



IOWA ADMINISTRATIVE BULLETIN

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CONTENTS IN THIS ISSUE

Pages 987 to 1052 include **ARC 2814C** to **ARC 2829C**

AGENDA

Administrative rules review committee 979

ALL AGENCIES

Agency identification numbers 984
Citation of administrative rules 977
Schedule for rule making 978

HUMAN SERVICES DEPARTMENT[441]

Notice, Reimbursement—drugs, Indian health facility services, 77.45, 78.2(4)“b,” 79.1 **ARC 2824C** 987
Filed, Autism support program, amendments to ch 22 **ARC 2816C** 1041

INSURANCE DIVISION[191]

COMMERCE DEPARTMENT[181]“umbrella”

Filed, Iowa retirement facilities, rescind ch 24; adopt ch 102 **ARC 2826C** 1046

IOWA FINANCE AUTHORITY[265]

Notice, General revenue bond procedures—public hearing and approval, rescind 4.5 **ARC 2828C** 991

PHARMACY BOARD[657]

PUBLIC HEALTH DEPARTMENT[641]“umbrella”

Filed Emergency After Notice, Universal practice standards—opioid antagonists, epinephrine auto-injectors, 8.19, 8.31 **ARC 2827C** 1037

PUBLIC EMPLOYMENT RELATIONS

BOARD[621]

Notice, Employee organizations; administrative remedies; state employee appeals, amendments to chs 8, 9, 11 **ARC 2817C** 992

PUBLIC FUNDS—AVAILABILITY

Homeland Security and Emergency Management Department[605] FEMA DR-4289-IA 986

PUBLIC HEALTH DEPARTMENT[641]

Notice, Reporting of communicable and infectious diseases, poisonings, and conditions, amendments to ch 1 **ARC 2814C** 1001
Notice, Iowa newborn screening program, 4.3, 4.11 **ARC 2819C** 1009
Notice, Human immunodeficiency virus (HIV) infection and acquired immune deficiency syndrome (AIDS), amendments to ch 11 **ARC 2820C** 1010
Notice, Vital records, 95.2, 95.7, 95.10 **ARC 2821C** 1013
Notice, Governmental public health advisory council, amendments to ch 186 **ARC 2822C** 1016

PUBLIC HEARINGS

Summarized list 982

REGENTS BOARD[681]

Notice, Iowa dental advanced standing program at the University of Iowa—application fee, 1.7 **ARC 2818C** 1020

REVENUE DEPARTMENT[701]

Notice, Forms and communications,
amendments to ch 8 **ARC 2825C** 1021

Filed, Calculation of alternative
minimum tax credit, 42.10, 52.5(4),
58.5(4) **ARC 2829C**..... 1049

TREASURER OF STATE

Notice—Public funds interest rates 1030

UTILITIES DIVISION[199]

COMMERCE DEPARTMENT[181]“umbrella”

Notice, Iowa electrical safety code, 25.2,
25.3, 25.5 **ARC 2815C** 1031

**WORKFORCE DEVELOPMENT
DEPARTMENT[871]**

Notice, Unemployment appeal hearings,
amendments to ch 26 **ARC 2823C**..... 1033

PREFACE

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

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

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

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

STEPHANIE A. HOFF, Administrative Code Editor

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CITATION of Administrative Rules

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

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

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

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

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

Schedule for Rule Making 2016

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

PRINTING SCHEDULE FOR IAB

<u>ISSUE NUMBER</u>	<u>SUBMISSION DEADLINE</u>	<u>ISSUE DATE</u>
13	Wednesday, November 30, 2016	December 21, 2016
14	Wednesday, December 14, 2016	January 4, 2017
15	Wednesday, December 28, 2016	January 18, 2017

PLEASE NOTE:

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

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

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

The Administrative Rules Review Committee will hold its regular, statutory meeting on Tuesday, December 13, 2016, at 9 a.m. in Room 116, State Capitol, Des Moines, Iowa. The following rules will be reviewed:

ADMINISTRATIVE SERVICES DEPARTMENT[11]

Internship appointments, 57.6(3) Notice **ARC 2794C** 11/9/16

AGRICULTURE AND LAND STEWARDSHIP DEPARTMENT[21]

Sensitive crop registry, 45.1 Notice **ARC 2807C** 11/9/16
Federal Wholesome Meat Act regulations—adoption by reference, 76.2 Notice **ARC 2803C** 11/9/16

CITY FINANCE COMMITTEE[545]

MANAGEMENT DEPARTMENT[541]“umbrella”

Change in calculating surplus balance in city utility and enterprise funds, 2.5(5) Filed **ARC 2811C** 11/9/16

EDUCATIONAL EXAMINERS BOARD[282]

EDUCATION DEPARTMENT[281]“umbrella”

Standard teaching license—evidence of successful teaching experience, 13.7 Filed **ARC 2792C** 11/9/16
Coaching—transitional authorization, certificate of CPR training, 13.28(29), 22.1 Filed **ARC 2793C** 11/9/16

ENVIRONMENTAL PROTECTION COMMISSION[567]

NATURAL RESOURCES DEPARTMENT[561]“umbrella”

Air quality, amendments to chs 20 to 23, 25 to 28, 31, 33 Notice **ARC 2799C** 11/9/16
Animal feeding operations, amendments to ch 65 Filed **ARC 2798C** 11/9/16

HOMELAND SECURITY AND EMERGENCY MANAGEMENT DEPARTMENT[605]

Emergency management employees—removal of prohibition from seeking elective office,
7.4(2) Filed **ARC 2804C** 11/9/16

HUMAN SERVICES DEPARTMENT[441]

Autism support program, amendments to ch 22 Filed **ARC 2816C** 11/23/16
Family investment program (FIP)—use of electronic access card to access benefits at a
prohibited location, 40.21, 41.25(11), 46.24(3)“c” Filed **ARC 2812C** 11/9/16
Reimbursement—drugs, Indian health facility services, 77.45, 78.2(4)“b,” 79.1 Notice **ARC 2824C** 11/23/16
Child support establishment and suspension, amendments to ch 99 Filed **ARC 2813C** 11/9/16

INSURANCE DIVISION[191]

COMMERCE DEPARTMENT[181]“umbrella”

Iowa retirement facilities, rescind ch 24; adopt ch 102 Filed **ARC 2826C** 11/23/16
Burial sites and cemeteries, adopt ch 101; rescind ch 140 Filed **ARC 2810C** 11/9/16

INTERIOR DESIGN EXAMINING BOARD[193G]

Professional Licensing and Regulation Bureau[193]

COMMERCE DEPARTMENT[181]“umbrella”

Description of organization; disciplinary authority, investigations and proceedings; grounds
for discipline, amendments to chs 1, 5 to 7 Notice **ARC 2797C** 11/9/16
Registration; continuing education; renewal and reinstatement, amend chs 2, 3; rescind ch 8
Notice **ARC 2796C** 11/9/16

IOWA FINANCE AUTHORITY[265]

General revenue bond procedures—public hearing and approval; rescind 4.5 Notice **ARC 2828C** 11/23/16

NATURAL RESOURCE COMMISSION[571]

NATURAL RESOURCES DEPARTMENT[561]“umbrella”

Turtle harvesting, amendments to ch 86 Notice **ARC 2802C** 11/9/16

PHARMACY BOARD[657]

PUBLIC HEALTH DEPARTMENT[641]“umbrella”

Universal practice standards—opioid antagonists, epinephrine auto-injectors, 8.19, 8.31
Filed Emergency After Notice **ARC 2827C** 11/23/16

PUBLIC EMPLOYMENT RELATIONS BOARD[621]

Employee organizations; administrative remedies; state employee appeals, amendments to
chs 8, 9, 11 Notice **ARC 2817C** 11/23/16

PUBLIC HEALTH DEPARTMENT[641]

Reporting of communicable and infectious diseases, poisonings, and conditions, amendments to ch 1 <u>Notice</u> ARC 2814C	11/23/16
Iowa newborn screening program, 4.3, 4.11 <u>Notice</u> ARC 2819C	11/23/16
Human immunodeficiency virus (HIV) infection and acquired immune deficiency syndrome (AIDS), amendments to ch 11 <u>Notice</u> ARC 2820C	11/23/16
Vital records, 95.2, 95.7, 95.10 <u>Notice</u> ARC 2821C	11/23/16
Governmental public health advisory council, amendments to ch 186 <u>Notice</u> ARC 2822C	11/23/16

RACING AND GAMING COMMISSION[491]

INSPECTIONS AND APPEALS DEPARTMENT[481]"umbrella"

Persons subject to gaming board authority; medical personnel; mobile pari-mutuel wagering; partnerships; grounds for sanction; horse racing; gambling games; accounting and cash control, amendments to chs 1, 4 to 6, 10 to 12 <u>Notice</u> ARC 2801C	11/9/16
Calculation of adjusted gross receipts, 5.4(10) <u>Filed</u> ARC 2795C	11/9/16

REAL ESTATE APPRAISER EXAMINING BOARD[193F]

Professional Licensing and Regulation Bureau[193]

COMMERCE DEPARTMENT[181]"umbrella"

Organization and administration; definitions; supervision by superintendent of banking, amend chs 1, 2; adopt ch 17 <u>Filed</u> ARC 2808C	11/9/16
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REGENTS BOARD[681]

Iowa dental advanced standing program at the University of Iowa—application fee, 1.7 <u>Notice</u> ARC 2818C	11/23/16
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REVENUE DEPARTMENT[701]

Forms and communications, amendments to ch 8 <u>Notice</u> ARC 2825C	11/23/16
Calculation of alternative minimum tax credit, 42.10, 52.5(4), 58.5(4) <u>Filed</u> ARC 2829C	11/23/16
Historic preservation and cultural and entertainment district tax credit, 42.54, 42.55, 52.47, 52.48 <u>Notice</u> ARC 2806C	11/9/16

TRANSPORTATION DEPARTMENT[761]

Driver's license, nonoperator identification card—veteran designation, amendments to chs 605, 630 <u>Notice</u> ARC 2800C	11/9/16
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TREASURER OF STATE[781]

Unclaimed property, ch 9 <u>Filed</u> ARC 2809C	11/9/16
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UTILITIES DIVISION[199]

COMMERCE DEPARTMENT[181]"umbrella"

Iowa electrical safety code, 25.2, 25.3, 25.5 <u>Notice</u> ARC 2815C	11/23/16
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WORKFORCE DEVELOPMENT DEPARTMENT[871]

Unemployment appeal hearings, amendments to ch 26 <u>Notice</u> ARC 2823C	11/23/16
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ADMINISTRATIVE RULES REVIEW COMMITTEE MEMBERS

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

Senator Mark Chelgren
819 Hutchinson
Ottumwa, Iowa 52501

Senator Mark Costello
37265 Rains Avenue
Imogene, Iowa 51645

Senator Thomas Courtney
2609 Clearview
Burlington, Iowa 52601

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

Senator Pam Jochum
2368 Jackson Street
Dubuque, Iowa 52001

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Representative Lisa Heddens
2401 Westwind Drive
Ames, Iowa 50010

Representative Megan Jones
4470 Highway 71
Sioux Rapids, Iowa 50585

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

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

Representative Guy Vander Linden
1610 Carbonado Road
Oskaloosa, Iowa 52577

Colin Smith
Administrative Rules Coordinator
Governor's Ex Officio Representative
Capitol, Room 18
Des Moines, Iowa 50319
Telephone (515)281-5211

ADMINISTRATIVE SERVICES DEPARTMENT[11]

Internship appointments, 57.6(3) IAB 11/9/16 ARC 2794C	Conference Room 5, A Level Hoover State Office Bldg. Des Moines, Iowa	November 29, 2016 1 to 2 p.m.
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ENVIRONMENTAL PROTECTION COMMISSION[567]

Air quality, amendments to chs 20 to 23, 25 to 28, 31, 33 IAB 11/9/16 ARC 2799C	Conference Rooms, Air Quality Bureau 7900 Hickman Rd. Windsor Heights, Iowa	December 12, 2016 1 p.m.
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INTERIOR DESIGN EXAMINING BOARD[193G]

Description of organization; disciplinary authority, investigations and proceedings; grounds for discipline, amendments to chs 1, 5 to 7 IAB 11/9/16 ARC 2797C	Board Office, Suite 350 200 E. Grand Ave. Des Moines, Iowa	November 29, 2016 10 a.m.
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Registration; continuing education; renewal and reinstatement, amend chs 2, 3; rescind ch 8 IAB 11/9/16 ARC 2796C	Board Office, Suite 350 200 E. Grand Ave. Des Moines, Iowa	November 29, 2016 10 a.m.
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NATURAL RESOURCE COMMISSION[571]

Turtle harvesting, amendments to ch 86 IAB 11/9/16 ARC 2802C	Marr Park Conservation Education Center 2943 Hwy. 92 Ainsworth, Iowa	November 29, 2016 3 p.m.
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Auditorium Wallace State Office Bldg. Des Moines, Iowa	November 29, 2016 5 p.m.
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Lost Island Nature Center Palo Alto County Conservation 3267 350th St. Ruthven, Iowa	November 29, 2016 7 p.m.
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PUBLIC HEALTH DEPARTMENT[641]

Vital records, 95.2, 95.7, 95.10 IAB 11/23/16 ARC 2821C	Room 518 Lucas State Office Bldg. Des Moines, Iowa <i>To participate by conference call:</i> Dial 1-866-685-1580 Conference code: 9327091718	December 14, 2016 9:30 to 11 a.m.
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RACING AND GAMING COMMISSION[491]

Persons subject to gaming board authority; medical personnel; mobile pari-mutuel wagering; partnerships; grounds for sanction; horse racing; gambling games; accounting and cash control, amendments to chs 1, 4 to 6, 10 to 12 IAB 11/9/16 ARC 2801C	Commission Office, Suite 100 1300 Des Moines St. Des Moines, Iowa	November 29, 2016 9 a.m.
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REVENUE DEPARTMENT[701]

Historic preservation and cultural
and entertainment district tax
credit, 42.54, 42.55, 52.47,
52.48
IAB 11/9/16 **ARC 2806C**

Auditorium
Wallace State Office Bldg.
Des Moines, Iowa

December 1, 2016
9:30 a.m.

TRANSPORTATION DEPARTMENT[761]

Driver's license, nonoperator
identification card—veteran
designation, amendments to
chs 605, 630
IAB 11/9/16 **ARC 2800C**

Motor Vehicle Division Offices
6310 SE Convenience Blvd.
Ankeny, Iowa

December 1, 2016
10 a.m.
(If requested)

UTILITIES DIVISION[199]

Iowa electrical safety code, 25.2,
25.3, 25.5
IAB 11/23/16 **ARC 2815C**

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

January 24, 2017
1 p.m.

The following list will be updated as changes occur.

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

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

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

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

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

FEMA DR-4289-IA

AGENCY	PROGRAM	ELIGIBLE APPLICANTS	TYPES OF PROJECT
<p>Iowa Homeland Security and Emergency Management Department (HSEMD)</p>	<p>Hazard Mitigation Grant Program (HMGP)</p> <p>Authorized by §203 of the Robert T. Stafford Disaster Assistance and Emergency Relief Act (Stafford Act), 42 U.S.C. 5133, as amended by §102 of the Disaster Mitigation Act of 2000 (DMA)</p>	<ul style="list-style-type: none"> • State Agencies and Local Governments. • Federally recognized Indian Tribal governments, to include state recognized Indian Tribes, and Authorized Tribal Organizations. • Private Non Profit (PNP) Organizations or institutions which operate a PNP facility as defined in the 44 Code of Federal Regulations (CFR), Section 206.221(e). • All applicants must be participating in the NFIP if they have been identified as having a Special Flood Hazard Area. The Community must not be on probation, suspended or withdrawn from the NFIP. • All applicants for a project grant MUST have a FEMA-approved local hazard mitigation plan. <p>Application Process:</p> <ul style="list-style-type: none"> - Potential project & planning applicants must complete a Notice of Interest (NOI) Form located on the HSEMD website at: http://www.iowahomelandsecurity.org/grants/HMA.html - NOI Form must be emailed to hsemd.mitigation@iowa.gov - NOI's will be selected for full application development based on funding availability, the State's priority, and an initial eligibility review. - NOI's will be accepted on a continuous basis or until otherwise notified. <p>For additional information, please contact:</p> <p>Dan Schmitz 515-725-9369 Aimee Bartlett 515-725-9364</p> <p>Iowa Homeland Security and Emergency Management Department 7900 Hickman Road Windsor Heights, Iowa 50324</p>	<p>Eligible Project Types</p> <p>Projects may be of any nature that will result in protection to public or private property, including but not limited to:</p> <ul style="list-style-type: none"> • Acquisition or relocation of hazard-prone property for conversion to open space in perpetuity • Construction of safe rooms (tornado and severe wind shelters) • Structural and non-structural retrofitting of existing buildings and facilities (including designs and feasibility studies when included as part of the construction project) for wildfire, seismic, wind or flood hazards (e.g., elevation, flood-proofing, storm shutters, hurricane clips) • Minor structural hazard control or protection projects that may include vegetation management, storm water management (e.g., culverts, floodgates, retention basins), or shoreline/landslide stabilization • Localized flood control projects, such as certain ring levees and floodwall systems, that are designed specifically to protect critical facilities and do not constitute a section of a larger flood control system • Development of multi-jurisdictional hazard mitigation plans and plan updates <p>Planning Application</p> <p>The outcome of a mitigation planning grant award must be a FEMA-approved hazard mitigation plan that complies with the requirements of 44 CFR Part 201. The planning grant deliverable can be a new hazard mitigation plan or an update of an already FEMA-approved hazard mitigation plan.</p>

ARC 2824C

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 hereby gives Notice of Intended Action to amend Chapter 77, “Conditions of Participation for Providers of Medical and Remedial Care,” Chapter 78, “Amount, Duration and Scope of Medical and Remedial Services,” and Chapter 79, “Other Policies Relating to Providers of Medical and Remedial Care,” Iowa Administrative Code.

The federal Indian Health Service (IHS) approves encounter rates for inpatient and outpatient medical care provided by IHS and tribal facilities to American Indians or Alaskan natives who are beneficiaries of Medicare, Medicaid, or other federal programs. The Indian Health Facilities in Iowa requested that Iowa Medicaid adopt the encounter rate for prescribed drugs, in lieu of payment for the particular drugs provided.

The Centers for Medicare and Medicaid Services (CMS) released a final rule that implements provisions of the Patient Protection and Affordable Care Act of 2010 as amended by the Health Care and Education Reconciliation Act of 2010 (collectively referred to as the Affordable Care Act) pertaining to Medicaid reimbursement for covered outpatient drugs. Key aspects of the final rule require Medicaid agencies to comply by documenting the reimbursement methodology for specific entities in their state plan no later than April 1, 2017. Specific entities that must be addressed include: (1) a covered entity described in Section 1927(a)(5)(B) of the Social Security Act (“340B” entities), (2) a contract pharmacy under contract with a covered 340B entity, and (3) a facility authorized to purchase drugs through the federal supply schedule (FSS). Corresponding clarifications, which do not represent a change from current policy, are being made in the rules. Additionally, CMS has required that ingredient cost reimbursement for drugs acquired by providers at nominal prices and excluded from the calculation of the drug’s “best price” not exceed the provider’s actual acquisition cost. A terminology clarification is also being made by changing the term “maximum allowable cost” (MAC) to “federal upper limit” (FUL) to conform to the Code of Federal Regulations (CFR). Lastly, the final rule indicates states may, at their option, provide coverage of and receive federal financial participation for investigational drugs, under specific conditions. The proposed rule clarifies that Iowa Medicaid does not cover investigational drugs that are the subject of an investigational new drug (IND) application that has been allowed to proceed by the Food and Drug Administration (FDA) but that do not meet the definition of a covered outpatient drug as set forth in 42 U.S.C. 1396r-8(k)(2)-(4).

These amendments change the outpatient prescribed drug reimbursement methodology for drugs provided to Medicaid recipients who are American Indians or Alaskan natives by health facilities that are operated by IHS or under the Indian Self-Determination and Education Assistance Act (P.L. 93-638) by an “Indian tribe,” “tribal organization,” or “urban Indian organization” as those terms are defined in 25 U.S.C. 1603 (referred to as Indian Health Facilities). Such drugs will be reimbursed through an outpatient encounter rate per day rather than through reimbursement for each individual prescription provided. The amendments also clarify the facilities that will receive this encounter rate for drugs. Because Medicaid reimbursement for services provided to Medicaid recipients who are American Indians or Alaskan natives by these facilities are 100 percent federally funded, there is no state expenditure involved in this change of reimbursement methodology.

These amendments also change the outpatient prescribed drug reimbursement methodology for drugs acquired by providers at nominal prices and excluded from the calculation of the drug’s “best price”

HUMAN SERVICES DEPARTMENT[441](cont'd)

pursuant to 42 CFR 447.508. For such drugs, the ingredient cost may not exceed the provider's actual acquisition cost (not to exceed the nominal price paid).

Additionally, these amendments clarify the following:

- The current reimbursement methodology utilized for covered outpatient drugs for 340B covered entities, 340B contract pharmacies, and facilities (such as Department of Veterans Affairs facilities) purchasing through the FSS under the General Services Administration.
- The terminology of maximum allowable cost (MAC) by updating to the conventional label of federal upper limit (FUL) and maintaining the definition for the FUL in accordance with 42 CFR 447.514(a)-(c).
- Payment is not made for outpatient investigational drugs that are the subject of an IND application that has been allowed by the FDA to proceed, which is optional with the state.
- Insertion of the word "state" in the phrase "average actual acquisition cost (AAC)" so that the phrase reads "average state actual acquisition cost (AAC)" to distinguish that limit from the provider-specific actual acquisition costs that also limit reimbursement of 340B covered entities and FSS facilities.
- Separation in the drug reimbursement methodology of the "submitted charge" and the "providers' usual and customary charge" to reflect that, if the amounts are different, the lower of the two is utilized for reimbursement.

Any interested person may make written comments on the proposed amendments on or before December 13, 2016. Comments should be directed to Harry Rossander, Bureau of Policy Coordination, Department of Human Services, Hoover State Office Building, Fifth Floor, 1305 East Walnut Street, Des Moines, Iowa 50319-0114. Comments may be sent by fax to (515) 281-4980 or by e-mail to policyanalysis@dhs.state.ia.us.

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

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

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

The following amendments are proposed.

ITEM 1. Amend rule 441—77.45(249A) as follows:

441—77.45(249A) Indian health service 638 facilities. A health care facility ~~owned and operated by American Indian or Alaskan native tribes or tribal organizations with funding authorized by Title I or Title III of the U.S. Indian Health Service or under the Indian Self-Determination and Education Assistance Act (P.L. 93-638) by an "Indian tribe," "tribal organization," or "Urban Indian organization," as those terms are defined in 25 U.S.C. 1603,~~ is eligible to participate in the medical assistance program if the following conditions are met:

77.45(1) and 77.45(2) No change.

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

ITEM 2. Adopt the following **new** subparagraph **78.2(4)“b”(12)**:

(12) Investigational drugs, including drugs that are the subject of an investigational new drug (IND) application allowed to proceed by the U.S. Food and Drug Administration (FDA) but that do not meet the definition of a covered outpatient drug in 42 U.S.C. 1396r-8(k)(2)-(3).

ITEM 3. Amend paragraph **79.1(1)“h”** as follows:

h. Indian health service 638 facilities.

(1) Indian health service 638 facilities as defined at enrolled pursuant to rule 441—77.45(249A) are paid a ~~special daily base encounter rate~~ for all Medicaid-covered services rendered to American Indian or Alaskan native persons who are Medicaid-eligible at the current daily visit rates approved by the U.S. Indian Health Service (IHS) for services provided by IHS facilities to Medicaid beneficiaries, as published in the Federal Register. This rate is updated periodically and published in the Federal Register after being approved by the Office of Management and Budget. For services provided to American Indians or Alaskan natives, Indian health service 638 facilities may bill ~~only one charge~~ for one visit per

HUMAN SERVICES DEPARTMENT[441](cont'd)

patient per calendar day for medical services provided to American Indians or Alaskan natives (at the "outpatient per visit rate (excluding Medicare)"), which shall include constitute payment in full for all medical services provided on that day, except as follows:

1. For services provided to American Indians and Alaskan natives, Indian health facilities may bill for multiple visits per patient per calendar day for medical services (at the "outpatient per visit rate (excluding Medicare)") only if medical services are provided for different diagnoses or if distinctly different medical services from different categories of services are provided for the same diagnoses in different units of the facility. For this purpose, the categories of medical services are vision services; dental services; mental health and addiction services; early and periodic screening, diagnosis, and treatment services for children; other outpatient services; and other inpatient services. A visit is a face-to-face contact between a patient and a health professional at or through the facility.

2. For services provided to American Indians or Alaskan natives, Indian health facilities may also bill for one visit per patient per calendar day for outpatient prescribed drugs provided by the facility (at the "outpatient per visit rate (excluding Medicare)"), which shall constitute payment in full for all outpatient prescribed drugs provided on that day.

