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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

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CITATION of Administrative Rules

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

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

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

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

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

Schedule for Rule Making 2014

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

PRINTING SCHEDULE FOR IAB

<u>ISSUE NUMBER</u>	<u>SUBMISSION DEADLINE</u>	<u>ISSUE DATE</u>
10	Wednesday, October 22, 2014	November 12, 2014
11	Wednesday, November 5, 2014	November 26, 2014
12	Wednesday, November 19, 2014	December 10, 2014

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*****

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Administration of sedation and nitrous oxide inhalation analgesia, 29.4, 29.5(12) IAB 10/1/14 ARC 1658C	Board Office, Suite D 400 S.W. 8th St. Des Moines, Iowa	October 21, 2014 2 p.m.
Military service and veteran reciprocity, ch 52 IAB 10/1/14 ARC 1645C	Board Office, Suite D 400 S.W. 8th St. Des Moines, Iowa	October 21, 2014 2 p.m.

EDUCATION DEPARTMENT[281]

Adult education and literacy programs, ch 23 IAB 10/15/14 ARC 1672C	State Board Room, Second Floor Grimes State Office Bldg. Des Moines, Iowa	November 4, 2014 2 to 3 p.m.
Specified time period for summertime coaching activities, 36.15(6)“b” IAB 10/15/14 ARC 1673C	State Board Room, Second Floor Grimes State Office Bldg. Des Moines, Iowa	November 4, 2014 1 to 2 p.m.
Iowa vocational rehabilitation services, amendments to ch 56 IAB 10/15/14 ARC 1676C	State Board Room, Second Floor Grimes State Office Bldg. Des Moines, Iowa	November 4, 2014 11 a.m. to 12 noon
Research-based educational and instructional models for students of limited English proficiency, 60.2, 60.3 IAB 10/15/14 ARC 1675C	State Board Room, Second Floor Grimes State Office Bldg. Des Moines, Iowa	November 4, 2014 9 to 10 a.m.
Standards for practitioner and administrator preparation programs, 79.2, 79.10 to 79.17, 79.20, 79.21 IAB 10/15/14 ARC 1674C	State Board Room, Second Floor Grimes State Office Bldg. Des Moines, Iowa	November 4, 2014 10 to 11 a.m.

INSPECTIONS AND APPEALS DEPARTMENT[481]

Residential care facilities, ch 57 IAB 10/1/14 ARC 1649C	Room 320 Lucas State Office Bldg. Des Moines, Iowa	October 21, 2014 10 a.m.
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Recording and reporting regulations, 4.3 IAB 10/15/14 ARC 1677C	Capitol View Room 1000 E. Grand Ave. Des Moines, Iowa	November 5, 2014 2:30 p.m. (If requested)
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PROFESSIONAL LICENSURE DIVISION[645]

Military service and veteran reciprocity, ch 20 IAB 10/15/14 ARC 1668C	Fifth Floor Professional Licensure Conference Room Lucas State Office Bldg. Des Moines, Iowa	November 4, 2014 10 to 11 a.m.
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502 E. 9th St.
Des Moines, Iowa

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1375 E. Court Ave.
Des Moines, Iowa

October 28, 2014
9 a.m.

The following list will be updated as changes occur.

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

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

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

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ARC 1672C

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 rescind Chapter 23, “Adult Education,” and adopt new Chapter 23, “Adult Education and Literacy Programs,” Iowa Administrative Code.

New Chapter 23 provides for statewide standards and guidance for adult education and literacy programs and defines the requirements for the qualifications of staff, professional development, and performance and accountability.

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

Interested individuals may make written comments on the proposed rules on or before November 4, 2014, at 4:30 p.m. Comments on the proposed rules should be directed to Jeremy Varner, Iowa Department of Education, Second Floor, Grimes State Office Building, Des Moines, Iowa 50319-0146; telephone (515)281-8260; e-mail jeremy.varner@iowa.gov; or fax (515)242-5988.

A public hearing will be held on November 4, 2014, 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 person who intends to attend the public hearing and has special requirements, such as those related to hearing or mobility impairments, should contact and advise the Department of Education of 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 Iowa Code chapter 260C.

The following amendment is proposed.

Rescind 281—Chapter 23 and adopt the following **new** chapter in lieu thereof:

CHAPTER 23

ADULT EDUCATION AND LITERACY PROGRAMS

281—23.1(260C) Definitions. For purposes of this chapter, the indicated terms are defined as follows:

“*Adult education and literacy program*” means adult basic education, adult education leading to a high school equivalency diploma under Iowa Code chapter 259A, English as a second language instruction, workplace and family literacy instruction, integrated basic education and technical skills instruction, and other activities specified in the Adult Education and Family Literacy Act, 20 U.S.C. Ch. 73 and subsequent federal workforce training and adult education legislation.

“*Career pathways*” means a combination of rigorous and high-quality education, training, and other services that:

1. Aligns with the skill needs of industries in the state or regional economy;
2. Prepares an individual to be successful in any of a full range of secondary or postsecondary education options, including apprenticeships;
3. Includes counseling to support an individual in achieving the individual’s education and career goals;
4. Includes, as appropriate, education offered concurrently with and in the same context as workforce preparation activities and training for a specific occupation or occupational cluster;

EDUCATION DEPARTMENT[281](cont'd)

5. Organizes education, training, and other services to meet the particular needs of an individual in a manner that accelerates the educational and career advancement of the individual to the extent practicable; and

6. Helps an individual enter or advance within a specific occupation or occupational cluster.

“*Coordinator*” means the person(s) responsible for making decisions for the adult education and literacy program at the local level.

“*Department*” means the Iowa department of education.

“*English as a second language*” means a structured language acquisition program designed to teach English to students whose native language is other than English.

“*Intake*” means admittance and enrollment in an adult education and literacy program operated by an eligible provider.

“*Professional staff*” means all staff that are engaged in providing services, including instruction and data entry, for individuals who are eligible for adult education and literacy programs.

“*State assessment policy*” means a federally approved policy which stipulates the use of a standardized assessment, scoring and reporting protocols, certification requirements for test administrators, and the protocol for tracking test and attendance data.

“*Volunteer staff*” means all non-paid persons who perform services, including individualized instruction and data entry, for individuals who are eligible for adult education and literacy programs.

281—23.2(260C) State planning.

23.2(1) *Basis.* A state plan for adult education shall be developed as required by federal legislation. Current federal rules and regulations shall be followed in developing the state plan.

23.2(2) *State planning.* Statewide planning shall be conducted in accordance with applicable federal legislation. The state board is authorized to prepare, amend, and administer the state plan in accordance with state and federal law. The state plan shall establish appropriate statewide strategies and goals for adult education and literacy programs.

23.2(3) *Funding allocation.* The department shall be responsible for the allocation and distribution of state and federal funds for adult basic education programs in accordance with these rules and with the state plan. The state has the right under federal legislation to establish the funding formula and to issue a competitive bidding process.

281—23.3(260C) Program administration. The department, through the division of community colleges, is hereby designated as the agency for administration of state and federally funded adult basic education programs and for supervision of the administration of adult basic education programs. The division shall be responsible for the allocation and distribution of state and federal funds awarded to eligible institutions for adult basic education programs through a grant application in accordance with this chapter and with the state plan.

23.3(1) *Eligible institutions.* Adult education and literacy programs may be operated by:

a. Entities accredited by the Higher Learning Commission and approved by the department; or

b. Eligible entities as defined by the Adult Education and Family Literacy Act, 20 U.S.C. Ch. 73, and subsequent federal workforce training and adult education legislation, and approved by the department.

23.3(2) *Program components.*

a. The eligible institution shall maintain the ability to provide the following adult education and literacy services as deemed appropriate by the community or needs of the students:

(1) Adult basic education;

(2) Programs for adults of limited English proficiency;

(3) Adult secondary education, including programs leading to the achievement of a high school equivalency certificate or high school diploma;

(4) Instructional services provided by qualified instructors as defined in subrule 23.6(1) to improve student proficiencies necessary to function effectively in adult life, including accessing further education, employment-related training, or employment;

EDUCATION DEPARTMENT[281](cont'd)

- (5) Assessment and guidance services adhering to the state's assessment policy; and
- (6) Programs and services stipulated by current and subsequent federal and state adult education legislation.

b. Institutions shall effectively use technology, services, and delivery systems, including distance education, in a manner sufficient to increase the amount and quality of student learning and performance.

c. Institutions shall ensure a student acquires the skills needed to transition to and complete postsecondary education and training programs and obtain and advance in employment leading to economic self-sufficiency.

23.3(3) Local planning.

a. Adult education and literacy programs shall collaborate and enter into agreements with multiple partners in the community for the purpose of establishing a local plan. Such plans shall expand the services available to adult learners, align with the strategies and goals established by the state plan, and prevent duplication of services.

b. An adult education and literacy program's agreement shall not be formalized until the local plan is approved by the department. A plan shall be approved provided the plan complies with the standards and criteria outlined in this chapter, federal adult education and family literacy legislation, and the strategies and goals of the state plan as defined in the local plan application.

c. Local plans may be approved by the state for single or multiple years.

23.3(4) Federal funding. Federal funds received by an adult education and literacy program must not be expended for any purpose other than authorized activities, in the manner prescribed by the authorizing federal legislation.

23.3(5) State funding. Moneys received from state funding sources for adult education and literacy programs shall be used in the manner described in this subrule. All funds shall be used to expand services and improve the quality of adult education and literacy programs.

a. Use of funds. State funding shall be expended on:

(1) Allowable uses pursuant to the Adult Education and Family Literacy Act, 20 U.S.C. Ch. 73, and subsequent federal workforce training and adult education legislation.

(2) High school equivalency testing and associated costs.

b. Restrictions. In expending state funding, adult education and literacy programs shall adhere to the allowable use restrictions of the Adult Education and Family Literacy Act, 20 U.S.C. Ch. 73, and subsequent federal workforce training and adult education legislation, except for administrative cost restrictions.

c. Reporting. All reporting for state funding shall adhere to a summary of financial transactions related to the adult education and literacy program's resources and expenses in a format prescribed by the department. Adult education and literacy programs shall submit quarterly reports to the department on dates to be set by the department. A year-end report shall be submitted to the department no later than October 1.

23.3(6) English as a second language. In addition to meeting the requirements of subrules 23.3(1) through 23.3(5), English as a second language programs shall adhere to the following provisions.

a. Application process. An English as a second language program shall annually submit an application to the department that identifies the need, sets benchmarks, and provides a plan for high-quality instruction.

b. Distribution and allocation. The department and the community colleges shall jointly prescribe the distribution and allocation of funding, which shall be based on need for instruction in English as a second language in the region served by each community college. Need shall be based on census, survey, and local outreach efforts and results.

c. Midyear reporting. English as a second language programs shall include a narrative describing the progress and attainment of the benchmarks specified in the application described in paragraph 23.3(6) "a." The report shall be provided to the department midway through the academic year.

EDUCATION DEPARTMENT[281](cont'd)

281—23.4(260C) Career pathways. Adult education and literacy programs may use state adult education and literacy education funding for activities related to the development and implementation of the basic skills component of a career pathways system.

23.4(1) Collaboration. Adult education and literacy programs shall coordinate with other available education, training, and social service resources in the community for the development of career pathways, such as by establishing strong links with elementary schools and secondary schools, postsecondary educational institutions, institutions of higher education, local workforce investment boards, one-stop centers, job training programs, social service agencies, business and industry, labor organizations, community-based organizations, nonprofit organizations, and intermediaries.

23.4(2) Use of state funds. Only activities directly linked to adult education and literacy programs and instruction shall be funded with moneys received from state adult education and literacy funds. Consideration shall be given to providing adult education and literacy activities concurrently with workforce preparation activities and workforce training for the purpose of educational and career advancement.

281—23.5(260C) Student eligibility. A person seeking to enroll in an adult education and literacy program shall be at least 16 years of age and not enrolled or required to be enrolled in a secondary school under Iowa Code section 299.1A and shall meet one of the following eligibility requirements:

1. Lacks sufficient mastery of basic educational skills to enable the person to function effectively in society, demonstrated by a score of Adult Secondary Education (Low) or lower in at least one modality;
2. Does not have a secondary school diploma or a recognized equivalent; or
3. Is unable to speak, read, or write the English language.

281—23.6(260C) Qualification of staff. Adult education and literacy programs shall be in compliance with the requirements established under this rule by July 1, 2015. The requirements of this rule apply to all staff hired after July 1, 2015. All staff hired prior to July 1, 2015, are exempt from this rule.

23.6(1) Professional staff. Professional staff providing instruction in an adult education and literacy program to students must possess at minimum a bachelor's degree.

23.6(2) Volunteer staff. Volunteer staff must possess at minimum a high school diploma or high school equivalency diploma.

281—23.7(260C) High-quality professional development.

23.7(1) Responsibility of program. Adult education and literacy programs shall be responsible for providing professional development opportunities for professional and volunteer staff, including:

- a. Proper procedures for the administration and reporting of data pursuant to rule 281—23.8(260C);
- b. The development and dissemination of instructional and programmatic practices based on the most rigorous and scientifically valid research available; and
- c. Appropriate reading, writing, speaking, mathematics, English language acquisition, distance education, and staff training practices aligned with content standards for adult education.

23.7(2) Professional development requirements. Professional development shall include formal and informal means of assisting professional and volunteer staff to:

- a. Acquire knowledge, skills, approaches, and dispositions;
- b. Explore new or advanced understandings of content, theory, and resources; and
- c. Develop new insights into theory and its application to improve the effectiveness of current practice and lead to professional growth.

23.7(3) Professional development standards. The department and entities providing adult education and literacy programs shall promote effective professional development and foster continuous instructional improvement. Professional development shall incorporate the following standards:

- a. Strengthens professional and volunteer staff knowledge and application of content areas, instructional strategies, and assessment strategies based on research;

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- b.* Prepares and supports professional and volunteer staff in creating supportive environments that help adult learners reach realistic goals;
- c.* Uses data to drive professional development priorities, analyze effectiveness, and help sustain continuous improvement for adult education and literacy programs and learners;
- d.* Uses a variety of strategies to guide adult education and literacy program improvement and initiatives;
- e.* Enhances abilities of professional and volunteer staff to evaluate and apply current research, theory, evidence-based practices, and professional wisdom;
- f.* Models or incorporates theories of adult learning and development; and
- g.* Fosters adult education and literacy program, community, and state level collaboration.

23.7(4) *Provision of professional development.* Adult education and literacy program staff shall participate in professional development activities that are related to their job duties and improve the quality of the adult education and literacy program with which the staff is associated. All professional development activities shall be in accordance with the published Iowa Adult Education Professional Development Standards.

a. All professional staff shall receive at least 12 clock hours of professional development annually. Professional staff who possess a valid Iowa teacher certificate are exempt from this requirement.

b. All professional staff new to adult education shall receive 6 clock hours of preservice professional development prior to, but no later than, one month after starting employment with an adult education program. Preservice professional development may apply toward the professional development requirements of paragraph 23.7(4)“*a.*”

c. Volunteer staff shall receive 50 percent of the professional development required in paragraphs 23.7(4)“*a.*” and 23.7(4)“*b.*”

23.7(5) *Individual professional development plan.* Adult education and literacy programs shall develop and maintain a plan for hiring and developing quality professional staff that includes all of the following:

- a.* An implementation schedule for the plan.
- b.* Orientation for new professional staff.
- c.* Continuing professional development for professional staff.
- d.* Procedures for accurate record keeping and documentation for plan monitoring.
- e.* Specific activities to ensure that professional staff attain and demonstrate instructional competencies and knowledge in related adult education and literacy fields.
- f.* Procedures for collection and maintenance of records demonstrating that each staff member has attained or documented progress toward attaining minimal competencies.
- g.* Provision that all professional staff will be included in the plan. The plan requirements may be differentiated for each type of employee.

23.7(6) *Waiver.* The requirement for professional development may be reduced by local adult education and literacy programs in individual cases where exceptional circumstances prevent staff from completing the required hours of professional development. Documentation shall be kept which justifies the granting of a waiver. Requests for exemption from staff qualification requirements in individual cases shall be kept on record and made available to the department for review upon request.

23.7(7) *Monitoring.* Records of staff qualifications and professional development shall be maintained by each adult education and literacy program for five years and shall be made available to department staff for monitoring upon request.

281—23.8(260C) Performance and accountability.

23.8(1) *Accountability system.* Adult education and literacy programs shall adhere to the standards established by the Adult Education and Family Literacy Act, 20 U.S.C. Ch. 73, and subsequent federal workforce training and adult education legislation in the use and administration of the accountability system. The accountability system will be a statewide system to include, but not be limited to, enrollment reports, progress indicators and core measures.

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23.8(2) Performance indicators.

a. Compliance. Adult education and literacy programs shall adhere to the policies and procedures outlined in the state assessment policy. Data shall be submitted by the tenth day of each month or, should that day fall outside of standard business hours, the first Monday following the tenth day of the month. All adult education and literacy programs shall comply with data quality reviews and complete quality data checks as required to ensure federal compliance with reporting.

b. Determination of progress. Upon administration of a standardized assessment, within the first 12 hours of attendance, adult education and literacy programs shall place eligible students at an appropriate level of instruction. Progress assessments shall be administered after the recommended hours of instruction as published in the state assessment policy.

c. Core measures. Federal and state adult education and literacy legislation has established the data required for reporting core measures, including, but not limited to, percentage of participants in unsubsidized employment during the second and fourth quarter after exit from the program; median earnings; percentage of participants who obtain a postsecondary credential or diploma during participation or within one year after exit from the program; participants achieving measurable skill gains; and effectiveness in serving employers.

These rules are intended to implement Iowa Code chapter 260C.

ARC 1673C**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 36, “Extracurricular Interscholastic Competition,” Iowa Administrative Code.

Subrule 36.15(6) sets out requirements for the operation of summer camps, clinics, and coaching contact for out-of-season sports activities. Specifically, this amendment would change the time period during which summertime coaching activities cannot be in conflict with sports in season by replacing “summertime” with the more specific language “between June 1 and the first day of fall sports practices.” This change is to ensure that all schools are limiting these activities during the same specified time periods.

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

Interested individuals may make written comments on the proposed amendment on or before November 4, 2014, at 4:30 p.m. Comments on the proposed amendment should be directed to Nicole Proesch, Iowa Department of Education, Second Floor, Grimes State Office Building, Des Moines, Iowa 50319-0146; telephone (515)281-8661; e-mail nicole.proesch@iowa.gov; or fax (515)242-5988.

A public hearing will be held on November 4, 2014, from 1 to 2 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 280.13.

The following amendment is proposed.

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Amend paragraph **36.15(6)“b”** as follows:

b. A summer team or individual camp or clinic held at a member or associate member school facility shall not conflict with sports in season. ~~Summertime coaching~~ Coaching activities between June 1 and the first day of fall sports practices shall not conflict with sports in season.

ARC 1676C

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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 256.7(5), the State Board of Education hereby proposes to amend Chapter 56, “Iowa Vocational Rehabilitation Services,” Iowa Administrative Code.

Chapter 56 provides for the services leading to employment for eligible Iowans with disabilities in accordance with Iowa Code chapter 259 and relevant federal statutes and regulations.

Many of the proposed amendments are nonsubstantive cleanup items that primarily reflect actual practice and will not alter the services provided to clients of the Division of Vocational Rehabilitation Services. The proposed amendments of substance are as follows:

Item 1 clarifies the type of employment sought.

Item 2 adds protected classes to the nondiscrimination rule to comport with Iowa Code chapter 216, Iowa’s Civil Rights Act.

Item 3 rescinds the definition of “client.”

Item 5 adds definitions of “customized employment” and “job candidate.” (The amendments in Items 8, 12 to 20, 22 to 28, 30, 31 and 35 to 37 reflect the change in terminology from “client” to “job candidate.”)

Items 5 and 21 define “progressive employment.”

Item 9 provides that a change in status must be in compliance with federal regulations.

Item 11 allows students in high school to work with a counselor to develop an employment plan.

Item 13 clarifies who can provide a medical diagnosis.

Item 16 creates a new category of training, “OJT,” on-the-job training.

Item 18 clarifies when the division will pay for certain transportation.

Item 23 adds “community rehabilitation providers” to the list of facilities providing specialized training.

Item 29 provides that the supervisor review of an appeal will be conducted by the bureau chief, rather than the assistant bureau chief.

Items 34 and 36 make the application process easier for individuals seeking to be self-employed.

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

Interested individuals may make written comments on the proposed amendments on or before November 4, 2014, at 4:30 p.m. Comments on the proposed amendments should be directed to Kelley Rice, Iowa Vocational Rehabilitation Services, 510 East 12th Street, Des Moines, Iowa 50319; telephone (515)281-4146; e-mail kelly.rice@iowa.gov; or fax (515)281-4703.

A public hearing will be held on November 4, 2014, from 11 a.m. to 12 noon 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 person who intends to attend the public hearing and has special requirements, such as those related to hearing or mobility impairments, should contact and advise the Department of Education of 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 chapter 259.

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The following amendments are proposed.

ITEM 1. Amend rule 281—56.1(259) as follows:

281—56.1(259) Responsibility of division. The division is responsible for providing services leading to competitive employment for eligible Iowans with disabilities in accordance with Iowa Code chapter 259, the federal Rehabilitation Act of 1973 as amended, the federal Social Security Act (42 U.S.C. Section 301, et seq.), and the corresponding federal regulations ~~therefor~~.

ITEM 2. Amend rule 281—56.2(259) as follows:

281—56.2(259) Nondiscrimination. The division shall not discriminate on the basis of age, race, creed, color, sex, sexual orientation, gender identity, national origin, religion, duration of residency, or disability in the determination of a person's eligibility for rehabilitation services and in the provision of necessary rehabilitation services.

ITEM 3. Rescind the definition of "Client" in rule **281—56.3(259)**.

ITEM 4. Amend the following definitions in rule **281—56.3(259)**:

"*Aggregate data*" means information about one or more aspects of division clients job candidates, or from some specific subgroup of division clients job candidates, but from which personally identifiable information on any individual cannot be discerned.

"*Competitive employment*" means work in the competitive labor market that is performed on a full-time or part-time basis in an integrated setting and for which the client job candidate is compensated at or above the minimum wage, but not less than the customary wage and level of benefits paid by the employer for the same or similar work performed by individuals who are not disabled.

"*Designated representative*" means anyone the client job candidate designates to represent the client's job candidate's interests before and within the division. The term does not necessarily mean a legal representative. The designated representative may be a parent, guardian, friend, attorney, or other designated person.

"*Home modification*" means the alteration of an already existing living unit to make it usable accessible or more usable accessible by a person with a disability who is involved with the independent living program or as necessary to achieve stable employment as part of an individual plan for employment.

"*Impartial hearing officer*" or "*IHO*" means a person who is not an employee of the division; is not a member of the state rehabilitation advisory council; has not been involved previously in the vocational rehabilitation of the applicant or client job candidate; has knowledge of the delivery of vocational rehabilitation services, the state plan and the federal and state rules and regulations governing the provision of such services; has received training in the performance of the duties of a hearing officer; and has no personal or financial interest that would be in conflict with the person's objectivity.

"*Individual with a most significant disability*" means an individual who is seriously limited in three or more functional capacities (such as mobility, communication, self-care, self-direction, interpersonal skills, work tolerance, or work skills) in terms of an employment outcome and includes an individual who, because of a disability, has been separated from employment or is in danger of becoming separated from employment.

"*Individual with a significant disability*" means an individual who has a significant physical or mental impairment that seriously limits one or more functional capacities (such as mobility, communication, self-care, self-direction, interpersonal skills, work tolerance, or work skills) in terms of an employment outcome or who is a recipient of SSD/SSI.

"*Integrated work setting*," ~~means job sites where most of the client's coworkers are not disabled and the client interacts on a regular basis, in the performance of job duties, with employees who are not disabled; or if the client is part of a distinct work group of only individuals with disabilities, the work group consists of no more than eight individuals; or the client has no coworkers; or if the only coworkers are part of a work group of eight or fewer individuals with disabilities, the client has regular contact with nondisabled individuals, other than the persons providing support service, including members of~~

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~~the general public.~~ with respect to the provision of services, means a setting typically found in the community in which applicants or eligible individuals interact with nondisabled individuals other than nondisabled individuals who are providing services to those applicants or eligible individuals.

With respect to an employment outcome, “integrated work setting” means a setting typically found in the community in which applicants or eligible individuals interact with nondisabled individuals, other than nondisabled individuals who are providing services to those applicants or eligible individuals, to the same extent that nondisabled individuals in comparable positions interact with other persons.

“Maintenance” means monetary support provided to a client job candidate for expenses, such as food, shelter, and clothing, that are in excess of the normal expenses of the client job candidate and that are necessitated by the client’s job candidate’s participation in the program.

“Menu of services” means the services provided by community partners to assist an individual with a disability in achieving an employment outcome. The services are selected and jointly agreed to by the counselor and client job candidate of the division. Payments for services are made based on a fee structure that is published and updated annually and ~~include~~ includes the following:

~~1. Referral to the community provider completed by the counselor and client for a desired outcome;~~

~~2.~~ 1. Assessment through a discovery, community work-site assessment, comprehensive vocational evaluation, facility work-site assessment, career exploration, or job shadowing assessment to identify a realistic vocational goal that is compatible with the individual’s needs, preferences, abilities, disability, and informed choice;

~~3. Enhanced planning requested by the counselor and coordinated with community partners when conflicting and multiple issues are preventing the client from moving forward with employment, so that a comprehensive plan is developed to achieve the employment outcome;~~

~~4.~~ 2. Placement services selected by the counselor, client job candidate and interested partners to prepare for and obtain employment. Placement services include the following:

- Vocational preparation that enhances and improves the client’s job candidate’s ability to perform specific work, learn the necessary skills to do a specific job, minimize negative work habits and behaviors that have impeded job retention, develop skills in finding a job, and learn how to navigate transportation systems to and from work;

- Work adjustment training that remedies negative work habits and behaviors, improves work tolerance, and develops strategies to improve a client’s job candidate’s ability to maintain employment;

- Job-seeking skills training that teaches the client job candidate strategies necessary to find employment ~~with or without assistance~~ and at the level required by the client’s job candidate’s needs;

- Job development and job follow-up that places the client job candidate on a job in the community working for a business, maintains contact with the employer on the client’s job candidate’s progress, is jointly funded through the Medicaid waiver program when appropriate, and is purchased only when used in conjunction with another required service;

- Employer development that, through a job analysis, identifies for businesses the job tasks and customized training plan for the job for which the client job candidate will be trained, is authorized only as a stand-alone service when the Medicaid waiver funds the job development and is purchased only when used in conjunction with another required service;

- Supported job coaching that assists the client job candidate in learning job-specific skills and work habits and behaviors while employed on the job and that continues as needed after the division file is closed;

- Selected job coaching that assists the client job candidate in learning job-specific skills and work habits and behaviors while employed on the job and that is purchased only when approved by the area office supervisor.

“Physical or mental impairment” means:

1. No change.

2. Any mental or psychological disorder such as ~~mental retardation~~ an intellectual disability, organic brain syndrome, emotional or mental illness, or specific learning disabilities.

3. No change.

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- “*Status*” means the existing condition or position of a case. The specific case statuses are as follows:
- ~~00-0 Referral (individual has been referred to or personally contacted the division by any means);~~
 - 02-0 Referral/Applicant (individual requests services and signs the rights and responsibilities form);
 - 04-0 Accepted for services (eligible), but does not meet waiting list categories being served;
 - 06-0 Trial work experiences/extended evaluation (individual’s abilities, capabilities, and capacities are explored);
 - 08-0 Closed before acceptance (eligibility criteria cannot be met or case is closed for some other reason);
 - 10-__ Accepted for services (eligible); ~~substatuses are~~ substatus:
 - 10-0 Eligible individuals ~~other than high school students;~~
 - ~~10-1 Eligible high school students;~~
 - 12-0 IPE developed, awaiting start of services;
 - 14-0 Counseling and guidance only (counselor works with ~~client~~ job candidate directly to reach goals through counseling and placement);
 - 16-0 Physical and mental restoration (when such services are the most significant services called for on the IPE);
 - 18-__ Training (when training is the most significant service called for on the IPE); substatuses are:
 - 18-1 Training in a workshop/facility;
 - 18-2 On-the-job training;
 - 18-3 Vocational-technical training;
 - 18-4 Academic training;
 - 18-5 Correspondence training;
 - 18-6 Supported employment;
 - 18-7 Other types of training not covered above (including nonsupported employment job coaching);
 - 20-0 Ready for employment (IPE has been completed to extent possible);
 - 22-0 Employed;
 - 24-0 Service interrupted (IPE can no longer be continued for some reason and no new IPE is readily obvious);
 - 26-0 Closed rehabilitated (can only occur from Status 22-0 when ~~client~~ job candidate has been employed in the job of closure for a minimum of 90 days);
 - 28-0 Closed after IPE initiated (suitable employment cannot be achieved or employment resulted without benefit of services from the division);
 - 30-0 Closed before IPE initiated (can only occur from either Status 10-__ or 12-0 when a suitable individual plan for employment cannot be developed or achieved or when employment resulted without benefit of services from the division);
 - 32-0 Postemployment services;
 - 33-__ Closed after postemployment services; substatuses are:
 - 33-1 Individual is returned to suitable employment or employment is otherwise stabilized;
 - 33-2 Case reopened for comprehensive vocational rehabilitation services;
 - 33-3 Situation has deteriorated to the point that further services would be of no benefit to individual;
 - 38-0 Closed from Status 04-0 (individual does not meet one of the waiting list categories and the individual no longer wants to remain on the waiting list or fails to respond when contacted because individual’s name is at top of waiting list).

“*Supported employment services*” means ongoing support services and other appropriate services needed to support and maintain an individual with a most significant disability in supported employment that are provided by the division and documented ~~through the employment readiness analysis and placement plan~~.

1. For a period of time ~~not to exceed 18 months~~ consistent with federal regulations unless, under special circumstances, the eligible individual and the rehabilitation counselor jointly agree to extend the time to achieve the employment outcome identified in the IPE; and

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2. No change.

ITEM 5. Adopt the following **new** definitions in rule **281—56.3(259)**:

“*Customized employment*” means a flexible process designed to personalize the employment relationship between a job candidate and an employer in a way that meets the needs of both. Customized employment is based on an individualized match between the strengths, conditions, and interests of a job candidate and the identified business needs of an employer. Customized employment utilizes an individualized approach to employment planning and job development, one person at a time, one employer at a time.

“*Job candidate*” means an eligible individual receiving benefits or services from any part of the division and shall include former job candidates of the division whose files or records are retained by the division.

“*Progressive employment*” means a coordinated set of experiences that may begin with volunteering and gradually progress to competitive employment for individuals for whom employment has not otherwise occurred.

ITEM 6. Amend rule 281—56.4(259) as follows:

281—56.4(259) Individuals who are recipients of SSD/SSI. Recipients of social security disability payments or supplemental security income payments are ~~determined automatically~~ presumed eligible as being significantly disabled and are eligible for vocational rehabilitation services if such recipients demonstrate eligibility under rules 281—56.8(259) and 281—56.13(259). Recipients who demonstrate eligibility under rules 281—56.8(259) and 281—56.13(259) must also demonstrate need in the employment plan under rule 281—56.14(259). Nothing in this rule automatically entitles a recipient of social security disability payments or supplemental security income payments to any good or service provided by the division.

ITEM 7. Amend subrule 56.5(4) as follows:

56.5(4) A determination that the individual meets the residency requirement at the time of application.

ITEM 8. Amend rule 281—56.6(259) as follows:

281—56.6(259) Eligibility for specific services. Financial need must be established prior to provision of certain services at the division’s expense. Applicants are eligible for physical restoration, occupational licenses, customary occupational tools and equipment, training materials, maintenance and transportation (except transportation for diagnosis, guidance or placement) only on the basis of financial need and when services are not otherwise immediately available. The following criteria are established for determination of eligibility of ~~clients~~ job candidates for the following services:

56.6(1) Physical restoration.

a. The service is necessary for the ~~client’s~~ job candidate’s satisfactory occupational adjustment.

b. to d. No change.

56.6(2) Training and training materials.

a. The training and books and supplies are necessary for the ~~client’s~~ job candidate’s satisfactory occupational adjustment.

b. The ~~client~~ job candidate has the mental and physical capacity to acquire a skill that the ~~client~~ job candidate can perform in an occupation commensurate with the ~~client’s~~ job candidate’s abilities and limitations.

c. The ~~client~~ job candidate is not otherwise precluded by law from employment in the ~~client’s~~ job candidate’s field of training.

d. The ~~client~~ job candidate meets the residency requirement.

56.6(3) Occupational licenses and occupational tools and equipment. The division may pay for occupational licenses and customary occupational tools and equipment when necessary for the ~~client’s~~ job candidate’s entrance into, and successful performance in, a selected occupation.

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56.6(4) Transportation. A client job candidate may be provided transportation in connection with securing medical or psychological examinations, physical restoration, training or placement, if such transportation is part of the client's job candidate's IPE. A companion may be provided transportation at the division's expense if the client job candidate cannot travel alone.

56.6(5) Maintenance. A client job candidate is eligible for maintenance when it is necessary to the client's job candidate's vocational rehabilitation and is an extra expense incurred due to the IPE.

ITEM 9. Amend rule **281—56.7(259)**, numbered paragraph “5,” as follows:

5. Being in employment and in Status 22-0 ~~for 90 days~~ consistent with federal regulations prior to Status 26-0 closure.

ITEM 10. Amend rule **281—56.8(259)**, first unnumbered paragraph, as follows:

An individual's order of selection is determined by the waiting list and the date on which the individual ~~was deemed eligible~~ applied for services from the division. All waiting lists are statewide in scope; no regional lists are to be maintained.

ITEM 11. Amend rule 281—56.10(259) as follows:

281—56.10(259) Students in high school. The division may serve students in high school, ~~provided the student demonstrates the maturity level, skills, and learning characteristics required to who may~~ legally work in competitive environments for nonfamily members. If an applicant is in high school and is determined to be eligible for vocational rehabilitation services, such services may begin before the student exits the secondary school system. The services shall not supplant services for which the secondary school is responsible.

When the division determines that a student is eligible for services, the student's place on the waiting list under rule 281—56.8(259) shall be determined. If the waiting list category appropriate for the student is a category currently being served, ~~the student's case shall be moved to Status 10-1~~ the case record moves to a planning status and the student will work with a counselor to develop an employment plan. Otherwise the case is placed in Status 04-0, and the student's name is added to the waiting list for that category, based on the student's date of eligibility application. An IPE may be written for a student ~~in Status 10-1~~ at any time the student's vocational goal and the services necessary to reach that goal have been agreed upon by the student and the student's division counselor. The IPE must be in place ~~when the student exits the secondary school system~~ as required by federal regulations, unless the student has agreed to an extension or is on a waiting list ~~or applied for services in the last quarter of the student's senior year~~. The plan shall be developed in accordance with the standard established by the division.

The counselor assigned by the division to work with the student may participate in the student's individualized education program meetings to provide consultation and technical assistance if the student is on the waiting list for services. Once a student is removed from the waiting list, the counselor may also provide vocational counseling and planning for the student and coordinate services with transition planning teams. When such services do not supplant services for which the secondary school is responsible, the division may begin to provide services specifically related to employment, such as supported employment or job coaching services, as early as the student's junior year of secondary school. Students in high school or in an alternative high school who have not yet met high school graduation requirements after four years of secondary enrollment may continue to receive said services that do not supplant the responsibilities of the high school. Students in their final year of high school who have made satisfactory progress and who have demonstrated job-specific skills to work in their trained profession may receive assistance in purchasing tools to be used on a job.

ITEM 12. Amend rule 281—56.11(259) as follows:

281—56.11(259) Establishment of financial need. The division establishes the client's job candidate's financial need prior to providing physical restoration, including prostheses; transportation (for other than diagnostic, guidance or placement purposes); maintenance; and occupational licenses, tools and equipment. Recipients of SSD/SSI are not subject to a financial needs test for any services but must

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demonstrate eligibility under rules 281—56.8(259) and 281—56.13(259), as well as demonstrate need in the employment plan under rule 281—56.14(259).

In determining financial need, the clients job candidates or, in the case of minors, the minors' parents or guardians are required to make a specific declaration regarding all family income from any source that may be applied toward the cost of rehabilitation services, except those of diagnosis, counseling, training and placement, which are provided without regard to financial need; however, the division shall not pay for more than the balance of the cost of the service minus comparable services and benefits. The income should be available to the client job candidate; that is, actually on hand, free from prior obligations and ready when needed.

The division shall observe the following policies in making a determination of financial need based upon the findings:

56.11(1) All services requiring the determination of financial need are provided on the basis of supplementing the resources of the client job candidate or of those responsible for the client job candidate.

56.11(2) No change.

56.11(3) Consideration shall be given to the client's job candidate's responsibility for the immediate needs and maintenance of the client's job candidate's dependents, and the client job candidate shall be expected to reserve sufficient funds to meet the client's job candidate's family obligations and to provide for the family's future care, education and medical expenses.

56.11(4) Consideration shall also be given to factors such as prior obligations as well as to the desirability of conserving the client's job candidate's own resources for future rehabilitation purposes, such as becoming established in business or providing a business automobile required for transportation or employment.

56.11(5) Income up to a reasonable amount should be considered from the standpoint of its conservation and its maximum utilization to the long-term interest of the client job candidate. Small casual earnings and unpredictable gifts of indeterminate value should not be counted as resources.

56.11(6) No change.

56.11(7) Grants and scholarships based on merit, while not required to be searched for a comparable benefit, may be considered when determining financial support of a plan. Public grants and institutional grants or scholarships not based on merit are considered a comparable benefit.

ITEM 13. Amend rule 281—56.13(259) as follows:

281—56.13(259) Case diagnosis. The case diagnosis constitutes a comprehensive study of the client job candidate, including medical as well as a vocational diagnosis of the individual. Each case diagnosis is based on pertinent information, including the individual's health and physical status, intelligence, educational background and achievements, vocational aptitudes and interests, employment experience and opportunities, and personal and social adjustments.

56.13(1) Medical diagnosis.

a. No change.

b. The division accepts a medical report in lieu of securing a new examination when the report can be relied upon to provide a sound basis for diagnosis of the physical or mental condition of the individual; and is from one of the following providers or sources: as listed in the case service manual; and is from an accredited or certified medical or treatment institution recognized by the state of Iowa or licensed by the department of public health or department of human services in any other state.

(1) ~~A licensed physician or surgeon;~~

(2) ~~A licensed osteopathic physician or surgeon;~~

(3) ~~A licensed doctor of chiropractic;~~

(4) ~~A licensed psychologist;~~

(5) ~~A licensed physician assistant;~~

(6) ~~A licensed advanced registered nurse practitioner;~~

(7) ~~A native healing practitioner recognized as such by an Indian tribe when services are being provided to American Indians with disabilities and the native healing practitioner services are necessary to achieve the individual's vocational rehabilitation objective;~~

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- ~~(8) A licensed dentist;~~
- ~~(9) A licensed ophthalmologist;~~
- ~~(10) A licensed audiologist;~~
- ~~(11) A licensed independent social worker (LISW);~~
- ~~(12) A licensed mental health counselor;~~
- ~~(13) A certified school psychologist;~~
- ~~(14) A recent individualized education program (IEP) as recognized by the Iowa department of education which documents a history of special education programs or services; or~~
- ~~(15) An accredited or certified medical or treatment institution recognized by the state of Iowa or licensed by the department of public health or department of human services in any other state.~~

56.13(2) Vocational diagnosis. The methods of the vocational diagnosis include counseling interviews with the client job candidate; reports as may be needed, including when necessary in the individual case, reports from schools, employers, social agencies, and others; and psychological information.

56.13(3) Recording case data. The division maintains a record for each case. The case record contains pertinent case information including, as a minimum, the basis for determination of eligibility, the basis justifying the plan of services and the reason for closing the case together with a justification of the closure. A case record may not be destroyed until ~~three~~ four years after the case has been closed. A case record documenting participation in a transitional alliance program shall be maintained until the job candidate reaches age 25 or later.

ITEM 14. Amend rule 281—56.14(259) as follows:

281—56.14(259) Individual plan for employment (IPE).

56.14(1) Content. The IPE contains the client's job candidate's expected employment goal, the specific vocational rehabilitation services needed to reach that goal, the entity or entities that will provide those services, the method by which satisfactory progress will be evaluated, and the methods available for procuring the services. The IPE shall be developed consistent with federal regulations.

56.14(2) Client's Job candidate's participation and approval. The IPE is formulated with the client's job candidate's participation and approval and provides for all rehabilitation services that are recognized to be necessary to fully accomplish the client's job candidate's vocational rehabilitation whether or not services are at the expense of the division.

56.14(3) No change.

56.14(4) Cooperation by the client job candidate. The division requires good conduct, regular attendance and cooperation of all individuals engaged in the rehabilitation plan's implementation. The division makes the following provisions for ensuring trainee cooperation: instruction, verbally or by pamphlet, emphasizing the importance of these factors to the success of the IPE; at the beginning of the program, advising each trainee about what is expected of the trainee and that services shall continue only if the trainee's progress, attitude and conduct are satisfactory; requiring periodic progress, grade and attendance reports from the training agency; promptly calling the trainee's attention to evidence of unsatisfactory progress or attendance before such conditions become serious; providing encouragement to the trainee to promote good work habits, with due commendation for effective effort; and maintaining good relationships with the training agency.

56.14(5) Ticket to work. The client's job candidate's signature on the IPE verifies the ticket assignment to the division unless otherwise directed by the client job candidate.

ITEM 15. Amend rule 281—56.15(259) as follows:

281—56.15(259) Scope of services. All necessary vocational rehabilitation services, including counseling, physical restoration, training, and placement, are made available to eligible individuals to the extent necessary to achieve their vocational rehabilitation and must be included in the employment plan and agreed to by the eligible individual's counselor before the service is delivered. The division cooperates with federal and other state agencies providing vocational rehabilitation or similar services,

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and written agreements providing for interagency cooperation may be entered into as required by the Act at the discretion of the division. In selected instances, the division assumes responsibility for providing short periods of medical care for acute conditions arising in the course of the client's job candidate's rehabilitation, which if not cared for would constitute a hazard to the achievement of the rehabilitation objective because of the client's job candidate's limited funds and the unavailability of free medical services.

ITEM 16. Amend rule 281—56.16(259) as follows:

281—56.16(259) Training.

56.16(1) No change.

56.16(2) Types of training. The types of training programs available are as follows:

a. No change.

b. Vocational training, which includes any organized form of instruction that provides the knowledge and skills essential for performing in a vocational-technical area. Such knowledge and skills may be acquired through training in an institution, on the job, by correspondence, by tutors, through a selection from the menu of services, by apprenticeship, or through a combination of any or all of these methods.

c. to e. No change.

f. Supported employment, which means competitive work in an integrated work setting with ongoing support services for individuals with the most significant disabilities for whom competitive employment has not traditionally occurred or has been interrupted or intermittent as a result of significant disabilities. Supported employment also includes transitional employment for individuals with chronic mental illness. Supported employment is limited to ~~a period of 18 months unless a longer period is established in the IPE in accordance with federal regulations.~~

g. ~~Customized training, which is a plan developed by the client's counselor in cooperation with the client and the employer-trainer whereby the employer-trainer accepts the client for training for a specific job or job family, paid or unpaid, that may or may not result in employment with the training employer. OJT means training on the job either as an employee or trainee of the business. See rule 281—56.3(259).~~

56.16(3) Scope of training. The division may provide training services as long as those services are part of a client's job candidate's IPE. Training facilities shall be selected to meet the client's job candidate's health, disability, and program needs. Training facilities within the state are preferred; those outside Iowa shall not be used unless approved for use by the vocational rehabilitation agency in the state in which the facility is located.

56.16(4) Financial assistance for postsecondary training. Calculations of financial assistance for postsecondary training are determined annually. In order for the division to continue to assist the greatest practical number of eligible clients job candidates, assistance shall be no less than 40 percent and no more than 60 percent of the cost of attending the least expensive in-state public institution for a course of instruction leading to an undergraduate degree. In all cases, the postsecondary institution in which the student is enrolled must be accredited by an entity recognized by the federal Department of Education as having authority to accredit postsecondary institutions.

a. *Tuition and fee-based general assistance.*

(1) to (5) No change.

(6) Distance learning (on-line courses). For a student enrolled in a distance learning course, the division shall pay the lesser of one of the following:

1. No less than 40 percent and no more than 60 percent of the actual cost of the course, or

2. The rate established for a student ~~in second year or less status~~ at the student's academic level.

(7) and (8) No change.

b. *Support services for postsecondary training.* Unless approved as an exception by the supervisor, the amounts authorized for the items listed herein cannot exceed the amounts that would otherwise be spent on tuition and fees.

(1) No change.

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(2) Maintenance shall be provided only to support participation in a program of vocational rehabilitation services when the client job candidate has ~~no resources to address an extra expense beyond the job candidate's basic living expenses.~~

(3) No change.

(4) Tutoring shall be provided only for courses that are part of the actual degree requirements and only when this service is not available for free through the school attended by the client job candidate. Tutoring for program entrance examinations, such as the GRE, LSAT, or MCAT, is not allowed without an exception approved by the supervisor.

(5) and (6) No change.

~~(7) Unless approved as an exception, fees for specialized equipment or computer programs needed to learn a subject or to access a course shall be provided in lieu of the tuition and fee amount.~~

~~(8)~~ (7) Fees for certification tests that are part of a course shall be paid pursuant to the 40 percent to 60 percent range established as the tuition and fees standard. For certifications and licensure fees that are not part of a course, the division shall use the financial needs assessment form to determine the level of division participation.

56.16(5) No change.

ITEM 17. Amend rule 281—56.17(259) as follows:

281—56.17(259) Maintenance. The costs of maintenance shall not exceed the amount of increased expenses that the rehabilitation causes for the client job candidate or the client's job candidate's family. Maintenance is not intended to provide relief from poverty or abject living conditions. Guidance regarding the financial support of maintenance is available from the division's case service manual.

ITEM 18. Amend rule 281—56.18(259) as follows:

281—56.18(259) Transportation. When necessary to enable an applicant or a client job candidate to participate in or receive the benefits of other vocational rehabilitation services, travel and related expenses, including expenses for training in the use of public transportation vehicles and systems, may be provided by the division. Transportation services may include the use of private or commercial conveyances (such as private automobile or van, public taxi, bus, ambulance, train, or plane) or the use of public transportation and coordination with a regional transit agency. The division shall not purchase or lease vehicles a vehicle for a client job candidate unless it is needed for self-employment. The division shall not rent a vehicle unless it is necessary for a job candidate's relocation. The division shall not pay for maintenance or repair of vehicles unless written approval of the supervisor allows for an exception.

ITEM 19. Amend rule 281—56.19(259) as follows:

281—56.19(259) Rehabilitation technology.

56.19(1) Rehabilitation technology services are available at any point in the rehabilitation process, except to those clients job candidates on the waiting list. Such services include, as appropriate, an evaluation of the ability of the individual to benefit from rehabilitation technology services. Areas in which rehabilitation technology services may be of assistance include seating and positioning, augmentative communication, computer access, environmental controls, mobility equipment, and modification of the job site or home.

