



# IOWA ADMINISTRATIVE BULLETIN

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## CONTENTS IN THIS ISSUE

Pages 884 to 923 include **ARC 1734C** to **ARC 1744C**

### ADMINISTRATIVE SERVICES

#### DEPARTMENT[11]

Notice, Offset of debts owed state  
agencies, 40.1 to 40.16 **ARC 1742C** ..... 884

### AGENDA

Administrative rules review committee ..... 879

### ALL AGENCIES

Agency identification numbers ..... 882  
Citation of administrative rules. .... 877  
Schedule for rule making. .... 878

### DELAY

Education Department[281] School  
bus driver's authorization—physical  
fitness, 43.15 ..... 924

### EDUCATION DEPARTMENT[281]

Delay, School bus driver's  
authorization—physical fitness,  
43.15 ..... 924

### HUMAN SERVICES DEPARTMENT[441]

Notice, Child development  
homes—emergency contact  
information, 110.5(1)"a" **ARC 1738C** ..... 891  
Notice, Child development  
homes—safety standards for pools,  
110.5(1)"r" **ARC 1739C** ..... 892

### INSPECTIONS AND APPEALS

#### DEPARTMENT[481]

Filed, Subacute mental health care  
facilities, ch 71 **ARC 1740C** ..... 905

### NURSING BOARD[655]

PUBLIC HEALTH DEPARTMENT[641]"umbrella"

Notice, Military service and veteran  
reciprocity, ch 18 **ARC 1737C** ..... 893

### PROFESSIONAL LICENSING AND

#### REGULATION BUREAU[193]

COMMERCE DEPARTMENT[181]"umbrella"

Filed, Military service and veteran  
reciprocity, ch 14 **ARC 1734C** ..... 918

### PROFESSIONAL LICENSURE DIVISION[645]

PUBLIC HEALTH DEPARTMENT[641]"umbrella"

Notice, Physician assistants—on-site  
visits by supervising physician,  
327.4(2) **ARC 1741C** ..... 896

### PUBLIC HEARINGS

Summarized list ..... 881

### REGENTS BOARD[681]

Notice, Application fees for  
graduate/professional students at  
University of Northern Iowa, 1.7 **ARC 1743C** ... 897

### REVENUE DEPARTMENT[701]

Filed, Individual income, corporation  
income and franchise taxes; workforce  
housing tax incentives program,  
amendments to chs 12, 42, 46, 52, 58  
**ARC 1744C** ..... 921

### SECRETARY OF STATE[721]

Notice, Election forms and  
instructions—cross-reference updates,  
amendments to ch 21 **ARC 1735C** ..... 898

**TRANSPORTATION DEPARTMENT[761]**

Notice, Retention of contested case  
records, 13.10 **ARC 1736C** . . . . . 903

**TREASURER OF STATE**

Notice—Public funds interest rates . . . . . 904

## PREFACE

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

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

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

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

STEPHANIE A. HOFF, Administrative Code Editor

Telephone: (515)281-3355

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## CITATION of Administrative Rules

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

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

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

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

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

## Schedule for Rule Making 2014

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

### PRINTING SCHEDULE FOR IAB

<u>ISSUE NUMBER</u>	<u>SUBMISSION DEADLINE</u>	<u>ISSUE DATE</u>
13	Wednesday, December 3, 2014	December 24, 2014
14	Wednesday, December 17, 2014	January 7, 2015
15	Friday, January 2, 2015	January 21, 2015

**PLEASE NOTE:**

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

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

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

The Administrative Rules Review Committee will hold its regular, statutory meeting on Friday, December 12, 2014, at 9 a.m. in Room 22, State Capitol, Des Moines, Iowa. The following rules will be reviewed:

#### **ADMINISTRATIVE SERVICES DEPARTMENT[11]**

Offset of debts owed state agencies, 40.1 to 40.16 Notice **ARC 1742C** ..... 11/26/14

#### **EDUCATIONAL EXAMINERS BOARD[282]**

EDUCATION DEPARTMENT[281]"umbrella"

Military exchange license—military education, training, and service credit, 13.17(4)

Notice **ARC 1723C** ..... 11/12/14

Substitute authorization—elementary classroom, 22.2 Filed **ARC 1720C** ..... 11/12/14

School business official authorization—validity, 22.3(6) Filed **ARC 1719C** ..... 11/12/14

Native language teaching authorization, 22.6 to 22.8 Filed **ARC 1721C** ..... 11/12/14

Montessori authorization, 22.9 Notice of Termination **ARC 1717C** ..... 11/12/14

Activities administration authorization, 22.10 Filed **ARC 1718C** ..... 11/12/14

#### **HOMELAND SECURITY AND EMERGENCY MANAGEMENT DEPARTMENT[605]**

Mass notification and emergency messaging system, ch 15

Notice **ARC 1713C**, also Filed **Emergency** **ARC 1712C** ..... 11/12/14

#### **HUMAN SERVICES DEPARTMENT[441]**

Mental disorders—diagnostic manual references updated, 78.12, 78.45(1), 88.65(5)

