time frame, that portion of the provider's services that was the subject of the notification shall not be certified. The department, ~~the county of residence, and the central point of coordination~~ shall be notified immediately to discontinue funding for that provider's service. If a member is in immediate jeopardy, the case manager or department service worker shall notify the county or region in the event the county or region is funding a service that may assist the member in the situation.

(2) If this action is appealed and the ~~consumer member~~, legal guardian, or attorney in fact under a durable power of attorney for health care wants to maintain the provider's services, funding can be reinstated. At that time the provider shall take appropriate action to ensure the life, health, and safety of the ~~consumers members~~ deemed to be at risk as a result of the provider's inaction.

e. to g. No change.

h. An approved provider shall immediately notify the department, applicable county, or region, the applicable mental health and developmental disabilities planning council, and other interested parties of a decision to withdraw from ~~an a~~ home- and community-based services intellectual disability waiver service.

i. and j. No change.

ITEM 4. Amend subparagraph **77.37(23)“f”(3)** as follows:

(3) Period and conditions of certification.

1. to 3. No change.

4. Immediate jeopardy. If, during the course of any review, a review team member encounters a situation that places a ~~consumer member~~ in immediate jeopardy, the team member shall immediately notify the provider, the department, and other team members. “Immediate jeopardy” refers to circumstances where the life, health, or safety of a ~~consumer member~~ will be severely jeopardized if the circumstances are not immediately corrected.

The provider shall correct the situation within 24 to 48 hours. If the situation is not corrected within the prescribed time frame, the provider shall not be certified. The department, ~~the county of residence, and the central point of coordination~~ shall be notified immediately to discontinue funding for that provider's service. If this action is appealed and the ~~consumer member~~ or legal guardian wants

HUMAN SERVICES DEPARTMENT[441](cont'd)

to maintain the provider's services, funding can be reinstated. At that time the provider shall take appropriate action to ensure the life, health, and safety of the ~~consumers~~ members deemed to be at risk. The case manager or department service worker shall notify the county or region in the event the county or region is funding a service that may assist the member in the situation.

5. to 10. No change.

ITEM 5. Rescind subparagraph **77.39(8)“d”(3)**.

ITEM 6. Amend subrule 77.39(9) as follows:

77.39(9) Initial certification. The department shall review the application and accompanying information to see if the provider has the necessary framework to provide services in accordance with all applicable requirements and standards.

a. The department shall make a determination regarding initial certification within 60 days of receipt of the application and notify the provider in writing of the decision unless extended by mutual consent of the parties involved. ~~Providers shall be responsible for notifying the appropriate county and the appropriate central point of coordination of the determination.~~

b. The decision of the department on initial certification of the providers shall be based on all relevant information, including:

(1) The application for status as an approved provider according to requirements of rules.

(2) A determination of the financial position of the prospective provider in relation to its ability to meet the stated need.

~~(3) The prospective provider's coordination of service design, development, and application with the applicable local county central point of coordination and other interested parties.~~

c. No change.

ITEM 7. Amend subrule 77.39(10) as follows:

77.39(10) Period of certification. Provider certification shall become effective on the date identified on the certificate of approval and shall terminate in 270 calendar days, one year, or three calendar years from the month of issue. The renewal of certification shall be contingent upon demonstration of continued compliance with certification requirements.

a. to c. No change.

d. During the course of the review, if a team member encounters a situation that places a consumer in immediate jeopardy, the team member shall immediately notify the provider, the department, and other team members. "Immediate jeopardy" refers to circumstances where the life, health, or safety of a ~~consumer~~ member will be severely jeopardized if the circumstances are not immediately corrected.

(1) The provider shall correct the situation within 24 to 48 hours. If the situation is not corrected within the prescribed time frame, that portion of the provider's services that was the subject of the notification shall not be certified. ~~The department, the county of residence, and the central point of coordination shall be notified immediately to discontinue funding for that provider's service.~~

(2) If this action is appealed and the ~~consumer~~ member, legal guardian, or attorney in fact under a durable power of attorney for health care wants to maintain the provider's services, funding can be reinstated. At that time the provider shall take appropriate action to ensure the life, health, and safety of the ~~consumers~~ members deemed to be at risk as a result of the provider's inaction.

e. to g. No change.

h. An approved provider shall immediately notify the department, applicable county, or region, the applicable mental health and developmental disabilities planning council, and other interested parties of a decision to withdraw from an HCBS BI waiver service.

i. and j. No change.

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ITEM 8. Rescind paragraph **77.41(1)“c.”**

ITEM 9. Rescind and reserve subrule **78.27(12)**.

ITEM 10. Amend paragraph **78.43(1)“d”** as follows:

d. Members who are at the ICF/MR level of care whose county has voluntarily chosen to participate in the HCBS brain injury waiver are eligible for targeted case management and, therefore, are not eligible for case management as a waiver service.

ITEM 11. Amend subrule **79.1(2)**, provider category “HCBS waiver services,” numbered paragraph “15,” as follows:

Provider category	Basis of reimbursement	Upper limit
15. Consumer-directed attendant care provided by:		
Agency (other than an elderly waiver assisted living program)	Fee agreed upon by member and provider	No change.
Assisted living program (for elderly waiver only)	Fee agreed upon by member and provider	Provider's rate in effect 11/30/09. If no 11/30/09 rate: \$1,300 <u>\$1,117</u> per calendar month. When prorated per day for a partial month, \$42.74 <u>\$36.71</u> per day.
Individual	Fee agreed upon by member and provider	No change.

ITEM 12. Amend subrule **79.1(2)**, provider category “Home health agencies,” as follows:

Provider category	Basis of reimbursement	Upper limit
Home health agencies		
1. Skilled nursing, physical therapy, occupational therapy, home health aide, and medical social services; home health care for maternity patients and children	Retrospective cost-related	Lesser of maximum Medicare rate in effect 11/30/09 <u>6/30/12</u> or maximum Medicaid rate in effect 11/30/09 less 5% <u>6/30/12 plus 2%</u> .
2. Private duty nursing and personal care for persons aged 20 or under	Interim fee schedule with retrospective cost-related settlement	Medicaid rate in effect 11/30/09 less 5% <u>6/30/12 plus 2%</u> .
3. Administration of vaccines	Physician fee schedule	Physician fee schedule rate.

ITEM 13. Amend rule 441—82.7(249A) as follows:

441—82.7(249A) Initial approval for ~~ICF/MR~~ ICF/ID care.

82.7(1) Referral through targeted case management. Persons seeking ~~ICF/MR~~ ICF/ID placement shall be referred through targeted case management. The case management program shall ~~identify any appropriate alternatives to the placement and shall inform the person of the alternatives. A referral shall be made by targeted case management to the central point of coordination having financial responsibility for the person. The department is the central point of coordination for persons with state case status.;~~

- a.* Identify appropriate service alternatives;
- b.* Inform the person of the alternatives; and
- c.* Refer a person without appropriate alternatives to the department.

82.7(2) Approval of ICF/MR placement by ~~central point of coordination~~ department. The central point of coordination shall approve ICF/MR placement, offer a home- or community-based alternative, or refer the person back to the targeted case management program for further consideration of service

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~~needs within 30 days of receipt of a referral. Initial placement must be approved by the central point of coordination with responsibility for the person.~~

a. Within 30 days of receipt of a referral, the department shall:

(1) Approve ICF/ID placement;

(2) Offer a home- or community-based alternative; or

(3) Refer the person back to the targeted case management program for further consideration of service needs.

b. Once ICF/ID placement is approved, the eligible person, or the person's representative, is free to seek placement in the facility of the person's or the person's representative's choice.

82.7(3) Approval of level of care. Medicaid payment shall be made for ~~intermediate care facility for the mentally retarded~~ ICF/ID care upon certification of need for this level of care by a licensed physician of medicine or osteopathy and approval by the Iowa Medicaid enterprise (IME) medical services unit. The IME medical services unit shall review ~~ICF/MR~~ ICF/ID admissions and transfers only when documentation is provided which verifies a referral from targeted case management that includes an approval by the ~~central point of coordination~~ department.

82.7(4) Appeal rights. Notice of adverse action and right to appeal shall be given in accordance with 441—Chapter 7. ~~The applicant or consumer for whom the county has legal payment responsibility shall be entitled to a review of adverse decisions by the county by appealing to the county pursuant to 441—paragraph 25.13(2)“j.” If dissatisfied with the county's decision, the applicant or consumer may file an appeal with the department according to the procedures in 441—Chapter 7.~~

This rule is intended to implement Iowa Code section 249A.12 as amended by 2012 Iowa Acts, Senate File 2336, section 58.

ITEM 14. Rescind and reserve subrule **82.14(2)**.

ITEM 15. Amend rule ~~441—~~**82.14(249A)**, implementation sentence, as follows:

This rule is intended to implement Iowa Code section 249A.12 as amended by 2012 Iowa Acts, Senate File 2336, section 58.

ITEM 16. Amend subparagraph **83.22(2)“c”(2)** as follows:

(2) Services must be the least costly available to meet the service needs of the ~~consumer~~ member. The total monthly cost of the elderly waiver services exclusive of case management services shall not exceed the established monthly cost of the level of care. Aggregate monthly costs are limited as follows:

Skilled level of care	Nursing level of care
\$2,631	\$1,117 <u>\$1,300</u>

ITEM 17. Amend subrule 83.61(2) as follows:

83.61(2) Need for services.

a. No change.

b. Applicants not receiving services as set forth in paragraph 83.61(2)“*a*” shall have a department service worker or a case manager ~~paid by the county without Medicaid funds~~:

(1) to (3) No change.

c. to *f.* No change.

g. At initial enrollment, the service worker, department QMRP QIDP, case manager ~~paid by the county without Medicaid funds~~, or Medicaid case manager shall establish an interdisciplinary team for each applicant and, with the team, identify the applicant's need for service based on the applicant's needs and desires as well as the availability and appropriateness of services. The Medicaid case manager shall complete an annual review thereafter. The following criteria shall be used for the initial and ongoing assessments:

(1) The assessment shall be based, in part, on information on the completed Case Management Comprehensive Assessment, Form 470-4694.

(2) Service plans must be developed or reviewed to reflect use of all appropriate nonwaiver Medicaid services so as not to replace or duplicate those services.

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~~(3) Rescinded IAB 3/7/01, effective 5/1/01.~~

(4) (3) Service plans for consumers applicants aged 20 or under which include supported community living services beyond intermittent shall be approved (signed and dated) by the designee of the bureau of long-term care ~~or the designee of the county board of supervisors~~. The service worker, department QMRP QIDP, or Medicaid case manager shall attach a written request for a variance from the maximum for intermittent supported community living with a summary of services and service costs. The written request for the variance shall provide a rationale for requesting supported community living beyond intermittent. The rationale shall contain sufficient information for the designee to make a decision regarding the need for supported community living beyond intermittent.

h. No change.

ITEM 18. Amend subrule 83.67(6) as follows:

83.67(6) Approval of plan. The plan shall be approved through the Individualized Services Information System (ISIS). Services shall be entered into ISIS based on the service plan.

a. No change.

b. The department ~~or county~~ has 15 working days after receipt of the summary and service costs in which to approve the services and service cost or request modification of the service plan unless the parties mutually agree to extend that time frame.

c. If the department ~~or county~~ and the service worker or case manager are unable to agree on the terms of the services or service cost within 10 days, the department ~~or county~~ has final authority regarding the services and service cost.

~~*d.* If a notice of decision is not received from a county within 30 days from the date of request for services, the request shall be sent to the department of human services with documentation verifying the original submission of the request to the county. The department shall send a letter to the county central point of coordination and county board of supervisors requesting a response within 10 days. If no response is received within 10 days, the department will make the decision, as stated in paragraph "b."~~

ITEM 19. Rescind rule 441—83.69(249A) and adopt the following new rule in lieu thereof:

441—83.69(249A) Appeal rights. Notice of adverse action and right to appeal shall be given in accordance with 441—Chapter 7 and rule 441—130.5(234).

ITEM 20. Rescind and reserve rule ~~441—83.70(249A)~~.

ITEM 21. Amend paragraph **83.82(2)"a"** as follows:

a. The ~~consumer~~ applicant shall have a service plan approved by the department that is developed by the certified case manager for this waiver as identified by the county of residence. This must be completed ~~prior to~~ before services provision and annually thereafter. The case manager shall establish the interdisciplinary team for the consumer applicant and, with the team, identify the consumer's applicant's "need for service" based on the consumer's applicant's needs and desires as well as the availability and appropriateness of services using the following criteria:

(1) The assessment shall be based, in part, on information provided to the IME medical services unit.

(2) Service plans must be developed to reflect use of all appropriate nonwaiver Medicaid state services so as not to replace or duplicate those services.

(3) Service plans for consumers applicants aged 20 or under which include supported community living services beyond intermittent shall not be approved until a home health provider has made a request to cover the service through all nonwaiver Medicaid services.