56.19(2) Unless a written exception is approved by a supervisor, the following division contribution limits apply:

a. The division shall pay for no more than \$2,000 ~~for home modifications~~ the established rate in division policy.

b. No change.

~~*e.* Rescinded IAB 8/15/07, effective 9/19/07.~~

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ITEM 20. Amend rule 281—56.21(259) as follows:

281—56.21(259) Placement. The division not only prepares individuals with disabilities for jobs and trains them in techniques in securing their own jobs, but also accomplishes the actual placement, directly or indirectly through a service from the menu of services, of all eligible individuals with disabilities who receive rehabilitation services. Placement activities are based upon adequate evaluation and preparation of the client job candidate and ordinarily include some combination of the following: evaluation of the client's job candidate's job readiness; development and execution of a plan for job-seeking activities; instruction in making job applications and in conduct and appearance during interviews; employer contacts; registration with the state workforce development center administration division; job analysis and modification; job coaching; employer or supervisor consultation, advisement and training; time-limited job coaching; postplacement follow-up; and relocation costs. Satisfactory employment is the objective of all division services of preparation, and placement services are an important, integral part of the overall vocational rehabilitation program. As such, in addition to the services listed herein, placement services may include the need for transportation and subsistence allowances and the purchase and acquisition of appropriate clothing, tools, equipment, and occupational licenses.

ITEM 21. Amend rule 281—56.22(259) as follows:

281—56.22(259) ~~Supported employment and transitional employment~~ Progressive employment. As defined herein, ~~supported employment is provided to clients with the most significant disabilities for whom competitive employment has not traditionally occurred or has been interrupted or intermittent as a result of significant disabilities. Supported employment also includes transitional employment as defined herein for clients with mental illnesses. Supported employment is provided either directly by division staff or through the selection of an item from the menu of services in rule 281—56.3(259), progressive employment is a process that facilitates employment in the community through a natural progression beginning with employment awareness and volunteerism and gradually increasing the level of responsibility to workplace acquisition of skills and using on-the-job training and supported employment to achieve competitive employment.~~

ITEM 22. Amend rule 281—56.23(259) as follows:

281—56.23(259) Miscellaneous or auxiliary services.

56.23(1) Family member services. If necessary to enable an applicant or client job candidate to achieve an employment outcome as defined in these rules, the division may provide any service to a family member that it is legally able to provide to a client job candidate, as long as the purpose of the service is to assess the ability of the client job candidate to benefit from a program of vocational rehabilitation, prepare for, enter, and be successful in employment, or participate in a program of independent living services. Excluded are programs designed to prepare a family member to enter employment that will allow the family member to make money to support the applicant or client job candidate. A family member is an individual who either (a) is a relative or guardian of an applicant or client job candidate or (b) lives in the same household as an applicant or client job candidate and has a substantial interest in the well-being of the applicant or client job candidate.

56.23(2) Interpreter and note taker. If deemed necessary by the division to enable a client job candidate to engage in all parts of the vocational rehabilitation or independent living program process, interpreter services or note taker services shall be provided to such client job candidate, unless provision of such services is the statutory responsibility of an institution or organization.

Interpreter services are those special communications services provided by persons qualified by training and experience to facilitate communication between division personnel and persons ~~unable to communicate verbally in English~~ who are deaf or hard of hearing. Persons receiving services include deaf and hard-of-hearing persons who communicate using signs and finger spelling, as well as lip reading, writing, gestures, pictures, and other methods. Persons not fluent in the English language who could benefit from having any part of the vocational rehabilitation process translated into their major language

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are included. The division shall purchase sign language interpreter services, including transliterating services, from appropriately licensed interpreters only.

Note taker services are services provided to make written notes and summaries of orally presented material. The notes may be made from a live presentation, such as a classroom lecture, or from materials that have been taped. These services are only purchased when the law states that the presenter or institution is not statutorily responsible.

56.23(3) Other goods and services. Other goods and services include anything that is legal and necessary to the completion of the client's job candidate's IPE or independent living (IL) services plan. Under no circumstances may real estate be purchased or built with division funds. Services designed to decrease the need for future IL services can only be provided directly to IL clients job candidates.

ITEM 23. Amend subrules 56.24(2) and 56.24(4) as follows:

56.24(2) Standards for facilities providing specialized training or other services. The division selects its training agencies on the basis of their ability to supply the quality of training desired. The general practice of the division is to utilize the facilities of accredited or approved colleges, universities, community rehabilitation programs, and trade and commercial schools for residence and correspondence training. The general practice of the division is to utilize community partners to deliver items from the menu of services based on the partners' ability to supply the quality of training desired and to achieve expected outcomes resulting in job placements for clients job candidates of the division.

56.24(4) Facilities providing personal adjustment training. In addition to other standards set for tutorial and customized training, an important basis for selection of facilities for personal adjustment training is a sympathetic understanding of the personal adjustment needs of the individual and their importance to the client's job candidate's total rehabilitation.

ITEM 24. Amend paragraph **56.25(1)“e”** as follows:

e. Documented evidence supports that the client job candidate is in the process of repaying a previously defaulted student loan.

ITEM 25. Amend rule 281—56.26(259), introductory paragraph, as follows:

281—56.26(259) Exceptions to duration of services. As required by the Act and 34 CFR 361.50(d), the division shall have a method of allowing for exceptions to its rules regarding the duration of services. In order to exceed the duration of service as defined in the employment plan, a client job candidate must follow through on the agreed-upon employment plan and related activities and keep the division informed of the client's job candidate's progress.

ITEM 26. Amend paragraph **56.26(1)“c”** as follows:

c. The service is necessary and required in order for the client job candidate to attain employment.

ITEM 27. Amend rule 281—56.28(259) as follows:

281—56.28(259) Purchasing.

56.28(1) General purchasing principles.

a. The division shall purchase only those items/models that allow a client job candidate to meet the client's job candidate's vocational objective. The division shall not pay for additional features that exceed the requirements to meet a client's job candidate's vocational objective or that serve primarily to enhance the client's job candidate's personal life.

b. The division shall purchase the most economical item/model that meets the client's job candidate's vocational needs.

c. The division shall seek out the most economical alternatives to meet the client's job candidate's vocational needs.

d. The division shall encourage all clients job candidates to develop strategies and savings programs to pay for replacement items/models or upgrades.

e. Items purchased for a client job candidate become the property of the client job candidate but may be repossessed by the division, subject to reimbursement to the client job candidate for the client's

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job candidate's share of the purchase price, if the ~~client~~ job candidate does not attain employment prior to case closure.

56.28(2) ~~Client- Job candidate-specific purchasing principles.~~ When considering what item/model to purchase for a specific client job candidate, the division shall in all cases consider the following factors:

a. Whether the item/model truly is needed for the client job candidate to be able to perform the essential functions of the client's job candidate's job.

b. Whether a more economical item/model is available to permit the client job candidate to perform the essential functions of the client's job candidate's job.

c. No change.

ITEM 28. Amend rule 281—56.29(259) as follows:

281—56.29(259) Review process. At the time of making application for rehabilitation services, and at other times throughout the rehabilitation process, all applicants and clients job candidates shall be informed of the right to appeal and the procedures by which to file an appeal. If an applicant or client job candidate is dissatisfied with any agency decision that directly affects the applicant or client job candidate, the applicant, client job candidate, or designated representative may appeal that decision or request mediation. The term “appellant” shall be used to indicate the applicant, client job candidate, or designated representative who initiates an appeal. The appellant may initiate the appeal process either by calling a counselor or supervisor or by filing the appropriate division appeal form, available from any counselor or supervisor of the division. If the appeal process is initiated by telephone, the counselor or supervisor who received the call must complete the appeal form to the best of that person's ability with information from the appellant. The division shall accept as an appeal a written letter, facsimile, or electronic mail that indicates that the applicant or client job candidate desires to appeal. An appeal must be filed within 90 days of notification of the disputed decision. Once the appeal form has been filed with the division administrator, a hearing shall be held before an impartial hearing officer (IHO) within the next 60 days unless an extension of time is mutually agreed upon or one of the parties shows good cause for an extension. The appellant may request that the appeal go directly to impartial hearing, but the appellant shall be offered the opportunity for a supervisor review or mediation. The appellant may request assistance with an appeal or mediation from the Iowa client assistance program (ICAP).

ITEM 29. Amend rule 281—56.30(259), introductory paragraph, as follows:

281—56.30(259) Supervisor review. As a first step, the appellant shall be advised that a supervisor review of the counselor's decision may be requested by notifying the counselor or supervisor in person, by telephone or by letter of the decision to appeal. If the supervisor has been involved in decisions in the case to the extent that the supervisor cannot render a fair and impartial decision or if the supervisor is not available to complete the review in a timely manner, the appeal and case file shall be forwarded to the ~~assistant~~ bureau chief for review. The appellant is not required to request supervisor review as a prerequisite for appeal before an IHO; however, if a supervisor review is requested, the following steps shall be observed:

ITEM 30. Amend rule **281—56.33(259)**, first unnumbered paragraph, as follows:

Pursuant to Iowa Code section 259.9, the state of Iowa accepts the social security system rules for the disability determination program of the division. Failure to follow the provisions of the Act can result in the loss of federal funds. The state plan provides that all personally identifiable information is confidential and may be released only with the informed written consent of the client job candidate or the client's job candidate's representative, except as permitted by federal law. Any contrary provision in Iowa Code chapter 22 must be waived in order for the state to receive federal funds, services, and essential information for the administration of vocational rehabilitation services.

ITEM 31. Amend subrules 56.34(2) and 56.34(3) as follows:

56.34(2) ~~Client Job candidate case records.~~ An individual file is maintained for each person who has been referred to or has applied for the services of the division. The file contains a variety of personal

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information about the ~~client~~ job candidate, which is used in the establishment of eligibility and the provision of agency services. All information is personally identifiable and is confidential.

56.34(3) ~~Client Job candidate service record computer database.~~ This database contains personal data items about individual ~~clients~~ job candidates. Data identifying the ~~client~~ job candidate is confidential. Data in the aggregate is not personally identifiable and thus is not confidential.

ITEM 32. Amend rule 281—56.37(259) as follows:

281—56.37(259) Purpose. The division of vocational rehabilitation services works in collaboration with the Iowa department for the blind to administer the Iowa self-employment (ISE) program, ~~which is also known as the entrepreneurs with disabilities (EWD) program.~~ The purpose of the program is to provide business development funds in the form of technical assistance (up to \$10,000) and financial assistance (up to \$10,000) to qualified Iowans with disabilities who start, expand, or acquire a business within the state of Iowa. Actual assistance is based on the requirements of the business, not to exceed the technical assistance and financial assistance limits.

ITEM 33. Amend rule **281—56.38(259)**, numbered paragraphs “2” and “8,” as follows:

2. Any equipment purchased for the applicant under this program that is no longer used by the applicant ~~shall~~ may be returned to the division, at the discretion of the division.

8. The division may deny ISE assistance to an applicant who desires to start, expand, or acquire any of the following types of businesses:

- A hobby or similar activity that does not produce income at the level required for self-sufficiency;
- A business venture that is speculative in nature or considered high risk by the Better Business Bureau or similar organization;
- A business registered with the federal Internal Revenue Service as a Section 501(c)(3) entity or other entity set up deliberately to be not-for-profit;
- A business that is not fully compliant with all local, state, and federal zoning requirements and all other applicable local, state, and federal requirements;
- A multitiered marketing business.

ITEM 34. Amend rule 281—56.39(259) as follows:

281—56.39(259) Application procedure.

56.39(1) and **56.39(2)** No change.

56.39(3) Review. Applications will be forwarded to a business development specialist employed by the division for review. ~~Applicants whose applications receive a minimum score of 60 points out of a total of 100 points are eligible to pursue technical assistance funding.~~ Approval of technical assistance funding is based upon the results of a business plan feasibility study. If the application is for financial assistance only, a business plan feasibility study will be required at the time of submission of the application. ~~Applicants whose business plans receive a minimum score of 75 points out of a total of 100 points and a minimum of 15 points per section are eligible to pursue financial assistance funding.~~ Approval of financial assistance funding is based upon acceptance of a business plan feasibility study and documentation of the applicant’s ability to match dollar-for-dollar the amount of funds requested. ~~A decision on all applications and forms will generally be issued within 30 days of submission with notification by letter to the applicant.~~

56.39(4) Applications for technical assistance—evaluation factors Funding. ~~Applications for the program will be reviewed and evaluated using a 100-point system, based upon the following criteria: Before the division will provide funding for a small business, the job candidate must complete an in-depth study about the business the job candidate intends to start.~~

~~a.—Descriptive and organization information: 0–30 points. Does the applicant have education, skills, and work experience relevant to the proposed business venture? Does the applicant document previous management or accounting experience? Does the applicant have a clear understanding of the nature of the business?~~

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~~*b. Market information: 0–30 points.*~~ Does the application indicate a clear understanding of potential customer groups and how to reach them? Does the application show sufficient knowledge of products/services, competition, and marketing methods? Does the applicant understand the critical issue of location?

~~*c. Financial information: 0–30 points.*~~ Does the applicant demonstrate an understanding of how to estimate sales potential? Does the applicant indicate knowledge of estimated capital requirements for business start-up, expansion, or acquisition?

~~*d. Creditworthiness: 0–10 points.*~~ Does the applicant's past credit history demonstrate responsible behavior? Awards will not be made if the applicant has a credit history showing delinquent credit obligations including, but not limited to, unpaid income tax, delinquent child support obligations, or defaulted student loans.

~~**56.39(5) Appeal of application evaluation.**~~ If an application is denied based upon the assignment of an inadequate evaluation score, an applicant may appeal the decision to the division or the department for the blind. An appeal shall be consistent with the appeal processes of the division or the department for the blind.

ITEM 35. Amend rule 281—56.40(259) as follows:

281—56.40(259) Award of technical assistance funds.

~~**56.40(1) Awards.**~~ Technical assistance funds may be used for specialized consulting services as determined necessary by the counselor, the business development specialist, and the client job candidate. Technical assistance funds may be awarded, based on need, up to a maximum of \$10,000 per applicant. Specialized technical assistance may include, but is not limited to, ~~market analysis; marketing plans;~~ engineering, legal, accounting, and computer services; ~~preliminary business plan feasibility study; financial packaging;~~ and other consulting services that require specialized education and training.

~~**56.40(2) Award process Technical assistance.**~~ Upon approval of the application by the counselor and the business development specialist, generally within 30 days, an applicant will receive notification of eligibility to pursue technical assistance funding. The applicant must demonstrate the ability to cover any technical assistance costs beyond \$10,000 if necessary. The business development specialist will identify whether specialized services are needed and will provide recommendation for approval by the division or departmental staff. When technical assistance is needed for specialized services beyond the expertise of the business development specialist, technical assistance will be provided to assist the job candidate.

~~**56.40(3) to 56.40(5)**~~ No change.

ITEM 36. Amend rule 281—56.41(259) as follows:

281—56.41(259) Business plan feasibility study procedure. Information and materials are available from the division and the department for the blind.

~~**56.41(1) Submittal.**~~ The client job candidate shall submit the client's job candidate's business plan feasibility study to the client's job candidate's counselor if the study is completed at the time application is made or to the business development specialist if the business plan feasibility study is completed after application approval.

~~**56.41(2) Review.**~~ The business plan feasibility study will be reviewed, evaluated, and scored by the business development specialist using a 100-point system. A business plan feasibility study receiving a minimum score of 75 points, with at least 15 points per section, will be recommended for financial assistance funding. Generally, the business development specialist will review the client's business plan feasibility study within 30 days of submission and will make recommendation for next steps to all parties involved.

~~**56.41(3) Evaluation factors.**~~

~~*a. Personal sense: 0-20 points.*~~ Is the personal credit report sufficient to be considered for financial support or loans? If the credit report documents serious delinquencies or derogatory indicators or remarks, or includes adverse data from public or collection information sources, how have these

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~~issues been addressed or resolved? Are there other outstanding debt obligations which have been self-reported? Is there evidence that consideration and solutions/accommodations were given to possible barriers that might result due to disability?~~

~~b.—Business sense: 0-20 points. Does the business plan feasibility study contain a well-written executive summary, business description, and operation and management plan?~~

~~c.—Market sense: 0-20 points. Does the business plan feasibility study include details about market research and analysis as well as a market plan?~~

~~d.—Financial sense: 0-20 points. Does the business plan feasibility study include details of capital requests, projected financials, and, where applicable, historical financials?~~

~~e.—Other content area: 0-20 points. Does the business plan have a title page, table of contents, and appendix containing supporting documents?~~

~~56.41(4) Appeal of denial. If funding is denied based upon a low evaluation score, an applicant may appeal the decision to the division or department for the blind, consistent with the appeal processes of the agencies.~~

ITEM 37. Amend subrule 56.42(1) as follows:

56.42(1) Awards. Following the business development specialist's evaluation and scoring of the business plan feasibility study, the business development specialist will issue a recommendation to support or not to support the proposed business venture. The counselor shall make a decision regarding approval or denial of the recommendation. If the plan is approved, the client job candidate and counselor will review conditions of the financial assistance award and sign the appropriate forms of acknowledgment.

a. Financial assistance funds may be awarded, based on need, up to \$10,000 based upon an approved after approval of a business plan feasibility study and evidence of business need or evidence of business progression. Before receiving financial assistance, the client job candidate must demonstrate a dollar-for-dollar match based on the amount of funding needed. The match may be provided through approved existing business assets, cash, conventional financing or other approved sources.

b. No change.

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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 256.7(5), the State Board of Education hereby proposes to amend Chapter 60, “Programs for Students of Limited English Proficiency,” Iowa Administrative Code.

This chapter sets standards for the identification of students of limited English proficiency and for programming to serve the educational needs of such students by Iowa school districts. Items 1, 2, and 3 conform to 2014 Iowa Acts, chapter 1135, section 7, which requires that the State Board of Education adopt rules to establish standards for the identification, selection, and use of research-based educational and instructional models for students identified as limited English proficient and adopt rules to establish standards for the professional development of the instructional staff responsible for the implementation of those research-based educational and instructional models.

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

Interested individuals may make written comments on the proposed amendments on or before November 4, 2014, at 4:30 p.m. Comments on the proposed amendments should be directed to

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Phil Wise, Iowa Department of Education, Second Floor, Grimes State Office Building, Des Moines, Iowa 50319-0146; telephone (515)281-4835; e-mail phil.wise@iowa.gov; or fax (515)242-5988.

A public hearing will be held on November 4, 2014, 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 amendments are intended to implement 2014 Iowa Acts, chapter 1135, section 7.

The following amendments are proposed.

ITEM 1. Adopt the following **new** definitions in rule **281—60.2(280)**:

“Educational and instructional model” means an instructional model, strategy, method, or skill that provides a framework of instructional approaches to guide decision making about teaching and learning. Based on the needs of particular students, “educational and instructional model” may include but is not limited to a specific set of instructional services or a fully developed curriculum or other supplementary services.

“Research-based” means based on a body of research showing that the educational and instructional model, or other educational practice, has a high likelihood of improving teaching and learning. To determine whether research meets this standard for purposes of this chapter, research reports must be reviewed for the following:

1. The specific population studied;
2. Research that involves the application of rigorous, systematic, and objective procedures to obtain reliable results and provide a basis for valid inferences relevant to education activities and programs;
3. Whether the research employs systematic, empirical methods that draw on observation or experiment;
4. Reliance on measurement or observational methods that provide reliable and valid data;
5. Inclusion of rigorous data analyses that are adequate to test the stated hypotheses and justify the general conclusions or inferences drawn;
6. Description of the magnitude of the impact on student learning results; and
7. Inclusion of the level of the review of the study.

ITEM 2. Rescind subparagraph **60.3(3)“b”(5)** and adopt the following **new** subparagraph in lieu thereof:

(5) Professional development. All district instructional staff and area education agency staff responsible for implementing the educational and instructional models defined in rule 281—60.2(280) shall receive such professional development as may be necessary to implement those educational and instructional models. Such professional development may be part of a district or area education agency professional development plan, an attendance center professional development plan, an individual professional development plan, or some combination thereof. The necessity for such professional development shall be determined based on the framework in rule 281—83.6(284). Providers of professional development required by this subrule shall meet the standards in 281—subrule 83.6(3). In determining whether providers meet the standards in 281—subrule 83.6(3), the following nonexhaustive factors may be considered, as they are relevant to the particular professional development to be provided:

1. English as a second language endorsement or equivalent;
2. Five years of English as a second language teaching experience; or
3. A graduate degree in teaching English to speakers of other languages or in a related field.

EDUCATION DEPARTMENT[281](cont'd)

ITEM 3. Adopt the following **new** subrule 60.3(5):

60.3(5) *Research-based educational and instructional models.* Districts shall utilize research-based educational and instructional models as defined in rule 281—60.2(280) with limited English proficient students so that such students may acquire English proficiency and meet high academic standards.

ITEM 4. Amend **281—Chapter 60**, implementation sentence, as follows:

These rules are intended to implement Iowa Code sections 256.7(31)“c,” 257.31(5)“j” and 280.4.

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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 79, “Standards for Practitioner and Administrator Preparation Programs,” Iowa Administrative Code.

Chapter 79 outlines the standards and program requirements that all educator preparation programs must meet in order to be accredited to prepare educators in Iowa. Compliance with these standards is required and evaluated during each educator preparation program’s accreditation review. The standards are also applied in an annual reporting system.

The current standards are in need of updating to remain current with research-based best practices in educator preparation, accountability, and continuous program improvement. The State Board of Education proposes this rule making to update the current standards pursuant to its authority under Iowa Code section 256.7(3).

A team of 19 Iowa educators, Department of Education staff, and Board of Educational Examiners staff developed the proposed changes. The proposed changes were subsequently vetted by educators and policy experts in Iowa and across the United States.

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

Interested individuals may make written comments on the proposed amendments on or before November 4, 2014, at 4:30 p.m. Comments on the proposed amendments should be directed to Larry Bice, Iowa Department of Education, Second Floor, Grimes State Office Building, East 14th Street and Grand Avenue, Des Moines, Iowa 50319-0146; telephone (515)725-0101; e-mail larry.bice@iowa.gov; or fax (515)242-5988.

A public hearing will be held on November 4, 2014, 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 person who intends to attend the public hearing and has special requirements, such as those related to hearing or mobility impairments, should contact and advise the Department of Education of 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 256.7(3).

The following amendments are proposed.

ITEM 1. Amend the following definitions in rule **281—79.2(256)**:

“Clinical experiences” means a candidate’s direct experiences in PK-12 schools. *“Clinical experiences”* includes field experiences ~~prior to student teaching or internship; internships for preparation programs other than teacher preparation;~~ and student teaching, ~~a full-time clinical practice experience in which the teacher preparation program culminates or internships.~~

EDUCATION DEPARTMENT[281](cont'd)

“Diverse groups” means one or more groups of individuals possessing certain traits or characteristics, including but not limited to age, color, creed, national origin, race, religion, marital status, sex, sexual orientation, gender identity, ~~disability, or physical attributes, physical or mental ability or disability,~~ ancestry, political party preference, political belief, socioeconomic status, or familial status.

“EPS ELPS” means Educational Leadership Policy Standards, national standards for educational administration.

“Iowa core curriculum” means a legislatively mandated state initiative that provides local school districts and nonpublic schools a guide to delivering instruction to students based on consistent, challenging and meaningful content.

ITEM 2. Rescind the definition of “INTASC” in rule **281—79.2(256)**.

ITEM 3. Adopt the following **new** definitions in rule **281—79.2(256)**:

“Educator preparation program” means practitioner preparation program.

“Faculty” means the teaching staff of a university or college responsible for delivering instruction.

“InTASC” means Interstate Teacher Assessment and Support Consortium, the source of national standards for teachers.

“Leadership preparation program” means administrator preparation program.

“National professional standards” means standards developed by nationally recognized organizations that establish best practices for education.

ITEM 4. Rescind rule 281—79.10(256) and adopt the following **new** rule in lieu thereof:

281—79.10(256) Governance and resources standard. Governance and resources adequately support the preparation of practitioner candidates to meet professional, state and institutional standards in accordance with the following provisions.

79.10(1) A clearly understood governance structure provides guidance and support for all educator preparation programs in the unit.

79.10(2) The professional education unit has primary responsibility for all educator preparation programs offered by the institution through any delivery model.

79.10(3) The unit’s conceptual framework establishes the shared vision for the unit and provides the foundation for all components of the educator preparation programs.

79.10(4) The unit demonstrates alignment of unit standards with current national professional standards for educator preparation. Teacher preparation must align with InTASC standards. Leadership preparation programs must align with ISSL standards.

79.10(5) The unit provides evidence of ongoing collaboration with appropriate stakeholders. There is an active advisory committee that is involved semiannually in providing input for program evaluation and continuous improvement.

79.10(6) When a unit is a part of a college or university, there is ongoing collaboration with the appropriate departments of the institution, especially regarding content knowledge.

79.10(7) The institution provides resources and support necessary for the delivery of quality preparation program(s). The resources and support include the following:

a. Financial resources; facilities; appropriate educational materials, equipment and library services; and commitment to a work climate, policies, and faculty/staff assignments which promote/support best practices in teaching, scholarship and service;

b. Resources to support professional development opportunities;

c. Resources to support technological and instructional needs to enhance candidate learning;

d. Resources to support quality clinical experiences for all educator candidates; and

e. Commitment of sufficient administrative, clerical, and technical staff.

79.10(8) The unit has a clearly articulated appeals process, aligned with the institutional policy, for decisions impacting candidates. This process is communicated to all candidates and faculty.

79.10(9) The use of part-time faculty and graduate students in teaching roles is purposeful and is managed to ensure integrity, quality, and continuity of all programs.

EDUCATION DEPARTMENT[281](cont'd)

79.10(10) Resources are equitable for all program components, regardless of delivery model or location.

ITEM 5. Rescind rule 281—79.11(256) and adopt the following **new** rule in lieu thereof:

281—79.11(256) Diversity standard. The environment and experiences provided for practitioner candidates support candidate growth in knowledge, skills, and dispositions to help all students learn in accordance with the following provisions.

79.11(1) The institution and unit work to establish a climate that promotes and supports diversity.

79.11(2) The institution's and unit's plans, policies, and practices document their efforts in establishing and maintaining a diverse faculty and student body.

ITEM 6. Rescind rule 281—79.12(256) and adopt the following **new** rule in lieu thereof:

281—79.12(256) Faculty standard. Faculty qualifications and performance shall facilitate the professional development of practitioner candidates in accordance with the following provisions.

79.12(1) The unit defines the roles and requirements for faculty members by position. The unit describes how roles and requirements are determined.

79.12(2) The unit documents the alignment of teaching duties for each faculty member with that member's preparation, knowledge, experiences and skills.

79.12(3) The unit holds faculty members accountable for teaching prowess. This accountability includes evaluation and indicators for continuous improvement.

79.12(4) The unit holds faculty members accountable for professional growth to meet the academic needs of the unit.

79.12(5) Faculty members collaborate with:

a. Colleagues in the unit;

b. Colleagues across the institution;

c. Colleagues in PK-12 schools/agencies/learning settings. Faculty members engage in professional education maintain ongoing involvement in activities in preschool and elementary, middle, or secondary schools. For faculty members engaged in teacher preparation, activities shall include at least 40 hours of teaching at the appropriate grade level(s) during a period not exceeding five years in duration.

ITEM 7. Rescind rule 281—79.13(256) and adopt the following **new** rule in lieu thereof:

281—79.13(256) Assessment system and unit evaluation standard. The unit's assessment system shall appropriately monitor individual candidate performance and use that data in concert with other information to evaluate and improve the unit and its programs in accordance with the following provisions.

79.13(1) The unit has a clearly defined, cohesive assessment system.

79.13(2) The assessment system is based on unit standards.

79.13(3) The assessment system includes both individual candidate assessment and comprehensive unit assessment.

79.13(4) Candidate assessment includes clear criteria for:

a. Entrance into the program (for teacher education, this includes testing described in Iowa Code section 256.16).

b. Continuation in the program with clearly defined checkpoints/gates.

c. Admission to clinical experiences (for teacher education, this includes specific criteria for admission to student teaching).

d. Program completion (for teacher education, this includes testing described in Iowa Code section 256.16; see subrule 79.15(5) for required teacher candidate assessment).

79.13(5) Individual candidate assessment includes all of the following:

a. Measures used for candidate assessment are fair, reliable, and valid.

b. Candidates are assessed on their demonstration/attainment of unit standards.

EDUCATION DEPARTMENT[281](cont'd)

- c.* Multiple measures are used for assessment of the candidate on each unit standard.
 - d.* Candidates are assessed on unit standards at different developmental stages.
 - e.* Candidates are provided with formative feedback on their progress toward attainment of unit standards.
 - f.* Candidates use the provided formative assessment data to reflect upon and guide their development/growth toward attainment of unit standards.
 - g.* Candidates are assessed at the same level of performance across programs, regardless of the place or manner in which the program is delivered.
- 79.13(6)** Comprehensive unit assessment includes all of the following:
- a.* Individual candidate assessment data on unit standards, as described in subrule 79.13(5), are analyzed.
 - b.* The aggregated assessment data are analyzed to evaluate programs.
 - c.* Findings from the evaluation of aggregated assessment data are used to make program improvements.
 - d.* Evaluation data are shared with stakeholders.
 - e.* The collection, aggregation, analysis, and evaluation of assessment data described in this subrule take place on a regular cycle.
- 79.13(7)** The unit shall conduct a survey of graduates and their employers to ensure that the graduates are well-prepared, and the data shall be used for program improvement.
- 79.13(8)** The unit regularly reviews, evaluates, and revises the assessment system.
- 79.13(9)** The unit annually reports to the department such data as is required by the state and federal governments.

ITEM 8. Rescind rule 281—79.14(256) and adopt the following **new** rule in lieu thereof:

281—79.14(256) Teacher preparation clinical practice standard. The unit and its school partners shall provide field experiences and student teaching opportunities that assist candidates in becoming successful teachers in accordance with the following provisions.

79.14(1) The unit ensures that clinical experiences occurring in all locations are well-sequenced, supervised by appropriately qualified personnel, monitored by the unit, and integrated into the unit standards. These expectations are shared with teacher candidates, college/university supervisors, and cooperating teachers.

79.14(2) PK-12 school partners and the unit share responsibility for selecting, preparing, evaluating, supporting, and retaining both:

- a.* High-quality college/university supervisors, and
- b.* High-quality cooperating teachers.

79.14(3) Cooperating teachers and college/university supervisors share responsibility for evaluating the teacher candidates' achievement of unit standards. Clinical experiences are structured to have multiple performance-based assessments at key points within the program to demonstrate candidates' attainment of unit standards.

79.14(4) Teacher candidates experience clinical practices in multiple settings that include diverse groups and diverse learning needs.

79.14(5) Teacher candidates admitted to a teacher preparation program must complete a minimum of 80 hours of pre-student teaching field experiences, with at least 10 hours occurring prior to acceptance into the program.

79.14(6) Pre-student teaching field experiences support learning in context and include all of the following:

- a.* High-quality instructional programs for PK-12 students in a state-approved school or educational facility.
- b.* Opportunities for teacher candidates to observe and be observed by others and to engage in discussion and reflection on clinical practice.
- c.* The active engagement of teacher candidates in planning, instruction, and assessment.

79.14(7) The unit is responsible for ensuring that the student teaching experience for initial licensure:

EDUCATION DEPARTMENT[281](cont'd)

- a. Includes a full-time experience for a minimum of 14 consecutive weeks in duration during the teacher candidate's final year of the teacher preparation program.
- b. Takes place in the classroom of a cooperating teacher who is appropriately licensed in the subject area and grade level endorsement for which the teacher candidate is being prepared.
- c. Includes prescribed minimum expectations and responsibilities, including ethical behavior, for the teacher candidate.
- d. Involves the teacher candidate in communication and interaction with parents or guardians of students in the teacher candidate's classroom.
- e. Requires the teacher candidate to become knowledgeable about the Iowa teaching standards and to experience a mock evaluation, which shall not be used as an assessment tool by the unit, performed by the cooperating teacher or a person who holds an Iowa evaluator license.
- f. Requires collaborative involvement of the teacher candidate, cooperating teacher, and college/university supervisor in candidate growth. This collaborative involvement includes biweekly supervisor observations with feedback.
- g. Requires the teacher candidate to bear primary responsibility for planning, instruction, and assessment within the classroom for a minimum of two weeks (ten school days).
- h. Includes a written evaluation procedure, after which the completed evaluation form is included in the teacher candidate's permanent record.

79.14(8) The unit annually offers one or more workshops for cooperating teachers to define the objectives of the student teaching experience, review the responsibilities of the cooperating teacher, and provide the cooperating teacher other information and assistance the unit deems necessary. The duration of the workshop shall be equivalent to one day.

79.14(9) The institution enters into a written contract with the cooperating school or district providing clinical experiences, including field experiences and student teaching.

ITEM 9. Rescind rule 281—79.15(256) and adopt the following **new** rule in lieu thereof:

281—79.15(256) Teacher candidate knowledge, skills and dispositions standard. Teacher candidates demonstrate the content, pedagogical, and professional knowledge, skills and dispositions necessary to help all students learn in accordance with the following provisions.

79.15(1) Each teacher candidate demonstrates the acquisition of a core of liberal arts knowledge including but not limited to English composition, mathematics, natural sciences, social sciences, and humanities.

79.15(2) Each teacher candidate receives dedicated coursework related to the study of human relations, cultural competency, and diverse learners, such that the candidate is prepared to work with students from diverse groups, as defined in rule 281—79.2(256). The unit shall provide evidence that teacher candidates develop the ability to meet the needs of all learners, including:

- a. Students from diverse ethnic, racial and socioeconomic backgrounds.
- b. Students with disabilities.
- c. Students who are gifted and talented.
- d. English language learners.
- e. Students who may be at risk of not succeeding in school.

79.15(3) Each teacher candidate demonstrates knowledge about literacy and receives preparation in literacy. Each candidate also develops and demonstrates the ability to integrate reading strategies into content area coursework. Each teacher candidate in elementary education demonstrates knowledge related to the acquisition of literacy skills and receives preparation in a variety of instructional approaches to reading programs, including but not limited to reading recovery.

79.15(4) Each unit defines unit standards (aligned with InTASC standards) and embeds them in courses and field experiences.

79.15(5) Each teacher candidate exhibits competency in all of the following professional core curricula:

- a. *Content/subject matter specialization.* The teacher candidate demonstrates an understanding of the central concepts, tools of inquiry, and structure of the discipline(s) the candidate teaches and

EDUCATION DEPARTMENT[281](cont'd)

creates learning experiences that make these aspects of the subject matter meaningful for students. This specialization is evidenced by a completion of a 30-semester-hour teaching major which must minimally include the requirements for at least one of the basic endorsement areas, special education teaching endorsements, or secondary level occupational endorsements. The teacher candidate must either meet or exceed a score above the 25th percentile nationally on subject assessments designed by a nationally recognized testing service that measure pedagogy and knowledge of at least one subject area as approved by the director of the department of education, or the teacher candidate must meet or exceed the equivalent of a score above the 25th percentile nationally on an alternate assessment also approved by the director. The alternate assessment must be a valid and reliable subject-area-specific, performance-based assessment for preservice teacher candidates that is centered on student learning. Additionally, each elementary teacher candidate must also complete a field of specialization in a single discipline or a formal interdisciplinary program of at least 12 semester hours.

b. Student learning. The teacher candidate demonstrates an understanding of human growth and development and of how students learn and participates in learning opportunities that support intellectual, career, social and personal development.

c. Diverse learners. The teacher candidate demonstrates an understanding of how students differ in their approaches to learning and creates instructional opportunities that are equitable and adaptable to diverse learners.

d. Instructional planning. The teacher candidate plans instruction based upon knowledge of subject matter, students, the community, curriculum goals, and state curriculum models.

e. Instructional strategies. The teacher candidate demonstrates an understanding of and an ability to use a variety of instructional strategies to encourage student development of critical and creative thinking, problem-solving, and performance skills.

f. Learning environment/classroom management. The teacher candidate uses an understanding of individual and group motivation and behavior; creates a learning environment that encourages positive social interaction, active engagement in learning, and self-motivation; maintains effective classroom management; and is prepared to address behaviors related to substance abuse and other high-risk behaviors.

g. Communication. The teacher candidate uses knowledge of effective verbal, nonverbal, and media communication techniques, and other forms of symbolic representation, to foster active inquiry and collaboration and to support interaction in the classroom.

h. Assessment. The teacher candidate understands and uses formal and informal assessment strategies to evaluate the continuous intellectual, social, and physical development of the student, and effectively uses both formative and summative assessment of students, including student achievement data, to determine appropriate instruction.

i. Foundations, reflective practice and professional development. The teacher candidate develops knowledge of the social, historical, and philosophical foundations of education. The teacher candidate continually evaluates the effects of the candidate's choices and actions on students, parents, and other professionals in the learning community; actively seeks out opportunities to grow professionally; and demonstrates an understanding of teachers as consumers of research and as researchers in the classroom.

j. Collaboration, ethics and relationships. The teacher candidate fosters relationships with parents, school colleagues, and organizations in the larger community to support student learning and development; demonstrates an understanding of educational law and policy, ethics, and the profession of teaching, including the role of boards of education and education agencies; and demonstrates knowledge of and dispositions for cooperation with other educators, especially in collaborative/co-teaching as well as in other educational team situations.

k. Technology. The teacher candidate effectively integrates technology into instruction to support student learning.

l. Methods of teaching. Methods of teaching have an emphasis on the subject and grade-level endorsement desired.

79.15(6) Teacher candidates demonstrate competency in content coursework directly related to the Iowa Core.

EDUCATION DEPARTMENT[281](cont'd)

79.15(7) Each teacher candidate meets all requirements established by the board of educational examiners for any endorsement for which the candidate is recommended.

79.15(8) Programs shall submit curriculum exhibit sheets for approval by the board of educational examiners and the department.

ITEM 10. Rescind rule 281—79.16(256) and adopt the following new rule in lieu thereof:

281—79.16(256) Administrator preparation clinical practice standard. The unit and its school partners shall provide clinical experiences that assist candidates in becoming successful school administrators in accordance with the following provisions.

79.16(1) The unit ensures that clinical experiences occurring in all locations are well-sequenced, purposeful, supervised by appropriately qualified personnel, monitored by the unit, and integrated into unit standards. These expectations are shared with candidates, supervisors and cooperating administrators.

79.16(2) The PK-12 school and the unit share responsibility for selecting, preparing, evaluating, supporting, and retaining both:

- a. High-quality college/university supervisors, and
- b. High-quality cooperating administrators.

79.16(3) Cooperating administrators and college/university supervisors share responsibility for evaluating the candidate's achievement of unit standards. Clinical experiences are structured to have multiple performance-based assessments at key points within the program to demonstrate candidates' attainment of unit standards.

79.16(4) Clinical experiences include all of the following criteria:

- a. A minimum of 400 hours during the candidate's preparation program.
- b. Take place with appropriately licensed cooperating administrators in state-approved schools or educational facilities.
- c. Take place in multiple high-quality educational settings that include diverse populations and students of different age groups.
- d. Include minimum expectations and responsibilities for cooperating administrators, school districts, accredited nonpublic schools, or AEAs and for higher education supervising faculty members.
- e. Include prescribed minimum expectations and responsibilities of the candidate for ethical performance of both leadership and management tasks.
- f. The involvement of the administrator candidate in relevant responsibilities to include demonstration of the capacity to facilitate the use of assessment data in affecting student learning.
- g. Involve the candidate in professional meetings and other school-based activities directed toward the improvement of teaching and learning.
- h. Involve the candidate in communication and interaction with parents or guardians, community members, faculty and staff, and cooperating administrators in the school.

79.16(5) The institution annually delivers one or more professional development opportunities for cooperating administrators to define the objectives of the field experience, review the responsibilities of the cooperating administrator, build skills in coaching and mentoring, and provide the cooperating administrator other information and assistance the institution deems necessary. The professional development opportunities incorporate feedback from participants and utilize appropriate delivery strategies.

79.16(6) The institution shall enter into a written contract with the cooperating school districts that provide field experiences for administrator candidates.

ITEM 11. Rescind rule 281—79.17(256) and adopt the following new rule in lieu thereof:

281—79.17(256) Administrator knowledge, skills, and dispositions standard. Administrator candidates shall demonstrate the content, pedagogical, and professional knowledge, skills and dispositions necessary to help all students learn in accordance with the following provisions.

EDUCATION DEPARTMENT[281](cont'd)

79.17(1) Each educational administrator program shall define program standards (aligned with current ISSL standards) and embed them in coursework and clinical experiences at a level appropriate for a novice administrator.

79.17(2) Each new administrator candidate successfully completes the appropriate evaluator training provided by a state-approved evaluator trainer.

79.17(3) Each administrator candidate demonstrates the knowledge, skills, and dispositions necessary to support the implementation of the Iowa Core.

79.17(4) Each administrator candidate demonstrates, within specific coursework and clinical experiences related to the study of human relations, cultural competency, and diverse learners, that the candidate is prepared to work with students from diverse groups, as defined in rule 281—79.2(256). The unit shall provide evidence that administrator candidates develop the ability to meet the needs of all learners, including:

- a. Students from diverse ethnic, racial and socioeconomic backgrounds.
- b. Students with disabilities.
- c. Students who are gifted and talented.
- d. English language learners.
- e. Students who may be at risk of not succeeding in school.

79.17(5) Each administrator candidate meets all requirements established by the board of educational examiners for any endorsement for which the candidate is recommended. Programs shall submit curriculum exhibit sheets for approval by the board of educational examiners and the department.

ITEM 12. Rescind rule 281—79.20(256) and adopt the following **new** rule in lieu thereof:

281—79.20(256) Clinical practice standard. The unit and its school, AEA, and facility partners shall provide clinical experiences that assist candidates in becoming successful practitioners in accordance with the following provisions.

79.20(1) The unit ensures that clinical experiences occurring in all locations are well-sequenced, purposeful, supervised by appropriately qualified personnel, monitored by the unit, and integrated into unit standards. These expectations are shared with candidates, supervisors and cooperating professional educators.

79.20(2) The PK-12 school, AEA, and facility partners and the unit share responsibility for selecting, preparing, evaluating, supporting, and retaining both:

- a. High-quality college/university supervisors, and
- b. High-quality cooperating professional educators.

79.20(3) Cooperating professional educators and college/university supervisors share responsibility for evaluating the candidate's achievement of unit standards. Clinical experiences are structured to have multiple performance-based assessments at key points within the program to demonstrate the candidate's attainment of unit standards.

79.20(4) Clinical experiences include all of the following criteria:

- a. Learning that takes place in the context of providing high-quality instructional programs for students in a state-approved school, agency, or educational facility;
- b. Take place in educational settings that include diverse populations and students of different age groups;
- c. Provide opportunities for candidates to observe and be observed by others and to engage in discussion and reflection on clinical practice;
- d. Include minimum expectations and responsibilities for cooperating professional educators, school districts, accredited nonpublic schools, or AEAs and for higher education supervising faculty members;
- e. Include prescribed minimum expectations for involvement of candidates in relevant responsibilities directed toward the work for which they are preparing;
- f. Involve candidates in professional meetings and other activities directed toward the improvement of teaching and learning; and

EDUCATION DEPARTMENT[281](cont'd)

g. Involve candidates in communication and interaction with parents or guardians, community members, faculty and staff, and cooperating professional educators in the school.

79.20(5) The institution annually delivers one or more professional development opportunities for cooperating professional educators to define the objectives of the field experience, review the responsibilities of the cooperating professional educators, build skills in coaching and mentoring, and provide the cooperating professional educators other information and assistance the institution deems necessary. The professional development opportunities incorporate feedback from participants and utilize appropriate delivery strategies.

79.20(6) The institution shall enter into a written contract with the cooperating school districts that provide field experiences for candidates.

ITEM 13. Rescind rule 281—79.21(256) and adopt the following **new** rule in lieu thereof:

281—79.21(256) Candidate knowledge, skills and dispositions standard. Candidates shall demonstrate the content knowledge and the pedagogical and professional knowledge, skills and dispositions necessary to help all students learn in accordance with the following provisions.

79.21(1) Each professional educator program shall define program standards (aligned with current national standards) and embed them in coursework and clinical experiences at a level appropriate for a novice professional educator.

79.21(2) Each candidate demonstrates, within specific coursework and clinical experiences related to the study of human relations, cultural competency, and diverse learners, that the candidate is prepared to work with students from diverse groups, as defined in rule 281—79.2(256). The unit shall provide evidence that candidates develop the ability to meet the needs of all learners, including:

- a. Students from diverse ethnic, racial and socioeconomic backgrounds.
- b. Students with disabilities.
- c. Students who are gifted and talented.
- d. English language learners.
- e. Students who may be at risk of not succeeding in school.

79.21(3) Each candidate meets all requirements established by the board of educational examiners for any endorsement for which the candidate is recommended. Programs shall submit curriculum exhibit sheets for approval by the board of educational examiners and the department.

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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 81, “Nursing Facilities,” Iowa Administrative Code.

These amendments pertain to the Preadmission Screening and Resident Review (PASRR) process. These amendments eliminate the use of the term “mental retardation,” which has become obsolete. The term “intellectual disability” has become widely adopted and is preferred by the disability community. These amendments provide clarification to the PASRR process by more explicitly stating the PASRR requirements and updating the list of entities responsible for completing PASRR reviews. These amendments also provide clarification in regard to the nursing facility’s role in requesting a state fair hearing after a PASRR determination by requiring that a facility obtain informed consent of the resident prior to requesting a hearing on the resident’s behalf.

HUMAN SERVICES DEPARTMENT[441](cont'd)

These amendments add facilities licensed as intermediate care facilities for persons with mental illness (ICFs/PMI) to the definition of a “special population nursing facility.” There are three such facilities in the state, and all currently seek an annual exception to policy to allow them to be paid as special population facilities. This change will eliminate the need for an exception to policy. These amendments also formalize Department policy that Medicaid funding is only available to residents of ICFs/PMI who are aged 65 or older. These amendments are in accordance with the prohibition on Medicaid payment in an institution for mental disease set forth in 42 CFR 435.1010.

Section 2702 of the Patient Protection and Affordable Care Act prohibits federal payments for any amounts expended for health care-acquired conditions. The federal regulations to implement the requirement at 42 CFR 447.26 specify that payment cannot be made for other provider-preventable conditions for any health care setting. These amendments define the term “surgical or other invasive procedure” and specify that Medicaid will not pay for days in a nursing facility when the wrong surgical or other invasive procedure is performed on a patient or a surgical or other invasive procedure is performed on the wrong body part of a patient or on the wrong patient.

In 2012, the Iowa Legislature directed the Department to allow nursing facilities to collect additional payment above the Medicaid payment from residents and families who desire a private room. This direction included a limitation in which facilities could charge the additional amount for a private room only when the facility occupancy was at least 80 percent. In the 2014 legislative session, 2014 Iowa Acts, House File 2463, section 87, changed the minimum occupancy rate to 50 percent and directed the Department to collect data annually on the utilization of this option. These amendments implement the directive from the Legislature.