(2) Services provided to Medicaid recipients who are not American Indians or Alaskan natives will be paid at the fee schedule reimbursement rate otherwise allowed by Iowa Medicaid for the services provided and will be billed separately by CPT code on the CMS-1500 Health Insurance Claim Form or through pharmacy point of sale. Claims for nonpharmacy services provided to Medicaid recipients who are not American Indians or Alaskan natives must be submitted by the individual practitioner enrolled in the Iowa Medicaid program, but may be paid to the facility if the provider agreement so stipulates.

ITEM 4. Amend subrule 79.1(2), provider category of "Indian health service 638 facilities," as follows:

<u>Provider category</u>	<u>Basis of reimbursement</u>	<u>Upper limit</u>
Indian health service 638 facilities	<p>1. Base rate as determined by the United States Office of Management and Budget for outpatient visits for American Indian and Alaskan native members. Daily visit rate approved by the U.S. Indian Health Service (IHS) for services provided to American Indian and Alaskan native members. See 79.1(1) "h."</p> <p>2. Fee schedule for service provided for all other Medicaid members.</p>	<p>1. Office of Management and Budget rate IHS-approved rate published in the Federal Register for as outpatient per visit rate (excluding Medicare).</p> <p>2. Fee schedule.</p>

ITEM 5. Rescind subrule 79.1(8) and adopt the following new subrule in lieu thereof:

79.1(8) Drugs.

a. Except as provided below in paragraphs 79.1(8) "d" through "i," all providers are reimbursed for covered drugs as follows:

(1) Reimbursement for covered generic prescription drugs and for covered nonprescription drugs shall be the lowest of the following, as of the date of dispensing:

1. The average state actual acquisition cost (AAC), determined pursuant to paragraph 79.1(8) "b," plus the professional dispensing fee determined pursuant to paragraph 79.1(8) "c."

2. The federal upper limit (FUL), defined as the upper limit for a multiple source drug established in accordance with the methodology of the Centers for Medicare and Medicaid Services as described in 42 CFR 447.514(a)-(c), plus the professional dispensing fee determined pursuant to paragraph 79.1(8) "c."

3. The total submitted charge.

4. Providers' usual and customary charge to the general public.

HUMAN SERVICES DEPARTMENT[441](cont'd)

(2) Reimbursement for covered brand-name prescription drugs shall be the lowest of the following, as of the date of dispensing:

1. The average state AAC, determined pursuant to paragraph 79.1(8)“b,” plus the professional dispensing fee determined pursuant to paragraph 79.1(8)“c.”

2. The total submitted charge.

3. Providers’ usual and customary charge to the general public.

b. For purposes of this subrule, average state AAC is defined as retail pharmacies’ average prices paid to acquire drug products. Average state AAC shall be determined by the department based on a survey of invoice prices paid by Iowa Medicaid retail pharmacies. Surveys shall be conducted at least once every six months, or more often at the department’s discretion. The average state AAC shall be calculated as a statistical mean based on one reported cost per drug per pharmacy. The average state AAC determined by the department shall be published on the Iowa Medicaid enterprise Web site. If no current average state AAC has been determined for a drug, the wholesale acquisition cost (WAC) published by Medi-Span shall be used as the average state AAC.

c. For purposes of this subrule, the professional dispensing fee shall be a fee schedule amount determined by the department based on a survey of Iowa Medicaid participating pharmacy providers’ costs of dispensing drugs to Medicaid beneficiaries. The survey shall be conducted every two years beginning in state fiscal year 2014-2015.

d. For an oral solid dispensed to a patient in a nursing home in unit dose packaging prepared by the pharmacist, an additional one cent per dose shall be added to reimbursement based on acquisition cost or FUL.

e. 340B-purchased drugs.

(1) Notwithstanding paragraph 79.1(8)“a” above, reimbursement to a covered entity as defined in 42 U.S.C. 256b(a)(4) for covered outpatient drugs acquired by the entity through the 340B drug pricing program will be the lowest of:

1. The submitted 340B covered entity actual acquisition cost (not to exceed the 340B ceiling price) plus the professional dispensing fee pursuant to paragraph 79.1(8)“c”;

2. The average state AAC determined pursuant to paragraph 79.1(8)“b” plus the professional dispensing fee pursuant to paragraph 79.1(8)“c”;

3. For generic prescription drugs and nonprescription drugs only, the FUL pursuant to 79.1(8)“a”(1)“2” plus the professional dispensing fee pursuant to paragraph 79.1(8)“c”;

4. The total submitted charge; or

5. Providers’ usual and customary charge to the general public.

(2) Reimbursement for covered outpatient drugs to a 340B contract pharmacy, under contract with a covered entity described in 42 U.S.C. 256b(a)(4), will be according to paragraph 79.1(8)“a” because covered outpatient drugs purchased through the 340B drug pricing program cannot be billed to Medicaid by a 340B contract pharmacy.

f. Federal supply schedule (FSS) drugs. Notwithstanding paragraph 79.1(8)“a” above, reimbursement for drugs acquired by a provider through the FFS program managed by the federal General Services Administration will be the lowest of:

(1) The provider’s actual acquisition cost, not to exceed the FSS price, plus the professional dispensing fee pursuant to paragraph 79.1(8)“c”;

(2) The average state AAC determined pursuant to paragraph 79.1(8)“b” plus the professional dispensing fee pursuant to paragraph 79.1(8)“c”;

(3) For generic prescription drugs and nonprescription drugs only, the FUL pursuant to 79.1(8)“a”(1)“2” plus the professional dispensing fee pursuant to paragraph 79.1(8)“c”;

(4) The total submitted charge; or

(5) Providers’ usual and customary charge to the general public.

g. Nominal-price drugs. Notwithstanding paragraph 79.1(8)“a” above, reimbursement for drugs acquired by providers at nominal prices and excluded from the calculation of the drug’s “best price” pursuant to 42 CFR 447.508 will be the lowest of:

HUMAN SERVICES DEPARTMENT[441](cont'd)

(1) The provider's actual acquisition cost (not to exceed the nominal price paid) plus the professional dispensing fee pursuant to paragraph 79.1(8) "c";

(2) The average state AAC determined pursuant to paragraph 79.1(8) "b" plus the professional dispensing fee pursuant to paragraph 79.1(8) "c";

(3) For generic prescription drugs and nonprescription drugs only, the FUL pursuant to 79.1(8) "a"(1)"2" plus the professional dispensing fee pursuant to paragraph 79.1(8) "c";

(4) The total submitted charge; or

(5) Providers' usual and customary charge to the general public.

h. Indian health facilities enrolled pursuant to rule 441—77.45(249A). For all drugs provided to American Indians or Alaskan natives by Indian health facilities enrolled pursuant to rule 441—77.45(249A), reimbursement is one pharmacy encounter payment per date of service, notwithstanding paragraphs 79.1(8) "a" through "f." The pharmacy encounter rate is the current "outpatient per visit rate (excluding Medicare)" approved by the U.S. Indian Health Service (IHS) for services provided by IHS facilities to Medicaid beneficiaries, as published in the Federal Register, and includes reimbursement for the dispensing fees, ingredient cost, and any necessary counseling by the pharmacist.

i. Vaccines for Children Program. All providers administering vaccines available through the Vaccines for Children Program to Medicaid members shall enroll in the Vaccines for Children Program. In lieu of payment, vaccines available through the Vaccines for Children Program shall be accessed from the department of public health for Medicaid members. Providers may receive Medicaid reimbursement for the administration of vaccines to Medicaid members through the otherwise applicable reimbursement for inpatient or outpatient services.

j. Physician-administered drugs. Notwithstanding paragraphs 79.1(8) "a" through "f," payment to physicians for physician-administered drugs billed with healthcare common procedure coding system (HCPCS) Level II "J" codes, as a physician service, shall be pursuant to the physician payment policy under subrule 79.1(2).

k. Under this subrule, no payment shall be made for sales tax.

l. For purposes of this subrule, the Medicaid program relies on information published by Medi-Span to classify drugs as brand-name or generic.

ARC 2828C

IOWA FINANCE AUTHORITY[265]

Notice of Intended Action

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

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

Pursuant to the authority of Iowa Code sections 17A.3(1) "b" and 16.5(1) "r," the Iowa Finance Authority proposes to amend Chapter 4, "General Revenue Bond Procedures," Iowa Administrative Code.

This proposed amendment strikes rule 265—4.5(16), Public hearing and approval, because the rule is redundant as it relates to federal law, specifically Internal Revenue Code section 147(f), and potentially inconsistent with a recent amendment to the Iowa Code (2016 Iowa Acts, Senate File 2257).

The Authority will receive written comments on the proposed amendment until 4:30 p.m. on December 13, 2016. Comments may be addressed to Mark Thompson, General Counsel, Iowa Finance Authority, 2015 Grand Avenue, Des Moines, Iowa 50312. Comments may also be faxed to Mark Thompson at (515)725-4937 or e-mailed to mark.thompson@iowa.gov.

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

IOWA FINANCE AUTHORITY[265](cont'd)

This amendment is intended to implement Iowa Code sections 16.5(1)“r,” 16.26, 16.102, 16.105, 16.131 and 16.133.

The following amendment is proposed.

Amend rule 265—4.5(16) as follows:

~~**265—4.5(16) Public hearing and approval.** In all cases where a public hearing, and the approval of an elected state official is required under the United States Internal Revenue Code and the regulations promulgated pursuant thereto, before the issuance of a tax exempt bond by the authority, the following procedures apply.~~

~~**4.5(1) Public hearing.** After January 1, 1983, the authority will not issue a bond for a specific project unless, prior to issuance, the authority has conducted a public hearing conforming to the applicable requirements of the United States Internal Revenue Code and the regulations promulgated thereunder. The hearing shall be preceded by a notice thereof published at least 14 days prior to the date of the hearing in a newspaper of general circulation in the county where the project is located. The notice shall include but not be limited to the date, time and place of the hearing, the name of the project sponsor, and a general description of the project.~~

~~The hearing shall be held at the authority’s office in Des Moines, or other location stated in the notice, unless at or prior to the time scheduled for the hearing, the authority receives a written request that a local hearing be held. In the event a local hearing is requested, the previously scheduled hearing shall be canceled, and notice of a hearing in the local area shall be published in the time and manner stated above. The local hearing shall be held at the date, time and place specified in the new notice, which time and place shall be reasonably convenient to persons affected by the project.~~

~~The public hearing may be held by a staff member or board member of the authority or a hearing officer of another state agency working under an agreement with the authority.~~

~~**4.5(2) Approval of elected official.** After January 1, 1983, the authority will not issue a bond for a specific project unless, prior to issuance, the governor or another elected official of the state designated by the governor, shall approve the issuance of a bond. Following the public hearing opportunity referred to in subrule 4.5(1), the authority shall prepare and send to the governor’s office, or the office of an elected official of the state designated by the governor, a statement describing each bond or series of bonds which it proposes to issue, along with a summary of the public comments received with respect thereto, if any.~~

~~This rule is intended to implement Iowa Code chapter 16 and Section 103(k), United States Internal Revenue Code and regulations promulgated thereunder.~~

ARC 2817C

PUBLIC EMPLOYMENT RELATIONS BOARD[621]

Notice of Intended Action

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

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

Pursuant to the authority of Iowa Code section 20.6(5), the Public Employment Relations Board hereby gives Notice of Intended Action to amend Chapter 8, “Internal Conduct of Employee Organizations,” Chapter 9, “Administrative Remedies,” and Chapter 11, “State Employee Appeals of Grievance Decisions and Disciplinary Actions,” Iowa Administrative Code.

The amendments proposed herein are a result of the five-year rolling review of administrative rules as outlined in Iowa Code section 17A.7(2). The agency rules administrator, with the assistance of the agency’s other administrative law judges, reviewed the agency’s chapters to identify outdated or

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

redundant references, inconsistencies with statutes, and methods of enhancing efficiencies. The proposed amendments were then published on the agency's Web site with an opportunity for all constituents to provide feedback. The proposed amendments were also shared with others who may be impacted, such as the Department of Administrative Services (DAS).

Items 1 through 7 address Chapter 8, and although presented as new rules, the revisions to Chapter 8 include the division of existing rules into separate rules, the renumbering of rules, and other nonsubstantive changes to succinctly specify the documents involved, the electronic filing process, and the bonding required of employee organizations. Additionally, new rule 621—8.6(20) in Item 6 reflects provisions of Iowa Code section 20.25 that require the Board's permission to establish a trusteeship. New rule 621—8.7(20) in Item 7 implements provisions of Iowa Code section 20.25(6) and reflects current revocation and noncertification practices for employee organizations that fail to comply with the statute.

Items 8 through 15 address Chapter 9 and include the addition of references to Iowa Code chapter 17A as a chapter being implemented. The items include the renumbering of present rules and other nonsubstantive amendments which incorporate electronic filing and, consistent with Iowa Code chapter 17A, more clearly specify when an agency decision becomes a final decision, the uniform timeline for an appeal or petition for the Board's review, the Board's ability to review and timeline for review of a proposed decision on its own motion, and the Board's procedure on appeal or review. Other amendments reflect the status of amicus curiae, resolve a conflict between the statute and the existing rule by eliminating a party's ability to present additional evidence before the Board on appeal or review, and include the Board's standard of review for modifying or reversing findings of fact or conclusions of law. The new rules presented in Items 13 and 14 reflect provisions of Iowa Code chapter 17A that allow a party to file an application for rehearing and an application for stay of agency action.

Items 16 through 26 address Chapter 11 and recognize the renumbering of Iowa Code chapter 19A as chapter 8A. The items include the renumbering of present rules and other nonsubstantive amendments which incorporate electronic filing, more clearly specify notice of appeal rights to employees, delete the requirement that parties provide unnecessary information or documents required for appeals, and clarify when a decision becomes final agency action. Other amendments in Item 17 resolve a conflict between the statute and the existing rule that allows a failure of the DAS Director to comply with Iowa Code section 8A.415 to work to the employee's disadvantage. The amendments resolve the conflict by providing the employee the option of filing a PERB appeal if the DAS Director has not responded in a timely fashion or of waiting for the Director's untimely response and filing an appeal within the following 30 days. Item 21 rescinds the present rule requiring agencies to make their employees available as witnesses on official duty status, which is not required by statute, and the renumbered rule adopted in its place clarifies the appealing employee's right to a closed hearing and deletes the employee's unilateral option of having a determination made on the pleadings and documents without a hearing. Item 25 rescinds an outdated rule.

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

Any interested person may make written suggestions or comments on the proposed amendments on or before December 13, 2016. Written suggestions or comments should be directed to Diana S. Machir, Agency Rules Administrator, Public Employment Relations Board, 510 E. 12th Street, Des Moines, Iowa 50319; or diana.machir@iowa.gov.

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

Requests for a public hearing must be received by December 13, 2016.

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

These amendments are intended to implement Iowa Code chapters 8A, 17A and 20.

The following amendments are proposed.

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

ITEM 1. Amend rule 621—8.1(20) as follows:

621—8.1(20) Registration report Requirements. Before the agency certifies an employee organization as the exclusive representative of a bargaining unit, the employee organization shall electronically file a registration report, constitution and bylaws, and an annual report. Once certified, the certified employee organization shall thereafter file an annual report as required by rule 621—8.4(20) and a registration report and constitution and bylaws whenever its constitution or bylaws are amended as required by rules 621—8.2(20) and 621—8.3(20).

~~8.1(1) When filed.~~ Before an employee organization may be certified as the exclusive representative of a bargaining unit, the employee organization shall have filed a registration report with the board.

~~8.1(2) Form and content.~~ The registration report shall be in a form prescribed by the board. The registration report shall be accompanied by two copies of the employee organization's constitution and bylaws. A filing by a national or international of its constitution and bylaws shall be accepted in lieu of a filing of such documents by each subordinate organization, provided that such national or international constitution and bylaws conform to the requirements of the Act.

ITEM 2. Rescind rule 621—8.2(20) and adopt the following **new** rule in lieu thereof:

621—8.2(20) Registration report.

8.2(1) Time of filing. An employee organization shall file a complete registration report:

a. Before the employee organization may be certified as the exclusive representative of a bargaining unit; and

b. Once the employee organization is certified, whenever changes or amendments are made to its constitution or bylaws; or

c. When the certified employee organization files a petition to amend its certification.

8.2(2) Form and content. The registration report shall be on the form prescribed by the agency.

8.2(3) Method of filing. The registration report shall be electronically filed pursuant to 621—Chapter 16.

ITEM 3. Rescind rule 621—8.3(20) and adopt the following **new** rule in lieu thereof:

621—8.3(20) Constitution and bylaws.

8.3(1) Time of filing. An employee organization shall file its constitution and bylaws:

a. Before the employee organization may be certified as the exclusive representative of a bargaining unit; and

b. Once the employee organization is certified, whenever changes or amendments are made to its constitution or bylaws; or

c. When the certified employee organization files a petition to amend its certification.

8.3(2) Form and content.

a. The constitution or bylaws of every employee organization shall provide that:

(1) Accurate accounts of all income and expenses shall be kept, and an annual financial report and an audit shall be prepared, such accounts shall be open for inspection by any member of the organization, and loans to officers and agents shall be made only on terms and conditions available to all members.

(2) Business or financial interests of its officers and agents, their spouses, minor children, parents or otherwise, that conflict with the fiduciary obligation of such persons to the organization shall be prohibited.

(3) Every official or employee of an employee organization who handles funds or other property of the organization, or trust in which an organization is interested, or a subsidiary organization, shall be bonded in an amount and form determined by the agency.

(4) Periodic elections by secret ballot shall be conducted subject to recognized safeguards concerning the equal rights of all members to nominate, seek office, and vote in such elections; that individual members have the right to participate in the affairs of the organization; and that there are fair and equitable procedures in disciplinary actions.

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

b. The employee organization's national or international constitution and bylaws shall be accepted in lieu of the employee organization's constitution and bylaws provided that such national or international constitution and bylaws conform to the requirements of Iowa Code section 20.25.

8.3(3) Method of filing. The constitution and bylaws shall be electronically filed pursuant to 621—Chapter 16.

ITEM 4. Rescind rule 621—8.4(20) and adopt the following **new** rule in lieu thereof:

621—8.4(20) Annual report.

8.4(1) Time of filing. An employee organization shall file a complete annual report:

a. Before the employee organization may be certified as the exclusive representative of a bargaining unit in which case the report may be filed concurrently with an election petition; and

b. Once the employee organization is certified, within 90 days following the certified employee organization's fiscal year end; and

c. When the certified employee organization files a petition to amend its certification.

8.4(2) Form and content. The annual report shall be on the form prescribed by the board and shall contain:

a. The names, addresses, e-mail addresses, and telephone numbers of the organization, any parent organization or organizations with which it is affiliated, the principal officers and all representatives.

b. The name, address, e-mail address, and telephone number of its local agent for service of process.

c. A general description of the public employees the organization represents or seeks to represent.

d. The amounts of the initiation fee and monthly dues members must pay.

e. A pledge, in a form prescribed by the board, that the organization will comply with the laws of the state and that it will accept members without regard to age, race, sex, religion, national origin or physical disability, as provided by law.

f. A financial report and audit.

(1) The financial report shall contain, at a minimum, the following information: the cash balance from the previous year; a listing of sources and amounts of income; an identified listing of disbursements; and a closing balance. For the first annual report filed by an employee organization, the financial report shall reflect the last completed fiscal year of the organization or, in the case of a new organization, the last completed quarter or quarters of the current fiscal year. For annual reports filed mid-fiscal year with petitions for amendment of certification, the financial report shall reflect the last completed quarter or quarters of the current fiscal year.

(2) The audit shall consist of a statement that the financial report has been reviewed and found to be true and accurate. The audit must be signed by an auditing committee or a person or persons who hold no office in the employee organization and who did not prepare the financial report.

g. The name(s) of the person(s) required to be bonded pursuant to rule 621—8.5(20), the amount of the bond, and the name of the corporate surety company that issued the bond(s).

8.4(3) Method of filing. The annual report shall be electronically filed pursuant to 621—Chapter 16.

ITEM 5. Rescind rule 621—8.5(20) and adopt the following **new** rule in lieu thereof:

621—8.5(20) Bond required. Every person required by Iowa Code section 20.25(3)“c” to be bonded shall be bonded to provide protection against loss by reason of act of fraud or dishonesty on the part of such person, directly or through connivance with others.

8.5(1) Bond requirements. The bond of each such person shall be fixed at the beginning of the employee organization's fiscal year and shall be in an amount of not less than 10 percent of the funds handled by such person or that person's predecessor or predecessors, if any, during the preceding fiscal year, but in no case less than \$2,000 nor more than \$500,000. If the employee organization or the trust in which an employee organization is interested does not have a preceding fiscal year, the amount of the bond shall not be less than \$2,000. Such bonds shall have a corporate surety company as surety thereon.

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

8.5(2) Prohibitions. Any person who is not covered by such bonds shall not be permitted to receive, handle, disburse or otherwise exercise control of the funds or other property of an employee organization or of a trust in which an employee organization is interested. No such bond shall be placed through an agent or broker or with a surety company in which any employee organization or any officer, agent, shop steward or other representative of an employee organization has any direct or indirect interest.

ITEM 6. Rescind rule 621—8.6(20) and adopt the following **new** rule in lieu thereof:

621—8.6(20) Trusteeships.

8.6(1) Application and establishment. Prior to establishing a trusteeship, an organization shall file an application to establish or administer a trusteeship over a subordinate employee organization certified by the agency. The organization shall attach a copy of its constitution and bylaws to its application.

a. The board will review the organization's constitution and bylaws and permit the establishment of a trusteeship if the trusteeship procedures are reasonable.

b. Trusteeships shall be established or administered by an organization over a subordinate employee organization only in accordance with the constitution or bylaws of the organization which has assumed trusteeship over the subordinate body and for the purpose of correcting corruption or financial malpractice, assuring the performance of collective bargaining agreements or other duties of a bargaining representative, restoring democratic procedures or otherwise carrying out the legitimate objectives of the employee organization.

8.6(2) Reports.

a. Every organization which assumes trusteeship over any subordinate employee organization shall file with the agency within 30 days after the imposition of any such trusteeship, and semiannually thereafter, a report, signed by its president and treasurer or corresponding principal officers, as well as by the designated trustees of such subordinate employee organization, containing the following information:

- (1) The name and address of the subordinate employee organization;
- (2) The date of the establishment of the trusteeship;
- (3) A detailed statement of the reason for the establishment or the continuation of the trusteeship;

and

(4) The nature and extent of participation by the membership of the subordinate employee organization in the selection of delegates to represent such employee organization in regular or special conventions or other policy-determining bodies and in the election of officers of the organization which has assumed trusteeship over the employee organization.

b. The initial report of the establishment of the trusteeship shall include a full and complete account of the financial condition of the subordinate employee organization as of the time trusteeship was assumed over it.

8.6(3) Continuing duty to report. During the continuance of a trusteeship, the organization which has assumed trusteeship over a subordinate employee organization shall file on behalf of the subordinate employee organization all reports required by this chapter. Such reports shall be signed by the president and treasurer or corresponding principal officers of the organization which has assumed such trusteeship and the designated trustees for the subordinate employee organization.

8.6(4) Method of filing. The application and any required reports shall be electronically filed pursuant to 621—Chapter 16.

ITEM 7. Adopt the following **new** rule 621—8.7(20):

621—8.7(20) Failure to comply with employee organization requirements. The agency shall not certify an employee organization or may revoke the existing certification(s) of an employee organization for failure to file a registration report, its constitution and bylaws, or an annual report or otherwise fail to comply with Iowa Code section 20.25.

8.7(1) Upon completion of a valid election. If an employee organization fails to file a registration report, constitution and bylaws, or annual report or otherwise comply with these rules or Iowa Code section 20.25 within 90 days following the completion of a valid election, the agency will not certify the

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

employee organization and will serve notice of noncertification. The agency may grant extensions of time for good cause.

8.7(2) *Failure to file reports once certified.* If an employee organization fails to file a registration report, constitution and bylaws, or annual report or otherwise comply with these rules and Iowa Code section 20.25, the agency may revoke the certification of the employee organization. When the organization fails to comply following notice of its noncompliance, the agency will order the employee organization to show cause why its certification should not be revoked and set the matter for hearing.

8.7(3) *Complaints by affected parties.* A complaint that any employee organization has engaged in or is engaging in any practice which constitutes a violation of Iowa Code section 20.25 may be submitted in writing to the board by any affected person. Upon receipt of a complaint, the agency shall serve a copy upon the employee organization by certified mail, return receipt requested. The board shall conduct a preliminary investigation of the alleged violation. In conducting the investigation, the board may require the production of evidence, including affidavits and documents. If the investigation shows there is no reasonable cause to believe a violation has occurred, the complaint shall be dismissed and the parties notified. If the investigation shows reasonable cause to believe a violation has occurred, the board shall notify the parties. If the parties are unable to agree on an informal settlement after notification of reasonable cause, the board shall schedule the complaint for hearing.

