



# IOWA ADMINISTRATIVE BULLETIN

Published Biweekly

VOLUME XXXVI  
November 13, 2013

NUMBER 10  
Pages 1217 to 1290

## CONTENTS IN THIS ISSUE

Pages 1225 to 1290 include ARC 1165C to ARC 1186C

### AGING, DEPARTMENT ON[17]

Filed, Senior internship program—name change to older American community service employment program, amendments to ch 10 ARC 1172C ..... 1251

### AGRICULTURE AND LAND STEWARDSHIP DEPARTMENT[21]

Notice, Trichomoniasis testing of bulls brought into Iowa, 65.4(3)“c” ARC 1179C .... 1225

### ALL AGENCIES

Agency identification numbers ..... 1223  
Citation of administrative rules ..... 1219  
Schedule for rule making ..... 1220

### ECONOMIC DEVELOPMENT AUTHORITY[261]

Filed, Reinvestment districts program, ch 200 ARC 1175C ..... 1253

### EDUCATIONAL EXAMINERS BOARD[282]

EDUCATION DEPARTMENT[281]“umbrella”

Notice, Substitute teacher license— in-state and out-of-state graduates required to pass Iowa-mandated assessment(s), 13.16(1) ARC 1182C ..... 1225

Notice, International exchange license, 13.17(3) ARC 1181C ..... 1226

Notice, Iowa jobs for America’s graduates (iJAG) authorization, 22.7 ARC 1180C ..... 1227

Filed, Out-of-state applicants for Iowa licensure—provision of valid or expired license with application, 13.3, 13.17(1) ARC 1166C ..... 1264

Filed, Master educator license—degree from regionally accredited college or university, 13.8 ARC 1168C ..... 1265

Filed, Engineering and STEM endorsements, 13.28(31), 13.28(32), 17.1(3) ARC 1171C ..... 1265

Filed, Superintendent/AEA administrator—demonstration of required experience, 18.10 ARC 1167C ..... 1269

Filed, Prohibited conduct between licensees and former students, 25.3(1) ARC 1170C ..... 1270

### ENVIRONMENTAL PROTECTION COMMISSION[567]

NATURAL RESOURCES DEPARTMENT[561]“umbrella”

Notice, Storm water permits—notice of intent, transfer agreements, 64.6, 64.15 ARC 1176C ..... 1229

Notice, Onsite wastewater assistance program, 93.3(1), 93.4(1) ARC 1177C ..... 1231

### HUMAN SERVICES DEPARTMENT[441]

Notice, Autism support program, ch 22 ARC 1184C ..... 1232

Notice, Medicaid coverage for transplants, 78.1(20)“a” ARC 1185C ..... 1238

Notice, Healthy and well kids in Iowa (HAWK-I) program, amendments to ch 86 ARC 1183C ..... 1239

Filed, Mental health and disability services—regional service system, amendments to ch 25 ARC 1173C ..... 1271

**INSURANCE DIVISION[191]**

COMMERCE DEPARTMENT[181]"umbrella"

- Notice, Credit for reinsurance—update of  
cross references, 5.33 **ARC 1178C** . . . . . 1241
- Filed, Burial sites and cemeteries, rescind  
ch 18; adopt ch 140 **ARC 1186C** . . . . . 1285

**NURSING BOARD[655]**

PUBLIC HEALTH DEPARTMENT[641]"umbrella"

- Filed, Purchase of or access to rosters of  
licensees, 11.5 **ARC 1174C** . . . . . 1289

**PHARMACY BOARD[657]**

PUBLIC HEALTH DEPARTMENT[641]"umbrella"

- Amended Notice, Drug product selection,  
6.9(8)"b," 6.11 **ARC 1165C** . . . . . 1243

**PUBLIC HEARINGS**

- Summarized list . . . . . 1221

**USURY**

- Notice . . . . . 1243

**UTILITIES DIVISION[199]**

COMMERCE DEPARTMENT[181]"umbrella"

- Notice, Natural gas and electric safety  
standards; compressed natural gas  
providers, 10.12(1), 10.17, 15.10(1),  
19.2(5), 19.5(2), 19.14, 20.5(2), 25.2,  
25.3(5), 45.1 **ARC 1169C** . . . . . 1244

## PREFACE

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

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

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

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

STEPHANIE A. HOFF, Administrative Code Editor

Telephone: (515)281-3355

Fax: (515)281-5534

### CITATION of Administrative Rules

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

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

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

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

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

## Schedule for Rule Making 2013

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

### PRINTING SCHEDULE FOR IAB

<u>ISSUE NUMBER</u>	<u>SUBMISSION DEADLINE</u>	<u>ISSUE DATE</u>
12	Wednesday, November 20, 2013	December 11, 2013
13	Wednesday, December 4, 2013	December 25, 2013
14	Wednesday, December 18, 2013	January 8, 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\*\*\***

**EDUCATIONAL EXAMINERS BOARD[282]**

Substitute teacher license—in-state and out-of-state graduates required to pass Iowa-mandated assessment(s), 13.16(1) IAB 11/13/13 <b>ARC 1182C</b>	Room 3 Southwest, Third Floor Grimes State Office Bldg. Des Moines, Iowa	December 4, 2013 1 p.m.
International exchange license, 13.17(3) IAB 11/13/13 <b>ARC 1181C</b>	Room 3 Southwest, Third Floor Grimes State Office Bldg. Des Moines, Iowa	December 4, 2013 1 p.m.
Iowa jobs for America's graduates (iJAG) authorization, 22.7 IAB 11/13/13 <b>ARC 1180C</b>	Room 3 Southwest, Third Floor Grimes State Office Bldg. Des Moines, Iowa	December 4, 2013 1 p.m.

**ENVIRONMENTAL PROTECTION COMMISSION[567]**

Storm water permits—notice of intent, transfer agreements, 64.6, 64.15 IAB 11/13/13 <b>ARC 1176C</b>	5E Conference Room Wallace State Office Bldg. Des Moines, Iowa	December 12, 2013 9 a.m.
Onsite wastewater assistance program, 93.3(1), 93.4(1) IAB 11/13/13 <b>ARC 1177C</b>	5E Conference Room Wallace State Office Bldg. Des Moines, Iowa	December 4, 2013 3:30 to 5:30 p.m.

**INSURANCE DIVISION[191]**

Credit for reinsurance—update of cross references, 5.33 IAB 11/13/13 <b>ARC 1178C</b>	Conference Room 4 North Two Ruan Center, 4th Floor 601 Locust St. Des Moines, Iowa	December 4, 2013 10 a.m.
--	---	-----------------------------

**LABOR SERVICES DIVISION[875]**

Bidder preferences in government contracting, ch 156 IAB 10/30/13 <b>ARC 1160C</b>	Capitol View Room 1000 East Grand Ave. Des Moines, Iowa	November 20, 2013 2 p.m. (If requested)
---	---	---

**PHARMACY BOARD[657]**

Drug product selection, 6.9(8)“b,” 6.11 IAB 11/13/13 <b>ARC 1165C</b> [See <b>ARC 1041C</b> , IAB 10/2/13]	Conference Room, Suite E 400 SW 8th St. Des Moines, Iowa	December 17, 2013 1 p.m.
--	--	-----------------------------

**PROFESSIONAL LICENSURE DIVISION[645]**

Mortuary science—funeral director duties, record keeping, internship, preceptorship, licensure by endorsement, 100.1, 100.2, 100.11, 101.5, 101.8 IAB 10/30/13 <b>ARC 1163C</b>	Conference Room 513 Lucas State Office Bldg. Des Moines, Iowa	November 19, 2013 8 to 8:30 a.m.
Mortuary science—disposition of remains, renewal notices, 100.10(3), 101.10(1), 101.13(2) IAB 10/30/13 <b>ARC 1164C</b>	Conference Room 513 Lucas State Office Bldg. Des Moines, Iowa	November 19, 2013 8:30 to 9 a.m.

**UTILITIES DIVISION[199]**

Natural gas and electric safety standards; compressed natural gas providers, 10.12(1), 10.17, 15.10(1), 19.2(5), 19.5(2), 19.14, 20.5(2), 25.2, 25.3(5), 45.1  
IAB 11/13/13 **ARC 1169C**

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

December 18, 2013  
9:30 a.m.

The following list will be updated as changes occur.

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

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

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

ADMINISTRATIVE SERVICES DEPARTMENT[11]  
AGING, DEPARTMENT ON[17]  
AGRICULTURE AND LAND STEWARDSHIP DEPARTMENT[21]  
    Soil Conservation Division[27]  
ATTORNEY GENERAL[61]  
AUDITOR OF STATE[81]  
BEEF INDUSTRY COUNCIL, IOWA[101]  
BLIND, DEPARTMENT FOR THE[111]  
CAPITAL INVESTMENT BOARD, IOWA[123]  
CITIZENS’ AIDE[141]  
CIVIL RIGHTS COMMISSION[161]  
COMMERCE DEPARTMENT[181]  
    Alcoholic Beverages Division[185]  
    Banking Division[187]  
    Credit Union Division[189]  
    Insurance Division[191]  
    Professional Licensing and Regulation Bureau[193]  
        Accountancy Examining Board[193A]  
        Architectural Examining Board[193B]  
        Engineering and Land Surveying Examining Board[193C]  
        Landscape Architectural Examining Board[193D]  
        Real Estate Commission[193E]  
        Real Estate Appraiser Examining Board[193F]  
        Interior Design Examining Board[193G]  
    Utilities Division[199]  
CORRECTIONS DEPARTMENT[201]  
    Parole Board[205]  
CULTURAL AFFAIRS DEPARTMENT[221]  
    Arts Division[222]  
    Historical Division[223]  
EARLY CHILDHOOD IOWA STATE BOARD[249]  
ECONOMIC DEVELOPMENT AUTHORITY[261]  
    City Development Board[263]  
IOWA FINANCE AUTHORITY[265]  
EDUCATION DEPARTMENT[281]  
    Educational Examiners Board[282]  
    College Student Aid Commission[283]  
    Higher Education Loan Authority[284]  
    Iowa Advance Funding Authority[285]  
    Libraries and Information Services Division[286]  
    Public Broadcasting Division[288]  
    School Budget Review Committee[289]  
EGG COUNCIL, IOWA[301]  
EMPOWERMENT BOARD, IOWA[349]  
ENERGY INDEPENDENCE, OFFICE OF[350]  
ETHICS AND CAMPAIGN DISCLOSURE BOARD, IOWA[351]  
EXECUTIVE COUNCIL[361]  
FAIR BOARD[371]  
HUMAN RIGHTS DEPARTMENT[421]  
    Community Action Agencies Division[427]  
    Criminal and Juvenile Justice Planning Division[428]  
    Deaf Services Division[429]  
    Persons With Disabilities Division[431]  
    Latino Affairs Division[433]  
    Status of African-Americans, Division on the[434]

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

## ARC 1179C

**AGRICULTURE AND LAND STEWARDSHIP DEPARTMENT[21]****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 163.1(1), the Department of Agriculture and Land Stewardship hereby gives Notice of Intended Action to amend Chapter 65, “Animal and Livestock Importation,” Iowa Administrative Code.

The proposed amendment would require trichomoniasis testing of bulls brought into Iowa from out of state. The testing requirement would not apply to rodeo bulls, bulls being sent to slaughter, and virgin bulls under 24 months of age.

Any interested persons may make written suggestions or comments on the proposed amendment on or before December 3, 2013. Written comments should be addressed to Margaret Thomson, Iowa Department of Agriculture and Land Stewardship, Wallace State Office Building, 502 East Ninth Street, Des Moines, Iowa 50319. Comments may be submitted by fax to (515)281-6236 or by e-mail to [Margaret.Thomson@IowaAgriculture.gov](mailto:Margaret.Thomson@IowaAgriculture.gov).

The proposed amendment is subject to the Department’s general waiver provisions.

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

This amendment is intended to implement Iowa Code sections 163.1 and 163.14.

The following amendment is proposed.

Adopt the following **new** paragraph **65.4(3)“c”**:

*c. Trichomoniasis test.* A bull must have a negative trichomoniasis test within 30 days prior to importation and have no subsequent sexual exposure. The trichomoniasis test is either one negative polymerase chain reaction (PCR) test or three consecutive weekly negative trichomoniasis foetus cultures. This testing requirement does not apply if the bull is:

- (1) Under the age of 24 months and listed on the Certificate of Veterinary Inspection as “virgin” or not having been sexually exposed to any female;
- (2) Being sent directly to slaughter or to an auction market and directly to slaughter; or
- (3) Temporarily in the state for a rodeo or exhibition and leaves after the event.

## ARC 1182C

**EDUCATIONAL EXAMINERS BOARD[282]****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 272.2, the Board of Educational Examiners hereby gives Notice of Intended Action to amend Chapter 13, “Issuance of Teacher Licenses and Endorsements,” Iowa Administrative Code.

Currently, Iowa graduates after January 1, 2013, who do not pass the required assessments are not eligible for a substitute license (only a substitute authorization). Out-of-state graduates are currently eligible for a substitute license because they have completed a teacher preparation program and have

## EDUCATIONAL EXAMINERS BOARD[282](cont'd)

obtained licensure in another state. The proposed amendment will create equity for both Iowa graduates and out-of-state graduates by requiring out-of-state graduates to also pass the required assessments for substitute licensure.

Any interested party or persons may present their views either orally or in writing at the public hearing that will be held Wednesday, December 4, 2013, at 1 p.m. in Room 3 Southwest, Third Floor, Grimes State Office Building, East 14th Street and Grand Avenue, Des Moines, Iowa.

At the hearing, persons will be asked to give their names and addresses for the record and to confine their remarks to the subject of the proposed amendment. Persons who wish to make oral presentations at the public hearing may contact the Executive Director, Board of Educational Examiners, Grimes State Office Building, East 14th Street and Grand Avenue, Des Moines, Iowa 50319-0147, or at (515)281-5849, prior to the date of the public hearing.

Any person who intends to attend the public hearing and requires special accommodations for specific needs, such as a sign language interpreter, should contact the office of the Executive Director at (515)281-5849.

Any interested person may make written comments or suggestions on the proposed amendment before 4 p.m. on Friday, December 6, 2013. Written comments and suggestions should be addressed to Kim Cunningham, Board Secretary, Board of Educational Examiners, at the above address, or sent by e-mail to [kim.cunningham@iowa.gov](mailto:kim.cunningham@iowa.gov), or by fax to (515)281-7669.

This amendment is subject to waiver pursuant to 282—Chapter 6, “Waivers or Variances From Administrative Rules.”

After analysis and review of this rule making, there is no anticipated impact on jobs.

This amendment is intended to implement Iowa Code section 272.2(1)“a.”

The following amendment is proposed.

Amend subrule 13.16(1) as follows:

**13.16(1) *Substitute teacher requirements.*** A substitute teacher’s license may be issued to an individual who provides verification of successfully passing the Iowa-mandated assessment(s) by meeting the minimum score set by the Iowa department of education if the teacher preparation program was completed on or after January 1, 2013, and who:

- a. Has completed a traditional teacher preparation program and been the holder of, or presently holds, a license in Iowa; or holds or held a regular teacher’s license or certificate in another state, exclusive of temporary, emergency, or substitute certificate or license; or
- b. Has successfully completed all requirements of an approved teacher education program, but did not apply for an Iowa teacher’s license at the time of completion of the approved program; or
- c. Holds a valid or expired teaching certificate based on a nontraditional teacher preparation program, is able to verify three years of teaching experience, and provides passing scores on tests mandated by the state that issued the certificate. The license issued will contain a disclaimer stating that the holder of this license may not be eligible for full Iowa teaching licensure.

**ARC 1181C**

**EDUCATIONAL EXAMINERS BOARD[282]**

**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 272.2, the Board of Educational Examiners hereby gives Notice of Intended Action to amend Chapter 13, “Issuance of Teacher Licenses and Endorsements,” Iowa Administrative Code.

## EDUCATIONAL EXAMINERS BOARD[282](cont'd)

The Board has encountered several teachers who come to Iowa under the auspices of exchanges arranged through either the U.S. Department of Education or the U.S. Department of State. In past years, Board staff members have been able to evaluate these teachers' transcripts and issue regional exchange licenses. Due to changes in the out-of-country rules that now require successful completion of both content and pedagogy Praxis testing, the staff is no longer able to license these teachers. This amendment would allow these teachers to be licensed using the international exchange license rules, which do not require testing. If individuals desire to stay beyond their exchange period, they would then have to meet the requirements for the out-of-country licensure.

Any interested party or persons may present their views either orally or in writing at the public hearing that will be held Wednesday, December 4, 2013, at 1 p.m. in Room 3 Southwest, Third Floor, Grimes State Office Building, East 14th Street and Grand Avenue, Des Moines, Iowa.

At the hearing, persons will be asked to give their names and addresses for the record and to confine their remarks to the subject of the proposed amendment. Persons who wish to make oral presentations at the public hearing may contact the Executive Director, Board of Educational Examiners, Grimes State Office Building, East 14th Street and Grand Avenue, Des Moines, Iowa 50319-0147, or at (515)281-5849, prior to the date of the public hearing.

Any person who intends to attend the public hearing and requires special accommodations for specific needs, such as a sign language interpreter, should contact the office of the Executive Director at (515)281-5849.

Any interested person may make written comments or suggestions on the proposed amendment before 4 p.m. on Friday, December 6, 2013. Written comments and suggestions should be addressed to Kim Cunningham, Board Secretary, Board of Educational Examiners, at the above address, or sent by e-mail to [kim.cunningham@iowa.gov](mailto:kim.cunningham@iowa.gov), or by fax to (515)281-7669.

This amendment is subject to waiver pursuant to 282—Chapter 6, “Waivers or Variances From Administrative Rules.”

After analysis and review of this rule making, there is no anticipated impact on jobs.

This amendment is intended to implement Iowa Code section 272.2(1)“a.”

The following amendment is proposed.

Amend paragraph **13.17(3)“a”** as follows:

*a.* A nonrenewable international exchange license may be issued to an applicant under the following conditions:

(1) to (3) No change.

(4) The applicant is a participant in a teacher exchange program administered through the Iowa department of education, the U.S. Department of Education, or the U.S. Department of State.

**ARC 1180C**

**EDUCATIONAL EXAMINERS BOARD[282]**

**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 272.2, the Board of Educational Examiners hereby gives Notice of Intended Action to amend Chapter 22, “Authorizations,” Iowa Administrative Code.

Currently, the Iowa Jobs for American’s Graduates (iJAG) program employs both certified and noncertified staff throughout the state. High school credit is given in most cases. This authorization will allow all iJAG employees to have some level of certification. The required education coursework is offered by iJAG annually through mandatory training, and iJAG will be seeking a credit option. The

## EDUCATIONAL EXAMINERS BOARD[282](cont'd)

Board will assist to ensure that the coursework meets the stated requirements. Candidates complete 18 days of training in their first year and 7 to 10 days annually in subsequent years.

Any interested party or persons may present their views either orally or in writing at the public hearing that will be held Wednesday, December 4, 2013, at 1 p.m. in Room 3 Southwest, Third Floor, Grimes State Office Building, East 14th Street and Grand Avenue, Des Moines, Iowa.

At the hearing, persons will be asked to give their names and addresses for the record and to confine their remarks to the subject of the proposed amendment. Persons who wish to make oral presentations at the public hearing may contact the Executive Director, Board of Educational Examiners, Grimes State Office Building, East 14th Street and Grand Avenue, Des Moines, Iowa 50319-0147, or at (515)281-5849, prior to the date of the public hearing.

Any person who intends to attend the public hearing and requires special accommodations for specific needs, such as a sign language interpreter, should contact the office of the Executive Director at (515)281-5849.

Any interested person may make written comments or suggestions on the proposed amendment before 4 p.m. on Friday, December 6, 2013. Written comments and suggestions should be addressed to Kim Cunningham, Board Secretary, Board of Educational Examiners, at the above address, or sent by e-mail to [kim.cunningham@iowa.gov](mailto:kim.cunningham@iowa.gov), or by fax to (515)281-7669.

This amendment is subject to waiver pursuant to 282—Chapter 6, “Waivers or Variances From Administrative Rules.”

After analysis and review of this rule making, there is no anticipated impact on jobs.

This amendment is intended to implement Iowa Code section 272.2(1)“a.”

The following amendment is proposed.

Adopt the following **new** rule 282—22.7(272):

**282—22.7(272) iJAG authorization.**

**22.7(1) Authorization.** The Iowa jobs for America’s graduates (iJAG) authorization is provided to noneducators entering the education profession to teach iJAG coursework in grades 7-12.

**22.7(2) Application process.** Any person interested in the iJAG authorization shall submit the application to the board of educational examiners for an evaluation. Application materials are available from the office of the board of educational examiners online at <http://www.boee.iowa.gov>.

**22.7(3) Requirements.**

- a. The applicant must have completed a baccalaureate degree.
- b. Iowa division of criminal investigation background check. The applicant must have successfully completed an Iowa division of criminal investigation background check. The background check fee will be assessed to the applicant.
- c. National criminal history background check. The applicant must have successfully completed a national criminal history background check. The background check fee will be assessed to the applicant.
- d. The applicant must have completed a board of educational examiners-approved iJAG training program consisting of the following components and totaling a minimum of 40 clock hours annually:
  - (1) Instructional methods. Develop skills to effectively deliver project-based instruction in the iJAG core competencies.
  - (2) Curriculum. Develop skills to effectively develop curriculum, projects and other educational opportunities consistent with the goals of iJAG.
  - (3) Measurement and evaluation of programs and students. Analyze student data, administer testing, and monitor the following: basic skills, individualized development plans, attendance, graduation requirements, and course enrollment.
  - (4) Code of ethics. Develop an understanding of how to foster relationships with parents, students, school colleagues, and organizations in the larger community to support students’ learning and development and become aware of the board’s rules of professional practice and code of ethics.
  - (5) Diversity training for educators. Develop an understanding of and sensitivity to the values, beliefs, lifestyles and attitudes of individuals and the diverse groups found in a pluralistic society,

## EDUCATIONAL EXAMINERS BOARD[282](cont'd)

including preparation that contributes to the education of individuals with disabilities and the gifted and talented.

*e.* The applicant must obtain a recommendation from an iJAG administrator verifying that the organization wishes to hire the applicant.

*f.* The applicant must be assigned a mentor by the hiring school district. The mentor must have four years of teaching experience.

**ARC 1176C**

**ENVIRONMENTAL PROTECTION COMMISSION[567]**

**Notice of Intended Action**

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

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

Pursuant to the authority of Iowa Code sections 455B.105(3) and 455B.173, the Environmental Protection Commission (Commission) hereby gives Notice of Intended Action to amend Chapter 64, “Wastewater Construction and Operation Permits,” Iowa Administrative Code.

The proposed amendments will reduce from two to one the number of proofs of public notice, also known as the Notice of Intent, required to be submitted to the Department of Natural Resources (Department) as part of the application to obtain storm water general permit coverage. This reduction is being made to implement changes in recent legislation, 2013 Iowa Acts, House File 311, which modified Iowa Code section 455B.103A(1)“b” by reducing the public noticing requirements from two newspapers to one newspaper.

The proposed amendments will also remove the requirement that storm water permit holders submit to the Department transfer agreements executed when building lots in developments are transferred. When building lots are transferred and storm water permit coverage will be required for further building activities, the buyer and seller may decide together if the lots are to be covered under the seller’s permit authorization for the development or if the buyer will obtain permit coverage for the lots. An agreement is then signed in which the buyer’s and seller’s intent is specified, as required by subrule 64.6(6). Currently, this agreement is required to be submitted to the Department.

This requirement has proven to be an unnecessary regulatory burden on the public. Therefore, the Commission is proposing to remove this requirement from both the Iowa Administrative Code and the storm water general permits which are adopted in rule 567—64.15(455B). The transfer agreements will still be required to be retained by the permittee(s).

Copies of the proposed revised general permits are available upon request from the Department at the address or telephone number below.

Any person may submit written suggestions or comments on the proposed amendments through December 12, 2013. Such written material should be submitted to the Storm Water Coordinator, NPDES Section, Iowa Department of Natural Resources, 502 East 9th Street, Des Moines, Iowa 50319-0034; fax (515)281-8895, or by e-mail to [joe.griffin@dnr.iowa.gov](mailto:joe.griffin@dnr.iowa.gov). Persons who have questions may contact Joe Griffin by e-mail or by telephone at (515)281-7017.

A public hearing will be held on December 12, 2013, at 9 a.m. in the 5E Conference Room of the Wallace State Office Building, 502 East 9th Street, Des Moines, Iowa. Persons attending the public hearing may present their views orally or in writing. At the hearing, persons will be asked to provide their names and addresses for the record and to confine their remarks to the subject of the proposed rule making.

Any person who intends to attend the public hearing and has special requirements, such as those related to mobility or hearing impairments, should contact the Department to advise of any specific needs.

## ENVIRONMENTAL PROTECTION COMMISSION[567](cont'd)

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

These amendments are intended to implement Iowa Code chapter 455B, division I, and 2013 Iowa Acts, House File 311, section 1.

The following amendments are proposed.