Notice **ARC 1729C** ..... 11/12/14

Child development homes—emergency contact information, 110.5(1)"a" Notice **ARC 1738C** ..... 11/26/14

Child development homes—safety standards for pools, 110.5(1)"r" Notice **ARC 1739C** ..... 11/26/14

#### **INSPECTIONS AND APPEALS DEPARTMENT[481]**

Indigent defense claims processing, rescind ch 9 Notice **ARC 1727C** ..... 11/12/14

Subacute mental health care facilities, ch 71 Filed **ARC 1740C** ..... 11/26/14

#### **IOWA FINANCE AUTHORITY[265]**

Mortgage credit certificates—fees, 10.2, 10.4 Notice **ARC 1724C** ..... 11/12/14

#### **NURSING BOARD[655]**

PUBLIC HEALTH DEPARTMENT[641]"umbrella"

Military service and veteran reciprocity, ch 18 Notice **ARC 1737C** ..... 11/26/14

#### **PROFESSIONAL LICENSING AND REGULATION BUREAU[193]**

COMMERCE DEPARTMENT[181]"umbrella"

Military service and veteran reciprocity, ch 14 Filed **ARC 1734C** ..... 11/26/14

#### **PROFESSIONAL LICENSURE DIVISION[645]**

PUBLIC HEALTH DEPARTMENT[641]"umbrella"

Psychologists—provisional licensure, 5.16, 240.1, 240.5(3), 240.6(1), 240.12 to 240.15,

240.18, 240.19, 241.3(2) Notice **ARC 1730C** ..... 11/12/14

Dietitians—updates to organization names and terminology, 81.5, 81.6, 83.2(1) Notice **ARC 1728C** ..... 11/12/14

Physician assistants—on-site visits by supervising physician, 327.4(2) Notice **ARC 1741C** ..... 11/26/14

#### **PUBLIC SAFETY DEPARTMENT[661]**

Fire safety—liquefied petroleum gas standards, 226.1, 226.4, 226.5, 226.8, 226.9 Notice **ARC 1722C** ..... 11/12/14

Electrical installations—adoption by reference of 2014 edition of national electrical code

with specified exceptions, 504.1 Filed **ARC 1715C** ..... 11/12/14

Military service and veteran reciprocity, ch 506 Notice **ARC 1725C** ..... 11/12/14

#### **REAL ESTATE APPRAISER EXAMINING BOARD[193F]**

Professional Licensing and Regulation Bureau[193]

COMMERCE DEPARTMENT[181]"umbrella"

Uniform appraisal standards and appraiser certification requirements, amendments to chs 3

to 6 Filed **ARC 1731C** ..... 11/12/14

Certification and registration renewal, reactivation and reinstatement; continuing education;

supervisory appraiser qualifications, amendments to chs 9, 11, 15 Filed **ARC 1732C** ..... 11/12/14

#### **REGENTS BOARD[681]**

Application fees for graduate/professional students at University of Northern Iowa, 1.7

Notice **ARC 1743C** ..... 11/26/14

**REVENUE DEPARTMENT[701]**

Individual income, corporation income and franchise taxes; workforce housing tax incentives

program, amendments to chs 12, 42, 46, 52, 58    Filed    **ARC 1744C** ..... 11/26/14

Mailing of estimated tax form, 49.5(1)    Notice    **ARC 1726C** ..... 11/12/14

**SECRETARY OF STATE[721]**Election forms and instructions—cross-reference updates, amendments to ch 21    Notice    **ARC 1735C** ..... 11/26/14**TRANSPORTATION DEPARTMENT[761]**

Retention of contested case records, 13.10    Notice    **ARC 1736C** ..... 11/26/14

Iowa driver's licenses and nonoperator's identification cards, 602.11(1), 602.12(1),  
602.13(1), 602.14, 605.2, 605.11, 605.20, 607.16, 630.2, 630.3    Filed    **ARC 1714C** ..... 11/12/14

**UTILITIES DIVISION[199]**

COMMERCE DEPARTMENT[181]"umbrella"

Renewable energy tax credits—extension of time limits, 15.19(1), 15.21    Filed    **ARC 1716C** ..... 11/12/14**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 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

Senator Roby Smith  
2036 East 48th Street  
Davenport, Iowa 52807

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Representative Dawn Pettengill  
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Representative Jeff Smith  
185 NE Gracewood Drive  
Waukee, Iowa 50263

Representative Guy Vander Linden  
1610 Carbonado Road  
Oskaloosa, Iowa 52577

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

**ADMINISTRATIVE SERVICES DEPARTMENT[11]**

Offset of debts owed state agencies, 40.1 to 40.16 IAB 11/26/14 <b>ARC 1742C</b>	Room 8, A Level Hoover State Office Bldg. Des Moines, Iowa	December 16, 2014 9 to 10 a.m.
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**EDUCATIONAL EXAMINERS BOARD[282]**