ITEM 8. Amend rule 621—9.1(20) as follows:

~~**621—9.1(17A,20) Final decisions.** When a quorum of the members of the board presides at the evidentiary hearing in a contested case proceeding, the decision entered thereon is the final decision of the agency. When the hearing is presided over by other than a quorum of the members of the board, the administrative law judge shall render a proposed decision, which shall become the final decision of the agency unless within 20 days of the filing of such proposed decision:~~

~~**9.1(1)** A party aggrieved by the proposed decision files an appeal to the board, or~~

~~**9.1(2)** The board, on its own motion, determines to review the proposed decision.~~

~~**9.1(1) *By board majority.*** When a majority of the board presides at the reception of the evidence in a contested case, the decision of the board is a final decision of the agency.~~

~~**9.1(2) *By presiding officer.*** When a majority of the board does not preside at the reception of the evidence in a contested case, the presiding officer shall make a proposed decision that becomes the final decision of the agency without further proceedings unless:~~

~~*a.* There is an appeal to the board or a petition for its review filed within 20 days of the filing of the proposed decision, or~~

~~*b.* The board, within 20 days of the filing of the proposed decision, determines to review the decision on its own motion.~~

ITEM 9. Amend rule 621—9.2(20) as follows:

~~**621—9.2(17A,20) Appeals to board or petitions for the board's review.**~~

~~**9.2(1) *Notice of appeal or petition for review.*** An appeal to the board from or a petition for review of a proposed decision of an administrative law judge in a contested case proceeding shall be commenced by the filing of a written notice of appeal or petition for review with the agency within 20 days of the filing of the proposed decision by filing a written notice of appeal with the agency in accordance with rule 621—16.4(20). The appealing party shall promptly serve all other parties with a copy of the notice and file proof thereof with the agency in accordance with rule 621—16.10(20).~~

~~**9.2(2) *Cross-appeals or cross-petitions for review.*** A cross-appeal or cross-petition for review may be taken in the same manner as an appeal or a petition for review and shall be filed within the 20 days for taking an appeal of the filing of the proposed decision or within 5 days after the initial appeal or petition for review is taken filed, whichever is later.~~

~~**9.2(3) *Hearing.*** On appeal the board shall utilize the record as submitted before the administrative law judge but may, upon application of a party, order that additional evidence be taken on appeal if it is shown that the additional evidence is material and that there were good reasons for the party's failure to~~

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

~~present it before the administrative law judge. Any person, employee organization or public employer who has a significant interest in the outcome of the appeal may petition the board for intervention in the appeal proceedings. Where intervention is granted by the board, the intervening parties may submit briefs and arguments and participate in the same manner as an original party to the proceeding. The board shall set a time and place of hearing or argument and give notice thereof to the parties. The decision rendered by the board shall be a final decision of the agency.~~

9.2(3) Method of filing. All appeals and petitions for review shall be electronically filed pursuant to 621—Chapter 16.

ITEM 10. Adopt the following new rule 621—9.3(17A,20):

621—9.3(17A,20) Board's review on its own motion. The board may determine to review the proposed decision within 20 days of the filing of the proposed decision by filing an order for review.

ITEM 11. Adopt the following new rule 621—9.4(17A,20):

621—9.4(17A,20) Petition for amicus curiae status. Any person, employee organization or public employer who has a significant interest in an outcome of an appeal or review pursuant to either rule 621—9.2(17A,20) or 621—9.3(17A,20) may petition the board for amicus curiae status. Where the petition is granted by the board, the amicus curiae may submit briefs and arguments and participate in the same manner as an original party to the proceeding.

ITEM 12. Adopt the following new rule 621—9.5(17A,20):

621—9.5(17A,20) Board proceedings on appeal or review. On appeal from or review of a proposed decision, the board has all the power that it would have in initially making the final decision except as it may limit the issues after giving notice to the parties.

9.5(1) Procedure. The parties shall be given an opportunity to file briefs and, with the consent of the board, present oral arguments to the board members who are to render the final decision. If the board consents to the presentation of oral arguments, the board shall file an order setting a time and place.

9.5(2) Standard of review. The board may reverse or modify any finding of fact if a preponderance of the evidence will support a determination to reverse or modify such a finding, or may reverse or modify any conclusion of law that the board finds to be in error.

9.5(3) Final agency action. The decision rendered by the board on appeal or review shall be a final decision of the agency.

ITEM 13. Adopt the following new rule 621—9.6(17A,20):

621—9.6(17A,20) Rehearing.

9.6(1) Application. Any party may file an application for rehearing, stating the specific grounds for rehearing and the relief sought, within 20 days after the date of the issuance of any final decision by the agency in a contested case. An application for rehearing shall be deemed to have been denied unless the board grants the application within 20 days after its filing.

9.6(2) Method of filing. The application shall be electronically filed pursuant to 621—Chapter 16.

ITEM 14. Adopt the following new rule 621—9.7(17A,20):

621—9.7(17A,20) Stays of agency action.

9.7(1) Application. A party may file an application for a stay of agency action. The board may, in its discretion and on such terms as it deems proper, grant or deny the application.

9.7(2) Method of filing. The application shall be electronically filed pursuant to 621—Chapter 16.

ITEM 15. Amend **621—Chapter 9**, implementation sentence, as follows:

These rules are intended to implement Iowa Code ~~chapter~~ chapters 17A and 20.

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

ITEM 16. Amend rule 621—11.1(19A,20) as follows:

621—11.1(19A 8A,20) Notice of appeal rights. ~~Whenever~~ When the director of the Iowa department of personnel administrative services (hereinafter referred to as the director) issues a response to an employee on a matter appealable to the public employment relations board (hereinafter referred to as the board) pursuant to Iowa Code section 19A.14 as amended by 1988 Iowa Acts, House File 2399, section 1, in which the director 8A.415 and the response does not grant the relief sought by the employee, the director shall also provide response shall include notice to the affected employee of appeal procedures and time limitations governing the appeal that the employee may appeal the response by filing an appeal with the public employment relations board within 30 days of the date of the director's response.

ITEM 17. Amend rule 621—11.2(19A,20) as follows:

621—11.2(19A 8A,20) Filing of appeal.

~~11.2(1)~~ Appeals shall be filed with the board on the State Employee Grievance and Disciplinary Action Appeal Form.

~~11.2(2)~~ **11.2(1)** Grievances. An employee, except an employee covered by a collective bargaining agreement which that provides otherwise, who has filed a grievance and is not satisfied with the director's response, ~~to the employee's grievance~~ may file an appeal with the board ~~if the grievance alleged either a violation of Iowa Code chapter 19A or the rules of the department of personnel agency.~~ Such appeal must be filed within 30 calendar days following the date the director's response was issued ~~or should have been issued.~~ However, if no response was issued by the director within 30 calendar days following the filing of the third-step grievance with the director, the employee may consider the grievance denied and file an appeal with the agency or may await the director's response and, if not satisfied, file an appeal within 30 days following the date the response is issued.

~~11.2(3)~~ **11.2(2)** Disciplinary appeals. A nonprobationary merit system employee as described in Iowa Code section 8A.412, except an employee covered by a collective bargaining agreement, who is discharged, suspended, demoted, or otherwise ~~reduced~~ receives a reduction in pay, and ~~who~~ appeals the action to the director and is not satisfied with the director's response, may file an appeal with the ~~board~~ agency. Such appeal must be filed within 30 calendar days following the date the director's response was issued ~~or should have been issued.~~ However, if no response was issued by the director within 30 calendar days following the filing of the third-step grievance with the director, the employee may consider the grievance denied and file an appeal with the agency or may await the director's response and, if not satisfied, file an appeal within 30 days following the date the response is issued.

11.2(3) Method of filing. Appeals shall be electronically filed pursuant to 621—Chapter 16.

~~11.2(4)~~ The board shall serve copies of the appeal upon the director by ordinary mail.

ITEM 18. Rescind rule 621—11.3(19A,20) and adopt the following **new** rule in lieu thereof:

621—11.3(8A,20) Service of appeal. The agency shall serve a copy of the appeal upon the director by ordinary mail in the manner specified in rules 621—2.15(20) and 621—16.10(20).

ITEM 19. Rescind rule 621—11.4(19A,20) and adopt the following **new** rule in lieu thereof:

621—11.4(8A,20) Content of appeal.

11.4(1) The appeal shall contain the following:

- a. Name, address, telephone number, and e-mail address of the appealing employee;
- b. Name of agency/department by which the appealing employee is/was employed;
- c. A brief statement of the reasons for the appealing employee's dissatisfaction with the director's response;
- d. A statement of the requested remedy;
- e. The name, address, telephone number, and e-mail address of the appealing employee's representative, if any;
- f. Signature of the appealing employee or employee's representative; and

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

g. In the case of a disciplinary action appeal filed pursuant to Iowa Code section 8A.415(2), a statement of whether the employee requests a hearing open to the public.

11.4(2) Completion of the State Employee Grievance and Disciplinary Action Appeal Form shall constitute compliance with all the requirements in subrule 11.4(1).

ITEM 20. Rescind rule 621—11.5(19A,20) and adopt the following new rule in lieu thereof:

621—11.5(8A,20) Content of director's response to the appeal.

11.5(1) The director shall have 15 days from the date of service of the employee's appeal in which to file a motion or answer with the agency.

11.5(2) The motion or answer shall contain the following:

- a. The names of the appealing employee and the employing agency/department;
- b. The name, address, telephone number, and e-mail address of the employing agency's/department's representative;
- c. A copy of the original grievance and first-, second-, and third-step responses issued; and
- d. Signature of the employing agency's/department's representative.

11.5(3) The director's motion or answer shall be electronically filed pursuant to 621—Chapter 16.

ITEM 21. Rescind rule 621—11.6(19A,20) and adopt the following new rule in lieu thereof:

621—11.6(8A,20) Right to a hearing. An employee appealing a grievance pursuant to Iowa Code section 8A.415(1) has a right to a hearing, which is open to the public. An employee appealing disciplinary action pursuant to Iowa Code section 8A.415(2) has a right to a hearing, which is closed to the public unless the employee requests a hearing open to the public. Hearings will otherwise be conducted in accordance with 621—Chapter 2.

ITEM 22. Amend rule 621—11.7(19A,20) as follows:

621—11.7(19A 8A,20) Finality of decision Final decisions. ~~The administrative law judge's proposed decision shall become final unless a timely petition for review is filed with the board or the board, on its own motion, determines to review the proposed decision.~~

11.7(1) When a majority of the board presides at the reception of the evidence in a grievance or disciplinary action appeal, the decision of the board is the final decision of the agency.

11.7(2) When a majority of the board does not preside at the reception of the evidence in a grievance or disciplinary appeal, the presiding officer shall make a proposed decision that becomes the final decision of the agency without further proceedings unless:

- a. There is a petition for the board's review filed within 20 days of the filing of the proposed decision, or
- b. The board, within 20 days of the filing of the proposed decision, determines to review the decision on its own motion.

ITEM 23. Rescind rule 621—11.8(19A,20) and adopt the following new rule in lieu thereof:

621—11.8(8A,20) Review by board. Proceedings on the board's review of the proposed decision shall be in accordance with 621—Chapter 9.

ITEM 24. Amend rule 621—11.9(19A,20) as follows:

621—11.9(19A 8A,20) Other rules. Any matters not specifically addressed by the rules contained in this chapter shall be governed by the general provisions of the rules of the public employment relations board agency.

ITEM 25. Rescind and reserve rule **621—11.10(19A,20).**

ITEM 26. Amend **621—Chapter 11**, implementation sentence, as follows:
These rules are intended to implement Iowa Code chapters ~~19A 8A~~ and 20.

ARC 2814C**PUBLIC HEALTH DEPARTMENT[641]****Notice of Intended Action**

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

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

Pursuant to the authority of Iowa Code sections 135.11(12) and 139A.21, the Department of Public Health hereby gives Notice of Intended Action to amend Chapter 1, “Reportable Diseases, Poisonings and Conditions, and Quarantine and Isolation,” Iowa Administrative Code.

The current administrative rules in Chapter 1 direct hospitals, health care providers and clinical laboratories outside the state of Iowa to report to the Iowa Department of Public Health (the Department). The Department has established secure electronic connections with public health authorities in surrounding states as well as in other states where specimen testing is frequently performed for Iowa hospitals, health care providers, clinical laboratories, or residents. These proposed amendments implement a change to subrule 1.4(3) by adding a new paragraph “d” to allow the Department to authorize out-of-state reporting entities to leverage existing secure electronic messaging connections between the reporting entity and the public health jurisdiction in which it is located to more efficiently comply with requirements for reporting to the Department. Paragraph “d” is intended to facilitate more efficient and timely reporting to the Department when such circumstances exist, but is not intended to create an additional reporting burden if such circumstances do not exist. Additional amendments to paragraph “c” of subrule 1.4(3) and to Appendices A and B are included for the purpose of updating language to align with current secure electronic reporting methods as well as clarifying condition-specific reporting requirements related to the location of the patient’s residency, diagnosis, and treatment.

Any interested person may make written comments or suggestions on the proposed amendments on or before December 13, 2016. Such written comments should be directed to John Satre, Division of Administration and Professional Licensure, Department of Public Health, 321 East 12th Street, Des Moines, Iowa 50319. E-mail may be sent to john.satre@idph.iowa.gov.

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

These amendments are intended to implement Iowa Code chapters 135 and 139A.

The following amendments are proposed.

ITEM 1. Amend rule **641—1.1(139A)**, definition of “IDSS,” as follows:

“IDSS” means the Iowa disease surveillance system, a secure ~~Web-based~~ electronic statewide disease reporting and surveillance system.

ITEM 2. Amend subrule 1.4(3) as follows:

1.4(3) How to report.

a. Immediate reporting by telephone of diseases identified in Appendix A as immediately reportable. A health care provider and a public, private, or hospital clinical laboratory shall immediately report any confirmed or suspected case of a disease identified in Appendix A as immediately reportable to the department’s disease notification hotline at 1-800-362-2736. The report shall include all information required by 1.4(2) and the following:

- (1) The stage of the disease process.
- (2) Clinical status.
- (3) Any treatment provided for the disease.
- (4) All household and other known contacts.
- (5) Whether household and other known contacts have been examined and the results of such examinations.

PUBLIC HEALTH DEPARTMENT[641](cont'd)

b. Other diseases that carry serious consequences or spread rapidly. A health care facility, health care provider and a public, private, or hospital clinical laboratory shall immediately report any confirmed or suspected case of a common source epidemic or disease outbreak of unusual numbers by telephone to the department's 24/7 disease reporting telephone hotline at 1-800-362-2736.

c. Reporting of other reportable diseases. Cases of other reportable communicable or infectious diseases not included in 1.4(3)"a" shall be reported to the department in accordance with Appendix A by mail, telephone, facsimile, or other secure electronic means. The preferred method is secure ~~Web-based~~ electronic reporting when available. If the department determines that reporting by mail hinders the application of organized control measures to protect the public health, the department may require that the reportable disease be reported by telephone, facsimile or secure ~~Web-based~~ electronic reporting.

d. Reporting to other public health authorities. The department may authorize hospitals, health care providers or clinical laboratories outside the state of Iowa to report any confirmed or suspect case of a reportable disease, poisoning, or condition to another public health authority for the purpose of facilitating a report to the department.

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

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

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

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

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

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

Report diseases by:

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

Fax: (515)281-5698

Mail:

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

Isolates or specimens shall be sent to:

State Hygienic Laboratory at the University of Iowa (SHL)
U of I Research Park

PUBLIC HEALTH DEPARTMENT[641](cont'd)

2490 Crosspark Road
Coralville, Iowa 52241-4721

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

Diseases	When to Report	How to Report
Acquired immune deficiency syndrome (AIDS) and AIDS-defining conditions	7 days	<p><u>Report for Iowa residents and for residents of other states diagnosed or treated in Iowa.</u> Report by one of the following methods: Phone (515)242-5141 or (515)281-6918 Mail</p> <ul style="list-style-type: none"> Health care providers: use the Pediatric or Adult Confidential Case Report Form Laboratories: send copy of lab report or the Iowa Confidential Report of Sexually Transmitted Disease & HIV Infection. Mark envelope "Attention 03" <p>For HIV/AIDS-related questions, call (515)242-5141</p>
Anthrax	Immediately	<p><u>Report for Iowa residents and for residents of other states diagnosed or treated in Iowa.</u> 24/7 disease reporting telephone hotline: 1-800-362-2736</p>
Botulism (including infant botulism)	Immediately	<p><u>Report for Iowa residents and for residents of other states diagnosed or treated in Iowa.</u> 24/7 disease reporting telephone hotline: 1-800-362-2736</p>
Brucellosis (Brucella)	3 days	<p><u>Report for Iowa residents.</u> Phone, IDSS, fax or mail</p>
Campylobacteriosis (Campylobacter)	3 days	<p><u>Report for Iowa residents.</u> Phone, IDSS, fax or mail</p>
Chlamydia	3 days	<p><u>Report for Iowa residents and for residents of other states diagnosed or treated in Iowa.</u> Report by one of the following methods: Secure electronic data system (as determined by the Department) Fax (515)725-1278 Phone (515)281-3031 Mail</p> <ul style="list-style-type: none"> Use the Iowa Confidential Report of Sexually Transmitted Disease Mark envelope "Attention 00"
Cholera	Immediately	<p><u>Report for Iowa residents and for residents of other states diagnosed or treated in Iowa.</u> 24/7 disease reporting telephone hotline: 1-800-362-2736</p>
Cryptosporidiosis	3 days	<p><u>Report for Iowa residents.</u> Phone, IDSS, fax or mail</p>
Cyclospora	3 days	<p><u>Report for Iowa residents.</u> Phone, IDSS, fax or mail</p>
Diphtheria	Immediately	<p><u>Report for Iowa residents and for residents of other states diagnosed or treated in Iowa.</u> 24/7 disease reporting telephone hotline: 1-800-362-2736</p>

PUBLIC HEALTH DEPARTMENT[641](cont'd)

Diseases	When to Report	How to Report
Escherichia coli shiga toxin-producing and related diseases (includes HUS and TTP)	3 days	Report for Iowa residents. Phone, IDSS, fax or mail Laboratories send isolate or specimen to the SHL
Giardiasis (Giardia)	3 days	Report for Iowa residents. Phone, IDSS, fax or mail
Gonorrhea	3 days	Report for Iowa residents and for residents of other states diagnosed or treated in Iowa. Report by one of the following methods: Secure electronic data system (as determined by the Department) Fax (515)725-1278 Phone (515)281-3031 Mail <ul style="list-style-type: none"> • Use the Iowa Confidential Report of Sexually Transmitted Disease • Mark envelope "Attention 00"
Haemophilus influenzae type B invasive disease	Immediately	Report for Iowa residents and for residents of other states diagnosed or treated in Iowa. 24/7 disease reporting telephone hotline: 1-800-362-2736 Laboratories send isolate or specimen to the SHL
Hansen's disease (leprosy)	3 days	Report for Iowa residents. Phone, IDSS, fax or mail
Hantavirus syndromes	3 days	Report for Iowa residents. Phone, IDSS, fax or mail
Hepatitis A	1 day	Report for Iowa residents and for residents of other states diagnosed or treated in Iowa. Phone, IDSS or fax
Hepatitis B, C, D, E	3 days	Report for Iowa residents. Phone, IDSS, fax or mail
Human immunodeficiency virus (HIV) cases Death of a person with HIV Perinatally exposed newborn and child (newborn and child who was born to an HIV-infected mother)	7 days	Report for Iowa residents and for residents of other states diagnosed or treated in Iowa. Report by one of the following methods: Phone (515)242-5141 or (515)281-6918 Mail <ul style="list-style-type: none"> • Health care providers: use the Pediatric or Adult Confidential Case Report Form • Laboratories: send copy of lab report or the Iowa Confidential Report of Sexually Transmitted Disease & HIV Infection. Mark envelope "Attention 03" For HIV/AIDS-related questions, call (515)242-5141
Legionellosis (Legionella)	3 days	Report for Iowa residents. Phone, IDSS, fax or mail
Listeria monocytogenes invasive disease	1 day	Report for Iowa residents and for residents of other states diagnosed or treated in Iowa. Phone, IDSS, or fax Laboratories send isolate or specimen to the SHL
Malaria	3 days	Report for Iowa residents. Phone, IDSS, fax or mail

PUBLIC HEALTH DEPARTMENT[641](cont'd)

Diseases	When to Report	How to Report
Measles (rubeola)	Immediately	<u>Report for Iowa residents and for residents of other states diagnosed or treated in Iowa.</u> 24/7 disease reporting telephone hotline: 1-800-362-2736
Meningococcal invasive disease	Immediately	<u>Report for Iowa residents and for residents of other states diagnosed or treated in Iowa.</u> 24/7 disease reporting telephone hotline: 1-800-362-2736 Laboratories send isolate or specimen to the SHL
Mosquito-borne diseases (includes chikungunya, dengue, eastern equine encephalitis, La Crosse, St. Louis, Venezuelan equine encephalitis, West Nile, and western equine encephalitis)	3 days	<u>Report for Iowa residents.</u> Phone, IDSS, fax or mail
Mumps	3 days	<u>Report for Iowa residents.</u> Phone, IDSS, fax or mail
Pertussis	3 days	<u>Report for Iowa residents.</u> Phone, IDSS, fax or mail
Plague	Immediately	<u>Report for Iowa residents and for residents of other states diagnosed or treated in Iowa.</u> 24/7 disease reporting telephone hotline: 1-800-362-2736
Poliomyelitis	Immediately	<u>Report for Iowa residents and for residents of other states diagnosed or treated in Iowa.</u> 24/7 disease reporting telephone hotline: 1-800-362-2736
Psittacosis	3 days	<u>Report for Iowa residents.</u> Phone, IDSS, fax or mail
Q fever	3 days	<u>Report for Iowa residents.</u> Phone, IDSS, fax or mail
Rabies, animal	3 days	<u>Report for Iowa residents.</u> Phone, IDSS, fax or mail
Rabies, human	Immediately	<u>Report for Iowa residents and for residents of other states diagnosed or treated in Iowa.</u> 24/7 disease reporting telephone hotline: 1-800-362-2736
Rubella (including congenital)	1 day	<u>Report for Iowa residents and for residents of other states diagnosed or treated in Iowa.</u> Phone, IDSS, or fax
Salmonellosis (Salmonella)	3 days	<u>Report for Iowa residents.</u> Phone, IDSS, fax or mail Laboratories send isolate or specimen to the SHL
Severe acute respiratory syndrome (SARS)	Immediately	<u>Report for Iowa residents and for residents of other states diagnosed or treated in Iowa.</u> 24/7 disease reporting telephone hotline: 1-800-362-2736
Shigellosis (Shigella)	3 days	<u>Report for Iowa residents.</u> Phone, IDSS, fax or mail Laboratories send isolate or specimen to the SHL
Smallpox	Immediately	<u>Report for Iowa residents and for residents of other states diagnosed or treated in Iowa.</u> 24/7 disease reporting telephone hotline: 1-800-362-2736

PUBLIC HEALTH DEPARTMENT[641](cont'd)

Diseases	When to Report	How to Report
Syphilis	3 days	Report for Iowa residents and for residents of other states diagnosed or treated in Iowa. Report by one of the following methods: Secure electronic data system (as determined by the Department) Fax (515)725-1278 Phone (515)281-3031 Mail <ul style="list-style-type: none"> Use the Iowa Confidential Report of Sexually Transmitted Disease Mark envelope "Attention 00"
Tetanus	3 days	Report for Iowa residents. Phone, IDSS, fax or mail
Tickborne diseases (includes anaplasmosis, babesiosis, ehrlichiosis, Lyme disease, and Rocky Mountain spotted fever)	3 days	Report for Iowa residents. Phone, IDSS, fax or mail
Tuberculosis, pulmonary and laryngeal (infectious)	1 day	Report for Iowa residents and for residents of other states diagnosed or treated in Iowa. Phone (515)281-7504 or fax to (515)281-4570
Tuberculosis, extrapulmonary	3 days	Report for Iowa residents and for residents of other states diagnosed or treated in Iowa. Phone (515)281-7504 or fax to (515)281-4570
Tularemia	3 days	Report for Iowa residents. Phone, IDSS or fax
Typhoid fever	1 day	Report for Iowa residents and for residents of other states diagnosed or treated in Iowa. Phone, IDSS or fax
Vancomycin intermediate Staphylococcus aureus (VISA) and vancomycin-resistant Staphylococcus aureus (VRSA)	1 day	Report for Iowa residents and for residents of other states diagnosed or treated in Iowa. Phone, IDSS or fax Laboratories send isolate or specimen to the SHL
Viral hemorrhagic fever (VHF) (e.g., Lassa, Marburg, Ebola, and Crimean-Congo)	Immediately	Report for Iowa residents and for residents of other states diagnosed or treated in Iowa. 24/7 disease reporting telephone hotline: 1-800-362-2736
Yellow fever	Immediately	Report for Iowa residents and for residents of other states diagnosed or treated in Iowa. 24/7 disease reporting telephone hotline: 1-800-362-2736

ITEM 4. Amend **641—Chapter 1**, Appendix B, as follows:

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

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

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

IMMEDIATELY report diseases, syndromes, poisonings and conditions of any kind suspected or caused by a biological, chemical, or radiological agent or toxin when there is reasonable suspicion

PUBLIC HEALTH DEPARTMENT[641](cont'd)

that the disease, syndrome, poisoning or condition may be the result of a deliberate act such as terrorism.