ITEM 1. Amend subparagraph **64.6(1)“c”(1)**, introductory paragraph, as follows:

(1) General Permits No. 1, No. 2 and No. 3. A demonstration that a public notice was published in at least ~~two newspapers~~ one newspaper with the largest circulation in the area in which the facility is located or the activity will occur. ~~If a facility or activity authorized by General Permit No. 3 is to be relocated to a site not included in the original notice, a public notice need be published in only one newspaper.~~ The newspaper notices notice shall, at the minimum, contain the following information:

ITEM 2. Amend subrule 64.6(6) as follows:

**64.6(6) Transfer of ownership—construction activity part of a larger common plan of development.** For construction activity which is part of a larger common plan of development, such as a housing or commercial development project, in the event a permittee transfers ownership of all or any part of property subject to NPDES General Permit No. 2, both the permittee and transferee shall be responsible for compliance with the provisions of the general permit for that portion of the project which has been transferred, including when the transferred property is less than one acre in area, ~~from and after the date the department receives written notice of the transfer,~~ provided that:

a. The transferee is notified in writing of the existence and location of the general permit and pollution prevention plan, and of the transferee's duty to comply, and proof of such notice is included with the notice to the department of the transfer.

b. If the transferee agrees, in writing, to become the sole responsible permittee for the property which has been transferred, then the transferee shall be solely responsible for compliance with the provisions of the general permit for the transferred property ~~from and after the date the department receives written notice of the transferee's assumption of responsibility.~~

c. If the transferee agrees, in writing, to obtain coverage under NPDES General Permit No. 2 for the property which has been transferred, then the transferee is required to obtain coverage under NPDES General Permit No. 2 for the transferred property ~~from and after the date the department receives written notice of the transferee's assumption of responsibility for permit coverage.~~ After the transferee has agreed, in writing, to obtain coverage under NPDES General Permit No. 2 for the transferred property ~~and the department has received written notice of the transferee's assumption of responsibility for permit coverage for the transferred property,~~ the authorization issued under NPDES General Permit No. 2 to the transferor for the transferred property shall be considered by the department as not providing NPDES permit coverage for the transferred property and the transferor's authorization issued under NPDES General Permit No. 2 for, and only for, the transferred property; shall be deemed by the department as being discontinued without further action of the transferor.

d. All notices ~~sent to the department~~ as described in this subrule shall contain the name of the development as submitted to the department in the original Notice of Intent and as modified by any subsequent written notices of name changes submitted to the department, the authorization number assigned to the authorization by the department, the legal description of the transferred property including lot number, if any, and any other information necessary to precisely locate the transferred property and to establish the legality of the document.

ITEM 3. Amend subrules 64.15(1) to 64.15(3) as follows:

**64.15(1) Storm Water Discharge Associated with Industrial Activity, NPDES General Permit No. 1,** effective October 1, 2012, to October 1, 2017, as amended on [insert effective date of these amendments]. Facilities assigned Standard Industrial Classification 1442, 2951, or 3273, and those facilities assigned Standard Industrial Classification 1422 or 1423 which are engaged primarily in rock crushing are not eligible for coverage under General Permit No. 1.

**64.15(2) Storm Water Discharge Associated with Industrial Activity for Construction Activities,** NPDES General Permit No. 2, effective October 1, 2012, to October 1, 2017, as amended on [insert effective date of these amendments].

## ENVIRONMENTAL PROTECTION COMMISSION[567](cont'd)

**64.15(3)** Storm Water Discharge Associated with Industrial Activity from Asphalt Plants, Concrete Batch Plants, Rock Crushing Plants, and Construction Sand and Gravel Facilities, NPDES General Permit No. 3, effective October 1, 2012, to October 1, 2017, as amended on [insert effective date of these amendments]. General Permit No. 3 authorizes storm water discharges from facilities primarily engaged in manufacturing asphalt paving mixtures and which are classified under Standard Industrial Classification 2951, primarily engaged in manufacturing Portland cement concrete and which are classified under Standard Industrial Classification 3273, those facilities assigned Standard Industrial Classification 1422 or 1423 which are primarily engaged in the crushing, grinding or pulverizing of limestone or granite, and construction sand and gravel facilities which are classified under Standard Industrial Classification 1442. General Permit No. 3 does not authorize the discharge of water resulting from dewatering activities at rock quarries.

**ARC 1177C****ENVIRONMENTAL PROTECTION COMMISSION[567]****Notice of Intended Action**

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

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

Pursuant to the authority of Iowa Code sections 466.8, 455B.291 and 455B.299, the Environmental Protection Commission (Commission) hereby gives Notice of Intended Action to amend Chapter 93, “Nonpoint Source Pollution Control Set-Aside Programs,” Iowa Administrative Code.

These amendments are intended to implement 2013 Iowa Acts, House File 311, section 4, passed by the Legislature and signed by the Governor on April 24, 2013. 2013 Iowa Acts, House File 311, section 4, amended Iowa Code section 466.8 to allow homeowners inside city limits and without a public sewer connection to access the low-interest loan program known as the Onsite Wastewater Assistance Program to repair or replace failing septic systems. This rule making is necessary to implement the revised law.

Prior to the passage of 2013 Iowa Acts, House File 311, only homeowners outside city limits could utilize the Onsite Wastewater Assistance Program for repair and replacement of failing septic systems. However, there are a significant number of homes that are served by septic systems inside city limits. These homes often do not have a sewer connection available because of cost or location. With the legislative change, homeowners inside city limits now have access to the Onsite Wastewater Assistance Program for repair or replacement of failing septic systems. This loan program provides low-interest loans, typically 3 percent, for a term as long as 10 years, which provides affordable payments to homeowners. The loans are linked deposit loans provided by local lenders and administered by the Iowa Finance Authority.

Any person may submit written suggestions or comments on the proposed amendments through December 12, 2013. Such written material should be submitted to Daniel Olson, NPDES Section, Iowa Department of Natural Resources, 502 East 9th Street, Des Moines, Iowa 50319-0034, fax (515)281-8895, or by e-mail to [daniel.olson@dnr.iowa.gov](mailto:daniel.olson@dnr.iowa.gov). Persons who have questions may contact Daniel Olson by e-mail or by telephone at (515)281-8263.

A public hearing will be held on December 4, 2013, from 3:30 to 5:30 p.m. in the 5E Conference Room of the Wallace State Office Building, 502 East 9th Street, Des Moines, Iowa. Persons attending the public hearing may present their views orally or in writing. At the hearing, persons will be asked to provide their names and addresses for the record and to confine their remarks to the proposed rule making.

Any person who intends to attend the public hearing and has special requirements, such as those related to mobility or hearing impairments, should contact the Department to advise of any specific needs.

## ENVIRONMENTAL PROTECTION COMMISSION[567](cont'd)

After analysis and review of this rule making, a positive impact on jobs should result.

These amendments are intended to implement Iowa Code section 466.8 as amended by 2013 Iowa Acts, House File 311, section 4.

The following amendments are proposed.

ITEM 1. Amend subrule 93.3(1) as follows:

**93.3(1)** *Onsite wastewater treatment and disposal systems set-aside.* The purpose of this set-aside is to assist rural homeowners to rehabilitate or improve existing onsite wastewater treatment and disposal systems.

ITEM 2. Amend paragraph **93.4(1)“a”** as follows:

*a. Location restrictions.* Assistance is available for the improvement or rehabilitation of onsite wastewater treatment systems ~~located outside of corporate boundaries. Assistance cannot be provided for improvements to or rehabilitation of onsite systems located within incorporated limits~~ servicing homes that do not have a connection to a publicly owned treatment works.

**ARC 1184C**

## **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 2013 Iowa Acts, Senate File 446, sections 82 to 85, the Department of Human Services proposes to rescind Chapter 22, “Standards for Services to Persons with Mental Illness, Chronic Mental Illness, Mental Retardation, Developmental Disabilities, or Brain Injury,” and to adopt new Chapter 22, “Autism Support Program,” Iowa Administrative Code.

Existing Chapter 22 does not conform with the legislative intent consistent with the state’s mental health and disability redesign process. As a direct result, the existing chapter will be rescinded and a new chapter adopted.

In 2013 Iowa Acts, Senate File 446, sections 82 to 85 (new Iowa Code chapter 225D), the 2013 Iowa General Assembly established a new Autism Support Program to provide funding for applied behavioral analysis services to children under the age of nine with a diagnosis of autism who are not otherwise eligible for such services through Medicaid or private health insurance. In developing the proposed rules, the Department consulted with an expert panel including parents of children with a diagnosis of autism, providers of services, and other stakeholders. The rules identify financial and diagnostic eligibility standards, application and authorization processes, provider network qualifications, and appeal processes for the program.

Any interested person may make written comments on the proposed rules on or before December 3, 2013. Comments should be directed to Harry Rossander, Bureau of Policy Coordination, Department of Human Services, Hoover State Office Building, 1305 East Walnut Street, Des Moines, Iowa 50319-0114. Comments may be sent by fax to (515)281-4980 or by e-mail to [policyanalysis@dhs.state.ia.us](mailto:policyanalysis@dhs.state.ia.us).

These rules 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, there could be an impact on private sector jobs. Due to the limited number of professionals who can provide applied behavioral analysis services, it is expected that the demand for such services will exceed the system’s current ability to provide those services. This could lead to greater employment opportunities for individuals trained to provide and supervise applied behavioral analysis services. The impact is expected to be statewide, although rural areas have less access to professionals who provide applied behavioral analysis than urban areas.

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

These rules are intended to implement 2013 Iowa Acts, Senate File 446, sections 82 to 85. The following amendment is proposed.

Rescind 441—Chapter 22 and adopt the following **new** chapter in lieu thereof:

CHAPTER 22  
AUTISM SUPPORT PROGRAM

PREAMBLE

These rules provide for definitions of diagnostic and financial eligibility, provider qualifications, and appeal procedures related to the autism support program created in 2013 Iowa Acts, Senate File 446, division XVII. The purpose of the autism support program is to provide funding for applied behavioral analysis services and care coordination for children with a diagnosis of autism who meet certain financial and clinical eligibility criteria.

**441—22.1(225D) Definitions.**

“*Administrator*” means the entity selected by the department through a request for proposal process or other contractual arrangement to administer the autism support program.

“*Applicant*” means an individual on whose behalf an application has been submitted but who has not been identified as an eligible individual, or an individual who has received a denial of eligibility for the program.

“*Applied behavioral analysis*” or “*ABA*” means the same as defined in 2013 Iowa Acts, Senate File 446, section 82.

“*Autism*” means autism spectrum disorders as defined in Iowa Code section 514C.28.

“*Autism service provider*” means a person providing applied behavioral analysis, who meets the following criteria:

1. Is certified as a behavior analyst by the Behavior Analyst Certification Board or is a health professional licensed under Iowa Code chapter 147.
2. Is approved as a member of the provider network by the department.

“*Autism support fund*” or “*fund*” means the autism support fund created in 2013 Iowa Acts, Senate File 446, section 83.

“*Autism support program*” or “*program*” means the program created in 2013 Iowa Acts, Senate File 446, section 83, to provide funding for applied behavioral analysis and care coordination for eligible individuals with a diagnosis of autism.

“*Clinically relevant*” means medically necessary and resulting in the development, maintenance, or restoration, to the maximum extent practicable, of the functioning of an individual.

“*Department*” means the department of human services.

“*Diagnostic assessment of autism*” means medically necessary assessment, evaluations, or tests performed by a licensed child psychiatrist, developmental pediatrician, or clinical psychologist.

“*Eligible individual*” means a child less than nine years of age who has been diagnosed with autism based on a diagnostic assessment of autism, is not otherwise eligible for coverage for applied behavioral analysis treatment under the medical assistance program, Iowa Code section 514C.28, or private insurance coverage, and whose household income does not exceed 400 percent of the federal poverty level.

“*Federal poverty level*” means the most recently revised poverty income guidelines published by the United States Department of Health and Human Services.

“*Household income*” means household income as determined using the modified adjusted gross income methodology pursuant to Section 2002 of the federal Patient Protection and Affordable Care Act, Pub. L. No. 111-148.

“*Integrated health home*” means the same as defined in 441—subrule 78.53(1).

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

*“Maximum amount of treatment”* means a maximum of 24 months of applied behavioral analysis funded by the autism support program. Months of service are not required to be consecutive.

*“Maximum annual benefit”* means a maximum annual benefit amount of \$36,000 per year for autism support program services for an eligible individual. For the purposes of this program, the annual benefit is calculated by using as a starting date the date the first service is reimbursed by the program and an ending date 12 months from the starting date. Expenditures included in the calculation of the maximum annual benefit include reimbursements to autism service providers for provision of applied behavioral analysis and reimbursements to integrated health homes for costs of care coordination. Cost-sharing paid by the eligible individual is not included in the calculation of the individual’s annual benefit.

*“Medical assistance”* or *“Medicaid”* means assistance provided under the medical assistance program pursuant to Iowa Code chapter 249A and Title XIX of the Social Security Act.

*“Month of service”* means any month in which an individual receives at least one billable unit of applied behavioral analysis service funded by the autism support program.

*“Provider network”* means a network of autism service providers approved by the department to provide services to eligible individuals through the autism support program.

*“Regional autism assistance program”* or *“RAP”* means the regional autism assistance program created in Iowa Code section 256.35.

*“Treatment plan”* means a plan for the treatment of autism developed by a licensed physician or licensed psychologist pursuant to a comprehensive evaluation or reevaluation performed in consultation with the patient and the patient’s representative.

**441—22.2(225D) Eligibility and application requirements.** To be determined eligible for funding for services through the autism support program, an individual must meet the following requirements:

**22.2(1)** An individual shall submit an application to the administrator of the program using a standardized application form available through the administrator’s and the department’s Web sites, members of the provider network, the regional autism assistance program, and advocacy organizations.

**22.2(2)** An applicant for autism program services shall be less than the age of nine at the time of application for the program. Proof of age must be provided at the time of application. An individual who reaches the age of nine prior to receipt of the maximum benefits of the program may continue to receive services from the program in accordance with the individual’s treatment plan, up to a maximum of 24 months of applied behavioral analysis treatment.

**22.2(3)** An individual shall have a diagnosis of autism based on a diagnostic assessment of autism dated 24 months or less from the date of application for the program.

**22.2(4)** An individual shall be determined ineligible for coverage of applied behavioral analysis services under the medical assistance program, Iowa Code section 514C.28, or private insurance coverage. Proof of insurance coverage and noneligibility for coverage for applied behavioral analysis shall be provided at the time of application.

**22.2(5)** An individual shall have a household income equal to or less than 400 percent of the federal poverty level. Information needed to determine household income using modified adjusted gross income methodology shall be identified on the program application. The information shall be provided at the time of application.

**22.2(6)** The administrator shall provide to the parent or guardian a written notice of decision determining initial eligibility or denial within 30 calendar days of receipt of the application.

**22.2(7)** The administrator shall refer an applicant determined to be an eligible individual to care coordination services. The referral will occur within 5 business days of determination of eligibility for the program. Care coordination services will be provided by the University of Iowa regional autism assistance program (RAP) or an integrated health home. Eligible individuals who reside in counties where integrated health homes for children with a serious emotional disturbance are operational may choose to receive care coordination through the University of Iowa RAP program or an integrated health home that serves residents of the eligible individual’s county of residence. Care coordination is not required as a condition of receiving services through the autism support program.

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

**22.2(8)** For individuals determined eligible for the program but unable to access services due to lack of available providers, the administrator shall maintain a list of such individuals and shall work to connect eligible individuals on the list to network providers.

**22.2(9)** The administrator shall stop processing applications at the point where available funds are fully obligated for eligible individuals and additional eligible individuals would cause expenditures in excess of the funds available to the program. The administrator shall maintain a waiting list of individuals denied access to the program due to lack of available funds. If additional funds become available, the administrator shall contact individuals on the list in order of the earliest date and time of the receipt of the original application. The applicant shall be allowed 30 calendar days to submit an updated application and any required information needed to determine eligibility. If the applicant does not submit required information, the applicant will be denied eligibility and removed from the waiting list maintained for individuals denied access to the program due to lack of funding. The age of the applicant at the time of the most recent application will be used when determining eligibility for the program.

**441—22.3(225D) Cost-sharing requirements and graduated schedule of cost sharing.**

**22.3(1)** An individual with a household income equal to or greater than 200 percent of the federal poverty level, up to a maximum of 400 percent of the federal poverty level, shall be subject to cost-sharing requirements. Cost sharing shall be implemented incrementally up to a maximum of 10 percent of the costs of the services provided through the program for an individual with a household income equal to 400 percent of the federal poverty level. The following is a chart of the cost-sharing requirements:

Family income as a % of FPL	% of cost-sharing of service costs	Family income as a % of FPL	% of cost-sharing of service costs
200%	.476%	310%	5.712%
210%	.952%	320%	6.188%
220%	1.428%	330%	6.664%
230%	1.904%	340%	7.14%
240%	2.38%	350%	7.616%
250%	2.856%	360%	8.092%
260%	3.332%	370%	8.568%
270%	3.808%	380%	9.04%
280%	4.284%	390%	9.516%
290%	4.76%	400%	9.992%
300%	5.236%		

**22.3(2)** An individual may request an exemption from cost sharing due to financial hardship. To qualify for an exemption, an individual shall submit written documentation to the administrator that the individual or the individual's family does not have the financial means to fulfill cost-sharing requirements.

**22.3(3)** Criteria to determine financial hardship include, but are not limited to, a change in income, change in employment of the parent or guardian, additional medical expenditures, other family members' health conditions, or other conditions which may affect the ability to fulfill cost-sharing requirements. The administrator shall provide a written determination regarding eligibility for exemption from cost-sharing requirements. Eligibility for exemption from cost sharing expires at the end of the financial eligibility period.

**441—22.4(225D) Review of financial eligibility, cost-sharing requirements, exemption from cost sharing, and disenrollment in the program.**

**22.4(1)** An eligible individual's continued financial eligibility for the program, cost-sharing requirements, and exemption from cost sharing shall be determined on an annual basis.

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

**22.4(2)** The administrator shall request needed information from the eligible individual's parent or guardian for redetermination of financial eligibility, cost-sharing requirements, and exemption from cost sharing at least 30 days prior to the expiration of the eligible individual's eligibility period. The notice requesting information needed for renewal of eligibility shall include the ending date of eligibility for services.

**22.4(3)** The administrator shall provide a written notice of decision determining ongoing eligibility or denial within 15 calendar days of receipt of the continued financial eligibility documentation.

**22.4(4)** If the signed application and verification of continuing eligibility are not received by the administrator by the last working day of the renewal month, the individual's eligibility for the program shall be terminated.

**22.4(5)** Reasons for disenrollment in the autism support program include:

- a. Death of the eligible individual.
- b. The family no longer meets one or more of the eligibility criteria outlined in rule 441—22.2(225D).
- c. The parent or legal guardian has failed to provide information required for redetermination of eligibility.
- d. The eligible individual has failed to access authorized services for a period of three consecutive months and has not made arrangements with the autism service provider or administrator to access authorized services.
- e. No funds are appropriated for the autism support program.

**441—22.5(225D) Initial service authorization and renewal of service authorization.**

**22.5(1)** All services reimbursed through the program shall be prior-authorized by the administrator.

**22.5(2)** An autism service provider shall submit an initial treatment plan to the administrator specifying a plan of treatment for a period of no more than six months. The initial treatment plan shall specify the amount of units of applied behavioral analysis services requested for the eligible individual and include a baseline standardized assessment score.

**22.5(3)** Family engagement and participation are required for participation in the autism support program. Treatment plans shall identify specific activities and responsibilities of parents or guardians in the treatment plan.

**22.5(4)** The treatment plan shall reflect the autism service provider's engagement with the school in which the eligible individual is enrolled. Treatment plans shall identify specific actions taken by the autism service provider to engage the eligible individual's school and the results of such actions.

**22.5(5)** The treatment plan may include services provided by staff with a minimum of a bachelor's degree in a human services or education field, working under the supervision of an autism service provider who is board-certified as a behavior analyst. The treatment plan shall identify which services shall be provided directly by the autism service provider and which services shall be provided by staff under the supervision of the autism service provider.

**22.5(6)** For renewal or modification of service authorizations, the autism service provider shall submit an updated plan of treatment with a request for the number of units of applied behavioral analysis the provider believes is medically necessary to address the eligible individual's ongoing treatment needs. The autism service provider shall also provide evidence of the eligible individual's progress on identified treatment goals. The administrator shall consider the eligible individual's updated standardized assessment score along with other clinical information when reviewing requests for renewal or modification of service authorizations. Ongoing service authorization requests shall not exceed six months in duration.

**22.5(7)** The administrator shall provide approval, request for modification, or denial within five business days of receipt of all service authorization requests.

**441—22.6(225D) Provider network.** The administrator shall establish and maintain a network of department-approved autism service providers so that applied behavioral analysis services are available to eligible individuals statewide to the maximum extent possible.

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

**22.6(1)** A provider shall be approved to participate in the autism support program provider network if the following standards are met:

*a.* The autism service provider is certified as a behavior analyst by the Behavior Analyst Certification Board; or

*b.* The autism service provider is a health professional licensed under Iowa Code chapter 147. A health professional licensed under Iowa Code chapter 147 who does not hold a current certification as a board-certified behavior analyst shall provide evidence of training in applied behavioral analysis and be licensed as a mental health professional under Iowa Code section 228.1(6).

A provider shall be deemed eligible to participate in the autism support program provider network if the autism service provider meets the standards in paragraph 22.6(1) “*a*” or “*b*” and the provider is approved to provide applied behavioral analysis services through Medicaid.

**22.6(2)** The administrator’s provider network shall accept the rate established by the department through the department’s contract with the administrator as payment in full for the services rendered and will not charge eligible individuals any additional fees for services rendered, except for those eligible individuals who are required to pay a portion of the cost of services due to cost-sharing requirements.

**22.6(3)** The administrator is responsible for calculating the cost-sharing amount according to standards established in this chapter.

**22.6(4)** The autism service provider is responsible for collecting the cost-sharing amount from the eligible individual and will only be reimbursed by the administrator for the balance of the service fee minus the amount of cost sharing.

**441—22.7(225D) Financial management of the program.** The autism support program administrator shall:

1. Not take new applications for the program that would cause expenditures of the program to exceed the budgeted amount.

2. Limit expenditure of program funds to services for those individuals determined to be eligible individuals and for related administrative costs.

3. Limit annual expenditures for each eligible individual to the amount identified in 2013 Iowa Acts, Senate File 446, section 83, subsection 2, paragraph “*a*.”

4. Limit length of service through the program to the amount identified in 2013 Iowa Acts, Senate File 446, section 83, subsection 2, paragraph “*b*.”

5. Allocate available funds for eligible individuals’ services in a manner that allows for funding for all eligible individuals’ services authorized by the administrator without exceeding the department’s funding limits.

6. Limit payment for applied behavioral analysis services to an hourly or equivalent quarter-hour unit rate that is equal to the contracted rate currently paid by Medicaid for applied behavioral analysis services.

7. Limit payment for integrated health home services to an amount consistent with the monthly per-member per-month amount paid by Medicaid to approved providers of integrated health home services for children with a serious emotional disturbance.

8. Not provide financial compensation to the University of Iowa regional autism assistance program for care coordination services.

**441—22.8(225D) Appeal.** Notice of adverse action and right to appeal shall be given in accordance with 441—Chapter 7.

These rules are intended to implement 2013 Iowa Acts, Senate File 446, sections 82 to 85.

**ARC 1185C****HUMAN SERVICES DEPARTMENT[441]****Notice of Intended Action**

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

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

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

The proposed amendment of paragraph 78.1(20)“a” adds diagnoses/conditions that will be covered for allogeneic and autologous bone marrow transplants, now generally known as “stem cell” transplants. Changes are also being made to the subparagraph pertaining to heart transplants to make, with preprocedure review, artificial hearts and ventricular assist devices (VADs) covered as temporary life-support systems until a human heart becomes available for transplant and to add introductory language that describes the general types of medical circumstances for which heart transplants are allowed, consistent with existing language for other types of transplants addressed in the rules. Lastly, a technical correction is being made to change an existing reference to “Iowa Foundation for Medical Care” to the “Iowa Medicaid enterprise medical services prior authorization unit.”

The Department is updating current tissue and organ transplant rules to reflect current standards of care. These changes are also being made to reduce the number of requests for exceptions to policy the Department receives, which are routinely approved, for these transplants.

Any interested person may make written comments on the proposed amendment on or before December 3, 2013. Comments should be directed to Harry Rossander, Bureau of Policy Coordination, Department of Human Services, Hoover State Office Building, 1305 East Walnut Street, Des Moines, Iowa 50319-0114. Comments may be sent by fax to (515)281-4980 or by e-mail to [policyanalysis@dhs.state.ia.us](mailto:policyanalysis@dhs.state.ia.us).

This amendment does not provide for waiver in specified situations because the amendment confers a benefit on the affected providers and Medicaid members by allowing coverage for additional diagnoses/conditions for stem cell transplants. Similarly, the amendment confers a benefit on providers and members relative to coverage of artificial hearts and VADs under regular policy as temporary life-support systems, with preprocedure review. Finally, this amendment does not provide for waiver in specified situations because such waiver may be requested under the Department’s general rule on exceptions at rule 441—1.8(17A,217).

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

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

The following amendment is proposed.