(4) Service plans for consumers applicants aged 20 or under which include supported community living services beyond intermittent must be approved (signed and dated) by the designee of the bureau of long-term care. The Medicaid case manager must request in writing more than intermittent supported community living with a summary of services and service costs, and submit a written justification with the service plan. The rationale must contain sufficient information for the bureau's designee, ~~or~~

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~~for a consumer at the ICF/MR level of care, the designee of the county of legal settlement's board of supervisors, to make a decision regarding the need for supported community living beyond intermittent.~~

ITEM 22. Rescind subrule 83.82(4) and adopt the following **new** subrule in lieu thereof:

83.82(4) Securing a state payment slot.

a. The county department office shall enter all waiver applications into the individualized services information system (ISIS) to determine if a payment slot is available for all new applicants for the HCBS BI waiver program.

(1) For applicants not currently receiving Medicaid, the county department office shall make the entry by the end of the fifth working day after receipt of a completed Form 470-2927 or 470-2927(S), Health Services Application, or within five working days after receipt of disability determination, whichever is later.

(2) For current Medicaid members, the county department office shall make the entry by the end of the fifth working day after receipt of a written request signed and dated by the waiver applicant.

b. If no payment slot is available, the department shall enter the applicant on a waiting list according to the following:

(1) Applicants not currently eligible for Medicaid shall be entered on the waiting list on the basis of the date a completed Form 470-2927 or 470-2927(S), Health Services Application, is received by the department or upon receipt of disability determination, whichever is later. Applicants currently eligible for Medicaid shall be added to the waiting list on the basis of the date the applicant requests HCBS BI program services.

(2) In the event that more than one application is received at one time, applicants shall be entered on the waiting list on the basis of the month of birth, January being month one and the lowest number.

c. Persons who do not fall within the available slots shall have their applications rejected but their names shall be maintained on the waiting list. As slots become available, persons shall be selected from the waiting list to maintain the number of approved persons on the program based on their order on the waiting list.

ITEM 23. Amend subrule 83.87(2) as follows:

83.87(2) Use of nonwaiver services. Service plans must be developed to reflect use of all appropriate nonwaiver Medicaid services and so as not to replace or duplicate those services.

Service plans for ~~consumers~~ members aged 20 or under which include supported community living services beyond intermittent must be approved (signed and dated) by the designee of the bureau of long-term care, ~~or when a county voluntarily chooses to participate, by the county board of supervisors' designee or the bureau's designee.~~ The Medicaid case manager shall attach a written request for a variance from the limitation on supported community living to intermittent.

ITEM 24. Rescind rule 441—83.89(249A) and adopt the following **new** rule in lieu thereof:

441—83.89(249A) Appeal rights. Notice of adverse actions and right to appeal shall be given in accordance with 441—Chapter 7 and rule 441—130.5(234).

ITEM 25. Rescind and reserve rule **441—83.90(249A)**.

ITEM 26. Amend paragraph **88.65(3)“a”** as follows:

a. The contractor shall ensure, arrange, monitor and reimburse, at a minimum, the following covered mental health services:

(1) to (16) No change.

(17) Inpatient psychiatric services in psychiatric medical institutions for children as set forth in 441—Chapter 85, Division II.

[Filed 9/12/12, effective 12/1/12]

[Published 10/3/12]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 10/3/12.

ARC 0358C

HUMAN SERVICES DEPARTMENT[441]**Adopted and Filed**

Pursuant to the authority of Iowa Code section 249A.4, the Department of Human Services amends Chapter 77, “Conditions of Participation for Providers of Medical and Remedial Care,” Chapter 78, “Amount, Duration and Scope of Medical and Remedial Services,” and Chapter 79, “Other Policies Relating to Providers of Medical and Remedial Care,” Iowa Administrative Code.

The amendments add a new provider type to the Medicaid program. The purpose of the new provider type is to enroll public health agencies that provide immunizations and testing for communicable disease.

Increasingly, public health agencies are terminating their Medicaid enrollment as home health agencies (HHA). While HHAs can bill Medicaid for immunizations, many of these public health agencies do not qualify to enroll in Medicaid as another provider type which has services including immunizations and testing for communicable disease as covered services. These amendments will allow public health agencies to continue to provide services and bill Medicaid when the agencies are no longer eligible to provide home health services.

Notice of Intended Action was published in the Iowa Administrative Bulletin as **ARC 0231C** on July 25, 2012.

The Department received four comments, three from the public and one from the Iowa Department of Public Health (IDPH). The public comments noted that the reference standards referred to in the rule making, Iowa Code sections 135A.2(8) and 135A.6, may be voluntarily implemented by local public health agencies. Because implementation is voluntary, local public health agencies are not required to comply with standards established by IDPH. At this time, there are no local public health agencies in Iowa that have identified full implementation of the identified standards on a voluntary basis. Thus, inclusion of the statement in the rule making that local public health agencies comply with standards as identified in Iowa Code sections 135A.2(8) and 135A.6 would eliminate 100 percent of the local public health agencies from eligibility to participate as providers for immunizations and testing of communicable disease. IDPH recommended that the reference within the rule making be changed to 641—subrule 77.3(3) to address this concern. The Department concurred with the comments and has changed the reference in new rule 441—77.42(249A).

The Council on Human Services adopted these amendments on September 12, 2012.

These amendments do not provide for waivers in specified situations because the amendments confer a benefit on public health agencies that provide immunizations and testing for communicable disease. 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.

These amendments will become effective November 7, 2012.

The following amendments are adopted.

ITEM 1. Adopt the following **new** rule 441—77.42(249A):

441—77.42(249A) Public health agencies. Public health agencies are eligible to participate in the medical assistance program when they serve as a public health entity within the local board of health jurisdiction pursuant to 641—subrule 77.3(3).

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

ITEM 2. Adopt the following **new** rule 441—78.48(249A):

441—78.48(249A) Public health agencies. Payments will be made to public health agencies on a fee schedule basis for providing vaccine and vaccine administration and testing for communicable disease. In order to be paid for the administration of a vaccine covered under the Vaccines for Children (VFC)

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program, a public health agency must enroll in the VFC program. Payment for the vaccine will be approved only if the VFC program stock has been depleted.

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

ITEM 3. Amend subrule **79.1(2)** by adopting the following new provider category in alphabetical order:

<u>Provider category</u>	<u>Basis of reimbursement</u>	<u>Upper limit</u>
Public health agencies	Fee schedule	Fee schedule rate.

ITEM 4. Adopt the following new subparagraph **79.3(2)“d”(41)**:

(41) Services of public health agencies:

1. Service or office notes or narratives.
2. Immunization records.
3. Results of communicable disease testing.

[Filed 9/12/12, effective 11/7/12]

[Published 10/3/12]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 10/3/12.

ARC 0360C

HUMAN SERVICES DEPARTMENT[441]

Adopted and Filed

Pursuant to the authority of Iowa Code section 249A.4, the Department of Human Services amends Chapter 77, “Conditions of Participation for Providers of Medical and Remedial Care,” Chapter 78, “Amount, Duration and Scope of Medical and Remedial Services,” and Chapter 79, “Other Policies Relating to Providers of Medical and Remedial Care,” Iowa Administrative Code.

These amendments create a new Medicaid provider type for speech-language pathologists in independent practice. 2012 Iowa Acts, Senate File 2158, as enacted by the Eighty-fourth General Assembly, directs the Department to adopt rules that permit the enrollment in the Medicaid program of speech pathologists in independent practice. Access to speech-language therapy services has been identified as a problem in some areas of the state. Medicare allows for participation of speech-language pathologists practicing independently from a hospital, physician, nursing home or home health agency. Neighboring states allow for enrollment in their Medicaid programs of speech-language pathologists in independent practice.

Notice of Intended Action was published in the Iowa Administrative Bulletin as **ARC 0203C** on July 11, 2012.

The Department received one comment which stated that the rules as written appear to limit the enrollment to only private-practice speech-language pathologists and are contrary to the intent of the legislation. Wendell Johnson Speech and Hearing Clinic in Iowa City is Medicare-enrolled, but does not appear to meet the criteria in the proposed rule.

The language in 2012 Iowa Acts, Senate File 2158, directs the Department to adopt rules “entitling speech pathologists...including those certified in independent practice, to payment for speech pathology services provided to recipients of medical assistance, subject to the limitations and exclusions the department finds necessary on the basis of federal laws and regulations.” The language in the proposed rule that defined an independent practice as separate from the administrative and professional control of an employer such as a physician, institution or rehabilitation agency is consistent with the language in the Code of Federal Regulations that defines an independent practice and is used by Iowa Medicaid to enroll independently practicing physical therapists and occupational therapists. The Department’s intent was not to exclude enrollment in Medicaid. In order to clarify the rule, the following sentence

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has been added to rule 441—77.48(249A): “Speech-language pathologists who are enrolled in the Medicare program are also eligible to participate in Medicaid.”

The Council on Human Services adopted these amendments on September 12, 2012.

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

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 2012 Iowa Acts, Senate File 2158.

These amendments will become effective December 1, 2012.

The following amendments are adopted.

ITEM 1. Adopt the following **new** rule 441—77.48(249A):

441—77.48(249A) Speech-language pathologists. Speech-language pathologists who are enrolled in the Medicare program are eligible to participate in Medicaid. Speech-language pathologists who are not enrolled in the Medicare program are eligible to participate in Medicaid if they are licensed and in independent practice, as an individual or as a group.

77.48(1) Speech-language pathologists in another state are eligible to participate if they are licensed in that state and meet the Medicare criteria for enrollment.

77.48(2) Speech-language pathologists who provide services to Medicaid members who are also Medicare beneficiaries must be enrolled in the Medicare program.

This rule is intended to implement Iowa Code section 249A.4 and 2012 Iowa Acts, Senate File 2158.

ITEM 2. Adopt the following **new** rule 441—78.54(249A):

441—78.54(249A) Speech-language pathology services. Payment will be approved for the same services provided by a speech-language pathologist that are payable under Title XVIII of the Social Security Act (Medicare).

This rule is intended to implement Iowa Code section 249A.4 and 2012 Iowa Acts, Senate File 2158.

ITEM 3. Amend subrule **79.1(2)** by adopting the following **new** provider category in alphabetical order:

<u>Provider category</u>	<u>Basis of reimbursement</u>	<u>Upper limit</u>
Speech-language pathologists	Fee schedule	Medicare fee schedule.

[Filed 9/12/12, effective 12/1/12]

[Published 10/3/12]

EDITOR’S NOTE: For replacement pages for IAC, see IAC Supplement 10/3/12.

ARC 0354C

HUMAN SERVICES DEPARTMENT[441]

Adopted and Filed

Pursuant to the authority of Iowa Code section 249A.4, the Department of Human Services amends Chapter 78, “Amount, Duration and Scope of Medical and Remedial Services,” and Chapter 79, “Other Policies Relating to Providers of Medical and Remedial Care,” Iowa Administrative Code.

These amendments reduce Medicaid reimbursement for inpatient hospital care when a member is readmitted to a hospital for treatment of the same condition within seven days of discharge from that hospital. This change is mandated by 2012 Iowa Acts, Senate File 2336, section 12. The total amount of annual program savings is estimated to be \$650,000, of which approximately \$260,000 is state funds.

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These savings are assumed in the Department's appropriation for the state fiscal year beginning July 1, 2012.

Currently, when a hospital discharges a patient too early and the patient is subsequently readmitted for the same condition, the hospital receives two full "diagnosis-related group" (DRG) payments. These amendments provide that the original and readmission claims will be combined together, resulting in one DRG payment. Based on past years' experience, this change is expected to affect 150 to 175 readmissions per year.

In many cases, the savings will equal the entire amount of the second hospital claim. In some instances, combining both claims will result in a day outlier or cost outlier payment. Hospitals will be fairly compensated for these longer stays if the stays meet either the cost outlier or long-stay outlier criteria. Cost savings estimates were reduced by 20 percent to account for these outlier payments.

Unnecessary hospital readmissions are a recognized cost and quality issue in the health care system. If the patient were kept longer, there would be less likelihood of readmission and additional cost. More payors are instituting incentives such as the one included in this rule making for hospitals to ensure appropriate discharge planning and coordination with other providers so that patients receive appropriate follow-up care.

Notice of Intended Action for these amendments was published in the Iowa Administrative Bulletin as **ARC 0195C** on July 11, 2012, to allow for public comment. These amendments were also Adopted and Filed Emergency and published as **ARC 0194C** on the same date. The Department received no comments. These amendments are identical to those published under Notice and Adopted and Filed Emergency.

The Council on Human Services adopted these amendments on September 12, 2012.

These amendments do not provide for waivers in specified situations because the savings assumed in the Department's appropriation would not be realized if waivers were granted. 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, 2011 Iowa Acts, chapter 129, section 122, subsection 20(a), and 2012 Iowa Acts, Senate File 2336, section 12.

These amendments will become effective December 1, 2012, at which time the Adopted and Filed Emergency amendments are hereby rescinded.