These amendments align rules with Department policy related to inclusion of certain costs in the nursing facility per diem rate. The amendments also clarify that payment for reserve bed days is allowed for the state-run Iowa Veterans Home, in order to maximize federal funding within that facility’s budget.

Finally, these amendments provide technical corrections to an incorrect cross reference, remove references to obsolete Department forms, and remove language that was added in anticipation of a Medicaid state plan amendment which did not receive federal approval.

Any interested person may make written comments on the proposed amendments on or before November 4, 2014. Comments should be directed to Harry Rossander, Bureau of Policy Coordination, Department of Human Services, Hoover State Office Building, Fifth Floor, 1305 East Walnut Street, Des Moines, Iowa 50319-0114. Comments may be sent by fax to (515)281-4980 or by e-mail to policyanalysis@dhs.state.ia.us.

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

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

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

The following amendments are proposed.

ITEM 1. Amend rule **441—81.1(249A)**, definitions of “Level I review,” “PASRR” and “Special population nursing facility,” as follows:

“*Level I review*” means screening to identify persons suspected of having mental illness or ~~mental retardation~~ intellectual disability as defined in 42 CFR 483.102 as amended to ~~October 1, 2010~~ July 1, 2014.

“*PASRR*” means ~~the preadmission screening and annual review of persons with mental illness, mental retardation or a related condition~~ a Level I screening or a Level II evaluation for mental illness or intellectual disability for all persons who live in or seek entry to a Medicaid-certified nursing facility, as required by 42 CFR Part 483, Subpart C, as amended to ~~October 1, 2010~~ July 1, 2014.

“*Special population nursing facility*” refers to a nursing facility that serves the following populations:

1. One hundred percent of the residents served are aged 21 and under and require the skilled level of care.

HUMAN SERVICES DEPARTMENT[441](cont'd)

2. Seventy percent of the residents served require the skilled level of care for neurological disorders.

3. One hundred percent of the residents require care from a facility licensed by the department of inspections and appeals as an intermediate care facility for persons with mental illness.

ITEM 2. Adopt the following new definition of “Surgical or other invasive procedure” in rule **441—81.1(249A)**:

“*Surgical or other invasive procedure*” means an operative procedure in which skin or mucous membranes and connective tissue are incised or an instrument is introduced through a natural body orifice. Surgical or other invasive procedures include a range of procedures from minimally invasive dermatological procedures (biopsy, excision, and deep cryotherapy for malignant lesions) to extensive multiorgan transplantation. Surgical or other invasive procedures include all procedures described by the codes in the surgery section of the Current Procedural Terminology (CPT) published by the American Medical Association and other invasive procedures such as percutaneous transluminal angioplasty and cardiac catheterization. Surgical or other invasive procedures include minimally invasive procedures involving biopsies or placement of probes or catheters requiring the entry into a body cavity through a needle or trocar. “Surgical or other invasive procedure” does not include use of instruments such as otoscopes for examinations or very minor procedures such as drawing blood.

ITEM 3. Amend rule 441—81.3(249A) as follows:

441—81.3(249A) Initial approval for nursing facility care.

81.3(1) *Need for nursing facility care.* Residents of nursing facilities must be in need of either nursing facility care or skilled nursing care. Payment will be made for nursing facility care residents only upon certification of the need for the level of care by a licensed physician of medicine or osteopathy and approval of the level of care by the department.

a. Decisions on level of care, subject to paragraph 81.3(1) “b,” shall be made for the department by the Iowa Medicaid enterprise (IME) medical services unit within two working days of receipt of medical information. The IME medical services unit determines whether the level of care provided or to be provided should be approved based on medical necessity and the appropriateness of the level of care under 441—subrules 79.9(1) and 79.9(2).

b. For residents subject to a Level II PASRR review pursuant to subrule 81.3(3), the level of care determination shall be made as part of the Level II PASRR review, based on medical necessity and the appropriateness of the level of care under 441—subrules 79.9(1) and 79.9(2).

~~*b. c.* Adverse level of care decisions by the IME medical services unit may be appealed to the department pursuant to 441—Chapter 7.~~

81.3(2) *Skilled nursing care level of need.* Rescinded IAB 7/11/01, effective 7/1/01.

81.3(3) *Preadmission review.* ~~The IME medical services unit~~ department’s contractor for PASRR screening and evaluation shall complete a Level I review for all persons seeking admission to a Medicaid-certified nursing facility, regardless of the source of payment for the person’s care. When a Level I review identifies evidence for the presence of mental illness or ~~mental retardation~~ intellectual disability, the department’s contractor for PASRR evaluations shall complete a Level II review before the person is admitted to the facility.

a. Exceptions to Level II review. Persons in the following circumstances may be exempted from Level II review based on a categorical determination that in that circumstance, admission to or residence in a nursing facility is normally needed and the provision of specialized services for mental illness, ~~mental retardation, or related conditions~~ or intellectual disability is normally not needed.

(1) to (5) No change.

(6) The person has dementia in combination with ~~mental retardation or a related condition~~ an intellectual disability.

(7) to (9) No change.

b. Outcome of Level II review. The Level II review shall determine ~~whether the person seeking admission:~~

HUMAN SERVICES DEPARTMENT[441](cont'd)

(1) Whether nursing facility care or skilled nursing care is medically necessary and appropriate under 441—subrules 79.9(1) and 79.9(2) for the person seeking admission;

~~(1) (2) Needs Whether the person seeking admission needs specialized services for mental illness as defined in paragraph 81.13(14)“b,” using the procedures set forth in 42 CFR 483.134 as amended to October 1, 2010 July 1, 2014; or and~~

~~(2) (3) Needs Whether the person seeking admission needs specialized services for mental retardation or a related condition intellectual disability as defined in paragraph 81.13(14)“c,” using the procedures set forth in 42 CFR 483.136 as amended to October 1, 2010 July 1, 2014.~~

c. The department’s division of mental health and disability services or its designee shall review each Level II evaluation and plan for obtaining needed specialized services before the person’s admission to a nursing facility to determine whether nursing facility care or skilled nursing care is medically necessary and whether the nursing facility is an appropriate placement.

d. Nursing facility payment under the Iowa Medicaid program will be made for Medicaid members residing in the nursing facility:

(1) Only if a Level I review was completed prior to admission;

(2) For persons with mental illness, ~~mental retardation, or a related condition~~ or intellectual disability, only if a Level II review has been completed, or an exception under paragraph 81.3(3)“a” has been approved, and it is determined by the division of mental health and disability services that nursing facility care or skilled nursing care is medically necessary and appropriate and that the person’s treatment needs related to a mental illness or intellectual disability will be or are being met.

e. Adverse PASRR decisions may be appealed to the department pursuant to 441—Chapter 7.

f. A nursing facility requesting an administrative hearing regarding a PASRR determination must have the prior, express, signed, written consent of the resident or the resident’s lawfully appointed guardian to request such a hearing. Notwithstanding any contrary provision in 441—Chapter 7, no hearing will be granted unless the nursing facility submits a document providing such resident’s consent to the request for a state fair hearing. The document must specifically inform the resident that protected health information (PHI) may be discussed at the hearing and may be made public in the course of the hearing and subsequent administrative and judicial proceedings. The document must contain language that indicates the resident’s knowledge of the potential for PHI to become public and that the resident knowingly, voluntarily, and intelligently consents to the nursing facility bringing the state fair hearing on the resident’s behalf.

81.3(4) *Special care level of need.* Rescinded IAB 3/20/91, effective 3/1/91.

This rule is intended to implement Iowa Code sections 249A.2(6), 249A.3(2)“a” and 249A.4.

ITEM 4. Amend paragraph **81.6(10)“a”** as follows:

a. Routine daily services shall represent the established charge for daily care. Routine daily services include room, board, nursing services, therapies, and such services as supervision, feeding, pharmaceutical consulting, over-the-counter drugs, incontinency, and similar services, for which the associated costs are in nursing service. Routine daily services shall not include:

(1) Laboratory or ~~X-ray~~ diagnostic radiology services, unless the service is provided by facility staff using facility equipment, and

(2) Prescription (legend) drugs.

ITEM 5. Amend subrule 81.6(11) as follows:

81.6(11) *Limitation of expenses.* Certain expenses that are not normally incurred in providing patient care shall be eliminated or limited according to the following rules.

a. to p. No change.

q. Prescription (legend) drug costs are excluded from services covered as part of the nursing facility per diem rate as set forth in paragraph 81.10(5)“e d.” The Iowa Medicaid program will provide direct payment for drugs covered pursuant to 441—subrule 78.1(2) to relieve the facility of payment responsibility. As Medicaid reimburses pharmacy providers only for the cost and dispensation of legend drugs included on the Medicaid preferred drug list, no drug costs will be recognized for other payor sources.

HUMAN SERVICES DEPARTMENT[441](cont'd)

r. to t. No change.

u. Laboratory costs are excluded from services covered as part of the nursing facility per diem rate unless the service is provided by facility staff using facility equipment.

v. Diagnostic radiology costs are excluded from services covered as part of the nursing facility per diem rate unless the service is provided by facility staff using facility equipment.

ITEM 6. Rescind paragraphs **81.6(20)**“c” and “d.”

ITEM 7. Amend subrule 81.7(2) as follows:

81.7(2) PASRR. ~~Within the fourth calendar quarter after the previous review, the PASRR contractor shall review all nursing facility residents admitted pursuant to paragraph 81.3(3)“e” to~~ As a condition of payment for nursing facility care under the Medicaid program when there is a significant change in a resident’s condition, the nursing facility shall, within 24 hours, initiate a PASRR review by the department’s contractor for PASRR evaluations. For purposes of this subrule, “significant change in a resident’s condition” means any admission or readmission to the facility immediately following an inpatient psychiatric hospitalization, any change that is likely to impact the resident’s treatment needs related to a mental illness or intellectual disability, or any change defined as significant in the minimum data set. The evaluation shall determine:

a. Whether nursing facility care or skilled nursing care is medically necessary and appropriate for the resident under 441—subrules 79.9(1) and 79.9(2);

~~*b.* Whether nursing facility services continue to be appropriate for the resident, as opposed to care in a more specialized facility; or in a community-based setting; and~~

~~*c.* Whether the resident needs specialized services for mental illness or mental retardation intellectual disability, as described in paragraph 81.3(3)“b.”~~

ITEM 8. Amend paragraph **81.10(4)**“f” as follows:

~~*f.* Effective December 1, 2009, payment~~ Payment for periods when residents are absent for a visit, vacation, or hospitalization shall be made at zero percent of the nursing facility’s rate, except for special population facilities and state-operated nursing facilities, which shall be paid for such periods at 42 percent of the facility’s rate.

ITEM 9. Adopt the following **new** paragraphs **81.10(4)**“i” and “j”:

i. Payment for residents of a special population facility licensed by the department of inspections and appeals as an intermediate care facility for persons with mental illness will be made only when the resident is aged 65 or over. If a resident under age 65 is admitted with a payment source other than Medicaid, the facility shall notify the resident, or when applicable the resident’s guardian or legal representative, that Iowa Medicaid may neither make payment to the facility nor make payment for any other services rendered by any provider while the person resides in the facility, until the resident attains the age of 65.

j. Nonpayment for provider-preventable conditions. Reimbursement will not be made for patient days attributable to preventable conditions identified pursuant to this rule that develop while an individual is a resident of a nursing facility. Any patient days attributable to a provider-preventable condition must be billed as noncovered days. A provider-preventable condition is one in which any of the following occur:

- (1) The wrong surgical or other invasive procedure is performed on a resident; or
- (2) A surgical or other invasive procedure is performed on the wrong body part; or
- (3) A surgical or other invasive procedure is performed on the wrong resident.

ITEM 10. Amend paragraph **81.10(5)**“c” as follows:

c. The Medicaid program will provide direct payment to relieve the facility of payment responsibility for certain medical equipment and services that meet the Medicare definition of medical necessity and are provided by ~~vendors~~ providers enrolled in the Medicaid programs including:

- (1) Physician services.
- (2) Ambulance services.
- (3) Hospital services.

HUMAN SERVICES DEPARTMENT[441](cont'd)

- (4) Hearing aids, braces and prosthetic devices.
~~(5) Therapy services.~~
~~(6)~~ (5) Customized wheelchairs for which separate payment may be made pursuant to 441—subparagraph 78.10(2)“a”(4).

ITEM 11. Amend subparagraph **81.10(5)“e”(4)** as follows:

(4) Supplementation for provision of a private room not otherwise covered under the medical assistance program, subject to the following conditions, requirements, and limitations:

1. and 2. No change.

3. Supplementation for provision of a private room is not permitted for a calendar month if the facility’s occupancy rate was less than ~~80~~ 50 percent as of the first day of the month or as of the resident’s subsequent initial occupation of the private room.

4. to 10. No change.

11. A nursing facility that utilizes the supplementation pursuant to this subparagraph during any calendar year shall report to the department annually by January 15 the following information for the preceding calendar year:

- The total number of nursing facility beds available at the nursing facility, the number of such beds available in private rooms, and the number of such beds available in other types of rooms.
- The average occupancy rate of the facility on a monthly basis.
- The total number of residents for whom supplementation was utilized.
- The average private pay charge for a private room in the nursing facility.
- For each resident for whom supplementation was utilized, the total charge to the resident for the private room, the portion of the total charge reimbursed under the Medicaid program, and the total charge reimbursed through supplementation.

ITEM 12. Adopt the following new paragraph **81.10(5)“j”**:

j. The facility shall not charge a resident for days that are not covered under Medicaid due to a provider-preventable condition pursuant to paragraph 81.10(4)“j” and shall not discharge a resident due to nonpayment for such days.

ITEM 13. Amend subrule 81.11(1) as follows:

81.11(1) Claims. Claims for service must be sent to the Iowa Medicaid enterprise after the month of service and within 365 days of the date of service. Claims ~~may~~ must be submitted electronically ~~on software provided by the Iowa Medicaid enterprise or in writing on Form 470-0039~~ through Iowa Medicaid’s electronic clearinghouse.

~~*a.* When payment is made, the facility will receive a copy of Form 470-0039, Iowa Medicaid Long-Term Care Claim. The white copy of the form shall be signed and returned to the Iowa Medicaid enterprise as a claim for the next month. If the claim is submitted electronically, the facility will receive~~ A remittance advice of the claims paid ~~may be obtained through the Iowa Medicaid portal access (IMPA) system.~~

~~*b.* When there has been a new admission or a discharge, the facility shall submit Form 470-0039 with the changes noted. When a change is necessary to adjust a previously paid claim, the facility shall submit Form 470-0040, Credit/Adjustment Request. Adjustments to electronically submitted claims may be made electronically as provided for by the Iowa Medicaid enterprise. A request for an adjustment to a paid claim must be received by the Iowa Medicaid enterprise within one year from the date the claim was paid in accordance with rule 441—80.4(249A).~~

ITEM 14. Amend paragraph **81.13(14)“c”** as follows:

~~*c. Specialized services for mental retardation or a related condition intellectual disability.*~~ “Specialized services for ~~mental retardation or a related condition~~ intellectual disability” means services that:

(1) to (3) No change.

(4) Must be supervised by a qualified ~~mental retardation~~ intellectual disability professional; and

(5) No change.

HUMAN SERVICES DEPARTMENT[441](cont'd)

ITEM 15. Amend subrule 81.22(2) as follows:

81.22(2) *Beginning date of payment.* When a resident becomes eligible for Medicaid payments for facility care, the facility shall accept Medicaid rates effective when the resident's Medicaid eligibility begins. A nursing facility is required to refund any payment received from a resident or family member for any period of time during which the resident is determined to be eligible for Medicaid.

Any refund owing shall be made no later than 15 days after the nursing facility first receives Medicaid payment for the resident for any period of time. Facilities may deduct the resident's client participation for the month from a refund of the amount paid for a month of Medicaid eligibility.

The beginning and renewal date of eligibility ~~is given on the Facility Card, Form 470-0374 and resident client participation amounts may be obtained through the Iowa Medicaid portal access (IMPA) system.~~ When the beginning Medicaid eligibility date is a future month, the facility shall accept the Medicaid rate effective the first of that future month.

ARC 1677C

LABOR SERVICES DIVISION[875]

Notice of Intended Action

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

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

Pursuant to the authority of Iowa Code section 88.5, the Labor Commissioner hereby gives Notice of Intended Action to amend Chapter 4, “Recording and Reporting Occupational Injuries and Illnesses,” Iowa Administrative Code.

The proposed amendment adopts by reference changes to federal occupational safety and health regulations governing record keeping and reporting. The federal changes update the list of industries that are exempt from record-keeping requirements due to low occupational injury and illness rates. The new federal regulation also eliminates the requirement for an employer to report a catastrophe and instead requires an employer to report a work-related hospitalization, amputation, or loss of an eye. The amendment changes the instructions for reporting incidents to the Iowa Division of Labor Services.

The principal reasons for adoption of this amendment are to implement legislative intent, protect the safety and health of Iowa workers, allow facsimile reporting, and make Iowa's regulations current and consistent with federal regulations. Pursuant to 29 CFR 1904.37 and 1952.4, Iowa must adopt changes to the federal occupational safety and health record-keeping and reporting regulations.

If requested in accordance with Iowa Code section 17A.4(1)“b” by the close of business on November 4, 2014, a public hearing will be held on November 5, 2014, at 2:30 p.m. in the Capitol View Room at 1000 East Grand Avenue, Des Moines, Iowa. Interested persons will be given the opportunity to make oral statements and file documents concerning the proposed amendment. The facility for the oral presentations is accessible to and functional for persons with physical disabilities. Persons who have special requirements should call (515)281-5915 in advance to arrange access or other needed services.

Written data, views, or arguments to be considered in adoption shall be submitted no later than November 5, 2014, to Division of Labor Services, 1000 East Grand Avenue, Des Moines, Iowa 50319-0209. Comments may be sent electronically to kathleen.uehling@iwd.iowa.gov.

No variance procedures are included in this rule. Variances procedures are set forth in 875—Chapter 5. After analysis and review of this rule making, no impact on jobs will occur.

This amendment is intended to implement Iowa Code section 88.5 and 29 CFR 1904.37 and 1952.4. The following amendment is proposed.

LABOR SERVICES DIVISION[875](cont'd)

Rescind rule 875—4.3(88) and adopt the following **new** rule in lieu thereof:

875—4.3(88) Recording and reporting regulations. Except as noted in this rule, the Federal Occupational Safety and Health Administration regulations at 29 CFR Sections 1904.0 through 1904.46 as published at 66 Fed. Reg. 6122 to 6135 (January 19, 2001) are adopted.

4.3(1) The following amendments to 29 CFR Sections 1904.0 through 1904.46 are adopted:

- a. 66 Fed. Reg. 52031-52034 (October 12, 2001)
- b. 67 Fed. Reg. 44047 (July 1, 2002)
- c. 67 Fed. Reg. 77170 (December 17, 2002)
- d. 68 Fed. Reg. 38606 (June 30, 2003)
- e. 79 Fed. Reg. 56186 (September 18, 2014)

4.3(2) In addition to the reporting methods set forth in 29 CFR 1904.39(a), employers may make reports required by 29 CFR 1904.39 using at least one of the following methods:

- a. Calling (877)242-6742;
- b. Sending a fax to (515)242-5076; or
- c. Visiting 1000 E. Grand Avenue, Des Moines, Iowa.

ARC 1668C

PROFESSIONAL LICENSURE DIVISION[645]

Notice of Intended Action

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

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

Pursuant to the authority of Iowa Code section 147.76 and 2014 Iowa Acts, chapter 1116, section 34, the Professional Licensure Division hereby gives Notice of Intended Action to adopt new Chapter 20, “Military Service and Veteran Reciprocity,” Iowa Administrative Code.

These rules implement the Home Base Iowa Act, 2014 Iowa Acts, chapter 1116, which requires all professional and occupational licensing boards, commissions, and authorities subject to Iowa Code chapter 272C to adopt rules by January 1, 2015, on military service and veteran licensure. The rules address the process under which the boards in the Professional Licensure Division will provide credit toward licensure qualifications for military service, education, and training; the procedures for issuing reciprocal or provisional licensure for veterans who are licensed in other jurisdictions; and the process under which applicants may request and boards may conduct an administrative hearing. The rules will establish the same procedure for all 19 boards within the Professional Licensure Division.

Any interested person may make written suggestions or comments on the proposed rules on or before November 4, 2014, addressed to Sharon Dozier, Professional Licensure Division, Department of Public Health, Lucas State Office Building, 321 E. 12th Street, Des Moines, Iowa 50319-0075. Comments may be sent by e-mail to sharon.dozier@idph.iowa.gov.

A public hearing will be held on November 4, 2014, from 10 to 11 a.m. in the Fifth Floor Professional Licensure Conference Room, Lucas State Office Building, Des Moines, Iowa, at which time persons may represent their views either orally or in writing. At the hearing, persons will be asked to give their names and addresses for the record and to confine their remarks to the subject of the rules. Any persons who intend to attend a public hearing and have special requirements such as those relating to hearing or mobility impairments, should contact the division and advise of special needs.

The proposed rules are subject to the waiver provisions at 645—Chapter 18.

After analysis and review of this rule making, there will be a positive impact on jobs due to the expedited process of issuing reciprocal and provisional licenses for veterans when locating in or returning to Iowa.

PROFESSIONAL LICENSURE DIVISION[645](cont'd)

These rules are intended to implement 2014 Iowa Acts, chapter 1116, division VI.
The following amendment is proposed.

Adopt the following new 645—Chapter 20:

CHAPTER 20
MILITARY SERVICE AND VETERAN RECIPROCITY

645—20.1(85GA,ch1116) Definitions.

“Board” means a licensing board within the professional licensure division.

“License” or *“licensure”* means any license, registration, certificate, or permit that may be granted by a licensing board within the professional licensure division.

“Military service” means honorably serving on federal active duty, state active duty, or national guard duty, as defined in Iowa Code section 29A.1; in the military services of other states, as provided in 10 U.S.C. Section 101(c); or in the organized reserves of the United States, as provided in 10 U.S.C. Section 10101.

“Military service applicant” means an individual requesting credit toward licensure for military education, training, or service obtained or completed in military service.

“Veteran” means an individual who meets the definition of “veteran” in Iowa Code section 35.1(2).

645—20.2(85GA,ch1116) Military education, training, and service credit. A military service applicant may apply for credit for verified military education, training, or service toward any experience or educational requirement for licensure by submitting a military service application form to the board office.

20.2(1) The application may be submitted with an application for licensure or examination, or prior to applying for licensure or to take an examination. No fee is required for submission of an application for military service credit.

20.2(2) The applicant shall identify the experience or educational licensure requirement to which the credit would be applied if granted. Credit shall not be applied to an examination requirement.

20.2(3) The applicant shall provide documents, military transcripts, a certified affidavit, or forms that verify completion of the relevant military education, training, or service, which may include, when applicable, the applicant’s Certificate of Release or Discharge from Active Duty (DD Form 214) or Verification of Military Experience and Training (VMET) (DD Form 2586).

20.2(4) Upon receipt of a completed military service application, the board shall promptly determine whether the verified military education, training, or service will satisfy all or any part of the identified experience or educational qualifications for licensure.

20.2(5) The board shall grant credit requested in the application in whole or in part if the board determines that the verified military education, training, or service satisfies all or part of the experience or educational qualifications for licensure.

20.2(6) The board shall inform the military service applicant in writing of the credit, if any, given toward an experience or educational qualification for licensure, or explain why no credit was granted. The applicant may request reconsideration upon submission of additional documentation or information.

20.2(7) A military service applicant who is aggrieved by the board’s decision may request a contested case (administrative hearing) and may participate in a contested case by telephone. A request for a contested case shall be made within 30 days of issuance of the board’s decision. The provisions of 645—Chapter 11 shall apply, except that no fees or costs shall be assessed against the military service applicant in connection with a contested case conducted pursuant to this subrule.

20.2(8) The board shall grant or deny the military service application prior to ruling on the application for licensure. The applicant shall not be required to submit any fees in connection with the licensure application unless the board grants the military service application. If the board does not grant the military service application, the applicant may withdraw the licensure application or request that the licensure application be placed in pending status for up to one year or as mutually agreed. The

PROFESSIONAL LICENSURE DIVISION[645](cont'd)

withdrawal of a licensure application shall not preclude subsequent applications supported by additional documentation or information.

645—20.3(85GA,ch1116) Veteran reciprocity.

20.3(1) A veteran with an unrestricted professional license in another jurisdiction may apply for licensure in Iowa through reciprocity. A veteran must pass any examinations required for licensure to be eligible for licensure through reciprocity and will be given credit for examinations previously passed when consistent with board laws and rules on examination requirements. A fully completed application for licensure submitted by a veteran under this subrule shall be given priority and shall be expedited.

20.3(2) Such an application shall contain all of the information required of all applicants for licensure who hold unrestricted licenses in other jurisdictions and who are applying for licensure by reciprocity, including, but not limited to, completion of all required forms, payment of applicable fees, disclosure of criminal or disciplinary history, and, if applicable, a criminal history background check. The applicant shall use the same forms as any other applicant for licensure by reciprocity and shall additionally provide such documentation as is reasonably needed to verify the applicant's status as a veteran under Iowa Code section 35.1(2).

20.3(3) Upon receipt of a fully completed licensure application, the board shall promptly determine if the professional or occupational licensing requirements of the jurisdiction where the veteran is licensed are substantially equivalent to the licensing requirements in Iowa. The board shall make this determination based on information supplied by the applicant and such additional information as the board may acquire from the applicable jurisdiction. As relevant to the license at issue, the board may consider the following factors in determining substantial equivalence: scope of practice, education and coursework, degree requirements, postgraduate experience, and examinations required for licensure.

20.3(4) The board shall promptly grant a license to the veteran if the veteran is licensed in the same or similar profession in another jurisdiction whose licensure requirements are substantially equivalent to those required in Iowa, unless the applicant is ineligible for licensure based on other grounds, for example the applicant's disciplinary or criminal background.

20.3(5) If the board determines that the licensing requirements in the jurisdiction in which the veteran is licensed are not substantially equivalent to those required in Iowa, the board shall promptly inform the veteran of the additional experience, education, or examinations required for licensure in Iowa. Unless the applicant is ineligible for licensure based on other grounds, such as disciplinary or criminal background, the following shall apply:

a. If a veteran has not passed the required examination(s) for licensure, the veteran may not be issued a provisional license, but may request that the licensure application be placed in pending status for up to one year or as mutually agreed to provide the veteran with the opportunity to satisfy the examination requirements.

b. If additional experience or education is required in order for the applicant's qualifications to be considered substantially equivalent, the applicant may request that the board issue a provisional license for a specified period of time during which the applicant will successfully complete the necessary experience or education. The board shall issue a provisional license for a specified period of time upon such conditions as the board deems reasonably necessary to protect the health, welfare or safety of the public unless the board determines that the deficiency is of a character that the public health, welfare or safety will be adversely affected if a provisional license is granted.

c. If a request for a provisional license is denied, the board shall issue an order fully explaining the decision and shall inform the applicant of the steps the applicant may take in order to receive a provisional license.

d. If a provisional license is issued, the application for full licensure shall be placed in pending status until the necessary experience or education has been successfully completed or the provisional license expires, whichever occurs first. The board may extend a provisional license on a case-by-case basis for good cause.

20.3(6) A veteran who is aggrieved by the board's decision to deny an application for a reciprocal license or a provisional license or is aggrieved by the terms under which a provisional license will be

PROFESSIONAL LICENSURE DIVISION[645](cont'd)

granted may request a contested case (administrative hearing) and may participate in a contested case by telephone. A request for a contested case shall be made within 30 days of issuance of the board's decision. The provisions of 645—Chapter 11 shall apply, except that no fees or costs shall be assessed against the veteran in connection with a contested case conducted pursuant to this subrule.

These rules are intended to implement 2014 Iowa Acts, chapter 1116, division VI.

ARC 1670C**PUBLIC EMPLOYMENT RELATIONS BOARD[621]****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 20.6(5), the Public Employment Relations Board hereby gives Notice of Intended Action to amend Chapter 2, “General Practice and Hearing Procedures,” and Chapter 3, “Prohibited Practice Complaints,” Iowa Administrative Code.

Items 1 and 2 propose new rules 621—2.23(20) and 621—2.24(20), which include the content of existing rules 621—3.10(20) and 621—3.11(20) and the changes identified in the Board's ongoing review of its administrative rules. The new rules reflect the transfer of the existing rules to a more appropriate and intuitive location in Chapter 2.

Items 3 through 11 amend existing rules concerning proceedings on prohibited practice complaints which have also been identified in the Board's ongoing rules review project.

Item 12 rescinds two rules, the content of which is revised and incorporated into Chapter 2 in Items 1 and 2.

Item 13 proposes new rule 621—3.12(20), which implements the Iowa Code section 20.11(3) requirements that the Board appoint a certified shorthand reporter to report prohibited practice proceedings and that the Board tax the reasonable amount of compensation for such reporting and for any transcript requested by the Board, as costs.

These rules do not provide for a waiver of their terms, but are instead subject to the Board's general waiver provisions found at rule 621—1.9(17A,20).

Any interested person may make written suggestions or comments on the proposed amendments on or before November 4, 2014. Written suggestions or comments should be directed to Michael G. Cormack, Chairperson, Public Employment Relations Board, 510 E. 12th Street, Des Moines, Iowa 50319; or Mike.Cormack@iowa.gov.

Persons who wish to convey their views orally should contact the office of the Public Employment Relations Board by telephone at (515)281-4414 or in person at the Board's office at the address noted above.

Requests for a public hearing must be received by November 4, 2014.

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

These amendments are intended to implement Iowa Code chapter 20.

The following amendments are proposed.

ITEM 1. Adopt the following **new** rule 621—2.23(20):

621—2.23(20) Informal disposition. The board may assign an administrative law judge to assist the parties in reaching a settlement of any dispute which is the subject of an adjudicatory proceeding. However, no party shall be required to participate in mediation or settle the dispute pursuant to this rule. An administrative law judge assisting the parties under this rule shall not serve as a presiding officer in

PUBLIC EMPLOYMENT RELATIONS BOARD[621](cont'd)

any proceeding related to the dispute. Adjudicatory proceedings may be voluntarily dismissed without consent of the board except as provided in rule 621—3.6(20) and 621—subrule 4.1(3).

ITEM 2. Adopt the following new rule 621—2.24(20):

621—2.24(20) Evidence of settlement negotiations. Evidence of proposed offers of settlement of a contested case or a proceeding that may culminate in a contested case shall be inadmissible at the hearing thereon.

ITEM 3. Amend **621—Chapter 3**, title, as follows:

PROHIBITED PRACTICE COMPLAINTS PROCEEDINGS

ITEM 4. Amend rule 621—3.1(20) as follows:

621—3.1(20) Filing of complaint. A complaint that any ~~person, employee, organization or~~ public employer, public employee or employee organization has engaged in or is engaging in committed a prohibited practice ~~under the Act~~ within the meaning of Iowa Code section 20.10(1), that any public employer or the employer's designated representative has committed a prohibited practice within the meaning of Iowa Code section 20.10(2), or that any public employee, employee organization, person, union or organization or its agents have committed a prohibited practice within the meaning of Iowa Code section 20.10(3) may be filed with the agency by any person, employee organization or public employer. ~~A complaint shall be in writing and signed according to these rules, and may be on a form provided by the board. The complaint shall be filed with the board with standing~~ within 90 days following the alleged ~~violation~~ commission of the prohibited practice.

ITEM 5. Amend rule 621—3.2(20) as follows:

621—3.2(20) Contents of complaint. The complaint, which may utilize the form available from the board's Web site, shall be in writing, shall be signed by the complainant or its designated representative, and shall include the following:

3.2(1) The name, address ~~and organizational affiliation, if any,~~ telephone number and e-mail address of the complainant, and, if filed by the complainant's designated representative, the name, title, telephone number and e-mail address of ~~any~~ that representative ~~filing the complaint.~~

3.2(2) The name and address of the respondent(s) ~~and any other party named therein~~ alleged to have committed the prohibited practice.

3.2(3) A clear and concise statement of the facts constituting the alleged prohibited practice, including the names of the individuals involved in the alleged ~~act~~ act(s), the ~~dates~~ date(s) and ~~places~~ place(s) of the alleged ~~occurrence~~ act(s), and the specific ~~section(s)~~ subsection(s) and paragraph(s) of the ~~Act~~ Iowa Code section 20.10 alleged to have been violated.

ITEM 6. Amend rule 621—3.3(20) as follows:

621—3.3(20) Clarification of complaint. ~~The board~~ Although compliance with technical rules of pleading is not required, the agency may, on either its own motion or motion of the respondent, require the complainant to make the complaint more specific.

ITEM 7. Amend rule 621—3.4(20) as follows:

621—3.4(20) Service of complaint. The complainant shall, within a reasonable time following the filing of a complaint, serve ~~the respondent(s)~~ all named respondents with a copy of the complaint in the manner of an original notice or by certified mail, return receipt requested, ~~together with an agency-approved information sheet regarding mandatory electronic filing.~~ Such service shall be upon the ~~person~~ person(s) designated for service by 621—subrule 2.15(1), and the complainant shall file proof thereof with the agency in accordance with 621—~~subrules~~ subrule 2.15(3) and 621—subrule 16.10(1).

PUBLIC EMPLOYMENT RELATIONS BOARD[621](cont'd)

ITEM 8. Amend rule 621—3.5(20) as follows:

621—3.5(20) Answer to complaint.

3.5(1) Filing and service. Within ten days of service of a complaint, the respondent(s) shall file with the ~~board a written~~ agency an answer to the complaint, ~~and cause a copy to be delivered to the complainant by ordinary mail to the address set forth in the complaint.~~ The answer shall be signed by the respondent(s) or ~~the~~ its designated representative of the respondent(s). The answer shall be served through the electronic document management system unless the respondent is exempted from electronic filing in the proceeding, in which case service shall be in accordance with 621—subrules 2.15(2) and 2.15(3), and upon the person who signed the complaint being answered.

3.5(2) Extension of time to answer. ~~Upon~~ The parties may agree to an extension of the time to answer and shall inform the agency of their agreement, or the board may, upon application and good cause shown, the board may extend the time to answer to a time and date certain.

3.5(3) Contents of answer. ~~The answer shall include a specific admission or denial of specifically admit or deny each allegation of the complaint or, if and may set forth additional facts deemed to constitute a defense. If the respondent is without knowledge thereof sufficient to make an admission or denial concerning an allegation, the respondent answer shall so state and such statement shall operate as a denial. Admissions or denials may be made to all or part of an allegation, but shall fairly meet the circumstances substance of the allegations allegation. The answer shall include a specific statement of any affirmative defense. Matters contained~~ Additional facts set forth in the answer shall be deemed denied by the complainant.

3.5(4) Admission by failure to answer. If the respondent fails to file a timely answer, such failure may be deemed by the board to constitute an admission of the material facts alleged in the complaint and a waiver ~~by the respondent~~ of a hearing.

ITEM 9. Amend rule 621—3.6(20) as follows:

621—3.6(20) ~~Withdrawal~~ Voluntary dismissal or withdrawal of complaint. ~~A~~ At any time prior to the issuance of a proposed decision (or final decision if heard originally by the board), a complaint or any part thereof may be withdrawn with the consent of the board, and upon conditions the board may deem proper voluntarily dismissed by the complainant. Withdrawal shall constitute a bar to refileing the same complaint or part thereof by the complainant. Following the issuance of a proposed decision, but before the proposed decision becomes the agency's final decision, complaints may be withdrawn only with the consent of the board and upon conditions the board deems proper.

ITEM 10. Rescind and reserve rule **621—3.7(20)**.

ITEM 11. Amend rule 621—3.8(20) as follows:

621—3.8(20) Investigation of complaint. The board or its designee may conduct a preliminary investigation of the allegations of any complaint. In conducting such investigation, the board may require the complainant and respondent to furnish evidence, including affidavits and other documents if appropriate. If a review of the evidence shows that the complaint has no basis in fact, the complaint may be dismissed with prejudice by the board and the parties notified. ~~Board employees~~ Administrative law judges involved in investigations under this rule shall not act as ~~administrative law judges presiding officers~~ in any proceeding related to the ~~investigation~~ prohibited practice complaint.

ITEM 12. Rescind and reserve rules **621—3.10(20)** and **621—3.11(20)**.

ITEM 13. Adopt the following new rule 621—3.12(20):

621—3.12(20) Costs of certified shorthand reporters and transcripts.

3.12(1) Initial payment. The agency will arrange for a certified shorthand reporter to report the contested case hearing and request that an original transcript of the hearing be prepared by the reporter for the agency's use. The agency initially shall pay the reporter's reasonable compensation for reporting the hearing and producing the agency-requested transcript.

PUBLIC EMPLOYMENT RELATIONS BOARD[621](cont'd)

3.12(2) *Taxation as costs.* The cost of reporting and of the agency-requested transcript shall be taxed as costs against the nonprevailing party or parties although the presiding officer, or the board on appeal or review of a proposed decision and order, may apportion such costs in another manner if appropriate under the circumstances.

3.12(3) *Payment of taxed costs.* Following final agency action in a case, the agency will prepare and serve a bill of costs upon the party or parties against whom the costs have been taxed. Those parties shall, within 30 days of such service, remit to the agency the amount specified in the bill of costs. Sums remitted to the agency shall be considered repayment receipts as defined in Iowa Code section 8.2.

ARC 1669C**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 2014 Iowa Acts, chapter 1116, section 34, the Plumbing and Mechanical Systems Board (Board) hereby gives Notice of Intended Action to adopt new Chapter 62, “Plumbing and Mechanical Systems Board—Military Service and Veteran Reciprocity,” Iowa Administrative Code.

This rule implements the Home Base Iowa Act, 2014 Iowa Acts, chapter 1116, which requires all professional and occupational licensing boards, commissions, and other authorities subject to Iowa Code chapter 272C to adopt rules by January 1, 2015, on military service and veteran licensure. This rule adopts by reference 641—Chapter 196, which was published under Notice of Intended Action as **ARC 1646C** in the October 1, 2014, Iowa Administrative Bulletin. The rules in 641—Chapter 196 address the process under which the Department of Public Health will provide credit toward licensure qualifications for military service, education, and training and the procedures for expediting reciprocal and provisional licensure for veterans who are licensed in other states. The rules establish the same procedure for all licensing authorities within the Department.

Any interested person may make written comments or suggestions on the proposed rule on or before November 4, 2014. Such written comments should be directed to Cindy Houlson, Plumbing and Mechanical Systems Board, Lucas State Office Building, 321 E. 12th Street, Des Moines, Iowa 50319-0075. Comments may be sent by e-mail to cindy.houlson@idph.iowa.gov.

After analysis and review of this rule making, there will be a positive impact on jobs because this rule making will streamline the licensing process for veterans when locating in or coming back to Iowa.

This rule is intended to implement 2014 Iowa Acts, chapter 1116, division VI.

The following amendment is proposed.

Adopt the following **new** 641—Chapter 62:

CHAPTER 62
PLUMBING AND MECHANICAL SYSTEMS BOARD—
MILITARY SERVICE AND VETERAN RECIPROCITY

641—62.1(85GA,ch1116) Military service and veteran reciprocity. The board hereby adopts by reference 641—Chapter 196, “Military Service and Veteran Reciprocity,” Iowa Administrative Code.

This rule is intended to implement 2014 Iowa Acts, chapter 1116, division VI.

ARC 1682C**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 10, “Interest, Penalty, Exceptions to Penalty, and Jeopardy Assessments,” Iowa Administrative Code.

Iowa Code section 421.7 requires the Director of Revenue to determine and publish the interest rate for each calendar year. The Director has determined that the rate of interest on interest-bearing taxes shall be 5 percent for the calendar year 2015 (0.4% per month). The Department shall also pay interest at the 5 percent rate on refunds. The interest rate for calendar years 2010 to 2014 was also 5 percent (0.4% per month).

The proposed amendment 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 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 this proposed amendment 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 17, 2014, 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 amendment on or before November 4, 2014. 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)281-8450 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 November 4, 2014.

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

This amendment is intended to implement Iowa Code section 421.7.

The following amendment is proposed.

Adopt the following **new** subrule 10.2(34):

10.2(34) Calendar year 2015. The interest rate upon all unpaid taxes which are due as of January 1, 2015, will be 5 percent per annum (0.4% per month). This interest rate will accrue on taxes which are due and unpaid as of, or after, January 1, 2015. In addition, this interest will accrue on tax refunds which by law accrue interest, regardless of whether the tax to be refunded is due before or after January 1, 2015. This interest rate of 5 percent per annum, whether for unpaid taxes or tax refunds, will commence to accrue in 2015.

ARC 1681C**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 17A.3 and 421.17, the Department of Revenue hereby gives Notice of Intended Action to amend Chapter 67, “Administration,” Chapter 68, “Motor Fuel and Undyed Special Fuel,” and Chapter 69, “Liquefied Petroleum Gas—Compressed Natural Gas,” Iowa Administrative Code.

The proposed amendments are necessary to reflect the enactment of 2014 Iowa Acts, Senate File 2338, and 2014 Iowa Acts, House File 2444, division III. 2014 Iowa Acts, Senate File 2338, alters the method used for calculating the tax due on compressed natural gas and liquefied natural gas and makes other corresponding changes. 2014 Iowa Acts, House File 2444, division III, extends to June 30, 2015, the use of the formula for determining the motor fuel tax rate.

Item 1 amends rule 701—67.1(452A) to add a definition of “gallon” to reflect the enactment of 2014 Iowa Acts, Senate File 2338.

Items 2, 3, and 6 are necessary to add “liquefied natural gas” to the types of fuels regulated to reflect the enactment of 2014 Iowa Acts, Senate File 2338.

Items 4 and 5 amend subrules 68.2(1) and 68.2(2) to reflect the extension of the use of the current method for determining the motor fuel tax rate, as required by 2014 Iowa Acts, House File 2444, division III.

Items 7 through 16 add “liquefied natural gas” to the title of Chapter 69 and “L.N.G.” to the several regulations in the chapter. These changes are necessary to reflect the enactment of 2014 Iowa Acts, Senate File 2338.

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 and rescissions 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 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 17, 2014, to the Policy Section, Policy & Communications Division, Department of Revenue, Hoover State Office Building, P.O. Box 10457, Des Moines, Iowa 50306. Alternatively, requests may be e-mailed to idrpolicy@iowa.gov. 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 November 4, 2014. Such written comments should be e-mailed to the Policy Section at idrpolicy@iowa.gov or mailed to Policy Section, Policy & 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 & 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 November 4, 2014.

After analysis and review of this rule making, the Department finds that the amendments related to 2014 Iowa Acts, Senate File 2338, are likely to have a positive impact on jobs. For example, Kwik Star

REVENUE DEPARTMENT[701](cont'd)

has indicated that the passage of 2014 Iowa Acts, Senate File 2338, was a factor in its plan for expansion in Iowa. Kwik Star has opened or will open new stations in Clear Lake, DeWitt, Davenport, Dubuque, and Waterloo this year. Kwik Star plans to open additional stations in 2015. Each store will employ at least 30 workers, including part-time and full-time employees.

These amendments are intended to implement 2014 Iowa Acts, Senate File 2338, and 2014 Iowa Acts, House File 2444, division III.

The following amendments are proposed.

ITEM 1. Adopt the following new definition in rule **701—67.1(452A)**:

“Gallon,” with respect to compressed natural gas, means a gasoline gallon equivalent. A gasoline gallon equivalent of compressed natural gas is five and sixty-six hundredths pounds or one hundred twenty-six and sixty-seven hundredths cubic feet measured at a base temperature of 60 degrees Fahrenheit and a pressure of fourteen and seventy-three hundredths pounds per square inch absolute. “Gallon,” with respect to liquefied natural gas, means a diesel gallon equivalent. A diesel gallon equivalent of liquefied natural gas is six and six hundredths pounds.

ITEM 2. Amend subrule 67.3(5) as follows:

67.3(5) *Compressed natural gas, liquefied natural gas, and liquefied petroleum gas dealers and users.* Every compressed natural gas, liquefied natural gas, and liquefied petroleum gas dealer and user is required to keep and preserve the following records:

a. to e. No change.

ITEM 3. Amend subparagraph **67.21(1)“c”(4)** as follows:

(4) ~~L.P.G. and C.N.G.~~ Compressed natural gas, liquefied natural gas, and liquefied petroleum gas dealers and users will be requested to post a bond or security when they have had two or more delinquencies in remitting the fuel tax or timely filing monthly returns during the past 12 months. The bond or security will be an amount sufficient to cover 12 months’ fuel tax liability or \$500, whichever is greater.

ITEM 4. Amend subrule 68.2(1) as follows:

68.2(1) The following rates of tax apply to the use of fuel in operating motor vehicles and aircraft:

Gasoline	20.3¢ per gallon (for July 1, 2003, through June 30, 2004)
	20.5¢ per gallon (for July 1, 2004, through June 30, 2005)
	20.7¢ per gallon (for July 1, 2005, through June 30, 2006)
	21¢ per gallon (for July 1, 2006, through June 30, 2007)
	20.7¢ per gallon (for July 1, 2007, through June 30, 2008)
	21¢ per gallon (for July 1, 2008, through June 30, 2014 <u>2015</u>)
LPG	20¢ per gallon
Ethanol blended gasoline	19¢ per gallon (for July 1, 2003, through June 30, 2014 <u>2015</u>)
E-85 gasoline	17¢ per gallon beginning January 1, 2006, through June 30, 2007
	19¢ per gallon (for July 1, 2007, through June 30, 2014 <u>2015</u>)
Aviation gasoline	8¢ per gallon
Special fuel (biodiesel, diesel, LNG)	22.5¢ per gallon
Special fuel (aircraft)	3¢ per gallon
CNG	16¢ per 100 cu. ft. <u>21¢ per gallon</u>

ITEM 5. Amend subrule 68.2(2) as follows:

68.2(2) Except as otherwise provided in this subrule, until June 30, ~~2014~~ 2015, this subrule shall apply to the excise tax imposed on each gallon of motor fuel used for any purpose for the privilege of operating motor vehicles in this state. The rate of the excise tax shall be based on the ethanol distribution percentage. The ethanol distribution percentage is the number of gallons of ethanol blended gasoline

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that is distributed in this state as expressed as a percentage of the number of gallons of motor fuel, excluding aviation gasoline, distributed in this state. The number of gallons of ethanol blended gasoline and motor fuel distributed in this state shall be based on the total taxable gallons of ethanol blended gasoline and motor fuel as shown on the fuel tax monthly reports issued by the department for January through December for each determination period. The department shall determine the percentage for each determination period beginning January 1 and ending December 31. The rate for the excise tax shall apply for the period beginning July 1 and ending June 30 following the end of the determination period. The rate for the excise tax shall be as follows:

Ethanol Distribution %	Ethanol Tax	Gasoline Tax
00/50	19.0	20.0
50+/55	19.0	20.1
55+/60	19.0	20.3
60+/65	19.0	20.5
65+/70	19.0	20.7
70+/75	19.0	21.0
75+/80	19.3	20.8
80+/85	19.5	20.7
85+/90	19.7	20.4
90+/95	19.9	20.1
95+/100	20.0	20.0

Except as otherwise provided in this subrule, after June 30, ~~2014~~ 2015, an excise tax of 20 cents is imposed on each gallon of motor fuel used for any purpose for the privilege of operating motor vehicles in this state.