Amend paragraph **78.1(20)“a”** as follows:

*a.* Payment will be made only for the following organ and tissue transplant services:

- (1) No change.
- (2) Allogeneic bone marrow stem cell transplants for the treatment of aplastic anemia, severe combined immunodeficiency disease (SCID), Wiskott-Aldrich syndrome, follicular lymphoma, Fanconi anemia, paroxysmal nocturnal hemoglobinuria, pure red cell aplasia, amegakaryocytosis/congenital thrombocytopenia, beta thalassemia major, sickle cell disease, Hurler’s syndrome (mucopolysaccharidosis type 1 [MPS-1]), adrenoleukodystrophy, metachromatic leukodystrophy, refractory anemia, agnogenic myeloid metaplasia (myelofibrosis), familial erythrophagocytic lymphohistiocytosis and other histiocytic disorders, acute myelofibrosis, Diamond-Blackfan anemia, epidermolysis bullosa, or the following types of leukemia: acute myelocytic

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

leukemia ~~in relapse or remission~~, chronic myelogenous leukemia, juvenile myelomonocytic leukemia, chronic myelomonocytic leukemia, acute myelogenous leukemia, and acute ~~leukemia~~ lymphocytic leukemia in remission.

(3) Autologous ~~bone marrow stem cell~~ transplants for treatment of the following conditions: acute leukemia ~~in remission with a high probability of relapse when there is no matched donor~~; chronic lymphocytic leukemia; plasma cell leukemia; ~~resistant non-Hodgkin's lymphomas~~; Hodgkin's lymphoma; relapsed Hodgkin's lymphoma; lymphomas presenting poor prognostic features; follicular lymphoma; ~~recurrent or refractory neuroblastoma~~; medulloblastoma; ~~or advanced Hodgkin's disease when conventional therapy has failed and there is no matched donor~~; primitive neuroendocrine tumor (PNET); atypical/rhabdoid tumor (ATRT); Wilm's tumor; Ewing's sarcoma; metastatic germ cell tumor; or multiple myeloma.

(4) No change.

(5) Heart transplants for persons with inoperable congenital heart defects, heart failure, or related conditions. Artificial hearts and ventricular assist devices, ~~either as a permanent replacement for a human heart or as a temporary life-support system until a human heart becomes available for transplants~~; are ~~not covered~~. Artificial hearts and ventricular assist devices as a permanent replacement for a human heart are not covered. Heart-lung transplants are covered where bilateral or unilateral lung transplantation with repair of a congenital cardiac defect is contraindicated.

Heart transplants, ~~and heart-lung transplants~~, artificial hearts, and ventricular assist devices described above require preprocedure review by the Iowa ~~Foundation for Medical Care~~ Medicaid enterprise medical services prior authorization unit. (Cross-reference 78.1(19) and 78.28(1)“f.”) Covered heart transplants are payable only when performed in a facility that meets the requirements of 78.3(10).

(6) and (7) No change.

**ARC 1183C**

## **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 514I.1(2), the Department of Human Services proposes to amend Chapter 86, “Healthy and Well Kids in Iowa (HAWK-I) Program,” Iowa Administrative Code.

These amendments reflect programmatic changes affecting the HAWK-I Program as required by the federal Patient Protection and Affordable Care Act. These amendments specifically change the income guidelines to reflect the modified adjusted gross income (MAGI)-equivalent guidelines given to the state by the Centers for Medicare and Medicaid Services (CMS). MAGI is a national standard by which all states must consider family income when determining eligibility for participation in insurance affordability programs (Medicaid, Children’s Health Insurance Program (CHIP), and plans offered through the Health Insurance Marketplace/Exchange). CMS took the Department’s current income guidelines for eligibility and premiums and converted them to their MAGI-equivalent levels. The conversion took into account the deductions and disregards that were allowed under pre-MAGI rules but that are no longer allowed under the MAGI methodology.

Any interested person may make written comments on the proposed amendments on or before December 3, 2013. Comments should be directed to Harry Rossander, Bureau of Policy Coordination, Department of Human Services, Hoover State Office Building, 1305 East Walnut Street, Des Moines, Iowa 50319-0114. Comments may be sent by fax to (515)281-4980 or by e-mail to [policyanalysis@dhs.state.ia.us](mailto:policyanalysis@dhs.state.ia.us).

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

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 514I.1(2).

The following amendments are proposed.

ITEM 1. Amend **441—Chapter 86**, preamble, as follows:

PREAMBLE

These rules define and structure the department of human services healthy and well kids in Iowa (HAWK-I) program and establish requirements for the third-party administrator responsible for the program administration and for the participating health and dental plans that will be delivering services to the enrollees. The purpose of this program is to provide transitional health and dental care coverage to children who are ineligible for Title XIX (Medicaid) assistance as set forth in this chapter. ~~The program is implemented and administered in compliance with Title XXI of the federal Social Security Act. The rules establish requirements for the third-party administrator responsible for the program administration and for the participating health and dental plans that will be delivering services to the enrollees.~~ This chapter shall be construed to comply with all requirements for federal funding under Title XXI of the Social Security Act or under the terms of any applicable waiver of Title XXI requirements granted by the Secretary of the U.S. Department of Health and Human Services. To the extent this chapter is inconsistent with any applicable federal funding requirement under Title XXI or the terms of any applicable waiver, the requirements of Title XXI or the terms of the waiver shall prevail.

ITEM 2. Amend paragraph **86.2(2)“a”** as follows:

*a. Countable income.* In determining initial and ongoing eligibility for the HAWK-I program, countable income shall not exceed ~~300~~ 302 percent of the federal poverty level for a family of the same size. Countable income shall be determined using the modified adjusted gross income methodology.

ITEM 3. Amend subrule 86.8(1) as follows:

**86.8(1) Income considered.** The income considered in determining the premium amount shall be the family's countable income ~~minus 20 percent of the family's earned income~~ using the modified adjusted gross income methodology.

ITEM 4. Amend subrule 86.8(2) as follows:

**86.8(2) Premium amount.** Except as specified for supplemental dental-only coverage in subrule ~~86.20(4)~~ 86.20(3), premiums under the HAWK-I program shall be assessed as follows:

*a.* No premium is charged if:

(1) The eligible child is an American Indian or Alaskan Native; or

(2) The family's countable income is less than ~~150~~ 181 percent of the federal poverty level for a family of the same size.

*b.* If the family's countable income is equal to or exceeds ~~150~~ 181 percent of the federal poverty level for a family of the same size but does not exceed ~~200~~ 242 percent of the federal poverty level for a family of that size, the premium is \$10 per child per month with a \$20 monthly maximum per family.

*c.* If the family's countable income is equal to or exceeds ~~200~~ 243 percent of the federal poverty level for a family of the same size, the premium is \$20 per child per month with a \$40 monthly maximum per family.

ITEM 5. Amend subrule 86.20(3) as follows:

**86.20(3) Premiums.** Premiums for participation in the supplemental dental-only plan are assessed as follows:

*a.* No premium is charged to families who meet the provisions of ~~paragraph 86.8(2)“a.”~~ subparagraph 86.8(2)“a”(1) or to families whose countable income is less than 152 percent of the federal poverty level for a family of the same size using the modified adjusted gross income methodology.

HUMAN SERVICES DEPARTMENT[441](cont'd)

b. If the family's countable income is equal to or exceeds ~~150~~ 152 percent of the federal poverty level but does not exceed ~~200~~ 203 percent of the federal poverty level for a family of the same size, the premium is \$5 per child per month with a \$10 monthly maximum per family.

c. If the family's countable income exceeds ~~200~~ 203 percent of the federal poverty level but does not exceed ~~250~~ 254 percent of the federal poverty level for a family of the same size, the premium is \$10 per child per month with a \$15 monthly maximum per family.

d. If the family's countable income exceeds ~~250~~ 254 percent of the federal poverty level ~~but does not exceed 300 percent of the federal poverty level~~ for a family of the same size, the premium is \$15 per child per month with a \$20 monthly maximum per family.

e. and f. No change.

**ARC 1178C**

## **INSURANCE DIVISION[191]**

### **Notice of Intended Action**

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

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

Pursuant to the authority of Iowa Code section 505.8 and 2013 Iowa Acts, Senate File 182, section 5, the Insurance Division hereby gives Notice of Intended Action to amend Chapter 5, “Regulation of Insurers—General Provisions,” Iowa Administrative Code.

The purpose of rule 191—5.33(510), Credit for reinsurance, is to set forth the procedural requirements which the Insurance Commissioner deems necessary to carry out the provisions of 2013 Iowa Acts, Senate File 182, sections 1 to 6. The actions and information required by this rule are necessary and appropriate to the public interest and for the protection of the ceding insurers in this state. These amendments correct cross reference mistakes that were inadvertently overlooked in the previous rule making (see **ARC 1111C**, IAB 10/16/13).

Any interested person may make written comments on or before December 3, 2013. Written comments may be sent to Matt Hargrafen, Iowa Insurance Division, Two Ruan Center, 601 Locust Street, 5th Floor, Des Moines, Iowa 50309-3738. Comments may also be submitted electronically to [matthew.hargrafen@iid.iowa.gov](mailto:matthew.hargrafen@iid.iowa.gov) or via facsimile to (515)281-3059.

A public hearing will be held on December 4, 2013, at 10 a.m. in Conference Room 4 North, Iowa Insurance Division, Two Ruan Center, 601 Locust Street, 4th Floor, Des Moines, Iowa, at which time persons may present their views orally or in writing. At the hearing, persons will be asked to give their names and addresses for the record and to confine remarks to the subject of the amendments.

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

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

These amendments are intended to implement Iowa Code chapter 521B.

The following amendments are proposed.

ITEM 1. Amend subparagraph **5.33(10)“b”(3)** as follows:

(3) All assets in the trust account shall be held by the trustee at the trustee's office in the United States, except that a bank may apply for the commissioner's permission to use a foreign branch office of such bank as trustee for trust agreements established pursuant to this subrule. If the commissioner approves the use of such foreign branch office as trustee, then its use must be approved by the beneficiary in writing and the trust agreement must provide that the written notice described in subparagraph

INSURANCE DIVISION[191](cont'd)

~~5.33(9)“b”(4)~~ 5.33(10)“b”(4) must also be presentable, as a matter of legal right, at the trustee's principal office in the United States.

ITEM 2. Amend numbered paragraph **5.33(10)“b”(4)“4”** as follows:

4. It shall not contain references to any other agreements or documents except as provided for under subparagraph ~~5.33(9)“b”(4)~~ 5.33(10)“b”(11).

ITEM 3. Amend numbered paragraph **5.33(10)“b”(11)“3”** as follows:

3. Where the ceding insurer has received notification of termination of the trust account and where the assuming insurer's entire obligations under the specific reinsurance agreement remain unliquidated and undischarged ten days prior to the termination date, to withdraw amounts equal to the obligations and deposit those amounts in a separate account, in the name of the ceding insurer, in any qualified United States financial institution apart from its general assets, in trust for such uses and purposes specified in subparagraph ~~5.33(9)“d”(1)~~ 5.33(10)“d”(1) as may remain executory after such withdrawal and for any period after the termination date.

ITEM 4. Amend subparagraph **5.33(10)“c”(3)** as follows:

(3) The trustee may be given authority to invest, and accept substitutions of, any funds in the account, provided that no investment or substitution shall be made without prior approval of the beneficiary, unless the trust agreement specifies categories of investments acceptable to the beneficiary and authorizes the trustee to invest funds and to accept substitutions which the trustee determines are at least equal in market value to the assets withdrawn and that are consistent with the restrictions in ~~5.33(9)“d”(1)“2.”~~ 5.33(10)“d”(1)“2.”

ITEM 5. Amend numbered paragraph **5.33(10)“d”(2)“2”** as follows:

2. Provide for:

- The return of any amount withdrawn in excess of the actual amounts required to comply with ~~5.33(9)“d”(1)“5,”~~ 5.33(10)“d”(1)“5,” first three ~~unnumbered~~ bulleted paragraphs, or in the case of ~~5.33(9)“d”(1)“5,”~~ last ~~unnumbered~~ 5.33(10)“d”(1)“5,” fourth ~~unnumbered~~ bulleted paragraph, any amounts that are subsequently determined not to be due; and
- Interest payments, at a rate not in excess of the prime rate of interest, on the amounts held pursuant to ~~5.33(9)“d”(1)“5,”~~ 5.33(10)“d”(1)“5,” third ~~unnumbered~~ bulleted paragraph.

ITEM 6. Amend numbered paragraph **5.33(10)“d”(2)“3”** as follows:

3. Permit the award by any arbitration panel or court of competent jurisdiction of:

- Interest at a rate different from that provided in ~~5.33(9)“d”(2)“2”~~ 5.33(10)“d”(2)“2”;
- Court of arbitration costs;
- Attorney's fees;
- Any other reasonable expenses.

ITEM 7. Amend subparagraph **5.33(10)“d”(5)** as follows:

(5) The failure of any trust agreement to specifically identify the beneficiary as defined in ~~subparagraph 5.33(9)“a”(1)~~ paragraph 5.33(10)“a” shall not be construed to affect any actions or rights which the commissioner may take or possess pursuant to the provisions of the laws of this state.

ITEM 8. Amend paragraph **5.33(11)“a”** as follows:

a. The letter of credit must be clean, irrevocable and unconditional and issued or confirmed by a qualified United States financial institution. The letter of credit shall contain an issue date and date of expiration and shall stipulate that the beneficiary need only draw a sight draft under the letter of credit and present it to obtain funds and that no other document need be presented. The letter of credit shall also indicate that it is not subject to any condition or qualifications outside of the letter of credit. In addition, the letter of credit itself shall not contain reference to any other agreements, documents or entities, except as provided in subparagraph ~~5.33(10)“i”(1)~~ 5.33(11)“i”(1). As used in this paragraph, “beneficiary” means the domestic insurer for whose benefit the letter of credit has been established and any successor of the beneficiary by operation of law. If a court of law appoints a successor in interest

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

to the named beneficiary, then the named beneficiary includes and is limited to the court-appointed domiciliary receiver (including conservator, rehabilitator or liquidator).

ITEM 9. Amend numbered paragraph **5.33(11)“i”(1)“3”** as follows:

3. All of the provisions required by paragraph ~~5.33(10)“i”(1)“2,”~~ 5.33(11)“i”(1)“2,” should be applied without diminution because of insolvency on the part of the ceding insurer or assuming insurer.

ITEM 10. Amend numbered paragraphs **5.33(11)“i”(2)“1”** and **“2”** as follows:

1. An interest payment, at a rate not in excess of the prime rate of interest, on the amounts held pursuant to ~~5.33(10)“i”(1)“2,”~~ 5.33(11)“i”(1)“2,” third ~~unnumbered~~ bulleted paragraph.

2. The return of any amounts drawn down on the letters of credit in excess of the actual amounts required for the above or, in the event ~~5.33(10)“i”(1)“3,”~~ 5.33(11)“i”(1)“2,” fourth ~~unnumbered~~ bulleted paragraph, is applicable, any amounts that are subsequently determined not to be due.

ITEM 11. Amend subparagraph **5.33(11)“i”(3)** as follows:

(3) When a letter of credit is obtained in conjunction with a reinsurance agreement covering risks other than life, annuities and health, where it is customary practice to provide a letter of credit for a specific purpose, then the reinsurance agreement may, in lieu of ~~5.33(10)“i”(1)“2,”~~ 5.33(11)“i”(1)“2,” require that the parties enter into a “Trust Agreement” which may be incorporated into the reinsurance agreement or be a separate document.

**ARC 1165C**

**PHARMACY BOARD[657]**

**Amended Notice of Intended Action**

Pursuant to the authority of Iowa Code section 147.76, the Pharmacy Board hereby gives notice that a public hearing will be held on Tuesday, December 17, 2013, at 1 p.m. in the conference room at 400 S.W. Eighth Street, Suite E, Des Moines, Iowa, in order to receive oral or written comments on proposed amendments to 657—Chapter 6, “General Pharmacy Licenses,” regarding drug product selection and “do not substitute” restrictions, published in the Iowa Administrative Bulletin on October 2, 2013, as **ARC 1041C**.

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

**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:

November 1, 2012 — November 30, 2012	3.75%
December 1, 2012 — December 31, 2012	3.75%
January 1, 2013 — January 31, 2013	3.75%
February 1, 2013 — February 28, 2013	3.75%
March 1, 2013 — March 31, 2013	4.00%
April 1, 2013 — April 30, 2013	4.00%
May 1, 2013 — May 31, 2013	4.00%

USURY(cont'd)

June 1, 2013 — June 30, 2013	3.75%
July 1, 2013 — July 31, 2013	4.00%
August 1, 2013 — August 31, 2013	4.25%
September 1, 2013 — September 30, 2013	4.50%
October 1, 2013 — October 31, 2013	4.75%
November 1, 2013 — November 30, 2013	4.75%

**ARC 1169C****UTILITIES DIVISION[199]****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 Iowa Code sections 17A.4, 476.2, 476.8, 476.86, 476.87, 478.19, and 479.4, the Utilities Board (Board) gives notice that on October 10, 2013, the Board issued an order in Docket No. RMU-2013-0001, In re: Updates and Corrections of Rules Establishing Natural Gas and Electric Safety Standards [199 IAC Chapters 10, 15, 19, 20, 25, and 45] and Amendment to Competitive Natural Gas Provider Rules to Address Compressed Natural Gas Providers [199 IAC 19.14], “Order Commencing Rule Making,” proposing to update the safety standards adopted for utilities providing natural gas and electric service, make certain corrections to the Board’s safety standards rules, and make revisions to the Board’s safety rules regarding cogeneration facilities. In addition, the Board proposes to amend the competitive natural gas provider (CNGP) rules to establish separate requirements for vehicle fuel providers (VFPs).

The safety standards in 199 IAC Chapters 10, 15, 19, 20, 25, and 45 are designed to ensure facilities that provide service to the public under the Board’s jurisdiction comply with federal statutes and regulations and other national standards addressing the safety of these facilities. The CNGP rules establish filing requirements for companies applying to provide competitive natural gas service as required by Iowa Code sections 476.86 and 476.87, and the Board is proposing streamlined requirements for VFPs.

Board Safety and Engineering Section staff periodically review the electric and gas technical standards that are incorporated by reference in the Board’s rules and which the Section uses when it inspects the operations and facilities of public utilities. Since the standards change periodically, updates and corrections to the standards in the Board’s rules are necessary from time to time. The Board is proposing amendments to the natural gas and electric safety standards in its rules based upon changes to those standards that have occurred since the last amendments were adopted.

The proposed changes are primarily updates of technical standards incorporated by reference. Of particular importance is the renewal of the adoption date of the federal pipeline safety standards. Timely adoption of amendments to the federal standards is a factor in the U.S. Department of Transportation Pipeline and Hazardous Material Safety Administration (PHMSA) performance score upon which the agency’s pipeline safety grant is based. The Board may be unable to enforce current federal standards it has not yet adopted. For adoption of federal regulations, the proposed amendments provide for insertion of the latest possible date by which the amendments can become effective. This practice ensures the Board will adopt the most current amendments to federal standards and is consistent with prior rule makings concerning the updating of standards. Amendments to rules adopting safety standards for cogeneration facilities in 199 IAC Chapters 15 and 45 are also proposed.

## UTILITIES DIVISION[199](cont'd)

In addition to updating natural gas safety standards, the Board is proposing to incorporate in 199 IAC 19.5(2) new PHMSA reporting requirements in 49 CFR Parts 192 and 199 that are not included in this subrule. Currently, 199 IAC 19.5(2) only applies to regulated utility companies. Other natural gas pipeline operators subject to Board jurisdiction under Iowa Code chapter 479 have a similar reporting requirement in rule 199 IAC 10.17; however, this provision only addresses accident and incident reports required by 49 CFR Part 191. The provision does not include annual and other reports required by 49 CFR Part 191 or other reports required by 49 CFR Part 192 or 199. The Board is proposing to amend 199 IAC 10.17 to require that nonutility pipeline operators file copies of any required federal report with the Board. This is particularly important because PHMSA expects that the Board will review these reports for completeness and accuracy as part of the Board's pipeline safety grant-funded activities.

The Board has decided not to adopt the updated version of the American Society of Mechanical Engineers (ASME) standard in ASME B31.8, "Gas Transmission and Distribution Piping Systems." The federal listing of standards, which PHMSA incorporates by reference in its regulations, continues to use the 2007 edition. PHMSA has not adopted either the 2010 or 2012 edition, and the Board considers it important for these safety standards to be consistent with the standards adopted in the federal regulations.

In 199 IAC 20.5(2) and 15.10(1)"c," Board rules refer to the 2008 edition of the National Fire Protection Association (NFPA) standards in NFPA 70, the National Electrical Code (NEC), which is applicable to customer-owned wiring. The Iowa Electrical Licensing and Inspection Program, part of the State Fire Marshal's office, is responsible for inspection of customer-owned wiring, and since the Board's last rule making to update standards, the State Fire Marshal has adopted the 2011 edition. The Board proposes to amend its rules to recognize the same edition as that adopted by the State Fire Marshal.

In 199 IAC Chapter 25, recent changes to the National Electrical Safety Code (NESC) have eliminated the need for one clarifying subrule. Also, when the 2012 NESC was first released, it had errors in the drawings and formulas used to determine required clearances from grain bins, and a correction sheet was issued. Utilities frequently include those drawings and formulas in the annual grain bin public information campaigns required by 199 IAC 25.2(3). To prevent confusion or error, the Board proposes to amend its rules to specify that utilities use the corrected versions of the NESC drawings and formulas.

In Iowa Code section 476.86, a "[c]ompetitive natural gas provider" means a person who takes title to natural gas and sells it for consumption by a retail end user in the state of Iowa." Also in Iowa Code section 476.86, an "[a]ggregator" means a person who combines retail end users into a group and arranges for the acquisition of competitive natural gas services without taking title to those services." Board rules refer to both competitive natural gas providers and aggregators as CNGPs.

The Board has determined that VFPs providing compressed natural gas for use in motor vehicles come within the definition of a competitive natural gas provider and potentially within the definition of an aggregator. Since compressed natural gas vehicle fueling service is provided to individual customers, compressed natural gas service provided by VFPs meets the requirements for providing service to small-volume customers under Board rules.

A person wishing to provide compressed natural gas vehicle fueling service must have a Board CNGP certificate. To receive a Board CNGP certificate, the person must file an application with the Board pursuant to 199 IAC 19.14(3). Current application requirements are designed for aggregators, marketers, and other companies that help customers purchase natural gas from producers and transport natural gas over pipelines. Subrule 19.14(3) requires additional financial information as well as technical and managerial information for applicants requesting certificates to provide CNGP service to small-volume customers. These additional requirements currently apply to compressed natural gas vehicle fueling service since owners of compressed natural gas vehicles are small-volume customers.

Even though the offering of compressed natural gas vehicle fueling service has been widely publicized, the Board has only granted certificates to three VFPs at this time. However, the Board has been informed that there are other providers, including groups of independently owned gasoline station operators, that may desire to offer compressed natural gas vehicle fueling service. This increased interest in providing compressed natural gas vehicle fueling service shows the Board that competition may be sufficient to establish a more streamlined process for those persons who request

## UTILITIES DIVISION[199](cont'd)

CNGP certificates to provide compressed natural gas vehicle fueling service. The amendments are also designed to apply to other types of natural gas vehicle fuel providers.

To address the increased competition in the vehicle fueling market and to streamline the application process, the Board is proposing the amendments to its CNGP rules to establish a different set of requirements for applications to provide VFP service. These requirements will focus on the entity proposing to offer the service, the location of the service, contact information in case of problems or emergencies, and compliance with other state agency rules and regulations. The proposed amendments will not require financial information from the VFP since competition should determine which of the providers will continue to offer the service and the Board anticipates that customers will have a choice of VFPs for service.

The order approving this Notice of Intended Action can be found on the Board's Electronic Filing System (EFS) Web site, <http://efs.iowa.gov>, in Docket No. RMU-2013-0001.

Pursuant to Iowa Code section 17A.4(1)“a” and “b,” any interested person may file a written statement of position pertaining to the proposed amendments. The statement must be filed on or before December 3, 2013. The statement should be filed electronically through the Board's Electronic Filing System. Instructions for making an electronic filing can be found on the EFS Web site at <http://efs.iowa.gov>. Any person who does not have access to the Internet may file comments on paper pursuant to 199 IAC 14.4(5). An original and ten copies of paper comments must be filed. Both electronic and written filings shall comply with the format requirements in 199 IAC 2.2(2) and clearly state the author's name and address and make specific reference to this docket. All paper communications should be directed to the Executive Secretary, Iowa Utilities Board, 1375 E. Court Avenue, Room 69, Des Moines, Iowa 50319-0069.

An opportunity for interested persons to present oral comments on the proposed amendments will be held at 9:30 a.m. on December 18, 2013, in the Board's hearing room at the address listed above. Persons with disabilities who require assistive services or devices to observe or participate should contact the Board at (515)725-7334 at least five days in advance of the scheduled date to request that appropriate arrangements be made.

After analysis and review of this rule making, the Board tentatively concludes that the proposed amendments, if adopted, will have a beneficial effect on the safety and reliability of natural gas and electric service in Iowa. Safe and reliable electric service is a necessity for economic development, so the proposed amendments will have a beneficial effect on jobs in Iowa, although that effect cannot be quantified. In addition, the proposed amendments to the competitive natural gas rules to streamline the application process for VFPs will increase the opportunity for providers to begin offering compressed natural gas vehicle fueling service to Iowa customers.