The following amendments are adopted.

ITEM 1. Amend rule 441—78.3(249A), introductory paragraph, as follows:

441—78.3(249A) Inpatient hospital services. Payment for inpatient hospital admission is approved when it meets the criteria for inpatient hospital care as determined by the Iowa ~~Foundation for Medical Care (IFMC)~~ Medicaid enterprise. All cases are subject to random retrospective review and may be subject to a more intensive retrospective review if abuse is suspected. In addition, transfers, outliers, and readmissions within 31 days are subject to random review. ~~Readmissions to the same facility due to premature discharge shall not be paid a new DRG.~~ Selected admissions and procedures are subject to a 100 percent review before the services are rendered. Medicaid payment for inpatient hospital admissions and continued stays are approved when the admissions and continued stays are determined to meet the criteria for inpatient hospital care. (Cross-reference 78.28(5)) The criteria are available from ~~IFMC, 6000 Westown Parkway, Suite 350E, West Des Moines, Iowa 50265-7774~~ the IME Medical Services Unit, 100 Army Post Road, Des Moines, Iowa 50315, or in local hospital utilization review offices. No payment will be made for waiver days.

ITEM 2. Adopt the following new subparagraph **79.1(5)“g”(5)**:

(5) Inpatient readmissions within seven days for same condition. When an inpatient is discharged or transferred from an acute care hospital and is readmitted as an inpatient to the same hospital within

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seven days for the same condition, any claim for the subsequent inpatient stay shall be combined with the claim for the original inpatient stay and payment shall be under a single DRG for both stays.

[Filed 9/12/12, effective 12/1/12]

[Published 10/3/12]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 10/3/12.

ARC 0355C**HUMAN SERVICES DEPARTMENT[441]****Adopted and Filed**

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

These amendments lower Medicaid reimbursement for drugs administered by a physician when the drugs are billed as a physician service with Healthcare Common Procedure Coding System (HCPCS) Level II "J" codes. A reduction of 2 percent below the reimbursement rates in effect on June 30, 2012, is mandated by 2012 Iowa Acts, Senate File 2336, section 12. The total amount of program savings for the fiscal year is estimated to be \$218,000, of which approximately \$88,000 is state funds. These savings are assumed in the Department's appropriation for the state fiscal year beginning July 1, 2012.

This change will make reimbursement for physician-administered drugs more consistent with the current payment methodology for drugs supplied by pharmacies. This method of reimbursement will be an interim process until drug payment rates are based on a benchmark other than the average wholesale price published by Medi-Span. Physicians will continue to be paid for the administration of the drugs.

Notice of Intended Action for these amendments was published in the Iowa Administrative Bulletin as **ARC 0197C** on July 11, 2012, to allow for public comment. These amendments were also Adopted and Filed Emergency and published as **ARC 0196C** on the same date. The Department received no comments. These amendments are identical to those published under Notice of Intended Action and Adopted and Filed Emergency.

The Council on Human Services adopted these amendments on September 12, 2012.

These amendments do not provide for waivers in specified situations because the legislative mandate does not provide for waivers and because the savings assumed in the Department's appropriation would not be realized if waivers were granted. 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 2011 Iowa Acts, chapter 129, section 122, as amended by 2012 Iowa Acts, Senate File 2336, section 12.

These amendments will become effective December 1, 2012, at which time the Adopted and Filed Emergency amendments are hereby rescinded.

The following amendments are adopted.

ITEM 1. Amend subrule **79.1(2)**, provider category "Physicians (doctors of medicine or osteopathy)," as follows:

Provider category	Basis of reimbursement	Upper limit
Physicians (doctors of medicine or osteopathy)	Fee schedule. See 79.1(7) "a"	Fee schedule in effect 11/30/09 less 5%.
Anesthesia services	Fee schedule	Fee schedule in effect 11/30/09 less 5%.
<u>Physician-administered drugs</u>	<u>Fee schedule</u>	<u>Fee schedule in effect 6/30/12</u> <u>less 2%.</u>

HUMAN SERVICES DEPARTMENT[441](cont'd)

ITEM 2. Adopt the following **new** paragraph **79.1(8)“k”**:

k. Payment to physicians for physician-administered drugs billed with Healthcare Common Procedure Coding System (HCPCS) Level II “J” codes, as a physician service, shall be pursuant to physician payment policy under subrule 79.1(2).

[Filed 9/12/12, effective 12/1/12]

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ARC 0356C

HUMAN SERVICES DEPARTMENT[441]

Adopted and Filed

Pursuant to the authority of Iowa Code section 237.3 and 2012 Iowa Acts, Senate File 2188, the Department of Human Services amends Chapter 112, “Licensing and Regulation of Child Foster Care Facilities,” Chapter 113, “Licensing and Regulation of Foster Family Homes,” and Chapter 117, “Foster Parent Training,” Iowa Administrative Code.

Pursuant to 2012 Iowa Acts, Senate File 2188, the amendments allow for issuance of a two-year foster home license, except that at the administrator’s discretion an annual renewal period may be required. Annual renewal is still required for the first two years of licensure. The amendments will affect foster family homes by allowing licensure of some of those homes for two-year periods instead of one-year periods. These amendments will also be a benefit to foster families who will not have to reapply for licensure annually after they have initially completed their first two years of licensure. The two-year licensure may be a cost savings to the recruitment and retention provider who completes the licensing process.

Notice of Intended Action was published in the Iowa Administrative Bulletin as **ARC 0202C** on July 11, 2012.

The Department received one comment from the public asking why a training cycle for foster families continues to be in administrative rules. The Department responded in part that the training cycle was implemented because there were foster parents who did not complete beneficial training prior to annual renewal. No changes were made to the amendments based on the comment received.

However, after internal review, Department staff noted that an additional wording change was necessary in order to implement the biennial requirement for licensure renewal. That change is shown as a new Item 2, which amends subrule 113.13(4) by adding “or biennial” in the first sentence of the subrule. The subsequent items were renumbered accordingly.

The Council on Human Services adopted these amendments on September 12, 2012.

These amendments do not provide for waivers in specified situations because foster or adoptive parents may request a waiver 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 237.3 and 2012 Iowa Acts, Senate File 2188.

These amendments will become effective December 1, 2012.

The following amendments are adopted.

ITEM 1. Amend subrule 112.4(6) as follows:

112.4(6) A foster family license shall be approved for a term of one year: for the first and second years of licensure. Thereafter, the license shall be approved for a term of two years unless it is determined by the administrator that a one-year license may be issued. A group facility license shall be approved for a term of one to three years according to the following criteria:

a. to c. No change.

HUMAN SERVICES DEPARTMENT[441](cont'd)

ITEM 2. Amend subrule 113.13(4) as follows:

113.13(4) License renewal. Foster parents applying for an annual or biennial license renewal shall be subject to the same checks as new applicants, except for fingerprinting. The department shall evaluate only abuses and convictions of crimes that occurred since the last record check. The evaluation shall be conducted using the same process.

ITEM 3. Amend paragraph **117.7(3)“a”** as follows:

a. *Training cycle.* “Annually” means within the annual training cycle as described in this paragraph.

(1) No change.

(2) *Renewal license.* For a one-year license renewal, the annual training cycle shall be the 12-month period beginning 2 months before the expiration of the previous license and ending 2 months before the expiration of the subsequent license. EXAMPLE: Subsequent The training eyes cycle for a license effective June 1 will would be April 1 through March 31 of the subsequent year. For a two-year license renewal, the training cycle for the first year shall be the 12-month period beginning 2 months before the expiration of the previous license year and ending 10 months after the effective date of the two-year license. The annual training cycle for the second year of a two-year license shall be the 12-month period beginning 11 months after the effective date of the first year of the license and ending 2 months before the expiration of the license.

~~(3) Transition period. For foster parents whose licenses are renewed between October 1, 2009, and September 1, 2010, the transition to the new training cycle shall take place through a 10-month training cycle that begins at license renewal.~~

ITEM 4. Amend subrule 117.9(1) as follows:

117.9(1) Training stipend. Each family that is issued an initial or renewal foster family home license shall receive a \$100 stipend to be used for the family’s annual in-service training. The department’s recruitment and retention contractor shall issue one stipend per license on or after the date that the license is issued. When a family with a two-year foster family home license has completed the first training cycle of six hours of in-service training, the contractor shall issue the next training stipend no earlier than the start of the second year of licensure contingent upon the foster family’s completion of the in-service training hours in the first cycle. Foster families who elect not to receive the \$100 stipend shall notify the department.

[Filed 9/12/12, effective 12/1/12]

[Published 10/3/12]

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ARC 0357C

HUMAN SERVICES DEPARTMENT[441]

Adopted and Filed

Pursuant to the authority of Iowa Code section 234.6, the Department of Human Services amends Chapter 113, “Licensing and Regulation of Foster Family Homes,” Iowa Administrative Code.

These amendments provide for changes to the licensing regulations for foster family homes relating to bedrooms for foster children and fire safety. These changes eliminate the requirements that all bedroom windows be of a specific dimension and leave such requirements in place only with regard to basement egress windows. The specified bedroom window size requirements had increased the number of requests for exception to policy. The Department requires foster family homes to have a safety plan in case of a fire.

These amendments provide that a standard bed, or a crib for infants and toddlers who cannot safely use a standard bed, is required for bedrooms. In the past, play yards, pac-n-plays, and air mattresses

HUMAN SERVICES DEPARTMENT[441](cont'd)

have been used instead of a bed or crib, and these present significant safety issues. Language that is no longer applicable due to these changes is eliminated.

Notice of Intended Action was published in the Iowa Administrative Bulletin as **ARC 0206C** on July 11, 2012.

The Department received three comments asking how the Department was going to ensure the safety of foster children if the rules did not require a specific window size in the aboveground bedrooms for children.

The Department has worked and will continue to work with staff, providers, and foster parents in regard to safety planning at the time of licensure and at the time of placement. When children are placed in the home of a foster parent, providers and Department staff address the safety of children by discussing and planning what the foster parent or provider will do in case of emergency. Safety planning procedures and guidance in policy manuals are being strengthened. No changes to the amendments were made based on the comments.

The Council on Human Services adopted these amendments on September 12, 2012.

These amendments do not provide for waivers in specified situations because foster and adoptive parents may request a waiver 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 237.7.

These amendments will become effective December 1, 2012.

The following amendments are adopted.

ITEM 1. Amend subrule 113.5(3) as follows:

113.5(3) Bedrooms for foster children.

a. Bedrooms shall either have been constructed for the purpose of providing sleeping accommodation or remodeled for sleeping to provide proper heat and ventilation. Bedroom additions to a home shall meet building code requirements. All bedrooms used by foster children must have:

~~(1) All bedrooms used by foster children must have:~~

1. ~~(1)~~ Permanent walls;

2. ~~(2)~~ A door that closes;

3. ~~(3)~~ ~~A working~~ An unobstructed, operable window that opens from the inside; ~~and~~

4. ~~(4)~~ A closet, wardrobe, armoire, or dresser; ~~and~~

5. ~~(5)~~ A standard bed, or a crib for infants and toddlers who cannot safely use a standard bed.

~~(2) If a currently licensed home has a bedroom with no window, foster children cannot use the room for a bedroom. If a bedroom currently occupied by a foster child does not have an operable window, an exception to policy may be requested for that specific child under the following conditions:~~

~~1. The recruitment and retention contractor has evaluated the situation and has determined there is no other option for sleeping arrangements for the child;~~

~~2. The recruitment and retention contractor has determined there is no reasonable way to make the window operable; and~~

~~3. The child would have to be moved to another placement if the exception were not granted.~~

b. The minimum bedroom area per child shall be 40 square feet. However, the service area manager or designee may approve a smaller room size when approval is in the best interest of specific children placed or to be placed in the home. Such approvals shall:

(1) Be in writing;

(2) Contain the names and birth dates of the children for whom issued; and

(3) Be reviewed at each license renewal.

c. ~~When sleeping rooms~~ bedrooms meet only minimum requirements, the home shall provide additional room in other parts of the home for study and play.

d. The ceiling height for bedrooms shall be adequate for the child.

e. Bedrooms belowground shall:

(1) Be free from excessive dampness, noxious gases, and objectionable odors;

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(2) Have access to at least one direct exit to the outside from the level belowground and one inside stairway exit from the level belowground;

(3) Have an egress window with a clear opening area with an opening height of 24 inches and an opening width of 20 inches or an opening height of 20 inches and an opening width of 24 inches;

(4) Have provisions, such as a ladder or steps, to ensure that the foster child can safely reach the window if the finished sill height is more than 44 inches above the floor and that the foster child can safely reach ground level if there is a window well that has a depth of 44 inches or higher;

(5) Have a finished ceiling; and

(6) Have a covered floor.

ITEM 2. Rescind and reserve subrules **113.5(4)** and **113.5(5)**.

ITEM 3. Amend rule 441—113.7(237) as follows:

441—113.7(237) Safety.