Military exchange license— military education, training, and service credit, 13.17(4) IAB 11/12/14 <b>ARC 1723C</b>	Room 3 Southwest, Third Floor Grimes State Office Bldg. Des Moines, Iowa	December 3, 2014 1 p.m.
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**HOMELAND SECURITY AND EMERGENCY MANAGEMENT DEPARTMENT[605]**

Mass notification and emergency messaging system, ch 15 IAB 11/12/14 <b>ARC 1713C</b> (See also <b>ARC 1712C</b> )	Cyclone Conference Room, Suite 500 7900 Hickman Rd. Windsor Heights, Iowa	December 2, 2014 1 p.m.
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**NURSING BOARD[655]**

Military service and veteran reciprocity, ch 18 IAB 11/26/14 <b>ARC 1737C</b>	Board Office, Suite B 400 SE 8th St. Des Moines, Iowa	December 16, 2014 9 a.m.
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**PROFESSIONAL LICENSURE DIVISION[645]**

Psychologists—provisional licensure, 5.16, 240.1, 240.5(3), 240.6(1), 240.12 to 240.15, 240.18, 240.19, 241.3(2) IAB 11/12/14 <b>ARC 1730C</b>	Conference Room 513, Fifth Floor Lucas State Office Bldg. Des Moines, Iowa	December 2, 2014 11 a.m. to 12 noon
Dietitians—updates to organization names and terminology, 81.5, 81.6, 83.2(1) IAB 11/12/14 <b>ARC 1728C</b>	Conference Room 513, Fifth Floor Lucas State Office Bldg. Des Moines, Iowa	December 2, 2014 12 noon to 1 p.m.
Physician assistants—on-site visits by supervising physician, 327.4(2) IAB 11/26/14 <b>ARC 1741C</b>	Professional Licensure Conference Room Fifth Floor Lucas State Office Bldg. Des Moines, Iowa	December 16, 2014 9 to 9:30 a.m.

**PUBLIC SAFETY DEPARTMENT[661]**

Fire safety—liquefied petroleum gas standards, 226.1, 226.4, 226.5, 226.8, 226.9 IAB 11/12/14 <b>ARC 1722C</b>	First Floor Public Conference Room 125 Oran Pape State Office Bldg. 215 E. 7th St. Des Moines, Iowa	December 2, 2014 9 a.m.
Military service and veteran reciprocity, ch 506 IAB 11/12/14 <b>ARC 1725C</b>	First Floor Public Conference Room 125 Oran Pape State Office Bldg. 215 E. 7th St. Des Moines, Iowa	December 2, 2014 9:30 a.m.

**TRANSPORTATION DEPARTMENT[761]**

Retention of contested case records, 13.10 IAB 11/26/14 <b>ARC 1736C</b>	First Floor South Conference Room DOT Administration Bldg. 800 Lincoln Way Ames, Iowa	December 18, 2014 10 a.m. (If requested)
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The following list will be updated as changes occur.

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

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

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

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



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

## ARC 1742C

## ADMINISTRATIVE SERVICES DEPARTMENT[11]

## 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 8A.104(5), the Department of Administrative Services (DAS) proposes to amend Chapter 40, “Offset of Debts Owed State Agencies,” Iowa Administrative Code.

The Department of Administrative Services is continuing its effort to review its administrative rules in accordance with Executive Order 71 by amending certain State Accounting Enterprise rules to eliminate conflict with statute and ensure proper due process in the offset procedure.

The Department of Administrative Services does not intend to grant waivers under the provisions of these rules, other than as may be allowed under the Department’s general rules concerning waivers.

Interested persons may make written comments on the proposed amendments until 4:30 p.m. on December 16, 2014. Comments should be directed to Caleb Hunter, Department of Administrative Services, Hoover State Office Building, 1305 East Walnut Street, Des Moines, Iowa 50319-0114. Comments may be sent by fax to (515)281-6140 or by e-mail to [Caleb.Hunter@iowa.gov](mailto:Caleb.Hunter@iowa.gov).

A public hearing will be held on December 16, 2014, from 9 to 10 a.m. in Room 8, A Level, Hoover State Office Building, 1305 East Walnut Street, Des Moines, Iowa, at which time persons may present their views either orally or in writing. Any persons who intend to attend the public hearing and have special requirements, such as those related to hearing or mobility impairments, should contact and advise the Department of Administrative Services of specific needs by calling (515)281-3351.

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

These amendments are intended to implement Iowa Code chapter 8A, subchapter V, as amended by 2014 Iowa Acts, House File 2288 and Senate File 2257.

The following amendments are proposed.

ITEM 1. Amend rule 11—40.1(8A) as follows:

**11—40.1(8A) Definitions.** For the purposes of this chapter, the following definitions shall govern:

“Claim” means a liquidated sum due, owing, and payable to a debtor from a public agency.