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

Mailing address:

Bureau of Environmental Health Services
Iowa Department of Public Health
321 East 12th Street
Des Moines, Iowa 50319-0075

Telephone: 1-800-972-2026

Fax: (515)281-4529

Poisoning or Condition	Cases to Report	When to Report	How to Report
Arsenic poisoning	Blood arsenic values equal to or greater than 70 µg/L Urine arsenic values equal to or greater than 100 µg/g of creatinine	Weekly	Format specified by department. Web-based <u>Electronic</u> reporting if available. Alternatives include by mail, telephone, and facsimile.
Blood lead testing	All analytical results greater than or equal to 20 micrograms per deciliter (µg/dL) in a child under the age of 6 years or a pregnant woman	Daily	By telephone: 1-800-972-2026
	All other analytical values for all blood lead analyses	Weekly	Electronic format specified by the department
Cadmium poisoning	Blood cadmium values equal to or greater than 5 µg/L Urine cadmium values equal to or greater than 3 µg/g of creatinine	Weekly	Format specified by department. Web-based <u>Electronic</u> reporting if available. Alternatives include by mail, telephone, and facsimile.
Carbon monoxide (CO) poisoning	Blood carbon monoxide level equal to or greater than 10% carboxyhemoglobin or its equivalent with a breath analyzer test, or a clinical diagnosis of CO poisoning regardless of any test results	Daily	By telephone: 1-800-972-2026
Hypersensitivity pneumonitis	All cases	Weekly	Format specified by department. Web-based <u>Electronic</u> reporting if available. Alternatives include by mail, telephone, and facsimile.

PUBLIC HEALTH DEPARTMENT[641](cont'd)

Poisoning or Condition	Cases to Report	When to Report	How to Report
Mercury poisoning	Blood mercury values equal to or greater than 2.8 µg/dL Urine mercury values equal to or greater than 20 µg/L	Weekly	Format specified by department. Web-based Electronic reporting if available. Alternatives include by mail, telephone, and facsimile.
Methemoglobinemia	Blood analyses showing greater than 5% of total hemoglobin present as methemoglobin	Weekly	Format specified by department. Web-based Electronic reporting if available. Alternatives include by mail, telephone, and facsimile.
Microcystin toxin poisoning	All cases	Weekly	Format specified by department. Web-based Electronic reporting if available. Alternatives include by mail, telephone, and facsimile.
Noncommunicable respiratory illness	All cases	Weekly	Format specified by department. Web-based Electronic reporting if available. Alternatives include by mail, telephone, and facsimile.
Occupationally related asthma, bronchitis or respiratory hypersensitivity reaction	All cases	Weekly	Format specified by department. Web-based Electronic reporting if available. Alternatives include by mail, telephone, and facsimile.
Pesticide poisoning (including pesticide-related contact dermatitis)	All cases	Weekly	Format specified by department. Web-based Electronic reporting if available. Alternatives include by mail, telephone, and facsimile.
Severe skin disorder	All cases	Weekly	Format specified by department. Web-based Electronic reporting if available. Alternatives include by mail, telephone, and facsimile.
Toxic hepatitis	All cases	Weekly	Format specified by department. Web-based Electronic reporting if available. Alternatives include by mail, telephone, and facsimile.

ARC 2819C**PUBLIC HEALTH DEPARTMENT[641]****Notice of Intended Action**

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

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

Pursuant to the authority of Iowa Code section 136A.8, the Iowa Department of Public Health hereby gives Notice of Intended Action to amend Chapter 4, “Center for Congenital and Inherited Disorders,” Iowa Administrative Code.

The proposed amendments rescind the requirement of the Department to establish policies and procedures, including obtaining an informed consent for the release of residual newborn screening specimens for research, that would allow a parent or guardian the ability to provide informed consent prior to the release of a newborn’s residual newborn screening specimen for research purposes. The Department director has accepted a recommendation from the Congenital and Inherited Disorders Advisory Committee (CIDAC) to discontinue the practice of storing and releasing specimens for external research use without informed consent, and makes it the responsibility of the investigator of the proposed research to obtain informed consent from the parent or guardian for the release of the newborn’s specimen. Amendments to related subparagraphs support this change in policy.

The amendments will allow reporting requirements for newborn critical congenital heart disease (CCHD) screening to reflect the implementation of the Iowa Newborn Screening Information System (INSIS), thereby enabling newborn care providers to enter CCHD screening results.

A portion of the fees from the Iowa Newborn Screening Program (INSP) and the Iowa Maternal Prenatal Screening Program (IMPSP) are currently distributed to the Department to support a percent of effort of the executive officer of the Center for Congenital and Inherited Disorders (CCID). The amendments will allow program fees distributed to the Department to be used for INSP and IMPSP activities.

The amendment in Item 6 corrects a typographical error.

Any interested person may make written suggestions or comments on these proposed amendments on or before December 13, 2016. Public comments may be submitted by letter or e-mail to Kimberly Piper, Executive Officer for the Center for Congenital and Inherited Conditions, Iowa Department of Public Health, 321 E. 12th Street, Lucas State Office Building, Des Moines, Iowa 50319-0075. E-mail: kimberly.piper@idph.iowa.gov.

These proposed amendments have been reviewed by CIDAC and interested individuals within the field.

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

These amendments are intended to implement Iowa Code chapter 136A.

The following amendments are proposed.

ITEM 1. Rescind and reserve paragraph **4.3(2)“e.”**

ITEM 2. Amend subparagraph **4.3(8)“b”(4)** as follows:

(4) A researcher for research purposes, under the terms and conditions provided in this rule. A researcher, upon documentation of parental consent obtained by the researcher, and only to the extent that the information is necessary to perform research authorized by the department.

PUBLIC HEALTH DEPARTMENT[641](cont'd)

ITEM 3. Rescind subparagraph **4.3(8)“c”(3)**.

ITEM 4. Amend paragraph **4.3(9)“e”** as follows:

e. Reporting results of newborn CCHD screening. ~~At such time as the CCHD reporting system is implemented, results~~ Results of newborn CCHD screening shall be reported in a manner consistent with other newborn screening (formerly referenced as metabolic screening) reporting.

ITEM 5. Amend paragraph **4.3(10)“f”** as follows:

f. Upon department approval of proposed budgets, a portion of INSP and IMPSP fees shall be distributed to the department to support ~~the percent of effort of the executive officer of~~ activities of the INSP and the IMPSP at the center for congenital and inherited disorders (CCID).

ITEM 6. Amend rule 641—4.11(136A) as follows:

641—4.11(136A) Purpose. CIDAC represents the interests of the people of Iowa and assists in the development of programs that ensure the availability of and access to quality genetic and genomic health care services by all residents. The committee advises the director regarding issues related to genetics and hereditary and ~~congenital~~ congenital disorders.

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PUBLIC HEALTH DEPARTMENT[641]

Notice of Intended Action

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

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

Pursuant to the authority of Iowa Code sections 135.11, 139A.19, 139A.35, 141A.3, 141A.4, 141A.6, 141A.7, 141A.10, and 915.40 to 915.43, the Iowa Department of Public Health hereby gives Notice of Intended Action to amend Chapter 11, “Human Immunodeficiency Virus (HIV) Infection and Acquired Immune Deficiency Syndrome (AIDS),” Iowa Administrative Code.

The rules in Chapter 11 describe procedures and programs related to HIV/AIDS, including testing and reporting requirements, HIV-related training programs, notification and testing of exposed persons, and the AIDS drug assistance program (ADAP). These proposed amendments respond to previous changes to the Iowa Code that removed the state requirement for two hours of HIV-related training for emergency and nonemergency personnel and that altered language relating to the release of HIV-related test results under a court order. In addition, these amendments add definitions of “meningococcal disease” and “tuberculosis” to clarify the terms as they are used in 2014 Iowa Acts, Senate File 2297, which amended Iowa Code chapter 709D. The amendments also change the term “transplant center” to “organ procurement organization” in the definition of “health facility” and clarify the HIV-reporting requirements for these organizations. Testing requirements for pregnant women are also clarified. Finally, eligibility requirements for the two component programs within ADAP are made identical at less than or equal to 400 percent of the federal poverty level, and the assessment of income for ADAP enrollees is simplified by removing the requirement to calculate modified adjusted gross income. Costs for the additional participants will be covered by 340B Drug-Pricing Program rebates that ADAP receives directly from pharmaceutical manufacturers for people enrolled in the Insurance Assistance Program component of ADAP.

Any interested person may make written comments or suggestions on the proposed amendments on or before December 13, 2016. Such written comments should be directed to Randy Mayer, Bureau of HIV, STD and Hepatitis, Department of Public Health, 321 East 12th Street, Des Moines, Iowa 50319. E-mail may be sent to randall.mayer@idph.iowa.gov.

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

PUBLIC HEALTH DEPARTMENT[641](cont'd)

These amendments are intended to implement Iowa Code sections 135.11, 139A.19, 139A.35, 141A.3, 141A.4, 141A.6, 141A.7, 141A.10, and 915.40 to 915.43.

The following amendments are proposed.

ITEM 1. Amend rule **641—11.1(139A,141A)**, definitions of “Director of a plasma center, blood bank, clinical laboratory, or public health laboratory” and “Health facility,” as follows:

“*Director of a plasma center, blood bank, clinical laboratory, organ procurement organization, or public health laboratory*” means the person responsible for direction and operation of the facility, the medical director, or the person designated by the director or medical director to ensure compliance with applicable regulations and requirements.

“*Health facility*” means a hospital, health care facility, clinic, blood bank, blood center, sperm bank, laboratory organ ~~transplant center and procurement agency~~ organization, or other health care institution.

ITEM 2. Amend subrule 11.4(1) as follows:

11.4(1) ~~All pregnant women, including minors, shall be tested for HIV infection as part of the routine panel of prenatal tests. Health care providers that offer prenatal care to women shall provide HIV testing to all pregnant women, including minors, as part of the routine panel of prenatal tests.~~ The health care provider requesting the HIV test of a pregnant woman shall notify a the pregnant woman that HIV screening is recommended for all prenatal patients and that the pregnant woman will receive an HIV test as part of the routine panel of prenatal tests unless the pregnant woman objects to the test. No written or oral consent shall be required.

ITEM 3. Amend subrule 11.6(2) as follows:

11.6(2) Within seven days of the receipt of a person’s confirmed positive test result indicating HIV infection, the director of a plasma center, blood bank, organ procurement organization, clinical laboratory or public health laboratory that performed the test or that requested the confirmatory test shall make a report to the department on a form provided by the department.

ITEM 4. Amend subrule 11.7(1) as follows:

11.7(1) A director of a plasma center, blood bank, organ procurement organization, clinical laboratory or public health laboratory or a physician or other health care provider who repeatedly fails to file the report required pursuant to these rules is subject to a report being made to the licensing board governing the professional activities of the individual. The department shall notify the individual each time the department determines that the individual has failed to file a required report. The department shall inform the individual in the notification that the individual may provide information to the department to explain or dispute the failure to report.

ITEM 5. Amend rule 641—11.11(135) as follows:

641—11.11(135) Purpose. The purpose of this rule is to describe the required content of HIV and AIDS training programs and to identify the groups of personnel involved.

11.11(1) ~~Nonemergency personnel.~~ ~~Within six months of their initial employment~~ Before an initial assignment of tasks where occupational exposure to blood or other potentially infectious materials may take place and at least annually thereafter, all supervisory and patient care personnel of any agency listed below shall complete a minimum of two hours of training concerning AIDS-related conditions and the prevention of HIV infection training concerning blood-borne pathogens, including human immunodeficiency virus and viral hepatitis, consistent with standards from the Occupational Safety and Health Administration of the U.S. Department of Labor:

- a. A licensed hospice,
- b. A homemaker-home health aide provider agency which receives state homemaker-home health aide funds, or
- c. An agency which provides respite care services ~~and receives state funds for respite care services.~~

11.11(2) ~~Content~~ Nonemergency personnel training content. Training programs must address the following topics:

- a. ~~HIV disease processes~~ Symptoms and modes of transmission of blood-borne diseases,

PUBLIC HEALTH DEPARTMENT[641](cont'd)

- ~~b. Signs and symptoms~~ Location and handling of personal protective equipment,
- ~~c. Transmission;~~ Information on the hepatitis B vaccine, and
- ~~d. High-risk activities;~~ Follow-up procedures in the event of an exposure.
- ~~e. Prevention recommendations, and~~
- ~~f. Standard precautions as defined by the CDC and the Occupational Safety and Health Administration of the U.S. Department of Labor.~~

11.11(3) *Emergency and law enforcement personnel.* ~~All~~ Before an initial assignment of tasks where occupational exposure to blood or other potentially infectious materials may take place and at least annually thereafter, all emergency medical services personnel, firefighters, and law enforcement personnel shall complete a minimum of two hours of training concerning AIDS-related conditions and the prevention of HIV infection training concerning blood-borne pathogens, including human immunodeficiency virus and viral hepatitis, consistent with standards from the Occupational Safety and Health Administration of the U.S. Department of Labor.

11.11(4) ~~Content~~ *Emergency and law enforcement personnel training content.* Training programs must address the following topics:

- ~~a. HIV disease processes~~ Symptoms and modes of transmission of blood-borne diseases,
- ~~b. Signs and symptoms~~ Location and handling of personal protective equipment,
- ~~c. Transmission;~~ Information on the hepatitis B vaccine, and
- ~~d. High-risk activities;~~ Follow-up procedures in the event of an exposure.
- ~~e. Prevention recommendations, and~~
- ~~f. Standard precautions as defined by the CDC and the Occupational Safety and Health Administration of the U.S. Department of Labor.~~

This rule is intended to implement Iowa Code section 135.11.

ITEM 6. Adopt the following **new** definitions of “Meningococcal disease” and “Tuberculosis” in rule **641—11.22(139A)**:

“*Meningococcal disease*” means acute infectious bacterial meningococcal infection presenting as invasive disease characterized by one or more clinical syndromes including bacteremia, sepsis, or meningitis. It does not include nasopharyngeal colonization by *Neisseria meningitidis*.

“*Tuberculosis*” means infectious tuberculosis as defined in 641—1.1(139A).

ITEM 7. Amend subrules 11.34(5) and 11.34(6) as follows:

11.34(5) Results of a test performed under 641—11.30(915) to 641—11.34(915), except as provided in subrule 11.34(6), shall be disclosed only to the physician or other practitioner who ordered the test of the convicted or alleged offender; the convicted or alleged offender; the victim; the victim counselor or person requested by the victim who is authorized to provide the counseling regarding the HIV-related test and results; the physician of the victim if requested by the victim; the parent, guardian, or custodian of the victim, if the victim is a minor; and the county attorney who filed the petition for the HIV-related testing under 641—11.30(915) to 641—11.34(915), ~~who may use the results to file charges of criminal transmission of HIV.~~ Results of a test performed under these rules shall not be disclosed to any other person without the written informed consent of the convicted or alleged offender. A person to whom the results of a test have been disclosed under 641—11.30(915) to 641—11.34(915) is subject to the confidentiality provision of Iowa Code section 141A.9, and shall not disclose the results to another person except as authorized by Iowa Code section 141A.9.

11.34(6) If HIV-related testing is ordered under 641—11.30(915) to 641—11.34(915), the court shall also order periodic testing of the convicted offender during the period of incarceration, probation, or parole or of the alleged offender during a period of six months following the initial test if the physician or other practitioner who ordered the initial test of the convicted or alleged offender certifies that, based upon prevailing scientific opinion regarding the maximum period during which the results of an HIV-related test may be negative for a person after being HIV-infected, additional testing is necessary to determine whether the convicted or alleged offender was HIV-infected at the time the sexual assault or alleged sexual assault was perpetrated. The results of the subsequent periodic tests conducted pursuant to subrule 11.34(6) shall be released only to the physician or other practitioner who ordered the test of the convicted

PUBLIC HEALTH DEPARTMENT[641](cont'd)

or alleged offender; the convicted or alleged offender; the victim counselor or person requested by the victim to provide the counseling regarding the HIV-related test and results, who shall disclose the results to the petitioner; the physician of the victim if requested by the victim; and the county attorney, ~~who may use the results as evidence in the prosecution of the sexual assault or in the prosecution of the offense of criminal transmission of HIV~~ who filed the petition for the HIV-related testing under 641—11.30(915) to 641—11.34(915).

ITEM 8. Rescind the definition of “Modified adjusted gross income” in rule **641—11.40(141A)**.

ITEM 9. Amend rule 641—11.43(141A) as follows:

641—11.43(141A) Eligibility requirements.

11.43(1) An applicant is eligible to participate in the ADAP medication assistance program if the applicant:

- a. Applies for enrollment in ADAP on a form provided by the department;
- b. Has no health insurance to cover the cost of the drugs that are or may become available from ADAP;
- c. Is currently being prescribed a drug on the ADAP formulary;
- d. Has an annual MAGI income that is less than or equal to ~~200~~ 400 percent of the poverty level as determined by the most recent federal poverty guidelines published annually by the U.S. Department of Health and Human Services for the size of the household (~~this income shall be determined after a \$500 work-related allowance is deducted from the monthly salary of an employed person with HIV/AIDS~~);
- e. Has a medical diagnosis of HIV infection or AIDS or is an unborn infant or an infant under 18 months of age who has an HIV-infected mother; and
- f. Is a resident of Iowa.

11.43(2) An applicant is eligible to participate in the ADAP health insurance assistance program if the applicant:

- a. Applies for enrollment in ADAP on a form provided by the department;
- b. Has creditable health insurance coverage;
- c. Is currently being prescribed a drug on the ADAP formulary;
- d. Has an annual MAGI income that is less than or equal to 400 percent of the poverty level as determined by the most recent federal poverty guidelines published annually by the U.S. Department of Health and Human Services for the size of the household;
- e. Has a medical diagnosis of HIV infection or AIDS or is an unborn infant or an infant under 18 months of age who has an HIV-infected mother; and
- f. Is a resident of Iowa.

ITEM 10. Amend paragraph **11.45(1)“c”** as follows:

- c. The enrolled individual’s annual MAGI income increases to an amount above the respective ADAP component’s income guidelines;

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PUBLIC HEALTH DEPARTMENT[641]

Notice of Intended Action

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

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

Pursuant to the authority of Iowa Code section 144.3, the Iowa Department of Public Health hereby gives Notice of Intended Action to amend Chapter 95, “Vital Records: General Administration,” Iowa Administrative Code.

PUBLIC HEALTH DEPARTMENT[641](cont'd)

The proposed amendments clarify restrictions on creating an alternative system for the registration of vital statistics, remove restrictions regarding obtaining vital records from the county level and clarify that the intent of rule 641—95.2(144) is to prohibit the establishment of another official system of registration of vital statistics—not to prohibit, for example, the routine publication of vital records information such as births in the local newspaper.

Any interested person may make written suggestions or comments on the proposed amendments on or before December 13, 2016. Such written comments should be directed to Melissa Bird, Iowa Department of Public Health, Lucas State Office Building, 321 East 12th Street, Des Moines, Iowa 50319. E-mail may be sent to melissa.bird@idph.iowa.gov.

There will be a public hearing on December 14, 2016, from 9:30 to 11 a.m., at which time persons may present their views either orally or in writing. At the hearing, persons will be asked to give their names and addresses for the record and to confine their remarks to the subject of the amendments. This hearing will be conducted in Room 518, Lucas State Office Building, 321 E. 12th Street, Des Moines, Iowa 50319. Persons may join the meeting by dialing the toll-free telephone number 1-866-685-1580 and entering code number 9327091718 when prompted. Participants will be asked to provide their first and last names. The call will be recorded as required for a public hearing. Any persons who intend to attend the public hearing and have special requirements, such as those related to hearing impairments, should contact the Department and advise staff of specific needs.

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

These amendments are intended to implement Iowa Code chapter 144.

The following amendments are proposed.

ITEM 1. Amend rule 641—95.2(144) as follows:

641—95.2(144) Vital records and statistics. There is established a division in the department which shall install, maintain, and operate the system of vital statistics throughout the state. No official system for the registration of births, deaths, fetal deaths, adoptions, marriages, dissolutions, and annulments shall be maintained in the state or any of its political subdivisions other than the one provided for in Iowa Code chapter 144, including, but not limited to, a system maintained by any agency or private entity.

95.2(1) No person shall prepare or issue any certificate which purports to be an original certified copy or a copy of a certificate of birth, death, fetal death, adoption, marriage, dissolution, or annulment ~~or any subset of the data items taken from a certificate~~ except as provided for in Iowa Code chapter 144 and authorized by the state registrar.

~~**95.2(2)** A vital record, index, or subset of data shall not be maintained in any other system or manner except as provided for in Iowa Code chapter 144 and authorized by the state registrar.~~

95.2(3) 95.2(2) The state registrar and the county registrar shall not maintain or issue copies of any vital record of an event occurring outside the state registrar's or county registrar's jurisdiction except as provided for in Iowa Code chapter 144 and authorized by the state registrar.

~~**95.2(4)** To protect the integrity of vital records and to ensure their proper use, no vital record, index, or subset of data shall be posted to the World Wide Web or published in any other manner except as provided for in Iowa Code chapter 144 and pursuant to subrule 95.10(3) or as authorized by the state registrar.~~

ITEM 2. Amend rule 641—95.7(144) as follows:

641—95.7(144) General public access of vital records in the custody of the county registrar. A vital record may be in the custody of the county registrar if the event occurred in that county and the record is not excluded by statute or definition for purposes of confidentiality.

95.7(1) There shall be public access and the right to inspect ~~in person~~ all vital records in the custody of the county registrar after ~~they~~ the vital records are purged of confidential information pursuant to rule 641—95.11(144). The county registrar shall allow the general public access to the electronic statewide

PUBLIC HEALTH DEPARTMENT[641](cont'd)

vital records system to search as a public user as a right under Iowa Code chapter 22 for events which occurred in that county.

~~95.7(2)~~ Electronic devices, including but not limited to scanners, cameras, tablets, cellular phones or laptops, shall not be used to secure images or copies from county vital records. Laptops or like devices may be allowed only for purposes of typing information into a genealogy software program or electronic document and as directed by the state registrar or county registrar.

~~95.7(3)~~ 95.7(2) Information inspected and copied shall not be published or used to establish an index or record of information at any other location official system for the registration of vital statistics except as authorized by Iowa Code chapter 144.

~~95.7(4)~~ 95.7(3) County registrars may issue uncertified copies of vital records held in the registrars' physical custody or accessible through the electronic statewide vital records system, except those records excluded by statute or at the direction of the state registrar.

~~a.~~ Requests for uncertified copies shall be accepted solely through in-person application after the applicant has conducted the applicant's own search for the record at the county registrar's office.

~~b.~~ Uncertified copies shall be issued on plain white paper and clearly stamped "not for legal purposes." Security paper provided by the state registrar shall not be used to produce records for uncertified copies.

~~95.7(5)~~ County registrars shall not provide specific information from any vital record via telephone, fax, electronic file, Web site, written letter or verbally, except for administrative purposes with the state vital records office.

~~95.7(6)~~ County registrars shall not produce lists of vital records for any agency, private business, or member of the general public.

~~95.7(7)~~ 95.7(4) For records available in the electronic statewide vital records system, the state registrar shall send to the county registrars a list of all records that have been modified. County registrars shall, as directed by the state registrar, remove all forms of any vital record in their physical custody from the county vital records system if the vital record appears on the list of modified records. ~~The county registrar shall allow the general public access to the electronic statewide vital records system to search as a public user as a right under Iowa Code chapter 22.~~

~~95.7(8)~~ 95.7(5) For records not available in the electronic statewide vital records system, the state registrar shall send a copy of any modified vital record to the county of event and, if the record is a death record, to the county of residence.

ITEM 3. Amend rule 641—95.10(144) as follows:

641—95.10(144) Search and issuance for genealogy or family history. The search and issuance of a vital record for genealogy may be requested from the state registrar or county registrar upon written application and payment of the required fee pursuant to paragraph 95.6(1) "a."

95.10(1) The state registrar or county registrar may issue certified copies of a vital record for genealogy or family history to an applicant who can satisfactorily demonstrate a line of direct lineal consanguinity and to aunts, uncles, and cousins not past twice removed.

95.10(2) The county registrar may issue uncertified copies of a vital record for genealogy or family history to any member of the general public except those records excluded by statute or at the direction of the state registrar. ~~Requests for uncertified copies shall be accepted solely through in-person application after the applicant has conducted a search for the record at the county registrar's office.~~

~~95.10(3)~~ The state registrar may issue uncertified copies of a vital record for genealogy or family history to an applicant who is conducting genealogical research and can satisfactorily demonstrate a line of direct lineal consanguinity and to aunts, uncles, and cousins not past twice removed if the event occurred 125 years ago or more for birth records and 75 years ago or more for marriage and death records.