113.7(1) Fire protection for bedrooms. Any floor of a house, including the basement, used for the sleeping of foster children shall be equipped with the following:

a. A working smoke detector approved by the Underwriters Laboratory, in a location where sleeping areas can be alerted. For hearing-impaired children, the foster parent shall install a smoke detector in the child's bedroom that will use an alternative means of waking the child.

b. A window exit that meets all of the following criteria:

(1) The window opens from the inside and is large enough to allow the foster child to pass easily through it. The window shall have an opening height of at least 24 inches, a width of at least 20 inches, and a finished sill height of not more than 44 inches above the floor.

(2) Provisions are made to ensure that the foster child can easily reach, open, and climb through the window.

(3) Provisions are made to ensure that the foster child can safely reach the ground from the window.

(4) The foster child is aware of the window exit and how to use it.

c. Hallways that and stairways free of debris and clutter to allow unrestricted access to an exit.

d. A working carbon monoxide detector, in all homes with:

(1) Gas appliances, furnaces, fireplaces, or other gas equipment; and

(2) Attached garages.

113.7(2) Combustion hazards.

a. Combustible materials shall be kept away from heat sources, including but not limited to furnaces, stoves, electrical panels, space heaters, and hot water heaters.

b. Explosives and flammable substances shall be stored securely and be inaccessible to a child. Matches and lighters shall be inaccessible to a child.

c. The home shall have at least one operable 2A-10BC-rated or ABC-rated fire extinguisher.

113.7(3) Safety plan. The family shall have a an emergency safety plan to be used in case of fire, tornado, blizzard, flood, other natural or manmade disasters, accidents, medical issues, and other life-threatening situations for children in out-of-home placements.

a. Safety plans for fire and tornadoes shall be documented and reviewed with foster children at the time of placement and practiced with the foster children throughout the year.

b. In the case of a disaster requiring evacuation of the home, the foster parents shall notify the department of the address and telephone number of the parents' temporary residence within 48 hours.

c. The plans shall include a designated meeting place.

113.7(4) to 113.7(8) No change.

This rule is intended to implement Iowa Code section 237.3.

[Filed 9/12/12, effective 12/1/12]

[Published 10/3/12]

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ARC 0383C**NATURAL RESOURCE COMMISSION[571]****Adopted and Filed**

Pursuant to the authority of Iowa Code sections 455A.5(6) and 461A.42, the Natural Resource Commission hereby amends Chapter 61, “State Parks and Recreation Areas,” and rescinds Chapter 62, “State Forest Camping,” Iowa Administrative Code.

The Commission is merging Chapter 62 into Chapter 61 and making additional edits. Chapter 62 is being entirely rescinded as many of the rules in Chapter 62 are similar or identical to the rules found in Chapter 61; thus combining these two chapters avoids redundancy. Chapter 61 will be reorganized with the creation of two divisions: Division I titled “State Parks and Recreation Areas,” and Division II titled “State Forest Camping.” In addition, the amendments to Chapter 61:

1. Update the applicability rule to include state forest camping areas.
2. Remove the reference to Pioneer Recreation Area from the list in the definition of “recreation areas.” This area is under a management agreement with Mitchell County and is already included in the definition of “state park managed by another governmental entity.”
3. Update the definition of “rental facilities” to include warming houses.
4. Remove the reference to Wanata from the list in the definition of “state park” as Clay County now has fee title to the park.
5. Remove Oakland Mills and Mill Creek State Parks from the list in the definition of “state park managed by another governmental entity” as Henry County now has fee title of Oakland Mills Park and O’Brien County has fee title of Mill Creek Park.
6. Update the listing in the definition of “state preserves” to include the three state preserves that have been dedicated most recently.
7. Omit from new rule 571—61.3(461A) the subrule that adopted the business rules manual by reference. After a thorough review of the business rules manual, eight policies in the business rules manual were identified as necessary, and those policies are incorporated as administrative rules in this rule making. The remaining policies in the business rules manual establish protocol between the vendor and the Department regarding operation and management of the centralized reservation system and are not necessary to include in administrative rules. The eight existing policies are incorporated as administrative rules as follows:
 - a. Reservations will not be accepted for camping stays that occur between November 1 through March 31;
 - b. The last day a person may make or change a reservation for campsites and rental facilities if payment is made by paper check or money order is 21 days prior to the arrival date;
 - c. All reservations shall be for a specific campsite or rental facility;
 - d. The reservation window to change a camping reservation for campsites is 4 days prior to arrival if payment is made by credit card or debit card and 15 days prior to arrival for rental facilities if payment is made by credit card or debit card;
 - e. Equestrian campers shall be allowed to change a camping reservation less than 4 days prior to the arrival date if the equestrian trails are closed on the same day as or the day before the campers’ scheduled arrival date;
 - f. The cancellation policy including forfeiture of fees depending upon how close to the arrival date the cancellation occurs;
 - g. Minimum-stay requirements for camping reservations; and
 - h. Campers reserving “buddy” or group campsites must reserve both or all four of the individual sites that make up the buddy or group campsite.
8. Change the reference from “group camp” to “conservation education center rental” at Springbrook State Park.

NATURAL RESOURCE COMMISSION[571](cont'd)

9. Clarify that a walk-in camper must have the beginning date of the camping stay on the camper registration form dated the same day the camper pays the camping fee and posts the registration in the campsite marker.

10. Establish day-use lodge fees for new or renovated lodges at Lewis and Clark State Park visitor center banquet room, Mini-Wakan State Park, and Waubonsie State Park.

11. Establish a rental fee of \$30 for the warming house at Pilot Knob State Park.

12. Eliminate the Friday and Saturday night stay requirement for the multifamily cabin at Springbrook State Park.

13. Clarify that a damage deposit is required for cabins, lodges, and open shelters with kitchenettes.

14. Change the damage deposit amount to be equal to the daily rental fee for the facility or \$50, whichever is greater.

15. For rental facility gatherings with keg beer, waive the damage deposit in lieu of the keg damage deposit if the keg damage deposit is greater than the facility damage deposit.

16. Establish the provision that pets are not to be left unattended in campgrounds or outside of cabins and yurts. A dog left unattended in a cabin or yurt must be in a kennel or pet crate.

17. Establish the provision that animals are prohibited in all park buildings, except for service dogs and assistance animals, dogs in designated cabins or yurts (limit of two dogs of any size per designated cabin or yurt), and animals being used in education and interpretation programs.

18. Strike the requirement that a person with a physical disability must submit a certificate from a doctor stating that the applicant meets the criteria describing a person with a physical disability in order to meet federal regulations.

19. Update the language regarding deer population control hunts by removing the listing of state parks as it is no longer necessary to list those areas in the administrative rules.

20. Identify and cite the rules found in Division I that apply to state forest camping areas listed in Division II.

21. Establish in Division II of Chapter 61 those rules currently found in Chapter 62 that are unique to state forest camping.

Notice of Intended Action was published in the Iowa Administrative Bulletin as **ARC 0190C** on July 11, 2012. A public hearing was held July 31, 2012. Ten comments were received during the comment period. Two comments were in general support of the proposed amendments. Two comments were opposed to rules requiring pets to be attended to or crated/kenneled when left unattended in cabins/yurts. One comment requested that campers be required to place their camping unit on the site for the entire duration of the camping stay. Three comments did not pertain to the proposed amendments but requested to review rules regarding use of generators and to establish a pet waste pick-up policy/rule. Lastly, one comment asked for clarification on which cabins at Lake Wapello would be pet-free.

No changes have been made to these amendments as proposed under Notice. No changes were made because these amendments were drafted based upon extensive input received during the pre-Notice stakeholder review process, which included comments similar to those summarized above. The amendments adopted in this action were the consensus of the majority of stakeholders.

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

These amendments are intended to implement Iowa Code sections 455A.5(6), 461A.3, 461A.3A, 461A.35, 461A.39, 461A.42, 461A.43, 461A.45 through 461A.51, and 423.2.

These amendments will become effective November 7, 2012.

EDITOR'S NOTE: Pursuant to recommendation of the Administrative Rules Review Committee published in the Iowa Administrative Bulletin, September 10, 1986, the text of these amendments [amend Ch 61; rescind Ch 62] is being omitted. These amendments are identical to those published under Notice as **ARC 0190C**, IAB 7/11/12.

[Filed 9/14/12, effective 11/7/12]

[Published 10/3/12]

[For replacement pages for IAC, see IAC Supplement 10/3/12.]

ARC 0382C**NATURAL RESOURCE COMMISSION[571]****Adopted and Filed**

Pursuant to the authority of Iowa Code section 455A.5(6), the Natural Resource Commission hereby amends Chapter 63, “Keg Beer Rules,” Iowa Administrative Code.

The adopted amendments:

1. Change Iowa Code chapter references from “111” to “461A” throughout the chapter.
2. Update the Iowa Administrative Code cross reference in the applicability rule for state forest camping areas.
3. Rescind the existing definition of “beach” and adopt a new definition of “beach” to be the same definition used in 571—Chapter 64.
4. Establish a definition for “department” to mean the Department of Natural Resources.
5. Establish a definition for “rental facility” to include lodges and open shelters with kitchenettes.
6. Rescind the definition of “kegger.”
7. Change the references to “department of natural resources officer” to “department personnel” to better reflect the current staffing structure in state parks and recreation areas.
8. Update the keg deposit requirement for rental facilities that charge both a rental fee and a damage deposit. The keg deposit will be waived in lieu of the rental facility damage deposit if the damage deposit amount is equal to or greater than the required keg deposit.
9. Strike the deposit amounts identified in the deposit disposition rule as the actual deposit required may not be the amounts listed and strike the reference to a \$1,000 deposit and replace it with “keg deposit.”
10. Update the responsibility agreement by striking the words “born on or before September 2, 1967,” and update the year “numbering.”

Notice of Intended Action was published in the Iowa Administrative Bulletin as **ARC 0225C** on July 25, 2012. A public hearing was held on August 14, 2012. No comments were received at the hearing or during the comment period.

These amendments are identical to those published under Notice of Intended Action.

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

These amendments are intended to implement Iowa Code sections 455A.5(6), 461A.35, and 461A.47.

These amendments will become effective November 7, 2012.

EDITOR’S NOTE: Pursuant to recommendation of the Administrative Rules Review Committee published in the Iowa Administrative Bulletin, September 10, 1986, the text of these amendments [63.1 to 63.7] is being omitted. These amendments are identical to those published under Notice as **ARC 0225C**, IAB 7/25/12.

[Filed 9/14/12, effective 11/7/12]

[Published 10/3/12]

[For replacement pages for IAC, see IAC Supplement 10/3/12.]

ARC 0343C**PHARMACY BOARD[657]****Adopted and Filed**

Pursuant to the authority of Iowa Code section 147.76, the Board of Pharmacy hereby amends Chapter 6, “General Pharmacy Practice,” Iowa Administrative Code.

The amendment authorizes a pharmacist or pharmacist-intern, upon the request of a patient, to transfer one or more prescriptions to the pharmacy of the patient’s choice. A transfer must be initiated by direct communication between a pharmacist or pharmacist-intern at the transferring pharmacy and a pharmacist or pharmacist-intern at the receiving pharmacy. Following direct communication between authorized

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individuals, the transfer of prescription information may be accomplished by facsimile transmission in compliance with the record requirements of rule 657—6.9(124,155A).

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

Notice of Intended Action was published in the June 13, 2012, Iowa Administrative Bulletin as **ARC 0155C**. The Board received no written comments regarding the proposed amendment. The adopted amendment is identical to that published under Notice.

The amendment was approved during the August 29, 2012, meeting of the Board of Pharmacy.

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

This amendment is intended to implement Iowa Code section 155A.34.

This amendment will become effective on November 7, 2012.

The following amendment is adopted.

Amend subrule 6.9(3) as follows:

6.9(3) Communication. The transfer is communicated directly between pharmacists, directly between pharmacist-interns under the direct supervision of pharmacists at the respective pharmacies, directly between a pharmacist and a pharmacist-intern under the direct supervision of a pharmacist, or as authorized in subrule 6.9(9). Following direct communication between authorized individuals as provided herein, the transferring pharmacist or pharmacist-intern may transmit the prescription and transfer information required under subrule 6.9(5) from the transferring pharmacy via facsimile. The receiving pharmacist or pharmacist-intern shall ensure the prescription transfer record maintained in the receiving pharmacy contains all of the information required under subrule 6.9(8).

[Filed 9/10/12, effective 11/7/12]

[Published 10/3/12]

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ARC 0342C

PHARMACY BOARD[657]

Adopted and Filed

Pursuant to the authority of Iowa Code sections 124.301 and 147.76, the Board of Pharmacy hereby amends Chapter 11, "Drugs in Emergency Medical Services Programs," Iowa Administrative Code.