“Collection entity” means the department of administrative services and any other state public agency that maintains a separate accounting system, and elects to establish a debt collection setoff procedure for collection of debts owed to the state or its agencies public agency, and participates in the department of administrative service’s offset program.

“Debtor” means any person owing a debt to the state of Iowa or any state public agency.

“Department” means the Iowa department of administrative services.

“Director” means the director of the Iowa department of administrative services or the director’s designee.

“Judicial branch” means the same as that set forth in Iowa Code section 602.1102.

“Liability” or “debt” means a “qualifying debt” as defined in Iowa Code section 8A.504(1)“c” or any liquidated sum due and owing to the state of Iowa or any state agency which has accrued through contract, subrogation, tort, operation of law, or any legal theory regardless of whether there is an outstanding judgment for that sum. Before setoff, the amount of a person’s liability to a state agency shall be at least \$50, owing, and payable by a debtor to a public agency. Such liquidated sum may be accrued through contract, subrogation, tort, operation of law, or any legal theory regardless of whether there is an outstanding judgment for that sum.

## ADMINISTRATIVE SERVICES DEPARTMENT[11](cont'd)

“Liability owed to a court” or “debt owed to a court” means any liquidated sum due, owing, and payable to any clerk of the Iowa district court including, but not limited to, “court debt” as defined in Iowa Code section 602.8107(1) which remains unpaid 30 or more days after the date the court debt was due.

“Liquidated” means that the amount of the claim or debt is definite, determined, and fixed by agreement of the parties, by operation of law, or through court or administrative proceedings.

“Offset” means to set off or compensate a state agency which has a legal claim against a person or entity where there exists a person’s valid claim on a state agency that is in the form of a liquidated sum due, owing and payable. Before setoff, the amount of a person’s claim on a state agency shall be at least \$50 liabilities owed by persons to public agencies against claims owed to persons by public agencies.

“Offset program” means the department program for debt collection under the provisions of Iowa Code section 8A.504 through the daily processing and income tax refund programs.

“Person” or “entity” means an individual, corporation, business trust, estate, trust, partnership or association, or any other legal entity, but does not include a state agency.

“Public agency” or “agency” means a board, commission, department, including the department of administrative services, or other administrative office or unit of the state of Iowa or any other state entity reported in the Iowa comprehensive annual financial report, or a political subdivision of the state, or an office or unit of a political subdivision, or a clerk of district court. However, “public agency” or “agency” does not mean any of the following:

1. The office of the governor;
2. The general assembly, or any office or unit under its administrative authority; or
3. The judicial branch, as provided in Iowa Code section 602.1102 other than the clerk of the district court. Offset procedures uniquely applicable to debts owed to clerks of the district court are set forth in rules 11—40.10(8A) to 11—40.15(8A).

“State agency” or “agency” means a unit of state government, which is an authority, board, commission, committee, council, department, examining board, or independent agency as defined in Iowa Code section 7E.4, including but not limited to each principal central department enumerated in Iowa Code Supplement section 7E.5. However, “state agency” or “agency” does not mean any of the following:

1. The office of the governor or the office of an elective constitutional or statutory officer.
2. The general assembly, or any office or unit under its administrative authority.
3. The judicial branch, as provided in Iowa Code section 602.1102.
4. A political subdivision of the state or its offices or units, including but not limited to a county, city, or community college.

ITEM 2. Amend rule 11—40.2(8A) as follows:

### **11—40.2(8A) Scope and purpose.**

**40.2(1) Purpose.** The purpose of these rules is to establish a procedure by which state agencies can cooperate in identifying debtors who owe liabilities to those state agencies and to establish a procedure for offsetting debtors’ claims against state agencies with liabilities or debts which those debtors owe the state agencies public agencies can participate in the department’s offset program by identifying debtors who owe liabilities to those public agencies and to establish a procedure for offsetting those liabilities against claims owed to debtors by public agencies.

**40.2(2) Collection.** Agencies may collect debts under the provisions of Iowa Code Supplement section 8A.504 through the daily processing offset system and income tax refund offset programs. Agencies utilizing the income tax refund offset system under the provisions of Iowa Code Supplement section 8A.504, which allows for the recovery of child support, foster care, and public assistance payments; the recovery of guaranteed student or parental loans; or recovery of any liquidated sum due, owing, and payable to the clerk of the district court may also utilize this offset system to collect debts due. Any state agency exempt from the provisions of Iowa Code Supplement section 8A.513 and that is making payments shall be subject to these rules.

## ADMINISTRATIVE SERVICES DEPARTMENT[11](cont'd)

**40.2(3) *Inclusions in and exclusions from setoff.*** The offset system may be used to collect any debt described in rule 40.1(8A). ~~However, some claims against the state or state agencies on behalf of certain persons are made from funds exempt from collection and are thus unavailable for offset. A consolidated listing of payment sources unavailable for offset is available from the department's state accounting enterprise~~ Iowa Code section 8A.504 as long as the conditions of rule 11—40.3(8A) are satisfied. However, some claims against public agencies on behalf of certain debtors are made from funds exempt from collection and are thus unavailable for offset. A consolidated listing of payment sources unavailable for offset is available from the department's state accounting enterprise.