95.10(4) 95.10(3) All certified copies issued for genealogy or family history shall be clearly marked "for genealogical purposes only."

~~95.10(5)~~ 95.10(4) No certified copy shall be issued for genealogy or family history if the registrant is known to be living.

PUBLIC HEALTH DEPARTMENT[641](cont'd)

~~95.10(6)~~ **95.10(5)** If, after the search is conducted, no record is on file, the state registrar or county registrar shall issue a “notification of record search” on certified paper, and the fee for the search shall be retained pursuant to paragraph 95.6(1)“a.”

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PUBLIC HEALTH DEPARTMENT[641]

Notice of Intended Action

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

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

Pursuant to the authority of Iowa Code section 135A.9, the Iowa Department of Public Health hereby gives Notice of Intended Action to amend Chapter 186, “Governmental Public Health Advisory Bodies,” Iowa Administrative Code.

The current rules in Chapter 186 implement Iowa Code chapter 135A, the Public Health Modernization Act. The Act became outdated, and 2016 Iowa Acts, Senate File 2159, updated Iowa Code chapter 135A to reflect the intent to have one Governmental Public Health Advisory Council to advise and make policy recommendations to the Department, the Director of the Department and the State Board of Health regarding the Governmental Public Health System. The Council recommendations support improved organization and delivery of critical public health services across the state.

The proposed amendments reflect the changes to the Act made in 2016 Iowa Acts, Senate File 2159, which removed, added or changed some definitions; removed outdated references to “Iowa Public Health Standards”; removed the requirement to establish a voluntary accreditation process; eliminated the evaluation committee; adjusted the membership of the governmental public health advisory council; clarified the roles and responsibilities of the governmental public health advisory council; and clarified the roles and responsibilities of the Department.

Any interested person may make written suggestions or comments on these proposed amendments on or before December 13, 2016. Such written comments should be directed to Joy Harris, Bureau of Planning Services, Iowa Department of Public Health, 321 East 12th Street, Des Moines, Iowa 50319. E-mail may be sent to joy.harris@idph.iowa.gov.

The Department does not intend to grant waivers under the provisions of these rules.

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

These amendments are intended to implement Iowa Code chapter 135A and 2016 Iowa Acts, Senate File 2159.

The following amendments are proposed.

ITEM 1. Amend **641—Chapter 186**, title, as follows:

GOVERNMENTAL PUBLIC HEALTH ADVISORY ~~BODIES~~ COUNCIL

ITEM 2. Amend rule 641—186.1(135A) as follows:

641—186.1(135A) Purpose. ~~The governmental public health advisory council and the governmental public health evaluation committee shall advise the department and make policy recommendations to the department, the director of the department, and the state board of health regarding the coordination and implementation of the voluntary accreditation of designated local public health agencies and of the department and the evaluation of the accreditation program and governmental public health system. The council is intended to support the goal that Iowa’s governmentally sponsored public health systems be effective, efficient, well-organized, and well-coordinated to have the greatest impact on the improvement of health status for all Iowans.~~

PUBLIC HEALTH DEPARTMENT[641](cont'd)

ITEM 3. Amend rule 641—186.2(135A) as follows:

641—186.2(135A) Definitions. For the purposes of this chapter, the following definitions apply:

“Academic institution” means an institute of higher education in the state which grants degrees in public health or another health-related field and is accredited by a nationally recognized accrediting agency as determined by the United States Secretary of Education. For purposes of this definition, “accredited” means a certification of the quality of the institution of higher education.

~~“Committee” means the governmental public health evaluation committee as established in 2009 Iowa Code Supplement section 135A.5.~~

“Council” means the governmental public health advisory council as established in 2009 Iowa Code Supplement Iowa Code section 135A.4 as amended by 2016 Iowa Acts, Senate File 2159.

“Department” means the Iowa department of public health.

“Designated local public health agency” means an entity that is either governed by or contractually responsible to a local board of health and designated by the local board to comply with the Iowa public health standards for a jurisdiction.

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

“Governmental public health system” means local boards of health, the state board of health, designated local public health agencies, the state hygienic laboratory, and the department.

“Local board of health” means a county or district board of health.

“Organizational capacity” means the governmental public health infrastructure that must be in place in order to deliver public health services.

“Public health system” means all public, private, and voluntary entities that contribute to the delivery of public health services within a jurisdiction.

ITEM 4. Amend rule 641—186.3(135A) as follows:

641—186.3(135A) Roles and responsibilities of advisory bodies the council. ~~Two advisory bodies~~ The council shall provide guidance to the department regarding the governmental public health system.

186.3(1) ~~A governmental public health advisory council is established to advise~~ do all of the following:

a. Advise the department and make policy recommendations to the director of the department and the state board of health concerning administration, implementation, and coordination of 2009 Iowa Code Supplement chapter 135A and to make recommendations to the department regarding the governmental public health system as amended by 2016 Iowa Acts, Senate File 2159.

b. Propose to the director public health standards that may be utilized by the governmental public health system.

c. Develop and implement processes for longitudinal evaluation of the public health system including collection of information about organizational capacity and public health service delivery.

d. Determine what process and outcome improvements in the governmental health system are attributable to voluntary accreditation.

e. Assure that the evaluation process is capturing data to support key research in public health system effectiveness and health outcomes.

f. Develop and make recommendations for improvements to the public health system.

g. Make recommendations for resources to support the public health system.

h. Review rules developed and adopted by the state board of health under Iowa Code chapter 135A as amended by 2016 Iowa Acts, Senate File 2159, and make recommendations to the department for revisions to further promote implementation of Iowa Code chapter 135A as amended by 2016 Iowa Acts, Senate File 2159, and modernization of the governmental public health system.

i. Form and utilize subcommittees as necessary to carry out the duties of the council.

j. Annually submit a report on the activities of the council to the state board of health by July 1.

~~186.3(2) The council shall annually provide a report to the department by July 1.~~

PUBLIC HEALTH DEPARTMENT[641](cont'd)

~~186.3(3) A governmental public health evaluation committee is established to develop and implement the evaluation of the governmental public health system and voluntary accreditation program as described in 2009 Iowa Code Supplement section 135A.5.~~

~~186.3(4) The committee shall annually provide a report to the department by July 1.~~

~~186.3(5) 186.3(2) Recommendations from the council and committee shall be provided to the director in writing. The director may provide those recommendations to the state board of health.~~

~~186.3(6) Communication. The council and committee shall ensure communication between the two bodies by:~~

- ~~a. Providing regular updates to the other body through written reports at each meeting.~~
- ~~b. Stipulating that the chairperson and vice chairperson of the committee and council hold semiannual conference calls.~~
- ~~c. Meeting together at least biennially.~~
- ~~d. Responding to requests from one body to the other that shall be made in writing and appear in new business on the agenda of the next regularly scheduled meeting.~~

ITEM 5. Amend rule 641—186.4(135A) as follows:

641—186.4(135A) Officers.

~~186.4(1) The officers of the council and committee shall be a chairperson and vice chairperson for each body.~~

- ~~a. The officers shall be elected at the first meeting each September.~~
- ~~b. Vacancy in the office of chairperson shall be filled by the vice chairperson.~~
- ~~c. Vacancy in the office of vice chairperson shall be filled by election at the next regularly scheduled meeting after the vacancy occurs.~~

~~186.4(2) Duties of officers.~~

- ~~a. The chairperson of the council shall preside at all meetings of the council, and the chairperson of the committee shall preside at all meetings of the committee.~~
- ~~b. Robert's Rules of Order shall govern all meetings.~~
- ~~c. If the chairperson is absent or unable to act, the vice chairperson shall perform the duties of the chairperson. When so acting, the vice chairperson shall have all the powers of and be subject to all the restrictions upon the chairperson.~~
- ~~d. The vice chairperson shall also perform such other duties as may be assigned by the chairperson.~~

ITEM 6. Amend rule 641—186.5(135A) as follows:

641—186.5(135A) Members of advisory bodies the council.

~~186.5(1) The director, pursuant to 2009 Iowa Code Supplement sections section 135A.4 and 135A.5 as amended by 2016 Iowa Acts, Senate File 2159, section 3, shall appoint members of the council and committee.~~

~~a. The membership of the council shall consist of all of the following members who satisfy all of the following requirements:~~

~~(1) Twelve members who represent various subfields of public health. These members shall provide geographical representation from all areas of the state. Each of these members shall be an employee of a designated local board of public health. Such members shall include a minimum of one local public health administrator and one physician member of a local board of health.~~

~~(2) Two members who are representatives of the department.~~

~~(3) The director of the state hygienic laboratory at the University of Iowa, or the director's designee.~~

~~(4) At least two representatives from academic institutions.~~

~~(5) Two members who serve on a county board of supervisors.~~

~~(6) At least one economist who has demonstrated experience in public health, health care, or a health-related field.~~

~~(7) At least one research analyst.~~

PUBLIC HEALTH DEPARTMENT[641](cont'd)

(8) Four nonvoting members who shall consist of four members of the general assembly, two from the senate and two from the house of representatives, with not more than one member from each chamber being from the same political party. The two senators shall be designated, one member each, by the majority leader of the senate after consultation with the president and by the minority leader of the senate. The two representatives shall be designated, one member each, by the speaker of the house of representatives after consultation with the majority leader of the house of representatives and by the minority leader of the house of representatives.

(9) One member of the state board of health who shall be a nonvoting member.

~~a. b.~~ Members shall serve for a term of two years and may be reappointed for a maximum of three consecutive terms. Initial appointments shall be in staggered terms.

~~b. c.~~ Vacancies shall be filled in the same manner in which the original appointments were made for the balance of the unexpired term.

186.5(2) A member's designee shall meet the same criteria for which the member was appointed. The member shall notify the department when the designee will be in attendance. The designee shall have voting rights.

186.5(3) Two consecutive unexcused absences of a member or designee shall be grounds for the director to consider dismissal of the council member ~~or committee member~~ and to appoint another. The department staff person assigned to the council ~~or committee~~ is charged with providing notification of absences to the director.

ITEM 7. Amend rule 641—186.6(135A) as follows:

641—186.6(135A) Meetings. The council ~~and committee~~ shall each hold a meeting at least quarterly. Notice of routine meetings and agenda should be made available to the members a minimum of five working days prior to the meeting.

186.6(1) Persons wishing to submit materials for consideration by the council ~~or committee~~ should submit the materials electronically to the department at least 14 days in advance of the scheduled meeting to ensure that members have adequate time to review the materials.

186.6(2) Persons wishing to make a presentation to the council ~~or committee~~ shall submit the request to the department not less than 14 days prior to the meeting. Presentations upon matters appearing on the agenda may be made either at the discretion of the chairperson or the department.

186.6(3) All meetings are open to the public in accordance with the open meetings law, Iowa Code chapter 21.

186.6(4) The council ~~or committee~~ may conduct a meeting by electronic means pursuant to Iowa Code section 21.8.

186.6(5) A simple majority of appointed members shall be considered a quorum.

186.6(6) Any member or member's designee who is unable to attend a meeting shall notify the department at least 24 hours prior to the start of a regularly scheduled meeting; a meeting may be canceled if a quorum will not be present.

186.6(7) When a quorum is present, a position is carried by affirmative vote of the majority of those present.

186.6(8) Minutes. Minutes of all meetings showing the date, time, place, members present, members absent, and the general topics discussed shall be kept. The minutes shall reflect the actions agreed upon by the members for topics requiring the members' input or consensus.

ITEM 8. Amend rule 641—186.7(135A) as follows:

641—186.7(135A) Conflict of interest. A conflict of interest exists when ~~members~~ a member of the council ~~or committee~~ ~~participate~~ participates in a way that directly affects the financial interests of the council ~~or committee~~ ~~members~~ member.

186.7(1) To avoid conflict of interest issues, a council ~~or committee~~ ~~members~~ member who ~~have~~ has a financial interest in an action must abstain from participating in the entire process including discussion and voting.

PUBLIC HEALTH DEPARTMENT[641](cont'd)

186.7(2) ~~The council or committee~~ Council members who have or think they may have a conflict of interest shall declare that there is or may be a conflict of interest and request a determination from the department.

186.7(3) If a conflict of interest is determined to exist, ~~a council or committee members~~ member shall abstain from voting and shall be recorded as abstaining when votes are taken.

ITEM 9. Amend rule 641—186.8(135A) as follows:

641—186.8(135A) Subcommittees. The council ~~and committee~~ may designate one or more subcommittees to perform such duties as may be deemed necessary.

ITEM 10. Adopt the following new rule 641—186.9(135A):

641—186.9(135A) Roles and responsibilities of the department. The department is the lead agency to administer Iowa Code chapter 135A as amended by 2016 Iowa Acts, Senate File 2159. The department's administration shall include evaluation of and quality improvement measures for the governmental health system.

ITEM 11. Amend **641—Chapter 186**, implementation sentence, as follows:

These rules are intended to implement 2009 Iowa Code Supplement sections 135A.2 to 135A.4 and 135A.5, 135A.8 and 135A.9.

ARC 2818C

REGENTS BOARD[681]

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 262.9(3), the Board of Regents hereby gives Notice of Intended Action to amend Chapter 1, “Admission Rules Common to the Three State Universities,” Iowa Administrative Code.

The proposed amendment revises rule 681—1.7(262) to permit the University of Iowa to establish a new \$250 application fee for the Iowa dental advanced standing program (international DDS student).

Any interested person may make written comments on the proposed amendment on or before December 13, 2016, addressed to Tim Cook, Board of Regents, State of Iowa, 11260 Aurora Avenue, Urbandale, Iowa 50322-7905; fax 515-281-6420; or e-mail tim.cook@iowaregents.edu.

This amendment will have a fiscal impact of less than \$100,000 annually, or \$500,000 over five years.

A waiver provision is not included. The Board has adopted a uniform waiver rule, which may be found at 681—19.18(17A).

After analysis and review of this rule making, no impact on private-sector jobs and employment opportunities has been found.

This amendment is intended to implement Iowa Code section 262.9(3).

The following amendment is proposed.

Amend rule 681—1.7(262) as follows:

681—1.7(262) Application fees. Application fees required for admission to the University of Iowa, Iowa State University and the University of Northern Iowa are as follows:

REGENTS BOARD[681](cont'd)

University of Iowa

Undergraduate domestic student and nondegree student	\$40
Undergraduate international student	\$85
Graduate/professional domestic student	\$60
Graduate/professional international student	\$100
PharmD student	\$100
Reentry fee	\$20
<u>Iowa dental advanced standing program</u> <u>(international DDS student)</u>	<u>\$250</u>

Iowa State University

Undergraduate domestic student and nondegree student	\$40
Undergraduate international student	\$50
Graduate/professional domestic student	\$60
Graduate/professional international student	\$100
Veterinary Medicine	\$75

University of Northern Iowa

Undergraduate domestic student and nondegree student	\$40
Undergraduate international student	\$50
Graduate/professional domestic student	\$60
Graduate/professional international student	\$75
Reentry fee	\$20

This rule is intended to implement Iowa Code section 262.9(3).

ARC 2825C

REVENUE DEPARTMENT[701]

Notice of Intended Action

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

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

Pursuant to the authority of Iowa Code sections 17A.3, 421.14 and 421.17, the Department of Revenue hereby gives Notice of Intended Action to amend Chapter 8, “Forms and Communications,” Iowa Administrative Code.

The rules in Chapter 8 relate to forms for persons to report tax information to the Department of Revenue. This proposed amendment updates Chapter 8 to conform to modern practices and technology.

This amendment will not necessitate additional expenditures by political subdivisions or agencies and entities which contract with political subdivisions.

REVENUE DEPARTMENT[701](cont'd)

Any interested person may make written suggestions or comments on this proposed amendment on or before December 13, 2016. Such written comments should be directed to the Policy Section, Policy and Communications Division, Department of Revenue, Hoover State Office Building, P.O. Box 10457, Des Moines, Iowa 50306-0457; or by e-mail to theresa.dvorak@iowa.gov. Persons who want to convey their views orally should contact the Policy Section, Policy and Communications Division, Department of Revenue, at (515)281-3194 or at the Department of Revenue offices on the fourth floor of the Hoover State Office Building.

Requests for a public hearing must be received by December 13, 2016.

After analysis and review of this rule making, the Department finds that there is no fiscal impact.

Any person who believes that the application of the discretionary provisions of these rules would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to rule 701—7.28(17A).

After analysis and review of this rule making, the Department finds that the amendments to these rules are not likely to have a significant impact on jobs.

These amendments are intended to implement Iowa Code sections 17A.3(1)“b” and 421.17(15).

The following amendments are proposed.

Amend **701—Chapter 8** as follows:

CHAPTER 8
FORMS AND COMMUNICATIONS

701—8.1(17A,421) Definitions. For the purposes of ~~these rules~~ this chapter, the following definitions apply, unless the context otherwise requires:

“*Communication*” means any method of transfer of data, information, or money by any conduit or mechanism.

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

“*Department form*” means a form that is distributed by the department.

“*Director*” means the director of the department ~~of revenue~~.

“*Form*” means any overall physical arrangement and general layout of communications, using any method of communication, related to tax or other administration and prescribed by the director or otherwise required by law.

“*IRS*” means the federal Internal Revenue Service.

“*Person*” means any individual, corporation, limited liability company, government or governmental subdivision or agency, business trust, estate, trust, partnership or association, or any other legal entity.

“*Return*” means any form required for tax administration from any person to the department.

“*Substitute form*” means a form that is intended to replace a department form.

This rule is intended to implement Iowa Code ~~paragraph 17A.3(1)“b.”~~ sections 17A.3(1)“b” and 421.14.

701—8.2(17A,421) Official Department forms.

8.2(1) Generally. The department and the director have developed and provide or prescribe ~~many official department forms~~ designed to help persons exercise their rights and discharge their duties under the tax laws and rules, to explain tax laws and rules, to assist in the administration of tax laws and rules, and to assist in general financial administration. Department forms may be available in electronic format, on paper, or in other formats as prescribed by the director. Communications with the department, for which official department forms have been created, shall be carried out using those forms or ~~approved substitutes~~ substitute forms. Each direction of every instruction contained within or accompanying official department forms shall be followed, and each question within or accompanying every form shall be answered as if the instructions and forms were contained in these rules.

REVENUE DEPARTMENT[701](cont'd)

8.2(2) *Obtaining department forms.* ~~Copies of all official Department forms, and instructions and communication formats~~ may be obtained from the Iowa Department of Revenue, Policy and Communications Division, Hoover State Office Building, P.O. Box 10457, Des Moines, Iowa 50306; by telephoning (800)367-3388 or (515)281-3114; ~~(for large orders of forms: (800)532-1531); by faxing (515)242-6040~~ or on the department's Web site at www.iowa.gov/tax <https://tax.iowa.gov/>.

8.2(1) *Nature of official forms.* Most, but not all, official forms are on paper. As prescribed by the director, communication means other than paper documents may be used for official forms.

8.2(2) *Mailing addresses.* The following post office box numbers should be used when corresponding with the department. All addresses are completed: Des Moines, Iowa 50306.

Box Number	Addressee
1792	Motor Vehicle Fuel Tax Returns
9187	Individual Income Tax Returns
10330	Central Collections Unit
10411	Withholding Tax Payments Verified Summary of Payments
10412	Sales and Use Tax Returns and Payments
10413	Franchise Tax Returns and Estimated Payments
10455	Insurance Premiums Tax Household Hazardous Materials Environmental Protection Charge
10456	Tax Management Division, Compliance Services Income Tax
10457	Policy and Communications Division
10459	Property Tax Rent Reimbursement Claims
10460	Internal Services Division Process Improvement and Innovation Division
10465	Tax Management Division, Business and Excise Tax
10466	Individual and Corporation Income Tax Estimated Payments
10467	Fiduciary and Inheritance Tax
10468	Corporation Income Tax Returns
10469	Property Tax
10470	Registration Services
10471	Accounts Receivable
10472	Cigarette and Tobacco Tax

REVENUE DEPARTMENT[701](cont'd)

Box Number	Addressee
10486	Property Assessment Appeal Board
14454	Tax Management Division, Field Audit
14457	Audit Services Section Hearings Section
14461	Research and Analysis Division

8.2(3) *Filing department forms.* A department form may be filed with the department as directed on the department form or in the corresponding instructions. Filing a department form using any other method requires prior approval from the department. Attempting to file a department form using an unapproved method may, at the discretion of the director, result in the rejection of the form and all information contained therein.

8.2(4) *Removable media and electronic reporting.* Submitting a department form on removable media, such as compact disc, requires prior approval from the department. No prior approval is necessary for electronic reporting when the reporting is in accordance with department policy. Any electronic reporting of a department form requires department approval, unless otherwise authorized. Additional information regarding electronic reporting is available at Processing Services, P.O. Box 10413, Des Moines, Iowa 50306; or by e-mail at IDRSubForms@iowa.gov.

This rule is intended to implement Iowa Code ~~paragraph 17A.3(1) "b."~~ sections 17A.3(1) "b" and 421.14.

701—8.3(17A,421) ~~Substitution of official~~ Substitute forms.

8.3(1) *Generally.* ~~This rule is to provide guidance for the use of other than official forms, whether they are on paper, are computer-generated, or are~~ A substitute form may be in electronic format, on paper, or created using other media for communication. Approval shall be obtained prior to the use of ~~computer forms, replacement forms, reproduced forms, facsimile forms, or any other forms not provided by the department~~ substitute form, unless otherwise noted in this rule. The director reserves the right to make changes to forms when needed ~~may change any department form without prior notification providing notice to users of forms~~ any substitute form. The director also reserves the right to ~~may~~ require use of ~~official department~~ forms in communications with the department concerning tax administration or other matters.

8.3(1) 8.3(2) *Types of substitute forms.* Many types of forms may, upon approval when necessary, be substituted for ~~official~~ department forms. Descriptions of a partial list follow.

a. Reproduced forms. ~~Reproduction (photocopy reprinting) of Iowa tax forms~~ A reproduced form is a legible photocopy or an exact copy of a department form. A reproduced form may be ~~accomplished~~ used without prior approval of the department ~~provided if the reproduced form meets~~ the following conditions ~~are met~~:

(1) ~~There is no variation from the official copy or format provided by the department, including reduction and enlargement or~~ The reproduced form does not vary from the department form in size or any other format specification.

(2) ~~Reprinting, copying, or~~ No rule prohibits the reproduction of the department form is ~~not prohibited by another rule within this chapter.~~

(3) ~~Reprinting or reproduction of the~~ The reproduced form does not vary from criteria stated elsewhere in this chapter.

b. Replacement forms. ~~Replacement forms are forms which are~~ A replacement form is produced by imagery or otherwise replicated using the department ~~official~~ form as a model, but it is not an exact copy of a department form. A form that is created in its entirety, including layout, by computer is a replacement form. ~~These forms~~ A replacement form may include ~~facsimiles of department forms that~~

REVENUE DEPARTMENT[701](cont'd)

~~have been modified by the addition of modifications, such as line enlargements, enlargement or copy deletion, or any other modifications. A replacement form must receive department approval prior to use.~~

~~*e. Computer-generated forms.* Computer-generated forms are forms that are created in their entirety, including layout, by the computer. These forms must be a facsimile of the official form that it is meant to replace.~~

~~*d. c. Federal forms.* Federal forms A federal form is a form that is distributed by the IRS. A federal form, or their alternates, do not require prior its alternate, may be used without department approval for use provided if the form is approved for federal use and Iowa tax instructions or other administrative instructions authorize or require the use of the federal forms form in lieu of official Iowa forms a department form.~~

~~*e. Removable media and electronic reporting.* Any removable media, such as compact discs, or any electronic transmission in other than official form requires prior approval of the department. No prior approval is necessary for submission of compact discs for certain information reporting when they are submitted in accordance with the department policy. To obtain additional information regarding the submitting of magnetic tapes, diskettes or other electronic reporting, please contact the Technology and Information Management Division, P.O. Box 10460, Des Moines, Iowa 50306.~~

8.3(2) 8.3(3) Approval Registration and approval of substitute forms.