These amendments are intended to implement Iowa Code sections 17A.4, 476.2, 476.8, 476.86, 476.87, 478.19, and 479.4.

The following amendments are proposed.

ITEM 1. Amend subrule 10.12(1) as follows:

**10.12(1)** All pipelines, underground storage facilities, and equipment used in connection therewith shall be designed, constructed, operated, and maintained in accordance with the following standards:

*a.* 49 CFR Part 191, “Transportation of Natural and Other Gas by Pipeline; Annual Reports, Incident Reports, and Safety-Related Condition Reports,” as amended through ~~June 22, 2011~~ [effective date of this amendment].

*b.* 49 CFR Part 192, “Transportation of Natural and Other Gas by Pipeline: Minimum Federal Safety Standards,” as amended through ~~June 22, 2011~~ [effective date of this amendment].

*c.* 49 CFR Part 199, “Drug and Alcohol Testing,” as amended through ~~June 22, 2011~~ [effective date of this amendment].

*d.* ASME B31.8 - 2007, “Gas Transmission and Distribution Piping Systems.”

*e.* 199—Chapter 9, “Restoration of Agricultural Lands During and After Pipeline Construction.”

*f.* At railroad crossings, 199—42.7(476), “Engineering standards for pipelines.”

## UTILITIES DIVISION[199](cont'd)

Conflicts between the standards established in paragraphs 10.12(1)“a” through “f” or between the requirements of rule 199—10.12(479) and other requirements which are shown to exist by appropriate written documentation filed with the board shall be resolved by the board.

ITEM 2. Amend rule 199—10.17(479) as follows:

**199—10.17(479) Accidents and incidents. Reports to federal agencies.** ~~Any pipeline incident or accident which is reportable to the U.S. Department of Transportation under 49 CFR Part 191 as amended through June 22, 2011, shall also be reported to the board, except that the minimum economic threshold of damage required for reporting to the board is \$15,000. Duplicate copies of any written accident reports and safety-related condition reports submitted to the U.S. Department of Transportation shall be provided to the board.~~

**10.17(1)** Upon submission of any incident, annual, or other report to the U.S. Department of Transportation pursuant to 49 CFR Part 191, Part 192, or Part 199, a copy of the report shall be filed with the board. The board shall also be advised of any telephonic incident report made.

**10.17(2)** In addition to incident reports required by 49 CFR Part 191, the board shall be notified of any incident or accident where the economic damage exceeds \$15,000 or which results in loss of service to 50 or more customers.

**10.17(3)** Utilities operating in other states shall provide to the board data for Iowa only.

ITEM 3. Amend subrule 15.10(1) as follows:

**15.10(1) Acceptable standards.** The interconnection of qualifying facilities and AEP facilities and associated interconnection equipment to an electric utility system shall meet the applicable provisions of the publications listed below:

a. Standard for Interconnecting Distributed Resources with Electric Power Systems, ANSI/IEEE Standard 1547-2003. For guidance in applying IEEE Standard 1547, the utility may refer to:

(1) IEEE Recommended Practices and Requirements for Harmonic Control in Electrical Power Systems—IEEE Standard 519-1992; and

(2) IEC/TR3 61000-3-7 Assessment of Emission Limits for Fluctuating Loads in MV and HV Power Systems.

b. Iowa Electrical Safety Code, as defined in 199—Chapter 25.

c. National Electrical Code, ANSI/NFPA 70-2008 2012.

ITEM 4. Amend paragraph **19.2(5)“g”** as follows:

*g. Reports to federal agencies.* Copies of reports submitted to the U.S. Department of Transportation pursuant to 49 CFR Part 191, Part 192, or Part 199, as amended through June 22, 2011 [effective date of this amendment], ~~“Transportation of Natural and Other Gas by Pipeline; Annual Reports, Incident Reports, and Safety-Related Condition Reports,”~~ shall be filed with the board. Utilities operating in other states shall provide to the board data for Iowa only.

ITEM 5. Amend subrule 19.5(2) as follows:

**19.5(2) Standards incorporated by reference.**

a. The design, construction, operation, and maintenance of gas systems and liquefied natural gas facilities shall be in accordance with the following standards where applicable:

(1) 49 CFR Part 191, “Transportation of Natural and Other Gas by Pipeline; Annual Reports, Incident Reports, and Safety-Related Condition Reports,” as amended through June 22, 2011 [effective date of this amendment].

(2) 49 CFR Part 192, “Transportation of Natural and Other Gas by Pipeline: Minimum Federal Safety Standards,” as amended through June 22, 2011 [effective date of this amendment].

(3) 49 CFR Part 193, “Liquefied Natural Gas Facilities: Federal Safety Standards,” as amended through June 22, 2011 [effective date of this amendment].

(4) 49 CFR Part 199, “Drug and Alcohol Testing,” as amended through June 22, 2011 [effective date of this amendment].

(5) ASME B31.8 - 2007, “Gas Transmission and Distribution Piping Systems.”

(6) NFPA 59-2008, “Utility LP-Gas Plant Code.”

## UTILITIES DIVISION[199](cont'd)

(7) At railroad crossings, 199—42.7(476), “Engineering standards for pipelines.”

*b.* The following publications are adopted as standards of accepted good practice for gas utilities:

(1) ANSI Z223.1/NFPA 54-2009 2012, “National Fuel Gas Code.”

(2) NFPA 501A-2009 2013, “Standard for Fire Safety Criteria for Manufactured Home Installations, Sites, and Communities.”

ITEM 6. Adopt the following **new** definition of “Vehicle fuel provider” in subrule **19.14(1)**:

“*Vehicle fuel provider*” or “*VFP*” means a person who owns or operates facilities to sell natural gas for vehicle fueling only. VFPs are CNGPs.

ITEM 7. Amend subrule 19.14(3) as follows:

**19.14(3)** *Filing requirements, and application process, and exception.*

*a.* Applications shall be made in the format and contain all of the information required in 199—subrule 2.2(18). Applications ~~must shall~~ be filed with the executive secretary at Iowa Utilities Board, 1375 E. Court Avenue, Room 69, Des Moines, Iowa 50319-0069 electronically in compliance with the provisions of 199—Chapter 14. An original and ten copies must be filed. An application fee of \$125 ~~must be included with the application~~ is required to be paid to the board at the time the application is filed to cover the administrative costs of accepting and processing a filing. The application fee shall be sent to the executive secretary at the Iowa Utilities Board, 1375 E. Court Avenue, Room 69, Des Moines, Iowa 50319-0069. In addition, each applicant ~~will~~ may be billed an hourly rate for actual time spent by the board reviewing the application. Iowa Code section 476.87(3) requires the board to allocate the costs and expenses reasonably attributable to certification and dispute resolution to applicants and participants to the proceeding.

*b.* Applicants for a certificate to provide natural gas vehicle fueling service as a VFP are not required to file the information in 199—subrule 2.2(18). Applicants for a certificate to provide natural gas vehicle fueling service only will be provided an application by the board. The application describes the information that is required to be provided.

*c.* An applicant shall notify the board during the pendency of the certification ~~request process~~ process of any material change in the representations and commitments required by this subrule within 14 days of such change. Any new legal actions or formal complaints as identified in ~~199 IAC 199—subrule 2.2(18), numbered paragraph “4,”~~ are considered material changes in the request. Once certified, CNGPs, including VFPs, shall notify the board of any material change in the representations and commitments required for certification within 14 days of such change.

ITEM 8. Amend subrule 20.5(2) as follows:

**20.5(2)** *Standards incorporated by reference.* The utility shall use the applicable provisions in the publications listed below as standards of accepted good practice unless otherwise ordered by the board.

*a.* Iowa Electrical Safety Code, as defined in 199—Chapter 25.

*b.* National Electrical Code, ANSI/NFPA 70-2008 2011.

*c.* American National Standard Requirements for Instrument Transformers, ANSI/IEEE C57.13.1-2006; and C57.13.3-2005.

*d.* American National Standard for Electric Power Systems and Equipment Voltage Ratings (60 Hertz), ANSI C84.1-2006 2011.

*e. to h.* No change.

ITEM 9. Amend subrule 25.2(1) as follows:

**25.2(1)** *National Electrical Safety Code.* ~~The American National Standards Institute (ANSI) C2-2007 “National Electrical Safety Code” (NESC) as ultimately conformed to the ANSI approved draft by correction of publishing errors through issuance of printed corrections is adopted as part of the Iowa electrical safety code, except Part 4, “Rules for Operation of Electric Supply and Communications Lines and Equipment,” which is not adopted by the board. The American National Standards Institute (ANSI) C2-2012 “National Electrical Safety Code” (NESC), including issued Correction Sheets, is adopted as part of the Iowa electrical safety code, except Part 4, “Rules for Operation of Electric Supply and Communications Lines and Equipment,” which is not adopted by the board.~~

## UTILITIES DIVISION[199](cont'd)

ITEM 10. Amend paragraph **25.2(2)“a”** as follows:

*a.* Introduction to the National Electrical Safety Code.

(1) ~~The following paragraph replaces NESC 011B: “The National Electrical Safety Code (NESC) covers utility facilities and functions from the point of generation by the utility, or delivery from another entity, of electricity or communications signals through the utility system to the point of delivery to a customer’s facilities.”~~

(2) NESC 013A2 is modified to read as follows: “Types of construction and methods of installation other than those specified in the rules may be used experimentally to obtain information, if done where:

“1. Qualified supervision is provided,

“2. Equivalent safety is provided,

“3. On joint-use facilities, ~~all affected parties agree~~ all joint users are notified in a timely manner,  
and

“4. Prior approval is obtained from the Iowa utilities board.”

ITEM 11. Amend subparagraph **25.2(2)“b”(4)** as follows:

(4) Except for clearances near grain bins, for measurements made under field conditions, the board will consider compliance with the overhead vertical line clearance requirements of Subsection 232 and Table 232-1 of the 1987 NESC indicative of compliance with the 1990 through ~~2007~~ 2012 editions of the NESC. (For an explanation of the differences between 1987 and subsequent code edition clearances, see Appendix A of the 1990 through ~~2007~~ 2012 editions of the NESC.)

ITEM 12. Amend subrule 25.2(3) as follows:

**25.2(3)** *Grain bins.*

*a.* Electric utilities shall conduct annual public information campaigns to inform farmers, farm lenders, grain bin merchants, and city and county zoning officials of the hazards of and standards for construction of grain bins near power lines. Where drawings and formulas from the NESC are used as part of public information campaigns, they are to be based on the “Errata to 2012 Edition National Electrical Safety Code” Correction Sheet issued February 6, 2012.

*b.* An electric utility may refuse to provide electric service to any grain bin built near an existing electric line which does not provide the clearances required by the American National Standards Institute (ANSI)C2-~~2007~~ 2012 “National Electrical Safety Code,” Rule 234F. This paragraph “*b*” shall apply only to grain bins loaded by portable augers, conveyors or elevators and built after September 9, 1992, or to grain bins loaded by permanently installed augers, conveyors, or elevator systems installed after December 24, 1997.

ITEM 13. Amend subrule 25.2(5) as follows:

**25.2(5)** *Other references adopted.*

*a.* The “National Electrical Code,” ANSI/NFPA 70-~~2008~~ 2011, is adopted as a standard of accepted good practice for customer-owned electrical facilities beyond the utility point of delivery, except for installations subject to the provisions of the state fire marshal standards in ~~661 IAC~~ 661—504.1(103).

*b.* “The Lineman’s and Cableman’s Handbook,” ~~Eleventh~~ Twelfth Edition; Shoemaker, Thomas M. and Mack, James E.; New York, McGraw-Hill Book Co., is adopted as a recommended guideline to implement the “National Electrical Safety Code” or “National Electrical Code,” and for developing the inspection and maintenance plans required by ~~199 IAC~~ 199—25.3(476,478).

ITEM 14. Amend subrule 25.3(5) as follows:

**25.3(5)** *Guidelines.* Applicable portions of Rural Utilities Service (RUS) Bulletins 1730-1, 1730B-121, and 1724E-300 and “The Lineman’s and Cableman’s Handbook” are suggested as guidelines for the development and implementation of an inspection plan. ANSI A300 (Part 1)-~~2001~~ 2013, “Pruning,” and Section 35 of “The Lineman’s and Cableman’s Handbook” are suggested as guides for tree trimming practices.

## UTILITIES DIVISION[199](cont'd)

ITEM 15. Amend rule ~~199—45.1(476)~~, definitions of “Nationally recognized testing laboratory” and “UL Standard 1741,” as follows:

“*Nationally recognized testing laboratory*” or “*NRTL*” means a qualified private organization that meets the requirements of the Occupational Safety and Health Administration’s (OSHA) regulations. See 29 CFR 1910.7 (~~July 31, 2000~~) as amended through [effective date of this amendment]. NRTLs perform independent safety testing and product certification. Each NRTL shall meet the requirements as set forth by OSHA in its NRTL program.

“*UL Standard 1741*” means the standard titled “Inverters, Converters, and Controllers for Use in Independent Power Systems,” ~~November 7, 2005~~ January 28, 2010, edition, Underwriters Laboratories Inc., 333 Pfingsten Road, Northbrook, IL 60062-2096.

## ARC 1172C

## AGING, DEPARTMENT ON[17]

## Adopted and Filed

Pursuant to the authority of Iowa Code sections 231.14, 231.23 and 17A.3, the Department on Aging hereby amends Chapter 10, "Senior Internship Program (SIP)," Iowa Administrative Code.

The amendments change the name of the Senior Internship Program (SIP) to the Older American Community Service Employment Program and correct a reference to the Iowa Code.

Notice of Intended Action was published in the Iowa Administrative Bulletin on July 10, 2013, as **ARC 0833C**. The Department received no written comments. These amendments are identical to those published under Notice of Intended Action.

The Commission on Aging adopted these amendments on October 14, 2013.

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

These amendments are intended to implement Iowa Code chapter 231 and 2013 Iowa Acts, Senate File 184.

These amendments will become effective on December 18, 2013.

The following amendments are adopted.

ITEM 1. Amend **17—Chapter 10**, title, as follows:

~~SENIOR INTERNSHIP PROGRAM (SIP)~~ OLDER AMERICAN  
COMMUNITY SERVICE EMPLOYMENT PROGRAM

ITEM 2. Amend rule 17—10.1(231) as follows:

**17—10.1(231) Scope and purpose.** The ~~senior internship program (SIP)~~ older American community service employment program fosters individual economic self-sufficiency, promotes useful opportunities in community service activities for unemployed and low-income persons who are aged 55 or older, and increases the number of persons who may enjoy the benefits of unsubsidized employment in both the public and private sectors. ~~SIP~~ The older American community service employment program is a grantee of the Community Service Employment Program, also known as Title V of the Older Americans Act.

ITEM 3. Amend rule **17—10.2(231)**, definitions of "Assessment of job skills," "Senior internship program," "Senior internship program coordinator" and "Unsubsidized employment," as follows:

"*Assessment of job skills*" means a process by which the ~~senior internship~~ older American community service employment program coordinator develops a written history of the work experience and related qualities that an individual possesses that would make the individual marketable as an employee.

"~~Senior internship program~~ Older American community service employment program" ~~or "SIP"~~ means the program established under Iowa Code section ~~231.52~~ 231.51 as amended by 2013 Iowa Acts, Senate File 184.

"~~Senior internship~~ Older American community service employment program coordinator" means a person employed by the subproject sponsor whose responsibility is to develop jobs, advocate for the employment of eligible individuals, and provide employment services for eligible individuals, including Title V participants.

"*Unsubsidized employment*" means a position where wages, fringe benefits and other expenses for a terminated participant are not paid with ~~SIP~~ older American community service employment program funds.

ITEM 4. Amend subrule 10.3(1) as follows:

**10.3(1)** To be eligible for the ~~SIP Title V subsidized employment~~ older American community service employment program, participants shall meet the following criteria:

*a. to c.* No change.

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

ITEM 5. Amend rule 17—10.4(231) as follows:

**17—10.4(231) Funding.**

**10.4(1)** ~~SIP~~ The older American community service employment program shall be funded by:

- a. Title V of the Older Americans Act;
- b. ~~SIP~~ Older American community service employment program state appropriations; and
- c. Other nonfederal sources.

**10.4(2)** Title V funds and state funds shall be allotted among the ~~SIP~~ older American community service employment program subproject sponsors according to the number of Title V slots designated for contracted projects.

**10.4(3)** No change.

**10.4(4)** ~~SIP~~ Older American community service employment program state funds shall not be carried over.

**10.4(5)** Federal Title V funds and ~~SIP~~ older American community service employment program state appropriations shall be allocated through a contractual agreement between the department and the subproject sponsor.

ITEM 6. Amend rule 17—10.5(231) as follows:

**17—10.5(231) Program requirements.**

**10.5(1)** *Participating agencies.* Public, private and not-for-profit organizations are eligible to respond to a request for proposal (RFP). Agencies will be selected to operate ~~SIP~~ the older American community service employment program through the request for proposal process, and the selected agencies will become subproject sponsors.

**10.5(2)** *Subproject sponsor responsibilities.* Subproject sponsor responsibilities for ~~SIP~~ the older American community service employment program shall include the following:

- a. No change.
- b. Designation of a member of the sponsor's staff as ~~a senior internship~~ an older American community service employment program coordinator to ensure program performance;
- c. to k. No change.
- l. Provide access to supportive services to the participant during participation in the ~~SIP~~ older American community service employment program and in the first 12 months of unsubsidized employment;
- m. No change.
- n. Provide each participant with a copy of the host agency grievance procedures, the subproject sponsor's grievance procedures, and the ~~SIP's~~ older American community service employment program's grievance procedures as outlined in this chapter;
- o. to u. No change.

**10.5(3)** No change.

**10.5(4)** *Program coordination with one-stop delivery system.*

a. Subproject sponsors shall coordinate the ~~SIP~~ older American community service employment program with the one-stop delivery system as established under Section 134(c) of the Workforce Investment Act of 1998 (29 U.S.C. 2864(c)) to ensure opportunities for unsubsidized employment.

b. and c. No change.

**10.5(5)** *Department responsibilities.* The department shall:

- a. Issue a request for proposal for application for ~~SIP~~ older American community service employment program funds;
- b. and c. No change.
- d. Provide training workshops for ~~SIP~~ older American community service employment program coordinators and other subproject sponsor employment staff, subject to availability of funding;
- e. to h. No change.

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

*i.* Coordinate the SIP older American community service employment program with the department of workforce development, the department of education, the economic development authority, and other agencies which provide employment services to older Iowans; and

*j.* No change.

**10.5(6)** No change.

ITEM 7. Amend rule 17—10.6(231) as follows:

**17—10.6(231) Selection process to determine SIP older American community service employment program subproject sponsors.**

**10.6(1)** *Request for proposal.* SIP Older American community service employment program funding shall be allocated through a request for proposal (RFP) process as mandated by the Iowa department of administrative services. The subproject sponsor shall be a public, private or nonprofit organization with proven management or administrative capabilities to provide employment and training services to older workers.

**10.6(2)** and **10.6(3)** No change.

ITEM 8. Amend paragraph **10.7(2)“a”** as follows:

*a.* Conduct annual evaluations of the SIP older American community service employment program through desk or on-site monitoring;

ITEM 9. Amend **17—Chapter 10**, implementation sentence, as follows:

These rules are intended to implement Iowa Code section ~~231.52~~ 231.51 as amended by 2013 Iowa Acts, Senate File 184.

[Filed 10/17/13, effective 12/18/13]

[Published 11/13/13]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 11/13/13.

**ARC 1175C**

**ECONOMIC DEVELOPMENT AUTHORITY[261]**

**Adopted and Filed**

Pursuant to the authority of 2013 Iowa Code section 15.106A and 2013 Iowa Acts, House File 641, sections 3 and 4, the Economic Development Authority hereby adopts new Chapter 200, “Reinvestment Districts Program,” Iowa Administrative Code.

In 2013 Iowa Acts, House File 641, the General Assembly authorized the Authority to establish and administer “the Iowa Reinvestment Act,” a program that provides certain state hotel and motel and sales and use tax revenues to be “reinvested” into designated reinvestment districts. These rules describe the manner in which the Authority implements and administers the program.

The Economic Development Authority Board adopted these rules on October 18, 2013, at the Board’s monthly meeting.

Notice of Intended Action for these rules was published in the August 21, 2013, Iowa Administrative Bulletin as **ARC 0947C**.

The Economic Development Authority received public comments on the rules. Based on these comments, the following changes to the Notice have been made:

1. The definition of “appurtenant structure” in rule 261—200.2(15J) has been amended to clarify which buildings will be considered appurtenant structures.

2. The definition of “contiguous” in paragraph 200.5(1)“c” has been amended to clarify how much of a right-of-way must be included for purposes of designating an area suitable for development.

After analysis and review of this rule making, no negative impact on jobs has been found, and the Authority finds that the new program is likely to substantially benefit the Iowa economy by investing up

## ECONOMIC DEVELOPMENT AUTHORITY[261](cont'd)

to \$100 million of future tax revenue in certain development-ready areas of the state and by leveraging an even greater amount of private investment in those areas.

These rules are intended to implement 2013 Iowa Acts, House File 641.

These rules will become effective on December 18, 2013.

The following amendment is adopted.

Adopt the following new 261—Chapter 200:

CHAPTER 200  
REINVESTMENT DISTRICTS PROGRAM

**261—200.1(15J) Purpose.** The board is authorized by the general assembly and the governor to oversee the implementation and administration of certain provisions of a new economic development program known as the Iowa reinvestment Act which was enacted in 2013 Iowa Acts, House File 641. The purpose of this chapter is to describe the manner in which the authority's part of the program will be administered. The program provides for as much as \$100 million in state hotel and motel and state sales tax revenues generated by new revenue-generating projects in certain districts to be "reinvested" within those districts. In general, the authority has the responsibility to evaluate projects and make funding decisions while the department of revenue has the responsibility for collecting the tax revenues used to fund projects under the program and making payments to municipalities. To the greatest extent possible, the board will fund projects in districts that are the most likely (1) to improve the quality of life of the municipality, the surrounding region, and the state as a whole; (2) to be unique to the municipality, the surrounding region, and the state as a whole; and (3) to substantially benefit the economy of the municipality, the surrounding region, and the state as a whole.

**261—200.2(15J) Definitions.** For purposes of this chapter unless the context otherwise requires:

*"Account"* means the district account that is created within the fund for each municipality which has established a district and that holds the new tax revenues deposited by the department under the program. Moneys in each account will be remitted quarterly by the department to the municipality pursuant to the department of revenue's rules in 701—Chapter 237.

*"Applicant"* means a municipality applying to the board and the authority for approval of a district under the program, including the preapplication process described in rule 261—200.4(15J).

*"Appurtenant structure"* means any building or other fixture on a piece of real estate other than the main building provided that such a building or fixture is permanent, is wholly or partially above grade, and will be constructed or substantially improved in conjunction with the main building. A structure is appurtenant when the structure is physically connected to a main building such that the connected structures combine to create a single, integrated facility. A structure is not physically connected if the structure has a function or purpose independent of the main building, even if the structures are in close proximity or are incidentally connected by some means such as a common wall, a sidewalk, or recreational trail.

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

*"Board"* means the members of the economic development authority appointed by the governor and in whom the powers of the authority are vested pursuant to Iowa Code section 15.105.

*"Commencement date"* means the date established for each district by the board pursuant to rule 261—200.7(15J) upon which the calculation of new state sales tax and new state hotel and motel tax revenue shall begin pursuant to rule 701—237.3(15J) and after which the department will make deposits in the fund pursuant to rule 701—237.4(15J).

*"Department"* means the department of revenue.

*"Director"* means the director of the authority.

*"District"* means the area within a municipality that is designated a reinvestment district under the program. For purposes of this chapter, a reinvestment district is designated during the application and approval process but is not created until it has both received the final approval of the board pursuant

## ECONOMIC DEVELOPMENT AUTHORITY[261](cont'd)

to rule 261—200.7(15J) and been established by ordinance of the municipality as described in rule 261—200.8(15J).

“*Due diligence committee*” means the due diligence committee of the board established pursuant to 261—subrule 1.3(7).

“*Fund*” means the state reinvestment district fund created in 2013 Iowa Acts, House File 641, section 6, consisting of new tax revenues, and under the control of the department.

“*Governing body*” means the county board of supervisors, city council, or other governing body in which the legislative powers of the municipality are vested.

“*Maximum benefit amount*” means the total amount of new tax revenues that may be remitted to a municipality’s reinvestment project fund and used for development in a district. The maximum benefit will be established by the board when a final application to the program is approved pursuant to rule 261—200.7(15J).

“*Municipality*” means a county or an incorporated city.

“*New lessor*” means a lessor, as defined in Iowa Code section 423A.2, operating a business in the district that was not in operation in the area of the district before the effective date of the ordinance establishing the district, regardless of ownership. “New lessor” also includes any lessor, as defined in Iowa Code section 423A.2, operating a business in the district if the place of business for that business is the subject of a project that was approved by the board.

“*New retail establishment*” means a business operated in the district by a retailer, as defined in Iowa Code section 423.1, that was not in operation in the area of the district before the effective date of the ordinance establishing the district, regardless of ownership. “New retail establishment” also includes any business operated in the district by a retailer, as defined in Iowa Code section 423.1, if the place of business for that retail establishment is the subject of a project that was approved by the board.