The amendments exclude nonmedicated intravenous solutions from the definition of "drug" as that term is used within the chapter and specify that records that are required to be maintained by or within an emergency medical services (EMS) program under this chapter are to be maintained and made available for inspection and copying by the Board, the Board's representative, or another authorized individual. The amendments provide that the monthly inspection of drug supplies maintained at the primary emergency medical services program site may be inspected by a pharmacist, a pharmacist-intern, a certified pharmacy technician, or the service director if the program is a pharmacy-based service or by the medical director, the service director, or other designated EMS personnel if the program is a medical director-based program. The amendments also clarify the content and format of the required record to be kept following the administration of a controlled substance.

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

Notice of Intended Action was published in the June 13, 2012, Iowa Administrative Bulletin as **ARC 0172C**. The Board received no written comments regarding the proposed amendments. The adopted amendments are identical to those published under Notice.

The amendments were approved during the August 29, 2012, meeting of the Board of Pharmacy.

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

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

PHARMACY BOARD[657](cont'd)

These amendments will become effective on November 7, 2012.

The following amendments are adopted.

ITEM 1. Amend rule **657—11.1(124,147A,155A)**, definition of “Drug,” as follows:

“*Drug*” means a substance as defined in Iowa Code section 155A.3(13) but does not include nonmedicated intravenous solutions such as saline.

ITEM 2. Amend subrule 11.4(2) as follows:

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

ITEM 3. Amend subrule 11.11(1) as follows:

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

ITEM 4. Amend subrule 11.20(1) as follows:

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

a. Replenishment. The responsible individual, the service director, or designee may request that replenishment supplies of drugs be maintained at the primary program site provided that the pharmacy has been supplied with administration records justifying the order. Records of the administration of Schedule III, IV, and V controlled substances and noncontrolled prescription drugs provided to and maintained at the pharmacy shall include, at a minimum: the patient’s name; the name, strength, dosage form, and quantity of the drug administered; and the date administered. Records of the administration of Schedule II controlled substances provided to and maintained at the pharmacy shall consist of a written prescription including all of the prescription information required pursuant to Iowa Code section 155A.27 or a copy of the patient care record if the patient care record includes the required prescription information. The pharmacist shall approve every drug taken from the pharmacy’s dispensing stock prior to the transfer of the drug to the primary program site. Documentation of this verification shall be maintained within the pharmacy records.

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

ITEM 5. Amend paragraph **11.20(2)“b”** as follows:

b. Inspections. The medical director shall ensure the completion of a monthly inspection of all prescription drugs maintained by the medical director at the primary program site and any program substation. Inspection shall include the removal of outdated or adulterated drugs. Records of inspection

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shall be maintained for two years at the primary program site or the program substation. The medical director or service director may designate EMS personnel to conduct required inspections.

[Filed 9/10/12, effective 11/7/12]

[Published 10/3/12]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 10/3/12.

ARC 0341C

PUBLIC HEALTH DEPARTMENT[641]

Adopted and Filed

Pursuant to the authority of Iowa Code section 105.4, the Iowa Plumbing and Mechanical Systems Board hereby amends Chapter 28, "Plumbing and Mechanical Systems Board—Licensure Fees," Iowa Administrative Code.

The purpose of this amendment is to relieve the burden of sitting for examination from a licensee who has allowed a license(s) to lapse for more than 60 days but not more than 365 days. This amendment sets forth the late fee and renewal fee that will be due when a licensee renews a license(s). The amendment also stipulates that a licensee who has allowed a license to lapse for more than 60 days cannot continue to work in the discipline until the license is renewed and that a licensee who does continue to work with a lapsed license may be subject to disciplinary action.

Notice of Intended Action was published in the Iowa Administrative Bulletin on March 21, 2012, as **ARC 0042C**. A total of 90 comments were received during the public comment period. Ten comments were in favor of the amendment as proposed; 65 comments were opposed to the amendment. The remaining comments included 2 mixed comments that were in favor of part of the amendment and against the one-year reinstatement options. Five comments addressed issues not related to the proposed amendment. Six comments were unclear whether they were in favor of or opposed to the proposed amendment. The remaining 2 comments were personal in nature, occurred during the public hearing, and did not relate to the proposed amendment. This amendment is identical to the amendment published under Notice of Intended Action.

The Plumbing and Mechanical Systems Board adopted this amendment on August 21, 2012.

After analysis and review of this rule making, it has been determined that this amendment will have a positive impact on jobs. By paying late fees, a licensee will be assured of a timely renewal of the license in lieu of delays caused by sitting for and passing an examination.

This amendment is intended to implement Iowa Code section 105.20 and chapter 272C.

This amendment will become effective November 7, 2012.

The following amendment is adopted.

Rescind paragraph **28.1(5)“c”** and adopt the following **new** paragraph in lieu thereof:

c. A licensee who allows a license to lapse for more than 60 days but not more than 365 days may reinstate and renew the license without examination upon payment of a \$100 late fee and the appropriate renewal of license fee. A licensee whose license has lapsed for more than 60 days may not work as a plumbing or mechanical professional or contractor in Iowa until the license is renewed. A licensee who works as a plumbing or mechanical professional under a license that has lapsed more than 60 days, including under a special restricted license; works as a geothermal heat pump installer with a lapsed license; or operates as a contractor in the state of Iowa with a lapsed license may be subject to disciplinary action by the board, injunctive action pursuant to Iowa Code chapter 105, criminal sanctions pursuant to Iowa Code chapter 105, and other available legal remedies.

[Filed 9/5/12, effective 11/7/12]

[Published 10/3/12]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 10/3/12.

ARC 0340C**PUBLIC HEALTH DEPARTMENT[641]****Adopted and Filed**

Pursuant to the authority of Iowa Code section 105.4, the Iowa Plumbing and Mechanical Systems Board hereby amends Chapter 29, “Plumbing and Mechanical Systems Board—Application, Licensure, and Examination,” Iowa Administrative Code.

The purpose of these amendments is to relieve the burden of sitting for examination from a licensee who has allowed a license(s) to lapse for more than 60 days but not more than 365 days. These amendments also set forth the late fee and renewal fee that will be due when a licensee renews a license(s). The amendments also identify two options for license renewal for a licensee who has allowed a license(s) to lapse for more than one year: (1) sitting for the appropriate examination and paying the renewal fee, or (2) retaking all continuing education courses and paying the renewal fee.

Notice of Intended Action was published in the Iowa Administrative Bulletin on March 21, 2012, as **ARC 0043C**. A total of 90 comments were received during the public comment period. Ten comments were in favor of the amendments as proposed; 65 comments were opposed to the amendments. The remaining comments included 2 mixed comments that were in favor of part of the amendments and against the one-year reinstatement options. Five comments addressed issues not related to the proposed amendments. Six comments were unclear whether they were in favor of or opposed to the proposed amendments. The remaining 2 comments were personal in nature, occurred during the public hearing, and did not relate to the proposed amendments. These amendments are identical to the amendments published under Notice of Intended Action.

The Plumbing and Mechanical Systems Board adopted these amendments on August 21, 2012.

After analysis and review of this rule making, it has been determined that these amendments will have a positive impact on jobs. By paying late fees, a licensee will be assured of a timely renewal of a license in lieu of delays caused by sitting for and passing an examination.

These amendments are intended to implement Iowa Code section 105.20.

These amendments will become effective November 7, 2012.

The following amendments are adopted.

ITEM 1. Rescind paragraph **29.7(2)“c”** and adopt the following **new** paragraph in lieu thereof:

c. A licensee who allows a license to lapse for more than 60 days but not more than 365 days may reinstate and renew the license without examination upon payment of a \$100 late fee and the appropriate renewal of license fee as defined in 641—subrule 28.1(3).

ITEM 2. Adopt the following **new** paragraph **29.7(2)“d”**:

d. A licensee who allows a license to lapse for more than one year may reinstate and renew the license by either of the following means:

(1) Retaking and successfully passing the applicable licensing examination and paying the appropriate renewal fee as defined in 641—subrule 28.1(3), or

(2) Retaking and successfully completing all continuing education requirements as set forth in rule 641—30.2(105) and paying the appropriate renewal fee as defined in 641—subrule 28.1(3).

[Filed 9/5/12, effective 11/7/12]

[Published 10/3/12]

EDITOR’S NOTE: For replacement pages for IAC, see IAC Supplement 10/3/12.

ARC 0364C**PUBLIC HEALTH DEPARTMENT[641]****Adopted and Filed**

Pursuant to the authority of Iowa Code section 135.11, the Department of Public Health hereby amends Chapter 76, "Maternal and Child Health Program," Iowa Administrative Code.

These amendments update references; add a heading for the Maternal and Child Health Advisory Council while incorporating the Council's current bylaws into the rules; and clarify services provided through the maternal and child health programs.

Following is a summary of the major changes from the existing chapter:

Item 8 adds "building relationships with community partners including health care providers and human service leaders to improve the health care system for women and children" to the list of infrastructure building services provided by contract agencies.

Item 10 adds "oral health survey" to the list of population-based services provided by contract agencies.

Items 11 and 12 add "referral," "assistance in establishing a medical and dental home," and "presumptive eligibility" to the list of enabling services provided by contract agencies.

Item 13 removes "informing," "care/service coordination," "health education," "assistance in establishing a medical and dental home or usual source of care," and "referral" services from the list of child health services while at the same time adding to the list "immunizations," "blood lead testing and analysis," "developmental testing," "home visit provided by a nurse or social worker," "interpretation services" and "transportation services." Item 13 also removes "care/service coordination" from the list of maternal health services while at the same time adding "home visit provided by a nurse or social worker," "interpretation services" and "transportation services." Finally, Item 13 adds "prophylaxis" and "radiographs" to the list of dental health services.

Item 14 renames the "Prenatal program" as the "Maternal health program" and changes "CHSC" to "CYSHCN program."

Item 17 adds a Presumptive Eligibility Health Care Coverage for Children Application form to the forms that may be used to apply for direct health services.

Item 22 clarifies how a tie would be reviewed during a competitive process.

Item 25 clarifies rules for using program income related to MCH programs.

Item 30 incorporates the Maternal and Child Health Advisory Council's current bylaws into the rules.

Notice of Intended Action was published in the July 25, 2012, Iowa Administrative Bulletin as **ARC 0226C**. One written comment was received resulting in a change to Item 30, subparagraph 76.23(2)"c"(3). Representation from the Department of Education was changed from the bureau of student and family support services to the division of learning and results because of Department of Education restructuring. Subparagraph 76.23(2)"c"(3) now reads as follows:

"(3) A representative of the department of education, division of learning and results."

Upon further internal review, the following change was made to the amendments as published under Notice: In Item 6, definition of "oral health counseling," the phrase "for dental care" has been changed to "for additional care." The definition now reads as follows:

"*Oral health counseling* means services to assess oral health status and to provide education appropriate to the needs of the client and referral for additional care if indicated."

The State Board of Health adopted these amendments on September 12, 2012.

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

These amendments are intended to implement Iowa Code subsection 135.11(17) and section 135.39.

PUBLIC HEALTH DEPARTMENT[641](cont'd)

These amendments will become effective on November 7, 2012.

EDITOR'S NOTE: Pursuant to recommendation of the Administrative Rules Review Committee published in the Iowa Administrative Bulletin, September 10, 1986, the text of these amendments [amendments to Ch 76] is being omitted. With the exception of the changes noted above, these amendments are identical to those published under Notice as **ARC 0226C**, IAB 7/25/12.

[Filed 9/13/12, effective 11/7/12]

[Published 10/3/12]

[For replacement pages for IAC, see IAC Supplement 10/3/12.]

ARC 0365C**PUBLIC HEALTH DEPARTMENT[641]****Adopted and Filed**

Pursuant to the authority of Iowa Code sections 135.11 and 125.7, the Department of Public Health hereby amends Chapter 155, "Licensure Standards for Substance Abuse and Problem Gambling Treatment Programs," Iowa Administrative Code.

The rules in Chapter 155 describe licensure standards for substance abuse and problem gambling treatment programs. These amendments replace current language which requires that all client/patients admitted to residential, inpatient or halfway house services and high-risk outpatient client/patients have a tuberculin skin test, simplify some requirements and remove the requirement to test high-risk outpatient client/patients. These amendments add a requirement that residential, inpatient or halfway house staff have a tuberculin skin test. To protect the health and safety of Iowans, these changes will bring Iowa into compliance with tuberculosis-testing recommendations from the United States Centers for Disease Control and Prevention (CDC) in this area.

The Iowa Administrative Code currently requires employees in the following areas to be screened for tuberculosis (TB): child care centers, hospitals, nursing facilities, residential care facilities for persons with mental illness, intermediate care facilities for persons with mental illness and residential care facilities for the intellectually disabled.

The amendment in Item 1 rescinds the paragraph that requires all client/patients admitted to residential, inpatient or halfway house services and high-risk outpatient client/patients to have a tuberculosis skin test.

The amendment in Item 2 adopts a new heading to precede the rules pertaining to tuberculosis screening of substance abuse and problem gambling treatment program health care workers and residents.