ITEM 6. Amend subrule 68.2(5), introductory paragraph, as follows:

68.2(5) Persons having title to motor fuel, ethanol blended gasoline, undyed special fuel, compressed natural gas, liquefied natural gas, or liquefied petroleum gas in storage and held for sale on the effective date of an increase in the excise tax rate imposed on motor fuel, ethanol blended gasoline, undyed special fuel, compressed natural gas, liquefied natural gas, or liquefied petroleum gas shall be subject to an inventory tax based upon the gallonage in storage as of the close of the business day preceding the effective date of the increased excise tax rate of motor fuel, ethanol blended gasoline, undyed special fuel, compressed natural gas, liquefied natural gas, or liquefied petroleum gas which will be subject to the increased excise tax rate.

ITEM 7. Amend **701—Chapter 69**, title, as follows:

LIQUEFIED PETROLEUM GAS—
COMPRESSED NATURAL GAS—LIQUEFIED NATURAL GAS

ITEM 8. Amend the following definitions in rule **701—69.1(452A)**:

“Licensed compressed natural gas, liquefied natural gas, and liquefied petroleum gas dealer” means a person in the business of handling untaxed compressed natural gas, liquefied natural gas, or liquefied petroleum gas who delivers any part of the fuel into a fuel supply tank of any motor vehicle.

“Licensed compressed natural gas, liquefied natural gas, and liquefied petroleum gas user” means a person licensed by the department who dispenses compressed natural gas, liquefied natural gas, or liquefied petroleum gas, upon which the special fuel tax has not been previously paid, for highway use from fuel sources owned and controlled by the person into the fuel supply tank of a motor vehicle, or commercial vehicle owned or controlled by the person.

“Special fuel” means liquefied petroleum gas, liquefied natural gas, or compressed natural gas.

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ITEM 9. Adopt the following **new** definitions in rule **701—69.1(452A)**:

“*Gallon*,” with respect to compressed natural gas, means a gasoline gallon equivalent. A gasoline gallon equivalent of compressed natural gas is five and sixty-six hundredths pounds or one hundred twenty-six and sixty-seven hundredths cubic feet measured at a base temperature of 60 degrees Fahrenheit and a pressure of fourteen and seventy-three hundredths pounds per square inch absolute. “*Gallon*,” with respect to liquefied natural gas, means a diesel gallon equivalent. A diesel gallon equivalent of liquefied natural gas is six and six hundredths pounds.

“*L.N.G.*” shall mean liquefied natural gas.

ITEM 10. Amend rule 701—69.2(452A) as follows:

701—69.2(452A) Tax rates—time tax attaches—responsible party—payment of the tax. See 701—subrule 68.2(1) for tax rates. The excise tax on L.P.G. attaches when the special fuel is placed in a fuel supply tank of a motor vehicle. The excise tax on C.N.G. and L.N.G. attaches at the time of delivery into equipment for compressing the gas for subsequent delivery into the fuel supply tank of a motor vehicle. The person responsible for the tax must collect the tax from the purchaser and remit the tax to the department. The person responsible for the tax is:

1. The licensed L.P.G., L.N.G., or C.N.G. dealer, or
2. The licensed L.P.G., L.N.G., or C.N.G. user.

The person responsible for placing L.P.G. into the fuel supply tank of a vehicle and the person responsible for placing C.N.G. or L.N.G. into compressing equipment must hold a license as a dealer or user as defined in Iowa Code section 452A.4.

The return and tax are due no later than the last day of the month following the month the L.P.G. was placed in a vehicle or C.N.G. or L.N.G. was placed into compressing equipment. The tax must be remitted by means of electronic funds transfer, unless the licensee can show that this method of payment would cause undue hardship on the licensee and must be rounded to the nearest whole number. The return must be remitted by means of electronic transmission.

This rule is intended to implement Iowa Code section 452A.8 as amended by 2005 Iowa Acts, Senate File 413 2014 Iowa Acts, Senate File 2338.

ITEM 11. Amend rule 701—69.5(452A), introductory paragraph, as follows:

701—69.5(452A) Persons authorized to place L.P.G., L.N.G., or C.N.G. in the fuel supply tank of a motor vehicle. The only persons authorized to place L.P.G., L.N.G., or C.N.G. into the fuel supply tank of a motor vehicle are: licensed L.P.G., L.N.G., or C.N.G. dealers, or licensed L.P.G., L.N.G., or C.N.G. users.

ITEM 12. Amend subrules 69.5(1) and 69.5(2) as follows:

69.5(1) *L.P.G., L.N.G., or C.N.G. dealer’s license.* Anyone who delivers L.P.G. into the fuel supply tank of a motor vehicle or places C.N.G. or L.N.G. into compression equipment which tank is owned by some other person must be licensed as an L.P.G., L.N.G., or C.N.G. dealer. A dealer may also fuel the dealer’s own vehicles under this license.

69.5(2) *L.P.G., L.N.G., or C.N.G. user’s license.* Anyone who delivers L.P.G., L.N.G., or C.N.G. into the fuel supply tank of a motor vehicle, which tank is owned or leased by the person delivering it, must be licensed as an L.P.G., L.N.G., or C.N.G. user. If that same person delivers the fuel into tanks owned by others, that person must be licensed as a dealer in lieu of being licensed as a user.

ITEM 13. Amend rule 701—69.6(452A) as follows:

701—69.6(452A) Requirements to be licensed. To become licensed as an L.P.G., L.N.G., or C.N.G. user or dealer, a person must file with the department a completed application form for the appropriate license. A separate license is required for each place of business or location where L.P.G., L.N.G., or C.N.G. is regularly delivered or placed into the fuel supply tank of motor vehicles. See Iowa Code section 452A.4 and 701—subrule 67.23(1) for licensing requirements.

This rule is intended to implement Iowa Code section 452A.8.

REVENUE DEPARTMENT[701](cont'd)

ITEM 14. Amend rule 701—69.7(452A), introductory paragraph, as follows:

701—69.7(452A) Licensed metered pumps. Before an L.P.G., L.N.G., or C.N.G. dealer's or user's license can be issued, all pumps designed to fuel motor vehicles at the location to be licensed must be (1) metered, (2) inspected, (3) tested for accuracy, (4) sealed, and (5) licensed by the department of agriculture and land stewardship. (See 1970 O.A.G. 2.) If there is more than one pump at a location to be licensed, each pump will be assigned a separate pump number, and the licensee shall report the gallonage each month with reference to such number.

ITEM 15. Amend rule 701—69.8(452A) as follows:

701—69.8(452A) Single license for each location. A single license is required for each separate place of business or location where L.P.G., L.N.G., or C.N.G. is delivered into the fuel supply tank of a motor vehicle. For reporting purposes (see rule 701—69.2(452A)), a licensee may file a separate return for each license; or, if arrangements have been made with the department, the licensee may file a consolidated return reporting all sales made at all locations for which a license is held. However, a consolidated return may not be used to combine dealer and user operations. All working papers used in the preparation of the information required must be available for examination by the department. All dealer or user operations at that location will be conducted under that license. A licensee may have a different type of license (dealer, user) for each separate location where L.P.G., L.N.G., or C.N.G. is dispensed. For instance, if a licensee holds an L.P.G., L.N.G., or C.N.G. dealer's license for location A and an L.P.G., L.N.G., or C.N.G. user's license for location B, the licensee may sell fuel to others or fuel the licensee's own vehicles at location A, but may only fuel the licensee's own vehicles at location B.

This rule is intended to implement Iowa Code section 452A.8.

ITEM 16. Amend rule 701—69.9(452A), introductory paragraph, as follows:

701—69.9(452A) Dealer's and user's license nonassignable. An L.P.G., L.N.G., or C.N.G. dealer's license or user's license cannot be assigned. The following nonexclusive situations will be considered an assignment:

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, 2013 — October 31, 2013	4.75%
November 1, 2013 — November 30, 2013	4.75%
December 1, 2013 — December 31, 2013	4.50%
January 1, 2014 — January 31, 2014	4.75%
February 1, 2014 — February 28, 2014	5.00%
March 1, 2014 — March 31, 2014	4.75%
April 1, 2014 — April 30, 2014	4.75%
May 1, 2014 — May 31, 2014	4.75%
June 1, 2014 — June 30, 2014	4.75%
July 1, 2014 — July 31, 2014	4.50%
August 1, 2014 — August 31, 2014	4.50%
September 1, 2014 — September 30, 2014	4.50%
October 1, 2014 — October 31, 2014	4.50%

ARC 1679C**VOTER REGISTRATION COMMISSION[821]****Notice of Intended Action**

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

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

Pursuant to the authority of Iowa Code sections 47.8, 48A.13 and 17A.4, the Voter Registration Commission hereby gives Notice of Intended Action to amend Chapter 2, “Voter Registration Forms, Acceptability, Registration Dates, and Effective Dates,” Chapter 8, “Transmission of Registration Forms by Agencies,” and Chapter 11, “Registration Procedure at the Office of Driver Services, Department of Transportation,” Iowa Administrative Code.

These amendments permit electronic signatures on file with the Iowa Department of Transportation to be used on subsequent online voter registration transactions conducted via the Iowa Department of Transportation’s Web site.

Any interested person may make written suggestions or comments on the proposed amendments on or before November 4, 2014. Written suggestions or comments should be directed to Sarah Reisetter, Director of Elections, Office of the Secretary of State, First Floor, Lucas State Office Building, Des Moines, Iowa 50319.

Persons who want to convey their views orally should contact the Secretary of State’s office by telephone at (515)281-0145 or in person at the Secretary of State’s office on the first floor of the Lucas State Office Building.

Requests for a public hearing must be received by November 4, 2014.

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

These amendments are intended to implement Iowa Code section 48A.13.

The following amendments are proposed.

ITEM 1. Amend subrules 2.4(2) and 2.4(3) as follows:

2.4(2) The applicant shall be shown a list of the eligibility requirements for registering to vote and the penalties for falsely registering, printed or displayed in large, easy-to-read type, and shall be advised to read them.

2.4(3) The application to register to vote and the signature of the applicant shall be recorded in digitized form in the agency’s computer system and shall be kept permanently by the agency. The system shall ensure that neither the application ~~form~~ information nor the signature, once captured, can be edited.

ITEM 2. Adopt the following **new** subrule 2.4(6):

2.4(6) In the case of a voter registration applicant who registers to vote online through the office of driver services, department of transportation, Web site, the applicant’s signature for voter registration purposes shall be the last signature on file with the office of driver services, department of transportation. If there is no signature on file with the office of driver services, department of transportation, the applicant shall be offered the opportunity to print, complete, sign and return a paper copy of the Iowa voter registration application.

ITEM 3. Amend subrule 2.8(2) as follows:

2.8(2) The notice mailed to applicants who submit incomplete voter registration applications shall instruct the applicant that the applicant may provide the required information in writing by appearing in person at the commissioner’s office to complete a new application or by mailing a new and complete application. If the incomplete registration application is received during the period in which registration is closed pursuant to Iowa Code section 48A.9 and by 5 p.m. on the Saturday before the election for general ~~and primary~~ elections or by 5 p.m. on the Friday before the election for all other elections,

VOTER REGISTRATION COMMISSION[821](cont'd)

the commissioner shall send a notice advising the applicant of election day and in-person absentee registration procedures under Iowa Code section 48A.7A.

ITEM 4. Amend rule 821—8.1(48A) as follows:

821—8.1(48A) ~~Cataloging registration data~~ Transmission of electronic voter registration applications. Every agency ~~which that~~ registers voters in a paperless manner shall ~~daily catalog~~ transmit a file of registration ~~records~~ applications to the ~~computer system used by the registrar on a daily~~ basis. The file shall contain all voter registration ~~records~~ applications collected by the agency during the previous working day, ~~except that the file containing registration records collected on the last day of registration for a regularly scheduled election shall be cataloged not later than 8 p.m. of that day.~~

ITEM 5. Amend rule 821—11.6(48A) as follows:

821—11.6(48A) Signature on attestation required. The signature required for voter registration shall be obtained in the following manner:

11.6(1) In person applicant. At the conclusion of the ~~client's~~ applicant's business, ~~clients an~~ applicant who ~~apply~~ applies to register, or ~~give~~ gives information to update an existing registration shall be asked to sign the registration application attestation, either on a paper copy or an electronic version. Any ~~client~~ applicant who fails to sign the attestation shall be deemed to have declined to apply to register to vote.

11.6(2) Online driver's license and nonoperator identification renewal applicant. During the online renewal transaction, an applicant shall be asked if the applicant would like to register to vote or update an existing voter registration record. If an applicant answers the question in the affirmative, the applicant shall have the opportunity to select a political party and affirm the use of the applicant's last digitized signature on file with the office of driver services, department of transportation, to finalize the voter registration transaction.

11.6(3) Stand-alone online voter registration applicant. The office of driver services, department of transportation, may offer stand-alone online voter registration through its Web site to individuals who have already been issued state-issued driver's licenses or nonoperator identification cards. An applicant for voter registration must provide information from the applicant's state-issued identification card to begin the online voter registration application, including the applicant's first and last name and date of birth as they appear on the state-issued identification, the last five digits of the applicant's social security number, the state-issued identification number and the first five digits of the document discriminator number which is printed on the state-issued identification card. An applicant who does not have a state-issued identification card and who attempts to use the stand-alone online voter registration function shall be offered the opportunity to print, complete, sign and mail a paper copy of the Iowa voter registration application.

ARC 1671C

HUMAN SERVICES DEPARTMENT[441]

Adopted and Filed Emergency After Notice

Pursuant to the authority of Iowa Code section 225C.6 and 2014 Iowa Acts, House File 2463, section 82, the Department of Human Services amends Chapter 25, “Disability Services Management,” Iowa Administrative Code.

The purpose of this rule making is to establish the Department’s rules for gathering expenditure data necessary to calculate county Medicaid offset in accordance with 2014 Iowa Acts, House File 2463, section 82.

Notice of Intended Action was published in the Iowa Administrative Bulletin on August 20, 2014, as **ARC 1591C**. The Department received no comments during the comment period. No changes were made to the amendments published under Notice of Intended Action, though an implementation sentence has been added for new Division IX in Chapter 25.

The Mental Health and Disability Services Commission adopted these amendments on September 25, 2014.

Pursuant to Iowa Code section 17A.5(2)“b”(1), the Department finds that the normal effective date of these amendments, 35 days after publication, should be waived and the amendments made effective September 25, 2014. The normal effective date must be waived since legislation requires timely implementation to gather and process county mental health and disability services data for SFY 2014. This information will in turn allow the Department to calculate the required offset information by October 15, 2014. Currently, counties are required to submit their mental health and disability services data by December 1 of each year. Due to the time line requirements of the legislation, the reporting time for the expenditure data must be moved up to meet the necessary calculation deadline.

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

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

These amendments are intended to implement Iowa Code section 225C.6 and 2014 Iowa Acts, House File 2463, section 82.

These amendments became effective September 25, 2014.

The following amendments are adopted.

ITEM 1. Amend **441—Chapter 25**, Preamble, as follows:

PREAMBLE

This chapter provides for definitions of regional core services, access and practice standards, reporting of regional expenditures, development and submission of regional management plans, data collection, and applications for funding as they relate to regional service systems for individuals with mental illness, intellectual disabilities, developmental disabilities, or brain injury, and submission of data for Medicaid offset calculations.

ITEM 2. Reserve rules **441—25.92** to **441—25.94**.

ITEM 3. Adopt the following new Division IX title in **441—Chapter 25**:

DIVISION IX
DATA SUBMISSION TO DETERMINE MEDICAID OFFSET FOR COUNTIES

ITEM 4. Adopt the following new Division IX Preamble in **441—Chapter 25**:

PREAMBLE

These rules define the department’s standards for the submission of county mental health and disability services expenditure data so that the department can calculate the Medicaid offset for each county consistent with 2014 Iowa Acts, House File 2463, section 82.

HUMAN SERVICES DEPARTMENT[441](cont'd)

ITEM 5. Adopt the following new rules 441—25.95(426B) and 441—25.96(426B):

441—25.95(426B) Definitions.

“Department” means the Iowa department of human services.

“Medicaid offset amount” means the amount resulting from the calculations described in Iowa Code section 426B.3 as amended by 2014 Iowa Acts, House File 2463, section 82(5) *“d.”*

“Uniform chart of accounts for Iowa county governments” means the set of codes used by counties to organize and delineate revenues and expenditures. The codes related to mental health and disability services expenditures identify diagnosis and types of services.

441—25.96(426B) Data to determine Medicaid offset. Each county must submit to the department a report that provides the county mental health and disability services data needed to calculate the Medicaid offset for the county.

25.96(1) Data required. Each county is required to submit expenditure data as specified by the department based on the agreement by the department and representatives of the mental health and disability services regions consistent with the requirements of Iowa Code section 426B.3 as amended by 2014 Iowa Acts, House File 2463, section 82(5) *“b.”*

25.96(2) Submission of mental health and disability services data.

a. Counties must submit the required data to the department by 4:30 p.m. on September 19, 2014, consistent with data submissions as required in subrule 25.41(3).

b. If a county fails to submit data within the required time frame or a county submits data that is demonstrably inaccurate, the department will use a pro-rata methodology to determine the county's Medicaid offset using data submitted by other counties.

ITEM 6. Adopt the following new implementation sentence for **441—Chapter 25**, Division IX:

These rules are intended to implement Iowa Code section 225C.6 and 2014 Iowa Acts, House File 2463, section 82.

[Filed Emergency After Notice 9/25/14, effective 9/25/14]

[Published 10/15/14]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 10/15/14.

ARC 1678C

CREDIT UNION DIVISION[189]

Adopted and Filed

Pursuant to the authority of Iowa Code section 533.107, the Credit Union Division amends Chapter 1, "Description of Organization," and Chapter 17, "Investment and Deposit Activities for Credit Unions," Iowa Administrative Code.

The amendments reflect changes made to the Division's Web address, and to the federal rules for investments in credit unions, primarily to remove references to ratings by nationally recognized statistical rating organizations, in accordance with the federal Dodd-Frank Act.

Notice of Intended Action was published in the Iowa Administrative Bulletin on August 20, 2014, as **ARC 1580C**. No one attended the public hearing scheduled for September 15, 2014, and the Division received no written comments. These amendments are identical to those published under Notice.

After analysis and review of this rule making, the Division has determined that there will be no impact on jobs and no fiscal impact to the state.

These amendments are intended to implement Iowa Code sections 533.301(5) and 533.301(25).

These amendments shall become effective November 19, 2014.

The following amendments are adopted.

ITEM 1. Amend rule 189—1.4(17A,533) as follows:

189—1.4(17A,533) Forms and instructions. Information concerning the forms and instructions of the superintendent is available at the offices of the credit union division during usual business hours, 8 a.m. to 4 p.m. daily, excluding Saturdays, Sundays and holidays. Copies of the forms and instructions are also available at the credit union division's Web site at <http://www.iaucdiv.state.ia.us> <https://creditunions.iowa.gov/>.

This rule is intended to implement Iowa Code section 533.102.

ITEM 2. Amend rule **189—17.2(533)**, definitions of "Mortgage-related security" and "Small business-related security," as follows:

"Mortgage-related security" means a security as defined in Section 3(a)(41) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)(41)), e.g., ~~a privately issued security backed by first lien mortgages secured by real estate upon which is located a dwelling, mixed residential and commercial structure, residential manufactured home, or commercial structure, that is rated in one of the two highest rating categories by at least one nationally recognized statistical rating organization.~~

"Small business-related security" means a security as defined in Section 3(a)(53) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)(53)), e.g., ~~a security that is rated in one of the four highest rating categories by at least one nationally recognized statistical rating organization, and represents an interest in one or more promissory notes or leases of personal property evidencing the obligation of a small business concern and originated by an insured depository institution, insured credit union, insurance company, or similar institution which is supervised and examined by a federal or state authority, or a finance company or leasing company.~~ This definition does not include Small Business Administration securities permissible under the Federal Credit Union Act, 12 U.S.C. Section 1757(7).

ITEM 3. Adopt the following **new** definition of "Investment grade" in rule **189—17.2(533)**:

"Investment grade" means the issuer of a security has an adequate capacity to meet the financial commitments under the security for the projected life of the asset or exposure, even under adverse economic conditions. An issuer has an adequate capacity to meet financial commitments if the risk of default by the obligor is low and the full and timely repayment of principal and interest on the security is expected. A credit union may consider any or all of the following factors, to the extent appropriate, with respect to the credit risk of a security: credit spreads; securities-related research; internal or external credit risk assessments; default statistics; inclusion on an index; priorities and enhancements; price,

CREDIT UNION DIVISION[189](cont'd)

yield, and/or volume; and asset class-specific factors. This list of factors is not meant to be exhaustive or mutually exclusive.

ITEM 4. Amend paragraph **17.5(2)“b”** as follows:

b. Provided the amount of investment authority does not exceed ~~the greater of 10 percent of the credit union's total assets or 100 percent of its~~ the credit union's net worth, in the aggregate, at the time of delegation; ~~and~~.

ITEM 5. Rescind paragraphs **17.5(2)“c”** and **“d.”**

ITEM 6. Amend subrule 17.5(3) as follows:

17.5(3) ~~At the annual reevaluation of delegated investment authority, the credit union must comply with the 10 percent of total assets or least annually, the credit union must adjust the amount of funds held under discretionary control to comply with the 100 percent of net worth cap. The credit union's board of directors must receive notice as soon as possible, but no later than its~~ the next regularly scheduled monthly board meeting, be informed of the amount exceeding the total asset or net worth cap and must notify in writing the superintendent within five days after the board meeting of the exception to this rule. The credit union must develop a plan to comply with the cap within a reasonable period of time.

ITEM 7. Amend paragraph **17.8(2)“c”** as follows:

c. If the broker-dealer is acting as the credit union's counterparty, the ability of the broker-dealer and its subsidiaries or affiliates to fulfill commitments, as evidenced by capital strength, liquidity, and operating results. The credit union should consider current financial data, annual reports, ~~reports of nationally recognized statistical rating organizations~~ external assessments of creditworthiness, relevant disclosure documents, and other sources of financial information.

ITEM 8. Amend subrule 17.9(4) as follows:

17.9(4) Annually, the credit union must analyze the ability of the safekeeper to fulfill the safekeeper's custodial responsibilities, as evidenced by capital strength, liquidity, and operating results. The credit union should consider current financial data, annual reports, ~~reports of nationally recognized statistical rating organizations~~ external assessments of creditworthiness, relevant disclosure documents, and other sources of financial information.

ITEM 9. Amend subrule 17.14(1) as follows:

17.14(1) *Variable rate investment.* A credit union may invest in a variable rate investment, as long as the index is tied to domestic interest rates ~~and not, for example,~~ Except in the case of U.S. Treasury inflation-protected securities, the variable rate investment cannot, for example, be tied to foreign currencies, foreign interest rates, domestic or foreign commodity prices, equity prices, or inflation rates. For purposes of this subrule, the U.S. dollar-denominated London Interbank Offered Rate (LIBOR) is a domestic interest rate.

ITEM 10. Amend subrule 17.14(5) as follows:

17.14(5) *Municipal security.* A credit union may purchase and hold a municipal security, as defined in the Federal Credit Union Act, 12 U.S.C. Section 1757(7)(K), ~~only if a nationally recognized statistical rating organization has rated it in one of the four highest rating categories~~ the credit union conducts and documents an analysis that reasonably concludes the security is at least investment grade. The credit union must also limit its aggregate municipal securities holdings to no more than 75 percent of the credit union's net worth and limit its holdings of municipal securities issued by any single issuer to no more than 25 percent of the credit union's net worth.

ITEM 11. Amend paragraphs **17.14(7)“i”** and **“k”** as follows:

i. The counterparty to the transaction: meets the minimum credit quality standards as approved by the credit union's board of directors;

~~(1) Has a long-term, senior, unsecured debt rating from a nationally recognized statistical rating organization of AA (or equivalent) or better at the time of the transaction, and the contract between the counterparty and the credit union specifies that if the long-term, senior, unsecured debt rating declines~~

CREDIT UNION DIVISION[189](cont'd)

~~below AA (or equivalent) then the counterparty agrees to post collateral with an independent party in an amount fully securing the value of the option; or~~

~~(2) Posts collateral with an independent party in an amount fully securing the value of the option if the counterparty does not have a long-term, senior, unsecured debt rating from a nationally recognized statistical rating organization;~~

~~k. The aggregate amount of equity-linked member share certificates does not exceed 50 percent of the credit union's net worth;~~

ITEM 12. Amend subrule 17.14(8) as follows:

17.14(8) Debt obligations of U.S.-chartered corporations. An Iowa state-chartered credit union may invest in unsecured notes and acceptances, commonly referred to as "commercial paper" and "corporate bonds," of U.S.-chartered corporations pursuant to Iowa Code section 533.301(5) "h" and "i" and this rule, only if:

a. The investment in a corporate bond debt obligation is ~~rated in one of the two highest rating categories by a nationally recognized statistical rating organization~~ investment grade and has a maturity of less than five years;

b. The investment in a commercial paper debt obligation is ~~rated in one of the four highest rating categories by a nationally recognized statistical rating organization~~ investment grade and has a maturity of less than one year;

c. An investment in a nonrated equivalent value issue of a commercial paper debt obligation shall ~~otherwise adhere to the limitations of rated issues~~ be investment grade. ~~In lieu of the required rating by a nationally recognized statistical rating organization,~~ a A credit union shall retain documentation supporting the ~~method used in determining the equivalent rating~~ its determination and the current and previous two years of year-end financial statements which indicate acceptable operating performance of the issuing U.S. corporation;

d. ~~Subsequent If, subsequent~~ to the date of purchase but prior to the date of maturity, the ~~rating is downgraded two or more categories by the same nationally recognized statistical rating organization used when the investment was purchased,~~ no longer meets the investment grade standard and the investment exceeds the credit union's net worth by 5 percent or more, the credit union shall have no more than 30 days to divest of the security unless the credit union seeks and receives a waiver from the superintendent as provided by rule;

e. The total investment by a credit union in debt obligations in a lone U.S. corporation and its subsidiaries shall not exceed 25 percent of the credit union's net worth;

f. The total aggregate investment by a credit union in debt obligations of U.S. corporations and their subsidiaries shall not exceed the lesser of 100 percent of the credit union's net worth or 20 percent of the credit union's investment portfolio;

g. An investment will be considered speculative and unauthorized if it contains any of the following characteristics, and the credit union shall be required to divest of the security in accordance with 17.14(8) "d" without an opportunity of waiver:

(1) It is issued by a business entity not recognized in the market place or by other than a U.S.-chartered corporation, or by both;

(2) It has a maturity that exceeds that established in this subrule; or

(3) It is issued to cover or underwrite foreign market operations, or for new-line products or services, or both, which exceed 25 percent of the investment offering;

h. If the net worth level of a credit union falls or remains below an amount which causes the limitations of this subrule to be exceeded for two consecutive quarters, and the amount of difference is 5 percent or more of the net worth, the credit union shall divest of a sufficient amount of debt obligations so the credit union no longer exceeds the limitations or seek a waiver from the superintendent as provided by rule;

i. A corporate credit union chartered in accordance with Iowa Code chapter 533 is exempt from the provisions and limitations of this subrule and, instead, shall have the powers, restrictions and

CREDIT UNION DIVISION[189](cont'd)

obligations contained in NCUA rules and regulations, 12 CFR Part 704, for federally insured corporate credit unions.

ITEM 13. Adopt the following **new** subrules 17.14(9) to 17.14(11):

17.14(9) Mortgage note repurchase transactions. A credit union may invest in securities that are offered and sold pursuant to Section 4(5) of the Securities Act of 1933, 15 U.S.C. 77d(5), only as a part of an investment repurchase agreement under subrule 17.13(3), subject to all of the following conditions:

a. The aggregate of the investments with any one counterparty is limited to 25 percent of the credit union's net worth and 50 percent of its net worth with all counterparties.

b. At the time the credit union purchases the securities, the counterparty, or a party fully guaranteeing the counterparty, must meet the minimum credit quality standards as approved by the credit union's board of directors.

c. The credit union must obtain a daily assessment of the market value of the securities under paragraph 17.13(3) "a" using an independent qualified agent.

d. The mortgage note repurchase transaction is limited to a maximum of 90 days.

e. All mortgage note repurchase transactions will be conducted under triparty custodial agreements.

f. A credit union must obtain an undivided interest in the securities.

17.14(10) Zero-coupon investments. A credit union may only purchase a zero-coupon investment with a maturity date that is no greater than ten years from the related settlement date, unless authorized by the superintendent.

17.14(11) Commercial mortgage-related security (CMRS). A credit union may purchase a CMRS that would be a permissible investment for a federal credit union under 12 U.S.C. Section 1756(7)(E) or Section 1756(15)(B) subject to all of the following conditions:

a. The credit union conducts and documents a credit analysis that reasonably concludes the CMRS is at least investment grade.

b. The CMRS meets the definition of commercial mortgage security in 189—17.2(533).

c. The CMRS's underlying pool of loans contains more than 50 loans with no one loan representing more than 10 percent of the pool.

d. The aggregate amount of private label CMRS purchased by the credit union does not exceed 25 percent of its net worth, unless otherwise authorized by the superintendent.

ITEM 14. Rescind and reserve subrules **17.16(2)** and **17.16(4)**.

[Filed 9/25/14, effective 11/19/14]

[Published 10/15/14]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 10/15/14.

ARC 1663C

EDUCATION DEPARTMENT[281]

Adopted and Filed

Pursuant to the authority of Iowa Code section 256.7(5), the State Board of Education hereby amends Chapter 12, "General Accreditation Standards," Iowa Administrative Code.

This amendment provides that school districts and accredited nonpublic schools have authority to grant secondary credit to non-high school students if the course meets all components listed in subrule 12.5(5) for the specific curricular area. This amendment conforms rule 281—12.5(256) to 2014 Iowa Acts, chapter 1013, section 2.

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

Notice of Intended Action was published in the July 9, 2014, Iowa Administrative Bulletin as **ARC 1527C**. Public comments were allowed until 4:30 p.m. on July 29, 2014. A public hearing was held on that date. No one attended the public hearing. No written comments were received regarding this

EDUCATION DEPARTMENT[281](cont'd)

amendment. The preamble for this rule making was modified at the suggestion of the Administrative Rules Review Committee to make it more precise in its description of the amendment. The adopted amendment is identical to that published under Notice.

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

This amendment is intended to implement 2014 Iowa Acts, chapter 1013, section 2.

This amendment will become effective on November 19, 2014.

The following amendment is adopted.

Amend paragraph **12.5(4)“I”** as follows:

l. Secondary credit.

(1) An individual pupil in a grade that precedes ninth grade may be allowed to take a course for secondary credit if all of the following are true:

1. The pupil satisfactorily completes the course.

~~2. The course is in the curricular area of English or language arts, mathematics, science, or social studies.~~

~~3. 2.~~ The course is taught by a teacher licensed by the Iowa board of educational examiners for grades 9-12 and endorsed in the subject area.

~~4. 3.~~ The course meets all components listed in subrule 12.5(5) for the specific curricular area.

~~5. 4.~~ The board of the school district or the authorities in charge of the nonpublic school have developed enrollment criteria that a student must meet to be enrolled in the course.

(2) Neither school districts nor accredited nonpublic schools are mandated to offer secondary credit under this paragraph. If credit is offered under this paragraph, the credit must apply toward graduation requirements of the district or accredited nonpublic school.

[Filed 9/19/14, effective 11/19/14]

[Published 10/15/14]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 10/15/14.

ARC 1662C

EDUCATION DEPARTMENT[281]

Adopted and Filed

Pursuant to the authority of Iowa Code section 256.7(5), the State Board of Education hereby adopts new Chapter 27, “Workforce Training and Economic Development Funds,” Iowa Administrative Code.

This chapter establishes a workforce training and economic development program to provide revenue for each community college to address the workforce development needs of the state. The primary focus of the workforce training and development program is to provide training and retraining of Iowa workers to develop the employee skills needed in targeted areas or to address a workforce development need of a targeted area.

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

Notice of Intended Action was published in the July 9, 2014, Iowa Administrative Bulletin as **ARC 1529C**. Public comments were allowed until 4:30 p.m. on July 29, 2014. A public hearing was held on that date. No one attended the public hearing. No written comments regarding these rules were received. These rules 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 rules are intended to implement Iowa Code section 260C.18A.

These rules will become effective on November 19, 2014.

The following amendment is adopted.

EDUCATION DEPARTMENT[281](cont'd)

Adopt the following new 281—Chapter 27:

CHAPTER 27
WORKFORCE TRAINING AND ECONOMIC DEVELOPMENT FUNDS

281—27.1(260C) Purpose. The purpose of the workforce training and economic development funds is to provide revenue for each community college to address the workforce development needs of the state. The primary focus of workforce training and economic development funds is to provide training and retraining of Iowa workers to develop the skills of employees employed in targeted areas or to address a workforce development need of a targeted area. Moneys are appropriated for each community college from the Iowa skilled worker and job creation fund to the workforce training and economic development funds.

281—27.2(260C) Definitions.

“*Community college*” or “*college*” means a community college established under Iowa Code chapter 260C.

“*Department*” means the Iowa department of education.

“*Fund*” or “*funds*” means the workforce training and economic development funds created by Iowa Code section 260C.18A and allocated to each community college.

“*Project*” means a training or educational activity funded by a workforce training and economic development fund.

“*State board*” or “*board*” means the Iowa state board of education.

“*Targeted areas*” means the areas of advanced manufacturing; information technology and insurance; alternative and renewable energy including the alternative and renewable energy sectors listed in Iowa Code section 476.42(1) “a”; and life sciences, which include the areas of biotechnology, health care technology, and nursing care technology.

281—27.3(260C) Funds allocation. The department shall allocate moneys, appropriated by the general assembly or other moneys accepted by the department, for the workforce training and economic development fund established for each community college by utilizing the most current distribution formula that is used for the allocation of state general aid to the community colleges available on July 1 of the fiscal year for which funds are being allocated. Each community college shall establish a workforce training and economic development fund account within its college accounting system into which the department shall make deposits of the allocated moneys. The deposits shall be made quarterly or on a more frequent basis. Moneys that are not used and that remain in a community college’s fund at the end of a fiscal year shall remain available to that college for expenditure in subsequent fiscal years.

281—27.4(260C) Community college workforce and economic development fund plans and progress reports. For the fiscal year beginning July 1, 2013, and each fiscal year thereafter, each community college, to receive its allocation for the forthcoming fiscal year, shall prepare and submit to the department for state board consideration the following items for the fiscal year.

27.4(1) Workforce training and economic development fund plan. Each college shall adopt a workforce training and economic development fund plan for the upcoming year that outlines the community college’s proposed use of moneys appropriated to its workforce training and economic development fund. Plans shall be based on fiscal years and must be submitted to the department, in a manner prescribed by the department, by September 30 for the current fiscal year allocation. Plans shall describe how the college proposes to allocate funds to support individual allowable uses pursuant to 281—27.5(260C) and the planned amount to be used to support targeted areas.

27.4(2) Progress reports. Each college that receives an allocation of moneys pursuant to 281—27.3(260C) shall prepare an annual progress report detailing the plan’s implementation. The report shall be submitted to the department by September 30 of each year in a manner and form as prescribed by the department. The report shall provide information regarding projects supported by the

EDUCATION DEPARTMENT[281](cont'd)

college's fund including, but not limited to, the number of participants enrolled in each program, the number of participants who complete each program, the dollars spent on each allowable use pursuant to 281—27.5(260C), the dollars spent in targeted areas, and other data necessary to report on state program performance metrics.

281—27.5(260C) Use of funds. Moneys deposited into each community college fund may be expended for the following permissive uses, provided that 70 percent of the moneys be used on projects in targeted areas and projects are operated in compliance with state and federal law:

27.5(1) Projects in which an agreement between a community college and an employer located within the community college's merged area meets all of the requirements of the accelerated career education program pursuant to Iowa Code chapter 260G and 261—Chapter 20 and which are approved by the Iowa economic development authority, when applicable.

27.5(2) Projects in which an agreement between a community college and a business meets all the requirements of the Iowa jobs training Act under Iowa Code chapter 260F and 261—Chapter 7.

27.5(3) For the development and implementation of career academies meeting all of the requirements of 281—47.1(260C).

27.5(4) Programs and courses that provide vocational and technical training and programs for in-service training and retraining under Iowa Code section 260C.1, subsections 2 and 3. As it pertains to Iowa Code section 260C.1, subsection 2, vocational and technical training shall mean new or expanded career and technical education coursework that has department approval and results in the conferring of a diploma, degree, or certificate. The enhancement of academic core courses within career and technical programs is also eligible. As they pertain to Iowa Code section 260C.1, subsection 3, eligible activities shall mean short-term, noncredit training and retraining projects.

27.5(5) Development and implementation of the pathways for career and employment program meeting all of the requirements of Iowa Code chapter 260H and 281—Chapter 25.

27.5(6) Development and implementation of the GAP tuition assistance program meeting all of the requirements of Iowa Code chapter 260I and 281—Chapter 25.

27.5(7) Programs for entrepreneurship education, small business assistance, and business incubators.

27.5(8) Development and implementation of the National Career Readiness Certificate and the Skills Certification System endorsed by the National Association of Manufacturers.

281—27.6(260C) Prior approval. Any individual project using over \$1 million of moneys from a workforce training and economic development fund shall require prior approval from the state board of education.

281—27.7(260C) Annual plan and progress report approval.

27.7(1) The state board of education shall review and consider approval of reports and plans submitted pursuant to 281—27.4(260C).

27.7(2) The state board of education may reject a plan or progress report for any of the following reasons, including but not limited to:

- a. Incomplete information or data;
- b. Seventy percent of fund expenditures not utilized for projects in the areas of advanced manufacturing; information technology and insurance; alternative and renewable energy including the alternative and renewable energy sectors listed in Iowa Code section 476.42(1) "a"; and life sciences which include the areas of biotechnology, health care technology, and nursing care technology;
- c. Project not operated in compliance with state or federal law.

281—27.8(260C) Options upon default or noncompliance. If the state board does not accept a college's annual progress report, the college shall be subject to the following actions as prescribed by the board based upon the severity of the noncompliance or default, including but not limited to:

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1. The withholding of a portion of new fiscal year moneys based upon amounts awarded deemed to be ineligible;
 2. Tighter oversight and control of the college's fund by the department;
 3. Loss of funds for one year;
 4. Other action deemed appropriate by the board.
- These rules are intended to implement Iowa Code section 260C.18A.

[Filed 9/19/14, effective 11/19/14]

[Published 10/15/14]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 10/15/14.

ARC 1661C

EDUCATION DEPARTMENT[281]

Adopted and Filed

Pursuant to the authority of Iowa Code section 256.7 and chapter 285, the State Board of Education hereby amends Chapter 43, "Pupil Transportation," Iowa Administrative Code.

Chapter 43 provides the rules and standards for pupil transportation for all Iowa school districts and accredited nonpublic schools.

This amendment conforms rule 281—43.15(285) to new federal regulation 49 CFR Section 391.43 (2014), which went into effect on May 21, 2014, by providing that an applicant for a school bus driver's authorization undergo a biennial physical examination by a certified medical examiner who is listed on the National Registry of Certified Medical Examiners.

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

Notice of Intended Action was published in the July 9, 2014, Iowa Administrative Bulletin as **ARC 1528C**. Public comments were allowed until 4:30 p.m. on July 29, 2014. A public hearing was held on that date. No one attended the public hearing. No written comments were received regarding this amendment. This amendment is identical to that published under Notice.

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

This amendment is intended to implement 49 CFR Section 391.43 (2014).

This amendment will become effective on November 19, 2014.

The following amendment is adopted.

Amend rule 281—43.15(285) as follows:

281—43.15(285) Physical fitness. Except for insulin-dependent diabetics, an applicant for a school bus driver's authorization must undergo a biennial physical examination by a ~~licensed physician or surgeon, osteopathic physician or surgeon, osteopath, qualified doctor of chiropractic, licensed physician assistant, or advanced registered nurse practitioner~~ certified medical examiner who is listed on the National Registry of Certified Medical Examiners. The applicant must submit annually to the applicant's employer the signed medical examiner's certificate (pursuant to Federal Motor Carrier Safety Administration regulations 49 CFR Sections 391.41 to 391.49), indicating, among other requirements, sufficient physical capacity to operate the bus effectively and to render assistance to the passengers in case of illness or injury, and freedom from any communicable disease. At the discretion of the chief administrator or designee of the employer or prospective employer, the chief administrator or designee shall evaluate the applicant's ability in operating a school bus, including all safety equipment,

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in providing assistance to passengers in evacuation of the school bus, and in performing other duties required of a school bus driver.

[Filed 9/19/14, effective 11/19/14]

[Published 10/15/14]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 10/15/14.

ARC 1660C

HUMAN SERVICES DEPARTMENT[441]

Adopted and Filed

Pursuant to the authority of Iowa Code sections 225C.6 and 331.397 and 2014 Iowa Acts, House File 2379, the Department of Human Services amends Chapter 24, "Accreditation of Providers of Services to Persons With Mental Illness, Mental Retardation, and Developmental Disabilities," Iowa Administrative Code.

These amendments allow for technical correction of the title of the chapter to be in compliance with the accepted change of the term "mental retardation" to the term "intellectual disabilities."

These amendments also restructure the chapter to add divisions that clearly outline service accreditation requirements.

Finally, these amendments provide new accreditation standards in Chapter 24 for crisis response services. Mental health and disability services (MHDS) regions are required to offer basic crisis response services, and as funding is available, additional crisis response services are to be provided in the MHDS regions.

2014 Iowa Acts, House File 2379, requires the Department to accredit crisis stabilization programs. MHDS regions began operation July 1, 2014, and are required to offer basic crisis response services. The MHDS regions will be developing additional core services in accordance with Iowa Code section 331.397. These amendments set an expected standard that providers must meet for crisis response services.

Notice of Intended Action was published in the Iowa Administrative Bulletin as **ARC 1554C** on July 23, 2014.

Since publication of the Notice, the Department has changed the format of the rules to reflect parallel construction and has clarified synonymous terms for consistency. The style headings and numerical levels within the rule making were also revised due to structural changes.

The Department changed the number and value of indicators in paragraph 24.26(3)"c" to reflect the new construction of the rules.

Service	Number of Indicators	Value of Each Indicator
24-hour crisis response	19	3.9
Crisis evaluation	20	3.5
24-hour crisis line	23	3.0
Warm line	20	3.5
Mobile response	18	3.9
23-hour observation and holding	44	1.6
Crisis stabilization, community-based	39	1.8
Crisis stabilization, residential	50	1.4

The Department received 156 comments on the proposed rules from six respondents. The comments and corresponding responses from the Department are consolidated into 14 topic areas as follows:

A. Crisis services in general.

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1. One respondent commented that the rules state that the standards apply to providers not required to be licensed by the Department of Inspections and Appeals (DIA) and asked whether that means providers licensed by DIA for other services are excluded from these rules.

Department response: The rules apply to all providers of the crisis stabilization services described herein. A provider of crisis stabilization services may or may not be licensed by DIA for the provision of other services.

2. One respondent commented that in defining crisis services, it should be noted that effective crisis intervention and suicide prevention respect the autonomy of the individual and the individual's need and right to be engaged in finding appropriate safety measures that do not require entering a hospital or other facility.

Department response: The Department agrees with this statement and believes the rules are consistent; no change to the rules is needed.

3. One respondent commented that crisis services should always include the assumption of the highest level of risk and suicidal action. The respondent suggested that training should be conducted, and ongoing monitoring should be in place, to ensure that evidence-based risk assessments of suicidal behavior are utilized for all clients in behavioral health crisis. The respondent also suggested that trainings, such as Applied Suicide Intervention Skills Training (ASIST), should be required for all crisis response staff.

Department response: The rules require appropriate Department-approved training for crisis response staff. ASIST is one example of a training program the Department would approve.

4. One respondent commented that the rules do not seem to allow for people in crisis who do not meet the criteria for a mental health disorder.

Department response: The eligibility standard in subrule 24.25(1) does not require a mental health diagnosis for an individual to be eligible for a crisis response service.

5. One respondent commented that training in regard to means restriction, as part of suicide response, should be required for all crisis response staff and training for securing all environments for suicide safety should also be provided.

Department response: The rules require Department-approved training for crisis response staff, and the standards for organizational activities in Chapter 24 address any situation that poses a danger or threat to staff or individuals using the services for necessity appropriateness, effectiveness and prevention.

6. One respondent commented that trauma-informed care training and practices should be required.

Department response: The rules allow the organization to identify training appropriate for crisis response staff, and trauma-informed care training would be approved by the Department.

7. One respondent commented that peer support services should be an integral part of each crisis response service and that each provider should be required to have the necessary supervision and support for peers who are providing direct stabilization service.

Department response: The Department agrees, and the rules include requirements for staff development, training and supervision for crisis response staff, which includes peer support specialists.

8. One respondent commented that the use of a peer specialist who has made significant progress in that person's own recovery to assist another individual with the same disorder is powerful and that the intent should be to match a peer specialist with a crisis client that recognizes their situations as similar.

Department response: The rules allow providers reasonable flexibility in staffing and in the assignment of peer support specialists.

9. Three respondents commented that the services do not include crisis care management to ensure postcrisis linkage to other services or to ensure that stabilization has been achieved to prevent a future similar crisis. One of the respondents also suggested that online chat and text crisis services should be included in the rules.

Department response: Follow-up services are required to be addressed in the treatment summary and action plan. The rules do not limit how crisis stabilization services can be provided as long as the means of communication are sensitive to confidentiality of users and, when required, are HIPAA-compliant.

10. One respondent commented that the rules do not address crisis aversion services as an option for people on the verge of crisis who need support to get through a difficult time.

HUMAN SERVICES DEPARTMENT[441](cont'd)

Department response: Crisis aversion services were not included in the regional core services or additional core services required in Iowa Code section 331.397, and, therefore, crisis aversion services are beyond the scope of the rules.

11. One respondent noted that the rules state that crisis response services shall not be denied because of co-occurring conditions and asked whether crisis response services can be denied if the individual is in a state of intoxication that presents a medical or behavioral safety issue. The respondent also asked what funding sources are anticipated.

Department response: Provider policy and procedures should address appropriate crisis response services to individuals with co-occurring conditions and should address actions to be taken for the safety of individuals and staff. The rules do not address funding sources.

B. Definitions.

1. One respondent commented that the definition of “action plan” should be clarified to state that the action plan is developed collaboratively with the client and should include internal coping strategies, as well as professional providers and social supports, and identify environmental issues that assist the individual to be safe from self-harm.

Department response: The Department has changed the definition of “action plan” in response to this comment. The definition in rule 441—24.20(225C) now reads as follows: “*Action plan*’ means a written plan developed for discharge in collaboration with the individual receiving crisis response services to identify the problem, prevention strategies, and management tools for future crises.”

Coping strategies, staffing qualifications, social supports, and environmental issues are all items to be addressed through the assessment requirement in subrule 24.32(2).

2. One respondent commented that the rules include a definition of “clinical supervisor,” yet the term is not used in the rules.