“*New tax revenues*” means all state sales tax revenues and state hotel and motel tax revenues that are collected within a district by new retail establishments and new lessors, provided that such new retail establishments and lessors are included as projects in an approved district plan. New tax revenues are remitted to the department after collection by new retail establishments and new lessors and deposited by the department in a fund for use by a municipality under the program.

“*Program*” means the reinvestment district program established pursuant to this chapter.

“*Project*” means a vertical improvement constructed or substantially improved within a district using new tax revenues. “Project” does not include any of the following:

1. A building, structure, or other facility that is in whole or in part used or intended to be used to conduct gambling games under Iowa Code chapter 99F.
2. A building, structure, or other facility that is in whole or in part used or intended to be used as a hotel or motel if such hotel or motel is connected to or operated in conjunction with a building, structure, or other facility described in paragraph “1” above.

“*Retail business*” means any business engaged in the business of selling tangible personal property or taxable services at retail in this state that is obligated to collect state sales or use tax under Iowa Code chapter 423. However, for the purposes of this chapter, “retail business” does not include a new lessor.

“*State hotel and motel tax*” means the state-imposed tax under Iowa Code section 423A.3.

“*State sales tax*” means the sales and services tax imposed pursuant to Iowa Code section 423.2.

“*Substantially improved*” means that the cost of the improvements to a project are equal to or exceed 50 percent of the assessed value of the property, excluding the land, prior to such improvements.

“*Unique nature*” means a quality or qualities of the projects to be developed in a district which, when considered in the entirety, will substantially distinguish the district’s projects from other existing or proposed developments in the state. For purposes of this chapter, whether a project is of a unique nature is a subjective and contextual determination that will be made by the board. In determining whether a project is of a unique nature, the board will not necessarily require a project to be entirely without precedent or to be the only one of its kind in the state, but rather the board will evaluate whether the projects to be undertaken in a district will either (1) permanently transform the aesthetics or infrastructure of a local community for the better, including by preserving important historical

## ECONOMIC DEVELOPMENT AUTHORITY[261](cont'd)

structures or neighborhoods; or (2) contribute substantially more to the state's economy or quality of life than other similar projects in the state.

*"Vertical improvement"* means a building that is wholly or partially above grade and all appurtenant structures to the building.

**261—200.3(15J) Program overview.**

**200.3(1) General.** The reinvestment districts program provides for as much as \$100 million in new tax revenues generated by revenue-generating projects in certain districts to be "reinvested" within those districts. The program allows municipalities to designate areas of up to 25 acres within their corporate boundaries as reinvestment districts and to use new tax revenues collected within the district to finance the development of projects within the district. The authority and the board will take applications from municipalities for designation as a district and will consider and approve eligible applicants for funding under the program.

**200.3(2) Preapplication, provisional decisions, and final approval.** Each fiscal year in which funding is available, the authority will accept applications for assistance under the program. The program includes a preapplication process, a scoring process, a provisional funding decision, and a final board approval process.

**200.3(3) District establishment and financing.** Upon final approval of a plan, a municipality may adopt an ordinance to establish a district and shall notify the department that new tax revenues may be deposited in a fund under the program. The collection and deposit of new tax revenues by the department begins only after final approval of the proposed district plan and the establishment of the district's maximum benefit amount and commencement date. The department will deposit in a fund 4 percent of the amount of retail sales subject to the state sales tax collected by new retail establishments within the district and 5 percent of the amount of sales subject to the state hotel and motel tax collected by new lessors within the district.

**200.3(4) Duration of funding and termination of district.** The department will deposit new tax revenues in the fund until the maximum benefit is reached or the district is terminated, whichever is earlier. A district shall be terminated as of the date 20 years after the commencement date unless a municipality dissolves the district prior to that date.

**200.3(5) Use of funds.** A municipality may use moneys remitted by the department to the municipality from its account for purposes of funding development in a district according to an approved district plan as described in rule 261—200.8(15J).

**261—200.4(15J) Preapplication process.**

**200.4(1) Purpose.** The program includes a preapplication process to assist with the administration and implementation of the program. The purposes of the preapplication process are to provide information related to the requirements of this chapter, to determine the interest of municipalities in establishing districts under this chapter, including the amount of potential funding requests, and to assist municipalities in preparing a proposed district plan. The authority and the board will utilize the preapplication process to gauge the level of demand for funding under the program, accept initial project plans and requests for funding, make provisional determinations about the amount of maximum benefits, and notify applicants of the board's provisional funding decisions. While all funding decisions made during the preapplication process are provisional and subject to change, the process is intended to indicate the board's willingness to approve future financial assistance for projects that meet the requirements of this chapter.

**200.4(2) Preapplication required.** The board will only approve a proposed district plan if that plan has been submitted during the annual filing window as described in this rule.

**200.4(3) Annual filing window.** Each year starting on March 1 and ending on March 15, the authority will accept preapplications under the program provided that funding is available. The purpose of the annual filing window is to enable the competitive scoring of applications and facilitate funding decisions by the board that are within the limitations established for the program by the general assembly. A

## ECONOMIC DEVELOPMENT AUTHORITY[261](cont'd)

municipality interested in applying to the program must submit a preapplication during the annual filing window or wait until the next annual filing window.

**200.4(4) *Preapplication submission requirements.*** Each preapplication submission shall demonstrate compliance with the requirements listed in rule 261—200.5(15J) to the greatest extent possible. While the preapplication process is provisional in nature and is designed to allow applicants to make reasonable changes to the proposed district plan before a final application is considered, the board is more likely to approve funding for proposed districts that meet all requirements of rule 261—200.5(15J) during the preapplication process.

**200.4(5) *Provisional funding decisions.***

*a.* The board, with the assistance of the authority, will evaluate the preapplications and assign them a provisional score based on the criteria described in rule 261—200.6(15J). Based on the results of the scoring, the board will make provisional funding decisions and notify applicants on or before June 30 of each year in which funding is available.

*b.* A provisional funding decision represents an initial judgment by the board about the merits of a proposed district plan and is provided for the convenience of both applicants and the board for the better administration of the program. A provisional funding decision shall not be construed as binding on the board nor will the applicant be required to meet all of the details contained in the preapplication. A provisional funding decision shall not be construed as a final approval by the board. A municipality shall not adopt an ordinance establishing a district based on a provisional funding decision.

*c.* The final details of a proposed district plan and a final funding decision, including a maximum benefit amount and a commencement date, shall be contingent upon the receipt of a full, final, and complete application and upon final action by the board to ratify, amend, defer, or rescind its provisional funding decision as provided in rule 261—200.7(15J).

*d.* The department of revenue will not deposit moneys into a fund until a final application is approved by the board and an ordinance has been adopted by the municipality.

**200.4(6) *Posting of preapplication and materials to Internet site.*** After the board makes a provisional funding decision, the proposed district plan, along with all accompanying materials, will be posted on the authority's Internet site for public viewing within ten days of approval by the board.

**261—200.5(15J) Program eligibility and application requirements.** To be eligible for benefits under the program, an applicant shall meet all of the following requirements:

**200.5(1) *Area suitable for development.*** An applicant must be a municipality and must have an area suitable for development within the boundaries of the municipality that has been proposed for designation as a reinvestment district under the program. Only areas that meet the following requirements will be approved for designation as a reinvestment district:

*a.* The area must consist only of parcels of real property that the governing body of the municipality determines will be directly and substantially benefited by development in the proposed district. In order to establish that this criterion is met, a municipality should submit information such as an estimate of the expected increase in valuation or other data that lends itself to a quantitative assessment of the extent to which the real property will benefit.

*b.* The area must be in whole or in part either an economic development enterprise zone designated under Iowa Code chapter 15E, division XVIII, or an urban renewal area established pursuant to Iowa Code chapter 403. In order to establish that this criterion is met, a municipality should submit maps of the proposed area as well as maps of the existing enterprise zone or urban renewal area. A municipality should also submit copies of the local ordinance or resolution establishing the enterprise zone or the urban renewal area.

*c.* The area must consist of contiguous parcels and must not exceed 25 acres in total. For purposes of this subrule, "contiguous" means parcels that are physically connected. Parcels connected by streets or other rights-of-way will be considered physically connected for purposes of this rule. In designating an area that includes a right-of-way, an applicant may include an area that is less than the full width of the right of way, but the applicant shall not include less than 60 feet the right-of-way's width.

## ECONOMIC DEVELOPMENT AUTHORITY[261](cont'd)

d. For a municipality that is a city, the area must not include the entire incorporated area of the city.

e. The area must not be located in whole or in part within another district established under this chapter.

**200.5(2) Proposed district plan.** An applicant must submit a proposed district plan. A proposed district plan must be approved by resolution of the governing body of the municipality and must state the governing body's intent to establish a district. A copy of this resolution should be submitted with the proposed district plan. The proposed district plan must also include all of the following:

a. A finding by the governing body that the area in the proposed district is an area suitable for development. This finding should be supported by the information required under subrule 200.5(1).

b. A legal description of the real estate forming the boundaries of the area to be included in the proposed district along with a map depicting the existing parcels of real estate located in the proposed district.

c. A list of the names and addresses of the owners of record of the parcels to be included in the proposed district. If, at the time an application is submitted, the parcels are not yet acquired or one or more parcels within the district are under consideration for a project, then the names and addresses of the owners of record of all parcels under consideration shall be submitted with the understanding that final board approval shall be contingent upon all parcels' being acquired and identified by address prior to final board approval and establishment of the commencement date.

d. A list of all projects proposed to be undertaken within the district, a detailed description of those projects, and a project plan for each proposed project. Each project plan shall clearly state the estimated cost of the proposed project, the anticipated funding sources for the proposed project, the amount of anticipated funding from each such source, and the amount and type of debt, if any, to be incurred by the municipality to fund the proposed project, and shall include a proposed project feasibility study conducted by an independent professional with expertise in economic development and public finance. The project plan for the project that proposes the largest amount of capital investment among all proposed projects within the district shall include an estimate of the date that construction of the project will be completed and of the date that operations will begin at the project. The feasibility study shall include projections and analysis of all of the following:

(1) The amount of gross revenues expected to be collected in the district as a result of the proposed project for each year that the district is in existence.

(2) A detailed explanation of the manner and extent to which the proposed project will contribute to the economic development of the state and the municipality, including an analysis of the proposed project's economic impact. The analysis shall include the same components and be conducted in the same manner as the economic impact study required under paragraph "e" of this subrule.

(3) An estimate of the number of visitors or customers the proposed project will generate during each year that the district exists.

(4) A description of the unique characteristics of the proposed project. The description should include an explanation of why the unique characteristics of the proposed project cause the project to be of a unique nature, within the meaning of that term as it is defined in rule 261—200.2(15J).

e. An economic impact study for the proposed district conducted by an independent economist retained by the municipality. The economic impact study shall, at a minimum, do all of the following:

(1) Contain a detailed analysis of the financial benefit of the proposed district to the economy of the state and the municipality.

(2) Identify one or more projected market areas in which the district can reasonably be expected to have a substantial economic impact.

(3) Assess the fiscal and financial impact of the proposed district on businesses or on other economic development projects within the projected market area.

**200.5(3) Additional conditions.** In addition to the requirements described in subrules 200.5(1) and 200.5(2), a municipality shall demonstrate to the board's satisfaction that all of the following additional conditions are met:

## ECONOMIC DEVELOPMENT AUTHORITY[261](cont'd)

- a.* The area of the municipality proposed to be included in the district must meet the requirements of subrule 200.5(1).
- b.* The projects proposed to be undertaken in the district must be of a unique nature and must be likely to have a substantial beneficial impact on the economy of the state and the economy of the municipality. If, in the judgment of the board, an applicant's proposed district plan is not of a unique nature or will not result in benefits claimed, the board may decline to approve a proposed district plan or may defer a proposed district plan until amendments are made.
- c.* The proposed funding sources for each proposed project must be feasible.
- d.* At least one of the projects proposed to be undertaken in the district must include a capital investment of at least \$10 million.
- e.* The total amount of proposed funding from new tax revenues to be remitted to the municipality from the fund for all proposed projects in the proposed district plan must not exceed 35 percent of the total cost of all proposed projects in the proposed district plan.
- f.* The amount of proposed capital investment within the proposed district related to retail businesses in the proposed district must not exceed 50 percent of the total capital investment for all proposed projects in the proposed district plan.
- g.* The applicant must have submitted an application under the preapplication process described in rule 261—200.4(15J) and, as part of a provisional funding decision by the board, must have been approved for a provisional maximum benefit amount.
- h.* The proposed district plan must meet a minimum score under the criteria described in rule 261—200.6(15J).
- i.* The proposed district plan would not create an additional district within a municipality that has already established one. While multiple districts within a single municipality are not prohibited under the program, the program does limit the size of any one district to 25 acres and disallows overlapping districts. Therefore, the board will consider whether the approval of an additional district is appropriate given the particulars of the proposed additional district and the goals of the program. If a municipality proposes an additional district, the board, at its discretion, may accept the application and score it, or if the board determines that approval of an additional district would not serve the goals of the program, the board may reject the application without scoring it.
- j.* The applicant is not requesting a plan amendment to increase the maximum benefit amount for an already approved district. While it is within the discretion of the board to increase the maximum benefit amount of an approved district, the board will carefully scrutinize whether an increase is justified by circumstances such as greater investment or improved projects within the district and whether any change in the maximum benefit amount serves the goals of the program.

**200.5(4) Application materials and submission.**

*a.* A municipality interested in applying for funding under the program shall submit a preapplication and a final application to the board for approval and, when applying, shall provide the information described in this chapter or any other information the board or the authority may reasonably require in order to process the application.

*b.* Information on submitting an application under the program may be obtained by contacting the economic development authority. The contact information is:

Iowa Economic Development Authority  
Business Finance Team  
200 East Grand Avenue  
Des Moines, Iowa 50309  
(515)725-3000  
[businessfinance@iowa.gov](mailto:businessfinance@iowa.gov)  
<http://iowaeconomicdevelopment.com/>

**261—200.6(15J) Application scoring and determination of benefits.** For each applicant that meets the requirements of rule 261—200.5(15J) and that has submitted an application during the annual filing

## ECONOMIC DEVELOPMENT AUTHORITY[261](cont'd)

window as described in subrule 200.4(3), the board will evaluate and score the proposed district plan according to the criteria and process described in this rule.

**200.6(1) Scoring criteria and plan evaluation.** Each proposed district plan will be given a numerical score between 0 and 100. The higher the numerical score, the more likely the proposed district will be approved for designation and funding under the program. The scoring process will necessarily involve a subjective assessment of the quality of each proposed district plan as well as a consideration of how each proposed district plan compares to the plans proposed by other applicants. The criteria used to score each application and the maximum number of points that may be attributed to each criterion are as follows:

*a.* Uniqueness: 25 points. The program requires that the projects proposed to be undertaken must be of a unique nature. Therefore, the proposed district plan will be evaluated on this criterion in order to quantify the extent to which the projects in the proposed district plan are of a unique nature. The more unique the projects are, the more points will be received under this criterion.

*b.* Economic impact: 25 points. The program requires that the projects proposed to be undertaken must have a substantial beneficial impact on the economy of the state and the economy of the municipality. Therefore, the proposed district plan will be evaluated on this criterion in order to quantify the extent to which the projects in the proposed district plan will benefit the economy. The greater the economic impact of the proposed district plan, the more points will be received under this criterion.

*c.* Project feasibility: 10 points. The program requires that funding sources for projects must be feasible. Therefore, the proposed district plan will be evaluated on this criterion in order to quantify the extent to which the funding sources of the proposed projects are feasible. The more feasible the funding sources for the proposed projects are, the more points will be received under this criterion.

*d.* Capital investment: 10 points. The program requires that at least one project with a capital investment of \$10 million or more be proposed. To the extent that the proposed district plan exceeds this minimum level of capital investment, more points will be received under this criterion.

*e.* Funding leverage: 10 points. The program limits the amount of new tax revenues that can be received to 35 percent of the total cost of all proposed projects in the proposed district plan. To the extent that a proposed district plan includes a financing plan in which the percentage of new tax revenues to be received is less than 35 percent of the total cost, more points will be received under this criterion.

*f.* Nonretail focus: 10 points. The program limits the amount of proposed capital investment in the district related to retail businesses to 50 percent of the total capital investment for all proposed projects in the proposed district. To the extent that a proposed district plan includes projects that provide cultural amenities, tourist attractions and accommodations, infrastructure, or quality of life improvements, more points will be received under this criterion.

*g.* Additional factors: 10 points. The program allows the board to establish additional criteria for the program. Therefore, in addition to the other criteria listed in this subrule, the board will consider the following additional factors:

(1) Readiness for development. The closer a municipality is to beginning development on a proposed district plan, the more points may be received under the additional factors criterion.

(2) Geographic diversity. To the extent that a proposed district is located in a region of the state not already funded under the program, more points may be received under the additional factors criterion. A proposed district plan that would create an additional district within a municipality or a request to increase the maximum benefit amount of an already approved district will not be viewed as enhancing geographic diversity and may receive fewer points under the additional factors criterion.

(3) Funding need. To the extent that a funding gap exists in the proposed district plan's financing, more points may be received under the additional factors criterion.

**200.6(2) Scoring process and funding recommendations.** Proposed district plans will be scored by an evaluation committee consisting of members appointed by the director. Members of the committee will include authority staff and not more than five members of the board. Each member of the evaluation committee will judge the proposed district plan according to the scoring criteria, and then the scores of all members of the committee will be averaged together to reflect one numerical score between 0 and 100. The evaluation committee will not make a funding recommendation.

## ECONOMIC DEVELOPMENT AUTHORITY[261](cont'd)

After all applications are scored, a copy of the proposed district plan and the results of the scoring will be referred to the due diligence committee, which will consider the quality of the proposed district plans and make funding recommendations to the board. The due diligence committee will take into account the requested funding levels, but will also attempt to establish maximum benefit amounts that seem most appropriate to both the quality of the proposed district plans and the total demand for program funding.

The scoring results will not be negotiated and, while both the board and the due diligence committee will consider the scoring results of the evaluation committee, those results are not binding on either the due diligence committee or the board.

**200.6(3) *Minimum score required.*** To receive funding under the program, a proposed district plan must receive an average score of 70 or more points under the criteria listed in subrule 200.6(1).

**200.6(4) *Funding not guaranteed.*** The program is subject to a total aggregate limit on the amount of new tax revenues that may be approved. Therefore, a proposed district plan that meets the required minimum score is not guaranteed funding if the board's funding decisions for other, higher scoring proposed district plans cause the program's total aggregate limit to be reached.

**200.6(5) *Final action taken by board.*** The final decision on whether to approve the designation of a proposed reinvestment district and the determination of the amount of maximum benefit to award an applicant rest entirely with the board. The recommendations of the evaluation committee and the due diligence committee with respect to the proposed district plans are of an advisory nature only.

**200.6(6) *Availability of scoring results.*** The board and the authority will keep records of the scoring process and make those records available to applicants.

**200.6(7) *Denial of plans and resubmission.*** If a proposed district plan is denied, the board will state the reasons for the denial. Reasons for denial may include a failure to meet filing deadlines, a failure to meet the basic requirements for eligibility, a failure to meet the required minimum score, or a lack of available funding. A municipality whose application is denied may resubmit the application at the next annual filing window provided there is funding available, but a resubmission must be rescored with all other applicants that apply during that filing window.

**200.6(8) *Provisional nature of preapplication process.*** The preapplication process described in rule 261—200.4(15J) will result in provisional scores and provisional funding decisions for applicants. However, these provisional scores and funding decisions are subject to change pending the final approval process described in rule 261—200.7(15J).

**261—200.7(15J) Final application and approval process.****200.7(1) *Final application required.***

*a.* An applicant that receives a provisional funding decision must submit a final application to the board before the date of the next annual filing window. An applicant that does not file a final application within that time will be scored again with all other applicants who file in the next annual filing window.

*b.* A final application shall meet all the requirements described in rule 261—200.5(15J).

**200.7(2) *Amendments to preapplications and rescoring of plans.*** An applicant may amend any part of the preapplication when submitting the final application and must amend the application if any part of the proposed district plan will be materially different from the plan that was proposed during the preapplication process. If the board determines that a final application is substantially different from the related preapplication, then the board may rescore the application and reevaluate the provisional funding decision prior to taking final action. If the board elects to rescore and reevaluate an application, the application will be rescored and reevaluated in the same manner and according to the same criteria used initially.

**200.7(3) *Final funding decision and establishment of commencement date.*** After submission of all information required for the final application, the board will make a final funding decision, establish a final maximum benefit amount, and establish a commencement date for the district. The commencement date established by the board will be the first day of the first calendar quarter beginning after the later of the two dates identified for the project that proposed the largest amount of capital investment among all proposed projects in the district as described in subrule 200.5(2).

## ECONOMIC DEVELOPMENT AUTHORITY[261](cont'd)

**200.7(4)** *Provisional funding decisions not determinative of final funding decision.* The board's final funding decision may be different from its provisional funding decision. The board may ratify, amend, defer, or rescind the provisional funding decision. If the board's final funding decision causes additional funding to become available, the board may amend a funding decision for another proposed district plan made during the same annual filing window or may reserve the additional funding capacity for the next annual filing window.

**200.7(5)** *Posting of application and materials to Internet site.* Upon final approval by the board, the district plan, along with the municipality's resolution and all accompanying materials, will be posted on the authority's Internet site for public viewing within ten days of approval by the board.

**261—200.8(15J) Adoption of ordinance and use of funds.**

**200.8(1)** *Adoption of ordinance establishing a district.* Upon receiving approval by the board of the final application pursuant to rule 261—200.7(15J), the municipality may adopt an ordinance establishing the district and shall notify the director of revenue of the district's commencement date established by the board no later than 30 days after adoption of the ordinance. The ordinance adopted by the municipality shall include the district's commencement date and a detailed statement of the manner in which the approved projects to be undertaken in the district will be financed, including but not limited to the financial information included in the project plan.

**200.8(2)** *Use of funds.*

*a.* Following establishment of the district, a municipality may use the moneys deposited in the municipality's reinvestment project fund created pursuant to 2013 Iowa Acts, House File 641, section 7, to fund the development of those projects included within the district plan. For purposes of this subrule, "development" means all costs reasonably related to a project provided that such costs are described in a final application approved by the board. Development costs may include project planning, professional services, land acquisition, construction, maintenance, and operational expenses. A municipality shall enter into development agreements for the expenditure of program funds and submit copies of such agreements to the authority within 30 days of execution.

*b.* Moneys deposited in such a fund shall only be used to fund projects approved by the board as part of a proposed district plan. Moneys deposited in such a fund may be used for projects that do not generate new tax revenues provided such projects are part of an approved plan. A municipality shall maintain records documenting the use of funds under the program and make them available to the board or the department upon request.

*c.* Moneys from any source deposited into the fund shall not be expended for or otherwise used in connection with a project that includes the relocation of a commercial or industrial enterprise not presently located within the municipality. For the purposes of this subrule, "relocation" means the closure or substantial reduction of an enterprise's existing operations in one area of the state and the initiation of substantially the same operation in the same county or a contiguous county in the state. "Relocation" does not include an enterprise expanding its operations in another area of the state provided that existing operations of a similar nature are not closed or substantially reduced.

*d.* Moneys from new tax revenues collected within a district and expended by a municipality under the program are subject to audit by the department of revenue or the auditor of state.

**261—200.9(15J) Plan amendments and reporting.****200.9(1)** *Plan amendments.*

*a.* A municipality may request an amendment to an approved district plan in order to add or modify projects. However, a proposed modification to a project, and each project proposed to be added, must first be approved by the board in the same manner as provided for the original plan, including updated or amended feasibility and economic impact studies as necessary. An applicant requesting a plan amendment is not required to file a preapplication pursuant to rule 261—200.4(15J) unless the amendment would increase the maximum benefit amount. A plan amendment request that does not increase the maximum benefit amount may be requested at any time.

## ECONOMIC DEVELOPMENT AUTHORITY[261](cont'd)

*b.* There is no circumstance in which the board will approve an amendment to a district plan if that amendment would result in the extension of the final commencement date established by the board. A request to extend a district's established commencement date will be rejected.

*c.* If a district plan is amended to add or modify a project, the municipality shall amend the ordinance, if necessary, to reflect any changes to the financial information required to be included under the program.

*d.* If, after final approval and establishment of the district, a municipality is unable to carry out development of all the projects proposed to be undertaken in a district, the municipality shall seek a modification to the plan. If a requested plan amendment would reduce capital investment in a district or remove one or more of the projects originally approved for the district, the board in its discretion may reduce, rescind, or otherwise modify the maximum benefit amount accordingly.

**200.9(2) Reports required.** Following establishment of a district, the municipality shall on or before October 1 of each year submit a report to the board detailing all of the following:

*a.* The status of each project undertaken within the district in the previous 12 months.

*b.* An itemized list of expenditures from the municipality's reinvestment project fund in the previous 12 months that have been made related to each project being undertaken within the district.

*c.* The amount of the total project cost remaining for each project being undertaken within the district as of the date the report is submitted.

*d.* The amounts, types, and sources of funding used for each project described in paragraph "a."