The amendment in Item 3 adopts new definitions and rules regarding tuberculosis screening of substance abuse and problem gambling treatment program health care workers and residents.

Notice of Intended Action was published in the July 25, 2012, Iowa Administrative Bulletin as **ARC 0227C**. One written comment was received, in addition to a comment from a Board member during the State Board of Health meeting on July 11, 2012. The written comment referred to the "extremely technical" language in the amendment. In response to this comment, the Department will develop a list of Frequently Asked Questions (FAQ) regarding the amendment. As a result of the other comment, two additions were made to the amendments as published under Notice of Intended Action. A definition of "Bacille Calmette-Guerin (BCG) vaccination" has been added in rule 641—155.37(125,135) and paragraph "g" has been added in subrule 155.38(3).

The State Board of Health adopted these amendments on September 12, 2012.

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

These amendments are intended to implement Iowa Code sections 125.15, 125.17, 125.32 and 135.150.

These amendments will become effective on November 7, 2012.

The following amendments are adopted.

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ITEM 1. Rescind paragraph **155.21(16)“d.”**ITEM 2. Adopt the following **new** heading to precede rule 641—155.36(125,135):TUBERCULOSIS (TB) SCREENING:
HEALTH CARE WORKERS AND RESIDENTSITEM 3. Adopt the following **new** rules 641—155.36(125,135) to 641—155.38(125,135):

641—155.36(125,135) Purpose. The purpose of these rules is to outline procedures for conducting tuberculosis (TB) screening for health care workers and residents at substance abuse and problem gambling treatment program facilities. Facilities will need to conduct a risk assessment to determine the risk classification of the facility and to identify appropriate screening criteria. The screening criteria are consistent with those of the U.S. Centers for Disease Control and Prevention (CDC), TB Elimination Division, as outlined in the MMWR December 30, 2005/Vol. 54/No. RR-17, “Guidelines for Preventing the Transmission of *Mycobacterium tuberculosis* in Health-Care Settings, 2005.”

641—155.37(125,135) Definitions. For the purpose of these rules, the following definitions shall apply:

“*Bacille Calmette-Guerin (BCG) vaccination*” means a vaccine for TB. BCG is used in many countries with a high prevalence of TB to prevent childhood tuberculosis meningitis and military disease. BCG is not generally recommended for use in the United States because of the low risk of infection with *Mycobacterium tuberculosis*, the variable effectiveness of the vaccine against adult pulmonary TB, and the vaccine’s potential interference with tuberculin skin test reactivity.

“*Baseline TB screening*” means the screening of staff and residents for latent tuberculosis infection (LTBI) and TB disease at the beginning of employment or upon admission to a facility. Baseline TB screening includes a symptom screen for all staff and residents, and tuberculin skin tests (TSTs) or interferon-gamma release assay (IGRA) for *Mycobacterium tuberculosis* for those staff and residents with previous negative test results for *M. tuberculosis* infection.

“*Baseline TST*” or “*baseline IGRA*” means the TST or IGRA, respectively, that is administered at the beginning of employment to newly hired staff or upon admission to residents of facilities.

“*Boosting*” means a phenomenon in which a person has a negative TST (i.e., false-negative) result years after infection with *M. tuberculosis* and then a positive subsequent TST result. The positive TST result is caused by a boosted immune response of previous sensitivity rather than by a new infection (false-positive TST conversion). Two-step testing reduces the likelihood of mistaking a boosted reaction for a new infection.

“*Extrapulmonary TB*” means TB disease in any part of the body other than the lungs (e.g., kidney, spine, or lymph nodes).

“*Interferon-gamma release assay*” or “*IGRA*” means a whole-blood test that can aid in diagnosing *Mycobacterium tuberculosis* infection.

“*Laryngeal TB*” means a form of TB disease that involves the larynx and may be highly infectious.

“*Latent TB infection*” or “*LTBI*” means infection with *M. tuberculosis* without symptoms or signs of disease having manifested.

“*Mantoux method*” means a skin test performed by intradermally injecting 0.1 mL of purified protein derivative (PPD) tuberculin solution into the volar or dorsal surface of the forearm.

“*Pulmonary TB*” means TB disease that occurs in the lung parenchyma, usually producing a cough that lasts greater than three weeks. Pulmonary TB is usually infectious.

“*Purified protein derivative (PPD) tuberculin*” means a material used in diagnostic tests for detecting infection with *M. tuberculosis*.

“*Risk classification*” means the category the infection control team, or designated other, determines that the setting’s TB risk classification is based, as a result of the TB risk assessment.

“*Serial screening*” refers to TB screening performed at regular intervals following baseline TB screening. Serial TB screening, also called annual or ongoing TB testing, consists of two components: (1) assessing for current symptoms of active TB disease, and (2) testing for the presence of infection with *M. tuberculosis* by administering either a TST or single IGRA.

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“*Symptom screen*” means a procedure used during a clinical evaluation in which patients are asked if they have experienced any departure from normal in function, appearance, or sensation related to TB disease (e.g., cough).

“*TB patient*” means a person who had undiagnosed infectious pulmonary or laryngeal TB while in the facility during the preceding year. “TB patient” does not include persons with LTBI (treated or untreated), extrapulmonary TB disease, pulmonary, or laryngeal TB that have met criteria for noninfectiousness.

“*TB risk assessment*” means an initial and ongoing evaluation of the risk for transmission of *M. tuberculosis* in a particular health care setting.

“*TB screening*” means an administrative control measure in which evaluation for LTBI and TB disease is performed through baseline and serial screening of staff and residents of facilities.

“*TB screening plan*” means a plan that facilities develop and implement that comprises four major components: (1) baseline testing for *M. tuberculosis* infection, (2) serial testing for *M. tuberculosis* infection, (3) serial screening for signs or symptoms of TB disease, and (4) TB training and education.

“*Treatment for LTBI*” means treatment that prevents the progression of *M. tuberculosis* infection into TB disease.

“*Tuberculin skin test*” or “*TST*” means a diagnostic aid for finding *M. tuberculosis* infection. The Mantoux method is the recommended method to be used for the TST.

“*Tuberculosis*” or “*TB*” means the namesake member organism of *M. tuberculosis* complex and the most common causative infectious agent of TB disease in humans. In certain instances, the species name refers to the entire *M. tuberculosis* complex, which includes *M. bovis* and *M. african*, *M. microti*, *M. canetti*, *M. caprae*, and *M. pinnipedii*.

“*Tuberculosis disease*” or “*TB disease*” means a condition caused by infection with a member of the *M. tuberculosis* complex that has progressed to causing clinical (manifesting symptoms or signs) or subclinical (early stage of disease in which signs or symptoms are not present, but other indications of disease activity are present) illness.

“*Two-step tuberculin skin test*” or “*two-step TST*” means the procedure used for the baseline skin testing of persons who will receive serial TSTs to reduce the likelihood of mistaking a boosted reaction for a new infection.

641—155.38(125,135) Tuberculosis screening of staff and residents.

155.38(1) *TB risk assessment.* Annually, each facility shall conduct a TB risk assessment to evaluate the risk for transmission of *M. tuberculosis*, regardless of whether a person with suspected or confirmed TB disease is expected to be encountered in the facility. The TB risk assessment shall be utilized to determine the types of administrative, environmental, and respiratory protection controls needed and serves as an ongoing evaluation tool of the quality of TB infection control and for the identification of needed improvements in infection control measures. The risk assessment shall include:

- a. The community rate of TB,
- b. The number of persons with infectious TB encountered in the facility, and
- c. The speed with which persons with infectious TB are suspected, isolated, and evaluated to determine if persons with infectious TB exposed staff or others in the facility. TB cases include persons who had undiagnosed infectious pulmonary or laryngeal TB while in the facility during the preceding year. This does not include persons with LTBI (treated or untreated), persons with extrapulmonary TB disease, or persons with pulmonary and laryngeal TB that have met criteria for noninfectiousness.

155.38(2) *Facility risk classification.* The infection control team or designated staff in a facility is responsible for determining the type of risk classification of the facility. The facility risk classification is used to determine the frequency of TB screening. The facility risk classification may change due to an increase or decrease in the number of TB cases during the preceding year.

- a. *Types of risk classifications.*

(1) “Low risk” means that a facility is one in which persons with active TB disease are not expected to be encountered and in which exposure to TB is unlikely.

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(2) “Medium risk” means that a facility is one in which health care workers will or might be exposed to persons with active TB disease or to clinical specimens that might contain *M. tuberculosis*.

(3) “Potential ongoing transmission” means that a facility is one in which there is evidence of person-to-person transmission of *M. tuberculosis*. This classification is a temporary classification. If it is determined that this classification applies to a facility, the facility shall consult with the department’s TB control program.

b. Classification criteria—low risk.

(1) Inpatient settings with 200 or more beds: If a facility has fewer than six TB patients for the preceding year, the facility shall be classified as low risk.

(2) Inpatient settings with fewer than 200 beds: If a facility has fewer than three TB patients for the preceding year, the facility shall be classified as low risk.

(3) Outpatient, outreach, and home-based health care settings: If a facility has fewer than three TB patients for the preceding year, the facility shall be classified as low risk.

c. Classification criteria—medium risk.

(1) Inpatient settings with 200 or more beds: If a facility has six or more TB patients for the preceding year, the facility shall be classified as medium risk.

(2) Inpatient settings with fewer than 200 beds: If a facility has three or more TB patients for the preceding year, the facility shall be classified as medium risk.

(3) Outpatient, outreach, and home-based health care settings: If a facility has three or more TB patients for the preceding year, the facility shall be classified as medium risk.

d. Classification criteria—potential ongoing transmission. If evidence of ongoing *M. tuberculosis* transmission exists at a facility, the facility shall be classified as potential ongoing transmission, regardless of the facility’s previous classification.

155.38(3) *Baseline TB screening procedures for facilities.*

a. All facility staff members shall receive baseline TB screening upon hire. Baseline TB screening consists of two components: (1) assessing for current symptoms of active TB disease and (2) using a two-step TST or a single IGRA to test for infection with *M. tuberculosis*.

b. A staff member may begin working with clients or residents after a negative TB symptom screen (i.e., no symptoms of active TB disease) and a negative TST (i.e., first step) or negative IGRA. The second TST may be performed after the staff member starts working with clients or residents.

c. A staff member with a new positive test result for *M. tuberculosis* infection (i.e., TST or IGRA) shall receive one chest radiograph result to exclude TB disease. Repeat radiographs are not needed unless symptoms or signs of TB disease develop or unless recommended by a clinician. Treatment for LTBI should be considered in accordance with CDC guidelines.

d. A staff member with documentation of past positive test results (i.e., TST or IGRA) and documentation of the results of a chest radiograph indicating no active disease, dated after the date of the positive TST or IGRA test result, does not need another chest radiograph at the time of hire.

e. TB, TST or IGRA tests for *M. tuberculosis* infection do not need to be performed for staff with a documented history of TB disease, documented previously positive test result for *M. tuberculosis* infection, or documented completion of treatment for LTBI or TB disease. Documentation of a previously positive test result for *M. tuberculosis* infection can be substituted for a baseline test result if the documentation includes a recorded TST result in millimeters or IGRA result, including the concentration of cytokine measured (e.g., interferon-gamma (IFN-g)). All other staff should undergo baseline testing for *M. tuberculosis* infection to ensure that the test result on record in the setting has been performed and measured using the recommended diagnostic procedures.

f. A second TST is not needed if the staff member has a documented TST result from any time during the previous 12 months. If a newly employed staff member has had a documented negative TST result within the previous 12 months, a single TST can be administered in the new setting. This additional TST represents the second stage of two-step testing. The second test decreases the possibility that boosting on later testing will lead to incorrect suspicion of transmission of *M. tuberculosis* in the setting.

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g. Previous BCG vaccination is not a contraindication to having an IGRA, a TST or two-step skin testing administered. Health care workers with previous BCG vaccination should receive baseline and serial testing in the same manner as those without BCG vaccination. Evaluation of TST reactions in persons vaccinated with BCG should be interpreted using the same criteria for those not BCG-vaccinated. A health care worker's history of BCG vaccination should be disregarded when administering and interpreting TST results. Prior BCG vaccination does not cause a false-positive IGRA test result.

155.38(4) *Serial TB screening procedures for facilities.*

a. *Facilities classified as low risk.* After baseline testing of staff for infection with *M. tuberculosis*, additional TB screening of staff is not necessary unless an exposure to *M. tuberculosis* occurs.

b. *Facilities classified as medium risk.*

(1) After undergoing baseline testing for infection with *M. tuberculosis*, staff should receive TB screening annually (i.e., symptom screen for all staff members and testing for infection with *M. tuberculosis* for staff members with baseline negative test results).