Department response: The Department agrees that the term was not used in the rules, and the definition has been removed in response to this comment.

3. Two respondents commented that the definition of “crisis assessment” does not include telephonic or other electronic methods of interview.

Department response: Crisis assessment must be done utilizing face-to-face clinical interviewing as defined in rule 441—24.20(225C). The Department has changed the definition of “face-to-face.” The revised definition now reads as follows: “*Face-to-face*’ means services provided in person or utilizing telehealth in conformance with the federal Health Insurance Portability and Accountability Act (HIPAA) privacy rules.”

4. One respondent commented that the definition of “crisis response services” seemed to indicate that either crisis screening or crisis assessment must be done, but not both.

Department response: Crisis response services can occur after either a crisis screening or crisis assessment.

5. Three respondents commented that the differences between the definition of “crisis stabilization community-based services” and “crisis stabilization residential services” are not clear enough to distinguish between the two service levels.

Department response: The crisis stabilization service levels are the same, with the difference being that an individual receiving crisis stabilization residential services needs a short-term alternative living arrangement. The Department changed the definitions to clarify this difference. The definitions in rule 441—24.20(225C) now read as follows:

“*Crisis stabilization community-based services*’ or ‘*CSCBS*’ means short-term services designed to de-escalate a crisis situation and stabilize an individual following a mental health crisis and provided where the individual lives, works or recreates.”

“*Crisis stabilization residential services*’ or ‘*CSRS*’ means a short-term alternative living arrangement designed to de-escalate a crisis situation and stabilize an individual following a mental health crisis and is provided in organization-arranged settings of no more than 16 beds.”

6. One respondent commented that the definition of “stabilization plan” should state that the stabilization plan is written by crisis response staff, rather than by a mental health professional, and in collaboration with the client, rather than with the consent of the individual.

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Department response: The stabilization plan is to be written within 24 hours of an individual's admission to the crisis service. The Department feels that the mental health professional should complete the plan through collaboration with crisis response staff and an individual. The Department has changed the definition of "stabilization plan." It now reads as follows: "*Stabilization plan*" means a written short-term strategy used to stabilize a crisis and developed by a mental health professional, in collaboration with the crisis response staff and with the involvement and consent of the individual or the individual's representative."

7. Two respondents commented that the definition of "warm line" states that the warm line will be operated by peer counselors. The respondents suggested that crisis response staff or non-peer staff should also be included.

Department response: The Department agrees that the intent of a warm line was unclear and has changed the definition to read: "*Warm line*" means a telephone line staffed by individuals with lived experience who provide nonjudgmental, nondirective support to an individual who is experiencing a personal crisis." It is the Department's intent that warm lines will be operated by peer support specialists and family support peer specialists. This would follow the national model of established warm lines.

8. One respondent commented that the definitions do not provide for crisis response services to be provided by chat or text and suggested that chat and text be included.

Department response: The definition of "crisis response services" does not limit how all crisis response services can be provided as long as the means of communication is sensitive to confidentiality of users and, when required, is HIPAA-compliant.

9. One respondent commented that the terms "peer support" and "peer counseling" are used in the rules but are not defined.

Department response: Definitions for "peer support services," "peer support specialist," and "family support peer specialist" have been added to rule 441—24.20(225C), and the term "peer counseling" has been removed from the rules. The new definitions read as follows:

"*Peer support services*" means a service provided by a peer support specialist, including but not limited to education and information, individual advocacy, family support groups, crisis response, and respite to assist individuals in achieving stability in the community."

"*Peer support specialist*" means the same as defined in rule 441—25.1(331)."

"*Family support peer specialist*" means the same as defined in rule 441—25.1(331)."

10. One respondent asked if crisis incident reporting applies only to physical injury or death resulting from a medication error.

Department response: The Department has changed the definition of "crisis incident" in rule 441—24.20(225C) to clarify that crisis incident reporting applies to any one of the situations listed. The definition now reads: "*Crisis incident*" means an occurrence leading to physical injury or death, or an occurrence resulting from a prescription medication error, or an occurrence triggering a report of child or dependent adult abuse."

11. One respondent asked whether the definition of "face-to-face" includes phone and online communications.

Department response: The definition of "face-to-face" as revised includes in-person, Telehealth and Web-based communications that are compliant with HIPAA privacy rules.

12. One respondent asked if the definition of "dispatch" includes rescue.

Department response: The organization operating a crisis line is required to have a triage procedure to link to emergency services, mobile response services and provider support services. If someone is screened for a life-threatening situation, a call to 9-1-1 would be a part of the triage protocol.

13. One respondent commented that the definition of "24-hour crisis line" should include online as well as in-person crisis counseling.

Department response: The definition does not limit the use of the Internet for the delivery of crisis response services.

C. Organizational activities.

One respondent commented that the rules state that all toys and other materials used by children are to be clean and safe and asked if there are clearer guidelines for safety.

HUMAN SERVICES DEPARTMENT[441](cont'd)

Department response: There are no additional guidelines for safety. The rules include the same standards for organizational environment that are contained in subrules 24.23(1) through 24.23(5) and apply to all providers accredited under Chapter 24.

D. Standards for crisis response staff.

1. One respondent commented that the rules state that law enforcement and EMTs must be trained in crisis intervention and asked what the guidelines are for approval of courses.

Department response: The Department will review and approve training programs submitted by providers to ensure that the training programs address staff competencies for crisis response services. Nationally recognized training will provide guidelines to fulfill the crisis response training requirement.

2. Two respondents commented that the rules require Department-approved crisis intervention training for all staff other than mental health professionals and asked who will develop the training and administer the posttraining assessment of competency. The respondent also asked if the assessment of competency will be skill- or knowledge-based and if it will be similar to the training requirement for current Chapter 24 accreditation.

Department response: The training requirement allows flexibility for providers, and they can request Department recommendations for various training designs or programs that best fit the needs of the organization and the people the organization serves. Training will be arranged by the organization and will include posttraining assessment for competency. The assessment should reflect competencies in skill and knowledge necessary to the trainee's job duties.

3. Five respondents commented that the rules should not assume that all licensed mental health professionals are skilled to respond with crisis response services or complete suicide risk assessments based only on their licensure. The respondents suggested that mental health professionals be required to have previous training in crisis and suicide intervention prior to working as crisis response staff.

Department response: While specific training in crisis and suicide prevention is not required for mental health professionals, subparagraph 24.3(4)“b”(5) requires that training and education be provided to all staff relevant to their positions.

4. One respondent commented that accreditation through the American Association of Suicidology (AAS) should be considered as an alternative to the trainings required by the Department, and another respondent similarly commented that accreditation through Contact USA should be considered.

Department response: The Department has changed rule 441—24.27(225C) to allow deeming through AAS and Contact USA.

5. One respondent commented that the staff requirement for bachelor level accepts experience in behavioral or mental health, but the other categories only seem to accept mental health experience.

Department response: The Department has changed the staffing requirements in subparagraph 24.24(2)“a”(7) for registered nurse qualifications to include two years of behavioral or mental health experience. As noted in the comment, bachelor's degree qualifications include experience in behavioral or mental health services.

6. Two respondents commented that all crisis response staff should be required to receive Applied Suicide Intervention Skills Training (ASIST) and training in means restriction and securing environments for suicide safety, as well as Mental Health First Aid training.

Department response: ASIST is an appropriate training the Department would approve, and all staff are required to receive training relevant to their positions as required by subparagraph 24.3(4)“b”(5).

7. One respondent asked if crisis response service staff must meet all the qualifications listed or only one of the qualifications listed.

Department response: This comment refers to a prepublication draft of the rules, and any issue of clarity has been addressed with the renumbering of the rule.

8. One respondent asked if the same training requirement applies to peer counselors in the warm line definition as to peer support specialists and suggested that peer counselors be trained in ASIST.

Department response: The term “peer counselor” has been removed from the rules as the term was causing confusion regarding the intent of the warm line. ASIST is an appropriate training that the Department would approve, and all staff are required to receive training relevant to their positions as required by subparagraph 24.3(4)“b”(5).

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9. One respondent asked if a registered nurse with three years of mental health experience means a “psychiatric nurse.”

Department response: The Department did not adopt the definition of “psychiatric nurse,” and an ARNP is required to have two years of mental health experience.

10. One respondent commented that the staff requirements for crisis response services seem to state all levels are equal and that formal years of education should not be considered equal to training or certification in Mental Health First Aid. The respondent further commented that with the exception of the warm line, direct responders and first responders of crisis services should not be peer specialists alone.

Department response: Each crisis response service has specific staff requirements that relate to the particular level of crisis response service to ensure that all staff are appropriately trained and credentialed for the crisis response services they provide.

11. One respondent commented that crisis services should be provided in addition to mental health evaluation and treatment, not as a replacement, which indicates that the handoff to longer term treatment should be clarified. The respondent further commented that it is not a crucial requirement for at least one ARNP, physician assistant or psychiatrist to be available for consultation 24 hours per day for crisis services.

Department response: Crisis response services include eight services, and access to clinical staff is important in crisis response service provision. The Department feels it is important that the crisis is assessed with the designated level of staff under each array of crisis response services. No change was made to the rules in response to this comment.

E. Deemed status.

Two respondents commented that each national accrediting body should have specific divisions related to crisis services if included as meeting division criteria and asked if this is accurate for the Council on Quality & Leadership in Supports for People With Disabilities.

Department response: The Department agrees. The Department will review each accrediting organization’s standards to ensure they meet the rules. An organization may be one of these accredited organizations but will be required to provide additional policies and procedures for the crisis response service.

F. Crisis evaluation.

1. One respondent commented that the rules provide for crisis screening by face-to-face service or telephone and suggested that electronic methods such as chat should also be included.

Department response: Methods such as chat, text, and Skype may be used for crisis screening if the provider’s policies and procedures allow for this and meet all applicable confidentiality standards, such as HIPAA.

2. One respondent commented that a mental health assessment within 24 hours is not necessary for all clients who receive crisis services.

Department response: The rules do not require an assessment. The screening process determines the next level of care, which may or may not indicate a need for a mental health assessment.

3. One respondent commented that subparagraph 24.32(1)“b”(3) requires that crisis screening be available 24 hours a day, 365 days a year, yet crisis screening can be a valuable service, even if not available at all hours.

Department response: The Department believes that the availability of crisis screening is important in crisis response. Crisis evaluation is required in Iowa Code section 331.397 for regional core services. Many of the crisis stabilization services are available 24 hours a day and require 24-hour screening capability. The Department did not adopt the performance indicators in subparagraph 24.32(1)“b”(3) of the Notice because the requirement for 24-hour screening is listed under each applicable service. The Department has adopted the following new wording under the performance indicators in paragraph 24.32(1)“b”:

“(1) Crisis response staff are trained in crisis screening.

“(2) A uniform process for crisis screening and referrals is outlined in policies and procedures.

“(3) Crisis screening records are kept in individual files.”

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4. One respondent asked what is meant by including physical health in the assessment in addition to medical history in paragraph 24.32(2)“a.” The respondent also asked how physical health is to be determined.

Department response: The Department has changed the definition of “crisis assessment” to include a reference to physical health. The definition now reads: “‘*Crisis assessment*’ means a face-to-face clinical interview to ascertain an individual’s current and previous level of functioning, potential for dangerousness, physical health, and psychiatric and medical condition. The crisis assessment becomes part of the individual’s action plan.”

The Department has also added the following definition of “physical health”: “‘*Physical health*’ means any chronic or acute health factors indicated in the crisis assessment that need to be addressed during crisis service delivery.”

5. One respondent commented that a licensed mental health professional is not necessary to conduct a crisis assessment within 24 hours of an individual’s admission to a crisis response service and that the crisis assessment should be done by crisis response staff or a crisis counselor.

Department response: The Department feels that the crisis assessment includes diagnosis and does need to be conducted by a mental health professional.

G. Twenty-four-hour crisis response.

One respondent commented that the requirement that at least one ARNP, physician assistant or psychiatrist be available for consultation 24 hours per day, 365 days per year will be a very costly and unnecessary requirement for 24-hour crisis response services.

Department response: The Department feels that clinical consultation is important to provide effective crisis response services to the individual and support to all staff. The Department has changed the requirement in paragraph 24.33(2)“d” to read as follows: “*d.* A mental health professional is available for crisis assessment and consultation 24 hours a day, 365 days a year. The mental health professional has access to a qualified prescriber for consultation.”

In addition, the Department did not adopt the proposed paragraph 24.33(2)“e,” which required that an advanced registered nurse practitioner, physician assistant or psychiatrist be available for consultation 24 hours a day, 365 days a year.

H. Twenty-four-hour crisis line.

1. One respondent commented that it should be required that the 24-hour crisis line be answered by a live person, as is the warm line.

Department response: The Department agrees that the crisis line should be answered live, which is required in the AAS and Contact USA accreditation (deeming). Paragraph 24.34(2)“b” has been changed in response to the comment and now reads as follows: “*b.* Policies are in place regarding how the crisis line is answered live, when to utilize the hold feature, the use of queue systems and triage of calls.”

2. One respondent commented that the 24-hour crisis line should provide crisis screening and crisis counseling, which can stabilize the client and would not require further intervention.

Department response: The Department agrees with this statement, and the rules have been changed to include this requirement. The definition of “twenty-four-hour crisis line” has been changed to read: “‘*Twenty-four-hour crisis line*’ means a crisis line providing information and referral, counseling, crisis service coordination, and linkages to crisis screening and mental health services 24 hours a day.”

The Department has changed the performance benchmark in subrule 24.34(1) to read: “**24.34(1)** *Performance benchmark.* Crisis screening, counseling, crisis service coordination and referrals are provided to individuals in crisis.”

3. One respondent commented that 24-hour crisis lines that do not have suicide prevention as a major component should be clearly distinguished from those crisis lines that do offer comprehensive crisis services.

Department response: The Department agrees that appropriate education and awareness will be necessary to market the crisis line. No change to the rules is necessary.

4. One respondent commented that the 24-hour crisis line should provide evidence-based suicide risk assessment.

Department response: The rules include a lethality assessment. No change was made to the rules.

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5. One respondent asked what is meant by call center software standardized to crisis services.

Department response: There are crisis call center software products available, and each provider can determine which product best meets the needs of the provider's organization. The Department is not mandating one software program over another. The crisis line software selected shall include a standardized capability to track usage.

6. One respondent commented that the triage procedure should include the ability to keep the caller on the phone line while dispatching services on another separate phone line.

Department response: The Department agrees with this statement, and paragraph 24.34(2)"i" states that the organization shall have written policies and procedures describing a uniform process of screening and training for crisis line staff.

7. Three respondents commented on the requirement that a crisis line obtain accreditation through AAS within two years. The respondents recommended eliminating the requirement and allowing deeming through AAS accreditation.

Department response: The Department did not adopt the requirement of accreditation through AAS in proposed paragraph 24.34(2)"f" and has added requirements to meet the standards.

8. One respondent commented that crisis lines located within the state of Iowa will generally have better knowledge of state resources, including regional services, and have ongoing relationships with emergency providers.

Department response: The Department agrees with this statement. No change was made to the rules.

9. One respondent commented that AAS does not have a requirement to utilize peer support staff, nor any prohibition to using peers, as long as the peers meet the personal qualifications and demonstrate the requisite skills.

Department response: The Department agrees with this statement. No change was made to the rules.

10. One respondent commented that the description of mobile response states that 24-hour access to a mental health professional is required and suggested that the same should apply to the 24-hour crisis lines that will be dispatching the mobile teams.

Department response: The Department agrees and, in response to this comment, has added paragraphs 24.34(2)"k" and 24.35(2)"h" so that crisis lines and warm lines have 24-hour access to a mental health professional.

11. One respondent asked if the number of contacts, including terminated and lost calls, is tracked by the phone system or by software.

Department response: The call center software has the capability to track the number of contacts, and whether the software will also track terminated or lost calls would depend on which software product the organization utilizes. Arrangements can also be made with the telephone provider to gather this data.

I. Warm line.

One respondent asked if the requirement for the organization to document staff qualifications and training for peer support specialists, family support peer specialists and peer counselors is a minimum requirement.

Department response: The documentation is a minimum requirement.

J. Mobile response.

1. One respondent commented that AAS certification should be required for mobile response and indicated that updated standards were scheduled to be released in September 2014.

Department response: AAS certification is an option, not a requirement, for mobile response.

2. One respondent commented that mobile response should be dispatched after the provision of crisis phone counseling and, therefore, should not be required to occur within 15 minutes from the initial call for assistance, and the decision to dispatch should be made by the crisis counselor, with the client, based on the client's needs.

Department response: The Department agrees with this comment, and paragraph 24.36(2)"a" has been changed to read: "a. Mobile response staff are dispatched immediately after crisis screening has determined the appropriate level of care. If the mobile response staff already are responding to another

HUMAN SERVICES DEPARTMENT[441](cont'd)

call, staff explain to the caller that there may be a delay in receiving mobile response and offer an alternative response.”

3. Two respondents commented that it would not be possible to dispatch mobile response staff in less than 15 minutes if the staff are already responding to another call.

Department response: The Department agrees with this comment, and paragraph 24.36(2)“a” has been revised as described in the Department’s response to comment “2” just above.

In addition, paragraph 24.36(2)“c” regarding the requirement to track and trend data, response time and delays has been revised to read: “c. Data is collected to track and trend response time from initial dispatch, the time to respond to dispatch when a team is already in response; diversion from or admission to hospitals, correctional facilities and other crisis response services. The data for each fiscal year shall be reported to the department within 60 days of the close of the fiscal year.”

4. One respondent commented that organizations are required to track and trend data of response time for initial dispatch, response resulting in hospitalization, and diversion from inpatient and jail and asked whether diversions from hospitals should be tracked as well. Two respondents further commented that the standards may need to clarify what is meant by diversion and asked whether the Department would want to track the number of individuals who go to crisis residential treatment services or a hospital, and one of the respondents suggested that the data be shared with mental health and disability services (MHDS) regions.

Department response: The Department replaced the words “diversion from inpatient” to “diversion from or admission to hospitals” in paragraph 24.36(2)“c” to include both admissions and emergency room diversions. The Department is not specifying with whom the data can be shared and agrees that the data could be shared with MHDS regions.

5. Two respondents commented that the action plan should be copied and given to the client as well as to service providers with proper consents.

Department response: The Department has changed paragraph 24.36(2)“d” to clarify that a copy of the action plan is to be given to the individual and to others with signed consent. Paragraph 24.36(2)“d” now reads: “d. When an action plan is developed, a copy is sent within 24 hours, with the individual’s signed consent, to service providers, the individual and others as appropriate.”

6. One respondent commented that within at least 24 hours, follow-up should occur with the client and others present during the crisis.

Department response: The rule allows, but does not specifically require, follow-up within 24 hours. Paragraph 24.36(2)“f” does require that a follow-up appointment with the individual’s preferred provider be made and that mobile response staff maintain periodic contact with the individual until the appointment takes place.

7. One respondent commented that traditional law enforcement response, including uniformed officers, sirens and other emergency vehicles, should be reserved for only those situations where there is a credible threat of violence.

Department response: The Department agrees with this statement. No change was made to the rules.

8. One respondent commented that the standard requires mobile response staff to have face-to-face contact with individuals in crisis within 60 minutes from dispatch and expressed concern that response times may need to be longer after hours and on weekends and that such constraints may cause responders to ignore safety issues so they do not exceed the time limit.

Department response: The 60-minute response time will remain as the standard in paragraph 24.36(2)“b.” The Department agrees there will be times when the response time will not be obtainable. Paragraph 24.36(2)“b” has been revised to read as follows: “b. Mobile response staff have face-to-face contact with the individual in crisis within 60 minutes from dispatch. If the mobile response staff are responding to another request, there may be a delay in receiving mobile response and an alternative response should be provided.”

9. One respondent commented that the organization should have documentation in the individual’s service record on evaluation and criteria for admission to inpatient psychiatric hospital care and that only the designated psychiatric provider for a hospital’s inpatient unit may direct orders for admission.

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Department response: The Department agrees with the comment. Proposed subparagraph 24.36(2)“e”(5), which would have required that evaluation criteria for admission to inpatient psychiatric hospital care be documented in the individual’s record, was not adopted.

10. One respondent commented that the mobile response description states that staff shall respond in pairs to ensure the safety of both the provider and the individual served and suggested adding the following exception: unless there is a clear reason documented why one person would be safe, for example, responding to an emergency room setting.

Department response: The Department believes the requirement for mobile response staff to work in pairs is necessary to ensure the safety of the staff, the individual being served, and others. The language in the introductory paragraph of rule 441—24.36(225C) has been clarified to allow for situations where another qualified person is available on site. The relevant sentences now read: “Staff work in pairs to ensure staff safety and the safety of the individual served. A single staff member may respond if another person who meets one of the criteria listed in paragraph 24.24(2) “a” will be available on site.”

11. One respondent commented that the rules require an organization to document contact with the individual at 10, 30, and 60 days postdischarge and suggested that this requirement be changed.

Department response: The Department has changed the wording in paragraph 24.36(2)“f” to read as follows: “f. A follow-up appointment with the individual’s preferred provider will be made, and mobile response staff will follow up with the individual and document contact or attempt to contact on a periodic basis until the appointment takes place.”

K. Twenty-three-hour crisis observation and holding.

1. One respondent commented that staff are required to be on duty 24 hours a day and shall remain awake for the 24-hour schedule. The respondent asked what staff-to-client ratio is required.

Department response: No specific staff-to-client ratio is required. Organizations are expected to take a team approach to staffing, and each organization will need to address staffing needs based upon the structure of the program the organization is operating.

2. One respondent commented that the treatment summary is to include an assessment of the crisis, including challenges and strengths, and asked if a suicide risk level is included.

Department response: The assessment is required to include a lethality assessment, and the assessment is included in the treatment summary.

3. One respondent commented that 23-hour crisis observation and holding is primarily used as a diversion from inpatient level of care and asked if it is used to determine if further care is needed.

Department response: The 23-hour observation time will determine whether further care is needed and what level of care is appropriate.

4. One respondent commented that the rules state that the organization shall have a plan to demonstrate phone contact for parents and significant others and asked how that is different from contacting providers, family members, and natural supports within 23 hours of admission.

Department response: The Department agrees that the meaning of the two statements were similar and has changed subparagraph 24.37(4)“d”(1) to read: “(1) Individuals give informed consent.” The performance indicator in subparagraph 24.37(4)“d”(2) remains the same and reads as follows: “(2) Treatment providers, family members and other natural supports as appropriate are contacted within 23 hours of the individual’s admission.”

5. One respondent commented that the rules state that the organization shall track and trend data of an individual’s re-admission and asked if there are requirements for contact with the individual postdischarge, similar to the follow-up requirement for mobile crisis response.

Department response: The Department has added in subparagraph 24.37(4)“d”(8) the same follow-up requirement to 23-hour observation and holding as is included in the mobile crisis response requirements. The subparagraph now reads: “(8) A follow-up appointment with the individual’s preferred provider will be made, and crisis response staff will follow up with the individual and document contact or attempt to contact on a periodic basis until the appointment takes place.”

6. One respondent asked if there are requirements for suicide safety in the environment where 23-hour observation and holding services are provided.

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Department response: The environment is required to be safe, accessible, and supportive, and the organization establishes intervention procedures for behavior that presents significant risk of harm to the individual using the service or to others. If an assessment indicates an individual is at high risk or actively suicidal, a higher level of care is indicated.

L. Crisis stabilization community-based services (CSCBS).

1. One respondent commented that follow-up within 24 hours of discharge should be required for CSCBS.

Department response: The Department agrees and has adopted new subparagraph 24.38(6)“c”(4), which reads: “(4) A follow-up appointment with the individual’s preferred provider will be made, and crisis response staff will follow up with the individual and document contact or attempt to contact on a periodic basis until the appointment takes place.”

2. One respondent commented that requirements should be included to ensure facilities are evaluated for environmental risks for suicide attempts.

Department response: This service is not facility-based. The environment is required to be safe, accessible, and supportive, and the organization establishes intervention procedures for behavior that presents significant risk of harm to the individual using the service or to others. If an assessment indicates an individual is at high risk or actively suicidal, a higher level of care is indicated.

3. One respondent commented that in addition to gender-specific bathrooms, facilities should be equipped to address transgender individuals.

Department response: This service is not facility-based. The minimum standard is to provide privacy if a bathroom has multiple toilets. Facilities shall designate and have privacy in bathrooms for all individuals.

4. One respondent asked, in the event an individual leaves the facility prior to discharge, what action will be taken to ensure the safety of the individual.

Department response: This service is not facility-based. The service is voluntary. Staff would contact emergency services if necessary. Policies and procedures should address actions to be taken for the safety of individual and staff.

5. One respondent commented that the rules do not clearly define the environments where crisis response services can be provided and asked if the Department can provide examples of community-based and non-community-based residential settings or environments where the services can be provided.

Department response: The Department has changed the definition of “crisis stabilization community-based services.” It now reads as follows: “*‘Crisis stabilization community-based services’* or *‘CSCBS’* means short-term services designed to de-escalate a crisis situation and stabilize an individual following a mental health crisis and provided where the individual lives, works or recreates.” The goal of CSCBS is to stabilize the individual within the community. CSCBS is designed for voluntary services for individuals in need of a safe, secure environment where they can receive voluntary services less intensive and restrictive than those in an inpatient hospital.

The definition of “crisis stabilization residential services” has been changed to read: “*‘Crisis stabilization residential services’* or *‘CSRS’* means a short-term alternative living arrangement designed to de-escalate a crisis situation and stabilize an individual following a mental health crisis and is provided in organization-arranged settings of no more than 16 beds.” The goal of CSRS is to stabilize and reintegrate the individual back into the community. CSRS is designed for voluntary individuals who are in need of a safe, secure environment less intensive and restrictive than an inpatient hospital.

6. Two respondents commented that the staffing requirement does not state 24/7 awake staffing.

Department response: In response to this comment, the Department has added new paragraph 24.38(2)“f,” which reads: “f. Crisis response staff must be awake and attentive 24 hours a day.”

7. One respondent suggested rewording the provision which initially stated that mental health services shall be provided by a mental health professional to service individual’s needs. The respondent suggested replacing the words “to service individual’s needs” with the words “with expertise appropriate to the individual’s needs.”

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Department response: The Department agreed with this suggestion and the wording of paragraph 24.38(2)“c” in the published Notice read as suggested by the respondent and reads that way in this Adopted and Filed rule making.

M. Crisis stabilization residential services.

1. One respondent commented that requiring documentation for stays beyond three to five days is confusing. The respondent suggested that the Department look at the standards for crisis intervention and crisis stabilization from the Council on Accreditation of Rehabilitation Facilities for direction on the grouping of the services and level of specificity for the actual standards. The respondent noted the absence of arbitrary time limits and other specifics could interfere with an organization’s need to be flexible in meeting the needs of the area in which it is located. The respondent suggested that crisis response standards would cover the crisis residential services and that the rest of the services could be organized under crisis intervention.

Department response: The Department agrees with the statement that requiring documentation for stays beyond three to five days is confusing. The Department has changed the wording of paragraph 24.39(4)“e” to require documentation for stays of more than five days, rather than three to five days. No organizational changes to the rules were made in response to these comments.

2. One respondent commented that there is a reference to programs or facilities of no more than 16 beds and asked if this excludes the use of existing infrastructure for crisis response programs and if facilities currently licensed under DIA are ineligible to provide these services even if accredited. The respondent also asked if these services could be provided in an unlicensed part of a building that also houses a licensed section and if facilities licensed by DIA for 16 or fewer beds would be eligible to provide these services.

Department response: Crisis stabilization residential services can be provided in existing infrastructure, whether a stand-alone building or a part of a larger structure, as long as the facility does not have more than 16 beds. If a facility is licensed by DIA for other services, it would have to comply with the provisions of Iowa Administrative Code rule 481—57.50(135C) for operating another business or activity in the facility.

N. Medication.

One respondent commented that the rules state that medication shall be administered by a qualified prescriber or an individual following instruction of a qualified prescriber and trained staff shall observe an individual taking medication. The respondent asked if the Department would define what is meant by trained staff and what training would be required.

Department response: Medication training for staff would be included in the requirement that staff receive appropriate Department-approved training. The Department is not requiring a specific training program to allow providers more flexibility in choosing training programs that fit their organizational and client needs.

The Mental Health and Disability Services Commission adopted these amendments on September 18, 2014.

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

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

These amendments are intended to implement Iowa Code section 331.397 and 2014 Iowa Acts, House File 2379.

These amendments will become effective December 1, 2014.

The following amendments are adopted.

ITEM 1. Amend **441—Chapter 24**, title, as follows:

ACCREDITATION OF PROVIDERS OF SERVICES TO PERSONS WITH
MENTAL ILLNESS, ~~MENTAL RETARDATION~~ INTELLECTUAL
DISABILITIES, AND OR DEVELOPMENTAL DISABILITIES

ITEM 2. Amend **441—Chapter 24**, preamble, as follows:

HUMAN SERVICES DEPARTMENT[441](cont'd)

PREAMBLE

The mental health, ~~mental retardation, developmental disabilities, and brain injury~~ disability services commission has ~~established~~ adopted this set of standards to be met by all providers of services to people with mental illness, ~~mental retardation~~ intellectual disabilities, or developmental disabilities ~~that are under the authority of the commission.~~ These standards apply to providers that are not required to be licensed by the department of inspections and appeals. These providers include community mental health centers, mental health services providers, case management providers, ~~and~~ supported community living providers, and crisis response providers in accordance with Iowa Code chapter 225C.

The standards serve as the foundation of a performance-based review of those organizations for which the ~~commission~~ department holds accreditation responsibility, as set forth in Iowa Code chapters 225C and 230A. The mission of accreditation is to assure individuals using the services and the general public of organizational accountability for meeting best practices performance levels, for efficient and effective management, and for the provision of quality services that result in quality outcomes for individuals using the services.

The ~~commission's~~ department's intent is to establish standards that are based on the principles of quality improvement and are designed to facilitate the provision of excellent quality services that lead to positive outcomes. The intent of these standards is to make organizations providing services responsible for effecting efficient and effective management and operational systems that enhance the involvement of individuals using the services and to establish a best practices level of performance by which to measure provider organizations.

ITEM 3. Adopt the following new 441—Chapter 24, Division I title and preamble:

DIVISION I
SERVICES FOR INDIVIDUALS WITH DISABILITIES

PREAMBLE

This set of standards in this division has been established to be met by all providers of case management, day treatment, intensive psychiatric rehabilitation, supported community living, partial hospitalization, outpatient counseling and emergency services.

ITEM 4. Amend rule 441—24.1(225C), definition of “Commission,” as follows:

“*Commission*” means the mental health, ~~mental retardation, developmental disabilities, and brain injury~~ disability services commission (~~MH/MR/DD/BI~~ MH/DS commission) as established and defined in Iowa Code section 225C.5.

ITEM 5. Reserve rules 441—24.10 to 441—24.19.

ITEM 6. Adopt the following new 441—Chapter 24, Division II title and preamble:

DIVISION II
CRISIS RESPONSE SERVICES

PREAMBLE

The department of human services in consultation with the mental health and disability services commission has established this set of standards to be met by all providers of crisis response services.

ITEM 7. Adopt the following new rules 441—24.20(225C) to 441—24.40(225C):

441—24.20(225C) Definitions.

“*Action plan*” means a written plan developed for discharge in collaboration with the individual receiving crisis response services to identify the problem, prevention strategies, and management tools for future crises.

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“*Crisis assessment*” means a face-to-face clinical interview to ascertain an individual’s current and previous level of functioning, potential for dangerousness, physical health, and psychiatric and medical condition. The crisis assessment becomes part of the individual’s action plan.

“*Crisis incident*” means an occurrence leading to physical injury or death, or an occurrence resulting from a prescription medication error, or an occurrence triggering a report of child or dependent adult abuse.

“*Crisis response services*” means short-term individualized crisis stabilization services which follow a crisis screening or assessment and which are designed to restore the individual to a prior functional level.

“*Crisis response staff*” means a person trained to provide crisis response services in accordance with rule 441—24.24(225C).

“*Crisis screening*” means a process to determine what crisis response service is appropriate to effectively resolve the presenting crisis.

“*Crisis stabilization community-based services*” or “*CSCBS*” means short-term services designed to de-escalate a crisis situation and stabilize an individual following a mental health crisis and provided where the individual lives, works or recreates.

“*Crisis stabilization residential services*” or “*CSRS*” means a short-term alternative living arrangement designed to de-escalate a crisis situation and stabilize an individual following a mental health crisis and is provided in organization-arranged settings of no more than 16 beds.

“*Department*” means the department of human services.

“*Dispatch*” means the function within crisis line operations to coordinate access to crisis care.

“*Face-to-face*” means services provided in person or utilizing telehealth in conformance with the federal Health Insurance Portability and Accountability Act (HIPAA) privacy rules.

“*Family support peer specialist*” means the same as defined in rule 441—25.1(331).

“*Informed consent*” means the same as defined in rule 441—24.1(225C).

“*Mental health crisis*” means a behavioral, emotional, or psychiatric situation which results in a high level of stress or anxiety for the individual or persons providing care for the individual and which cannot be resolved without intervention.

“*Mental health professional*” means the same as defined in Iowa Code section 228.1.

“*Mobile response*” means a mental health service which provides on-site, face-to-face mental health crisis services for an individual experiencing a mental health crisis. Crisis response staff providing mobile response have the capacity to intervene wherever the crisis is occurring, including but not limited to the individual’s place of residence, an emergency room, police station, outpatient mental health setting, school, recovery center or any other location where the individual lives, works, attends school, or socializes.

“*Peer support services*” means a service provided by a peer support specialist, including but not limited to education and information, individual advocacy, family support groups, crisis response, and respite to assist individuals in achieving stability in the community.

“*Peer support specialist*” means the same as defined in rule 441—25.1(331).

“*Physical health*” means any chronic or acute health factors that need to be addressed during crisis delivery services.

“*Qualified prescriber*” means a practitioner or other staff following the instruction of a practitioner as defined in Iowa Code section 155A.3 and a physician assistant or advanced registered nurse practitioner operating under the prescribing authority granted in Iowa Code section 147.107.

“*Restraint*” means the application of physical force or the use of a chemical agent or mechanical device for the purpose of restraining the free movement of an individual’s body to protect the individual, or others, from immediate harm.

“*Rights restriction*” means limitations not imposed on the general public in the areas of communications, mobility, finances, medical or mental health treatment, intimacy, privacy, type of work, religion, and place of residence.

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“*Self-administered medication*” means the process where a trained staff member observes an individual inject, inhale, ingest or, by any other means, take medication following the instructions of a qualified prescriber.

“*Stabilization plan*” means a written short-term strategy used to stabilize a crisis and developed by a mental health professional, in collaboration with the crisis response staff and with the involvement and consent of the individual or the individual’s representative.

“*Staff-administered medication*” means the direct application of a prescription drug, whether by injection, inhalation, ingestion, or any other means, to the body of an individual by a qualified prescriber or authorized staff following instructions of a qualified prescriber.

“*Telehealth*” is the use of electronic information and telecommunications technologies to support long-distance clinical health care, patient and professional health-related education, public health and health administration. Technologies include videoconferencing, the Internet, store-and-forward imaging, streaming media, and terrestrial and wireless communications.

“*Treatment summary*” means a written summarization of the treatment and action plan at the point of an individual’s discharge or transition to another service.

“*Twenty-four-hour crisis line*” means a crisis line providing information and referral, counseling, crisis service coordination, and linkages to crisis screening and mental health services 24 hours a day.

“*Twenty-four-hour crisis response*” means services are available 24 hours a day, 365 days a year, providing access to crisis screening and assessment and linkage to mental health services.

“*Twenty-three-hour observation and holding*” means a level of care provided for up to 23 hours in a secure and protected, medically staffed, psychiatrically supervised treatment environment.

“*Warm line*” means a telephone line staffed by individuals with lived experience who provide nonjudgmental, nondirective support to an individual who is experiencing a personal crisis.

441—24.21(225C) Standards for crisis response services. An organization may be accredited to provide any one or all of the identified crisis response services. An organization seeking crisis response service accreditation shall comply with the general standards within this division and additional standards for each specific service.

441—24.22(225C) Standards for policies and procedures. Policies and procedures manuals contain policy guidelines and administrative procedures for all activities and services and address the standards in rule 441—24.2(225C).

441—24.23(225C) Standards for organizational activities. The organization shall meet the standards in subrules 24.3(1) through 24.3(5).

441—24.24(225C) Standards for crisis response staff. All crisis response staff shall meet the qualifications described in this rule. Additional staff requirements are described in each service.

24.24(1) Performance benchmark. Qualified crisis response staff provide crisis response services.

24.24(2) Performance indicators.

a. One or more of the following qualifications are met:

- (1) A mental health professional as defined in Iowa Code section 228.1.
- (2) A bachelor’s degree with 30 semester hours or equivalent in a human services field (including, but not limited to, psychology, social work, mental health counseling, marriage and family therapy, nursing, education) and at least one year of experience in behavioral or mental health services.
- (3) A law enforcement officer trained in crisis intervention including, but not limited to, mental health first aid and mental health in-service training.
- (4) An emergency medical technician (EMT) trained in crisis intervention including, but not limited to, mental health first aid.
- (5) A peer support specialist with a minimum certification of mental health first aid.
- (6) A family support peer specialist with a minimum certification of mental health first aid.
- (7) A registered nurse with two years of mental or behavioral health experience.

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b. Documentation in staff records to verify satisfactory completion of department-approved training including:

- (1) A minimum of 30 hours of department-approved crisis intervention and training.
- (2) A posttraining assessment of competency is completed.

441—24.25(225C) Standards for services.

24.25(1) *Standard for eligibility.* An eligible recipient is an individual experiencing a mental health crisis or emergency where a mental health crisis screening is needed to determine the appropriate level of care.

24.25(2) *Confidentiality and legal status.* Standards in subrule 24.4(6) are met.

24.25(3) *Service systems.* Standards in subparagraphs 24.4(7) “b”(1) to (3) are met.

24.25(4) *Respect for individual rights.* Standards in subrule 24.4(8) are met.

441—24.26(225C) Accreditation. The administrator for the division of mental health and disability services shall determine whether to grant, deny or revoke the accreditation of the centers and services as determined in Iowa Code section 225C.6(1) “c.”

24.26(1) The organization shall meet the standards of subrule 24.5(1), with the addition of crisis response service organizations.

24.26(2) The organization shall meet the standards in subrules 24.5(2) and 24.5(3).

24.26(3) Performance outcome determinations are as follows:

a. Quality assurance staff shall determine a performance compliance level based on the number of indicators found to be in compliance.

(1) For service indicators, if 25 percent or more of the files reviewed do not comply with the requirements for a performance indicator, that indicator is considered out of compliance and corrective action is required.

(2) Corrective action is required when any indicator under policies and procedures or activities is not met.

b. In the overall rating, the performance rating for policies and procedures shall count as 15 percent of the total, activities as 15 percent of the total, and services as 70 percent of the total.

(1) Each of the three indicators for policies and procedures has a value of 5.0 out of a possible score of 15.

(2) Each of the 34 indicators for activities has a value of .44 out of a possible score of 15.

(3) Each service has a separate weighting according to the total number of indicators applicable for that service, with a possible score of 70, as follows:

c. Quality assurance staff shall determine a separate score for each service to be accredited. When an organization offers more than one service under this chapter, there shall be one accreditation award for all the services based upon the lowest score of the services surveyed.

Service	Number of Indicators	Value of Each Indicator
24-hour crisis response	19	3.9
Crisis evaluation	20	3.5
24-hour crisis line	23	3.0
Warm line	20	3.5
Mobile response	18	3.9
23-hour observation and holding	44	1.6
Crisis stabilization, community-based	39	1.8
Crisis stabilization, residential	50	1.4

24.26(4) The organization shall meet the standards in subrules 24.5(5) to 24.5(7).

441—24.27(225C) Deemed status. The department shall grant deemed status to organizations accredited by a recognized national, not-for-profit, accrediting body when the department determines

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the accreditation is for similar services. The organization shall fulfill the standards described in subrules 24.6(1) to 24.6(6). The national accrediting bodies currently recognized as meeting division criteria for possible deeming are:

1. The Joint Commission on Accreditation of Healthcare Organizations (JCAHO).
2. The Commission on Accreditation of Rehabilitation Facilities (CARF).
3. The Council on Quality and Leadership in Supports for People with Disabilities (The Council).
4. The Council on Accreditation of Services for Families and Children (COA).
5. The American Association of Suicidology (AAS).
6. Contact USA.

441—24.28(225C) Complaint process. The department shall receive and record complaints by individuals using services, employees, any interested people, and the public relating to or alleging violations of applicable requirements of the Iowa Code or administrative rules in accordance with the standards described in rule 441—24.7(225C).

441—24.29(225C) Appeal procedure. The department shall receive appeals according to the process in rule 441—24.8(225C).

441—24.30(225C) Exceptions to policy. The department shall receive exceptions to policy meeting the standards in rule 441—24.9(225C).

441—24.31(225C) Standards for individual crisis response services. Crisis response services provided to children and youth include coordination with parents, guardians, family members, natural supports, and service providers and with other systems such as education, juvenile justice and child welfare.

Crisis response services for individuals who have co-occurring or multi-occurring diagnoses focus on the integration and coordination of treatment services, and supports necessary to stabilize the individual, without regard to which condition is primary. Crisis response services are not to be denied due to the presence of a co-occurring substance abuse condition or developmental or neurodevelopmental disability.

441—24.32(225C) Crisis evaluation. Crisis evaluation consists of two components: crisis screening and crisis assessment.

24.32(1) Crisis screening. The purpose of crisis screening is to determine the presenting problem and appropriate level of care.

a. Performance benchmark. Crisis screening includes a brief assessment of suicide lethality, substance use, alcohol use and safety needs. Crisis screening can be provided through contact with crisis response staff and through communication with the individual.

b. Performance indicators.

- (1) Crisis response staff are trained in crisis screening.
- (2) A uniform process for crisis screening and referrals is outlined in policies and procedures.
- (3) Crisis screening records are kept in individual files.

24.32(2) Crisis assessment. The purpose of crisis assessment is to determine the precipitating factors of the crisis, the individual and family functioning needs, and the diagnosis if present and to initiate a stabilization plan and discharge plan. A licensed mental health professional conducts a crisis assessment within 24 hours of an individual's admission to a crisis response service.

a. Assessment requirements. The crisis assessment includes:

- (1) Action plan.
- (2) Active symptoms of psychosis.
- (3) Alcohol use.
- (4) Coping ability.
- (5) History of trauma.
- (6) Impulsivity or absence of protective factors.
- (7) Intensity and duration of depression.

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- (8) Lethality assessment.
- (9) Level of external support available to the individual.
- (10) Medical history.
- (11) Physical health.
- (12) Prescription medication.
- (13) Crisis details.
- (14) Stress indicators and level of stress.
- (15) Substance use.

b. Performance benchmark. Individuals receive comprehensive assessment by a mental health professional to determine the appropriate level of care.

c. Performance indicators.

- (1) Written policies and procedures describe a uniform process for assessment, referrals and record documentation.
- (2) Mental health professionals as defined in Iowa Code section 228.1(6) will complete assessments.
- (3) Information collected is sufficient to determine the appropriate level of care.
- (4) Assessment results are explained to the individual and family or guardian when appropriate.
- (5) The individual's strengths, preferences and needs are included in an action plan. The family or guardian may receive a copy of an action plan with a signed release.

441—24.33(225C) Twenty-four-hour crisis response. The purpose of 24-hour crisis response is to provide access to crisis screening and assessment to de-escalate and stabilize the crisis. When the assessment indicates, a stabilization plan is developed to support the individual's return to a prior level of functioning. Twenty-four-hour crisis response staff link the individual to appropriate services. Crisis response staff provide service to individuals of any age.

24.33(1) Performance benchmark. Individuals in crisis have the ability to access crisis response services, including, but not limited to, crisis screening, crisis assessment and stabilization in the least restrictive level of care appropriate.

24.33(2) Performance indicators.

- a.* Information on how to access 24-hour crisis response is publicized to facilitate availability of services to individuals using the service, family members and the public.
- b.* Individuals accessing the service receive crisis screening and crisis response services from appropriate crisis response staff.
- c.* Crisis screening is available and accessible face-to-face, using telephone or Web-based options, 24 hours a day, 365 days a year.
- d.* A mental health professional is available for crisis assessment and consultation 24 hours a day, 365 days a year. The mental health professional has access to a qualified prescriber for consultation.
- e.* The staffing pattern and schedule is documented.
- f.* The integration and coordination of care is documented in the individual's record.
- g.* The discharge, action and follow-up plans are documented in the individual's record, and copies of the plans are provided to the individual. The family or guardian may receive a copy with a signed release.

441—24.34(225C) Twenty-four-hour crisis line. A 24-hour crisis line provides counseling, crisis service coordination, information and referral, linkage to services and crisis screening. Crisis line staff are qualified to provide crisis stabilization services pursuant to subrule 24.24(2).

24.34(1) Performance benchmark. Crisis screening, counseling, crisis service coordination and referrals are provided to individuals in crisis.

24.34(2) Performance indicators.

- a.* The crisis line service is available 24 hours a day, 365 days a year.
- b.* Policies are in place regarding how the crisis line is answered live, when to utilize the hold feature, the use of queue systems and triage of calls.

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- c. Policies and procedures govern the use of technology, including telephonic and Internet capability in the service delivery structure, quality assurance, data integrity and confidentiality.
- d. Procedures are in place for ensuring the quality of the crisis line, including monitoring calls and corrective action plans.
- e. The crisis line is an integrated component of the crisis response service system; the crisis line is answered in an organization setting by trained crisis response staff.
- f. Policies define collaborative efforts and triage procedure between the mobile outreach teams, law enforcement and emergency services.
- g. Policies are in place to ensure follow-up contacts are provided within 24 hours of a crisis call for all risk cases. The crisis line integrates follow-up into all crisis service contacts.
- h. The crisis line utilizes standardized call center software with the capability to track:
 - (1) Date and time of answered call, topic of call, crisis screening provided, referral made, hold time, and demographics of call.
 - (2) Number of contacts, including terminated and lost calls.
- i. Policies and procedures describe a uniform process of crisis screening and training for crisis line staff.
- j. Training includes crisis screening tools, lethality assessment, crisis counseling, cultural competence, crisis service coordination, and information and referral.
- k. Twenty-four-hour access to a mental health professional is required.

441—24.35(225C) Warm line. A peer-operated warm line is a service individuals can access to talk with someone with lived experience with mental, behavioral health and trauma issues. The line provides a resource for individuals experiencing emotional distress.

24.35(1) Performance benchmark. A warm line provides nonjudgmental listening, nondirective assistance, information, referral, and triage when appropriate.

24.35(2) Performance indicators.

- a. Policies are in place regarding how the warm line is answered live, placing callers on hold and when appropriate to use a queue system.
- b. Policies and procedures are in place for standard collection of demographics, the presented reason for calling and outcome of call.
- c. Policies and procedures are in place for crisis screening and when to triage a caller to a higher level of service.
- d. Data collection includes call answer times, duration of calls, and number of calls dropped, lost or terminated.
- e. Policies and procedures describe the staffing pattern and schedule.
- f. Warm line staff can receive calls remotely through telephones or computers or within an organization.
- g. Staff qualifications and training for peer support specialists and family support peer specialists are required.
- h. Twenty-four-hour access to a mental health professional is required.