*e.* The amount of bonds issued or other indebtedness incurred for each project described in paragraph "a," including information related to the rate of interest, length of term, costs of issuance, and net proceeds. The report shall also include the amounts and types of moneys to be used for payment of such bonds or indebtedness.

**200.9(3) Reports posted to Internet site and submitted to governor and general assembly.** All reports received by the board under subrule 200.9(2) will be posted on the authority's Internet site as soon as practicable following receipt of the report. The board will submit a written report to the governor and the general assembly on or before January 15 of each year that summarizes and analyzes the information submitted by municipalities under subrule 200.9(2).

**261—200.10(15J) Cessation of deposits, district dissolution, and revenue rules.**

**200.10(1) Cessation of deposits.** As of the date 20 years after the district's commencement date, the department will cease to deposit new tax revenues into the district's account within the fund unless the municipality dissolves the district by ordinance prior to that date. Once the maximum benefit amount approved by the board for the district has been reached, the department will cease to deposit new tax revenues into the district's account within the fund. If a district reaches the maximum benefit amount, the department will notify the municipality within a reasonable amount of time.

**200.10(2) District dissolution.** If a municipality dissolves a district by ordinance prior to the expiration of the 20-year period, the municipality shall notify the director of revenue of the dissolution as soon as practicable after adoption of the ordinance, and the department shall, as of the effective date of dissolution, cease to deposit state sales tax revenues and state hotel and motel tax revenues into the district's account within the fund. If a municipality is notified that its maximum benefit amount has been reached, the municipality shall dissolve the district by ordinance as soon as practicable after notification.

**200.10(3) Cross reference to department rules.** The department has adopted rules for the administration and deposit of moneys into the fund. See 701—Chapter 237.

These rules are intended to implement 2013 Iowa Acts, House File 641.

[Filed 10/21/13, effective 12/18/13]

[Published 11/13/13]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 11/13/13.

## ARC 1166C

## EDUCATIONAL EXAMINERS BOARD[282]

## Adopted and Filed

Pursuant to the authority of Iowa Code section 272.2, the Board of Educational Examiners hereby amends Chapter 13, "Issuance of Teacher Licenses and Endorsements," Iowa Administrative Code.

The amendments remove the requirement that out-of-state applicants for licensure in Iowa provide a current license from another state. The amendments allow these candidates for licensure to provide an expired out-of-state license.

Notice of Intended Action was published in the Iowa Administrative Bulletin as **ARC 0880C** on July 24, 2013.

A public hearing was held on August 14, 2013, with written comment accepted until 4 p.m. on August 16, 2013. No one attended the public hearing, and no written comments were received.

These amendments are identical to those published under Notice.

After analysis and review of this rule making, there is no anticipated impact on jobs.

These amendments are intended to implement Iowa Code section 272.2(1)"a."

These amendments will become effective December 18, 2013.

The following amendments are adopted.

ITEM 1. Amend paragraph **13.3(2)"b"** as follows:

*b.* Submit a copy of a valid or expired regular teaching certificate or license exclusive of a temporary, emergency or substitute license or certificate, and

ITEM 2. Amend subrule 13.3(3) as follows:

**13.3(3)** *Requirements for applicants from out-of-state nontraditional teacher preparation programs.* An applicant who holds a valid license from another state and whose preparation was completed through a state-approved nontraditional teacher preparation program must:

*a.* No change.

*b.* Provide a valid or expired out-of-state teaching license based on a state-approved nontraditional teacher preparation program.

*c. to h.* No change.

ITEM 3. Amend subrule 13.17(1) as follows:

**13.17(1)** *One-year teacher exchange license.*

*a.* For an applicant applying under 13.3(2), a one-year nonrenewable exchange license may be issued to the applicant under the following conditions:

(1) and (2) No change.

(3) The applicant holds and submits a copy of a valid and current certificate or license in the state in which the preparation was completed or in which the applicant is currently teaching, exclusive of a temporary, emergency or substitute license or certificate;

1. ~~If the applicant's out-of-state license is expired, a one-year teacher exchange license may be issued and the lack of a valid and current out-of-state license will be listed as a deficiency; Reserved.~~

2. If the applicant submits verification that the applicant has applied for and will receive the applicant's first teaching license and is waiting for the processing or printing of a valid and current out-of-state license, a regional exchange license may be issued and the lack of a valid and current out-of-state license will be listed as a deficiency; and

(4) to (7) No change.

*b.* No change.

## EDUCATIONAL EXAMINERS BOARD[282](cont'd)

~~e.—If the lack of a valid and current out-of-state license was listed as a deficiency, the one-year teacher exchange license shall not be converted or extended until a valid and current out-of-state license is presented to remove the deficiency.~~

[Filed 10/15/13, effective 12/18/13]

[Published 11/13/13]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 11/13/13.

**ARC 1168C**

**EDUCATIONAL EXAMINERS BOARD[282]**

**Adopted and Filed**

Pursuant to the authority of Iowa Code section 272.2, the Board of Educational Examiners hereby amends Chapter 13, "Issuance of Teacher Licenses and Endorsements," Iowa Administrative Code.

Current language in the rule regarding the master educator license does not indicate that the required master's degree needs to be earned from a regionally accredited college or university. The amendment provides clarity and consistency with the other existing requirements for degrees earned.

Notice of Intended Action was published in the Iowa Administrative Bulletin as **ARC 0987C** on September 4, 2013.

A public hearing was held on September 25, 2013, with written comment accepted until 4 p.m. on September 27, 2013. No one attended the public hearing, and no written comments were received.

This amendment is identical to that published under Notice.

After analysis and review of this rule making, there is no anticipated impact on jobs.

This amendment is intended to implement Iowa Code section 272.2(1)"a."

This amendment will become effective December 18, 2013.

The following amendment is adopted.

Amend rule 282—13.8(272) as follows:

**282—13.8(272) Specific requirements for a master educator's license.** A master educator's license is valid for five years and may be issued to an applicant who:

1. Is the holder of or is eligible for a standard license as set out in rule 282—13.7(272), and
2. Verifies five years of successful teaching experience, and
3. Completes one of the following options:
  - Master's degree from a regionally accredited college or university in a recognized endorsement area, or
  - Master's degree from a regionally accredited college or university in curriculum, effective teaching, or a similar degree program which has a focus on school curriculum or instruction.

[Filed 10/15/13, effective 12/18/13]

[Published 11/13/13]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 11/13/13.

**ARC 1171C**

**EDUCATIONAL EXAMINERS BOARD[282]**

**Adopted and Filed**

Pursuant to the authority of Iowa Code section 272.2, the Board of Educational Examiners hereby amends Chapter 13, "Issuance of Teacher Licenses and Endorsements," and Chapter 17, "Career and Technical Endorsements and Licenses," Iowa Administrative Code.

## EDUCATIONAL EXAMINERS BOARD[282](cont'd)

In December 2012, a licensure subcommittee of the Governor's STEM Advisory Council, consisting of science, math, and industrial technology practitioners and administrators as well as higher education, Department of Education, and Board of Educational Examiners representatives, met to recommend licensure rules to support implementation of Iowa's Science, Technology, Engineering, and Mathematics (STEM) initiative. The STEM initiative is based on Executive Order 74, signed by Governor Branstad on July 26, 2011. The subcommittee recommended these amendments, which create K-8 and 5-8 STEM endorsements, a K-12 STEM specialist, a career and technical license for engineering, and a 5-12 engineering endorsement.

Notice of Intended Action was published in the Iowa Administrative Bulletin as **ARC 0993C** on September 4, 2013.

A public hearing was held on September 25, 2013, with written comment accepted until 4 p.m. on September 27, 2013. No one attended the public hearing, and no written comments were received.

There is one change to the amendments published under Notice. The word "coach" was removed from the catchwords of paragraph 13.28(32)"c" to avoid confusion with the implementation of Teacher Leadership and Compensation frameworks.

After analysis and review of this rule making, there is no anticipated impact on jobs.

These amendments are intended to implement Iowa Code section 272.2(1)"a."

These amendments will become effective December 18, 2013.

The following amendments are adopted.

ITEM 1. Adopt the following **new** subrule 13.28(31):

**13.28(31) Engineering.** 5-12.

- a. Completion of 24 semester hours in engineering coursework.
- b. Methods and strategies of STEM instruction or methods of teaching science or mathematics.

ITEM 2. Adopt the following **new** subrule 13.28(32):

**13.28(32) STEM.**

a. K-8.

(1) Authorization. The holder of this endorsement is authorized to teach science, mathematics, and integrated STEM courses in kindergarten through grade eight.

(2) Program requirements. Be the holder of the teacher—elementary classroom endorsement.

(3) Content.

1. Completion of a minimum of 12 semester hours of college-level science.

2. Completion of a minimum of 12 semester hours of college-level math (or the completion of Calculus I) to include coursework in computer programming.

3. Completion of a minimum of 3 semester hours of coursework in content or pedagogy of engineering and technological design that includes engineering design processes or programming logic and problem-solving models and that may be met through either of the following:

- Engineering and technological design courses for education majors;
- Technology or engineering content coursework.

4. Completion of a minimum of 6 semester hours of required coursework in STEM curriculum and methods to include the following essential concepts and skills:

- Comparing and contrasting the nature and goals of each of the STEM disciplines;
- Promoting learning through purposeful, authentic, real-world connections;
- Integration of content and context of each of the STEM disciplines;
- Interdisciplinary/transdisciplinary approaches to teaching (including but not limited to problem-based learning and project-based learning);
- Curriculum and standards mapping;
- Engaging subject-matter experts (including but not limited to colleagues, parents, higher education faculty/students, business partners, and informal education agencies) in STEM experiences in and out of the classroom;
- Assessment of integrative learning approaches;
- Information literacy skills in STEM;

## EDUCATIONAL EXAMINERS BOARD[282](cont'd)

- Processes of science and scientific inquiry;
  - Mathematical problem-solving models;
  - Communicating to a variety of audiences;
  - Classroom management in project-based classrooms;
  - Instructional strategies for the inclusive classroom;
  - Computational thinking;
  - Mathematical and technological modeling.
5. Completion of a STEM field experience of a minimum of 30 contact hours that may be met through the following:
- Completing a STEM research experience;
  - Participating in a STEM internship at a STEM business or informal education organization; or
  - Leading a STEM extracurricular activity.
- b. 5-8.
- (1) Authorization. The holder of this endorsement is authorized to teach science, mathematics, and integrated STEM courses in grades five through eight.
- (2) Program requirements. Be the holder of a 5-12 science, mathematics, or industrial technology endorsement or 5-8 middle school mathematics or science endorsement.
- (3) Content.
1. Completion of a minimum of 12 semester hours of college-level science.
2. Completion of a minimum of 12 semester hours of college-level math (or the completion of Calculus I) to include coursework in computer programming.
3. Completion of a minimum of 3 semester hours of coursework in content or pedagogy of engineering and technological design that includes engineering design processes or programming logic and problem-solving models and that may be met through either of the following:
- Engineering and technological design courses for education majors;
  - Technology or engineering content coursework.
4. Completion of a minimum of 6 semester hours of required coursework in STEM curriculum and methods to include the following essential concepts and skills:
- Comparing and contrasting the nature and goals of each of the STEM disciplines;
  - Promoting learning through purposeful, authentic, real-world connections;
  - Integration of content and context of each of the STEM disciplines;
  - Interdisciplinary/transdisciplinary approaches to teaching (including but not limited to problem-based learning and project-based learning);
  - Curriculum and standards mapping;
  - Engaging subject-matter experts (including but not limited to colleagues, parents, higher education faculty/students, business partners, and informal education agencies) in STEM experiences in and out of the classroom;
  - Assessment of integrative learning approaches;
  - Information literacy skills in STEM;
  - Processes of science and scientific inquiry;
  - Mathematical problem-solving models;
  - Communicating to a variety of audiences;
  - Classroom management in project-based classrooms;
  - Instructional strategies for the inclusive classroom;
  - Computational thinking;
  - Mathematical and technological modeling.
5. Completion of a STEM field experience of a minimum of 30 contact hours that may be met through the following:
- Completing a STEM research experience;
  - Participating in a STEM internship at a STEM business or informal education organization; or
  - Leading a STEM extracurricular activity.
- c. *Specialist K-12.*

## EDUCATIONAL EXAMINERS BOARD[282](cont'd)

(1) Authorization. The holder of this endorsement is authorized to serve as a STEM specialist in kindergarten and grades one through twelve.

(2) Program requirements.

1. The applicant must have met the requirements for a standard Iowa teaching license and a teaching endorsement in mathematics, science, engineering, industrial technology, or agriculture.

2. The applicant must hold a master's degree from a regionally accredited institution. The master's degree must be in math, science, engineering or technology or another area with at least 12 hours of college-level science and at least 12 hours of college-level math (or completion of Calculus I) to include coursework in computer programming.

(3) Content.

1. Completion of a minimum of 3 semester hours of coursework in content or pedagogy of engineering and technological design that includes engineering design processes or programming logic and problem-solving models and that may be met through either of the following:

- Engineering and technological design courses for education majors;
- Technology or engineering content coursework.

2. Completion of 9 semester hours in professional development to include the following essential concepts and skills:

- STEM curriculum and methods:
  - Comparing and contrasting the nature and goals of each of the STEM disciplines;
  - Promoting learning through purposeful, authentic, real-world connections;
  - Integration of content and context of each of the STEM disciplines;
  - Interdisciplinary/transdisciplinary approaches to teaching (including but not limited to problem-based learning and project-based learning);
  - Curriculum/standards mapping;
  - Assessment of integrative learning approaches;
  - Information literacy skills in STEM;
  - Processes of science/scientific inquiry;
  - Mathematical problem-solving models;
  - Classroom management in project-based classrooms;
  - Instructional strategies for the inclusive classroom;
  - Computational thinking;
  - Mathematical and technological modeling.
- STEM experiential learning:
  - Engaging subject-matter experts (including but not limited to colleagues, parents, higher education faculty/students, business partners, and informal education agencies) in STEM experiences in and out of the classroom;
  - STEM research experiences;
  - STEM internship at a STEM business or informal education organization;
  - STEM extracurricular activity;
  - Communicating to a variety of audiences.
- Leadership in STEM:
  - STEM curriculum development and assessment;
  - Curriculum mapping;
  - Assessment of student engagement;
  - STEM across the curriculum;
  - Research on best practices in STEM;
  - STEM curriculum accessibility for all students.

3. Completion of an internship/externship professional experience or prior professional experience in STEM for a minimum of 90 contact hours.

ITEM 3. Adopt the following **new** paragraph **17.1(3)“c”**:

c. *Engineering.*

## EDUCATIONAL EXAMINERS BOARD[282](cont'd)

- (1) Completion of a baccalaureate degree in engineering.
- (2) Demonstrated career and technical competence in engineering by completion of a minimum of 4,000 hours of practical, hands-on experience in engineering.
- (3) Coursework in foundations of career and technical education, planning and implementing courses and curriculum, methods and strategies of STEM instruction, and assessment of STEM programs and students.

[Filed 10/16/13, effective 12/18/13]

[Published 11/13/13]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 11/13/13.

**ARC 1167C**

**EDUCATIONAL EXAMINERS BOARD[282]**

**Adopted and Filed**

Pursuant to the authority of Iowa Code section 272.2, the Board of Educational Examiners hereby amends Chapter 18, "Issuance of Administrator Licenses and Endorsements," Iowa Administrative Code.

This amendment provides for multiple options for superintendent and AEA chief administrator applicants for licensure to demonstrate the required administrative experience.

Notice of Intended Action was published in the Iowa Administrative Bulletin as **ARC 0988C** on September 4, 2013.

A public hearing was held on September 25, 2013, with written comment accepted until 4 p.m. on September 27, 2013. No one attended the public hearing, and no written comments were received.

This amendment is identical to that published under Notice.

After analysis and review of this rule making, there is no anticipated impact on jobs.

This amendment is intended to implement Iowa Code section 272.2(1)"a."

This amendment will become effective December 18, 2013.

The following amendment is adopted.

Amend rule 282—18.10(272) as follows:

**282—18.10(272) Superintendent/AEA administrator.**

**18.10(1) Authorization.** The holder of this endorsement is authorized to serve as a superintendent from the prekindergarten level through grade twelve or as an AEA administrator. NOTE: This authorization does not permit general teaching, school service, or administration at any level except that level or area for which the practitioner holds the specific endorsement(s).

**18.10(2)** No change.

**18.10(3) Administrative experience.** The applicant must meet one of the following:

- a. The applicant must have had three years of experience as a building principal.
- b. ~~Other~~ The applicant must have three years of administrative experience—PK-12 or area education agency administrative experience is acceptable if the applicant acquires the three years' experience while holding a valid administrator license. in any of the following areas: PK-12 regional education agency administrative experience, PK-12 state department of education administrative experience, PK-12 educational licensing board administrative experience or PK-12 building/district administrative experience while holding a valid Iowa administrator license.

## EDUCATIONAL EXAMINERS BOARD[282](cont'd)

c. The applicant must have six years of teaching and administrative experience, provided that at least two years are teaching experience and one year is administrative experience.

[Filed 10/15/13, effective 12/18/13]

[Published 11/13/13]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 11/13/13.

**ARC 1170C**

**EDUCATIONAL EXAMINERS BOARD[282]**

**Adopted and Filed**

Pursuant to the authority of Iowa Code section 272.2, the Board of Educational Examiners hereby amends Chapter 25, "Code of Professional Conduct and Ethics," Iowa Administrative Code.

This amendment prohibits romantic or sexual relationships between licensees and former students for 90 days following the student's last date of enrollment, if the licensee and the student previously had a direct and supervisory relationship. The amendment adds an additional ethics violation under paragraph 25.3(1)"e" ("Student abuse") specifically for students no longer enrolled in a school district.

Notice of Intended Action was published in the Iowa Administrative Bulletin as **ARC 0992C** on September 4, 2013.

A public hearing was held on September 25, 2013, with written comment accepted until 4 p.m. on September 27, 2013. No one attended the public hearing. Board staff received one written comment in support of the amendment from the Iowa Girls' High School Athletic Union.

This amendment is identical to that published under Notice.

After analysis and review of this rule making, there is no anticipated impact on jobs.

This amendment is intended to implement Iowa Code section 272.2(1)"a."

This amendment will become effective December 18, 2013.

The following amendment is adopted.

Amend subrule 25.3(1) as follows:

**25.3(1) Standard I—conviction of crimes, sexual or other immoral conduct with or toward a student, and child and dependent adult abuse.** Violation of this standard includes:

a. to d. No change.

e. *Student abuse.* Licensees shall maintain professional relationships with all students, both inside and outside the classroom. The following acts or behavior constitutes unethical conduct without regard to the existence of a criminal charge or conviction:

(1) to (4) No change.

(5) Furnishing alcohol or illegal or unauthorized drugs or drug paraphernalia to any student or knowingly allowing a student to consume alcohol or illegal or unauthorized drugs in the presence of the licensee; or

(6) Failing to report any suspected act of child or dependent adult abuse as required by state law; or

(7) Committing or soliciting any sexual conduct as defined in Iowa Code section 709.15(3)"b" or soliciting, encouraging, or consummating a romantic relationship with any person who was a student within 90 days prior to any conduct alleged in the complaint, if that person was taught by the practitioner or was supervised by the practitioner in any school activity when that person was a student.

[Filed 10/16/13, effective 12/18/13]

[Published 11/13/13]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 11/13/13.

**ARC 1173C****HUMAN SERVICES DEPARTMENT[441]****Adopted and Filed**

Pursuant to the authority of Iowa Code section 331.393, the Department of Human Services amends Chapter 25, "Disability Services Management," Iowa Administrative Code.

These amendments define the regional service system, including the regional governance structure and agreements, functional assessment criteria, eligibility, and the regional service system management plan.

These amendments are a guideline for regions to determine if they are meeting the intent of 2012 Iowa Acts, Senate File 2315, in forming and operating regional mental health and disability services (MHDS) service systems.

Notice of Intended Action was published in the Iowa Administrative Bulletin as **ARC 0974C** on August 21, 2013.

The Mental Health and Disabilities Commission adopted these amendments on October 17, 2013.

The Department received 39 technical comments from four respondents on the proposed amendments. Seven of the comments resulted in changes to the proposed amendments. Those interested in a comprehensive listing of comments and responses may direct their request to the Iowa Department of Human Services, Attn: DHS Rules Administrator, Harry Rossander, Hoover State Office Building, Fifth Floor, 1305 East Walnut Street, Des Moines, Iowa 50319; or by e-mail to [policyanalysis@dhs.state.ia.us](mailto:policyanalysis@dhs.state.ia.us). A compilation of the specific comments that resulted in changes to the amendments are as follows:

1. One respondent pointed out that in the preamble for Chapter 25 in Item 1, the specific diagnoses are listed as mental illness and chronic mental illness. In redesign legislation, the term "chronic mental illness" is no longer used and the term "mental illness" is used for purposes of disability.

The Department agrees with this comment and has further amended the preamble of Chapter 25 to strike the reference to chronic mental illness.

2. One respondent suggested clarifying subrule 25.15(3) to include the diagnosis of intellectual disability as defined in the DSM V (the fifth edition of the Diagnostic and Statistical Manual of Mental Disorders).

The Department agrees that additional clarification would be beneficial and has changed paragraph "d" of subrule 25.15(3) to specify that the individual has a diagnosis of intellectual disability "as defined by Iowa Code section 4.1(9A)."

3. One respondent stated that while the proposed amendments indicate intent to imbed support for the civil rights of Iowans with disabilities (via *Olmstead* principles) in the regional system, there is a glaring absence of actual operationalization of the principles as the rule is currently written. System principles are defined as practices that include individual choice, community and empowerment, and those three concepts are further defined in a manner entirely consistent with *Olmstead*. However, once defined, these terms are never used again in the document. The work on the proposed rule, quite simply, is not finished. Regional entities, providers and consumers must be informed, with clear specificity from the very beginning, what these concepts will mean in practical terms. Failure to do so will mean that, despite the Department's public commitment to expansion of HCBS service options, it will be left to individuals and families to contend with the status quo, and it is a status quo in which civil rights are being violated. The *Olmstead* Consumer Taskforce sees the promulgation of rules for the redesigned system as potentially a critical moment in the transformation of Iowa's service system into one which obeys the law of the land and supports a life in the community for everyone.

The Department's response is that it agrees that the term "system principles" referred to in the comments above was defined but not used again in these rules. The second sentence of paragraph "m" of subrule 25.21(1) was revised to read as follows: "The policies and procedures manual shall describe how the region will collaborate with other funders, other regional service systems, service providers, case management, individuals and their families or authorized representatives, and advocates to ensure

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

that authorized services and supports are responsive to individuals' needs, consistent with system principles, and cost-efficient."

4. One respondent stated that the definition of an "access point" indicates that it is an individual and also stated that it includes providers, institutions, organizations, etc. The respondent suggested that the list later in the definition be the primary definition, so that the definition would read: "'Access point' means a provider, public or private institution, advocacy organization, legal representative, or educational institution with staff trained to complete applications and guide individuals with a disability to needed services."

The Department's response is to agree with the comments, and the Department has changed the definition of "access point" in rule 441—25.11(331) to read as follows: "'Access point' means a provider, public or private institution, advocacy organization, legal representative, or educational institution with staff trained to complete applications and guide individuals with a disability to needed services."

5. One respondent stated that the definition of "community" does not reflect the usual meaning of "community" in the provision of disability services. The concept should be included in the preamble as a guiding principle of redesign.

The Department agrees and has changed the definition of "community" in rule 441—25.11(331) to read as follows: "'Community' means an integrated setting of an individual's choice."

6. One respondent stated that the definition of "provider" seems to constrain regions from using providers that are not Medicaid-approved. This will increase costs and eliminate the flexibility that regions need to have to provide needed services within the budgetary parameters.

The Department agrees and has changed the definition of "provider" in rule 441—25.11(331) to read as follows: "'Provider' means an individual, firm, corporation, association, or institution which is providing or has been approved to provide medical assistance, is accredited under 441—Chapter 24, holds a professional license to provide the service, is accredited by a national insurance panel, or holds other national accreditation or certification."

7. One respondent stated that paragraph "m" of subrule 25.21(1) includes language to ensure that the services and supports are responsive to the individual's desires. Iowa has long focused its resources on needs rather than wants; this seems to be opening the regions up to having to accommodate desires as well, which may ultimately be cost-prohibitive.

The Department agrees with this comment. "Desires" was changed to "consistent with system principles" in the second sentence of paragraph "m" as quoted in the Department's response to the comment in paragraph "3" above.

During the course of a departmental review, a reference to rule 441—22.1(225C) was determined to be redundant and as a result it was removed from 25.15(7)"f" for clarity and a cross reference to the Iowa Code was updated in paragraph 25.16(4)"c." Also, due to the recent adoption of amendments to the preamble of Chapter 25 (see **ARC 1096C**, IAB 10/16/13), the underscoring was removed from the words "definitions of regional core services, access and practice standards" in the first sentence in Item 1 since that wording is now existing language.

These amendments do not provide for waivers in specified situations because the intent of the Legislature was to have uniform regional service systems across the state. 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, there is a potential for increased jobs as the mental health and disability services programs are established and expanded.

These amendments are intended to implement Iowa Code sections 331.388 to 331.398.