(2) Staff members with a baseline positive or new positive test result for *M. tuberculosis* infection or documentation of previous treatment for LTBI or TB disease shall receive one chest radiograph result to exclude TB disease. Instead of participating in serial testing, staff should receive a symptom screen annually. This screen should be accomplished by educating the staff about symptoms of TB disease and instructing the staff members to report any such symptoms immediately to the occupational health unit. Treatment for LTBI should be considered in accordance with CDC guidelines.

c. *Facilities classified as potential ongoing transmission.* Testing for infection with *M. tuberculosis* may need to be performed every eight to ten weeks until lapses in infection control have been corrected and no additional evidence of ongoing transmission is apparent. The potential ongoing transmission classification should be used only as a temporary classification. This classification warrants immediate investigation and corrective steps. After a determination that ongoing transmission has ceased, the setting shall be reclassified as medium risk for a minimum of one year.

155.38(5) *Screening of staff who transfer to other facilities.*

a. *Staff transferring from a low-risk facility to another low-risk facility.* After a baseline result for infection with *M. tuberculosis* is established and documented, serial testing for *M. tuberculosis* infection is not necessary for staff transferring from a low-risk facility to another low-risk facility.

b. *Staff transferring from a low-risk facility to a medium-risk facility.* After a baseline result for infection with *M. tuberculosis* is established and documented, annual TB screening, including a symptom screen and TST or IGRA for persons with previously negative test results, should be performed for staff transferring from a low-risk facility to a medium-risk facility.

155.38(6) *Baseline TB screening procedures for residents of residential, inpatient, and halfway house facilities.*

a. TB screening is a formal procedure to evaluate residents for LTBI and TB disease. Baseline TB screening consists of two components: (1) assessing for current symptoms of active TB disease and (2) using a two-step TST or a single IGRA to test for infection with *M. tuberculosis*.

b. All residents shall be assessed for current symptoms of active TB disease upon admission. Within 72 hours of a resident's admission, baseline TB testing for infection shall be initiated unless baseline TB testing occurred within three months prior to the resident's admission.

c. Residents with a new positive test result for *M. tuberculosis* infection (i.e., TST or IGRA) shall receive one chest radiograph result to exclude TB disease. Repeat radiographs are not needed unless symptoms or signs of TB disease develop or unless recommended by a clinician.

d. Residents with documentation of past positive test results (i.e., TST or IGRA) and documentation of the results of a chest radiograph indicating no active disease, dated after the date of the positive TST or IGRA test result, do not need another chest radiograph at the time of admission.

e. TB, TST or IGRA tests for *M. tuberculosis* infection do not need to be performed for residents with a documented history of TB disease, a documented previously positive test result for *M. tuberculosis* infection, or documented completion of treatment for LTBI or TB disease. Documentation of a previously positive test result for *M. tuberculosis* infection can be substituted for a

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baseline test result if the documentation includes a recorded TST result in millimeters or IGRA result, including the concentration of cytokine measured (e.g., IFN-g). All other residents should undergo baseline testing for *M. tuberculosis* infection to ensure that the test result on record in the setting has been performed and measured using the recommended diagnostic procedures.

f. A second TST is not needed if the resident has a documented TST result from any time during the previous 12 months. If a new resident has had a documented negative TST result within the previous 12 months, a single TST can be administered in the new setting. This additional TST represents the second stage of two-step testing. The second test decreases the possibility that boosting on later testing will lead to incorrect suspicion of transmission of *M. tuberculosis* in the setting.

g. After baseline TB screening is accomplished, serial TB screening of the residents is not recommended.

155.38(7) *Serial TB screening procedures for residents of residential, inpatient, and halfway house facilities.*

a. If a resident is discharged and readmitted to a facility and less than 12 months have passed since the last TB screening, residents should receive a symptom screen upon readmittance. This screen should be accomplished by educating the resident about symptoms of TB disease and instructing the resident to report any such symptoms immediately to the infection control team or designated other staff. If symptoms or signs of TB disease are documented, then a medical evaluation to include a chest X-ray to rule out TB disease is required.

b. If a resident is discharged and readmitted to a facility and more than 12 months have passed since the last TB screening, baseline TB screening should be repeated as outlined in subrule 155.38(6).

[Filed 9/13/12, effective 11/7/12]

[Published 10/3/12]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 10/3/12.

ARC 0361C

REVENUE DEPARTMENT[701]

Adopted and Filed

Pursuant to the authority of Iowa Code sections 421.14 and 422.68, the Department of Revenue hereby amends Chapter 42, "Adjustments to Computed Tax and Tax Credits," and Chapter 52, "Filing Returns, Payment of Tax, Penalty and Interest, and Tax Credits," Iowa Administrative Code.

Notice of Intended Action was published in IAB Vol. XXXV, No. 3, p. 221, on August 8, 2012, as **ARC 0253C**.

These amendments are adopted as a result of 2012 Iowa Acts, Senate File 2342, which amends Iowa Code section 422.33 and adds new Iowa Code sections 422.11I and 422.11L.

Item 1 amends 701—Chapter 42 by adding new rules 701—42.47(422) related to the geothermal heat pump tax credit and 701—42.48(422) related to the solar energy system tax credit for individual income tax.

Item 2 amends 701—Chapter 52 by adding new rule 701—52.44(422) related to the solar energy system tax credit for corporation income tax.

Written comments were received from the Iowa Environmental Council and the Environmental Law and Policy Center. The comments related to proposed paragraphs 42.48(3)"b" and 52.44(3)"b" regarding preferences given to applications received after the annual cap of \$1.5 million of tax credits has been reached. These paragraphs as published under Notice provided that preference would be given to applications received in the same year as the installation. The written comments requested that preference be given to applications received in the prior year that were denied due to the cap. The Department has agreed to change these paragraphs to give preference to applications received in the prior year, with the exception of the 2016 tax year, which is the last year for which the credit will be available.

REVENUE DEPARTMENT[701](cont'd)

Paragraph 42.48(3)“b” now reads as follows:

“b. If the application is approved, the department will send a letter to the taxpayer reserving the amount of the tax credit and providing a tax credit certificate number. The solar energy system tax credit will be claimed on Form IA 148, Tax Credit Schedule. Any tax credit in excess of the tax liability for the tax year may be credited to the tax liability for the following ten years or until used, whichever is the earlier. The taxpayer must attach to any Iowa tax return claiming the solar energy system tax credit federal Form 5695, Residential Energy Credits, if claiming the residential energy credit or federal Form 3468, Investment Credit, if claiming the business energy credit.

“If the department receives applications for tax credits in excess of the \$1.5 million available, the applications will be prioritized by the date the department received the applications. If the number of applications exceeds the \$1.5 million of tax credits available, the department shall establish a wait list for the next year’s allocation of tax credits and the applications shall first be funded in the order listed on the wait list. However, if the \$1.5 million cap of tax credit is reached for 2016, no applications in excess of the \$1.5 million cap will be carried over to the next year.

“EXAMPLE: A taxpayer submitted an application for a \$2,500 tax credit on December 1, 2012, for an installation that occurred in 2012. The application was denied on December 15, 2012, because the \$1.5 million cap had already been reached for 2012. The taxpayer will be placed on a wait list and will receive priority for receiving the tax credit for the 2013 tax year. However, if the application was submitted on December 1, 2016, for an installation that occurred in 2016 and the \$1.5 million cap had already been reached for 2016, no tax credit will be allowed for the 2017 tax year.”

Paragraph 52.44(3)“b” now reads as follows:

“b. If the application is approved, the department will send a letter to the taxpayer reserving the amount of the tax credit and providing a tax credit certificate number. The solar energy system tax credit will be claimed on Form IA 148, Tax Credit Schedule. Any tax credit in excess of the tax liability for the tax year may be credited to the tax liability for the following ten years or until used, whichever is the earlier. The taxpayer must attach federal Form 3468, Investment Credit, to any Iowa tax return claiming the solar energy system tax credit.

“If the department receives applications for tax credits in excess of the \$1.5 million available, the applications will be prioritized by the date the department received the applications. If the number of applications exceeds the \$1.5 million of tax credits available, the department shall establish a wait list for the next year’s allocation of tax credits and the applications shall first be funded in the order listed on the wait list. However, if the \$1.5 million cap of tax credit is reached for 2016, no applications in excess of the \$1.5 million cap will be carried over to the next year.

“EXAMPLE: A taxpayer submitted an application for a \$2,500 tax credit on December 1, 2012, for an installation that occurred in 2012. The application was denied on December 15, 2012, because the \$1.5 million cap had already been reached for 2012. The taxpayer will be placed on a wait list and will receive priority for receiving the tax credit for the 2013 tax year. However, if the application was submitted on December 1, 2016, for an installation that occurred in 2016 and the \$1.5 million cap had already been reached for 2016, no tax credit will be allowed for the 2017 tax year.”

After analysis and review of this rule making, no adverse impact on jobs has been found. The tax credits may positively impact job and economic growth for businesses in the state of Iowa.

These amendments are intended to implement Iowa Code section 422.33 as amended by 2012 Iowa Acts, Senate File 2342, section 8, and 2012 Iowa Acts, Senate File 2342, sections 1 and 7.

These amendments will become effective November 7, 2012, after filing with the Administrative Rules Coordinator and publication in the Iowa Administrative Bulletin.

The following amendments are adopted.

ITEM 1. Adopt the following new rules 701—42.47(422) and 701—42.48(422):

701—42.47(422) Geothermal heat pump tax credit. For tax years beginning on or after January 1, 2012, a geothermal heat pump tax credit is available for residential property located in Iowa.

42.47(1) Calculation of credit. The credit is equal to 20 percent of the federal residential energy efficient tax credit allowed for geothermal heat pumps provided in Section 25D(a)(5) of the Internal

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Revenue Code. The federal residential energy efficient tax credit for geothermal heat pumps is currently allowed for installations that are completed on or before December 31, 2016. Therefore, the Iowa tax credit will be available for the 2012 to 2016 tax years. The geothermal heat pump must be installed on or after January 1, 2012, to qualify for the Iowa credit. If the taxpayer installed a geothermal heat pump and initially reported the federal tax credit for a tax year beginning prior to January 1, 2012, no Iowa credit will be allowed.

EXAMPLE: A taxpayer reported a \$6,000 geothermal tax credit on the 2011 federal return due to an installation that was completed in 2011. The taxpayer applied \$2,000 of the credit on the taxpayer's 2011 federal return since the federal tax liability was \$2,000. The remaining \$4,000 of federal credit was applied on the 2012 federal return. No credit will be allowed on the 2012 Iowa return since the installation was completed before January 1, 2012.

42.47(2) *Claiming the tax credit.* The geothermal heat pump tax credit will be claimed on Form IA 148, Tax Credit Schedule. The taxpayer must attach federal Form 5695, Residential Energy Credits, to any Iowa tax return claiming the geothermal heat pump credit. Any tax credit in excess of the tax liability for the tax year may be credited to the tax liability for the following ten years or until used, whichever is the earlier.

This rule is intended to implement 2012 Iowa Acts, Senate File 2342, section 1.

701—42.48(422) Solar energy system tax credit. For tax years beginning on or after January 1, 2012, a solar energy system tax credit is available for both residential property and business property located in Iowa.

42.48(1) *Property eligible for the tax credit.* The following property located in Iowa is eligible for the tax credit:

- a. Qualified solar water heating property described in Section 25D(d)(1) of the Internal Revenue Code.
- b. Qualified solar energy electric property described in Section 25D(d)(2) of the Internal Revenue Code.
- c. Equipment which uses solar energy to generate electricity, to heat or cool (or to provide hot water for use in) a structure, or to provide solar process heat (excepting property used to generate energy for the purposes of heating a swimming pool) and which is eligible for the federal energy credit as described in Section 48(a)(3)(A)(i) of the Internal Revenue Code.
- d. Equipment which uses solar energy to illuminate the inside of a structure using fiber-optic distributed sunlight and which is eligible for the federal energy credit as described in Section 48(a)(3)(A)(ii) of the Internal Revenue Code.

42.48(2) *Calculation of credit.* The credit is equal to the sum of the following federal tax credits:

- a. Fifty percent of the federal residential energy property credit provided in Section 25D(a)(1) of the Internal Revenue Code.
- b. Fifty percent of the federal residential energy property credit provided in Section 25D(a)(2) of the Internal Revenue Code.
- c. Fifty percent of the federal energy credit provided in Section 48(a)(2)(A)(i)(II) of the Internal Revenue Code.
- d. Fifty percent of the federal energy credit provided in Section 48(a)(2)(A)(i)(III) of the Internal Revenue Code.

The amount of tax credit claimed by a taxpayer related to paragraphs 42.48(2) "a" and "b" cannot exceed \$3,000 for a tax year. The amount of tax credit claimed by a taxpayer related to paragraphs 42.48(2) "c" and "d" cannot exceed \$15,000 for a tax year.

The federal residential energy efficient tax credits and the federal energy tax credits for solar energy systems are currently allowed for installations that are completed on or before December 31, 2016. Therefore, the Iowa tax credit will be available for the 2012 to 2016 tax years. The solar energy system must be installed on or after January 1, 2012, to qualify for the Iowa credit. If the taxpayer installed a solar energy system and initially reported the federal tax credit for a tax year beginning prior to January 1, 2012, no Iowa credit will be allowed.