ITEM 3. Amend rule 11—40.3(8A) as follows:

**11—40.3(8A) Participation guidelines.**

**40.3(1) *Participation—cost effective.*** Those ~~state public~~ agencies qualified under rule 11—40.2(8A) to use this chapter's offset provisions should utilize these provisions when it is cost-effective to do so. Final determination regarding whether or not it will be cost-effective to offset any debt owed will be at the discretion of the director. Generally, it will not be cost-effective to offset a debt if the total anticipated collection cost will exceed the amount of the claim ~~that could reasonably be expected to be realized as a result of the collection costs~~. The cost-effectiveness criteria that the director applies will not be the same for every agency. Circumstances differ among agencies. The following nonexclusive examples are intended to provide guidance in determining cost-effectiveness. These examples represent instances in which it might not be cost-effective to offset debts.

EXAMPLE A: A debtor has ceased operations for an extended period of time.

EXAMPLE B: A business has changed its ~~form~~ organizational structure (e.g., from a sole proprietorship to a partnership or corporation).

EXAMPLE C: A debt has been placed with a private collection firm and it appears likely that the firm will collect the debt.

EXAMPLE D: The age or health of a debtor is such that it is unlikely that the debtor will be receiving any payments from ~~the state or a state~~ a public agency.

EXAMPLE E: The debtor is a foreign student who has left the country.

EXAMPLE F: The debtor is ~~a person~~ in bankruptcy.

EXAMPLE G: ~~By~~ Pursuant to statute or federal regulations, certain agencies cannot write off debts. If the debt of one of these agencies has been owed for a substantial amount of time, it may be reasonable to assume that referral would not be cost-effective (e.g., the debtor has changed its name or address or for some other reason would be impossible to locate).

**40.3(2) *Minimal debt amounts accepted.*** Before a debt may be placed in the offset program, the amount of a debtor's original liability must be at least \$50, except when the source of the claim is a tax refund or tax rebate, in which case the debt may be, at a minimum, \$25.

**40.3(3) *Debts legally enforceable.*** Public agencies may only place debts in the offset program if the debts are legally enforceable and all of the following conditions are satisfied:

*a.* The debt shall have been established (liquidated) by one of the following means:

(1) Mutual written agreement between the debtor and the public agency;

(2) Alternative procedures authorized by applicable state or federal law with respect to a "qualifying debt" as defined in Iowa Code section 8A.504(1); or

(3) Court proceeding or administrative process which included notice to the debtor and an opportunity for the debtor to contest the amount of the debt through a contested case procedure under Iowa Code chapter 17A or a substantially equivalent process.

*b.* The debt shall have been reduced to a final judgment or final agency determination that is no longer subject to appeal, certiorari, or judicial review or shall have been affirmed through appeal, certiorari, or judicial review.

*c.* The debt shall be in an amount certain that is past due and not subject to any legal prohibition to collection.

## ADMINISTRATIVE SERVICES DEPARTMENT[11](cont'd)

**40.3(4) Debtor's opportunity to challenge placement of debt in offset program.** Unless otherwise provided by applicable state or federal law for a "qualifying debt" as defined in Iowa Code section 8A.504(1) "c," debts shall not be placed in the offset program until after the public agency has:

- a. Made a good-faith effort to collect the debt through other means;
- b. Provided the debtor advance notice that the debt will be placed in the offset program if not paid when due; and
- c. Provided a formal or informal opportunity for the debtor to challenge placement of the debt in the offset program. Such opportunity may be separate from or combined with the debtor's opportunity to contest the amount of the debt. The public agency has the burden to determine whether due process will be satisfied under the circumstances by the form of the opportunity provided for the debtor to challenge placement of the debt in the offset program.

ITEM 4. Amend rule 11—40.4(8A) as follows:

**11—40.4(8A) Duties of the agency.** ~~An agency seeking offset shall have the following duties regarding the department and debtors. Public agencies that seek to place debts in the offset program shall have the following duties regarding the department and debtors.~~

**40.4(1) Notification to the department.** ~~An agency must provide a list of debtors to the department of administrative services. A public agency seeking to place debts in the offset program must provide a list of debtors to the department. This list must be in a format and type prescribed by the department and include only information relevant to the identification of the person owing debtors owing a debt to the public agency.~~

The director shall not process a claim under the provisions of Iowa Code Supplement section 8A.504 until notification is received from the state public agency that the debt has been established through notice and opportunity to be heard satisfies the requirements of rule 11—40.3(8A) or, in the case of a debt owed to a district court clerk, is a "court debt" as defined in Iowa Code section 602.8107(1) which has been due for 30 or more days. The agency shall provide, along with each liability file, a written statement to the director declaring that the debt has occurred provisions of this paragraph are satisfied.