These amendments will become effective January 1, 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 county regional expenditures, development and submission of regional management plans, data collection, and applications for funding as they relate to county regional service systems for

HUMAN SERVICES DEPARTMENT[441](cont'd)

~~people~~ individuals with mental illness, ~~chronic mental illness~~, intellectual disabilities, developmental disabilities, or brain injury.

ITEM 2. Rescind **441—Chapter 25**, Division II title and preamble, and adopt the following new Division II title and preamble in lieu thereof:

DIVISION II  
REGIONAL SERVICE SYSTEM

PREAMBLE

These rules define the standards for a regional service system. The mental health and disability services provided by counties operating as a region shall be delivered in accordance with a regional service system management plan approved by the region's governing board and implemented by the regional administrator (Iowa Code section 331.393). Iowa counties are encouraged to enter into a regional system when the regional approach is likely to increase the availability of services to residents of the state who need the services. It is the intent of the Iowa general assembly that the adult residents of this state should have access to needed mental health and disability services regardless of the location of their residence.

ITEM 3. Rescind rules **441—25.11(331)** to **441—25.20(331)**.

ITEM 4. Adopt the following new rules 441—25.11(331) to 441—25.21(331):

**441—25.11(331) Definitions.**

*“Access point”* means a provider, public or private institution, advocacy organization, legal representative, or educational institution with staff trained to complete applications and guide individuals with a disability to needed services.

*“Applicant”* means an individual who applies to receive services and supports from the service system.

*“Assessment and evaluation”* means the same as defined in rule 441—25.1(331).

*“Assistive technology account”* means funds in contracts, savings, trust or other financial accounts, financial instruments, or other arrangements with a definite cash value that are set aside and designated for the purchase, lease, or acquisition of assistive technology, assistive technology services, or assistive technology devices. Assistive technology accounts must be held separately from other accounts. Funds must be used to purchase, lease, or otherwise acquire assistive technology services or devices for a working individual with a disability. Any withdrawal from an assistive technology account other than for the designated purpose becomes a countable resource.

*“Authorized representative”* means a person designated by the individual or by Iowa law to act on the individual's behalf in specified affairs to the extent prescribed by law.

*“Chief executive officer”* means the person chosen and supervised by the governing board who serves as the single point of accountability for the mental health and disability services region and whose responsibilities include, but are not limited to, planning, budgeting, monitoring county and regional expenditures, and ensuring the delivery of quality services that achieve expected outcomes for the individuals served.

*“Choice”* means the individual or authorized representative chooses the services, supports, and goods needed to best meet the individual's goals and accepts the responsibility and consequences of those choices.

*“Clear lines of accountability”* means the structure of the governing board's organization makes it evident that the ultimate responsibility for the administration of the non-Medicaid-funded mental health and disability services lies with the governing board and that the governing board directly and solely supervises the organization's chief executive officer.

*“Community”* means an integrated setting of an individual's choice.

*“Conflict-free case management”* means there is no real or seeming incompatibility between the case manager's other interests and the case manager's duties to the individual served and includes case

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

management separate from direct service provision; eligibility determination for services; establishment of funding levels for the individual's services; and requirements that prohibit the case manager from performing evaluations, assessments, and plans of care if the case manager is related by blood or marriage to the individual or any of the individual's paid caregivers or persons financially responsible for the individual or empowered to make financial or health-related decisions on behalf of the individual.

*"Coordinator of disability services"* means the same as defined in Iowa Code section 331.390(3) "b."

*"Countable resource"* means real or personal property that has a cash value that is available to the owner upon disposition and is capable of being liquidated.

*"Countable value"* means the equity value of a resource, which is the current fair market value minus any legal debt on the item.

*"County of residence"* means the same as defined in Iowa Code section 331.394.

*"Department"* means the department of human services.

*"Director"* means the director of human services.

*"Disability services"* means the same as defined in Iowa Code section 225C.2.

*"Emergency service"* means the same as defined in rule 441—88.21(249A).

*"Empowerment"* means that the service system ensures the rights, dignity, and ability of individuals and their families to exercise choices, take risks, provide input, and accept responsibility.

*"Exempt resource"* means a resource that is disregarded in the determination of eligibility for public funding assistance and in the calculation of client participation amounts.

*"Homeless person"* means the same as defined in Iowa Code section 48A.2.

*"Household"* means, for an individual who is 18 years of age or over, the individual, the individual's spouse or domestic partner, and any children, stepchildren, or wards under the age of 18 who reside with the individual. For an individual under the age of 18, "household" means the individual, the individual's parents (or parent and domestic partner), stepparents or guardians, and any children, stepchildren, or wards under the age of 18 of the individual's parents (or parent and domestic partner), stepparents, or guardians who reside with the individual.

*"Income"* means all gross income received by the individual's household, including but not limited to wages, income from self-employment, retirement benefits, disability benefits, dividends, annuities, public assistance, unemployment compensation, alimony, child support, investment income, rental income, and income from trust funds.

*"Individual"* means any person seeking or receiving services in a regional service system.

*"Individualized services"* means services and supports that are tailored to meet the personalized needs of the individual.

*"Liquid assets"* means assets that can be converted to cash in 20 days. Liquid assets include but are not limited to cash on hand, checking accounts, savings accounts, stocks, bonds, cash value of life insurance, individual retirement accounts, certificates of deposit, and other investments.

*"Managed care"* means a system that provides the coordinated delivery of services and supports that are necessary and appropriate, delivered in the least restrictive settings and in the least intrusive manner. Managed care seeks to balance three factors: achieving high-quality outcomes for participants, coordinating access, and containing costs.

*"Managed system"* means a system that integrates planning, administration, financing, and service delivery. The system consists of the financing or governing organization, the entity responsible for care management, and the network of service providers.

*"Management organization"* means an organization contracted to manage part or all of the service system for a region.

*"Medical savings account"* means an account that is exempt from federal income taxation pursuant to Section 220 of the U.S. Internal Revenue Code (26 U.S.C. §220) as supported by documentation provided by the bank or other financial institution. Any withdrawal from a medical savings account other than for the designated purpose becomes a countable resource.

*"Mental health professional"* means the same as defined in Iowa Code section 228.1(6).

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

“*Non-liquid assets*” means assets that cannot be converted to cash in 20 days. Non-liquid assets include, but are not limited to, real estate, motor vehicles, motor vessels, livestock, tools, machinery, and personal property.

“*Population*” means the same as defined in Iowa Code section 331.388.

“*Provider*” means an individual, firm, corporation, association, or institution which is providing or has been approved to provide medical assistance, is accredited under 441—Chapter 24, holds a professional license to provide the service, is accredited by a national insurance panel, or holds other national accreditation or certification.

“*Regional administrator*” or “*regional administrative entity*” means the administrative office or organization formed by agreement of the counties participating in a mental health and disability services region to function on behalf of those counties.

“*Regional services fund*” means the mental health and disability regional services fund created in Iowa Code section 225C.7A.

“*Regional service system management plan*” means the regional service system plan developed pursuant to Iowa Code section 331.393 for the funding and administration of non-Medicaid-funded mental health and disability services and includes an annual service and budget plan, a policies and procedures manual, and an annual report and how the region will coordinate with the department in the provision of mental health and disability services funded under the medical assistance program.

“*Resources*” means all liquid and non-liquid assets that are owned in part or in whole by the individual household, that could be converted to cash to use for support and maintenance, and that the individual household is not legally restricted from using for support and maintenance.

“*Retirement account*” means any retirement or pension fund or account listed in Iowa Code section 627.6(8)“f.”

“*Retirement account in the accumulation stage*” means a retirement account into which a deposit was made in the previous tax year. Any withdrawal from a retirement account becomes a countable resource.

“*Service system*” refers to the mental health and disability services and supports administered by the regional administrative entity and paid from the regional services fund.

“*State case status*” means the standing of an individual who has no county of residence.

“*State commission*” means the same as defined in Iowa Code section 225C.5.

“*System of care*” means the coordination of a system of services and supports to individuals and their families that ensures they optimally live, work, and recreate in integrated communities of their choice.

“*System principles*” means practices that include individual choice, community and empowerment.

**441—25.12(331) Regional governance structure.** The counties comprising a mental health and disability services region shall enter into an agreement to form a regional administrator under the control of a governing board to function on behalf of those counties as defined in Iowa Code chapter 28E and sections 331.388, 331.390, and 331.392 and 2013 Iowa Acts, House File 648, section 14.

**25.12(1) Governing board.** The governing board shall comply with the following requirements:

*a.* The governing board shall comply with the membership requirements as outlined in Iowa Code section 331.390 and follow the requirements in Iowa Code chapter 69 and other applicable laws relating to boards and commissions.

*b.* A regional advisory committee shall be created and shall designate members to the governing board as defined in Iowa Code section 331.390(2).

*c.* The governing board shall appoint and evaluate the performance of the chief executive officer of the regional administrative entity who will serve as the single point of accountability for the region.

**25.12(2) Regional administrator.** The formation of the regional administrator shall be as defined in Iowa Code sections 331.388 and 331.390.

*a.* The regional administrative entity is under the control of the governing board.

*b.* The regional administrative entity shall enter into and manage performance-based contracts in accordance with Iowa Code section 225C.4(1)“u.”

*c.* The regional administrative entity structure shall have clear lines of accountability.

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

*d.* The regional administrative entity functions as a lead agency utilizing shared county or regional staff or other means of limiting administrative costs.

*e.* The regional administrative entity staff shall include one or more coordinators of disability services.

**25.12(3) *Regional service system management.*** The region may either directly implement a system of service management and contract with service providers, or contract with a private entity to manage the regional service system, provided all requirements of Iowa Code section 331.393 are met by the private entity.

**441—25.13(331) Regional finances.**

**25.13(1) *Funding.*** Non-Medicaid mental health and disability services funding is under the control of the governing board and shall:

*a.* Be maintained to limit administrative burden and provide public transparency regarding financial processes.

*b.* Be maintained in one of three ways:

(1) In a combined account.

(2) In separate county accounts that are under the control of the governing board.

(3) In other arrangements authorized by law.

**25.13(2) *Accounting system and financial reporting.*** The accounting system and financial reporting to the department shall conform to Iowa Code section 331.391 and include all non-Medicaid mental health and disability expenditures. Information shall be separated and identified in a uniform chart of accounts, including but not limited to the following: expenses for administration; purchase of services; and enterprise costs for which the region is a service provider or is directly billing and collecting payments.

**441—25.14(331) Regional governance agreement.** The expectations for regional governance agreements entered into by the counties comprising a mental health and disability services region are defined in Iowa Code sections 28E.1, 331.388, 331.390 and 331.392.

**25.14(1) *Organizational provisions.*** The organizational provisions of the regional governance agreement shall include the following:

*a.* A statement of purpose, goals, and objective of entering into the agreement.

*b.* Identification of the governing board membership and the terms, methods of appointment, and voting procedures, including whether or not voting will be weighted.

*c.* The identification of the process for selecting the executive staff, including but not limited to the chief executive officer of the regional administrative entity.

*d.* Identification of the counties participating in the agreement.

*e.* The time period of the agreement and terms for termination or renewal of the agreement.

*f.* Provisions for joining a region. Additional counties may join the region. The agreement shall not prohibit a county from being assigned by the department to a region according to Iowa Code section 331.389(4) "c."

*g.* Methods for dispute resolution and mediation.

*h.* Methods for termination of a county's participation in the region.

*i.* Provision for formation and assigned responsibilities for one or more advisory committees consisting of:

(1) Individuals who utilize services or the actively involved relatives of such individuals.

(2) Service providers.

(3) Governing board members.

(4) Other interests identified in the agreement.

**25.14(2) *Administrative provisions.*** The administrative provisions of the regional governance agreement shall include all of the following:

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

a. Identification of whether the region will either directly implement a system of service management or contract with a private entity to manage the regional service system as defined in Iowa Code section 331.393(7).

b. Responsibility of the governing board in appointing and evaluating the performance of the chief executive officer of the regional administrative entity.

c. A general list of the functions and responsibilities of the regional administrative entity's chief executive officer and other staff including but not limited to coordinators of disability services.

d. Specification of the functions to be carried out by each party to the agreement and by any subcontractor of a party to the agreement.

**25.14(3) *Financial provisions.*** The financial provisions of the regional governance agreement shall include all of the following:

a. Methods for pooling, managing and expending funds under control of the regional administrative entity. If the agreement does not provide for pooling of the participating county moneys in a single fund, the agreement shall specify how the participating county moneys will be subject to the control of the regional administrative entity.

b. Methods for allocating administrative funding and resources.

c. Methods for contributing initial funds to the region.

d. Methods for acquiring or disposing of real property.

e. The process for how to use savings achieved for reinvestment.

f. A process for performance of an annual independent audit of the regional administrator.

**441—25.15(331) Eligibility, diagnosis, and functional assessment criteria.**

**25.15(1) *Eligibility for mental health services.*** An individual must comply with all of the following requirements to be eligible for mental health services under the regional service system:

a. The individual complies with the financial eligibility requirements in rule 441—25.16(331).

b. The individual is at least 18 years of age.

c. The individual is a resident of this state.

d. The individual has had at any time during the preceding 12-month period a mental health, behavioral, or emotional disorder or, in the opinion of a mental health professional, may now have such a diagnosable disorder. The diagnosis shall be made in accordance with the criteria provided in the most recent Diagnostic and Statistical Manual of Mental Disorders published by the American Psychiatric Association and shall not include the manual's "V" codes identifying conditions other than a disease or injury. The diagnosis shall also not include substance-related disorders, dementia, antisocial personality, or developmental disabilities, unless co-occurring with another diagnosable mental illness.

e. The results of a standardized functional assessment support the need for mental health services of the type and frequency identified in the individual's case plan. The standardized functional assessment methodology shall be designated for mental health services by the director of human services in consultation with the state commission. A functional assessment must be completed within 90 days of application for services.

**25.15(2) *Other conditions of eligibility for mental health services.***

a. An individual who is 17 years of age, is a resident of this state, and is receiving publicly funded children's services may be considered eligible for services through the regional service system during the three-month period preceding the individual's eighteenth birthday in order to provide a smooth transition from children's to adult services.

b. An individual less than 18 years of age and a resident of the state may be considered eligible for those mental health services made available to all or a portion of the residents of the region of the same age and eligibility class under the county management plan of one or more counties of the region applicable prior to formation of the region. Eligibility for services under this paragraph is limited to availability of regional service system funds without limiting or reducing core services, and if part of the approved regional service system management plan.

**25.15(3) *Eligibility for intellectual disability services.*** An individual must comply with all of the following requirements to be eligible for intellectual disability services under the regional service system:

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

- a. The individual complies with the financial eligibility requirements in rule 441—25.16(331).
- b. The individual is at least 18 years of age.
- c. The individual is a resident of this state.
- d. The individual has a diagnosis of intellectual disability as defined by Iowa Code section 4.1(9A).
- e. The results of a standardized functional assessment support the need for intellectual disability services of the type and frequency identified in the individual's case plan. The standardized functional assessment methodology shall be designated for intellectual services by the director of human services in consultation with the state commission. A functional assessment must be completed within 90 days of application for services.

**25.15(4)** *Other conditions of eligibility for intellectual disability services.*

a. An individual who is 17 years of age, is a resident of this state, and is receiving publicly funded children's services may be considered eligible for services through the regional service system during the three-month period preceding the individual's eighteenth birthday in order to provide a smooth transition from children's to adult services.

b. An individual less than 18 years of age and a resident of the state may be considered eligible for those intellectual disability services made available to all or a portion of the residents of the region of the same age and eligibility class under the county management plan of one or more counties of the region applicable prior to formation of the region. Eligibility for services under this paragraph is limited to availability of regional service system funds without limiting or reducing core services, and if part of the approved regional service system management plan.

**25.15(5)** *Eligibility for brain injury services.* An individual must comply with all of the following requirements to be eligible for brain injury services under the regional service system, if such services were provided to the same class of individuals by a county in the region prior to regional formation and if funds are available to continue such services without limiting or reducing core services.

- a. The individual complies with the financial eligibility requirements in rule 441—25.16(331).
- b. The individual is at least 18 years of age.
- c. The individual is a resident of this state.
- d. The individual has a diagnosis of brain injury as defined in Iowa Code section 83.81.
- e. The results of a standardized functional assessment support the need for brain injury services of the type and frequency identified in the individual's case plan. The standardized functional assessment methodology used is the methodology approved for brain injury services by the director of human services in consultation with the state commission. A functional assessment must be completed within 90 days of application for services.

**25.15(6)** *Other conditions of eligibility for brain injury services.* An individual who is 17 years of age, is a resident of this state, and is receiving publicly funded children's services may be considered eligible for services through the regional service system during the three-month period preceding the individual's eighteenth birthday in order to provide a smooth transition from children's to adult services.

**25.15(7)** *Eligibility for developmental disability services.*

a. Until funding is designated for other service populations, eligibility for the core service domains shall be as identified in Iowa Code section 331.397(1) "b."

b. If a county in a region was providing services to an eligibility class of individuals with a developmental disability other than intellectual disability prior to formation of the region, the class of individuals shall remain eligible for the services provided when the region is formed, providing that funds are available to continue such services without limiting or reducing core services. The individual must also meet the requirements in paragraphs 25.15(7) "c," "d," "e" and "f."

- c. The individual complies with the financial eligibility requirements in rule 441—25.16(331).
- d. The individual is at least 18 years of age.
- e. The individual is a resident of this state.
- f. The individual has a diagnosis of a developmental disability other than an intellectual disability as defined in rule 441—24.1(225C).

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

**441—25.16(331) Financial eligibility requirements.** The regional service system management plan shall identify basic financial eligibility standards for disability services as defined in Iowa Code section 331.395.

**25.16(1) Income requirements.** Income requirements shall be as defined in Iowa Code section 331.395(1).

**25.16(2) Resource requirements.** An individual must have resources that are equal to or less than \$2,000 in countable value for a single-person household or \$3,000 in countable value for a multiperson household or follow the most recent federal supplemental security income guidelines.

*a.* The countable value of all countable resources, both liquid and non-liquid, shall be included in the eligibility determination except as exempted in this subrule.

*b.* A transfer of property or other assets within five years of the time of application with the result of, or intent to, qualify for assistance may result in denial or discontinuation of funding.

*c.* The following resources shall be exempt:

(1) The homestead, including equity in a family home or farm that is used as the individual household's principal place of residence. The homestead shall include all land that is contiguous to the home and the buildings located on the land.

(2) One automobile used for transportation.

(3) Tools of an actively pursued trade.

(4) General household furnishings and personal items.

(5) Burial account or trust limited in value as to that allowed in the medical assistance program.

(6) Cash surrender value of life insurance with a face value of less than \$1,500 on any one person.

(7) Any resource determined excludable by the Social Security Administration as a result of an approved Social Security Administration work incentive.

*d.* If an individual does not qualify for federally funded or state-funded services or other support but meets all income, resource, and functional eligibility requirements of this chapter, the following types of resources shall additionally be considered exempt from consideration in eligibility determination:

(1) A retirement account that is in the accumulation stage.

(2) A medical savings account.

(3) An assistive technology account.

(4) A burial account or trust limited in value as to that allowed in the medical assistance program.

*e.* An individual who is eligible for federally funded services and other support must apply for and accept such funding and support.

**25.16(3) Copayment standards.** A regional administrative entity must comply with copayment standards as defined in Iowa Code section 331.395.

*a.* Copayments are allowed for individuals with income above 150 percent of the federal poverty level.

*b.* Copayments in this rule are related to core services as defined in Iowa Code section 331.397.

**25.16(4) Copayment standards required by any federal, state, regional, or municipal program.** Any copayments or other client participation required by any federal, state, regional or municipal program in which the individual participates shall be required by the regional administrative entity. Such copayments include, but are not limited to:

*a.* Client participation for maintenance in a residential care facility through the state supplementary assistance program.

*b.* The financial liability for institutional services paid by counties as provided in Iowa Code section 230.15.

*c.* The financial liability for attorney fees related to commitment as provided by Iowa Code section 229.8.

**441—25.17(331) Exempted counties.** If a county has been exempted pursuant to Iowa Code section 331.389 from the requirement to enter into a regional service system, the county and the county's board of supervisors shall fulfill all the requirements of this chapter for a regional service system management plan.

HUMAN SERVICES DEPARTMENT[441](cont'd)

**441—25.18(331) Annual service and budget plan.** The annual service and budget plan shall describe the services to be provided and the cost of those services for the ensuing year.

**25.18(1)** The annual service and budget plan is due on April 1 prior to the July 1 implementation of the annual plan and shall be approved by the region's governing board prior to submittal to the department. The initial plan is due on April 1, 2014.

**25.18(2)** The annual service and budget plan shall include but not be limited to:

*a.* The locations of the local access points for services. This shall include the name of the access points including the physical locations and contact information.

*b.* Targeted case management. The targeted case management agencies for the region, including the physical location and contact information for those agencies, shall be included.

*c.* Crisis planning. The plan for ensuring effective crisis prevention, response and resolution, including contact information for the agencies responsible, shall be included.

*d.* Scope of services. A description of the scope of services to be provided, a projection of need for the service, and the funding necessary to meet the need shall be included.

(1) The scope shall include the regional core services as defined in rule 441—25.1(331).

(2) The scope shall also include services in addition to the required core services.

*e.* Budget and financing provisions for the next year. The provisions shall address how county, regional, state and other funding sources will be used to meet the service needs within the region.

*f.* Financial forecasting measures. The plan shall describe the financial forecasting measures used in the identification of service need and funding necessary for services.

*g.* The provider reimbursement provisions. The plan shall describe the types of reimbursement methods that will be used, including fee for service, compensating providers for a "system of care" approach, and use of nontraditional providers. A region also shall provide funding approaches that identify and incorporate all services and sources of funding used by the individuals receiving services, including the medical assistance program.

**441—25.19(331) Annual service and budget plan approval.** The annual service and budget plan shall be submitted by April 1, 2014, as a part of the region's management plan for the fiscal year beginning July 1, 2014. The director shall review all regional annual service and budget plans submitted by the dates specified. If the director finds the regional annual service and budget plan in compliance with these rules and state and federal laws, the director may approve the plan. A plan approved by the director for the fiscal year beginning July 1, 2014, shall remain in effect until June 30, 2015, subject to amendment.

**25.19(1) *Criteria for acceptance.*** The director shall determine a plan is acceptable when it contains all the required information, meets the criteria described in this division, and is in compliance with all applicable state and federal laws. The director may request additional information to determine whether or not the plan contains all the required information and meets criteria described in this division.

**25.19(2) *Notification.*** Except as specified in subrule 25.19(3), the director shall notify the region in writing of the decision on the plan by June 1, 2014. The decision shall specify that either:

*a.* The annual service and budget plan is approved as it was submitted, either with or without supplemental information already requested and received.

*b.* The annual service and budget plan will not be approved until revisions are made. The letter will specify the nature of the revisions requested and the time frames for their submission.

**25.19(3) *Review of late submittals.*** The director may review plans not submitted by April 1, 2014, after all plans submitted by that date have been reviewed. The director will proceed with the late submittals in a timely manner.

**25.19(4) *Amendments.*** An amendment to the annual service and budget plan shall be approved by the regional governance board and submitted to the department at least 45 days before the date of implementation. Before implementation of any amendment to the plan, the director must approve the amendment.

*a. Criteria for acceptance.* The director shall determine an amendment is acceptable when it contains all the required information and meets the criteria described in this division for the applicable part of the annual service and budget plan and is in compliance with all applicable state and federal

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

laws. The director may request additional information to determine whether or not the amendment contains all the required information and meets criteria described in this division.

*b. Notification.* The director shall notify the region, in writing, of the decision on the amendment within 45 days of receipt of the amendment. The decision shall specify either that:

(1) The amendment is approved as it was submitted, either with or without supplemental information already requested and received.

(2) The amendment is not approved. The notification will include why the amendment is not approved.

**25.19(5) Reconsideration.** Regions dissatisfied with the director's decision on a plan or an amendment may file a letter with the director requesting reconsideration. The letter requesting reconsideration must be received within 30 working days of the date of the notice of decision and shall include a request for the director to review the decision and the reasons for dissatisfaction. Within 30 working days of the receipt of the letter requesting reconsideration, the director will review both the reconsideration request and evidence provided. The director shall issue a final decision in writing.

**441—25.20(331) Annual report.** The annual report shall describe the services provided, the cost of those services, the number of individuals served, and the outcomes achieved for the previous fiscal year. The annual report is due on December 1 following a completed fiscal year of implementing the annual service and budget plan. The initial report is due on December 1, 2015. The annual report shall include but not be limited to:

1. Services actually provided.
2. Actual numbers of individuals served.
3. Moneys expended.
4. Outcomes achieved.

**441—25.21(331) Policies and procedures manual for the regional service system.** The policies and procedures manual shall describe the policies and process developed to direct the management and administration of the regional service system. The initial manual is due on April 1, 2014, and will remain in effect subject to amendment.

**25.21(1) Content.** The manual shall include but not be limited to:

*a. Financing and delivery of services and supports.* A description of the region's process used to develop and ensure the ongoing financial accountability and delivery of services outlined in the region's annual service and budget plan shall be included.