REVENUE DEPARTMENT[701](cont'd)

EXAMPLE: A taxpayer reported a \$9,000 residential energy efficient tax credit on the 2011 federal return due to an installation of a solar energy system that was completed in 2011. The taxpayer applied \$4,000 of the credit on the taxpayer's 2011 federal return since the federal tax liability was \$4,000. The remaining \$5,000 of federal credit was applied on the 2012 federal return. No credit will be allowed on the 2012 Iowa return since the installation was completed before January 1, 2012.

42.48(3) Application for the tax credit. No more than \$1.5 million of tax credits for solar energy systems are allowed for each of the tax years 2012 to 2016. The \$1.5 million cap also includes the solar energy system tax credits provided in rule 701—52.44(422) for corporation income tax. Credits will be reserved on a first-come, first-served basis.

a. In order to reserve the tax credit, a taxpayer must complete an application for the solar energy tax credit. The application must contain the following information:

- (1) Name, address and federal identification number of the taxpayer.
- (2) Date of installation of the solar energy system.
- (3) Copies of invoices or other documents showing the cost of the solar energy system.
- (4) Amount of federal income tax credit for the solar energy system.
- (5) Amount of Iowa tax credit to be reserved.

b. If the application is approved, the department will send a letter to the taxpayer reserving the amount of the tax credit and providing a tax credit certificate number. The solar energy system tax credit will be claimed on Form IA 148, Tax Credit Schedule. Any tax credit in excess of the tax liability for the tax year may be credited to the tax liability for the following ten years or until used, whichever is the earlier. The taxpayer must attach to any Iowa tax return claiming the solar energy system tax credit federal Form 5695, Residential Energy Credits, if claiming the residential energy credit or federal Form 3468, Investment Credit, if claiming the business energy credit.

If the department receives applications for tax credits in excess of the \$1.5 million available, the applications will be prioritized by the date the department received the applications. If the number of applications exceeds the \$1.5 million of tax credits available, the department shall establish a wait list for the next year's allocation of tax credits and the applications shall first be funded in the order listed on the wait list. However, if the \$1.5 million cap of tax credit is reached for 2016, no applications in excess of the \$1.5 million cap will be carried over to the next year.

EXAMPLE: A taxpayer submitted an application for a \$2,500 tax credit on December 1, 2012, for an installation that occurred in 2012. The application was denied on December 15, 2012, because the \$1.5 million cap had already been reached for 2012. The taxpayer will be placed on a wait list and will receive priority for receiving the tax credit for the 2013 tax year. However, if the application was submitted on December 1, 2016, for an installation that occurred in 2016 and the \$1.5 million cap had already been reached for 2016, no tax credit will be allowed for the 2017 tax year.

c. A taxpayer who is eligible to receive a renewable energy tax credit provided in rule 701—42.28(422) is not eligible for the solar energy system tax credit.

42.48(4) Allocation of tax credit to owners of a business entity. If the taxpayer claiming the tax credit based on a percentage of the federal energy credit under Section 48 of the Internal Revenue Code is a partnership, limited liability company, S corporation, estate or trust electing to have income taxed directly to the individual, the individual may claim the tax credit. The amount claimed by the individual shall be based upon the pro rata share of the individual's earnings of the partnership, limited liability company, S corporation, estate or trust. The maximum amount of credit available to a partnership, limited liability company, S corporation, estate or trust shall be limited to \$15,000 for a single tax year.

This rule is intended to implement 2012 Iowa Acts, Senate File 2342, section 7.

ITEM 2. Adopt the following new rule 701—52.44(422):

701—52.44(422) Solar energy system tax credit. For tax years beginning on or after January 1, 2012, a solar energy system tax credit is available for business property located in Iowa.

52.44(1) Property eligible for the tax credit. The following property located in Iowa is eligible for the tax credit:

REVENUE DEPARTMENT[701](cont'd)

a. Equipment which uses solar energy to generate electricity, to heat or cool (or to provide hot water for use in) a structure, or to provide solar process heat (excepting property used to generate energy for the purposes of heating a swimming pool) and which is eligible for the federal energy credit as described in Section 48(a)(3)(A)(i) of the Internal Revenue Code.

b. Equipment which uses solar energy to illuminate the inside of a structure using fiber-optic distributed sunlight and which is eligible for the federal energy credit as described in Section 48(a)(3)(A)(ii) of the Internal Revenue Code.

52.44(2) *Calculation of credit.* The credit is equal to the sum of the following federal tax credits:

a. Fifty percent of the federal energy credit provided in Section 48(a)(2)(A)(i)(II) of the Internal Revenue Code.

b. Fifty percent of the federal energy credit provided in Section 48(a)(2)(A)(i)(III) of the Internal Revenue Code.

The amount of tax credit claimed by a taxpayer related to paragraphs 52.44(2) “a” and “b” cannot exceed \$15,000 for a tax year.

The federal energy tax credit for solar energy systems is currently allowed for installations that are completed on or before December 31, 2016. Therefore, the Iowa tax credit will be available for the 2012 to 2016 tax years for installations completed on or before December 31, 2016. The solar energy system must be installed on or after January 1, 2012, to qualify for the Iowa credit. If the taxpayer installed a solar energy system and initially reported the federal tax credit for a tax year beginning prior to January 1, 2012, no Iowa credit will be allowed.

EXAMPLE: A taxpayer reported a \$9,000 energy credit on the 2011 federal return due to an installation of a solar energy system that was completed in 2011. The taxpayer applied \$4,000 of the credit on the taxpayer’s 2011 federal return since the federal tax liability was \$4,000. The remaining \$5,000 of federal credit was applied on the 2012 federal return. No credit will be allowed on the 2012 Iowa return since the installation was completed before January 1, 2012.

52.44(3) *Application for the tax credit.* No more than \$1.5 million of tax credits for solar energy systems are allowed for each of the tax years 2012 to 2016. The \$1.5 million cap also includes the solar energy system tax credits provided in rule 701—42.48(422) for individual income tax. Credits will be reserved on a first-come, first-served basis.

a. In order to reserve the tax credit, a taxpayer must complete an application for the solar energy tax credit. The application must contain the following information:

- (1) Name, address and federal identification number of the taxpayer.
- (2) Date of installation of the solar energy system.
- (3) Copies of invoices or other documents showing the cost of the solar energy system.
- (4) Amount of federal income tax credit for the solar energy system.
- (5) Amount of Iowa tax credit to be reserved.

b. If the application is approved, the department will send a letter to the taxpayer reserving the amount of the tax credit and providing a tax credit certificate number. The solar energy system tax credit will be claimed on Form IA 148, Tax Credit Schedule. Any tax credit in excess of the tax liability for the tax year may be credited to the tax liability for the following ten years or until used, whichever is the earlier. The taxpayer must attach federal Form 3468, Investment Credit, to any Iowa tax return claiming the solar energy system tax credit.

If the department receives applications for tax credits in excess of the \$1.5 million available, the applications will be prioritized by the date the department received the applications. If the number of applications exceeds the \$1.5 million of tax credits available, the department shall establish a wait list for the next year’s allocation of tax credits and the applications shall first be funded in the order listed on the wait list. However, if the \$1.5 million cap of tax credit is reached for 2016, no applications in excess of the \$1.5 million cap will be carried over to the next year.

EXAMPLE: A taxpayer submitted an application for a \$2,500 tax credit on December 1, 2012, for an installation that occurred in 2012. The application was denied on December 15, 2012, because the \$1.5 million cap had already been reached for 2012. The taxpayer will be placed on a wait list and will receive priority for receiving the tax credit for the 2013 tax year. However, if the application was

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submitted on December 1, 2016, for an installation that occurred in 2016 and the \$1.5 million cap had already been reached for 2016, no tax credit will be allowed for the 2017 tax year.

c. A taxpayer who is eligible to receive a renewable energy tax credit provided in rule 701—52.27(422) is not eligible for the solar energy system tax credit.

52.44(4) Allocation of tax credit to owners of a business entity. If the taxpayer claiming the tax credit based on a percentage of the federal energy credit under Section 48 of the Internal Revenue Code is a partnership, limited liability company, S corporation, estate or trust electing to have income taxed directly to the individual, the individual may claim the tax credit. The amount claimed by the individual shall be based upon the pro rata share of the individual's earnings of the partnership, limited liability company, S corporation, estate or trust. The maximum amount of credit available to a partnership, limited liability company, S corporation, estate or trust shall be limited to \$15,000 for a single tax year.

This rule is intended to implement Iowa Code section 422.33 as amended by 2012 Iowa Acts, Senate File 2342, section 8.

[Filed 9/12/12, effective 11/7/12]

[Published 10/3/12]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 10/3/12.

ARC 0347C

TRANSPORTATION DEPARTMENT[761]

Adopted and Filed

Pursuant to the authority of Iowa Code sections 307.10 and 307.12, the Iowa Department of Transportation, on September 11, 2012, adopted amendments to Chapter 601, "Application for License," Chapter 605, "License Issuance," Chapter 625, "Driver's Licenses for Undercover Law Enforcement Officers," and Chapter 630, "Nonoperator's Identification," Iowa Administrative Code.

Notice of Intended Action for these amendments was published in the July 11, 2012, Iowa Administrative Bulletin as **ARC 0201C**.

The amendments modify the requirements for obtaining a new driver's license or nonoperator's identification card, a renewal of a license or card, or a duplicate license or card to comply with federal rule making that established minimum standards for the issuance of driver's licenses and nonoperator's identification cards. The list of primary documents required to establish identity and date of birth are slightly modified to conform to the approved federal documents, and unnecessary secondary documents have been removed. The amendments also clarify the documents needed to verify social security number, establish in rule existing practice regarding proof of and verification of Iowa residency and current residential address and expand existing practice by requiring two documents showing residency rather than one, establish in rule existing practice regarding proof and verification of lawful status in the United States and modify slightly the documents necessary to prove lawful status to conform to the approved federal documents, and clarify procedures for establishing a person's change of name, date of birth, or sex designation.

A driver's license or nonoperator's identification card that is issued as a REAL ID driver's license or REAL ID nonoperator's identification card shall include a security marking as required by 6 CFR 37.17. Beginning January 15, 2013, a driver's license or nonoperator's identification card that is not issued as a REAL ID license or card may be marked as required by 6 CFR 37.71 and any subsequent guidance issued by the U.S. Department of Homeland Security. A driver's license or nonoperator's identification card that is issued to a person who is a foreign national with temporary lawful status will be marked "limited term" and will be limited in term to one year where the person's lawful status has no expiration date. Where the person's lawful status has an expiration date, current practice, which limits the term to the length of lawful status, not to exceed two years, will continue.

The amendments bring Iowa into compliance with federal rule-making requirements and ensure that Iowans will have access to driver's licenses and nonoperator's identification cards that are acceptable

TRANSPORTATION DEPARTMENT[761](cont'd)

to the federal government (REAL IDs) when Iowans are engaging in official purposes as defined in 6 CFR 37.3; specifically, accessing federal facilities for which identification is required to enter, boarding federally regulated commercial aircraft, and entering nuclear power plants.

The amendments also allow a military member or dependent family member of a military member who is stationed out of state to use the military member's residential address for the state of station as the residential address for an Iowa driver's license or nonoperator's identification card when the military member and dependent family member are residents of Iowa but do not maintain an Iowa residence during the period they are stationed out of state. This provision is not required for federal compliance but was determined to be appropriate to support Iowa military members and their families who are not eligible for licensing in their state of station but need forms of identification that show their local address.

These rules do not provide for waivers. Any person who believes that the person's circumstances meet the statutory criteria for a waiver may petition the Department for a waiver under 761—Chapter 11.

These amendments are identical to those published under Notice of Intended Action.

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

These amendments are intended to implement Iowa Code sections 321.13, 321.177, 321.182, 321.189, 321.190, and 321.196, the REAL ID Act of 2005 (49 U.S.C. Section 30301 note), and 6 CFR Part 37.

These amendments will become effective November 7, 2012.

EDITOR'S NOTE: Pursuant to recommendation of the Administrative Rules Review Committee published in the Iowa Administrative Bulletin, September 10, 1986, the text of these amendments [amendments to Chs 601, 605, 625, 630] is being omitted. These amendments are identical to those published under Notice as **ARC 0201C**, IAB 7/11/12.

[Filed 9/12/12, effective 11/7/12]

[Published 10/3/12]

[For replacement pages for IAC, see IAC Supplement 10/3/12.]

AGENCY	RULE	DELAY
Transportation Department[761]	25.2(8), chs 123, 124 [IAB 7/11/12, ARC 0187C]	Effective date of August 15, 2012, delayed until adjournment of the 2013 Session of the General Assembly by the Administrative Rules Review Committee at its meeting held September 11, 2012. [Pursuant to §17A.4(7)]