**40.4(2) Change Notification of change in status of debt.** ~~A state agency that has provided a liability file to the department of administrative services must notify the department immediately of any change in the status of a debt to the state. Each public agency that has chosen to submit a debt for participation in the offset program must notify the department immediately of any change in the status of the public agency's individual debts submitted under the offset program. This notification shall be made no later than 30 calendar days from the occurrence of the change. A change in status may come from payment of the debt, invalidation of the liability, alternate payment arrangements with the debtor, bankruptcy, or other factors.~~

**40.4(3) Semiannual certification of file.** ~~Each agency that maintains a liability file shall be required to certify~~ Each public agency that has provided a liability file to the department shall be required to recertify the file to the department semiannually. ~~This certification~~ recertification shall be made in a manner prescribed by the director. Debtors not ~~certified~~ recertified in the manner prescribed will be removed from the liability file.

**40.4(4) Notification to debtor.** ~~An~~ Each public agency shall send notification to the debtor within ~~ten~~ 10 calendar days from the date the agency was notified by the department of a potential offset. This notification shall include:

- a. The public agency's right to the payment in question.
- b. The public agency's right to recover the payment through the offset procedure.
- c. The basis of the public agency's case in regard to the debt.
- d. The right of the debtor to request the split of the payment between parties when the payment in question is jointly owned or otherwise owned by two or more persons.
- e. The debtor's right to appeal the offset and the required appeal procedure to follow in that appeal.
- f. The name of the public agency or division and a telephone number for the person owing to contact in the case of questions to which the debt is owed, with a telephone number for the debtor to contact the public agency regarding questions about the offset.

## ADMINISTRATIVE SERVICES DEPARTMENT[11](cont'd)

The department may require that a copy of this notice be sent to the department, but an agency is not required to routinely send such notices to the department. ~~Once the offset has been completed, the agency shall notify the debtor of the action taken along with the balance, if any, still due to the agency. It is the responsibility of the agency to make payment to the person owing the state any payment offset by the department to which the state is not entitled, in accordance with established procedures.~~

**40.4(5) *Payment of residual funds to debtor.*** It is the responsibility of the public agency to reimburse the debtor for the difference between the amount of liability payable and the amount of the claim payable to the debtor.

**40.4(6) *Appeal.*** Debtors shall have the right to appeal the application of an offset upon notice of the potential offset. An agency subject to Iowa Code chapter 17A shall give notice, conduct hearings, and allow appeals in conformity with Iowa Code chapter 17A. Other public agencies shall give notice, conduct hearings, and allow appeals in a manner substantially equivalent to that provided under Iowa Code chapter 17A.

ITEM 5. Amend rule 11—40.5(8A) as follows:

**11—40.5(8A) Duties of the department—performance of the offset.** The department will develop procedures for administering each offset program request by a public agency on an individual debtor basis. Procedures will vary in order to achieve the greatest efficiency in administering each offset.

Before issuing an authorized payment to a person or entity, the department will match the payment against a debt listing provided by the state public agencies participating in the offset program. The department will notify the state public agency of the ~~person's debtor's~~ or entity's name, address, identifying number, and amount of the entitled payment.

The department shall hold the payment which offsets the liquidated sum due and payable for a period not to exceed 45 days while awaiting notification from the agency as to the amount required to satisfy the ~~person's debtor's~~ or entity's debt to the state. If notification is not made to the department by the state public agency within 45 days, the amount of the payment shall be released to the ~~person debtor~~ or entity.

The department will make the offset only after the state public agency has notified the debtor or entity as prescribed in subrule 40.4(4). The department shall then refund any balance amount due from the state public agency to the ~~person debtor~~ or entity.

ITEM 6. Amend rule 11—40.6(8A) as follows:

**11—40.6(8A) Multiple claims—priority of payment.** In the case of multiple claims to payments filed under Iowa Code Supplement section 8A.504, after satisfaction of the provisions of Iowa Code section 422.73, priority shall be given to claims ~~filed by the child support recovery unit or the foster care recovery unit.~~ Next priority shall be given to claims ~~filed by the college student aid commission.~~ Next priority shall be given to claims filed by the office of investigations. Next priority shall be given to claims filed by a clerk of the district court. Last priority shall be given to claims filed under Iowa Code Supplement section 8A.504. in the following order:

1. Claims filed by the child support recovery unit or the foster care recovery unit;
2. Claims filed by a clerk of the district court;
3. Claims filed by the college student aid commission;
4. Claims filed by the investigation division of the department of inspections and appeals; and
5. All other claims filed by public agencies under Iowa Code section 8A.504.

The order of priority for offset against multiple claims by more than one state public agency shall be determined by the date the liability was listed with the department. Subsequent entries of claims by state public agencies shall be offset in order of the date the listing was made with the department.