441—24.36(225C) Mobile response. Crisis response staff provide on-site, in-person intervention for individuals experiencing a mental health crisis. The mobile response staff provide crisis response services in the individual's home or at locations in the community. Staff work in pairs to ensure staff safety and the safety of the individual served. A single staff member may respond if another person who meets one of the criteria listed in paragraph 24.24(2) "a" will be available on site. Twenty-four-hour access to a mental health professional is required.

24.36(1) Performance benchmark. Mobile response services are delivered to individuals in crisis in a timely manner.

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24.36(2) Performance indicators.

- a. Mobile response staff are dispatched immediately after crisis screening has determined the appropriate level of care. If the mobile response staff already are responding to another call, staff explain to the caller that there may be a delay in receiving a mobile response and offer an alternative response.
- b. Mobile response staff have face-to-face contact with the individual in crisis within 60 minutes from dispatch. If the mobile response staff are responding to another request, there may be a delay in receiving mobile response and an alternative response should be provided.
- c. Data is collected to track and trend response time from initial dispatch, the time to respond to dispatch when a team is already in response; diversion from or admission to hospitals, correctional facilities and other crisis response services. The data for each fiscal year is reported to the department within 60 days of the close of the fiscal year.
- d. When an action plan is developed, a copy is sent within 24 hours, with the individual's signed consent, to service providers, the individual and others as appropriate.
- e. The following information is documented in the individual's service record:
 - (1) Triage and referral information.
 - (2) Reduction in the level of risk present in the crisis situation.
 - (3) Coordination with other mental health resources.
 - (4) Names and affiliation of all individuals participating in the mobile response.
- f. A follow-up appointment with the individual's preferred provider will be made, and mobile response staff will follow up with the individual and document contact or attempt to contact on a periodic basis until the appointment takes place.

441—24.37(225C) Twenty-three-hour crisis observation and holding. Twenty-three-hour crisis observation and holding services may be a stand-alone service or embedded within a crisis stabilization residential service. Twenty-three-hour crisis observation and holding services are designed for individuals who need short-term crisis intervention in a safe environment less restrictive than hospitalization. This level of service is appropriate for individuals who require protection or when an individual's ability to cope in the community is severely compromised and it is expected the crisis can be resolved in 23 hours. Twenty-three-hour crisis observation and holding services include, but are not limited to, treatment, medication administration, meeting with extended family or significant others, and referral to appropriate services. Twenty-three-hour crisis observation and holding chairs can be utilized.

24.37(1) Admission criteria. The services may be provided if any of the following admission criteria are met:

- a. There are indications the symptoms can be stabilized and an alternative treatment can be initiated within a 23-hour period.
- b. The presenting crisis cannot be safely evaluated or managed in a less restrictive setting, or no such setting is available.
- c. The individual does not meet inpatient criteria, and it is determined a period of observation assists in the stabilization and prevention of symptom exacerbation.
- d. Further evaluation is necessary to determine the individual's service needs.
- e. There is an indication of actual or potential danger to self or others as evidenced by a current threat or ideation.
- f. There is a loss of impulse control leading to life-threatening behavior and other psychiatric symptoms requiring stabilization in a structured, monitored setting.
- g. The individual is experiencing a crisis demonstrated by an abrupt or substantial change in normal life functioning brought on by a specific cause, sudden event or severe stressor.

24.37(2) Staffing requirements.

- a. A designated medical director or administrator is responsible for the management and operation of the organization or facility.
- b. Registered nurse practitioners and physician assistants have at least two years of mental health experience.

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- c. At least one mental health professional is available for consultation 24 hours a day, 365 days a year.
 - d. A mental health professional as defined in Iowa Code section 228.1(6) provides mental health services appropriate to the individual's needs.
 - e. Crisis response staff are on duty 24 hours a day.
 - f. A registered nurse is available on site 24 hours a day.
- 24.37(3) Twenty-three-hour observation and holding safety.**
- a. *Performance benchmark.* An incident report is created when staff are notified an incident has occurred.
 - b. *Performance indicators.*
 - (1) The incident report documents:
 - 1. The name of the individual or individuals who were involved in the incident.
 - 2. Date and time of occurrence of the incident.
 - 3. A description of the incident.
 - 4. Names and signatures of all staff present at the time of the incident.
 - 5. The action taken by the staff.
 - 6. The resolution or follow-up to the incident.
 - (2) A copy of the incident report is kept in a centralized file and a copy is given to the individual, the mental health and disability services region, and the individual's parent or guardian when appropriate.
- 24.37(4) Service requirements.**
- a. *Performance benchmark.* A treatment summary is provided to the individual and the individual's treatment team when applicable.
 - b. *Performance indicators.* The minimum treatment summary requirements include:
 - (1) Action plan.
 - (2) Crisis assessment, including challenges and strengths.
 - (3) Course and progress of the individual with regard to each identified challenge.
 - (4) Evaluation of the individual's mental status to inform ongoing placement and support decisions.
 - (5) Recommendations and arrangements for further service needs.
 - (6) Signature of the mental health professional.
 - (7) Treatment interventions.
 - c. *Performance benchmark.* The individual using this service is provided a safe, secure observation and holding service in a location meeting the needs of the individual and in the least restrictive setting.
 - d. *Performance indicators.*
 - (1) Individuals give informed consent.
 - (2) Treatment providers, family members and other natural supports as appropriate are contacted within 23 hours of the individual's admission.
 - (3) Written policies and procedures cover medication administration, storage and documentation.
 - (4) Individual records include, but are not limited to, a treatment summary and verification of individual choice.
 - (5) The 23-hour crisis observation and holding facility is a welcoming and comfortable environment conducive to recovery.
 - (6) The 23-hour crisis observation and holding is primarily used as a diversion from hospital level of care.
 - (7) Communication attempts and contact with the individual's team will be documented.
 - (8) A follow-up appointment with the individual's preferred provider will be made, and crisis response staff will follow up with the individual and document contact or attempt to contact on a periodic basis until the appointment takes place.
 - (9) There are written policies and procedures of how to document and track discharge locations.
 - (10) The actual number of individuals served within the 23-hour period is documented. Individual treatment records contain reasons why individuals stay beyond the 23-hour period.
 - (11) Readmission data and length of time between admissions are tracked for data trend reports.

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e. Performance benchmark. Policies and procedures address the additional safety standards for 23-hour crisis and observation services.

f. Performance indicators.

(1) Service compliance is documented regarding state fire marshal rules and fire ordinances and applicable local health, fire, occupancy code, and safety regulations.

(2) Based on standards used for public facilities, all food and drink is clean, wholesome, free from spoilage, and stored and served in a manner safe for human consumption.

(3) Doors must not be locked from the inside. The use of door locks is as approved by the fire marshal and professional staff.

(4) Twenty-three-hour observation and holding services have an emergency preparedness plan to describe the process for an individual to continue receiving services during a disaster including, but not limited to, cases of severe weather or fire.

g. Performance benchmark. Policies and procedures address the cleanliness of the 23-hour observation and holding service.

h. Performance indicators.

(1) Services provide a safe, clean, well-ventilated, properly heated environment in good repair and free from vermin.

(2) An individual's resting or sleeping area includes:

1. A sturdily constructed bed or comfortable chair.
2. A sanitized mattress protected with a clean mattress pad, or sanitized chair.
3. Curtains or blinds are on bedroom windows.
4. Available clean linen.
5. Doors or partitions for privacy.
6. Right to privacy is respected.

(3) Bathrooms include items necessary for personal hygiene and personal privacy.

1. A safe supply of hot and cold running water which is potable.

2. Clean towels, electric hand dryers or paper towel dispensers, and an available supply of toilet paper and soap.

3. Natural or mechanical ventilation capable of removing odors.

4. Tubs or showers have slip-proof surfaces.

5. Partitions with doors which provide privacy if a bathroom has multiple toilet stools.

6. Toilets, wash basins, and other plumbing or sanitary facilities are maintained in good operating condition.

7. Privacy in bathrooms for male and female individuals.

i. Performance benchmark. Personal rights are acknowledged.

j. Performance indicator. The following are allowed:

(1) Areas in which an individual may be alone when appropriate.

(2) Areas for private conversations with others.

(3) Secure space for personal belongings.

(4) Personal clothing is allowed in accordance with organization policy.

k. Performance benchmark. Policies and procedures document health and safety standards.

l. Performance indicators.

(1) An emergency preparedness plan is designed to provide effective utilization of available resources during a disaster event including, but not limited to, cases of severe weather or fire.

(2) Services comply with rule 441—24.39(225C).

(3) There are written policies on safety.

(4) Seclusion is not used.

(5) Mechanical or chemical restraints are not used at any time.

(6) The smokefree air Act, Iowa Code chapter 142D, is followed.

441—24.38(225C) Crisis stabilization community-based services (CSCBS). The goal of CSCBS is to stabilize the individual within the community. CSCBS is designed as a voluntary service for

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individuals in need of a safe, secure location that is less intensive and restrictive than an inpatient hospital. Individuals receive CSCBS services including, but not limited to, psychiatric services, medication, counseling, referrals, peer support and linkage to ongoing services. The duration for CSCBS is expected to be less than five days.

24.38(1) Eligibility. To be eligible, an individual must:

- a. Be determined appropriate for the service by mental health assessment; and
- b. Be determined not to need inpatient acute hospital psychiatric services.

24.38(2) Staffing requirements.

a. A designated director or administrator is responsible for the management and operation of the CSCBS.

b. At least one licensed nurse practitioner, physician assistant, or psychiatrist is available for consultation 24 hours a day, 365 days a year.

c. Mental health professionals with expertise appropriate to the individual's needs provide services.

d. Contact between the individual and a mental health professional occurs at least one time a day.

e. Additional services are provided by crisis response staff at a minimum of one hour per day, including, but not limited to, skill building, peer support or family support peer services. The goal of CSCBS is to stabilize the individual within the community. CSCBS is designed for voluntary services for individuals in need of a safe, secure location that is less intensive and restrictive than an inpatient hospital.

f. Crisis response staff must be awake and attentive 24 hours a day.

24.38(3) Performance benchmark. The individual using CSCBS is provided safe, secure and structured crisis stabilization services in the least restrictive location meeting the needs of the individual. The CSCBS can be for youth aged 18 and under or adults aged 18 and older.

24.38(4) Performance indicators.

a. The individual can provide consent for treatment providers, family members and other natural supports to be contacted within 24 hours of admission.

b. Daily crisis stabilization services include, at minimum, daily contact with a mental health professional and one hour of additional crisis stabilization services from crisis response staff.

c. The numbers of days an individual receives crisis stabilization services are documented. The documentation records specific reasons for the delivery of services beyond five days.

d. Individual records are maintained to document the following:

(1) Daily contact with a mental health professional.

(2) Additional services provided including, but not limited to, skill building, peer support or family support peer services.

(3) Medication record.

e. Individual choice is verified including, but not limited to, treatment participation and discharge plan options.

f. Readmission data is tracked, including an analysis of data trends looking at effectiveness, and appropriate corrective action taken. The information is documented in the performance improvement system files.

24.38(5) Crisis stabilization incident reporting.

a. *Performance benchmark.* An incident report is filed when staff are notified an incident has occurred.

b. *Performance indicators.*

(1) The incident report documents:

1. The name of the individual involved in the incident.

2. Date and time the incident occurred.

3. A description of the incident.

4. Names and signatures of all staff present at the time of the incident.

5. The action the staff took to handle the situation.

6. The resolution or follow-up to the incident.

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(2) A copy of the incident report is kept in a centralized file and a copy given to the individual, the mental health and disability services region, and the parent or guardian when appropriate.

24.38(6) Service requirements.

a. Stabilization plan. The individual in crisis is involved collaboratively in all aspects of crisis stabilization services including, but not limited to, admission, treatment planning, intervention, and discharge. The involvement of family members and others is encouraged.

Within 24 hours of an individual's admission to crisis stabilization services, a written short-term stabilization plan is developed, with the involvement and consent of the individual, and is reviewed frequently to assess the need for the individual's continued placement in CSCBS. At a minimum, this plan includes:

(1) Criteria for discharge, including referrals and linkages to appropriate services and coordination with other systems.

(2) Description of any physical disability and any accommodations necessary to provide the same or equal services and benefits as those afforded nondisabled individuals.

(3) Evidence of input by the individual, including the individual's signature.

(4) Goal statement. Goals are consistent with the individual's needs and projected duration of service delivery and include objectives which build on strengths and are stated in terms allowing measurement of progress.

(5) Rights restrictions.

(6) Names of all other persons participating in the development of the plan.

(7) Specification of treatment responsibilities and methods.

b. Performance benchmark. A stabilization plan is completed within 24 hours of the individual's admittance.

c. Performance indicators.

(1) Individual records include a written short-term stabilization plan developed with the involvement and consent of the individual within 24 hours of admittance and reviewed frequently to assess the need for continued placement in CSCBS.

(2) Individual records indicate a crisis stabilization plan is completed within the 24-hour time frame.

(3) Reasons for crisis stabilization plans not meeting the criteria are documented.

(4) A follow-up appointment with the individual's preferred provider will be made, and crisis response staff will follow up with the individual and document contact or attempt to contact on a periodic basis until the appointment takes place.

24.38(7) Treatment summary. Prior to the individual's discharge from CSCBS, a treatment summary is completed. A copy of the summary is provided to the individual and shared with the individual's treatment team of providers, if applicable.

a. Contents. At a minimum, the treatment summary includes:

(1) Course and progress of the individual with regard to each identified problem.

(2) Documented note of a mental health professional contact one time daily.

(3) Evolution of the mental status to inform ongoing placement and support decisions.

(4) Final assessment, including general observations and significant findings of the individual's condition initially while services were being provided and at discharge.

(5) Recommendations and arrangements for further service needs.

(6) Signature of the mental health professional.

(7) Stabilization plan.

(8) Reasons for termination of service.

(9) Treatment interventions.

b. Performance benchmark. A treatment summary is completed during the length of stay in CSCBS.

c. Performance indicators.

(1) Records include a written treatment summary developed with the involvement of the individual. A copy of the summary is provided upon discharge.

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(2) Incidents in which a treatment plan was not completed within the length of stay and any corrective action necessary to alleviate this issue are documented.

24.38(8) Health and safety.

a. Performance benchmark. Emergency preparedness policies and procedures include health and safety measures.

b. Performance indicators.

(1) Emergency preparedness plans are designed to provide effective utilization of available resources for care to continue during a disaster event including, but not limited to, cases of severe weather or fire.

(2) Crisis services comply with rule 441—24.39(225C).

441—24.39(225C) Crisis stabilization residential services (CSRS). Crisis stabilization residential services are short-term services provided in facility-based settings of no more than 16 beds. The goal of CSRS is to stabilize and reintegrate the individual back into the community. Crisis stabilization residential services are designed for voluntary individuals who are in need of a safe, secure environment less intensive and restrictive than an inpatient hospital. Crisis stabilization residential services have the capacity to serve more than two individuals at a time. Crisis stabilization residential services can be for youth aged 18 and younger or adults aged 18 and older. Youth and adults cannot be housed in the same facility setting. Facilities licensed by the department of inspections and appeals for other services would have to comply with the provisions of Iowa Administrative Code rule 481—57.50(135C) for operating another business or activity in the facility.

24.39(1) Eligibility. To be eligible, an individual must:

a. Be an adult aged 18 or older or a youth aged 18 or under.

b. Be determined appropriate for the service by a mental health assessment; and

c. Be determined to not need inpatient acute hospital psychiatric services.

24.39(2) Staffing requirements.

a. A designated director or administrator is responsible for the management and operation of the CSRS of no more than 16 beds.

b. At least one licensed mental health professional is available for consultation 24 hours a day, 365 days a year.

c. Crisis stabilization residential services are provided by a mental health professional with expertise appropriate to the individual's needs.

d. Each individual has contact with a mental health professional at least one time a day.

e. Each individual has a minimum of one hour per day of additional services provided by crisis response staff including, but not limited to, skill building, peer support or family support peer services; or other therapeutic programming.

f. Awake and attentive staffing 24 hours a day, 365 days a year is provided.

24.39(3) Performance benchmark. The individual is provided safe, secure and structured crisis stabilization services in the least restrictive location meeting the individual's needs.

24.39(4) Performance indicators.

a. Individual's consent is documented, and treatment providers, family members and other natural supports are contacted within 24 hours of admission.

b. A comprehensive mental health assessment is completed within 24 hours of admission.

c. Daily crisis stabilization includes, at minimum, daily contact with a mental health professional and one hour of additional crisis stabilization service.

d. The length of stay is expected to be less than five days.

e. The number of days an individual receives crisis stabilization services is documented. The documentation records specific reasons for lengths of stay beyond five days.

f. Records include:

(1) Stabilization plan.

(2) Medication record.

(3) Treatment summary.

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(4) Daily contact with a mental health professional.

g. Additional services provided include, but are not limited to, skill building, peer support or family support peer services.

h. Individual choice is verified including, but not limited to, treatment participation and discharge plan options.

i. Data of readmission is tracked including an analysis of data trends, looking at effectiveness, and appropriate corrective action. The information is documented in the performance improvement system.

j. Documentation tracks that the youth's education needs are met with educational services received in the CSRS, and an action plan is in place to return the youth to school upon discharge.

24.39(5) Crisis stabilization incident reporting.

a. *Performance benchmark.* An incident report is completed when staff are notified an incident has occurred.

b. *Performance indicators.*

(1) The incident report documents:

1. The name of the individual who was involved in the incident.

2. Date and time of occurrence of the incident.

3. A description of the incident.

4. Names and signatures of all staff present at the time of the incident.

5. The action staff took to handle the situation.

6. The resolution or follow-up to the incident.

(2) A copy of the incident report is maintained in a centralized file and a copy given to the individual, the mental health and disability services region, and the parent or guardian when appropriate.

24.39(6) Service requirements.

a. *Stabilization plan.* The individual is involved collaboratively in all aspects of crisis stabilization services including, but not limited to, admission, treatment planning, intervention, and discharge. The involvement of family members and others is encouraged.

Within 24 hours of admission to CSRS, a written short-term stabilization plan is developed, with the involvement and consent of the individual, and reviewed frequently to assess the need for continued placement in CSRS. At a minimum, this plan includes:

(1) Criteria for discharge, including referrals and linkages to appropriate services and coordination with other systems.

(2) Description of any physical disability and accommodations necessary to provide the same or equal services and benefits as those afforded nondisabled individuals.

(3) Evidence of input by the individual, including the individual's signature.

(4) Goal statement.

(5) Goals consistent with needs and projected length of stay.

(6) Objectives that are built on strengths and allow measurement of progress.

(7) Rights restrictions.

(8) Signatures of all participating in the development of the plan.

(9) Specification of treatment responsibilities and methods.

b. *Performance benchmark.* A stabilization plan is completed within 24 hours of admittance.

c. *Performance indicators.*

(1) Records include a written short-term stabilization plan developed with the involvement and consent of the individual within 24 hours of admission and is reviewed frequently to assess the need for continued placement in CSRS.

(2) Records indicating a stabilization plan has been completed within the 24-hour time frame are maintained.

(3) Reasons the stabilization plan does not meet the criteria is documented.

(4) A follow-up appointment with the individual's preferred provider will be made, and crisis response staff will follow up with the individual and document contact or attempt to contact on a periodic basis until the appointment takes place.

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24.39(7) Treatment summary. Prior to discharge, a treatment summary is provided and a copy shared with the individual and treatment team as appropriate.

a. Contents. At a minimum, this treatment summary includes:

- (1) Course and progress regarding each identified problem.
- (2) Documentation of daily contact with a mental health professional.
- (3) Impact on placement and support decisions.
- (4) Assessment.
- (5) Action plan.
- (6) Stabilization plan.
- (7) Treatment interventions.
- (8) Reasons for termination of service.
- (9) Signature of the mental health professional.

b. Performance benchmark. A treatment summary is completed during the individual's length of stay in CSRS.

c. Performance indicators.

- (1) Records include a written treatment summary developed with the involvement and consent of the individual.
- (2) An individual receives a copy of the treatment summary upon discharge.
- (3) Corrective action steps are documented when treatment plans are not completed within the length of stay.

24.39(8) Health and safety.

a. Performance benchmarks.

- (1) Emergency preparedness policies and procedures include health and safety measures.
- (2) Crisis stabilization services meet all applicable local, state and federal regulations.
- (3) Medication administration and documentation standards in rule 441—24.40(225C) are documented.

b. Performance indicators.

- (1) Health and fire safety inspections.
 1. Documentation includes Iowa fire marshal rules and fire ordinances, local health, fire, occupancy code, and safety regulations.
 2. Standards for public facilities guide food and beverage safety, nutrition standards, and safe storage of all consumable products.
 3. Crisis stabilization residential services comply with rule 441—24.40(225C).
- (2) Emergency preparedness. Emergency preparedness policies are designed to provide effective utilization of available resources for continuation during a disaster event, including, but not limited to, cases of severe weather or fire.
- (3) The facility is safe, clean, well-ventilated, and a properly heated environment in good repair and free from vermin.
- (4) Bedrooms include:
 1. A sturdily constructed bed.
 2. A sanitized mattress protected with a clean mattress pad.
 3. A designated space in proximity to the sleeping area for personal possessions including clothing.
 4. Curtains or window blinds on bedroom windows.
 5. Available clean linens.
- (5) Sleeping areas include:
 1. Doors for privacy.
 2. Partitioning and placement of furniture to provide privacy.
 3. Rooms accommodate no more than two per room. Single room dimensions are at least 80 square feet not including closets. Dual occupancy rooms are at least 120 square feet not including closets.
 4. Personal belongings and personal touches in the rooms are defined within CSRS policy.
 5. Respect by staff for an individual's right to privacy.
- (6) Personal hygiene and privacy tools are provided:

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1. A safe supply of hot and cold running water which is potable.
2. Clean towels, electric hand dryers or paper towel dispensers, and an available supply of toilet paper and soap.
3. Natural or mechanical ventilation capable of removing odors.
4. Tubs or showers with slip-proof surfaces.
5. Partitions with doors which provide privacy if a bathroom has multiple toilet stools.
6. Toilets, wash basins, and other plumbing or sanitary facilities are in good operating condition.
7. Privacy in bathrooms for male and female individuals.
- (7) Federal laws regarding smoking on property are recognized and followed.
- (8) The following is provided:
 1. Areas in which an individual may be alone when appropriate.
 2. Areas for private conversations with others.
 3. A secure space for personal belongings.
- c. Housekeeping.* Maintenance of living quarters and day-to-day housekeeping activities are clearly defined in writing and a part of the orientation. Staff assistance and equipment are provided as needed.
- d. Clothing.*
 - (1) Personal clothing is allowed in accordance with CSRS policy.
 - (2) Clothing may be washed with provided laundry mechanisms.
- e. Religion/culture.* Rights to religion and culture include:
 - (1) The opportunity to participate in religious activities and services in accordance with the individual's faith or of a minor individual's parent(s) or guardian.
 - (2) Arrange for transportation to religious activities when appropriate per CSRS policy.
- f. Smoking.* The smokefree air Act, Iowa Code chapter 142D, is included in the CSRS policy.

441—24.40(225C) Medication—administration, storage and documentation. This rule sets forth medication requirements for 23-hour crisis observation and holding, crisis stabilization community-based services, and crisis stabilization residential services.

24.40(1) Performance benchmark. Policies and procedures ensure prescription and over-the-counter drugs are administered or self-administered safely and properly in accordance with federal, state and local laws and regulations. Medication is administered by a qualified prescriber or an individual following the instructions of a qualified prescriber. Medication storage is maintained in accordance with the security requirements of federal, state and local laws. Case records include written policies and procedures regarding use of medication.

24.40(2) Performance indicators.

a. Administration of medication.

- (1) Medication administration dose schedules and standardization of abbreviations are documented.
- (2) Throughout the CSRS specific methods for control and accountability of medication products are established.
- (3) Prescription and over-the-counter drugs are administered or self-administered safely and properly in accordance with federal, state and local laws and regulations.
- (4) Medications are prescribed by a qualified prescriber under Iowa law.
- (5) Prescription drugs are not administered or self-administered without a written order signed by a qualified prescriber.

b. Staff-administered medication.

- (1) Only qualified and authorized staff administers medication, and a current, accurate list of staff is maintained.
- (2) Qualified prescribers instruct how medications are administered and documented. The type and amount of medication, time and date of medication administered, and the name of staff administering the medication are transcribed in the medication record.

c. Self-administered medication.

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(1) Policies and procedures document which staff have completed department-approved training on self-administration of prescription medication.

(2) Self-administration of prescription and over-the-counter medications are permitted only when the medication label is clear and complete.

d. Medication storage. Medication storage policies under the care and control of the administration include:

(1) All medication is maintained in locked storage, and controlled substances are maintained in a locked box within locked storage.

(2) Medications requiring refrigeration are kept in a refrigerator separated from food and other edible items.

(3) Disinfectants and medication for external use are stored separately from internal and injectable medications.

(4) Each medication is stored in original containers and labeled with the name.

(5) All potent poisonous or caustic medications are clearly labeled; stored separately from other medication, in a specific well-illuminated cabinet, closet, or storeroom; and made accessible only to authorized staff.

(6) Medication provided is dispensed from a licensed pharmacy in the state of Iowa in accordance with the Iowa Code. It can also be provided by a qualified prescriber from a licensed pharmacy in another state according to the laws of the state.

(7) Prescription medications prescribed for one individual are not administered or allowed in the possession of another.

e. Medication labeling. All prescribed medications are clearly labeled with the full name; prescriber's name; prescription number; name and strength of the medication; dosage; directions for use; date of issue; and name, address and telephone number of the pharmacy or prescriber issuing the medication. Medications are packaged and labeled according to state and federal guidelines.

f. Monthly inspection. The staff member in charge of medication provides monthly inspection of all storage units.

g. Damaged labels. Medication containers having soiled, damaged, illegible, or makeshift labels are returned to the issuing pharmacist, pharmacy, or qualified prescriber for relabeling or disposal.

h. Unused medications. Unused prescription drugs are destroyed by staff with a witness present, when an individual leaves the crisis service without medication. A notation is documented in the record. When an individual is discharged or leaves the crisis service, medications currently being administered are sent in their original containers with the individual or with a designated person, with the approval of the qualified prescriber.

i. Medication brought by individual. If the prescribed and over-the-counter medication the individual brings to the CSRS is not used, the medication is packaged, sealed and stored. The sealed packages of medications are returned to the individual or family at the time of discharge.

j. Medication documentation.

(1) Written policies and procedures are in place for the review, approval, and implementation of ethical, safe, human and efficient behavioral intervention procedures.

(2) Written policies and procedures are in place to inform the individual and the individual's legal guardian, when appropriate, about prohibitions on the use of medication as a restraint.

(3) Documentation is required in case records on adverse drug reactions when medications are administered and self-administered.

(4) All medication orders are documented in the case records and document the name of the medication, dose, route of administration, frequency of administration, name of the qualified prescriber prescribing the medication, and name of the staff administering or dispensing the medication.

(5) Medication records are documented by authorized staff administering the medication.

k. Medication rights and responsibilities.

(1) Medication is not used as a restraint. The use of psychopharmacological medication in excess of the standard plan of care is prohibited. Using medication as a restraint includes:

1. Drugs or medications used to control behavior or restrict freedom of movement.

HUMAN SERVICES DEPARTMENT[441](cont'd)

2. Drugs or medications used in excessive amounts or in excessive frequency.
3. Neuroleptics, anxiolytics, antihistamines, and atypical neuroleptics, or other medication used for calming, rather than for the medication's indicated treatment.

(2) Drugs or medications used for standard treatment of the individual's medical or psychiatric condition are not considered to be used as a restraint.

These rules are intended to implement Iowa Code section 331.397 and 2014 Iowa Acts, House File 2379.

[Filed 9/18/14, effective 12/1/14]

[Published 10/15/14]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 10/15/14.

ARC 1667C

INSPECTIONS AND APPEALS DEPARTMENT[481]

Adopted and Filed

Pursuant to the authority of Iowa Code section 231C.3(1), the Department of Inspections and Appeals hereby amends Chapter 69, "Assisted Living Programs," Iowa Administrative Code.

The amendment permits assisted living programs to provide respite care services and sets forth the requirements for providing such services.

The Department does not believe that this amendment poses a financial hardship on any regulated entity or individual.

Notice of Intended Action was published in the Iowa Administrative Bulletin on June 25, 2014, as **ARC 1511C**. Comments were received from the Iowa Health Care Association/Iowa Center for Assisted Living (IHCA/ICAL) and the Iowa Department on Aging (IDA).

IHCA/ICAL recommended striking "for 24 hours or more" from the definition of "respite care services." The Department has not made any change to the adopted rule because the language makes a distinction between respite care services and adult day services programs, which provide the type of care that IHCA/ICAL describes.

IHCA/ICAL also asked whether a separate contract with respite care individuals would be required or whether a program could use its current operating agreement. The rule does not require a separate contract. Assisted living programs can decide how to address respite care services in a contract that complies with the provisions of subrule 69.39(6). The Department has not made any changes to the adopted rule.

In response to comments submitted by IDA, the Department has made the following changes:

- Changed "respite care tenant" to "respite care individual" to avoid confusion between tenants of the assisted living program and individuals receiving short-term respite care services.
- Changed "involuntary discharge" to "involuntary termination of respite services" to distinguish from the involuntary transfer or discharge of assisted living tenants.
- Changed subrule 69.39(4) to clarify what is meant by "written direction to staff."
- Added a requirement to subrule 69.39(6) that the contract include emergency contact information.

In addition, in subrules 69.39(1), 69.39(5), and 69.39(9), the phrases "respite care" and "respite services" were changed to "respite care services" in keeping with the term defined in the introductory paragraph of the rule.

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

This amendment is intended to implement Iowa Code section 231C.3(1).

This amendment shall become effective November 19, 2014.

The following amendment is adopted.

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

Adopt the following **new** rule 481—69.39(231C):

481—69.39(231C) Respite care services. “Respite care services” means an organized program of temporary supportive care provided for 24 hours or more to a person in order to relieve the usual caregiver of the person from providing continual care to the person. “Respite care individual” means an individual receiving respite care services. An assisted living program which chooses to provide respite care services must meet the following requirements related to respite care services and must be certified as an assisted living program.

69.39(1) Length of stay. Respite care services shall be provided for no more than 30 consecutive days and for a total of no more than 60 days in a consecutive 12-month period. The 12-month period begins on the first day of the respite care individual’s stay in the program.

69.39(2) No separate certificate. An assisted living program that chooses to provide respite care services is not required to obtain a separate certificate or pay a certification fee.

69.39(3) Assessment. The program nurse shall conduct an assessment of the respite care individual prior to the respite care individual’s stay. The assessment shall be documented and shall include, at a minimum:

- a. Safety and supervision needs;
- b. Medical needs;
- c. Dietary needs; and
- d. Bowel and bladder function.

69.39(4) Written direction to staff. The program nurse shall document the care needs of the respite care individual based on the assessment conducted pursuant to subrule 69.39(3) and provide the documentation to staff.

69.39(5) Involuntary termination of respite care services. The program may terminate the respite care services for a respite care individual. Rule 481—69.24(231C) shall not apply. The program shall make proper arrangements for the welfare of the respite care individual prior to involuntary termination of respite care services, including notification of the respite care individual’s family or legal representative.

69.39(6) Contract. The program shall have a contract with each respite care individual. The contract shall, at a minimum, include the following:

- a. The time period during which the individual will be considered to be receiving respite care services, not to exceed 30 consecutive days.
- b. A description of all fees, charges, and rates for respite care services, and any additional and optional services and their related costs.
- c. A statement that respite care services may be involuntarily terminated. Rule 481—69.24(231C) shall not apply.
- d. Identification of the party responsible for payment of fees and identification of the respite care individual’s legal representative, if any.
- e. Identification of emergency contacts, including but not limited to the respite care individual’s family member(s) and physician.
- f. A statement that all respite care individual information shall be maintained in a confidential manner to the extent required under state and federal law.
- g. The refund policy, if applicable.
- h. A statement regarding billing and payment procedures.

69.39(7) Admission to program.

- a. A respite care individual shall not be considered an admission to the program.
- b. A respite care individual shall be included in the program’s census.
- c. The program shall not enter into multiple 30-day contracts with a respite care individual in order to lengthen the respite care individual’s stay in the program.

d. If a respite care individual remains in the program beyond 30 consecutive days and is eligible for admission, the department shall consider the individual a tenant in the program. The program shall follow all requirements for admission to the program.

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

69.39(8) *Level of care criteria.* Respite care individuals must meet the criteria found in subrule 69.23(1) for admission and retention of tenants. Respite care services shall not be provided by an assisted living program to persons requiring a level of care which is higher than the level of care the program is certified to provide.

69.39(9) *Accessibility by the department.* The department shall have the same access to respite care services records as provided in 481—subrule 67.10(2).

[Filed 9/24/14, effective 11/19/14]

[Published 10/15/14]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 10/15/14.

ARC 1680C**PROFESSIONAL LICENSURE DIVISION[645]****Adopted and Filed**

Pursuant to the authority of Iowa Code section 147.76, the Board of Barbering hereby amends Chapter 21, "Licensure," and Chapter 23, "Barber Schools," Iowa Administrative Code.

This rule making:

- Amends the requirement to send a renewal notice to barber practitioners and barbershops in order to be consistent with legislative changes to Iowa Code section 147.10.
- Gives barber schools the option to establish a mentoring program to provide students with an introduction to operating a barbershop and to small business practices.
- Incorporates references to the sections of the Iowa Code administered by the Iowa College Student Aid Commission that require a school to be in compliance with state tuition refund policies and financial responsibilities as a requirement of licensure.

All other changes are technical in nature.

Notice of Intended Action was published in the Iowa Administrative Bulletin on August 20, 2014, as **ARC 1584C**. A public hearing was held on September 9, 2014, from 9 to 9:30 a.m. in the Fifth Floor Board Conference Room, Lucas State Office Building, Des Moines, Iowa.

Three public comments were received from T.L. Millis, owner and president of American College of Hairstyling, Des Moines and Cedar Rapids. The comments pertained to implementation of the mentoring program. The first comment expressed concern about allowing 10 percent of a student's total hours to be served in a mentoring program. Rule 645—23.16(158), as written, establishes the maximum of 10 percent and gives the school final discretion on the number of hours a student may participate. The second and third comments expressed concern that shop owners would ignore the rule prohibiting a student's practice of barbering and provide compensation for services. The comment suggested that a student participating in the mentoring program be allowed to work under a temporary permit. However, this proposal would substantially change the intent of the rule regarding issuance of temporary permits. The rules for the mentoring program adopted herein are intended as an optional activity for barber schools to add to their curricula.

These amendments are identical to those published under Notice.

Waiver provisions are contained in 645—Chapter 18.

The Board of Barbering adopted these amendments on September 26, 2014.

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

These amendments are intended to implement Iowa Code chapters 21, 158 and 272C and section 147.10.

These amendments will become effective November 19, 2014.

The following amendments are adopted.

ITEM 1. Amend subrule 21.9(1) as follows:

21.9(1) The biennial license renewal period for a license to practice barbering shall begin on July 1 of each even-numbered year and end on June 30 of each even-numbered year. All licensees shall renew

PROFESSIONAL LICENSURE DIVISION[645](cont'd)

on a biennial basis. ~~The board shall send a renewal notice by regular mail to each licensee at the address on record at least 60 days prior to the expiration of the license.~~ The licensee is responsible for renewing the license prior to its expiration. Failure of the licensee to receive ~~the notice~~ from the board does not relieve the licensee of the responsibility for renewing the license.

ITEM 2. Amend subrule 21.12(2) as follows:

~~21.12(2) The renewal application shall be mailed to the barbershop at least 60 days prior to the expiration of the license.~~ Failure to receive the renewal application from the board shall not relieve the barbershop of the obligation to pay the biennial renewal fee on or before the renewal date.

ITEM 3. Adopt the following new definitions of “Mentor” and “Mentoring program” in rule ~~645—23.1(158)~~:

“*Mentor*” means a licensee providing guidance in a mentoring program.

“*Mentoring program*” means a program allowing students to experience barbering in a licensed barbershop under the guidance of a mentor.

ITEM 4. Amend subrule 23.2(1) as follows:

23.2(1) An application shall be submitted to the Board of Barbering, Iowa Department of Public Health, Lucas State Office Building, Des Moines, Iowa 50319-0075. The following information shall be submitted with the application:

- a. The exact location of the proposed barber school;
- b. A copy of the essential parts of the lease or other documents to provide proof that the owner of the school has occupancy rights for a minimum of one year;
- c. A sworn affidavit that proves the existence of sufficient finances to acquire the facilities and equipment required by the board and to operate the proposed barber school for a minimum of one year; ~~and~~
- d. A complete plan of the physical facilities and an explanation detailing how the facilities will be utilized relative to the number of students and to the classroom and clinic space; and
- e. Copies of the catalog, brochure, enrollment contract, mentoring contract, student policies, and cancellation and refund policies that will be used by the school or distributed by the school to students and the public.

ITEM 5. Rescind subrule 23.2(5) and adopt the following new subrule in lieu thereof:

23.2(5) Instruction of students shall not begin until the school license is issued and the applicant has complied with Iowa Code section 714.18 and, as applicable, Iowa Code section 714.23.

ITEM 6. Amend paragraph **23.10(3)“a”** as follows:

a. Be attired in clean and neat uniforms at all times during school hours and during participation in the mentoring program.

ITEM 7. Adopt the following new rule 645—23.16(158):

645—23.16(158) Mentoring program. Each barber school that elects to have a mentoring program must have a contract between the student, the school and the barbershop mentor that includes scheduling, liability insurance and details of training.

23.16(1) Students shall not begin a mentoring program until they have completed a minimum of 50 percent of the total contact or credit hours required for graduation and any other requirements of the mentoring program as established by the school.

23.16(2) Students may participate in a mentoring program for no more than 10 percent of the total contact or credit hours required for graduation.

23.16(3) Students shall be under supervision of the mentor at all times. Students may perform the following activities: act as receptionist, handle retail sales, sanitize the barbershop, consult with clients (to acquire customer service skills), take inventory, order supplies, prepare payroll, pay monthly bills, and hand equipment to the barber.

23.16(4) The barbershop mentor’s responsibilities include the following: introduce the student to the barbershop and the clients, record the time of the student’s attendance at the barbershop, prepare an

PROFESSIONAL LICENSURE DIVISION[645](cont'd)

evaluation of the student, discuss the student's performance with the student, and allow the student to observe barbershop operations.

23.16(5) Neither the barbershop nor the school shall compensate students participating in the mentoring program.

[Filed 9/26/14, effective 11/19/14]

[Published 10/15/14]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 10/15/14.

ARC 1659C**PROFESSIONAL LICENSURE DIVISION[645]****Adopted and Filed**

Pursuant to the authority of Iowa Code section 147.76, the Board of Physical and Occupational Therapy hereby amends Chapter 200, "Licensure of Physical Therapists and Physical Therapist Assistants," Chapter 203, "Continuing Education for Physical Therapists and Physical Therapist Assistants," and Chapter 207, "Continuing Education for Occupational Therapists and Occupational Therapy Assistants," Iowa Administrative Code.

These amendments clarify the examination requirements for physical therapy applicants who fail the examination more than three times and clarify continuing education requirements for physical therapy and occupational therapy licensees.

Notice of Intended Action was published in the Iowa Administrative Bulletin on July 23, 2014, as **ARC 1559C**. A public hearing was held August 12, 2014, from 8 to 8:30 a.m. in the Fifth Floor Board Conference Room 526, Lucas State Office Building, Des Moines, Iowa. One public comment was received on the proposed amendments.

Since publication of the Notice, the following changes have been made as a result of the comment received.

In Item 4, subparagraph 203.3(2)"a"(9), the word "active" was added in the first sentence as follows: "Participating in professional organizations related to the practice of physical therapy, with 1 credit hour received for each six months of active service as an officer, delegate, or committee member, for a maximum of 4 hours of credit per biennium."

In Item 7, subparagraph 207.3(2)"a"(8), the word "active" was added in the first sentence as follows: "Participating in professional organizations related to the practice of occupational therapy, with 1 credit hour received for each six months of active service as an officer, delegate, or committee member, for a maximum of 4 hours of credit per biennium."

In addition, "of credit" was added after "4 hours" in both subparagraphs for consistency within the rule.

These amendments were adopted by the Board of Physical and Occupational Therapy on September 12, 2014.

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

These amendments are intended to implement Iowa Code chapters 148A and 148B and sections 272C.1 and 272C.2.

These amendments will become effective on November 19, 2014.

The following amendments are adopted.

ITEM 1. Amend subrule 200.4(3) as follows:

200.4(3) Before the board may approve an applicant for testing beyond three attempts, an applicant shall ~~reapply for licensure and shall~~ demonstrate evidence satisfactory to the board of having successfully completed additional coursework. The Federation of State Boards of Physical Therapy (FSBPT) determines the total number of times an applicant may take the examination in a lifetime. The board will not approve an applicant for testing when the applicant has exhausted the applicant's lifetime opportunities for taking the examination, as determined by FSBPT.

PROFESSIONAL LICENSURE DIVISION[645](cont'd)

ITEM 2. Amend paragraph **203.2(1)“a”** as follows:

a. Requirements for physical therapist licensees. Each biennium, each person who is licensed to practice as a physical therapist in this state shall be required to complete a minimum of 40 hours of continuing education approved by the board; a minimum of ~~20~~ 30 hours shall be ~~clinical in nature~~ directly and primarily related to the clinical application of physical therapy.

ITEM 3. Amend paragraph **203.2(1)“b”** as follows:

b. Requirements for physical therapist assistant licensees. Each biennium, each person who is licensed to practice as a physical therapist assistant in this state shall be required to complete a minimum of 20 hours of continuing education approved by the board; a minimum of ~~10~~ 15 hours shall be ~~clinical in nature~~ directly and primarily related to the clinical application of physical therapy.

ITEM 4. Rescind subrule 203.3(2) and adopt the following new subrule in lieu thereof:

203.3(2) Specific criteria.

a. Licensees may obtain continuing education hours of credit by:

(1) Attending workshops, conferences, or symposiums.
 (2) Accessing online training, such as viewing interactive conferences, attending webinars, or completing online training courses.

(3) Completing an American Physical Therapy Association-approved postprofessional clinical residency or fellowship. A licensee will receive 1 hour of credit for every 2 hours spent in clinical residency, up to a maximum of 20 hours. Clinical residency hours may not be used for credit if the licensee is also seeking credit hours earned for postprofessional academic coursework in the same renewal period.

(4) Directly supervising students for clinical education if the physical therapist or physical therapist assistant who is supervising is an American Physical Therapy Association Advanced Credentialed Clinical Instructor and if the student being supervised is from an accredited physical therapist or physical therapist assistant program and is participating in a full-time clinical experience (defined as approximately 40 hours per week, ranging from 1 to 18 weeks). One hour will be awarded for every 160 contact hours of supervision. A maximum of 8 hours for a physical therapist and 4 hours for a physical therapist assistant may be awarded per biennium. The physical therapist or physical therapist assistant must have documentation from the accredited educational program indicating the number of hours spent supervising a student.

(5) Presenting professional programs that meet the criteria listed in this rule. Two hours of credit will be awarded for each hour of presentation for the first offering of the course. A course schedule or brochure must be maintained for audit.

(6) Completing academic courses that directly relate to the professional competency of the licensee. Official transcripts indicating successful completion of academic courses that apply to the field of physical therapy will be necessary in order for the licensee to receive the following continuing education credits:

1 academic semester hour = 15 continuing education hours of credit

1 academic trimester hour = 12 continuing education hours of credit

1 academic quarter hour = 10 continuing education hours of credit

(7) Teaching in an approved college, university, or graduate school. The licensee may receive the following continuing education credits on a one-time basis for the first offering of a course:

1 academic semester hour = 15 continuing education hours of credit

1 academic trimester hour = 12 continuing education hours of credit

1 academic quarter hour = 10 continuing education hours of credit

(8) Authoring research or other activities, the results of which are published in a recognized professional publication. The licensee shall receive 5 hours of credit per page.

(9) Participating in professional organizations related to the practice of physical therapy, with 1 credit hour received for each six months of active service as an officer, delegate, or committee member, for a maximum of 4 hours of credit per biennium. Verification of participation must be provided by the professional organization to document the continuing education credit.

PROFESSIONAL LICENSURE DIVISION[645](cont'd)

b. Continuing education hours of credit in the following topics are not considered to be directly and primarily related to the clinical application of physical therapy and therefore must not exceed a maximum combined total of 10 hours of credit for a physical therapist licensee and 5 hours of credit for a physical therapist assistant licensee:

- (1) Business-related topics, such as marketing, time management, government regulations, and other like topics.
- (2) Personal skills topics, such as career burnout, communication skills, human relations, and other like topics.
- (3) General health topics, such as clinical research, CPR, mandatory reporter training, and other like topics.

ITEM 5. Amend paragraph **207.2(1)“a”** as follows:

a. Requirements for occupational therapist licensees. Each biennium, each person who is licensed to practice as an occupational therapist in this state shall be required to complete a minimum of 30 hours of continuing education approved by the board; a minimum of ~~15~~ 20 hours shall be ~~clinical in nature~~ directly and primarily related to the clinical application of occupational therapy.

ITEM 6. Amend paragraph **207.2(1)“b”** as follows:

b. Requirements for occupational therapy assistant licensees. Each biennium, each person who is licensed to practice as an occupational therapy assistant in this state shall be required to complete a minimum of 15 hours of continuing education approved by the board; a minimum of ~~8~~ 10 hours shall be ~~clinical in nature~~ directly and primarily related to the clinical application of occupational therapy.

ITEM 7. Rescind subrule 207.3(2) and adopt the following **new** subrule in lieu thereof:

207.3(2) Specific criteria.

a. Licensees may obtain continuing education hours of credit by:

- (1) Attending workshops, conferences, or symposiums.
- (2) Accessing online training, such as viewing interactive conferences, attending webinars, or completing online training courses.
- (3) Directly supervising students for clinical education if the student being supervised is from an accredited occupational therapy or occupational therapy assistant program and is participating in a full-time clinical experience (defined as approximately 40 hours per week, ranging from 1 to 18 weeks). One hour will be awarded for every 160 contact hours of supervision. A maximum of 8 hours for an occupational therapist and 4 hours for an occupational therapy assistant may be awarded per biennium. The occupational therapist or occupational therapy assistant must have documentation from the accredited educational program indicating the number of hours spent supervising a student.
- (4) Presenting professional programs that meet the criteria listed in this rule. Two hours of credit will be awarded for each hour of presentation for the first offering of the course. A course schedule or brochure must be maintained for audit.
- (5) Completing academic courses that directly relate to the professional competency of the licensee. Official transcripts indicating successful completion of academic courses that apply to the field of occupational therapy will be necessary in order for the licensee to receive the following continuing education credits:

1 academic semester hour = 15 continuing education hours of credit

1 academic trimester hour = 12 continuing education hours of credit

1 academic quarter hour = 10 continuing education hours of credit

(6) Teaching in an approved college, university, or graduate school. The licensee may receive the following continuing education credits on a one-time basis for the first offering of a course:

1 academic semester hour = 15 continuing education hours of credit

1 academic trimester hour = 12 continuing education hours of credit

1 academic quarter hour = 10 continuing education hours of credit

(7) Authoring research or other activities, the results of which are published in a recognized professional publication. The licensee shall receive 5 hours of credit per page.