~~*a. Registration.* A developer of a substitute form must register with the department by submitting the Registration for Substitute Forms and Barcode Approval. Each registration is valid for one tax year only. Failure to register with the department may, at the discretion of the director, result in the rejection of the developer's forms and all information contained therein.~~

~~*b. Approval.* Prior approval of substitute forms may be obtained by writing Iowa Department of Revenue, Substitute Forms, 1305 East Walnut Street, Des Moines, Iowa 50319, or Once registered, the developer of a substitute form must request department approval of the form, unless approval is not necessary. The developer may request department approval by submitting a PDF submission via e-mail of the form to IDRSubForms@iowa.gov. PDF submissions via e-mail to the department of approval requests are acceptable in limited circumstances. Normally, approval will be granted for use of substitute forms for one year only. Those forms listed on the substitute forms checklist Iowa Substitute Forms Checklist, which is provided with the Registration for Substitute Forms and Barcode Approval, should be submitted for approval. If doubt exists about the need for approval of a particular substitute form, the form should be submitted for consideration. Attempting to file an unapproved substitute form with the department may, at the discretion of the director, result in the rejection of the form and all information contained therein.~~

~~**8.3(3) Failure to obtain required approval.** Forms filed with the department that are not official or approved may be returned at the discretion of the director.~~

~~**8.3(4) Forms that may not be reproduced.** Certain forms supplied by the department shall not be duplicated or reproduced because of special processing requirements for the forms. These forms will normally have an optical scan line with special characters or print to ensure that automated processing equipment accurately credits the proper accounts. Exceptions to allow reproduction may occur on a limited basis with the consent of the department. The requestor must demonstrate compatibility with and meet all requirements and standards of the department to ensure proper and accurate processing of the form by the department. The department, at its option, may provide an explanation as to why a form is not acceptable, but is not required to do so. Forms that may not be reproduced, except as provided for above, include department-generated accounts receivable notices.~~

~~**8.3(5) General information Quality of substitute forms.** The following general information is applicable to all reproduced, replacement, or computer-generated forms:~~

~~*a. Paper General information.* Paper must be of at least equal quality to stock used by the department for official forms. Carbon-bonded paper is prohibited for all forms. Colored paper should be used for all forms substituting for official paper forms unless paper used is of the identical color of an official paper form. All substitute forms must, to the extent practicable, reflect the same size, color, content, design, and legibility as department forms posted on the department's Web site at <https://tax.iowa.gov/>.~~

REVENUE DEPARTMENT[701](cont'd)

~~b. *Ink and imaging material Printed substitute forms.* Black ink or black imaging material should be used in the printing or duplication of all substitute forms on paper. When printed on paper, a substitute form must use only black ink or black imaging material, unless the corresponding department form indicates otherwise. A printed substitute form generally must be printed on 20-pound white paper stock with a brightness rating of at least 92 on the TAPPI scale.~~

~~c. *Size.* Paper forms must be the same size as the official form.~~

~~d. *Legibility.* All forms must have a high standard of legibility.~~

~~e. c. *Distinctive markings and symbols.* Some official forms A department form may contain distinctive symbols. These symbols must be reproduced on other than official any substitute forms.~~

~~f. *Labels.* Preprinted labels furnished by the department should be affixed to returns submitted to the department.~~

~~g. *Accuracy of reproduction.* Forms submitted for approval should be a facsimile of the official form. No variation from the official form will be allowed for forms which are identified as returns.~~

~~**8.3(6) Filing substitute forms.** A substitute form may be filed with the department as directed on the corresponding department form or instructions or by any other method approved by the department. Attempting to file a substitute form with the department using an unapproved method may, at the discretion of the director, result in the rejection of the form and all information contained therein.~~

~~**8.3(7) Removable media and electronic reporting.** Submitting a substitute form on removable media, such as compact disc, requires prior approval from the department. No prior approval is necessary for electronic reporting when the reporting is in accordance with department policy. Any electronic reporting of a substitute form requires department approval, unless otherwise authorized. Additional information regarding electronic reporting is available at Processing Services, P.O. Box 10413, Des Moines, Iowa 50306; or by e-mail at IDRSubForms@iowa.gov.~~

~~This rule is intended to implement Iowa Code paragraph 17A.3(1) "b." sections 17A.3(1) "b" and 421.14.~~

~~**701—8.4(17A) Description of forms.** Forms prescribed by the director can be divided into those required for the administration of various taxes and those required for administrative systems other than tax-related.~~

~~**8.4(1) Tax forms.** Taxes administered by the department that require forms are listed in the following lettered paragraphs as follows:~~

~~a. Corporate income return systems include use forms designed by the department as well as forms used in federal tax administration. Approved substitute forms may be used for returns.~~

~~b. Corporate income tax field and office audit systems, related field collections systems, and the corporate tax error resolution system have use forms designed by the department. Approved substitute forms may be used.~~

~~c. Franchise tax returns include use forms designed by the department as well as forms used in federal tax administration. Approved substitute forms may be used for returns.~~

~~d. Franchise audit and collection systems have use forms designed by the department. Approved substitute forms may be used.~~

~~e. Corporate and franchise estimated tax systems have use forms designed by the department. Approved substitute forms may be used.~~

~~f. Individual and fiduciary income returns include use forms designed by the department as well as forms used in federal tax administration. Approved substitute forms may be used for returns.~~

~~g. Individual and fiduciary income tax field and office audit systems and related field collections systems have use forms designed by the department. Approved substitutes may be used.~~

~~h. New jobs tax credit system has system use forms designed by the department. Approved substitute forms may be used.~~

~~i. Individual income tax withholding payment voucher systems have use forms designed by the department. Approved substitute forms may be used.~~

~~j. IA-W4 system, declaration of estimated tax, and withholding penalty waiver systems have use forms designed by the department. Approved substitutes may be used.~~

REVENUE DEPARTMENT[701](cont'd)

k. Sales and use tax ~~returns and payment voucher systems have~~ vouchers and annual returns use forms designed by the department. Approved substitute forms may be used in limited situations.

l. Local option sales and services tax and hotel/motel tax systems ~~have~~ use forms designed by the department. Approved substitute forms may be used in limited situations.

m. Field and office audit and collections systems for sales and use tax;₂ sales tax refund examination ~~system; systems;~~ industrial machinery, equipment, and computer refund systems;₂ and sales and use tax penalty waiver systems ~~have~~ use forms designed by the department. Approved substitute forms may be used.

n. Motor fuel tax ~~returns~~ systems ~~have~~ use forms designed by the department. Approved substitute forms may be used.

o. Special fuel tax ~~returns~~ systems ~~have~~ use forms designed by the department. Approved substitute forms may be used.

p. Motor fuel tax and special fuel tax error resolution systems and related field and office audit and collection systems ~~have~~ use forms designed by the department. Approved substitute forms may be used.

q. Inheritance and qualified use inheritance tax ~~returns~~ systems ~~have~~ use forms designed by the department. Approved substitute forms may be used.

r. Inheritance and qualified use inheritance tax field and office audit systems and related field collections systems ~~have~~ use forms designed by the department. Approved substitute forms may be used.

s. Cigarette and tobacco tax systems with related office and field audit and field collection systems ~~have~~ use forms designed by the department. Approved substitute forms may be used.

t. Property assessor and deputy assessor examination records systems ~~have~~ use forms designed by the department. Approved substitute forms may be used.

u. ~~Central~~ Centrally assessed property tax assessments ~~system has~~ systems use forms designed by the department. Approved substitute forms may be used.

v. ~~Elderly credit mobile home;~~ Mobile, manufactured, and modular home reduced tax rate systems; Iowa elderly and disabled and senior citizen property tax, credit and rent reimbursement systems; and special assessment credit systems ~~have~~ use forms designed by the department. Approved substitute forms may be used.

w. Environmental protection charge systems ~~have~~ use forms designed by the department. Approved substitute forms may be used.

x. Excise tax on unlawful dealing in certain substances ~~system has~~ systems use forms designed by the department. Approved substitute forms may be used.

y. Taxpayer contact systems ~~have~~ use forms designed by the department. Approved substitute forms may be used.

z. Federal and state exchange of information systems ~~have~~ use forms designed by the department as well as others. Approved substitute forms may be used.

aa. Accounts receivable notices ~~system has~~ systems use forms designed by the department. No substitute forms may be used Developers may not provide a substitute accounts receivable notice.

bb. The department ~~shall provide the taxpayer a statement of~~ provides a taxpayer bill of rights, which sets forth the rights of a taxpayer and obligations of the department during an audit, procedures by which a taxpayer may appeal an adverse decision of the department, and procedures which the department uses to enforce the tax laws. No substitute form may be used Developers may not provide a substitute taxpayer bill of rights.

8.4(2) Other forms. Rescinded IAB 4/14/04, effective 5/19/04. Reserved.

This rule is intended to implement Iowa Code paragraph sections 17A.3(1) "b₂" and sections 421.7 and 422.21.

701—8.5(422) Electronic filing of Iowa income tax returns. Electronic There is no statutory requirement that taxpayers file their Iowa income tax returns electronically. Taxpayers also have the option to file by paper. However, electronic filing allows individuals and businesses that meet

REVENUE DEPARTMENT[701](cont'd)

department criteria to file their Iowa income tax returns electronically. ~~All~~ When a taxpayer files an electronic return, all information is related to the return should be electronically transmitted. Nothing is ~~No information is to be submitted on paper unless specifically requested by the department. A taxpayer's electronic Iowa return will~~ shall include the same information as if the taxpayer had filed a paper return.

~~There is no statutory requirement that taxpayers file their Iowa income tax returns electronically. Taxpayers also have the option to file by paper.~~

8.5(1) Definitions. For the purpose of this rule, the following definitions apply, unless the context otherwise requires:

"Acknowledgment" means a report generated by the department and sent electronically to a transmitter via the IRS indicating the department's acceptance or rejection of an electronic submission.

"Declaration for e-File Return form" means a taxpayer declaration form that authenticates the electronic tax return, authorizes its transmission, and consents to the financial transaction order as designated using the financial institution information provided.

~~*"Department"* means the Iowa department of revenue.~~

"Direct debit" means an order for electronic withdrawal of funds from a taxpayer's financial institution account for payment to the ~~Iowa department of revenue.~~

"Direct deposit" means an order for electronic transfer of a refund into a taxpayer's financial institution account.

"E-file provider" means a firm that is assigned an Electronic Filing Identification Number (EFIN) by the IRS to assume any one or more of the following IRS e-file provider roles: electronic return originator, intermediate service provider, transmitter, software developer, or reporting agent.

"Electronic filing" means a paperless filing of the Iowa income tax return, order for financial transaction, or both by way of the IRS e-file program, also known as federal/state electronic filing (~~ELF/MeF~~).

"Electronic return originator (ERO)" means an authorized IRS e-file provider that originates the electronic submission by any one of the following methods: electronically sending an electronic tax return to a Transmitter that will transmit the electronic tax return to the IRS, directly transmitting the electronic tax return to the IRS, or providing the electronic tax return to an Intermediate Service Provider for processing prior to transmission to the IRS.

"Electronic signature" includes data in electronic form, which is logically associated with other data in electronic form and executed or adopted by a person with the intent to sign a document. This type of signature has the same legal standing as a handwritten signature if the requirements in either paragraph 8.5(2) "b" or "c" are met. Electronic signatures appear in many forms and may be created by many different technologies. No specific technology is required.

"Intermediate service provider" means the firm that assists with processing submission information between the ERO (or the taxpayer in the case of online filing) and a Transmitter.

"Online filing" means the process for taxpayers to self-prepare returns by entering return data directly into commercially available software, software downloaded from an Internet site and prepared off-line, or through an online Internet site.

"Origination of an electronic return" means the action by an ERO of electronically sending the return directly to an Intermediate Service Provider, a Transmitter, or the IRS.

"Reporting agent" means a firm that originates the electronic submission of certain returns for its clients or transmits the returns to the IRS in accordance with the IRS electronic filing procedures, or both.

"Self-select PIN signature alternative" ~~means the taxpayer electronically signs the return with a personal identification number (PIN). The PIN is any five numbers (except all zeros) that taxpayers choose to enter as their electronic signature.~~

"Software developer" means an approved IRS e-file provider that develops software according to IRS and Iowa specifications for the purposes of formatting electronic returns, transmitting electronic returns directly to the IRS, or both. A software developer may sell its software.

REVENUE DEPARTMENT[701](cont'd)

“*Stockpiling*” means collecting returns from taxpayers or from other e-file providers and waiting more than three calendar days after receiving the information necessary for transmission to transmit the returns to the department.

“*Transmitter*” means a firm that transmits electronic tax return information directly to the IRS and routes electronic acknowledgments from the IRS (and the states) to the firm originating the electronic return.

8.5(2) Completion and documentation of the electronic return.

a. All monetary amounts on the prepared return must be in whole dollars. The electronic submission must match the prepared return. The taxpayer(s) must declare the authenticity of the electronic return before it is transmitted. ~~The department has adopted the self-select PIN signature alternative as implemented by the IRS. If the ERO elects not to use the taxpayer self-select PIN signature alternative, the Declaration for e-File Return form must be completed and signed by the preparer, ERO, and taxpayer(s).~~ If the ERO makes changes to the electronic return after the Declaration for e-File Return form has been signed by the taxpayer(s), a new Declaration for e-File Return form must be completed and signed by the taxpayer(s) before the return is transmitted.

b. Electronic signature via remote transaction. Before a taxpayer electronically signs a Declaration for e-File Return form in which the ERO is not physically present with the taxpayer, the ERO must record the name, social security number, address and date of birth of the taxpayer. The ERO must verify that the name, social security number, address, date of birth and other personal information of the taxpayer on record are consistent with the information provided through record checks with the applicable agency or institution or through credit bureaus or similar databases. This process is not necessary for handwritten signatures on a Declaration for e-File Return form sent to the ERO by hand delivery, U.S. mail, private delivery service, fax, e-mail or an Internet site.

c. Electronic signature via in-person transaction. Before a taxpayer electronically signs a Declaration for e-File Return form in which the ERO is physically present with the taxpayer, the ERO must validate the taxpayer’s identity unless there is a multiyear business relationship. A multiyear business relationship is one in which the ERO has originated returns for the taxpayer for a prior tax year and has identified the taxpayer using a valid government picture identification and the method in paragraph 8.5(2) “b.” For in-person transactions, identity verification through a record check is optional.

~~b.~~ d. The ERO must provide the taxpayer with a copy of all information to be filed. The taxpayer and ERO must retain all tax documentation for three years. The Declaration for e-File Return form and accompanying schedules are to be furnished to the department only when specifically requested.

8.5(3) Direct deposit and direct debit.

a. Taxpayers designating direct deposit of the Iowa refund or direct debit of payment remitted to the department on electronically filed returns must provide proof of account ownership to the ERO. The department is not responsible for the misapplication of a direct deposit refund or direct debit payment caused by error, negligence, or wrongdoing on the part of the taxpayer, e-file provider, financial institution, or any agent of the above.

b. Once the return has been transmitted, the financial order may not be altered. The department may, when processing procedures allow, grant a taxpayer’s timely request to revoke the financial order. The taxpayer is responsible for revoking the financial order if the specified payment is not exactly as intended. A direct deposit or direct debit order will be disregarded by the department if the electronic submission is rejected for any reason as indicated in the acknowledgment.

c. The department may, when processing procedures require, convert a direct deposit order to a paper check warrant. If a refund is deposited into an incorrect bank account, the department will issue a paper refund check warrant once the funds are returned by the financial institution.

d. Payment withdrawal date.

(1) Funds will be withdrawn from the account specified in the direct debit order no sooner than the date specified by the taxpayer. ~~This date must occur no later than the due date when the due date has not yet elapsed. This date must specify immediate payment when the due date has already elapsed. This date will be superseded by the electronic postmark date when the date occurs prior to the electronic postmark date.~~ The direct debit payment within the electronic submission accepted by the department

REVENUE DEPARTMENT[701](cont'd)

~~that is postmarked on or before the payment due date is considered timely, provided that the direct debit payment is honored by the financial institution.~~

(2) Payment must be timely made to prevent the assessment of all applicable penalty and interest. A direct debit payment within an electronic submission is considered timely made when:

- 1. The department accepts the electronic submission;
- 2. The electronic postmark date is prior to the tax due date;
- 3. The payment withdrawal date is prior to the tax due date; and
- 4. The direct debit payment is honored by the specified financial institution.

(3) When the tax due date has not yet elapsed, the withdrawal date should occur on or before the tax due date. Scheduling a withdrawal date after the tax due date will result in the assessment of all applicable penalty and interest unless the taxpayer otherwise makes payment before the tax due date.

(4) When the tax due date has already elapsed, the withdrawal date should specify immediate payment to prevent the accrual of additional interest.

(5) Withdrawal cannot occur prior to the electronic postmark date. When the taxpayer attempts to schedule a withdrawal date that is prior to the electronic postmark date, the electronic postmark date is the withdrawal date.

(6) If a taxpayer wants to change the withdrawal date specified in a financial order, the taxpayer must revoke the financial order and submit a new financial order. If the department determines that the taxpayer may have erroneously scheduled a withdrawal date, the department may notify the taxpayer of the possible error, but the department is not required to do so.

8.5(4) to 8.5(7) No change.

This rule is intended to implement Iowa Code sections 422.21 and 422.68.

TREASURER OF STATE

Notice—Public Funds Interest Rates

In compliance with Iowa Code chapter 74A and section 12C.6, the committee composed of Treasurer of State Michael L. Fitzgerald, Superintendent of Credit Unions JoAnn Johnson, Superintendent of Banking Ronald L. Hansen, and Auditor of State Mary Mosiman have established today the following rates of interest for public obligations and special assessments. The usury rate for November is 3.75%.

INTEREST RATES FOR PUBLIC OBLIGATIONS AND ASSESSMENTS

74A.2 Unpaid Warrants	Maximum 6.0%
74A.4 Special Assessments	Maximum 9.0%

RECOMMENDED Rates for Public Obligations (74A.3) and School District Warrants (74A.7). A rate equal to 75% of the Federal Reserve monthly published indices for U.S. Government securities of comparable maturities. All Financial Institutions as defined by Iowa Code section 12C.1 are eligible for public fund deposits as defined by Iowa Code section 12C.6A.

The rate of interest has been determined by a committee of the state of Iowa to be the minimum interest rate that shall be paid on public funds deposited in approved financial institutions. To be eligible to accept deposits of public funds of the state of Iowa, a financial institution shall demonstrate a commitment to serve the needs of the local community in which it is chartered to do business. These needs include credit services as well as deposit services. All such financial institutions are required to provide the committee with a written description of their commitment to provide credit services in the community. This statement is available for examination by citizens.

New official state interest rates, effective November 9, 2016, setting the minimums that may be paid by Iowa depositories on public funds are listed below.

TREASURER OF STATE(cont'd)

TIME DEPOSITS

7-31 days	Minimum .05%
32-89 days	Minimum .05%
90-179 days	Minimum .05%
180-364 days	Minimum .05%
One year to 397 days	Minimum .05%
More than 397 days	Minimum .30%

These are minimum rates only. All time deposits are four-tenths of a percent below average rates. Public body treasurers and their depositories may negotiate a higher rate according to money market rates and conditions.

Inquiries may be sent to Michael L. Fitzgerald, Treasurer of State, State Capitol, Des Moines, Iowa 50319.

ARC 2815C

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 and 476.2, the Utilities Board (Board) gives notice that on November 1, 2016, the Board issued an order in Docket No. RMU-2016-0009, In re: Iowa Electrical Safety Code [199 IAC Chapter 25], “Order Commencing Rule Making,” proposing to update and streamline Chapter 25 of the Board’s rules. To develop the proposed amendments, the Board sought early input from stakeholders. On August 5, 2016, the Board issued an “Order Seeking Stakeholder Comment on Potential Rule Changes” in which the Board identified several potential revisions to Chapter 25 that would update and clarify the rules. Generally, the stakeholder responses agreed with the Board’s potential changes. Two stakeholders proposed further changes to the rules regarding pole attachments which are discussed in the Board’s “Order Commencing Rule Making.”

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-2016-0009.

Pursuant to Iowa Code sections 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 13, 2016. The statement should be filed electronically through the Board’s EFS. Instructions for making an electronic filing can be found on the EFS Web site at <http://efs.iowa.gov>. 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 Docket No. RMU-2016-0009. Paper comments may be filed with approval of the Board.

An opportunity for interested persons to present oral comments on the proposed amendments will be held at 1 p.m. on January 24, 2017, in the Board’s hearing room at 1375 East Court Avenue, Des Moines, Iowa. 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, the Board tentatively concludes that the proposed amendments, if adopted, will not have a detrimental effect on jobs in Iowa.

These amendments are intended to implement Iowa Code sections 17A.4 and 476.2.

UTILITIES DIVISION[199](cont'd)

The following amendments are proposed.

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

25.2(1) *National Electrical Safety Code*. The American National Standards Institute (ANSI) ~~C2-2012~~ C2-2017, “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.

ITEM 2. Amend subrule 25.2(2), introductory paragraph, as follows:

25.2(2) *Modifications and qualifications to ANSI C2 the NESC*. The standards set forth in ~~ANSI C2~~ the NESC are modified or qualified as follows:

ITEM 3. Amend paragraph **25.2(2)“d”** as follows:

d. Rule ~~217C.1~~ 217C1 is changed to read:

“The ground end of anchor guys exposed to pedestrian or vehicle traffic shall be provided with a substantial marker not less than eight feet long. The guy marker shall be of a conspicuous color such as yellow, orange, or red. Green, white, gray or galvanized steel colors are not reliably conspicuous against plant growth, snow, or other surroundings. Noncomplying guy markers shall be replaced as part of the utility’s inspection and maintenance plan.”

ITEM 4. Amend paragraph **25.2(2)“f”** as follows:

f. There is added to the first paragraph of Rule ~~110A.1~~ 110A1, after the sentence stating, “Entrances not under observation of an authorized attendant shall be kept locked,” the following sentences:

Entrances may be unlocked while authorized personnel are inside. However, if unlocked, the entrance gate must be fully closed, and must also be latched or fastened if there is a gate-latching mechanism.

ITEM 5. Amend paragraph **25.2(3)“a”** as follows:

a. Electric utilities shall conduct or participate in 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.

ITEM 6. Amend subrule 25.3(2) as follows:

25.3(2) *Annual report*. Each utility shall include as part of its annual report to the board, as required by 199—Chapter 23, certification of compliance with each area of the inspection and maintenance plan required by subrule 25.3(1) or a detailed statement on areas of noncompliance.

ITEM 7. Amend subrule 25.3(4) as follows:

25.3(4) *Records*. Each utility shall keep sufficient records to demonstrate compliance with its inspection and vegetation management plans. For each inspection unit, the records of line and substation inspections and pole inspections shall include the inspection date(s), the findings of the inspection, and the disposition or scheduling of repairs or maintenance found necessary during the inspection. For each inspection unit, the records of vegetation management shall include the date(s) during which the work was conducted. The records shall be kept until two years after the next periodic inspection or vegetation management action in the inspection and maintenance plan cycle is completed or until all necessary repairs and maintenance are completed, whichever is longer.

ITEM 8. Amend subrule 25.5(3) as follows:

25.5(3) The board shall be notified immediately, or as soon as practical thereafter, by e-mail to the board duty officer at dutyofficer@iub.iowa.gov or, ~~in appropriate circumstances~~ if e-mail service is not available, by calling (515)745-2332. The person contacting the board shall leave a telephone number of a person who can provide the following information:

a. The name of the company, the name and telephone number of the person making the report, and the name and telephone number of a contact person knowledgeable about the incident.

UTILITIES DIVISION[199](cont'd)

- b. The location of the incident.
- c. The time of the incident.
- d. The number of deaths or personal injuries requiring in-patient hospitalization and the extent of those injuries.
- e. Initial estimate of damages.
- f. A summary of the significant information available regarding the probable cause of the incident and extent of damages.
- g. Any oral or written report made to a federal agency, the agency receiving the report, and the name and telephone number of the person who made or prepared the report.

ITEM 9. Amend subrule 25.5(4) as follows:

25.5(4) Written incident reports. Within 30 days of the date of the incident, the owner or operator shall file a written report with the board. The report shall include the information required for telephone notice in subrule 25.5(3), the probable cause as determined by the company, the number and cause of any deaths or personal injuries requiring in-patient hospitalization, and a detailed description of property damage and the amount of monetary damages. If significant additional information becomes available at a later date, a supplemental report shall be filed. Duplicate copies of any written reports filed with or submitted to a federal agency concerning the incident shall also be provided to the board.

ARC 2823C**WORKFORCE DEVELOPMENT DEPARTMENT[871]****Notice of Intended Action**

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

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

Pursuant to the authority of Iowa Code section 96.11, the Director of Workforce Development hereby gives Notice of Intended Action to amend Chapter 26, “Contested Case Proceedings,” Iowa Administrative Code.

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

Any interested person may make written or oral suggestions or comments on the proposed amendments on or before December 13, 2016, by sending them to Emily Chafa, Workforce Development Department, 1000 East Grand Avenue, Des Moines, Iowa 50319-0209. Comments may be sent electronically to emily.chafa@iwd.iowa.gov.

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

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

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

These amendments are intended to implement Iowa Code chapter 96.

The following amendments are proposed.

ITEM 1. Amend subrule 26.3(1) as follows:

26.3(1) Time shall be computed as provided in Iowa Code section ~~4.1(22)~~ 4.1(34).

ITEM 2. Amend rule 871—26.6(17A,96) as follows:

871—26.6(17A,96) Notice of hearing.