ITEM 7. Amend rule 11—40.7(8A) as follows:

**11—40.7(8A) Payments of offset amounts.** ~~Payments to the public agency requesting the offset shall be made by the department on the twenty-fifth day of each month participation in the offset program shall be made by the department by the last day of the month in which the request is made.~~

## ADMINISTRATIVE SERVICES DEPARTMENT[11](cont'd)

ITEM 8. Amend rule 11—40.8(8A) as follows:

**11—40.8(8A) Reimbursement for offsetting liabilities.** Costs incurred by the department in administering the offset program will be charged to the ~~state department requesting offset~~ public agency requesting placement of the debt into the offset program. ~~The~~ These costs will be deducted from the gross proceeds collected through offset and may include direct expenses such as salaries, supplies, equipment, and system modification and development costs; or indirect costs such as space, security, or utility costs. If the above-described procedure is prohibited by ~~paramount~~ higher state or federal law, the director shall allow reimbursement in a manner which conforms to the ~~paramount~~ higher law. Prior to placing a debt in the offset program, the public agency will enter into a memorandum of understanding with the department of administrative services which will outline the costs, responsibilities of the parties, and methods for remuneration of the offset funds once obtained.

ITEM 9. Amend rule 11—40.9(8A) as follows:

**11—40.9(8A) Confidentiality of information.** Information shared between ~~state~~ the department and the public agencies wishing to participate in the offset program shall be deemed confidential pursuant to Iowa Code section 8A.504(2) “b” and shall be disclosed only to the extent ~~that sufficient information is given that is relevant to the identification of persons liable to or claimants of state agencies. The information is to be used for the purpose of offset only necessary to sufficiently identify the debtor(s) liable to the public agency.~~ Identifying information shall be used only for the purpose of participation in the offset program.

ITEM 10. Amend the title preceding rule 11—40.10(8A) as follows:

JUDICIAL-OFFSET PROCEDURES OFFSET OF DEBTS OWED TO CLERKS OF THE DISTRICT COURT

ITEM 11. Amend rule 11—40.10(8A) as follows:

**11—40.10(8A) Incorporation by reference.** ~~In providing judicial offset procedures, the department incorporates by reference the following rules and subrules to be applied to the substance and procedure under this heading:~~

- ~~1. 11—40.2(8A) Scope and purpose.~~
- ~~2. 11—40.3(8A) Participation guidelines.~~
- ~~3. 11—subrule 40.4(1) Duties of the agency—notification to the department.~~
- ~~4. 11—subrule 40.4(2) Duties of the agency—change in status of debt.~~
- ~~5. 11—subrule 40.4(3) Duties of the agency—semiannual certification of file.~~
- ~~6. 11—40.5(8A) Duties of the department—performance of the offset.~~
- ~~7. 11—40.7(8A) Payments of offset amounts.~~
- ~~8. 11—40.8(8A) Reimbursement for offsetting liabilities.~~
- ~~9. 11—40.9(8A) Confidentiality of information.~~

The department incorporates by reference rules 11—40.1(8A) to 11—40.9(8A). “Debtor,” for purposes of rules 11—40.10(8A) to 11—40.15(8A), shall pertain only to a debtor who owes a debt to a clerk of district court.

ITEM 12. Rescind rule 11—40.11(8A).

ITEM 13. Renumber rules 11—40.12(8A) to 11—40.16(8A) as 11—40.11(8A) to 11—40.15(8A).

ITEM 14. Amend renumbered rule 11—40.11(8A) as follows:

**11—40.11(8A) Applicability and procedure.** For liabilities accrued and owing to any and all clerks of the Iowa district court, the department shall issue a written notice informing any ~~person~~ debtor having a valid claim against a ~~state~~ public agency that an offset will be ~~performed against the claim~~ applied to the debt. The department will ~~perform~~ apply the offsets for such district clerks as provided in Iowa Code

## ADMINISTRATIVE SERVICES DEPARTMENT[11](cont'd)

~~Supplement~~ section 8A.504, and the department will send a written notice to the ~~person liable for such a liability prior to and after the offset has been performed~~ debtor. Subsequently, the department will also provide administrative procedures and available remedies for contesting the validity of such an offset. The Iowa district court will provide the procedures and remedies for challenging the underlying liability at issue. This rule applies only to liabilities and debts owed to the clerks of the Iowa district court.