*b. Enrollment.* The application and enrollment process that is readily accessible to applicants and their families or authorized representatives shall be included. This procedure shall identify regional access points and where applicants can apply for services and how and when the applications will reach the regional administrative entity's designated staff for processing.

*c. Eligibility.* The process utilized to determine eligibility shall be included in the manual and shall include but not be limited to:

(1) The criteria used to authorize or deny funding for services and supports. This shall include guidelines for who is eligible to receive services and supports by eligibility group, and type of service or support.

(2) Financial eligibility and copayment criteria, which shall meet the requirements of rule 441—25.16(331).

(3) The time frames for conducting eligibility determination that provide for timely access to services, including necessary and immediate services not to exceed ten days.

(4) The process for development of a written notice of decision. The time frame for sending a written notice of decision to the individual and guardian (if applicable) and the service providers identified in the notice shall be included. The notice of decision shall:

1. Explain the action taken on the application and the reasons for that action.
2. State what services are approved and name the service providers.
3. Outline the applicant's right to appeal.

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

4. Describe the appeal process.
- d.* Utilization of and access to services. The process for managing utilization of and access to services and other assistance shall be included. The process shall describe how coordination between the services included in the annual service and budget plan and the disability services administered by the state and others will be managed.
- e.* Quality management and improvement process. The quality management and improvement process shall at a minimum meet the requirements of the department's outcome and performance measures process as outlined in Iowa Code sections 225C.4(1) "j" and 225C.6A.
- f.* Risk management and fiscal viability. If the region contracts with a private entity, the manual must include risk management provisions and fiscal viability of the annual services and budget plan.
- g.* Targeted case management.
  - (1) Designation of targeted case management providers. The process used to identify and designate targeted case management providers for the region shall be described. This process shall include the requirement for the implementation of evidence-based practice models of case management within the region. Requirements of this practice include:
    1. Providing the individual receiving the case management with a choice of providers.
    2. Allowing a service provider to be the case manager but prohibiting the provider from referring that individual only to services administered by the provider.
    3. Provisions to ensure compliance with, but not exceed, federal requirements for conflict-free case management.
  - (2) Qualifications of targeted case managers. A region's manual shall require that any targeted case managers or other persons providing service coordination while working for the designated provider meet the qualifications of qualified case managers and supervisors as defined in rule 441—24.1(225C).
  - (3) Targeted case management and service coordination services. Targeted case management and service coordination services utilized in a regional service system shall include but are not limited to the following as defined in Iowa Code section 331.393(4) "g":
    1. Performance and outcome measures relating to the health, safety, work performance, and community residency of the individuals receiving the services.
    2. Standards for delivery of the services, including but not limited to the social history, assessment, service planning, incident reporting, crisis planning, coordination, and monitoring for individuals receiving the services.
    3. Methodologies for complying with the requirements of paragraph 25.21(1) "g." Methodologies may include the use of electronic record keeping and remote or Internet-based training.
- h.* System of care approach plan.
- i.* Decentralized service provision. Measures to provide services in a dispersed manner that meet the minimum access standards of core services and that utilize the strengths and assets of the service providers within and available to the region shall be included.
- j.* Provider network formation and management. The manual shall require that providers that are subject to license, accreditation or approval meet established standards. The manual shall detail the approval process, including criteria, developed to select providers that are not currently subject to license, accreditation or approval standards. The manual shall identify the process the regional administrative entity will use to contract with providers and manage the provider network to ensure it meets the needs of the individuals in the region. The provider network will include but is not limited to the following:
  - (1) A contract with a community mental health center that provides services in the individual's region or with a federally qualified health center that provides psychiatric and outpatient mental health services in the individual's region.
  - (2) Contracts with licensed and accredited providers to provide each service in the required core service domains.
  - (3) Adequate numbers of licensed and accredited providers to ensure availability of core services so that there is no waiting list for services due to lack of available providers.
  - (4) A contract with an inpatient psychiatric hospital unit or state mental health institute within reasonably close proximity.

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

*k.* Service provider payment provisions. A policy for payment of service providers which describes the method and process of paying for services and supports delivered to the region shall be included.

*l.* Grievance processes. The manual shall develop and implement processes for appealing the decisions of the regional administrative entity in the following circumstances:

(1) Nonexpedited appeal process. The appeal process shall be based on objective criteria, specify time frames, provide for notification in accessible formats of the decisions to all parties, and provide some assistance to individuals with disabilities using the process. Responsibility for the final step in the appeal process shall be a state administrative law judge in nonexpedited appeals.

(2) Expedited appeal process. This appeal process is to be used when the decision of the regional administrative entity concerning an individual varies from the type and amount of service identified to be necessary for the individual in a clinical determination made by a mental health professional and the mental health professional believes that the failure to provide the type and amount of service identified could cause an immediate danger to an individual's health or safety. This appeal process shall be performed by a mental health professional who is either the administrator of the division of mental health and disability services of the department of human services or the administrator's designee.

1. The appeal shall be filed within five days of receipt of the notice of decision by the regional administrative entity.

2. The expedited review by the division administrator or designee shall take place within two days of receipt of the request, unless more information is needed. There is an extension of two days from the time the new information is received.

3. The administrator shall issue an order, including a brief statement of findings of fact, conclusions of law, and policy reasons for the order, to justify the decision made concerning the expedited review. If the decision concurs with the contention that there is an immediate danger to the individual's health or safety, the order shall identify the type and amount of service which shall be provided for the individual. The administrator or designee shall give such notice as is practicable to individuals who are required to comply with the order. The order is effective when issued.

4. The decision of the administrator or designee shall be considered a final agency action and is subject to judicial review in accordance with Iowa Code section 17A.19.

*m.* Implementation of interagency and multisystem collaboration and care coordination. The policies and procedures manual shall describe how the region will collaborate with other funders, other regional service systems, service providers, case management, individuals and their families or authorized representatives, and advocates to ensure that authorized services and supports are responsive to individuals' needs, consistent with system principles, and cost-efficient. The manual shall describe the process for collaboration with the court to ensure alternatives to commitment and to coordinate funding for services to individuals who are under court-ordered commitment services pursuant to Iowa Code chapter 229.

*n.* Addressing multioccurring needs. The policies and procedures manual shall include criteria and measures to be used to address the needs of individuals who have two or more co-occurring mental health, intellectual or other developmental disability, brain injury, or substance-related disorders. The manual shall also include criteria and measures to be used to address the needs of individuals with specialized needs.

*o.* Service management and functional assessment. The policies and procedures manual shall describe how functional assessments and service management will be incorporated in accordance with applicable requirements.

*p.* Service system management. The policies and procedures manual shall identify whether the region will be directly implementing a system of service management or will contract with a private entity to manage the regional service system. If the region contracts with a private entity, the region will ensure that all requirements of Iowa Code section 331.393 and these administrative rules are fulfilled.

*q.* Assistance to other than core service populations. The policies and procedures manual shall specify the services populations, other than core service populations, to whom the region will provide assistance if funding is available.

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

*r.* Waiting list criteria. The policies and procedures manual shall specify whether the region will use waiting lists. If the policy and procedures manual specifies the use of waiting lists for funding services and supports, it shall specify criteria for the use and review of each waiting list, including the criteria to be used to determine how and when an individual will be placed on a waiting list. The criteria will include how core services and additional core services will be impacted the least by budgetary limitations. The manual shall specify how waiting list data will be used in future planning.

**25.21(2) Approval.** The manual shall be submitted by April 1, 2014, as a part of the region's management plan for the fiscal year beginning July 1, 2014. The manual shall be approved by the region's governing board and is subject to approval by the director of human services. The director shall review all regional annual service and budget plans submitted by the dates specified. If the director finds the manual in compliance with these rules and state and federal laws, the director may approve the plan. A plan approved by the director for the fiscal year beginning July 1, 2014, shall remain in effect subject to amendment.

*a. Criteria for acceptance.* The director shall determine a plan is acceptable when it contains all the required information, meets the criteria described in this division, and is in compliance with all applicable state and federal laws. The director may request additional information to determine whether or not the plan contains all the required information and meets criteria described in this division.

*b. Notification.*

(1) Except as specified in subparagraph 25.21(2)“b”(2), the director shall notify the region in writing of the decision on the plan by June 1, 2014. The decision shall specify that either:

1. The policies and procedures manual is approved as it was submitted, either with or without supplemental information already requested and received.

2. The policies and procedures manual will not be approved until revisions are made. The letter will specify the nature of the revisions requested and the time frames for their submission.

(2) Review of late submittals. The director may review manuals not submitted by April 1, 2014, after all manuals submitted by that date have been reviewed. The director will proceed with the late submittals in a timely manner.

**25.21(3) Amendments.** An amendment to the policy and procedures manual shall be approved by the regional governance board and submitted to the department at least 45 days before the date of implementation. Before implementation of any amendment to the manual, the director must approve the amendment.

*a. Criteria for acceptance.* The director, in consultation with the state commission, shall determine an amendment is acceptable when it contains all the required information and meets the criteria described in this division for the applicable part of the policy and procedures manual and is in compliance with all applicable state and federal laws. The director may request additional information to determine whether or not the amendment contains all the required information and meets criteria described in this division.

*b. Notification.* The director shall notify the region, in writing, of the decision on the amendment within 45 days of receipt of the amendment. The decision shall specify either that:

(1) The amendment is approved as it was submitted, either with or without supplemental information already requested and received.

(2) The amendment is not approved. The notification will explain why the amendment is not approved.

**25.21(4) Reconsideration.** Regions dissatisfied with the director's decision on a manual or an amendment may file a letter with the director requesting reconsideration. The letter of reconsideration must be received within 30 working days of the date of the notice of decision and shall include a request for the director to review the decision and the reasons for dissatisfaction. Within 30 working days of the receipt of the letter requesting reconsideration, the director will review both the reconsideration request and evidence provided. The director shall issue a final decision in writing.

These rules are intended to implement Iowa Code sections 331.388 to 331.398.

HUMAN SERVICES DEPARTMENT[441](cont'd)

ITEM 5. Reserve rules **441—25.22** to **441—25.40**.

[Filed 10/18/13, effective 1/1/14]

[Published 11/13/13]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 11/13/13.

**ARC 1186C**

## **INSURANCE DIVISION[191]**

### **Adopted and Filed**

Pursuant to the authority of Iowa Code section 523I.207, the Insurance Division (the Division) hereby rescinds Chapter 18, "Cemeteries," and adopts a new Chapter 140, "Burial Sites and Cemeteries," Iowa Administrative Code.

New Chapter 140 is promulgated to implement and administer the provisions of Iowa Code chapter 523I, which regulates burial sites and cemeteries.

The new chapter addresses the assessment of expenses for examinations of cemeteries pursuant to Iowa Code section 523I.213A, notices of disinterments of remains filed pursuant to Iowa Code section 523I.309, sales practices by cemeteries that constitute the sale of insurance, and a total return method of distributing perpetual care trust fund income to perpetual care cemeteries.

These amendments were published under Notice of Intended Action in the September 4, 2013, Iowa Administrative Bulletin as **ARC 1004C**.

A public hearing was held on September 24, 2013, at the offices of the Insurance Division, Two Ruan Center, 601 Locust Street, Fourth Floor, Des Moines, Iowa. Interested persons had the opportunity to make written suggestions or comments on the proposed amendments on or before September 27, 2013.

Some comments were received. Following two of the comments, the Division has placed the applicable language of Iowa Code section 523.811 in paragraph 140.8(1)"d" rather than cross-referencing that Iowa Code section and has added "capital improvements" to the list. Other comments suggested substantive changes to new Chapter 140 which will be addressed in future amendments.

In one nonsubstantive change, the opening phrase of the third sentence in subrule 140.3(2) was clarified as follows: "Any member of the public or the death care industry..."

The Division intends that burial sites and cemeteries must be in compliance with the adopted rules beginning January 1, 2014.

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

These amendments are intended to implement Iowa Code chapter 523I.

These amendments will become effective December 18, 2013, and burial sites and cemeteries must be in compliance with the adopted rules beginning January 1, 2014.

The following amendments are adopted.

ITEM 1. Rescind and reserve **191—Chapter 18**.

ITEM 2. Adopt the following new 191—Chapter 140:

### **CHAPTER 140 BURIAL SITES AND CEMETERIES**

**191—140.1(523I) Purpose.** This chapter is promulgated to implement and administer the provisions of Iowa Code chapter 523I, which regulates burial sites and cemeteries.

This rule is intended to implement Iowa Code sections 523I.201 and 523I.207.

**191—140.2(523I) Definitions.** For purposes of this chapter, the definitions of Iowa Code chapter 523I are incorporated by reference. In addition, the following definitions shall apply:

INSURANCE DIVISION[191](cont'd)

“*Act*” shall mean Iowa Code chapter 523I, the “Iowa cemetery Act.”

“*Bureau*” shall mean the securities and regulated industries bureau of the division.

“*Division*” shall mean the insurance division.

This rule is intended to implement Iowa Code section 523I.207.

**191—140.3(523I) Administration.**

**140.3(1) *Contact information.*** All mailed complaints and inquiries shall be sent to the Securities and Regulated Industries Bureau, Iowa Insurance Division, Two Ruan Center, 601 Locust Street, Fourth Floor, Des Moines, Iowa 50309-3738. Telephone inquiries may be made at (515)281-5705. E-mail correspondence may be made through the division’s Web site, [www.iid.state.ia.us](http://www.iid.state.ia.us).

**140.3(2) *Complaints and inquiries.*** The division may receive and process any complaint made regarding burial sites or cemeteries. Where appropriate, the division may refer complaints, in whole or in part, to other agencies. Any member of the public or the death care industry, or any federal, state, or local official, may make and file a complaint with the division. Complaints may be received from sources outside the state of Iowa and processed in the same manner as those originating in Iowa. If required by the division, complaints shall be made on forms prescribed by the division.

**140.3(3) *Forms and filing procedures.***

*a.* Copies of all required forms and instructions for filing complaints, notices and annual reports are available on the division’s Web site, [www.iid.state.ia.us](http://www.iid.state.ia.us).

*b.* All filings of annual reports and notices shall be made as directed by the division. Instructions are available at the division’s Web site, [www.iid.state.ia.us](http://www.iid.state.ia.us).

This rule is intended to implement Iowa Code sections 523I.201 and 523I.207.

**191—140.4(523I) Examination expenses assessment.** The fee for an on-site examination of a perpetual care cemetery performed by the division pursuant to Iowa Code section 523I.213A is \$150. The fee will not be assessed more than once every five years. In addition, the division reserves the right to assess actual costs of staff time, travel, meals and lodging expenses in special circumstances, or for investigative examinations for cause, as often as necessary.

This rule is intended to implement Iowa Code sections 523I.202, 523I.207, and 523I.213A.

**191—140.5(523I) Notice of disinterment.** The notice filed by a cemetery reporting a disinterment pursuant to Iowa Code section 523I.309 shall include a description of the error, the reason the error occurred, the identity of all parties in interest, the date of the initial interment, the identity of the remains being relocated, the location where the disinterment will occur, and the location of the new interment space.

The division and parties in interest may waive the 60-day notice period if all parties in interest have received notice of the action and consented to the disinterment and relocation.

This rule is intended to implement Iowa Code sections 523I.207 and 523I.309.

**191—140.6(523I) Sale of insurance.** Any offer to provide merchandise or services in the event of the death of a person other than a purchaser or beneficiary named in the purchase agreement of cemetery and funeral merchandise and services is the sale of insurance and must be properly underwritten by an insurance company authorized to sell insurance in Iowa.

This rule is intended to implement Iowa Code sections 523I.207 and 523I.211.

**191—140.7(523I) Commingling of perpetual care trust fund accounts.**

**140.7(1)** Except as otherwise provided in subrules 140.7(2) and 140.7(3), the assets of a perpetual care trust fund may not be commingled with other perpetual care trust fund assets or with any other funds.

**140.7(2)** The assets of a perpetual care trust fund may be managed by a master trust managing funds from more than one cemetery.

INSURANCE DIVISION[191](cont'd)

**140.7(3)** The assets of a perpetual care trust fund may be commingled into other cemeteries' trust funds for investment purposes if separate title and separate accounting are maintained for each cemetery's individual perpetual care trust fund.

This rule is intended to implement Iowa Code sections 523I.207 and 523I.810.

**191—140.8(523I) Distribution of capital gains using a total return distribution method.**

**140.8(1)** The principal of a care fund is intended to remain available perpetually as a funding source for care of the cemetery. The principal of a care fund shall not be reduced voluntarily and shall remain inviolable, except for the distribution of income. This rule is intended to encourage investments in appreciating assets that will produce higher income levels created by growth in trust principal. Pursuant to Iowa Code section 523I.811(2), a trustee or, in the event of multiple trustees, a majority of the trustees, may, in the trustee's or trustees' sole discretion and without approval of the court, adopt a total return distribution method, subject to the terms and conditions of this rule.

*a.* The trust's governing instrument must clearly manifest intent to use a total return distribution method. Conversion to an investment policy utilizing the total return distribution method shall not conflict with or affect any provision of the trust agreement, if any, regarding the distribution of principal. If the trust agreement indicates intent that net appreciation shall not be expended, the trust may not use the total return distribution method unless the trust agreement is amended appropriately.

*b.* Distributions permitted under the total return distribution method shall be paid in the following order:

- (1) Net income as normally defined;
- (2) Other ordinary income as determined for federal income tax purposes;
- (3) Assets of the trust principal for which there is a readily available market value; and
- (4) Other trust principal.

*c.* A separate accounting of principal and income shall be maintained for the care fund.

*d.* The distributions under the total return distribution method shall be used in any manner determined to be in the best interests of the cemetery if authorized by a resolution, bylaw, or other action or instrument establishing the care fund, including but not limited to the general care of memorials, memorialization, cutting and trimming lawns, shrubs, and trees at reasonable intervals, maintaining drains, water lines, roads, buildings, fences and other structures, maintaining machinery, tools, and equipment, compensating maintenance employees, paying insurance premiums, making payments to employees' pension and benefit plans, paying overhead expenses incidental to such purposes, paying expenses necessary to maintain ownership, transfer, and interment records of the cemetery and capital improvements.

*e.* The trustee or trustees shall, not less than annually, determine the fair market value of each asset of the trust that consists primarily of real property or other property that is not traded on a regular basis in an active market, by appraisal or other reasonable method or estimate. That determination, if made reasonably and in good faith, shall be conclusive as to all persons interested in the trust.

**140.8(2)** The trustee or trustees shall exercise ordinary business care and prudence under the facts and circumstances prevailing at the time of the action or decision regarding the investment of trust funds. In so doing, the trustee or trustees shall consider present and anticipated financial requirements of the cemetery, including the following: the cemetery's need to fund the current expenses of care and maintenance and the cemetery's long-term need to fund the expenses of care and maintenance; expected total return from income and appreciation of principal; price level trends of equity and fixed income investments; needs for liquidity; regularity of income; preservation or appreciation of capital; general economic conditions; the possible effect of inflation or deflation; and the retention of income and net appreciation to adjust for inflation.

**140.8(3)** A notice of intent shall be filed with the division 90 days prior to implementation of the total return distribution method. The notice shall include a copy of the trust governing instrument and the written election adopting the total return distribution method.

**140.8(4)** The trustee or trustees must, prior to implementation of the total return distribution method, adopt a written investment and distribution policy under which future distributions from the trust will be

INSURANCE DIVISION[191](cont'd)

total return distribution amounts rather than net income distribution amounts. A copy of the investment and distribution policy shall be filed with the notice required by subrule 140.8(3). The investment goals and objectives shall be to achieve the following: principal growth through equity investment; current income through income investments; and an appropriate balance between (1) maintaining purchasing power through principal appreciation and (2) generating current income to support the cemetery's current care and maintenance. The trustee or trustees shall treat the net appreciation, realized and unrealized, in the fair value of the assets of a care fund as if it were net income of the trust for purposes of determining the amount available for distributions, from time to time, from the care fund.

**140.8(5)** In addition to the annual report required by Iowa Code section 523I.813, a perpetual care cemetery using the total return distribution method shall file an annual report with the division about the trust, detailing the asset allocation, the annual payout, any changes in investment policy, an accounting in regard to whether growth of the care fund's trust principal has exceeded an amount needed to compensate for inflation, and other pertinent information.

**140.8(6)** The division may limit or prohibit the distribution of capital gains in situations where investment returns and distribution practices have not resulted in sufficient protection of the care fund's trust principal from either a middle-term (three to five years) or long-term analysis. The division's review shall consider the presence and stated value of assets that do not have an active market and are not traded on a regular basis, the frequency of appraisals and evaluations, the asset allocation of the trust, and whether trust principal, as adjusted for inflation, is less than it was at the time the cemetery converted to the total return distribution method.

**140.8(7)** The annual payout shall not exceed the greater of the net ordinary income or 5 percent of the fair market value of the care fund as of the last day of the trust fiscal year immediately preceding the distribution year, unless approved by the division upon a showing of good cause. The determination of payout amounts shall take into consideration the cemetery's need to fund both the current and future expenses of care and the maintenance and preservation of principal. In determining the amounts to be paid out annually, the following factors shall be taken into account: the perpetual duration of the care fund; present and anticipated financial requirements; expected total return from income and appreciation of principal; price level trends of equity and fixed income investments; needs for liquidity; regularity of income; preservation or appreciation of capital; general economic conditions; the possible effect of inflation or deflation; and the retention of income and net appreciation to adjust for inflation.

**140.8(8)** The trustee or trustees shall maintain records documenting the net fair market values of the assets held in trust at the end of the accounting period immediately prior to adoption of the total return distribution method.

**140.8(9)** The fair market value of the trust shall be determined at least annually, using such valuation date or dates or averages of valuation dates as are readily ascertainable. Reasonable and appropriate valuation methods shall be utilized. As appropriate, assets may be excluded from valuation, provided all income received with respect to such assets is distributed to the extent distributable in accordance with the terms of the trust agreement.

**140.8(10)** The asset allocation of the care fund shall include a diversified portfolio, and investment decisions shall be made in accordance with Iowa Code section 633A.4302.

**140.8(11)** The division may limit or prohibit adoption of a total return distribution method by a care fund if the trustee or trustees and any investment manager are not able to demonstrate sufficient knowledge and expertise regarding effective implementation of the total return distribution method.

**140.8(12)** The election of use of a total return distribution method is irrevocable, unless a reversion is approved by the division. A notice shall be filed with the division 90 days prior to a proposed reversion from the total return distribution method to the traditional net income distribution method. The division may prohibit a reversion from the total return distribution method to the traditional net

INSURANCE DIVISION[191](cont'd)

income distribution method if the trust principal, as adjusted for inflation, is less than it was at the time the cemetery converted to the total return distribution method.

This rule is intended to implement Iowa Code sections 523I.207 and 523I.811(2).

[Filed 10/23/13, effective 12/18/13]

[Published 11/13/13]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 11/13/13.

**ARC 1174C**

**NURSING BOARD[655]**

**Adopted and Filed**

Pursuant to the authority of Iowa Code sections 17A.3 and 147.76, the Board of Nursing hereby amends Chapter 11, "Examination of Public Records," Iowa Administrative Code.

The amendment updates the language for purchasing a roster to align with the online process.

Notice of Intended Action was published in the Iowa Administrative Bulletin on August 21, 2013, as **ARC 0948C**. The Board received no comments. This amendment is identical to the one published under Notice of Intended Action.

This amendment was adopted by the Board on October 16, 2013.

After analysis and review of this rule making, there is no anticipated impact on jobs.

This amendment is intended to implement Iowa Code sections 17A.2, 22.3A, 152.3 and 272.10.

This amendment will become effective December 18, 2013.

The following amendment is adopted.

Amend rule 655—11.5(17A,22,147,152,272C) as follows:

**655—11.5(17A,22,147,152,272C) Rosters.** Rosters of licensees shall be made available to the public in accordance with Iowa Code chapter 22 and sections 147.8 and 147.43.

**11.5(1)** ~~Roster information and forms~~ Rosters may be accessed via the board's Web site under "General Information" and "Rosters" or may be requested from the board office IBON Online Services and Purchase a Roster.

**11.5(2)** ~~Completed forms may be returned to the board office by either electronic means or in hard copy and must include a signed Purchase of Roster Agreement form to ensure that the materials or publications shall not be published in any manner which could be construed by the public to mean that the board or any of its employees support, endorse, or approve the materials or publications to be disseminated.~~

**11.5(3)** ~~11.5(2)~~ A fee of \$40 per data set shall be charged for a roster, ~~in electronic format, based on the hourly wage of the office employee processing the request. A fee shall be assessed for a roster in hard copy format, based on the rate of charge set by the outside vendor and the hourly wage of the office employee producing the roster. The fee shall be paid directly to the board and shall be considered a repayment receipt as defined in Iowa Code section 8.2. The roster shall not be released until payment or purchase order has been received.~~

**11.5(4)** ~~11.5(3)~~ The executive director may authorize the release of a roster of Iowa licensees without cost in the case of any emergency whereby the interest of the public warrants immediate access to health care personnel.

NURSING BOARD[655](cont'd)

~~**11.5(5)**~~ **11.5(4)** State agencies that request a roster of Iowa licensees in hard copy format will be invoiced at cost as an expenditure correction. State agencies that request the roster in electronic format will be provided an electronic file of the roster at no cost.

[Filed 10/18/13, effective 12/18/13]

[Published 11/13/13]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 11/13/13.