PROFESSIONAL LICENSURE DIVISION[645](cont'd)

(8) Participating in professional organizations related to the practice of occupational therapy, with 1 credit hour received for each six months of active service as an officer, delegate, or committee member, for a maximum of 4 hours of credit per biennium. Verification of participation must be provided by the professional organization to document the continuing education credit.

b. Continuing education hours of credit in the following topics are not considered to be directly and primarily related to the clinical application of occupational therapy and therefore must not exceed a maximum combined total of 8 hours of credit for an occupational therapist licensee and 4 hours of credit for an occupational therapy assistant licensee:

(1) Business-related topics, such as marketing, time management, government regulations, and other like topics.

(2) Personal skills topics, such as career burnout, communication skills, human relations, and other like topics.

(3) General health topics, such as clinical research, CPR, mandatory reporter training, and other like topics.

[Filed 9/15/14, effective 11/19/14]

[Published 10/15/14]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 10/15/14.

ARC 1665C

REVENUE DEPARTMENT[701]

Adopted and Filed

Pursuant to the authority of Iowa Code sections 421.14 and 422.68, the Department of Revenue hereby adopts amendments to Chapter 12, "Filing Returns, Payment of Tax, Penalty and Interest," Chapter 38, "Administration," Chapter 40, "Determination of Net Income," Chapter 41, "Determination of Taxable Income," Chapter 42, "Adjustments to Computed Tax and Tax Credits," Chapter 43, "Assessments and Refunds," Chapter 46, "Withholding," Chapter 49, "Estimated Income Tax for Individuals," Chapter 52, "Filing Returns, Payment of Tax, Penalty and Interest, and Tax Credits," Chapter 58, "Filing Returns, Payment of Tax, Penalty and Interest, and Tax Credits," and Chapter 70, "Replacement Tax and Statewide Property Tax," Iowa Administrative Code.

Notice of Intended Action was published in IAB Vol. XXXVII, No. 4, p. 236, on August 20, 2014, as **ARC 1590C**.

Item 1 amends rule 701—12.18(423) to provide for changes to the biodiesel production refund for the 2015-2017 calendar years.

Items 2 and 3 amend rule 701—38.13(422) to clarify that the provisions of rule 701—40.45(422) regarding the treatment of deferred compensation, pensions or annuities for nonresidents of Iowa supersede the provisions of the reciprocal tax agreement between Iowa and Illinois.

Item 4 amends rule 701—40.3(422) to provide for changes in the list of bonds issued by the state and its political subdivisions for which interest is exempt for both federal and Iowa income tax.

Item 5 amends rule 701—40.47(422) regarding the partial exclusion of pensions and other retirement benefits for disabled individuals, individuals who are 55 years of age or older, surviving spouses and survivors to reference the exclusion of military retirement pay set forth in Item 6 for tax years beginning on or after January 1, 2014.

Item 6 adopts new rule 701—40.80(422) to provide for the exclusion of military retirement pay for Iowa individual income tax for tax years beginning on or after January 1, 2014.

Item 7 amends paragraph 41.3(1)"b" to clarify that the federal income tax deduction available for Iowa individual income tax does not include the additional .9 percent Medicare tax computed under Section 3101(b)(2) of the Internal Revenue Code for tax years beginning on or after January 1, 2013.

REVENUE DEPARTMENT[701](cont'd)

Item 8 amends subrule 41.5(3) regarding the adoption expense deduction for Iowa individual income tax to clarify how the deduction is computed if a taxpayer claims an adoption tax credit as set forth in Item 28 for tax years beginning on or after January 1, 2014.

Item 9 amends the implementation sentence for rule 701—41.5(422).

Items 10, 11 and 12 amend subrules 42.5(1) and 42.5(2) and paragraph 42.6(3)“a” to clarify that the Iowa income percentage used to compute the nonresident/part-year resident tax credit and the out-of-state tax credit for Iowa individual income tax should be rounded to the nearest tenth of a percent.

Item 13 amends subrule 42.15(1) to provide for changes to the child and dependent care credit for Iowa individual income tax for tax years beginning on or after January 1, 2015.

Item 14 amends the implementation sentence for rule 701—42.15(422).

Item 15 amends subrule 42.22(1) to provide for changes in the investment tax credit for an equity investment in a qualifying business for Iowa individual income tax for tax years beginning on or after January 1, 2014.

Item 16 amends the implementation sentence for rule 701—42.22(15E,422).

Items 17 and 18 amend subrules 42.28(1) and 42.28(2) to provide for changes in the renewable energy tax credit for Iowa individual income tax.

Item 19 amends the implementation sentence for rule 701—42.28(422,476C).

Item 20 amends rule 701—42.36(175,422) to provide for changes in the agricultural assets transfer tax credit for Iowa individual income tax.

Item 21 amends rule 701—42.43(16,422) to provide for the repeal of the disaster recovery housing project tax credit for Iowa individual income tax.

Item 22 amends the implementation sentence for rule 701—42.43(16,422).

Items 23 and 24 amend rule 701—42.46(422) to provide for changes in the E-15 plus gasoline promotion tax credit for individual income tax for tax years beginning on or after January 1, 2014.

Item 25 amends the implementation sentence for rule 701—42.46(422).

Item 26 amends rule 701—42.49(422) to provide for changes to the volunteer fire fighter and volunteer medical services personnel tax credit for individual income tax for tax years beginning on or after January 1, 2014, as well as providing that reserve peace officers are now eligible for this credit for tax years beginning on or after January 1, 2014.

Item 27 amends rule 701—42.50(422) to reflect the actual amount of the taxpayers trust fund tax credit for Iowa individual income tax for the 2013 tax year, as well as clarifying that fiscal year filers whose tax years do not begin on January 1 are eligible to claim this credit.

Item 28 adopts new rule 701—42.52(422) to provide for the adoption tax credit for Iowa individual income tax for tax years beginning on or after January 1, 2014.

Item 29 updates the implementation sentence for rule 701—43.4(68A,422,456A), which provides that there is no change in the four tax checkoffs that are available for Iowa individual income tax for the 2014 and 2015 tax years.

Item 30 amends rule 701—46.6(422) to update the amounts available to be transferred to the workforce development fund for fiscal years beginning on or after July 1, 2014.

Item 31 adopts new subrule 49.7(4) to provide how interest should be accrued on an assessment for Iowa individual income tax when the Iowa return reflected an estimated tax carryforward credited to the next tax year.

Item 32 amends the implementation sentence for rule 701—49.7(422).

Item 33 amends paragraph 52.1(5)“b” to provide that no adjustment is made for 50 percent of federal income tax or Iowa corporation income tax when computing the Iowa tax on built-in gains for S corporations for tax years beginning on or after January 1, 2014.

Item 34 amends subrule 52.21(1) to provide for changes in the investment tax credit for an equity investment in a qualifying business for Iowa corporation income tax for tax years beginning on or after January 1, 2014. This change is similar to the change in Item 15.

Item 35 amends the implementation sentence for rule 701—52.21(15E,422).

Items 36 and 37 amend subrules 52.27(1) and 52.27(2) to provide for changes in the renewable energy tax credit for Iowa corporation income tax. This change is similar to the changes in Items 17 and 18.

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Item 38 amends the implementation sentence for rule 701—52.27(422, 476C).

Item 39 amends rule 701—52.33(175,422) to provide for changes in the agricultural assets transfer tax credit for Iowa corporation income tax. This change is similar to the change in Item 20.

Item 40 amends rule 701—52.42(16,422) to provide for the repeal of the disaster recovery housing project tax credit for Iowa corporation income tax. This change is similar to the change in Item 21.

Item 41 amends the implementation sentence for rule 701—52.42(16,422).

Items 42 and 43 amend rule 701—52.43(422) to provide for changes in the E-15 plus gasoline promotion tax credit for Iowa corporation income tax for tax years beginning on or after January 1, 2014. This change is similar to the changes in Items 23 and 24.

Item 44 amends the implementation sentence for rule 701—52.43(422).

Item 45 amends subrule 58.11(1) to provide for changes in the investment tax credit for an equity investment in a qualifying business for Iowa franchise tax for tax years beginning on or after January 1, 2014. This change is similar to the change in Items 15 and 34.

Item 46 amends the implementation sentence for rule 701—58.11(15E,422).

Item 47 amends subrule 70.12(1) to provide for changes in the renewable energy tax credit for Iowa replacement tax. This change is similar to the changes in Items 17, 18, 36 and 37.

Item 48 amends the implementation sentence for rule 701—70.12(437A).

There are two substantive changes to the amendments published under Notice of Intended Action. Items 24 and 43, which provided examples for the E-15 plus promotion tax credit, did not account for the change in the tax credit rate provided in 2014 Iowa Acts, Senate File 2344. Item 24, which amends subrule 42.46(1), Example 3, and Item 43, which amends subrule 52.43(1), Example 3, now read as follows:

“ITEM 24. Amend subrule 42.46(1), Example 3, as follows:

“EXAMPLE 3: A taxpayer who is a retail dealer of gasoline has a fiscal year ending February 28, 2018. The taxpayer sold 20,000 gallons of E-15 plus gasoline for the period from March 1, 2017, through February 28, 2018, of which 16,000 gallons were sold between March 1, 2017, and December 31, 2017. Six thousand of these 16,000 gallons were sold between June 1, 2017 and September 15, 2017. The taxpayer is entitled to claim an E-15 plus gasoline promotion tax credit of \$900 (10,000 gallons times 3 cents plus 6,000 gallons times 10 cents) on the taxpayer’s Iowa income tax return for the period ending February 28, 2018.”

“ITEM 43. Amend subrule 52.43(1), Example 3, as follows:

“EXAMPLE 3: A taxpayer who is a retail dealer of gasoline has a fiscal year ending February 28, 2018. The taxpayer sold 20,000 gallons of E-15 plus gasoline for the period from March 1, 2017, through February 28, 2018, of which 16,000 gallons were sold between March 1, 2017, and December 31, 2017. Six thousand of these 16,000 gallons were sold between June 1, 2017 and September 15, 2017. The taxpayer is entitled to claim an E-15 plus gasoline promotion tax credit of \$900 (10,000 gallons times 3 cents plus 6,000 gallons times 10 cents) on the taxpayer’s Iowa income tax return for the period ending February 28, 2018.”

In addition, several nonsubstantive changes have been made for consistency and to correct grammatical errors.

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 and individuals in the state of Iowa.

These amendments are intended to implement Iowa Code section 15E.43 as amended by 2014 Iowa Acts, Senate File 2359; Iowa Code section 422.5 as amended by 2014 Iowa Acts, Senate File 303; Iowa Code section 422.7 as amended by 2014 Iowa Acts, House File 2438 and Senate Files 303 and 2328; Iowa Code section 422.9 as amended by 2014 Iowa Acts, House File 2468; Iowa Code sections 422.11M and 422.11X as amended by 2014 Iowa Acts, Senate File 2328; Iowa Code section 422.11Y as amended by 2014 Iowa Acts, Senate File 2344; Iowa Code section 422.12 as amended by 2014 Iowa Acts, House File 2459; Iowa Code section 422.12C as amended by 2014 Iowa Acts, Senate File 2337; Iowa Code sections 422.12D and 422.12L as amended by 2014 Iowa Acts, House File 2473; Iowa Code section 422.16A as amended by 2014 Iowa Acts, House File 2460; Iowa Code section 422.33 as amended by

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2014 Iowa Acts, House File 2473 and Senate File 2328; Iowa Code section 423.4 as amended by 2014 Iowa Acts, Senate File 2344; Iowa Code section 476C.1 as amended by 2014 Iowa Acts, Senate File 2343; 2014 Iowa Acts, Senate File 2328 and House File 2454; and 2014 Iowa Acts, House File 2468, section 1.

These amendments will become effective November 19, 2014, after filing with the Administrative Rules Coordinator and publication in the Iowa Administrative Bulletin.

The following amendments are adopted.

ITEM 1. Amend rule 701—12.18(423) as follows:

701—12.18(423) Biodiesel production refund. A refund of sales or use tax is available for certain producers of biodiesel for calendar years 2012 to ~~2014~~ 2017.

12.18(1) Qualifications for the refund. A biodiesel producer must meet the following criteria to be eligible for the refund.

a. The producer must be engaged in the manufacture of biodiesel and have registered with the United States Environmental Protection Agency as a manufacturer in accordance with the requirements of 40 CFR Part 79.4.

b. The biodiesel produced must be for use in biodiesel blended fuel in accordance with Iowa Code section 214A.2.

c. The biodiesel must be produced in Iowa.

12.18(2) Calculation of the refund.

a. The refund is calculated by multiplying the total number of gallons produced by the biodiesel producer in this state during each quarter of the calendar year by the following rate:

- (1) For the calendar year 2012, three cents.
- (2) For the calendar year 2013, two and one-half cents.
- (3) For the calendar year ~~2014~~ years 2014 to 2017, two cents.

b. The refund is calculated on the first 25 million gallons of biodiesel produced at each facility during the calendar year. No refund will be allowed on gallons produced in excess of 25 million at a facility during each of the calendar years 2012 to ~~2014~~ 2017. No refund will be allowed for gallons produced at a facility on or after January 1, ~~2015~~ 2018.

12.18(3) Claiming the tax credit. The refund shall be computed after subtracting any amount of sales or use tax imposed and paid upon purchases made by the biodiesel producer. The biodiesel producer must file and report the amount of sales or use tax upon purchases made during each calendar year quarter from 2012 to ~~2014~~ 2017 by filing a quarterly sales or use tax return. The biodiesel producer must then file Form IA 843, Claim for Refund, for each calendar quarter and report all of the following:

- a. The amount of biodiesel produced during the quarter at each facility.
- b. The calculation of the biodiesel production refund.
- c. The amount of sales or use tax paid upon purchases during the quarter.
- d. The amount of biodiesel production refund requested.

EXAMPLE: A biodiesel producer produced 5 million gallons during the first quarter of 2012. The producer owes \$10,000 of Iowa consumers use tax based on purchases made during the first quarter of 2012. The producer will file an Iowa consumers use tax return and report \$10,000 of tax due, but this amount will not be paid with the return. The producer will also file Form IA 843, Claim for Refund, to request a refund of \$140,000 for the first quarter of 2012. This amount is calculated by multiplying 5 million gallons ~~times~~ by three cents, or \$150,000, less the \$10,000 of Iowa consumers use tax due.

This rule is intended to implement Iowa Code section 423.4 as amended by ~~2011~~ 2014 Iowa Acts, Senate Files ~~531 and 533~~ File 2344.

ITEM 2. Amend rule 701—38.13(422), introductory paragraph, as follows:

701—38.13(422) Reciprocal tax agreements. Effective for tax years beginning on or after January 1, 2002, the department of revenue may, when the action has been approved by the general assembly and the governor, and when it is cost-efficient, administratively feasible, and of mutual benefit to Iowa

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and another state, enter into a reciprocal tax agreement with a tax administration agency of the other state. Under this agreement, income earned from personal services in Iowa by residents of the other state will be exempt from Iowa income tax if the other state provides an identical exemption from its state income tax for income earned in the other state from personal services by Iowa residents. For purposes of this rule, “income earned from personal services” includes wages, salaries, commissions, tips, deferred compensation, pensions, and annuities which were earned from personal services in Iowa by a resident of another state that had a reciprocal tax agreement with Iowa at the time the wages, salaries, commissions, tips, deferred compensation, pensions, or annuities were earned. See rule 701—40.45(422) for the treatment of deferred compensation, pensions, or annuities received by a nonresident of Iowa related to the documented retirement of a participant in a deferred compensation plan, a pensioner or an annuitant. The provisions of rule 701—40.45(422) supersede the definition of “income earned from personal services” under any reciprocal agreement as it relates to deferred compensation, pensions, or annuities.

ITEM 3. Amend paragraph **38.13(1)“g”** as follows:

g. For purposes of the agreement, “compensation” means wages, salaries, commissions, tips, deferred compensation, pensions, and annuities and any other remuneration paid for personal services. In the case of deferred compensation, pensions, and annuities, those incomes are deemed to have been earned at the time of employment. Therefore, if an Illinois resident receives a pension or annuity from employment in Iowa at the time the reciprocal agreement was in effect, the pension or annuity income is not taxable to Iowa since it is “compensation” covered by the reciprocal agreement. See rule 701—40.45(422) for the treatment of deferred compensation, pensions, or annuities received by an Illinois resident related to the documented retirement of a participant in a deferred compensation plan, a pensioner or an annuitant. The provisions of rule 701—40.45(422) supersede the definition of “compensation” under the reciprocal agreement with Illinois. “Compensation” does not include unemployment compensation benefits which an Illinois resident receives due to employment in Iowa.

ITEM 4. Amend rule 701—40.3(422) as follows:

701—40.3(422) Interest and dividends from foreign securities, and securities of state and their other political subdivisions. Interest and dividends from foreign securities and from securities of state and their other political subdivisions are to be included in Iowa net income. Certain types of interest and dividends, because of specific exemption, are not includable in income for federal tax purposes. To the extent such income has been excluded for federal income tax purposes, unless the item of income is specifically exempted from state taxation by the laws or constitution of Iowa or of the United States, it must be added to Iowa taxable income.

The following is a noninclusive listing of bonds issued by the state of Iowa and its political subdivisions, interest on which is exempt from both federal and state income taxes.

1. Board of regents: Bonds issued under Iowa Code sections 262.41, 262.51, 262.60, 262A.8, and 263A.6.
2. Urban renewal: Bonds issued under Iowa Code section 403.9(2).
3. Municipal housing law - low-income housing: Bonds issued under Iowa Code section 403A.12.
4. Subdistricts of soil conservation districts, revenue bonds: Bonds issued under Iowa Code section 161A.22.
5. Aviation authorities, revenue bonds: Bonds issued under Iowa Code section 330A.16.
6. Rural water districts: Bonds and notes issued under Iowa Code section 357A.15.
- ~~7. Iowa Alcoholic Beverage Control Act—Warehouse project: Bonds issued under Iowa Code section 123.159.~~
8. ~~7.~~ County health center: Bonds issued under Iowa Code section 331.441(2)“c”(7).
9. ~~8.~~ Iowa finance authority, water pollution control works and drinking water facilities financing: Bonds issued under Iowa Code section 16.131(5).
- ~~10. 9.~~ ~~Agricultural Development Iowa finance~~ authority, beginning farmer loan program: Bonds issued under Iowa Code section ~~175.17(10)~~ 16.64.

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~~41.~~ 10. Iowa finance authority, Iowa comprehensive petroleum underground storage tank fund: Bonds issued under Iowa Code section 455G.6(14).

~~42.~~ 11. Iowa finance authority, E911 program notes and bonds: Bonds issued under Iowa Code section 34A.20(6).

~~43.~~ 12. Quad Cities interstate metropolitan authority bonds: Bonds issued under Iowa Code section 28A.24.

~~44.~~ 13. Prison infrastructure revenue bonds: Bonds issued under Iowa Code sections 12.80(3) and 16.177(8).

~~45.~~ 14. Community college residence halls and dormitories bonds: Bonds issued under Iowa Code section 260C.61.

~~46.~~ 15. Community college bond program bonds: Bonds issued under Iowa Code section 260C.71(6).

~~47.~~ 16. Interstate bridges bonds: Bonds issued under Iowa Code section 313A.36.

~~48.~~ 17. Iowa higher education loan authority: Obligations issued by the authority pursuant to Iowa Code section 261A.27.

~~49.~~ 18. Vision Iowa program: Bonds issued pursuant to Iowa Code section 12.71(8).

~~20.~~ 19. School infrastructure program bonds: Bonds issued under Iowa Code section 12.81(8).

~~21.~~ 20. Honey Creek premier destination park bonds: Bonds issued under Iowa Code section 463C.12(8).

~~22.~~ 21. Iowa utilities board and Iowa consumer advocate building project bonds: Bonds issued under Iowa Code section 12.91(9).

~~23.~~ 22. Iowa jobs program revenue bonds: Bonds issued under Iowa Code section 12.87(8).

Interest from repurchase agreements involving obligations of the type discussed in this rule is subject to Iowa income tax. *Nebraska Department of Revenue v. John Loewenstein*, 513 US 123 (1994). *Everett v. State Dept. of Revenue and Finance*, 470 N.W.2d 13 (Iowa 1991).

For the treatment of interest or dividends from regulated investment companies (mutual funds) that invest in obligations of the type discussed in this rule, see rule 701—40.52(422).

Gains and losses from the sale or other disposition of bonds issued by the state of Iowa or its political subdivisions, as distinguished from interest income, shall be taxable for state income tax purposes.

This rule is intended to implement Iowa Code section 422.7 as amended by ~~2013~~ 2014 Iowa Acts, House File ~~575~~ 2438.

ITEM 5. Amend rule 701—40.47(422), introductory paragraph, as follows:

701—40.47(422) Partial exclusion of pensions and other retirement benefits for disabled individuals, individuals who are 55 years of age or older, surviving spouses, and survivors. For tax years beginning on or after January 1, 1995, an individual who is disabled, is 55 years of age or older, is a surviving spouse, or is a survivor with an insurable interest in an individual who would have qualified for the exclusion is eligible for a partial exclusion of retirement benefits received in the tax year. For tax years beginning on or after January 1, 2001, the partial exclusion of retirement benefits received in the tax year is increased up to a maximum of \$6,000 for a person other than a husband or wife who files a separate state return and up to a maximum of \$12,000 for a husband and wife who file a joint Iowa return. For tax years beginning on or after January 1, 1998, the partial exclusion of retirement benefits received in the tax year was increased up to a maximum of \$5,000 for a person, other than a husband or wife who files a separate state income tax return, and up to a maximum of \$10,000 for a husband and wife who file a joint state income tax return. A husband and wife filing separate state income tax returns or separately on a combined state return are allowed a combined exclusion of retirement benefits of up to a maximum of \$10,000 for tax years beginning in 1998, 1999 and 2000 and a combined exclusion of up to a maximum of \$12,000 for tax years beginning on or after January 1, 2001. The \$10,000 or \$12,000 exclusion shall be allocated to the husband and wife in the proportion that each spouse's respective pension and retirement benefits received bear to the total combined pension and retirement benefits received by both spouses. See rule 701—40.80(422) for the exclusion of military retirement pay for tax years beginning on or after January 1, 2014.

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ITEM 6. Adopt the following new rule 701—40.80(422):

701—40.80(422) Exemption for military retirement pay. For tax years beginning on or after January 1, 2014, retirement pay received by taxpayers from the federal government for military service performed in the armed forces, armed forces reserves, or national guard is exempt from state income tax. In addition, amounts received by a surviving spouse, former spouse, or other beneficiary of a taxpayer who served in the armed forces, armed forces reserves, or national guard under the Survivor Benefit Plan are also exempt from state income tax for tax years beginning on or after January 1, 2014. The retirement pay is only deductible to the extent it is included in the taxpayer's federal adjusted gross income.

40.80(1) Coordination with pension exclusion. The exclusion of retirement pay is in addition to the partial exclusion, provided in rule 701—40.47(422), of pensions and other retirement benefits for disabled individuals, individuals who are 55 years of age or older, surviving spouses and survivors. In addition, taxpayers who receive retirement pay under federal law that combines retirement pay for both uniformed service and the federal civil service retirement system or federal employees' retirement system must prorate the retirement pay based on years of service.

EXAMPLE 1: A married individual who is 60 years of age receives \$20,000 of federal retirement pay from military service and \$30,000 in retirement pay from the Iowa public employees' retirement system during the 2014 tax year. The taxpayer can exclude \$20,000 of military retirement pay and \$12,000 as a pension exclusion under rule 701—40.47(422), for a total exclusion of \$32,000 on the taxpayer's Iowa individual income tax return for the 2014 tax year.

EXAMPLE 2: A single taxpayer who is 65 years of age receives \$60,000 as a federal pension during the 2014 tax year. The taxpayer has 20 years of military service and 27 years of civilian employment with the federal government. The military retirement pay portion is \$25,532 (20 years divided by 47 years multiplied by \$60,000). The taxpayer can exclude \$25,532 of military retirement pay and \$6,000 as a pension exclusion under rule 701—40.47(422), for a total exclusion of \$31,532 on the taxpayer's Iowa individual income tax return for the 2014 tax year.

40.80(2) Coordination with filing threshold and alternate tax. The military retirement pay is excluded from the calculation of income used to determine whether an Iowa income tax return is required to be filed pursuant to 701—subrules 39.1(1) and 39.5(10) through 39.5(13). In addition, the military retirement pay is excluded from the calculation of the special tax computation for all low-income taxpayers except single taxpayers pursuant to rule 701—39.9(422) and is excluded from the calculation of the special tax computation for taxpayers who are 65 years of age or older under rule 701—39.15(422).

40.80(3) Iowa withholding. The amount of military retirement pay is excluded from the calculation of payments used to determine whether Iowa tax should be withheld from pension and annuity payments as determined pursuant to 701—subrule 46.3(4).

This rule is intended to implement Iowa Code sections 422.5 and 422.7 as amended by 2014 Iowa Acts, Senate File 303.

ITEM 7. Amend paragraph **41.3(1)“b”** as follows:

b. Tax paid at any time during the taxable year on a filing of federal estimated tax or on any amendment to such filing. Where a husband and wife file separate Iowa returns or separately on a combined Iowa return, the federal estimated tax payments made in the tax year shall be prorated between the spouses by the ratio of each spouse's income not subject to withholding to the total income not subject to withholding of both spouses, including the federal estimated tax payment made in January of the tax year which was made for the prior tax year. If an estimated tax payment or portion of the payment is made for self-employment tax, then the spouse who has earned the self-employment income shall report the amount of estimated tax designated as self-employment tax. The federal tax deduction for the tax year does not include the self-employment tax paid through the federal estimated payments made in the tax year. In addition, the federal tax deduction does not include the additional .9 percent Medicare tax computed under Section 3101(b)(2) of the Internal Revenue Code for tax years beginning on or after January 1, 2013. However, one-half of the self-employment tax paid in the tax year is deductible in computing federal adjusted gross income pursuant to Section 164(f) of the Internal Revenue Code,

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so this self-employment tax is also deductible in computing net income. If an estimated tax payment or portion of the payment is made for the federal net investment income tax computed under Section 1411 of the Internal Revenue Code for tax years beginning on or after January 1, 2013, see paragraph 41.3(1) "f" on how the federal net income tax should be prorated between spouses.

ITEM 8. Amend subrule 41.5(3) as follows:

41.5(3) Adoption expense deduction. Unreimbursed amounts paid by the taxpayer in the adoption of a child if placed by a licensed agency under Iowa Code chapter 238, by an agency that meets the provisions of the interstate compact in Iowa Code section 232.158 or by a person making an independent placement under Iowa Code chapter 600, which exceed 3 percent of the taxpayer's net income, or the combined net income of a husband and wife in the case of married taxpayers filing a joint return, will be allowed as a deduction in the year paid. Qualifying expenses include all medical, hospital, legal fees, welfare agency fees, and all other costs relating to the adoption of a child. Those expenses claimed for adoption purposes may not be claimed elsewhere on the individual income tax return for tax years beginning before January 1, 2014. For tax years beginning on or after January 1, 2014, an adoption tax credit equal to the first \$2,500 of qualified adoption expenses can be claimed in accordance with rule 701—42.52(422), but the expenses claimed for the credit cannot be allowed as a deduction under this subrule.

EXAMPLE: The Joneses, a married couple whose combined net income for 2014 is \$100,000, incur \$6,000 of qualified adoption expenses and claim a \$2,500 adoption tax credit in accordance with rule 701—42.52(422). The amount of expenses in excess of 3 percent of their combined net income is \$3,000. Since the taxpayers claimed a \$2,500 adoption tax credit, only \$500 of expenses is eligible for the deduction.

ITEM 9. Amend rule **701—41.5(422)**, implementation sentence, as follows:

This rule is intended to implement Iowa Code sections section 422.7 and section 422.9 as amended by 2013 2014 Iowa Acts, Senate House File 406 2468.

ITEM 10. Amend subrule **42.5(1)**, first unnumbered paragraph, as follows:

The nonresident/part-year resident credit is computed on Schedule IA 126. The lines referred to in this subrule are from Schedule IA 126 and Form IA 1040 for the 2008 tax year. Similar lines on the schedule and form may apply for subsequent tax years. The individual's Iowa source net income from lines 1 through 25 of the schedule is totaled on line 26 of the schedule. If the nonresident's Iowa source net income is less than \$1,000, the taxpayer is not subject to Iowa income tax and is not required to file an Iowa income tax return for the tax year. However, if the Iowa source net income amount is \$1,000 or more, the Iowa source net income is then divided by the person's all source net income on line 27 of Schedule IA 126 to determine the percentage of the Iowa net income to all source net income. This Iowa income percentage, which is rounded to the nearest tenth of a percent, is inserted on line 28 of the schedule, and this percentage is then subtracted from 100 percent to arrive at the nonresident/part-year resident credit percentage or the percentage of the individual's total income which was earned outside Iowa. The nonresident/part-year resident credit percentage is entered on line 29 of Schedule IA 126. The Iowa income tax on total income from line 43 of the IA 1040 is entered on line 30 of Schedule IA 126. The total of nonrefundable credits from line 49 of the IA 1040 is then shown on line 31 of Schedule IA 126. The amount on line 31 is subtracted from the amount on line 30₂ which results in the Iowa total tax after nonrefundable credits₂ which is entered on line 32. This Iowa tax-after-credits amount is multiplied by the nonresident/part-year resident credit percentage from line 29 to compute the nonresident/part-year resident credit. The amount of the credit is inserted on line 33 of Schedule IA 126 and on line 51 of the IA 1040.

ITEM 11. Amend subrule **42.5(2)**, second unnumbered paragraph, as follows:

Income earned outside Iowa by the part-year resident during the portion of the year the individual was an Iowa resident is taxable to Iowa and is part of the individual's Iowa source income. To compute the nonresident/part-year resident credit for a part-year resident, the taxpayer's Iowa source income on Schedule IA 126 is totaled. If the Iowa source income is less than \$1,000, the taxpayer is not subject to

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Iowa income tax and is not required to file an Iowa return. If the Iowa source income is \$1,000 or more, it is divided by the taxpayer's all source net income on line 27 of Schedule IA 126. The percentage computed by this procedure is the Iowa income percentage and is entered on line 28 of the Schedule IA 126. The Iowa income percentage, which is rounded to the nearest tenth of a percent, is then subtracted from 100 percent to arrive at the nonresident/part-year resident credit percentage, which is entered on line 29 of Schedule IA 126. The Iowa tax from line 43 of the IA 1040 is then shown on line 30 of Schedule IA 126. The total of the Iowa nonrefundable credits from line 49 of the IA 1040 is entered on line 31 of Schedule IA 126 and is subtracted from the Iowa tax amount on line 30. The tax-after-credits amount on line 32 is next multiplied by the nonresident/part-year resident credit percentage from line 28. The amount calculated from this procedure is the nonresident/part-year resident credit, which is shown on line 33 of Schedule IA 126 and on line 51 of Form IA 1040.

ITEM 12. Amend paragraph **42.6(3)“a”** as follows:

a. The limitation on the tax credit must be computed according to the following formula: Gross income taxed by another state or foreign country that is also taxed by Iowa shall be divided by the total gross income of the Iowa resident taxpayer. This quotient, multiplied by the net Iowa tax as determined on the total gross income of the taxpayer as if entirely earned in Iowa, shall be the maximum tax credit against the Iowa net tax. This quotient shall be computed as a percentage ~~with a minimum of one decimal place~~ rounded to the nearest tenth of a percent. However, if the income tax paid to the other state or foreign country on the gross income taxed by the other state or foreign country is less than the maximum tax credit against the Iowa tax, the out-of-state credit allowed against the Iowa tax may not exceed the income tax paid to the other state or foreign country. The income tax paid to the other state or foreign country is the net state or foreign income tax actually paid for the tax year on the income taxed by the other state or foreign country and not the state or foreign income tax paid during the tax year, such as state income tax or foreign income tax withheld from the income taxed by the other state or foreign country.

ITEM 13. Amend subrule 42.15(1), introductory paragraph, as follows:

42.15(1) *Computation of the Iowa child and dependent care credit.* The Iowa child and dependent care credit is computed as a percentage of the child and dependent care credit which is allowed for federal income tax purposes under Section 21 of the Internal Revenue Code. For taxpayers whose federal child and dependent care credit is limited to their federal tax liability, the Iowa credit shall be computed based on the lesser amount for tax years beginning on or after January 1, 2012, but before January 1, 2015. For tax years beginning on or after January 1, 2015, the Iowa credit is computed without regard to whether or not the federal credit was limited to the taxpayer's federal tax liability. In addition, for tax years beginning on or after January 1, 2015, the Iowa credit will be allowed even if the taxpayer's adjusted gross income is below \$0. The credit is computed so that taxpayers with lower adjusted gross incomes (net incomes in tax years beginning on or after January 1, 1991) are allowed higher percentages of their federal child care credit than taxpayers with higher adjusted gross incomes (net incomes). The following is a schedule showing the percentages of federal child and dependent care credits allowed on the taxpayers' Iowa returns on the basis of the federal adjusted gross incomes (or net incomes) of the taxpayers for tax years beginning on or after January 1, 1993.

ITEM 14. Amend rule ~~701—42.15(422)~~, implementation sentence, as follows:

This rule is intended to implement Iowa Code section 422.12C as amended by 2014 Iowa Acts, Senate File 2337.

ITEM 15. Amend subrule **42.22(1)**, first unnumbered paragraph, as follows:

The department of revenue will be notified by the Iowa capital investment board or the economic development authority when the tax credit certificates are issued. The credit is equal to 20 percent of the taxpayer's equity investment in a qualifying business or community-based seed capital fund. An investment shall be deemed to have been made on the same date as the date of acquisition of the equity interest as determined by the Internal Revenue Code. A For investments made prior to January 1, 2014, a taxpayer shall not claim the tax credit prior to the third tax year following the tax year in which the investment is made. For investments made in qualifying businesses on or after January 1, 2014, the credit

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can be claimed in the year of the investment. However, for investments made in qualifying businesses during the 2014 calendar year, the credit cannot be redeemed prior to January 1, 2016. For example, if an individual taxpayer whose tax year ends on December 31, 2012, makes an equity investment during the 2012 calendar year, the individual taxpayer cannot claim the tax credit until the tax year ending December 31, 2015. However, if the taxpayer dies prior to redeeming the tax credit, the remaining tax credit may be redeemed on the decedent's final income tax return. For fiscal years beginning July 1, 2011, the amount of tax credits authorized cannot exceed \$2 million. The tax credit certificate must be ~~attached to~~ included with the taxpayer's return for the tax year in which the credit may be redeemed as stated on the tax credit certificate.

ITEM 16. Amend rule ~~701—42.22(15E,422)~~, implementation sentence, as follows:

This rule is intended to implement Iowa Code sections ~~45E.43~~, 15E.51, 15E.52, 15E.66, 422.11F, and 422.11G and section ~~45E.52~~ 15E.43 as amended by ~~2013~~ 2014 Iowa Acts, ~~House File 615~~ Senate File 2359.

ITEM 17. Amend subrule 42.28(1), introductory paragraph, as follows:

42.28(1) *Application and review process for the renewable energy tax credit.* A producer or purchaser of a renewable energy facility must be approved by the Iowa utilities board in order to qualify for the renewable energy credit. The eligible renewable energy facility can be a wind energy conversion facility, biogas recovery facility, biomass conversion facility, methane gas recovery facility, solar energy conversion facility or refuse conversion facility. The facility must be located in Iowa and placed in service on or after July 1, 2005, and before January 1, ~~2015~~ 2017.

ITEM 18. Amend subrule 42.28(2), introductory paragraph and last unnumbered paragraph, as follows:

42.28(2) *Computation of the credit.* The renewable energy tax credit equals 1½ cents per kilowatt-hour of electricity, or 44 cents per 1000 standard cubic feet of hydrogen fuel, or \$4.50 per 1 million British thermal units of methane gas or other biogas used to generate electricity, or \$4.50 per 1 million British thermal units of heat for a commercial purpose generated by and purchased from an eligible renewable energy facility or used for on-site consumption by the producer during the tax year. For the first tax year in which the credit is applied, the kilowatt-hours, standard cubic feet or British thermal units generated by and purchased from the facility or used for on-site consumption by the producer may exceed 12 months if the facility was operational for fewer than 12 months in its initial year of operation.

To claim the tax credit, the taxpayer must ~~attach~~ include the tax credit certificate ~~to~~ with the tax return for the tax period set forth on the certificate. Any tax credit in excess of the tax liability may be carried forward for seven years or until it is used, whichever is the earlier.

ITEM 19. Amend rule ~~701—42.28(422,476C)~~, implementation sentence, as follows:

This rule is intended to implement Iowa Code section 422.11J and Iowa Code chapter 476C as amended by ~~2011~~ 2014 Iowa Acts, ~~House~~ Senate File ~~672~~ 2343.

ITEM 20. Amend rule 701—42.36(175,422) as follows:

701—42.36(175 16,422) *Agricultural assets transfer tax credit and custom farming contract tax credit.*

42.36(1) *Agricultural assets transfer tax credit.* For tax years beginning on or after January 1, 2007, but before January 1, 2013, an owner of agricultural assets that rents assets to qualified beginning farmers may claim an agricultural assets transfer tax credit for Iowa individual income tax equal to 5 percent of the rental income received by the owner for cash rental agreements and 15 percent of the rental income received by the owner for commodity share agreements. Effective for tax years beginning on or after January 1, 2013, an owner of agricultural assets that rents assets to qualified beginning farmers may claim an agricultural assets transfer tax credit for Iowa individual income tax equal to 7 percent of the rental income received by the owner for cash rental agreements and 17 percent of the rental income received by the owner for commodity share agreements.

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Also effective for tax years beginning on or after January 1, 2013, if the beginning farmer is a veteran, the credit is equal to 8 percent of the rental income received by the owner for cash rental agreements, and the credit is equal to 18 percent of the rental income received by the owner for commodity share agreements for the first year that the credit is allowed. However, the taxpayer may only claim 7 percent of the rental income for cash rental agreements and 17 percent of the rental income for commodity share agreements in subsequent years if the agreement is renewed or a new agreement is executed by the same parties. The administrative rules for the agricultural assets transfer tax credit for the Iowa ~~agricultural development~~ finance authority may be found under ~~25—Chapter 6 265—Chapter 44~~.

To qualify for the tax credit, an owner of agricultural assets must enter into a lease or rental agreement with a beginning farmer for a term of at least two years, but not more than five years. Both the owner of agricultural assets and the beginning farmer must meet certain qualifications set forth by the Iowa ~~agricultural development~~ finance authority, and the beginning farmer must be eligible to receive financial assistance under Iowa Code section ~~175.12 16.75~~.

The Iowa ~~agricultural development~~ finance authority will issue a tax credit certificate to the owner of agricultural assets which will include the name, address and tax identification number of the owner, the amount of the credit, and the tax period for which the credit may be applied. To claim the tax credit, the owner must ~~attach~~ include the tax credit certificate to with the tax return for the tax period set forth on the certificate. The tax credit certificates will be issued on a first-come, first-served basis. For fiscal years beginning on or after July 1, 2009, but before July 1, 2013, the amount of tax credit certificates issued by the Iowa agricultural development authority for the agricultural assets transfer tax credit program cannot exceed \$6 million. For fiscal years beginning on or after July 1, 2013, the amount of the tax credit certificates issued by the Iowa ~~agricultural development~~ finance authority for the agricultural assets transfer tax credit program cannot exceed \$8 million and the amount of the credit issued to an individual taxpayer cannot exceed \$50,000. However, effective December 31, 2017, the amount of tax credits issued by the Iowa finance authority for the agricultural assets transfer tax credit shall revert back to \$6 million.

Any credit in excess of the tax liability for the tax year may be credited to the tax liability for the following five years or until used, whichever is the earlier. However, for any agricultural assets transfer tax credits originally issued for tax years beginning on or after January 1, 2008, any credit in excess of the tax liability may be credited to the tax liability for the following ten years. The tax credit shall not be carried back to a tax year prior to the year in which the owner redeems the credit. The credit is not transferable to any other person other than the taxpayer's estate or trust upon the death of the taxpayer.

If an owner of agricultural assets is a partnership, limited liability company, S corporation, or an estate or trust electing to have the income taxed directly to the individual, an individual may claim the credit. The amount claimed by an individual must be based on the individual's pro-rata share of the individual's earnings of the partnership, limited liability company, S corporation, or estate or trust.

The lease or rental agreement may be terminated by either the owner or the beginning farmer. If the ~~agricultural development~~ Iowa finance authority determines that the owner is not at fault for the termination, the authority will not issue a tax credit certificate for subsequent years, but any prior tax credit certificates issued will be allowed. If the Iowa finance authority determines that the owner is at fault for the termination, any prior tax credit certificates will be disallowed. The amount of tax credits previously allowed will be recaptured, and the owner will be required to repay the entire amount of tax credits previously claimed on Iowa returns.

42.36(2) Custom farming contract tax credit. Effective for tax years beginning on or after January 1, 2013, a landowner that hires a beginning farmer to custom farm agricultural land in this state may claim a custom farming contract tax credit for Iowa individual income tax. The credit is equal to 7 percent of the value of the contract. If the beginning farmer is a veteran, the credit is equal to 8 percent of the value of the contract for the first year. However, the taxpayer may only claim 7 percent of the value of the contract in subsequent years if the agreement is renewed or a new agreement is executed by the same parties. The administrative rules for the custom farming contract tax credit for the Iowa ~~agricultural development~~ finance authority may be found under ~~25—Chapter 6 265—Chapter 44~~.

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To qualify for the tax credit, the taxpayer must enter into a lease or rental agreement with a beginning farmer for a term of at least two years but not more than five years. Both the taxpayer and the beginning farmer must meet certain qualifications set forth by the Iowa ~~agricultural development~~ finance authority, and the beginning farmer must be eligible to receive financial assistance under Iowa Code section ~~175.12~~ 16.75.

The Iowa ~~agricultural development~~ finance authority will issue a tax credit certificate to the taxpayer which will include the name, address and tax identification number of the owner, the amount of the credit, and the tax period for which the credit may be applied. To claim the tax credit, the owner must ~~attach~~ include the tax credit certificate ~~to~~ with the tax return for the tax period set forth on the certificate. For fiscal years beginning on or after July 1, 2013, the amount of tax credit certificates issued by the Iowa ~~agricultural development~~ finance authority for the custom farming contract tax credit program cannot exceed \$4 million, and the credit certificates will be issued on a first-come, first-served basis. The amount of the credit issued to an individual taxpayer cannot exceed \$50,000. However, effective December 31, 2017, the Iowa finance authority will no longer issue custom farming contract tax credits.

Any credit in excess of the tax liability for the tax year may be credited to the tax liability for the following ~~five~~ ten years or until used, whichever is the earlier. The tax credit shall not be carried back to a tax year prior to the year in which the owner redeems the credit. The credit is not transferable to any other person other than the taxpayer's estate or trust upon the death of the taxpayer.

If the party entering into the custom farming contract with the beginning farmer is a partnership, limited liability company, S corporation, or an estate or trust electing to have the income taxed directly to the individual, an individual may claim the credit. The amount claimed by an individual must be based on the individual's pro-rata share of the individual's earnings of the partnership, limited liability company, S corporation, or estate or trust.

The custom farming contract may be terminated by either the taxpayer or the beginning farmer. If the ~~agricultural development~~ Iowa finance authority determines that the taxpayer is not at fault for the termination, the authority will not issue a tax credit certificate for subsequent years, but any prior tax credit certificates issued will be allowed. If the Iowa finance authority determines that the taxpayer is at fault for the termination, any prior tax credit certificates will be disallowed. The amount of tax credits previously allowed will be recaptured, and the taxpayer will be required to repay the entire amount of tax credits previously claimed on Iowa returns.

This rule is intended to implement Iowa Code section ~~175.37~~ as amended by 2013 Iowa Acts, House File 599, sections 8 to 17; 2013 Iowa Acts, House File 599, sections 7, 18 and 19; and Iowa Code section 422.11M as amended by 2013 Iowa Acts, House File 599, section 20; 2014 Iowa Acts, Senate File 2328, sections 60 and 61, as amended by 2014 Iowa Acts, House File 2454; and 2014 Iowa Acts, Senate File 2328, sections 120 and 122.

ITEM 21. Amend rule 701—42.43(16,422), introductory paragraph, as follows:

701—42.43(16,422) Disaster recovery housing project tax credit. For tax years beginning on or after January 1, 2011, but before January 1, 2015, a disaster recovery housing project tax credit is available for individual income tax. The credit is equal to 75 percent of the taxpayer's qualifying investment in a disaster recovery housing project, and is administered by the Iowa finance authority. Qualifying investments are costs incurred on or after May 12, 2009, and prior to July 1, 2010, related to a disaster recovery housing project. Eligible properties must have applied for and received an allocation of federal low-income housing tax credits under Section 42 of the Internal Revenue Code to be eligible for the tax credit. The tax credit is repealed effective January 1, 2015.

ITEM 22. Amend rule **701—42.43(16,422)**, implementation sentence, as follows:

This rule is intended to implement Iowa Code ~~Supplement~~ sections 16.211, 16.212 and 422.11X as amended by 2014 Iowa Acts, Senate File 2328.

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ITEM 23. Amend rule 701—42.46(422), introductory paragraph, as follows:

701—42.46(422) E-15 plus gasoline promotion tax credit. Effective for eligible gallons sold on or after July 1, 2011, a retail dealer of gasoline may claim an E-15 plus gasoline promotion tax credit. “E-15 plus gasoline” means ethanol blended gasoline formulated with a minimum percentage of between 15 percent and 69 percent of volume of ethanol, if the formulation meets the standards provided in Iowa Code section 214A.2. For purposes of this rule, tank wagon sales are considered retail sales. The credit is calculated on Form IA138. The tax credit is calculated by multiplying the total number of E-15 plus gallons sold by the retail dealer during the tax year by the following designated rates:

Gallons sold from July 1, 2011, through December 31, 2014 <u>2013</u>	3 cents
Gallons sold from January 1, 2015 , through December 31, 2017 <u>May 31 and from September 16 through December 31 for the</u> <u>2014-2017 calendar years</u>	2 <u>3</u> cents
<u>Gallons sold from June 1 through September 15 for the 2014-2017</u> <u>calendar years</u>	<u>10 cents</u>

ITEM 24. Amend subrule **42.46(1)**, Example 3, as follows:

EXAMPLE 3: A taxpayer who is a retail dealer of gasoline has a fiscal year ending February 28, 2018. The taxpayer sold 20,000 gallons of E-15 plus gasoline for the period from March 1, 2017, through February 28, 2018, of which 16,000 gallons were sold between March 1, 2017, and December 31, 2017. Six thousand of these 16,000 gallons were sold between June 1, 2017, and September 15, 2017. The taxpayer is entitled to claim an E-15 plus gasoline promotion tax credit of ~~\$320~~ \$900 (~~16,000~~ 10,000 gallons times ~~2~~ 3 cents plus 6,000 gallons times 10 cents) on the taxpayer’s Iowa income tax return for the period ending February 28, 2018.