26.6(1) ~~A telephone or in-person hearing shall not be scheduled before the seventh calendar day after the parties receive notice of the hearing. Notice~~ A notice of hearing shall be sent by first-class mail or via e-mail to all parties at their last-known address at least ten calendar days in advance of the hearing date and shall include:

WORKFORCE DEVELOPMENT DEPARTMENT[871](cont'd)

a. The date, time and place of an in-person hearing, or the date and time of a telephone hearing, including instructions for calling the appeals bureau in advance of the hearing to provide the names and telephone numbers of all participants and witnesses; and

b. The nature of the hearing, including the legal authority and jurisdiction under which the hearing is held; and

c. A statement of the issues and the applicable sections of the Iowa Code or Iowa Administrative Code; and

d. A description of the administrative law judge who will serve as presiding officer.

26.6(2) The ~~seven-day~~ ten-day notice of hearing may be waived upon the agreement of the parties.

26.6(3) No change.

26.6(4) A hearing shall be scheduled promptly and shall be conducted by telephone unless a party requests that it be held in person. A request for an in-person hearing may be denied if factors such as the distance between the parties, the number of parties or the health of any party ~~makes~~ make it impractical or impossible to conduct a fair hearing in person. An in-person hearing may be scheduled at the discretion of the presiding officer to whom the contested case is assigned or, ~~in that presiding officer's absence,~~ the by the manager or chief administrative law judge of the appeals bureau. The party requesting an in-person hearing will ordinarily be required to travel the greater distance if all parties are not located near the same hearing site. As a matter of discretion, the appeals bureau may schedule an in-person hearing at a regular hearing site approximately equidistant from the parties. In the discretion of the presiding officer to whom the contested case is assigned, or the manager or chief administrative law judge of the appeals bureau, witnesses or representatives may be allowed to participate via telephone in an in-person hearing, ~~provided that each party has at least one witness present at the hearing site. When two or more parties are involved, the evidence shall be presented during the same hearing.~~

26.6(5) to 26.6(8) No change.

ITEM 3. Amend rule 871—26.8(17A,96) as follows:

871—26.8(17A,96) Withdrawals, dismissals, and postponements.

26.8(1) An appeal may be withdrawn at any time prior to the issuance of a decision upon the request of the appellant and with the approval of ~~the presiding officer to whom the case is assigned~~ an administrative law judge or the manager or chief administrative law judge of the appeals bureau. Requests for withdrawal may be made in writing or orally, provided the oral request is tape-recorded by the presiding officer.

An appeal may be dismissed upon the request of a party or in the agency's discretion when the issue or issues on appeal have been resolved in the appellant's favor.

26.8(2) No change.

26.8(3) If, ~~due to emergency or other~~ for good cause, a party, having received due notice, is unable to attend a hearing or request postponement within the prescribed time, the presiding officer may, if no decision has been issued, reopen the record and, with notice to all parties, schedule another hearing. If a decision has been issued, the decision may be vacated upon the presiding officer's own motion or at the request of a party within 15 days after the mailing date of the decision and in the absence of an appeal to the employment appeal board of the department of inspections and appeals. If a decision is vacated, notice shall be given to all parties of a new hearing to be held and decided by another presiding officer. Once a decision has become final as provided by statute, the presiding officer has no jurisdiction to reopen the record or vacate the decision.

"Good cause" for purposes of this rule is defined as an emergency circumstance that is beyond the control of the party and that prevents the party from being able to participate in the hearing. Examples of good cause include, but are not limited to, death, sudden illness, or accident involving the party or the party's immediate family (spouse, partner, children, parents, sibling) or other circumstances evidencing an emergency situation which was beyond the party's control and was not reasonably foreseeable. Examples of circumstances that do not constitute good cause include, but are not limited to, a lost or misplaced notice of hearing, confusion as to the date and time for the hearing, failure to follow the

WORKFORCE DEVELOPMENT DEPARTMENT[871](cont'd)

directions on the notice of hearing, oversleeping, or other acts demonstrating a lack of due care by the party.

~~26.8(4) A request to reopen a record or vacate a decision may be heard ex parte by the presiding officer~~ must be made in writing. If necessary, the presiding officer may hear, ex parte, additional information regarding the request for reopening. The granting or denial of such a request may be used as a grounds for appeal to the employment appeal board of the department of inspections and appeals upon the issuance of the presiding officer's final decision in the case.

26.8(5) No change.

ITEM 4. Amend rule 871—26.10(17A,96) as follows:

871—26.10(17A,96) Ex parte communications.

26.10(1) to 26.10(7) No change.

26.10(8) The presiding officer may impose appropriate sanctions for violations of this rule, including dismissal of an appellant's contested case, a decision against the offending party, censure, or suspension or revocation of the privilege to practice before the agency. Violation of ex parte communication prohibitions by agency personnel shall be reported to the manager or chief administrative law judge of the appeals bureau for possible sanctions.

ITEM 5. Amend rule 871—26.13(17A,96) as follows:

871—26.13(17A,96) Subpoenas and witnesses.

26.13(1) and 26.13(2) No change.

26.13(3) The written request shall include:

- a. The name and address of the person to be served; and
- b. A statement of the relevance of the witness's testimony and that it will not repeat or duplicate the testimony of other witnesses; and
- c. ~~A statement that the witness refuses to testify voluntarily despite the party's request that the person do so.~~

26.13(4) No change.

26.13(5) Documents subpoenaed for ~~telephone~~ hearings shall be mailed, ~~or faxed,~~ or e-mailed to the appeals ~~section~~ bureau and to the other parties to the proceeding prior to the hearing ~~to facilitate the exchange of documents among the parties.~~ Documents subpoenaed for in-person hearings shall be brought to the hearing site at the time of the contested case hearing, ~~unless otherwise ordered by the presiding officer.~~

26.13(6) to 26.13(10) No change.

ITEM 6. Amend rule 871—26.14(17A,96) as follows:

871—26.14(17A,96) Conduct of hearings.

26.14(1) to 26.14(5) No change.

~~26.14(6) In the event that~~ If one or more parties which ~~have~~ received notice for a contested case hearing fail to appear at the time and place of an in-person hearing, the presiding officer may proceed with the hearing. If the appealing party fails to appear, the presiding officer may decide the party is in default and dismiss the appeal. The hearing may be reopened if the absent party makes a request in writing to reopen the hearing under subrule 26.8(3) and shows good cause for reopening the hearing.

a. If an absent party arrives for an in-person hearing while the hearing is in session, the presiding officer shall pause to admit the party, summarize the hearing to that point, administer the oath, and resume the hearing.

b. If an absent party arrives for an in-person hearing after the record has been closed and after any party which had participated in the hearing has departed, the presiding officer shall not take the evidence of the late party. ~~Instead, the presiding officer shall inquire ex parte as to the reason the party was late. For good cause shown, the presiding officer shall cause notice of hearing to be issued to all parties of~~

WORKFORCE DEVELOPMENT DEPARTMENT[871](cont'd)

~~record and reopen the record. The record shall not be reopened if the presiding officer does not find a good cause for the party's late arrival.~~

26.14(7) If a party has not responded to a notice of telephone hearing by providing the appeals bureau with the names and telephone numbers of the persons who are participating in the hearing by the scheduled starting time of the hearing or is not available at the telephone number provided, the presiding officer may proceed with the hearing. If the appealing party fails to provide a telephone number or is unavailable for the hearing, the presiding officer may decide the appealing party is in default and dismiss the appeal as provided in Iowa Code section 17A.12(3). The record may be reopened if the absent party makes a request in writing to reopen the hearing under subrule 26.8(3) and shows good cause for reopening the hearing.

a. If an absent party responds to the hearing notice while the hearing is in progress, the presiding officer shall pause to admit the party, summarize the hearing to that point, administer the oath, and resume the hearing.

b. If a party responds to the notice of hearing after the record has been closed and any party which has participated is no longer on the telephone line, the presiding officer shall not take the evidence of the late party. ~~Instead, the presiding officer shall inquire ex parte as to why the party was late in responding to the notice of hearing. For good cause shown, the presiding officer shall reopen the record and cause further notice of hearing to be issued to all parties of record. The record shall not be reopened if the presiding officer does not find good cause for the party's late response to the notice of hearing.~~

c. Failure to read or follow the instructions on the notice of hearing shall not constitute good cause for reopening the record.

26.14(8) to 26.14(10) No change.

26.14(11) In the discretion of the presiding officer, witnesses may be excluded from the hearing room or telephone hearing until called to testify. The presiding officer shall admonish such witnesses not to discuss the case among themselves until after the record has been closed. All witnesses shall be subject to examination by the presiding officer and by all parties.

26.14(12) and 26.14(13) No change.

ITEM 7. Adopt the following new subrule 26.15(5):

26.15(5) Proposed exhibits should be sent to the appeals bureau and to the party or parties to the proceeding prior to the hearing by mail, fax, or e-mail.

ITEM 8. Amend subrule 26.17(1) as follows:

26.17(1) The presiding officer shall issue a written, signed decision as soon as practicable after the closing of the record in a contested case. Each decision shall:

a. Set forth the issues, appeal rights, a concise history of the case, findings of essential facts, the reasons for the decision and the actual disposition of the case;

b. Be based on the kind and quality of evidence upon which reasonably prudent persons customarily rely for the conduct of their serious affairs, even if none of such evidence would be admissible in a jury trial in the Iowa district court; and

c. Be sent by first-class mail or e-mail to each of the parties in interest and their representatives.

ARC 2827C

PHARMACY BOARD[657]

Adopted and Filed Emergency After Notice

Pursuant to the authority of Iowa Code section 147.76, the Pharmacy Board hereby amends Chapter 8, “Universal Practice Standards,” Iowa Administrative Code.

These amendments implement 2016 Iowa Acts, Senate File 2218, as amended by House File 2460, division XIV, which permits the possession and administration of opioid antagonist medications by certain eligible persons and allows the distribution of such medications by pharmacists pursuant to a standing order or collaborative agreement or pursuant to a prescription issued in the name of a law enforcement agency, fire department, or emergency medical service program. The amendments also remove the requirement for a pharmacy to include the address of a facility, school district, or accredited nonpublic school on the label of epinephrine dispensed to those entities.

Notice of Intended Action was published in the Iowa Administrative Bulletin as **ARC 2721C** on September 28, 2016.

The Board received two comments regarding these amendments. The Iowa Medical Society submitted a comment in support of the rule making. The Iowa Pharmacy Association submitted comments in support of the rule making but also suggested modifications specifically related to the reporting requirements. The Iowa Department of Public Health (Department) directly requires a pharmacy to submit the assessment form to the Department for the purpose of data analysis, and the Board worked collaboratively with the Department to determine the best means for submission of the data for the Department’s analysis. One nonsubstantive change was made in subrule 8.31(8) as a result of these comments, to make clear that the assessment form is provided by the Board.

These amendments also reflect the original language approved by the Board in its Notice of Intended Action with respect to an individual eligible to obtain an opioid antagonist pursuant to a standing order. The definition of “recipient” was added to provide clarity. The Board, on its own initiative, removed from subrule 8.31(2) the requirement for an authorized pharmacist to complete one hour of continuing education each license renewal period.

Pursuant to Iowa Code sections 17A.5(2)“b”(1)(b) and (c), the Pharmacy Board finds that the normal effective date of these amendments, 35 days after publication, should be waived and the amendments made effective November 3, 2016. The Board finds that opioid-related overdose constitutes a growing risk to the health and welfare of the people of Iowa. The immediate effectiveness of these amendments will allow first responders to combat imminent health emergencies. These amendments confer a benefit on the general public at risk of opioid-related overdose. The Board is unaware of any reason to delay the availability of this lifesaving medication. The Board will make reasonable efforts prior to indexing and publication to make affected parties aware of the effective date of these rules.

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

The Pharmacy Board adopted these amendments on November 2, 2016.

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

These amendments are intended to implement 2016 Iowa Acts, Senate File 2218, as amended by House File 2460, division XIV.

These amendments became effective November 3, 2016.

The following amendments are adopted.

ITEM 1. Amend subrule 8.19(1) as follows:

8.19(1) Requirements for a prescription. A valid prescription drug order shall be based on a valid patient-prescriber relationship except as provided in subrule 8.19(7) for epinephrine auto-injectors and in subrule 8.19(8) for opioid antagonists.

a. to d. No change.

PHARMACY BOARD[657](cont'd)

ITEM 2. Amend subrule 8.19(7) as follows:

8.19(7) *Epinephrine auto-injector prescription issued to school or facility.* A physician, an advanced registered nurse practitioner, or a physician assistant may issue a prescription for one or more epinephrine auto-injectors in the name of a facility as defined in Iowa Code subsection 135.185(1), a school district, or an accredited nonpublic school. The prescription shall comply with all requirements of subrule 8.19(1) as applicable to the form of the prescription except that the prescription shall be issued in the name and address of the facility, the school district, or the accredited nonpublic school in lieu of the name and address of a patient. Provisions requiring a preexisting patient-prescriber relationship shall not apply to a prescription issued pursuant to this subrule.

a. The pharmacy's patient profile and record of dispensing of a prescription issued pursuant to this subrule shall be maintained in the name of the facility, school district, or accredited nonpublic school to which the prescription was issued and the drug was dispensed.

b. The label affixed to an epinephrine auto-injector dispensed pursuant to this subrule shall identify the name ~~and address~~ of the facility, school district, or accredited nonpublic school to which the prescription is dispensed.

ITEM 3. Adopt the following **new** subrule 8.19(8):

8.19(8) *Opioid antagonist prescription issued to law enforcement, fire department, or service program.* A physician, an advanced registered nurse practitioner, or a physician assistant may issue a prescription for one or more opioid antagonists in the name of a law enforcement agency, fire department, or service program pursuant to Iowa Code section 147A.18 and rule 657—8.31(135,147A). The prescription shall comply with all requirements of subrule 8.19(1) as applicable to the form of the prescription except that the prescription shall be issued in the name and address of the law enforcement agency, fire department, or service program in lieu of the name and address of a patient. Provisions requiring a preexisting patient-prescriber relationship shall not apply to a prescription issued pursuant to this subrule.

a. The pharmacy's patient profile and record of dispensing of an opioid antagonist pursuant to this subrule shall be maintained in the name of the law enforcement agency, fire department, or service program to which the prescription was issued and the drug was dispensed.

b. The label affixed to an opioid antagonist dispensed pursuant to this subrule shall identify the name of the law enforcement agency, fire department, or service program to which the prescription is dispensed and shall be affixed such that the expiration date of the drug is not rendered illegible.

ITEM 4. Adopt the following **new** rule 657—8.31(135,147A):

657—8.31(135,147A) Opioid antagonist dispensing by pharmacists by standing order. An authorized pharmacist may dispense an opioid antagonist pursuant to a standing order established by the department, which standing order can be found via the board's Web site, or pursuant to a standing order authorized by an individual licensed health care professional in compliance with the requirements of this rule. An authorized pharmacist may only delegate the dispensing of an opioid antagonist to an authorized pharmacist-intern under the direct supervision of an authorized pharmacist. Nothing in this rule prohibits a prescriber or facility from establishing and implementing standing orders or protocols under the authority granted to the prescriber or facility.

8.31(1) Definitions. For the purposes of this rule, the following definitions shall apply:

"Authorized pharmacist" means an Iowa-licensed pharmacist who has completed the training requirements of this rule. "Authorized pharmacist" also includes an Iowa-registered pharmacist-intern who has completed the training requirements of this rule and is working under the direct supervision of an authorized Iowa-licensed pharmacist.

"Department" means the Iowa department of public health.

"First responder" means an emergency medical care provider, a registered nurse staffing an authorized service program under Iowa Code section 147A.12, a physician assistant staffing an authorized service program under Iowa Code section 147A.13, a fire fighter, or a peace officer as defined in Iowa Code section 801.4 who is trained and authorized to administer an opioid antagonist.

PHARMACY BOARD[657](cont'd)

“Licensed health care professional” means a person licensed under Iowa Code chapter 148 to practice medicine and surgery or osteopathic medicine and surgery, an advanced registered nurse practitioner licensed under Iowa Code chapter 152 or 152E and registered with the board of nursing, or a physician assistant licensed to practice under the supervision of a physician as authorized in Iowa Code chapters 147 and 148C.

“Opioid antagonist” means the same as defined in Iowa Code section 147A.1 as amended by 2016 Iowa Acts, Senate File 2218.

“Opioid-related overdose” means the same as defined in Iowa Code section 147A.1 as amended by 2016 Iowa Acts, Senate File 2218.

“Person in a position to assist” means a family member, friend, caregiver, health care provider, employee of a substance abuse treatment facility, or other person who may be in a position to render aid to a person at risk of experiencing an opioid-related overdose.

“Recipient” means an individual at risk of an opioid-related overdose or a person in a position to assist an individual at risk of an opioid-related overdose.

“Standing order” means a preauthorized medication order with specific instructions from the licensed health care professional to dispense a medication under clearly defined circumstances.

8.31(2) Authorized pharmacist training. An authorized pharmacist shall document successful completion of an ACPE-approved continuing education program of at least one-hour duration related to opioid antagonist utilization prior to dispensing opioid antagonists pursuant to a standing order.

8.31(3) Additional supply. Notwithstanding a standing order to the contrary, an authorized pharmacist shall only dispense an opioid antagonist after completing an eligibility assessment and providing training and education to the recipient.

8.31(4) Assessment. An authorized pharmacist shall assess an individual for eligibility to receive an opioid antagonist pursuant to a standing order. In addition to the criteria identified in a standing order, an authorized pharmacist shall also take into consideration the following criteria to determine the eligibility of the recipient to receive and possess an opioid antagonist:

a. The person at risk of an opioid-related overdose for which the opioid antagonist is intended to be administered has no known sensitivity or allergy to naloxone, unless the person at risk is not known to the recipient, including but not limited to a first responder or member of law enforcement.

b. The recipient is oriented to person, place, and time and able to understand and learn the essential components of opioid-related overdose, appropriate response, and opioid antagonist administration.

8.31(5) Recipient training and education. Upon assessment and determination that an individual is eligible to receive and possess an opioid antagonist pursuant to a standing order, an authorized pharmacist shall, prior to dispensing an opioid antagonist pursuant to a standing order, provide training and education to the recipient that includes, but is not limited to, the information identified in this subrule. An authorized pharmacist shall require the recipient to attest that, if the product will be accessible to any other individual for administration, the recipient will make available to such individual all received training and education materials. An authorized pharmacist may provide to the recipient written materials that include, but may not be limited to, the information identified in this subrule, but it shall not be in lieu of direct pharmacist consultation with the recipient.

a. The signs and symptoms of opioid-related overdose as described in the standing order.

b. The importance of calling 911 as soon as possible and the potential need for rescue breathing.

c. The appropriate use and directions for administration of the opioid antagonist to be dispensed pursuant to the standing order.

d. Adverse reactions of the opioid antagonist as well as reactions resulting from opioid withdrawal following administration.

e. The proper storage conditions, including temperature excursions, of the opioid antagonist being dispensed.

f. The expiration date of the opioid antagonist being dispensed and the appropriate disposal of the opioid antagonist upon expiration.

g. The prohibition of the recipient from further distributing the opioid antagonist to another individual, unless that individual has received appropriate training and education.

PHARMACY BOARD[657](cont'd)

h. Information about substance abuse or behavioral health treatment programs.

8.31(6) Labeling. Upon the determination that a recipient is eligible to receive and possess an opioid antagonist, an authorized pharmacist shall label the product pursuant to rule 657—6.10(126,155A) and subrule 8.19(8). An authorized pharmacist shall ensure that the labeling does not render the expiration date of the product illegible. The medication shall be dispensed in the name of the eligible recipient.

8.31(7) Reporting. A copy of the assessment form shall be submitted to the department as provided on the assessment form within seven days of the dispensing of the opioid antagonist or within seven days of a denial of eligibility.

8.31(8) Records. An authorized pharmacist shall create and maintain an original record of each individual assessment on forms provided by the board, regardless of the eligibility determination following assessment, and dispensing of opioid antagonists pursuant to a standing order. These records shall be available for inspection and copying by the board or its authorized agent for at least two years.

[Filed Emergency After Notice 11/2/16, effective 11/3/16]

[Published 11/23/16]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 11/23/16.

ARC 2816C

HUMAN SERVICES DEPARTMENT[441]

Adopted and Filed

Pursuant to the authority of Iowa Code section 225D.2(5)“b” and 2016 Iowa Acts, House File 2460, the Department of Human Services hereby amends Chapter 22, “Autism Support Program,” Iowa Administrative Code.

These amendments are adopted in accordance with legislative changes to Iowa Code chapter 225D and change program eligibility requirements in accordance with 2016 Iowa Acts, House File 2460. These amendments also clarify existing program eligibility requirements to ensure uniform application of the Autism Support Program.

Notice of Intended Action was published in the Iowa Administrative Bulletin on August 17, 2016, as **ARC 2680C**. The Department received one comment during the public comment period. The comment and the Department’s response are as follows:

Comment: The respondent expressed concern that the amendment to the definition of “autism service provider” restricts provider eligibility to board-certified behavior analysts, psychologists licensed under Iowa Code chapter 154B, and psychiatrists licensed under Iowa Code chapter 148 and no longer allows for the inclusion of health care professionals licensed under Iowa Code chapter 147. The respondent specifically suggested that the definition include board-certified developmental-behavioral pediatricians licensed under Iowa Code chapter 147 as eligible autism service providers.

Department response: The amendment to the definition of “autism service provider” was made to conform the administrative rule with Iowa Code section 225D.1(3). The Iowa Code section 225D.1(3) definition of “autism service provider” was amended by 2015 Iowa Acts, chapter 137, division X, section 69, to remove provider eligibility for health professionals licensed under Iowa Code chapter 147 because that eligibility category was determined to be overly broad. The Department does not have the authority to selectively expand the statutory definition. No change was made to the proposed administrative rule.

One change from the Notice has been made. The word “or” was changed to “and” in paragraph 22.6(1)“c” to indicate that, to be approved as a provider for this program, a provider must meet one of the requirements in 22.6(1)“a,” “b,” or “c” and that all providers must meet the requirements in 22.6(1)“d.”

These amendments were adopted by the Mental Health and Disability Services Commission on October 20, 2016.

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 225D.2 and 2016 Iowa Acts, House File 2460.

These amendments shall become effective January 1, 2017.

The following amendments are adopted.

ITEM 1. Amend rule **441—22.1(225D)**, definitions of “Autism service provider” and “Household income,” as follows:

“*Autism service provider*” means a person providing applied behavioral analysis, who meets both of 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. The person:~~

- Is certified as a behavior analyst by the Behavior Analyst Certification Board, is a psychologist licensed under Iowa Code chapter 154B, or is a psychiatrist licensed under Iowa Code chapter 148; or
- Is a board-certified assistant behavior analyst who performs duties, identified by and based on the standards of the Behavior Analyst Certification Board, under the supervision of a board-certified behavior analyst.

2. Is approved as a member of the provider network by the department.

HUMAN SERVICES DEPARTMENT[441](cont'd)

“Household income” means household income, reported on the tax return on which the eligible individual is claimed as a dependent, 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. If the eligible individual’s parents live together and file separate tax returns, the income reported on both parents’ tax returns must be combined.

ITEM 2. Adopt the following **new** definition of “Household size” in rule **441—22.1(225D)**:

“Household size” means the total number of personal and dependent exemptions claimed on the tax return on which the eligible individual is claimed as a dependent plus any child under the age of 19 living in the household who is claimed for tax purposes by a noncustodial parent through a release of claim to exemption by the custodial parent.

ITEM 3. Amend rule 441—22.2(225D) as follows:

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~~ department 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~~ 14 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~~ 14 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) No change.

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 and shall include a written denial of coverage or a benefits summary indicating that the applied behavioral analysis treatment is not a covered benefit for which the applicant is eligible under the Medicaid program, Iowa Code section 514C.28, or private insurance coverage.

22.2(5) An individual shall have a household income equal to or less than ~~400~~ 500 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. Household size will be determined according to the standards in this chapter. The information shall be provided at the time of application.

22.2(6) The ~~administrator~~ department 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~~ department 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.

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. The department shall provide information to an applicant determined to be an eligible individual regarding all available administrators. The eligible individual may choose any available administrator.~~

HUMAN SERVICES DEPARTMENT[441](cont'd)

~~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. The administrator shall maintain a list of individuals determined eligible for the program but unable to access services due to lack of available providers and shall work to connect eligible individuals on the list to network providers.~~

22.2(10) The department 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 department shall maintain a waiting list of individuals denied access to the program due to lack of available funds. If additional funds become available, the department 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.