ITEM 25. Amend rule **701—42.46(422)**, implementation sentence, as follows:

This rule is intended to implement ~~2011 Iowa Acts, Senate File 531, section 35, Iowa Code section 422.11Y~~ as amended by 2014 Iowa Acts, Senate File 533, sections 63 to 65 2344.

ITEM 26. Amend rule 701—42.49(422) as follows:

701—42.49(422) Volunteer fire fighter, and volunteer emergency medical services personnel and reserve peace officer tax credit. Effective for tax years beginning on or after January 1, 2013, a tax credit is available for individual income tax for volunteer fire fighters and volunteer emergency medical services (EMS) personnel. Effective for tax years beginning on or after January 1, 2014, a tax credit is available for individual income tax for reserve peace officers.

42.49(1) Definitions. The following definitions are applicable to this rule:

“Emergency medical services personnel” or “EMS personnel” means an emergency medical care provider, as defined in Iowa Code section 147A.1, who is certified as a first responder in accordance with Iowa Code chapter 147A. For tax years beginning on or after January 1, 2014, “emergency medical services personnel” or “EMS personnel” also includes an individual who is a paid employee of an emergency medical services program and who is also a volunteer emergency medical services personnel in a city, county or area governed by an agreement pursuant to Iowa Code chapter 28E.

“Reserve peace officer” means a reserve peace officer as defined in Iowa Code section 80D.1A who has met the minimum state training standards established by the Iowa law enforcement academy in accordance with Iowa Code chapter 80D.

“Volunteer fire fighter” means a volunteer fire fighter, as defined in Iowa Code section 85.61, who has met the minimum training standards established by the fire service training bureau pursuant to Iowa Code chapter 100B. For tax years beginning on or after January 1, 2014, “volunteer fire fighter” means an individual who is an active member of an organized volunteer fire department in Iowa or is performing services as a volunteer fire fighter for a municipality, township or benefited fire district at the request of the chief or other person in command and who has met the minimum training standards established by the fire service training bureau pursuant to Iowa Code chapter 100B. For tax years beginning on or

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after January 1, 2014, a volunteer fire fighter also includes an individual who is a paid employee of a fire department and who is also a volunteer fire fighter in a city, county or area governed by an agreement pursuant to Iowa Code chapter 28E.

42.49(2) Calculation of the credit.

a. The credit is equal to \$50 for the tax year beginning January 1, 2013, if the volunteer fire fighter or volunteer EMS personnel was a volunteer for the entire year. The credit is equal to \$100 for tax years beginning on or after January 1, 2014, if the volunteer fire fighter, volunteer EMS personnel or reserve peace officer was a volunteer for the entire year.

b. If the individual was not a volunteer fire fighter or volunteer EMS personnel for the entire 2013 calendar year, the \$50 credit is prorated based on the number of months the individual was a volunteer. Beginning in the 2014 calendar year, if the individual was not a volunteer fire fighter, volunteer EMS personnel or reserve peace officer for the entire year, the \$100 credit is prorated based on the number of months the individual was a volunteer. If the individual was a volunteer during any part of a month, the individual will be considered a volunteer for the entire month. The amount of credit will be rounded to the nearest dollar.

EXAMPLE: An individual became a volunteer fire fighter on April 15, 2013, and remained a volunteer for the rest of calendar year 2013. The individual is considered a volunteer for nine months of 2013. The tax credit for 2013 is equal to \$38 (\$50 multiplied by 9/12 equals \$37.50; rounding to the nearest dollar results in a \$38 credit).

c. If an individual is both a volunteer fire fighter and a volunteer EMS personnel during the same month, a credit can be claimed for only one volunteer position for that month. Therefore, if an individual was both a volunteer fire fighter and volunteer EMS personnel for all of 2013, the tax credit will equal \$50. In addition, beginning in calendar year 2014, if a reserve peace officer is also either a volunteer fire fighter or a volunteer EMS personnel, a credit can be claimed for only one volunteer position for that month.

42.49(3) Verification of eligibility for the tax credit. An individual is required to have a written statement from the fire chief or other appropriate supervisor verifying that the individual was a volunteer fire fighter or volunteer EMS personnel for the months for which the tax credit is being claimed. Beginning with the 2014 tax year, an individual who is a reserve peace officer must have a written statement from the chief of police, sheriff, commissioner of public safety, or other appropriate supervisor verifying that the individual was a reserve peace officer for the months for which the tax credit is being claimed. The written statement does not have to be attached to a tax return claiming the credit. However, the individual may be requested to provide the written statement upon request by the department.

This rule is intended to implement Iowa Code section 422.12 as amended by ~~2012~~ 2014 Iowa Acts, Senate House File ~~2322~~ 2459.

ITEM 27. Amend rule 701—42.50(422) as follows:

701—42.50(422) Taxpayers trust fund tax credit. For tax years beginning on or after January 1, 2013, a taxpayers trust fund tax credit is available for Iowa individual income tax. The credit is available for all individual income tax filers, including residents, nonresidents and part-year residents of Iowa, and individuals who file as part of a composite return as described in rule 701—48.1(422), as long as the Iowa return is filed within the extended due date to file an Iowa return. Therefore, a fiscal-year filer whose tax year does not begin on January 1 is eligible to claim the taxpayers trust fund tax credit as long as the return is filed within the extended due date of the Iowa return.

42.50(1) Calculation of the amount of tax credit. The credit is calculated by taking the amount in the Iowa taxpayers trust fund and dividing it by the number of individual income taxpayers who filed Iowa returns by October 31 of the year preceding the year in which the credit is allowed.

EXAMPLE: There is \$120 million in the Iowa taxpayers trust fund at the end of the fiscal year ending June 30, 2013. There were ~~2,150,000~~ 2,200,000 individuals who filed Iowa income tax returns by October 31, 2013, for tax years beginning on or after January 1, 2012, but beginning before January 1, 2013. This results in an Iowa taxpayers trust fund tax credit of ~~\$55~~ \$54 for the tax year beginning

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on or after January 1, 2013, but beginning before January 1, 2014 (\$120,000,000 divided by ~~2,150,000~~ 2,200,000 equals ~~\$55.81~~ \$54.55, which is rounded down to the nearest whole dollar). All taxpayers who file their Iowa individual income tax return by October 31, 2014, for the tax period beginning on or after January 1, 2013, but beginning before January 1, 2014, will be entitled to claim a ~~\$55~~ \$54 Iowa taxpayers trust fund tax credit.

If the amount of Iowa taxpayers trust fund tax credits claimed on tax returns for a particular year is less than the amount authorized, the difference will be transferred to the Iowa taxpayers trust fund for the next year and will be available as an Iowa taxpayers trust fund tax credit for the next year. There must be a balance in the Iowa taxpayers trust fund of at least \$30 million in order for the Iowa taxpayers trust fund tax credit to be available.

EXAMPLE: There is \$120 million in the Iowa taxpayers trust fund at the end of the fiscal year ending June 30, 2013. The total amount of Iowa taxpayers trust fund tax credit claimed on Iowa tax returns for tax years beginning on or after January 1, 2013, but beginning before January 1, 2014, which were filed on or before October 31, 2014, is \$90 million. The difference of \$30 million will be transferred to the Iowa taxpayers trust fund for the fiscal year ending June 30, 2014. The legislature approves an additional \$60 million to be deposited in the Iowa taxpayers trust fund for the fiscal year ending June 30, 2014. This will result in \$90 million in the Iowa taxpayers trust fund for the fiscal year ending June 30, 2014. If ~~2,150,000~~ 2,200,000 individuals file Iowa individual income tax returns for tax years beginning on or after January 1, 2013, but beginning before January 1, 2014, by October 31, 2014, this will result in a ~~\$41~~ \$40 Iowa taxpayers trust fund tax credit for the tax year beginning on or after January 1, 2014, but beginning before January 1, 2015 (\$90,000,000 divided by ~~2,150,000~~ 2,200,000 equals ~~\$41.86~~ \$40.90, which is rounded down to the nearest whole dollar).

42.50(2) Claiming the credit on the tax return. The Iowa taxpayers trust fund is claimed on the amount of Iowa tax computed after all other nonrefundable credits allowed in division II of Iowa Code chapter 422 (excluding the Iowa taxpayers trust fund tax credit) are deducted, after the amount of school district surtax described in rule 701—42.1(257,422) and emergency medical services income surtax described in rule 701—42.2(422D) is added, and after all refundable credits (excluding estimated payments and tax withheld) allowed in division II of Iowa Code chapter 422 are deducted. Any Iowa taxpayers trust fund tax credit in excess of the tax liability is not refundable and shall not be carried back to the tax year prior to the tax year in which the credit is claimed and cannot be carried forward to a tax year for any following year.

EXAMPLE: A taxpayer reported a tax liability of \$100 on the taxpayer's 2013 Iowa income tax return. The taxpayer claimed a \$40 personal exemption credit and a \$25 franchise tax credit. This resulted in tax due of \$35 before applying the school district surtax. Taxpayer was subject to a \$2 school district surtax which resulted in total tax due of \$37. Taxpayer was entitled to claim a ~~\$55~~ \$54 Iowa taxpayers trust fund tax credit, but only \$37 of credit could be applied on the 2013 Iowa return. The remaining ~~\$18~~ \$17 of credit cannot be refunded, cannot be applied to a prior year tax liability, and cannot be carried forward to be applied to a subsequent year tax liability.

This rule is intended to implement ~~2013 Iowa Acts, Senate File 295, section 43~~ Iowa Code section 422.11E.

ITEM 28. Adopt the following **new** rule 701—42.52(422):

701—42.52(422) Adoption tax credit. Effective for tax years beginning on or after January 1, 2014, an adoption tax credit is available for individual income tax equal to the amount of qualified adoption expenses paid or incurred by a taxpayer related to the adoption of a child during the tax year, not to exceed \$2,500 per adoption.

42.52(1) Definitions. The following definitions are applicable to this rule:

“*Adoption*” means the permanent placement in Iowa of a child by the department of human services, by a licensed agency under Iowa Code chapter 238, by an agency that meets the provision of the interstate compact in Iowa Code section 232.158, or by a person making an independent placement according to the provisions of Iowa Code chapter 600.

“*Child*” means an individual who is under the age of 18 years.

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“*Qualified adoption expenses*” means unreimbursed expenses paid or incurred in connection with the adoption of a child, including medical and hospital expenses of the biological mother which are incident to the child’s birth, welfare agency fees, legal fees, and all other fees and costs related to the adoption of a child. Expenses which are eligible for the federal adoption credit as provided in Section 23(d)(1) of the Internal Revenue Code will be considered qualified adoption expenses. Expenses paid or incurred in violation of state or federal law are not qualified adoption expenses.

42.52(2) Claiming the credit. The first \$2,500 of qualified adoption expenses is eligible for the credit. If the qualified adoption expenses are less than \$2,500, then the total amount of qualified expenses can be claimed as a credit. Any credit in excess of the taxpayer’s tax liability is refundable. In lieu of claiming the refund, the taxpayer may elect to have the overpayment credited to the tax liability for the following tax year. The amount of tax credit claimed cannot be used as an itemized deduction for adoption expenses provided in 701—subrule 41.5(3).

This rule is intended to implement 2014 Iowa Acts, House File 2468.

ITEM 29. Amend rule **701—43.4(68A,422,456A)**, implementation sentence, as follows:

This rule is intended to implement Iowa Code sections 422.12D, 422.12E, ~~and 422.12H, 422.12K and 422.12L~~ and ~~2012~~ 2014 Iowa Acts, ~~Senate House File 2325~~ 2473.

ITEM 30. Amend rule 701—46.6(422) as follows:

701—46.6(422) Withholding tax credit to workforce development fund. Upon payment in full of a certificate of participation or other obligation issued to fund a job training program under Iowa Code chapter 260E, the community college which provided the training is to notify the ~~Iowa department of economic development authority~~ of the amount paid by the employer or business to the community college during the previous 12 months. The ~~Iowa department of economic development authority~~ is to notify the department of revenue of this amount. The department is to credit 25 percent of this amount to the workforce development fund in each quarter for the next ten years from the withholding tax paid by the employer or business. If the withholding tax paid by the employer or business for a quarter is not sufficient to cover the sum to be credited to the workforce development fund, the sum to be credited is to be reduced accordingly. The aggregate amount from all employers to be transferred to the workforce development fund in a year is not to exceed \$4 million for fiscal years beginning on or after July 1, 2001, but before July 1, 2014. The aggregate amount is not to exceed \$5,750,000 for the fiscal year beginning July 1, 2014, and the aggregate amount is not to exceed \$6,000,000 for fiscal years beginning on or after July 1, 2015.

This rule is intended to implement Iowa Code section 422.16A as amended by 2014 Iowa Acts, House File 2460.

ITEM 31. Adopt the following **new** subrule 49.7(4):

49.7(4) Accrual of interest on an assessment of additional tax. If the taxpayer has not elected to have an overpayment credited to an installment other than the first installment, interest shall accrue on an assessment of additional tax as follows: If the overpayment was credited to the first installment, interest on an assessment of additional tax shall accrue from the due date of the return. If the overpayment was credited to an installment due after the overpayment arose, interest shall accrue from the date the return was filed. Interest on that portion of an assessment greater than the overpayment shall accrue from the due date of the return.

If the taxpayer has elected to have an overpayment of estimated tax credited to an installment other than the first installment, interest shall accrue on any assessment of additional tax up to the amount of the overpayment from the date the return was filed with the department. Interest on any assessment of additional tax greater than the amount of the overpayment shall accrue from the due date of the return, *Avon Products, Inc. v. United States*, 588 F.2d 342 (2nd Cir. 1978), Revenue Ruling 84-58.

ITEM 32. Amend rule **701—49.7(422)**, implementation sentence, as follows:

This rule is intended to implement Iowa Code ~~section 421.17, subsections 21A and 21B, and section 422.16.~~

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ITEM 33. Amend paragraph **52.1(5)“b”** as follows:

b. No adjustment is made to the above amounts for either 50 percent of federal income tax or Iowa corporation income tax deducted in computing the federal net income of the S corporation for tax years beginning prior to January 1, 2008, and for tax years beginning on or after January 1, 2014. The 50 percent of federal income tax and Iowa corporation income tax deducted in computing federal net income are adjustments to the Iowa net income which flows through to the shareholders for tax years beginning prior to January 1, 2008, and for tax years beginning on or after January 1, 2014. For tax years beginning on or after January 1, 2008, but before January 1, 2014, an adjustment is made to the above amounts for either 50 percent of federal income tax or Iowa corporation income tax deducted in computing the federal net income of the S corporation.

ITEM 34. Amend subrule **52.21(1)**, first unnumbered paragraph, as follows:

The department of revenue will be notified by the Iowa capital investment board or the economic development authority when the tax credit certificates are issued. The credit is equal to 20 percent of the taxpayer's equity investment in a qualifying business or community-based seed capital fund. An investment shall be deemed to have been made on the same date as the date of acquisition of the equity interest as determined by the Internal Revenue Code. A For investments made prior to January 1, 2014, a taxpayer shall not claim the tax credit prior to the third tax year following the tax year in which the investment is made. For investments made in qualifying businesses on or after January 1, 2014, the credit can be claimed in the year of the investment, but these investments cannot be redeemed prior to January 1, 2016. For example, if a corporation taxpayer whose tax year ends on December 31, 2012, makes an equity investment during the 2012 calendar year, the corporation taxpayer cannot claim the tax credit until the tax year ending December 31, 2015. For fiscal years beginning July 1, 2011, the amount of tax credits authorized cannot exceed \$2 million. The tax credit certificate must be ~~attached to~~ included with the taxpayer's return for the tax year in which the credit may be redeemed as stated on the tax credit certificate.

ITEM 35. Amend rule **701—52.21(15E,422)**, implementation sentence, as follows:

This rule is intended to implement Iowa Code sections 15E.42, ~~15E.43~~ 15E.52, 15E.66, and 422.33 and section ~~15E.22~~ 15E.43 as amended by ~~2013~~ 2014 Iowa Acts, ~~House File 615~~ Senate File 2359.

ITEM 36. Amend subrule 52.27(1), introductory paragraph, as follows:

52.27(1) *Application and review process for the renewable energy tax credit.* A producer or purchaser of a renewable energy facility must be approved by the Iowa utilities board in order to qualify for the renewable energy credit. The eligible renewable energy facility can be a wind energy conversion facility, biogas recovery facility, biomass conversion facility, methane gas recovery facility, solar energy conversion facility or refuse conversion facility. The facility must be located in Iowa and placed in service on or after July 1, 2005, and before January 1, ~~2015~~ 2017.

ITEM 37. Amend subrule 52.27(2), introductory paragraph and last unnumbered paragraph, as follows:

52.27(2) *Computation of the credit.* The renewable energy tax credit equals 1½ cents per kilowatt-hour of electricity, or 44 cents per 1000 standard cubic feet of hydrogen fuel, or \$4.50 per 1 million British thermal units of methane gas or other biogas used to generate electricity, or \$4.50 per 1 million British thermal units of heat for a commercial purpose generated by and purchased from an eligible renewable energy facility or used for on-site consumption by the producer during the tax year. For the first tax year in which the credit is applied, the kilowatt-hours, standard cubic feet or British thermal units generated by and purchased from the facility or used for on-site consumption by the producer may exceed 12 months if the facility was operational for fewer than 12 months in its initial year of operation.

To claim the tax credit, the taxpayer must ~~attach~~ include the tax credit certificate ~~to~~ with the tax return for the tax period set forth on the certificate. Any tax credit in excess of the tax liability may be carried forward for seven years or until it is used, whichever is the earlier.

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ITEM 38. Amend rule **701—52.27(422,476C)**, implementation sentence, as follows:

This rule is intended to implement Iowa Code section 422.33 and chapter 476C as amended by ~~2011~~ 2014 Iowa Acts, House Senate File 672 2343.

ITEM 39. Amend rule 701—52.33(175,422) as follows:

701—52.33(175 16,422) Agricultural assets transfer tax credit and custom farming contract tax credit.

52.33(1) Agricultural assets transfer tax credit. For tax years beginning on or after January 1, 2007, but before January 1, 2013, an owner of agricultural assets that rents assets to qualified beginning farmers may claim an agricultural assets transfer tax credit for Iowa corporation income tax equal to 5 percent of the rental income received by the owner for cash rental agreements and 15 percent of the rental income received by the owner for commodity share agreements. Effective for tax years beginning on or after January 1, 2013, an owner of agricultural assets that rents assets to qualified beginning farmers may claim an agricultural assets transfer tax credit for Iowa corporation income tax equal to 7 percent of the rental income received by the owner for cash rental agreements and 17 percent of the rental income received by the owner for commodity share agreements.

Also effective for tax years beginning on or after January 1, 2013, if the beginning farmer is a veteran, the credit is equal to 8 percent of the rental income received by the owner for cash rental agreements, and the credit is equal to 18 percent of the rental income received by the owner for commodity share agreements for the first year that the credit is allowed. However, the taxpayer may only claim 7 percent of the rental income for cash rental agreements and 17 percent of the rental income for commodity share agreements in subsequent years if the agreement is renewed or a new agreement is executed by the same parties. The administrative rules for the agricultural assets transfer tax credit for the Iowa ~~agricultural development finance~~ authority may be found under ~~25—Chapter 6 265—Chapter 44~~.

To qualify for the tax credit, an owner of agricultural assets must enter into a lease or rental agreement with a beginning farmer for a term of at least two years but not more than five years. Both the owner of agricultural assets and the beginning farmer must meet certain qualifications set forth by the Iowa ~~agricultural development finance~~ authority, and the beginning farmer must be eligible to receive financial assistance under Iowa Code section ~~475.42 16.75~~.

The Iowa ~~agricultural development finance~~ authority will issue a tax credit certificate to the owner of agricultural assets which will include the name, address and tax identification number of the owner, the amount of the credit, and the tax period for which the credit may be applied. To claim the tax credit, the owner must ~~attach~~ include the tax credit certificate ~~to~~ with the tax return for the tax period set forth on the certificate. The tax credit certificates will be issued on a first-come, first-served basis. For fiscal years beginning on or after July 1, 2009, but before July 1, 2013, the amount of tax credit certificates issued by the Iowa agricultural development authority for the agricultural assets transfer tax credit program cannot exceed \$6 million. For fiscal years beginning on or after July 1, 2013, the amount of tax credit certificates issued by the Iowa ~~agricultural development finance~~ authority for the agricultural assets transfer tax credit program cannot exceed \$8 million and the amount of the credit issued to an individual taxpayer cannot exceed \$50,000. However, effective December 31, 2017, the amount of tax credits issued by the Iowa finance authority for the agricultural assets transfer tax credit shall revert back to \$6 million.

Any credit in excess of the tax liability for the tax year may be credited to the tax liability for the following five years or until used, whichever is the earlier. However, for any agricultural assets transfer credits originally issued for tax years beginning on or after January 1, 2008, any credit in excess of the tax liability may be credited to the tax liability for the following ten years. The tax credit shall not be carried back to a tax year prior to the year in which the owner redeems the credit. The credit is not transferable to any other person other than the taxpayer's estate or trust upon the death of the taxpayer.

If an owner of agricultural assets is a partnership, limited liability company, S corporation, or an estate or trust electing to have the income taxed directly to the individual, an individual may claim the credit. The amount claimed by an individual must be based on the individual's pro-rata share of the individual's earnings of the partnership, limited liability company, S corporation, or estate or trust.

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The lease or rental agreement may be terminated by either the owner or the beginning farmer. If the ~~agricultural development~~ Iowa finance authority determines that the owner is not at fault for the termination, the authority will not issue a tax credit certificate for subsequent years, but any prior tax credit certificates issued will be allowed. If the Iowa finance authority determines that the owner is at fault for the termination, any prior tax credit certificates will be disallowed. The amount of tax credits previously allowed will be recaptured, and the owner will be required to repay the entire amount of tax credits previously claimed on Iowa returns.

52.33(2) Custom farming contract tax credit. Effective for tax years beginning on or after January 1, 2013, a landowner that hires a beginning farmer to custom farm agricultural land in this state may claim a custom farming contract tax credit for Iowa ~~individual~~ corporation income tax. The credit is equal to 7 percent of the value of the contract. If the beginning farmer is a veteran, the credit is equal to 8 percent of the value of the contract for the first year. However, the taxpayer may only claim 7 percent of the value of the contract in subsequent years if the agreement is renewed or a new agreement is executed by the same parties. The administrative rules for the custom farming contract tax credit for the Iowa ~~agricultural development~~ finance authority may be found under ~~25—Chapter 6~~ 265—Chapter 44.

To qualify for the tax credit, the taxpayer must enter into a lease or rental agreement with a beginning farmer for a term of at least two years but not more than five years. Both the taxpayer and the beginning farmer must meet certain qualifications set forth by the Iowa ~~agricultural development~~ finance authority, and the beginning farmer must be eligible to receive financial assistance under Iowa Code section ~~175.12~~ 16.75.

The Iowa ~~agricultural development~~ finance authority will issue a tax credit certificate to the taxpayer which will include the name, address and tax identification number of the owner, the amount of the credit, and the tax period for which the credit may be applied. To claim the tax credit, the owner must ~~attach~~ include the tax credit certificate ~~to~~ with the tax return for the tax period set forth on the certificate. For fiscal years beginning on or after July 1, 2013, the amount of tax credit certificates issued by the Iowa ~~agricultural development~~ finance authority for the custom farming contract tax credit program cannot exceed \$4 million, and the credit certificates will be issued on a first-come, first-served basis. The amount of the credit issued to an individual taxpayer cannot exceed \$50,000. However, effective December 31, 2017, the Iowa finance authority will no longer issue custom farming contract tax credits.

Any credit in excess of the tax liability for the tax year may be credited to the tax liability for the following ~~five~~ ten years or until used, whichever is the earlier. The tax credit shall not be carried back to a tax year prior to the year in which the owner redeems the credit. The credit is not transferable to any other person other than the taxpayer's estate or trust upon the death of the taxpayer.

If the party entering into the custom farming contract with the beginning farmer is a partnership, limited liability company, S corporation, or an estate or trust electing to have the income taxed directly to the individual, an individual may claim the credit. The amount claimed by an individual must be based on the individual's pro-rata share of the individual's earnings of the partnership, limited liability company, S corporation, or estate or trust.

The custom farming contract may be terminated by either the taxpayer or the beginning farmer. If the ~~agricultural development~~ Iowa finance authority determines that the taxpayer is not at fault for the termination, the authority will not issue a tax credit certificate for subsequent years, but any prior tax credit certificates issued will be allowed. If the Iowa finance authority determines that the taxpayer is at fault for the termination, any prior tax credit certificates will be disallowed. The amount of tax credits previously allowed will be recaptured, and the taxpayer will be required to repay the entire amount of tax credits previously claimed on Iowa returns.

This rule is intended to implement Iowa Code section ~~175.37~~ as amended by 2013 Iowa Acts, House File 599, sections 8 to 17; 2013 Iowa Acts, House File 599, sections 7, 18 and 19; and Iowa Code section 422.33 as amended by 2013 Iowa Acts, House File 599, section 21; 2014 Iowa Acts, Senate File 2328, sections 60 and 61, as amended by 2014 Iowa Acts, House File 2454; and 2014 Iowa Acts, Senate File 2328, sections 120 and 122.

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ITEM 40. Amend rule 701—52.42(16,422), introductory paragraph, as follows:

701—52.42(16,422) Disaster recovery housing project tax credit. For tax years beginning on or after January 1, 2011, but before January 1, 2015, a disaster recovery housing project tax credit is available for corporation income tax. The credit is equal to 75 percent of the taxpayer's qualifying investment in a disaster recovery housing project, and is administered by the Iowa finance authority. Qualifying investments are costs incurred on or after May 12, 2009, and prior to July 1, 2010, related to a disaster recovery housing project. Eligible properties must have applied for and received an allocation of federal low-income housing tax credits under Section 42 of the Internal Revenue Code to be eligible for the tax credit. The administrative rules of the Iowa finance authority for the disaster recovery housing project tax credit may be found at 265—Chapter 34. The tax credit is repealed effective January 1, 2015.

ITEM 41. Amend rule **701—52.42(16,422)**, implementation sentence, as follows:

This rule is intended to implement Iowa Code Supplement sections 16.211, and 16.212 and Iowa Code section 422.33 as amended by 2009 2014 Iowa Acts, Senate File 457 2328.

ITEM 42. Amend rule 701—52.43(422), introductory paragraph, as follows:

701—52.43(422) E-15 plus gasoline promotion tax credit. Effective for eligible gallons sold on or after July 1, 2011, a retail dealer of gasoline may claim an E-15 plus gasoline promotion tax credit. "E-15 plus gasoline" means ethanol blended gasoline formulated with a minimum percentage of between 15 percent and 69 percent of volume of ethanol, if the formulation meets the standards provided in Iowa Code section 214A.2. For purposes of this rule, tank wagon sales are considered retail sales. The credit is calculated on Form IA138. The tax credit is calculated by multiplying the total number of E-15 plus gallons sold by the retail dealer during the tax year by the following designated rates:

Gallons sold from July 1, 2011, through December 31, 2014 <u>2013</u>	3 cents
Gallons sold from January 1, 2015 , through December 31, 2017 <u>May 31 and from September 16 through December 31 for the</u> <u>2014-2017 calendar years</u>	2 <u>3</u> cents
<u>Gallons sold from June 1 through September 15 for the 2014-2017</u> <u>calendar years</u>	<u>10 cents</u>

ITEM 43. Amend subrule **52.43(1)**, Example 3, as follows:

EXAMPLE 3: A taxpayer who is a retail dealer of gasoline has a fiscal year ending February 28, 2018. The taxpayer sold 20,000 gallons of E-15 plus gasoline for the period from March 1, 2017, through February 28, 2018, of which 16,000 gallons were sold between March 1, 2017, and December 31, 2017. Six thousand of these 16,000 gallons were sold between June 1, 2017, and September 15, 2017. The taxpayer is entitled to claim an E-15 plus gasoline promotion tax credit of ~~\$320~~ \$900 (~~16,000~~ 10,000 gallons times ~~2~~ 3 cents plus 6,000 gallons times 10 cents) on the taxpayer's Iowa income tax return for the period ending February 28, 2018.

ITEM 44. Amend rule **701—52.43(422)**, implementation sentence, as follows:

This rule is intended to implement Iowa Code section 422.33 ~~as amended by 2011~~ and 2014 Iowa Acts, Senate File ~~531~~ 2344.

ITEM 45. Amend subrule **58.11(1)**, first unnumbered paragraph, as follows:

The department of revenue will be notified by the Iowa capital investment board or the economic development authority when the tax credit certificates are issued. The credit is equal to 20 percent of the taxpayer's equity investment in a qualifying business or community-based seed capital fund. An investment shall be deemed to have been made on the same date as the date of acquisition of the equity interest as determined by the Internal Revenue Code. A For investments made prior to January 1, 2014, a taxpayer shall not claim the tax credit prior to the third tax year following the tax year in which the investment is made. For investments made in qualifying businesses on or after January 1, 2014, the credit can be claimed in the year of the investment, but these investments cannot be redeemed prior to

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January 1, 2016. For example, if a franchise taxpayer whose tax year ends on December 31, 2012, makes an equity investment during the 2012 calendar year, the franchise taxpayer cannot claim the tax credit until the tax year ending December 31, 2015. For fiscal years beginning July 1, 2011, the amount of tax credits authorized cannot exceed \$2 million. The tax credit certificate must be ~~attached to~~ included with the taxpayer's return for the tax year in which the credit may be redeemed as stated on the tax credit certificate.

ITEM 46. Amend rule **701—58.11(15E,422)**, implementation sentence, as follows:

This rule is intended to implement Iowa Code ~~section 15E.66~~; sections 15E.42, ~~15E.43~~ 15E.66 and 422.60 and section 15E.43 as amended by ~~2011~~ 2014 Iowa Acts, Senate File ~~517~~ 2359; ~~and 2011 Iowa Acts, Senate File 517, section 40.~~

ITEM 47. Amend subrule 70.12(1) as follows:

70.12(1) A person in possession of a renewable energy tax credit certificate issued pursuant to Iowa Code chapter 476C or a wind energy tax credit issued pursuant to Iowa Code chapter 476B ~~as amended by 2008 Iowa Acts, Senate File 2405~~, may apply to the director for a reimbursement of the amount of taxes imposed and paid by the person pursuant to Iowa Code chapter 437A in an amount not more than the person received in renewable energy tax credit certificates or wind energy tax credit certificates. To obtain the reimbursement, the person shall ~~attach to~~ include with the return required under Iowa Code section 437A.8 the renewable energy tax credit certificates or the wind energy tax credit certificates and provide any other information the director may require. The director shall direct that a warrant be issued to the person for an amount equal to the tax imposed and paid by the person. Any credit in excess of the person's tax liability may be claimed as a refund for the following seven years. Pursuant to Iowa Code section 437A.14, a taxpayer may file a claim for refund with the director within three years after the replacement tax became due. If the renewable energy or wind energy tax credit claim exceeds the replacement tax due in a year, the taxpayer has seven years to carry over the excess credit. Pursuant to Iowa Code section 476C.4(6), a person may not receive both a renewable energy tax credit and a wind energy tax credit. The For the wind energy tax credit, the reimbursement applies to a qualified facility placed in service on or after July 1, 2005, but before July 1, 2012. For the renewable energy tax credit, the reimbursement applies to a qualified facility placed in service on or after July 1, 2005, but before January 1, 2017. The utilities board shall notify the department of revenue of the amount of kilowatt hours of electricity purchased from a renewable energy facility or the amount of kilowatt hours generated and purchased from a qualified wind energy facility or generated and used on site by the qualified wind energy facility. The department of revenue shall calculate the amount of the tax credit and issue the tax credit certificate. Wind energy and renewable energy tax credit certificates may be transferred, and a replacement tax credit certificate may reflect a different type of tax than the type of tax noted on the original tax credit certificate.

ITEM 48. Amend rule **701—70.12(437A)**, implementation sentence, as follows:

This rule is intended to implement Iowa Code ~~section sections 437A.17B, chapter and 437A.17C and chapters 476B as amended by 2008 Iowa Acts, Senate File 2405; section 437A.17C and chapter 476D as amended by 2008 Iowa Acts, Senate File 572; and chapter 476C as amended by 2014 Iowa Acts, Senate File 2343.~~

[Filed 9/24/14, effective 11/19/14]

[Published 10/15/14]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 10/15/14.

ARC 1666C

REVENUE DEPARTMENT[701]

Adopted and Filed

Pursuant to the authority of Iowa Code sections 421.14 and 422.68, the Department of Revenue hereby adopts amendments to Chapter 42, "Adjustments to Computed Tax and Tax Credits," Chapter 52, "Filing Returns, Payment of Tax, Penalty and Interest, and Tax Credits," and Chapter 58, "Filing Returns, Payment of Tax, Penalty and Interest, and Tax Credits," Iowa Administrative Code.

Notice of Intended Action was published in IAB Vol. XXXVII, No. 4, p. 257, on August 20, 2014, as **ARC 1589C**.

Item 1 amends rule 701—42.48(422) to reflect changes to the solar energy system tax credit for systems installed during tax years beginning on or after January 1, 2014, for individual income tax.

Item 2 amends rule 701—52.44(422) to reflect changes to the solar energy system tax credit for systems installed during tax years beginning on or after January 1, 2014, for corporation income tax. This is similar to the change in Item 1.

Item 3 amends Chapter 58 by adding new rule 701—58.22(422) to provide for the solar energy system tax credit for franchise tax for systems installed during tax years beginning on or after January 1, 2014.

These amendments are identical to those published under Notice of Intended Action.

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 and individuals in the state of Iowa.

These amendments are intended to implement Iowa Code section 422.11L as amended by 2014 Iowa Acts, Senate File 2340 and House File 2473; section 422.33 as amended by 2014 Iowa Acts, House File 2473; and section 422.60 as amended by 2014 Iowa Acts, House Files 2438 and 2473.

These amendments will become effective November 19, 2014, after filing with the Administrative Rules Coordinator and publication in the Iowa Administrative Bulletin.

The following amendments are adopted.

ITEM 1. Amend rule 701—42.48(422) as follows:

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 for systems installed during tax years beginning on or after January 1, 2012, but before January 1, 2014. 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.

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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 are allowed for installations that are completed and the federal energy tax credits for solar energy systems are ~~currently~~ allowed for installations that are placed in service on or before December 31, 2016 before January 1, 2014. Therefore, the Iowa tax credit will be available for the 2012 to 2016 tax years for systems placed in service 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 residential energy efficient tax credit on the 2011 federal return due to an installation of a solar energy system that was placed in service 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 placed in service before January 1, 2012.

42.48(3) *Calculation of credit for systems installed during tax years beginning on or after January 1, 2014, but before January 1, 2017.* The credit is equal to the sum of the following federal tax credits:

a. Sixty percent of the federal residential energy property credit provided in Section 25D(a)(1) of the Internal Revenue Code.

b. Sixty percent of the federal residential energy property credit provided in Section 25D(a)(2) of the Internal Revenue Code.

c. Sixty percent of the federal energy credit provided in Section 48(a)(2)(A)(i)(II) of the Internal Revenue Code.

d. Sixty 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(3)“*a*” and “*b*” cannot exceed \$5,000 for a tax year. The amount of tax credit claimed by a taxpayer related to paragraphs 42.48(3)“*c*” and “*d*” cannot exceed \$20,000 for a tax year.

The federal residential energy efficient tax credits are allowed for installations that are completed on or before December 31, 2016, and the federal energy tax credits for solar energy systems are allowed for installations that are placed in service on or before December 31, 2016. Therefore, the Iowa tax credit is available for installations that are either completed or placed in service before January 1, 2017. If the federal residential energy property tax credits or the federal energy credits are extended to installations completed or placed in service on or after January 1, 2017, the Iowa tax credit will also be extended.

42.48(3) 42.48(4) *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~~ and 2013. The \$1.5 million cap also includes the solar energy system tax credits provided in rule 701—52.44(422) for corporation income tax. No more than \$4.5 million of tax credits for solar energy systems is allowed for each of the tax years 2014 to 2016. The \$4.5 million cap does not include any dollars allocated to a previous tax year that roll over to the 2015 and 2016 tax years. The \$4.5 million cap also includes the solar energy system tax credits provided in rule 701—52.44(422) for corporation income tax and in rule 701—58.22(422) for franchise tax. Credits will be reserved Awards of tax credits are made on a first-come, first-served basis. At least \$1 million of the \$4.5 million cap for the 2014 to 2016 tax years is reserved for residential installations. If the total amount of credits for residential installations for a tax year is less than \$1 million, the remaining amount below \$1 million will be allowed for nonresidential installations. If the \$4.5 million cap for the 2014 and 2015 tax years is not reached, the remaining amount below \$4.5 million will be allowed to be carried forward to the following tax year and shall not count toward the cap for that year.

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a. A taxpayer may claim one tax credit for each separate and distinct solar installation. In order for an installation to be considered a separate and distinct solar installation, both of the following factors must be met:

(1) Each installation must be eligible for the federal residential energy property credit or the federal energy credit as provided in subrule 42.48(3).

(2) Each installation must have separate metering.

a. b. In order to reserve request the tax credit, a taxpayer must complete an application for the solar energy tax credit for each separate and distinct installation. For installations completed on or after January 1, 2014, the application must be filed by May 1 following the year of installation of the solar energy system. 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) The kilowatt capacity of the solar energy system.

(4) Copies of invoices or other documents showing the cost of the solar energy system.

(5) Amount of federal income tax credit for the solar energy system.

(6) Amount of Iowa tax credit to be reserved requested.

(7) For nonresidential installations, a completion sheet from a local utility company verifying that the system has been placed in service. If a completion sheet is not available from the local utility company, a statement shall be provided that is similar to the one required to be attached to federal Form 3468 when claiming the federal energy credit and that specifies the date the system was placed in service.

b. c. If the application is approved, the department will send a letter to the taxpayer reserving including 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 Credits 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 include with 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 for 2012 and 2013 and the \$4.5 million available for 2014 to 2016, the applications will be prioritized by the date the department received the applications. If the number of applications exceeds the \$1.5 or \$4.5 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 \$4.5 million cap of tax credit is reached for 2016, no applications in excess of the \$1.5 \$4.5 million cap will be carried over to the next year, assuming there is no extension of the federal credit.

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 \$4.5 million cap had already been reached for 2016, no tax credit will be allowed for the 2017 tax year, assuming there is no extension of the federal credit.

e. d. A taxpayer who is eligible to receive a renewable energy tax credit provided in rule 701—42.28(422,476C) is not eligible for the solar energy system tax credit.

42.48(4) 42.48(5) 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

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single tax year installations placed in service in tax years 2012 and 2013 and \$20,000 for installations placed in service in tax years 2014 to 2016.

This rule is intended to implement ~~2012 Iowa Acts, Senate File 2342, section 7~~ Iowa Code section 422.11L as amended by 2014 Iowa Acts, Senate File 2340, and 2014 Iowa Acts, House File 2473, section 77.

ITEM 2. Amend rule 701—52.44(422) as follows:

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:

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 for systems installed during tax years beginning on or after January 1, 2012, but before January 1, 2014. 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 credits for solar energy systems ~~is currently~~ are allowed for installations that are placed in service ~~on or before December 31, 2016~~ before January 1, 2014. ~~Therefore, the Iowa tax credit will be available for the 2012 to 2016 tax years for systems placed in service on or before December 31, 2016.~~ The solar energy system must be placed in service 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 placed in service 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 placed in service before January 1, 2012.

52.44(3) Calculation of credit for systems installed during tax years beginning on or after January 1, 2014, but before January 1, 2017. The credit is equal to the sum of the following federal tax credits:

a. Sixty percent of the federal energy credit provided in Section 48(a)(2)(A)(i)(II) of the Internal Revenue Code.

b. Sixty 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(3)“*a*” and “*b*” cannot exceed \$20,000 for a tax year.

The federal energy tax credit for solar energy systems is allowed for installations that are placed in service on or before December 31, 2016. Therefore, the Iowa tax credit is available for installations placed in service before January 1, 2017. If the federal energy tax credit is extended to installations placed in service on or after January 1, 2017, the Iowa credit will also be extended.

52.44(3) 52.44(4) 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~~ and 2013. The \$1.5 million cap also includes the solar energy system tax credits provided in rule 701—42.48(422) for individual income tax.

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No more than \$4.5 million of tax credits for solar energy systems is allowed for each of the tax years 2014 to 2016. The \$4.5 million cap does not include any dollars allocated to a previous tax year that roll over to the 2015 and 2016 tax years. The \$4.5 million cap also includes the solar energy system tax credits provided in rule 701—42.48(422) for individual income tax and in rule 701—58.22(422) for franchise tax. ~~Credits will be reserved~~ Awards are made on a first-come, first-served basis. At least \$1 million of the \$4.5 million cap for the 2014 to 2016 tax years is reserved for residential installations. If the total amount of credits for residential installations for a tax year is less than \$1 million, the remaining amount below \$1 million will be allowed for nonresidential installations. If the \$4.5 million cap for the 2014 and 2015 tax years is not reached, the remaining amount below \$4.5 million will be allowed to be carried forward to the following tax year and shall not count toward the cap for that tax year.

~~a.~~ a. A taxpayer may claim one tax credit for each separate and distinct solar installation. In order for an installation to be considered a separate and distinct solar installation, both of the following factors must be met:

- (1) Each installation must be eligible for the federal energy credit as provided in subrule 52.44(3).
- (2) Each installation must have separate metering.

~~a. b.~~ b. In order to ~~reserve~~ request the tax credit, a taxpayer must complete an application for the solar energy tax credit for each separate and distinct installation. For installations completed on or after January 1, 2014, the application must be filed by May 1 following the year of installation of the solar energy system. 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) The kilowatt capacity of the solar energy system.
- ~~(3)~~ (4) Copies of invoices or other documents showing the cost of the solar energy system.
- (4) ~~(5)~~ Amount of federal income tax credit for the solar energy system.
- ~~(5)~~ (6) Amount of Iowa tax credit ~~to be reserved~~ requested.

(7) A completion sheet from a local utility company verifying that the system has been placed in service. If a completion sheet is not available from the local utility company, a statement shall be provided that is similar to the one required to be attached to federal Form 3468 when claiming the federal energy credit and that specifies the date the system was placed in service.

~~b. c.~~ c. If the application is approved, the department will send a letter to the taxpayer ~~reserving~~ including 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~~ Credits 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~~ include federal Form 3468, Investment Credit, ~~to with~~ 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 for 2012 and 2013 and the \$4.5 million available for 2014 to 2016, the applications will be prioritized by the date the department received the applications. If the number of applications exceeds the \$1.5 or \$4.5 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~~ \$4.5 million cap of tax credit is reached for 2016, no applications in excess of the ~~\$1.5~~ \$4.5 million cap will be carried over to the next year, assuming there is no extension of the federal credit.

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~~ \$4.5 million cap had already been reached for 2016, no tax credit will be allowed for the 2017 tax year, assuming there is no extension of the federal credit.

~~e. d.~~ d. A taxpayer who is eligible to receive a renewable energy tax credit provided in rule 701—52.27(422,476C) is not eligible for the solar energy system tax credit.

REVENUE DEPARTMENT[701](cont'd)

~~52.44(4)~~ **52.44(5)** *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 installations placed in service in tax years 2012 and 2013 and \$20,000 for installations placed in service in tax years 2014 to 2016.

This rule is intended to implement Iowa Code section 422.33 as amended by ~~2012~~ 2014 Iowa Acts, ~~Senate House File 2342~~ 2473, section 8 76.

ITEM 3. Adopt the following **new** rule 701—58.22(422):

701—58.22(422) Solar energy system tax credit. Effective for installations placed in service during tax years beginning on or after January 1, 2014, a solar energy system tax credit for financial institutions is available for business property located in Iowa. For information on property eligible for the credit, the calculation of the credit and applying for the credit, see rule 701—52.44(422).

This rule is intended to implement Iowa Code section 422.60 as amended by 2014 Iowa Acts, House File 2438, section 27, and 2014 Iowa Acts, House File 2473, section 78.

[Filed 9/24/14, effective 11/19/14]

[Published 10/15/14]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 10/15/14.

ARC 1664C

REVENUE DEPARTMENT[701]

Adopted and Filed

Pursuant to the authority of Iowa Code sections 17A.3 and 421.14, the Department of Revenue hereby amends Chapter 231, "Exemptions Primarily of Benefit to Consumers," Iowa Administrative Code.

The rules in Chapter 231 implement the sales and use tax, as required under the Streamlined Sales and Use Tax Agreement. This amendment clarifies examples of candy subject to sales and use tax as candy.

Notice of Intended Action was published in IAB Vol. XXXVII, No. 2, p. 103, on July 23, 2014, as **ARC 1544C**. No comments were received from the public. The following change has been made to the amendment published under Notice of Intended Action:

In paragraph 231.4(2)"b," the examples of nontaxable items now include "prepared fruit in a sugar or similar base." Former subrule 231.4(2) included "prepared fruit in a sugar or similar base" as an example of a nontaxable item, and that item was inadvertently omitted from the Notice of Intended Action.

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

This amendment is intended to implement Iowa Code section 423.3(57)"b."

This amendment will become effective on November 19, 2014.

The following amendment is adopted.

Rescind subrule 231.4(2) and adopt the following **new** subrule in lieu thereof:

231.4(2) Nonexclusive examples.

a. Taxable candy. Examples of items taxable as candy include, but are not limited to: preparations of fruits, nuts, or other ingredients in combination with sugar, honey, or other natural or artificial sweeteners in the form of bars, drops, or pieces; caramel-coated or other candy-coated apples or other fruit; candy-coated popcorn; hard or soft candies including jellybeans, taffy, licorice not containing flour, marshmallows, and mints; dried fruit leathers or other similar products prepared with natural or artificial sweeteners; candy breath mints; chewing gum; and mixes of candy pieces.

REVENUE DEPARTMENT[701](cont'd)

Sales of items which are normally sold for use as ingredients in recipes but which can be eaten as candy are taxable on and after July 1, 2004. Examples of these items include, but are not limited to: sweetened baking chocolate in bars or pieces; white and dark chocolate almond bark; toffee bits; M&M's, including those sold for baking; candy primarily intended for decorating baked goods; and sweetened baking chips, including mint chips, peanut butter chips, butterscotch chips, and chocolate chips.

b. Nontaxable items. Sales of the following are generally not taxable as candy: jams, jellies, preserves, or syrups; frostings; dried fruits without added sweetener; breakfast cereals; prepared fruit in a sugar or similar base; ice cream or other frozen desserts covered with chocolate or similar coverings; cotton candy; cakes, cookies, and similar products covered with chocolate or other similar coating; and granola bars. However, these and similar items are taxable if sold as prepared food under rule 701—231.5(423).

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