ITEM 4. Amend rule 441—22.3(225D) as follows:

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 400 500 percent of the federal poverty level, shall be subject to cost-sharing requirements. Cost sharing shall be implemented incrementally up to a maximum of ~~40~~ 15 percent of the costs of the services provided through the program for an individual with a household income equal to 400 500 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%		

HUMAN SERVICES DEPARTMENT[441](cont'd)

<u>Family income as a % of FPL</u>	<u>% of cost sharing of service costs</u>	<u>Family income as a % of FPL</u>	<u>% of cost sharing of service costs</u>
<u>200–209%</u>	<u>0.5%</u>	<u>350–359%</u>	<u>8.0%</u>
<u>210–219%</u>	<u>1.0%</u>	<u>360–369%</u>	<u>8.5%</u>
<u>220–229%</u>	<u>1.5%</u>	<u>370–379%</u>	<u>9.0%</u>
<u>230–239%</u>	<u>2.0%</u>	<u>380–389%</u>	<u>9.5%</u>
<u>240–249%</u>	<u>2.5%</u>	<u>390–399%</u>	<u>10.0%</u>
<u>250–259%</u>	<u>3.0%</u>	<u>400–409%</u>	<u>10.5%</u>
<u>260–269%</u>	<u>3.5%</u>	<u>410–419%</u>	<u>11.0%</u>
<u>270–279%</u>	<u>4.0%</u>	<u>420–429%</u>	<u>11.5%</u>
<u>280–289%</u>	<u>4.5%</u>	<u>430–439%</u>	<u>12.0%</u>
<u>290–299%</u>	<u>5.0%</u>	<u>440–449%</u>	<u>12.5%</u>
<u>300–309%</u>	<u>5.5%</u>	<u>450–459%</u>	<u>13.0%</u>
<u>310–319%</u>	<u>6.0%</u>	<u>460–469%</u>	<u>13.5%</u>
<u>320–329%</u>	<u>6.5%</u>	<u>470–479%</u>	<u>14.0%</u>
<u>330–339%</u>	<u>7.0%</u>	<u>480–489%</u>	<u>14.5%</u>
<u>340–349%</u>	<u>7.5%</u>	<u>490–500%</u>	<u>15.0%</u>

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~~ department 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~~ department 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.

ITEM 5. Amend rule 441—22.4(225D) as follows:

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

22.4(1) and **22.4(2)** No change.

22.4(3) The ~~administrator~~ department 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~~ department by the last working day of the renewal month, the individual's eligibility for the program shall be terminated.

22.4(5) No change.

ITEM 6. Amend subrule 22.5(5) as follows:

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~~ board-certified behavior analyst and which services shall be provided by staff under the supervision of ~~the autism service provider~~ a board-certified behavior analyst.

HUMAN SERVICES DEPARTMENT[441](cont'd)

ITEM 7. Amend rule 441—22.6(225D) as follows:

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.

22.6(1) A provider shall be approved to participate in the autism support program provider network if the provider meets one of the following standards in paragraph 22.6(1) “a,” “b” or “c”:

- a. No change.
- 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) psychologist licensed under Iowa Code chapter 154B; or~~
- c. The autism service provider is a psychiatrist licensed under Iowa Code chapter 148; and
- ~~e. d.~~ 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” or “c” and the provider is approved to provide applied behavioral analysis services through Medicaid.

22.6(2) No change.

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

22.6(4) No change.

ITEM 8. Rescind rule 441—22.7(225D) and adopt the following **new** rule in lieu thereof:

441—22.7(225D) Financial management of the program.

22.7(1) The department shall:

- a. Not take new applications for the program that would cause expenditures of the program to exceed the budgeted amount.
- b. Limit expenditure of program funds to services for those individuals determined to be eligible individuals and for related administrative costs.
- c. 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.

22.7(2) The administrator shall:

- a. Limit annual expenditures for each eligible individual to the amount identified in Iowa Code section 225D.2(2) “a.”
- b. Limit length of service through the program to the amount identified in Iowa Code section 225D.2(2) “b.”
- c. 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.
- d. 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.
- e. Not provide financial compensation to the University of Iowa regional autism assistance program for care coordination services.

[Filed 10/21/16, effective 1/1/17]

[Published 11/23/16]

EDITOR’S NOTE: For replacement pages for IAC, see IAC Supplement 11/23/16.

ARC 2826C**INSURANCE DIVISION[191]****Adopted and Filed**

Pursuant to the authority of Iowa Code section 523D.10, the Insurance Division (the Division) hereby rescinds Chapter 24, “Iowa Retirement Facilities,” and adopts new Chapter 102, “Iowa Retirement Facilities,” Iowa Administrative Code.

The adopted Chapter 102 implements Iowa Code chapter 523D. The rescinded Chapter 24 was reviewed according to Iowa Code section 17A.7(2), and new Chapter 102 updates provisions from rescinded Chapter 24, including, among other things, procedures to allow for more electronic administration of Iowa Code chapter 523D and the associated rules.

Notice of Intended Action was published in the Iowa Administrative Bulletin on September 28, 2016, as **ARC 2724C**. A public hearing was held on October 18, 2016, and written comments were accepted through that date. No one attended the public hearing, but one letter of comments was received.

The comment letter suggested replacing the term “certified financial statements” with “audited financial statements,” both in the definition of the term in subrule 102.2(1) and elsewhere in the rule. The term “certified financial statements” is used in Iowa Code section 523D.3(1)“i,” and the term is used in new Chapter 102 specifically as it relates to Iowa Code section 523D.3(1)“i.” Therefore, the Division declined to make the suggested change.

The comment letter also suggested deleting “and practices” from the end of proposed subrule 102.5(1), and the Division made that change in this adopted version of new Chapter 102. Except for that change, these amendments are identical to those published under Notice.

These amendments are subject to waiver consistent with the waiver provisions provided at 191—Chapter 4.

These rules will impose no fiscal impact on the State.

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

These amendments are intended to implement Iowa Code chapter 523D.

These amendments shall become effective December 28, 2016.

The following amendments are adopted.

ITEM 1. Rescind and reserve **191—Chapter 24**.

ITEM 2. Adopt the following **new** 191—Chapter 102:

CHAPTER 102
IOWA RETIREMENT FACILITIES

191—102.1(523D) Purpose and applicability. This chapter is promulgated to implement and administer Iowa Code chapter 523D, which regulates senior adult congregate living facilities and continuing care retirement communities. This chapter applies to entities of the same kind and in the same manner as set forth in Iowa Code section 523D.2.

191—102.2(523D) Definitions.

102.2(1) Definitions of terms found in Iowa Code chapter 523D and this chapter: The definitions in Iowa Code chapter 523D are incorporated by this reference. In addition, the following definition shall apply to this chapter and shall provide clarification and additional context to Iowa Code chapter 523D.

“*Certified financial statements,*” as used in this chapter and in Iowa Code section 523D.3(1)“i,” means financial statements audited and certified by a certified public accountant in accordance with generally accepted auditing standards.

102.2(2) Definitions of terms used in Iowa Code chapter 523D. The following terms, which are used in Iowa Code chapter 523D, are defined here to provide clarification and additional context.

“*Actuarial forecast,*” as used in Iowa Code section 523D.5(1)“f,” means an analysis which is performed by a qualified actuary or an individual who has demonstrated to the satisfaction of

INSURANCE DIVISION[191](cont'd)

the commissioner the necessary experience and educational background. Such analysis shall be in accordance with generally accepted actuarial principles and practices and shall include a statement of actuarial opinion, an actuarial balance sheet, a cash flow projection, and a statement of applicable actuarial methodology, formulas, and assumptions. "Qualified actuary" means an individual who is a member of the American Academy of Actuaries.

"*Financial institution*," as used in Iowa Code section 523D.5(4), means: a state or federally insured bank, savings bank, savings and loan association, or credit union; or a trust company authorized to do business in the state of Iowa.

"*Statement of financial feasibility*," as used in Iowa Code section 523D.5(1) "d," means a financial forecast, as defined by the American Institute of Certified Public Accountants (AICPA), of the revenues, expenses, working capital needs, and other financial requirements for the new or expanded facility or an alternative financial study in a form acceptable to the insurance division. The forecast period should include the development or expansion period and extend for five fiscal years from the date of initial occupancy. Unless waived by the commissioner, the statement of financial feasibility shall include a cash flow forecast with underlying assumptions and be presented in accordance with AICPA guidelines. The financial analysis shall be prepared by either a qualified actuary, a certified public accountant, or an individual who has demonstrated to the satisfaction of the commissioner the necessary experience and educational background. "Qualified actuary" means an individual who is a member of the American Academy of Actuaries. "Certified public accountant" means a person who is licensed as a certified public accountant under Iowa Code chapter 542 or under the laws of another state.

"*Statement of the market feasibility*" as used in Iowa Code section 523D.5(1) "e," means an analysis of the market conditions which:

1. Identifies and evaluates the potential market, including a demographic and economic profile of the population in the facility's market area;
2. Identifies the existing or proposed facilities or similar businesses offering similar services in the potential market area, including, if available, the occupancy rate for existing facilities for the last three years; and
3. Identifies the name and address of the person who prepared the feasibility study and the experience of the person in preparing similar studies or otherwise consulting in the field of continuing care or related health care fields.

191—102.3(523D) Forms and filings.

102.3(1) Copies of all required forms and instructions are available on the commissioner's Web site, www.iid.iowa.gov.

102.3(2) All filings, fees and payments shall be made as directed by the commissioner. Instructions are available at the commissioner's Web site, www.iid.iowa.gov.

191—102.4(523D) Standards for the disclosure statement.

102.4(1) Readability. Documents required by Iowa Code sections 523D.3, 523D.5 and 523D.6 to be given to residents, prospective residents, and personal representatives, including disclosure statements and residents' contracts, shall be drafted in accordance with the following standards:

- a. The language used shall be readable by a person of average intelligence and education.
- b. All information presented should be conveyed in a logical sequence and in a clear and direct fashion.
- c. Complex and compound sentences should be avoided.
- d. Words should convey their commonly understood meanings.
- e. Definitions shall be included for words or terms which cannot properly be explained or qualified in the text.
- f. Frequent section headings should be used to permit ease in locating provisions.
- g. Documents shall be printed in a typeface and a point size easily legible to the audience to whom the literature is directed. An upright typeface with at least 10-point type should be used.

INSURANCE DIVISION[191](cont'd)

102.4(2) Form. Documents shall be typed or printed on paper measuring 8½ by 11 inches. The disclosure statement shall be bound or otherwise securely fastened.

102.4(3) Cover page. The cover page of the disclosure statement shall state, in a prominent location and in boldface type, “Disclosure Statement,” the date of the disclosure statement, and that the delivery of the disclosure statement to a contracting party before the execution of a contract for the provision of supportive services or continuing care is required by Iowa Code chapter 523D, but that the disclosure statement has not been approved by any government agency or representative.

102.4(4) Table of contents. Multipaged documents shall contain a table of contents giving a comprehensive listing of all section headings used in the document. If the table of contents does not appear at the beginning of the document, the location of the table of contents shall be noted on the first page.

102.4(5) Acknowledgment. The last page of the disclosure statement shall consist of a detachable “acknowledgment of receipt” which shall be signed and dated by the resident. A copy of the acknowledgment shall be kept on file in the office of the provider for at least one year from the date of the acknowledgment.

102.4(6) Advertising. The disclosure statement shall contain no sales or advertising materials. Sales or advertising materials may be attached to the disclosure statement or packaged with the disclosure statement if the manner of attachment or packaging does not obfuscate the cover page of the disclosure statement.

191—102.5(523D) Certified financial statements, studies, and forecasts.

102.5(1) Certified financial statements, as required by Iowa Code section 523D.3(1) “i,” shall be prepared in accordance with generally accepted accounting principles (GAAP).

102.5(2) Certified financial statements shall be presented in a format that allows financial analysis of the contracting party undertaking to provide the continuing care. The contracting party may consist of an individual facility or numerous operating units. In some cases, where the financial condition and financial obligations of affiliated legal entities are relevant to the financial condition of the contracting party, preparation on a consolidated basis may be necessary. Certified financial statements shall provide sufficient financial disclosure to the continuing care resident to enable the resident to make an informed decision.

102.5(3) Studies or forecasts must disclose the basic assumptions used.

102.5(4) The following certified financial statements must be filed with the annual disclosure statement:

- a. An income statement or a statement of revenues and expenses;
- b. A statement of changes in equity or changes in fund balances;
- c. A balance sheet; and
- d. A statement of cash flow.

191—102.6(523D) Amendments to the disclosure statement. Changes in the operations of a provider or licensed facility which shall require an amendment to a disclosure statement include, but are not limited to, the following:

102.6(1) New or additional mortgages, security interests, loan commitments, long-term financing arrangements, or leases that materially affect the real property of the licensed facility unless the material terms of such transactions were specifically described as proposed transactions in the disclosure statement.

102.6(2) The sale of the licensed facility to a new provider.

102.6(3) Changes in the provider’s tax status.

102.6(4) A material change in the form of the resident contract.

191—102.7(523D) Records.

102.7(1) A licensed facility or provider shall keep accurate accounts, books and records concerning transactions regulated under Iowa Code chapter 523D.

INSURANCE DIVISION[191](cont'd)

102.7(2) A licensed facility's or provider's accounts, books and records shall include:

- a. Copies of all contracts;
- b. The name and address of each resident, prospective resident, or current or past contract holder;
- c. Copies of disclosure statements, any amendments thereto, and any supporting documentation for the information included in the disclosure statements and annual disclosure statements pursuant to Iowa Code section 523D.3;
- d. Copies of documents related to new construction as required by Iowa Code section 523D.5; and
- e. The dates and amounts of all receipts and expenditures.

102.7(3) A licensed facility or provider shall retain all required accounts, books and records pertaining to each resident or prospective resident contract for at least two years after the expiration of the specified period of time in the contract or for five years if required by Iowa Code section 523D.3(3).

102.7(4) A licensed facility or provider shall make all accounts, books and records concerning transactions regulated under Iowa Code chapter 523D available to the commissioner for the purpose of examination.

102.7(5) A licensed facility or provider discontinuing business in this state shall maintain its records until it furnishes the commissioner with proof satisfactory to the commissioner that the licensed facility or provider has discharged all obligations to contract holders in this state.

191—102.8(523D) Misrepresentations. A licensed facility or provider shall not represent or imply in any manner that the licensed facility or provider has been sponsored, recommended, or approved or that the licensed facility's or provider's abilities or qualifications have in any respect been passed upon by the commissioner, the Iowa insurance division, or the state of Iowa. Nonetheless, if the statements are factually correct, a licensed facility or provider may state that the licensed facility or provider has filed with the Iowa insurance division an annual certification in accordance with Iowa Code section 523D.2A.

191—102.9(523D) Violations. Failure to comply with this chapter or with Iowa Code chapter 523D shall be deemed a violation which shall subject a person or entity to the procedures and penalties set forth in Iowa Code chapter 523D.

These rules are intended to implement Iowa Code chapter 523D.

[Filed 11/2/16, effective 12/28/16]

[Published 11/23/16]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 11/23/16.

ARC 2829C

REVENUE DEPARTMENT[701]

Adopted and Filed

Pursuant to the authority of Iowa Code section 422.68, the Department of Revenue hereby amends Chapter 42, "Adjustments to Computed Tax and Tax Credits," Chapter 52, "Filing Returns, Payment of Tax, Penalty and Interest, and Tax Credits," and Chapter 58, "Filing Returns, Payment of Tax, Penalty and Interest, and Tax Credits," Iowa Administrative Code.

As part of the Department's review of its treatment of income taxes in light of the United States Supreme Court's decision in *Comptroller of Treasury of Maryland v. Wynne*, 135 S. Ct. 1787 (2015), the Department discovered an inconsistency in the administrative rules regarding the calculation of the alternative minimum tax (AMT) credit. The maximum Iowa AMT credit that can be claimed each year is the difference between the regular tax liability and the tentative AMT for the current tax year. However, due to a holdover from past practices, the examples for the calculation of the AMT credit suggest that regular tax liability "less credits" must be used in determining the maximum AMT credit that can be claimed. The forms used for individual income, corporate income, fiduciary income, and franchise taxes all rely on the language in the example. As a result, taxpayers with other nonrefundable tax credits may

REVENUE DEPARTMENT[701](cont'd)

have been directed to reduce their AMT credit lower than necessary. These amendments correct these examples by removing references to using the regular tax “less credits” to calculate the allowable AMT credit for a year, bringing the rules up to date with the current law.

Notice of Intended Action was published in the Iowa Administrative Bulletin as **ARC 2737C** on September 28, 2016. No public comments were received in relation to this rule making. These amendments are identical to those published under Notice of Intended Action.

Any person who believes that the application of the discretionary provisions of these rules would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to rule 701—7.28(17A).

The Department of Revenue adopted these amendments on November 2, 2016.

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

These amendments are intended to implement Iowa Code sections 422.11B, 422.33, and 422.60.

These amendments will become effective January 1, 2017.

The following amendments are adopted.

ITEM 1. Amend rule 701—42.10(422) as follows:

701—42.10(422) Alternative minimum tax credit for minimum tax paid in a prior tax year. Minimum tax paid in prior tax years commencing with tax years beginning on or after January 1, 1987, by a taxpayer can be claimed as a tax credit against the taxpayer’s regular income tax liability in a subsequent tax year. Therefore, 1988 is the first tax year that the minimum tax credit is available, and the credit is based on the minimum tax paid by the taxpayer for 1987. The minimum tax credit may only be used against regular income tax for a tax year to the extent that the regular tax is greater than the minimum tax for the tax year. If the minimum tax credit is not used against the regular tax for a tax year, the remaining credit is carried over to the following tax year to be applied against the regular income tax liability for that period. The minimum tax credit is computed on Form IA 8801.

42.10(1) Examples of computation of the minimum tax credit and carryover of the credit.

EXAMPLE 1. The taxpayers reported \$5,000 of minimum tax for 2007. For 2008, the taxpayers reported regular tax ~~less credits~~ of \$8,000, and the minimum tax liability is \$6,000. The minimum tax credit is \$2,000 for 2008 because, although the taxpayers had an \$8,000 regular tax liability, the credit is allowed only to the extent that the regular tax exceeds the minimum tax. Since only \$2,000 of the carryover credit from 2007 was used, there is a \$3,000 minimum tax carryover credit to 2009.

EXAMPLE 2. The taxpayers reported \$2,500 of minimum tax for 2007. For 2008, the taxpayers reported regular tax ~~less credits~~ of \$8,000, and the minimum tax liability is \$5,000. The minimum tax credit is \$2,500 for 2008 because, although the regular tax ~~less credits~~ exceeded the minimum tax by \$3,000, the credit is allowed only to the extent of minimum tax paid for prior tax years. There is no minimum tax carryover credit to 2009.

42.10(2) Minimum tax credit for nonresidents and part-year residents. Nonresident and part-year resident taxpayers who paid Iowa minimum tax in tax years beginning on or after January 1, 1987, are eligible for the minimum tax credit to the extent that the minimum tax they paid was attributable to tax preferences and adjustments. Therefore, if a nonresident or part-year resident taxpayer had Iowa source tax preferences or adjustments, then all the minimum tax that was paid would qualify for the minimum tax credit.

The minimum tax credit for a tax year as computed above applies to the regular income tax liability ~~less credits including~~ the nonresident part-year credit to the extent this regular tax amount exceeds the minimum tax for the tax year. To the extent the credit is not used, the credit can be carried over to the next tax year.

This rule is intended to implement Iowa Code section 422.11B.

ITEM 2. Amend subrule 52.5(4) as follows:

52.5(4) Alternative minimum tax credit for minimum tax paid in a prior tax year. Minimum tax paid by a taxpayer in prior tax years commencing with tax years beginning on or after January 1, 1987, can be claimed as a tax credit against the taxpayer’s regular income tax liability in a subsequent tax year.

REVENUE DEPARTMENT[701](cont'd)

Therefore, 1988 is the first tax year that the minimum tax credit is available for use, and the credit is based on the minimum tax paid by the taxpayer for 1987. The minimum tax credit may only be used against regular income tax for a tax year to the extent that the regular tax is greater than the minimum tax for the tax year. If the minimum tax credit is not used up against the regular tax for a tax year, the remaining credit is carried to the following tax year to be applied against the regular income tax liability for that period.

a. Computation of minimum tax credit on Schedule IA 8827. The minimum tax credit is computed on Schedule IA 8827 from information on Schedule IA 4626 for prior tax years, from Form IA 1120 and Schedule IA 4626 for the current year and from Schedule IA 8827 for prior tax years.

b. Examples of computation of the minimum tax credit and carryover of the credit.

EXAMPLE 1. Taxpayer reported \$5,000 of minimum tax for 2007. For 2008, taxpayer reported regular tax ~~less credits~~ of \$8,000 and the minimum tax liability is \$6,000. The minimum tax credit is \$2,000 for 2008 because, although the taxpayer had an \$8,000 regular tax liability, the credit is allowed only to the extent that the regular tax exceeds the minimum tax. Since only \$2,000 of the carryover credit from 2007 was used, there is a ~~\$2,000~~ \$3,000 minimum tax carryover credit to 2009.

EXAMPLE 2. Taxpayer reported \$2,500 of minimum tax for 2007. For 2008, taxpayer reported regular tax ~~less credits~~ of \$8,000 and the minimum tax liability is \$5,000. The minimum tax credit is \$2,500 for 2008 because, although the regular tax ~~less credits~~ exceeded the minimum tax by \$3,000, the credit is allowed only to the extent of minimum tax paid for prior tax years. There is no minimum tax carryover credit to 2009.

c. Computation of the minimum tax credit attributable to a member leaving an affiliated group filing a consolidated Iowa corporation income tax return. The amount of minimum tax credit available for carryforward attributable to a member of a consolidated Iowa income tax return shall be computed as follows: The consolidated minimum tax credit available for carryforward from each tax year is multiplied by a fraction, the numerator of which is the separate member's tax preferences and adjustments for the tax year and the denominator of which is the total tax preferences and adjustments of all members of the consolidated Iowa income tax return for the tax year.

d. Computation of the amount of minimum tax credit which may be used by a new member of a consolidated Iowa corporation income tax return. The amount of minimum tax credit carryforward which may be used by a new member of a consolidated Iowa income tax return is limited to the separate member's contribution to the amount by which the regular income tax ~~less credits~~ set forth in Iowa Code section 422.33 exceeds the tentative minimum tax.

The separate member's contribution to the amount by which the regular income tax ~~less nonrefundable credits~~ exceeds the tentative minimum tax shall be computed as follows:

$$\frac{[\frac{A}{B} \times C + D]}{E} \times F = \text{Separate member's contribution to the amount by which regular income tax less credits set forth in section 422.33 exceeds the tentative minimum tax.}$$

A = Separate corporation gross sales within Iowa after elimination of all intercompany transactions.

B = Consolidated gross sales within and without Iowa after elimination of all intercompany transactions.

C = Iowa consolidated income subject to apportionment.

D = Separate corporation income allocable to Iowa.

E = Iowa consolidated income subject to tax.

F = The amount by which the regular income tax ~~less credits~~ set forth in Iowa Code section 422.33 exceeds the tentative minimum tax.

e. Minimum tax credit after merger. When two or more corporations merge or consolidate into one corporation, the minimum tax credit of the merged or consolidated corporations is available for use by the survivor of the merger or consolidation.

REVENUE DEPARTMENT[701](cont'd)

ITEM 3. Amend subrule 58.5(4) as follows:

58.5(4) Alternative minimum tax credit for minimum tax paid in a prior tax year. Minimum tax paid in prior tax years commencing with tax years beginning on or after January 1, 1987, by a taxpayer can be claimed as a tax credit against the taxpayer's regular income tax liability in a subsequent tax year. Therefore, 1988 is the first tax year that the minimum tax credit is available for use, and the credit is based on the minimum tax paid by the taxpayer for 1987. The minimum tax credit may only be used against regular income tax for a tax year to the extent that the regular tax is greater than the tentative minimum tax for the tax year. If the minimum tax credit is not used up against the regular tax for a tax year, the remaining credit is carried to the following tax year to be applied against the regular income tax liability for that period.

a. Computation of minimum tax credit on Schedule IA 8827F. The minimum tax credit is computed on Schedule IA 8827F from information on Schedule IA 4626F for prior tax years, Form IA 1120F and Schedule IA 4626F for the current year and from Schedule IA 8827F for prior tax years.

b. Examples of computation of the minimum tax credit and carryover of the credit.

EXAMPLE 1. Taxpayer reported \$5,000 of minimum tax for 2011. For 2012, taxpayer reported regular tax less credits of \$8,000, and the minimum tax liability is \$6,000. The minimum tax credit is \$2,000 for 2012 because, although the taxpayer had an \$8,000 regular tax liability, the credit is allowed only to the extent that the regular tax exceeds the minimum tax. Since only \$2,000 of the carryover credit from 2011 was used, there is a ~~\$2,000~~ \$3,000 minimum tax carryover credit to 2013.

EXAMPLE 2. Taxpayer reported \$2,500 of minimum tax for 2011. For 2012, taxpayer reported regular tax less credits of \$8,000, and the minimum tax liability is \$5,000. The minimum tax credit is \$2,500 for 2012 because, although the regular tax less credits exceeded the minimum tax by \$3,000, the credit is allowed only to the extent of minimum tax paid for prior tax years. There is no minimum tax carryover credit to 2013.

c. Minimum tax credit after merger. When two or more financial institutions merge or consolidate into one financial organization, the minimum tax credit of the merged or consolidated operation is available for use by the survivor of the merger or consolidation.

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