ITEM 15. Amend renumbered rule 11—40.12(8A) as follows:

**11—40.12(8A) Notice of offset.** The department shall send written notification of the offset to the ~~person that has a valid claim against any state agency that is a liquidated sum, due and payable and in which such a person is liable for a liability owed to any and all clerks of the Iowa district court within ten calendar days from the date the department is notified by the judicial branch of the uncollected liability debtor within 10 calendar days from the date the department is notified of such debt by the judicial branch.~~ This notification must include:

1. ~~The judicial branch's right to the payment in question~~ The clerk of court claiming the liability;
2. ~~The judicial branch's right to recover the payment through the offset procedure~~ The clerk of court's right to the payment in question;
3. ~~The basis of the judicial branch's case in regard to the debt~~ The clerk of court's right to recover the payment through the offset program;
4. ~~The basis of the clerk of court's case in regard to the debt;~~
4. 5. ~~The right of the person who owes the liability debtor to request, within 15 days of the mailing of the notice, that the payment between parties be split when the payment in question is jointly owned or otherwise owned by two or more persons debtors;~~
5. 6. ~~The right of the person liable debtor to contest the right of offset and the validity of such offset with the department by mailing, to the department's legal counsel, a protest within 15 days of the mailing of such notice, and that the procedure to follow in that appeal will conform, according to the context, to the rules of the department involving protests and contested case proceedings in 11—Chapter 7;~~
6. 7. ~~The name of the agency or division and the telephone number for the person liable for the liability to contact concerning questions regarding the validity of the offset and the procedures for the offset~~ The telephone number of the representative the debtor may contact concerning questions regarding the validity of the offset and the procedures for the offset;
7. 8. ~~That the person liable for the liability debtor has the opportunity to contest the validity and amount of the liability by mailing, within 15 days of mailing of the notice of offset, a written application to contest the liability to the appropriate clerk of the Iowa district court; and~~
8. 9. ~~The name of the clerk of the district court and the telephone number for the person liable for the liability debtor to contact concerning questions relating to the validity of the underlying liability and regarding the validity of the amount owed.~~

ITEM 16. Amend renumbered rule 11—40.13(8A) as follows:

**11—40.13(8A) Procedure for contesting.** ~~A person liable for a liability under this heading~~ The debtor may contest the validity or amount of the underlying liability by mailing written notification of the ~~person's debtor's intent to contest such a liability to the appropriate clerk of the Iowa district court.~~ The Iowa district court will provide the ~~person liable debtor~~ with the procedure and remedies for contesting the validity and amount of the underlying liability.

~~A person liable for a liability payable to the judicial branch that has been deemed qualified for offset may contest the validity of the offset or the right of the offset by mailing written notification to the Department of Administrative Services, Legal Counsel, Hoover State Office Building, Third Floor, Des Moines, Iowa 50319.~~ The debtor may contest the validity of the offset or the right of the offset by mailing written notification to:

Department of Administrative Services  
General Counsel



## ADMINISTRATIVE SERVICES DEPARTMENT[11](cont'd)

Hoover State Office Building  
Third Floor  
Des Moines, Iowa 50319

The department will provide the procedure and remedies for contesting the validity of the offset and right of offset pursuant to the applicable contested case rules set forth in 11—Chapter 7.

If a ~~person liable to the judicial department~~ debtor gives written notice of intent to contest ~~either the offset validity or the amount of the liability or the validity of the offset or right of offset, the judicial department~~ the clerk of the district court and the department will hold a payment in abeyance until the final disposition of the contested liability or offset is determined.

ITEM 17. Amend renumbered rule 11—40.14(8A) as follows:

**11—40.14(8A) Postoffset notification and procedure.** Following the offset, the department will notify the ~~person liable~~ debtor that the offset was performed. It is the responsibility of the department to make payment to the ~~person~~ debtor liable to the Iowa district court clerk of any amount to which the Iowa district court clerk is not entitled to receive under the offset, in accordance with established procedures.

ITEM 18. Amend renumbered rule 11—40.15(8A) as follows:

**11—40.15(8A) Report of satisfaction of obligations.** At least monthly, the department will file with the ~~clerk of the district court~~ judicial branch a notice of satisfaction of each obligation to the full extent of all moneys collected in satisfaction of ~~the~~ an offset obligation. No additional or separate written notice from the department regarding the performed offsets is required.

ITEM 19. Amend **11—Chapter 40**, implementation sentence, as follows:

These rules are intended to implement Iowa Code ~~Supplement~~ sections 8A.504, 422.16, 422.20, 422.72, and 422.73.

**ARC 1738C**

## 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 237A.12, the Department of Human Services proposes to amend Chapter 110, “Child Development Homes,” Iowa Administrative Code.

This amendment rescinds paragraph 110.5(1)“a” and proposes a new paragraph in lieu thereof to require that child development home providers have readily accessible accurate emergency contact information regarding the children in care. Presently, there are no administrative rules that require providers to have a paper copy of emergency contact information.

A Notice of Intended Action proposing to amend paragraph 110.5(1)“a” was published in the Iowa Administrative Bulletin as **ARC 1556C** on July 23, 2014. That amendment was Adopted and Filed and published in the Iowa Administrative Bulletin on October 1, 2014, as **ARC 1636C**.

The Administrative Rules and Review Committee reviewed the Adopted and Filed amendment, **ARC 1636C**, at its meeting held on October 14, 2014. Due to concerns with the way the stated requirements were shown in the Adopted and Filed amendment, the Committee voted to impose a 70-day delay on the January 1, 2015, effective date of the amendment. The amendment would then become effective on March 12, 2015, rather than January 1, 2015. In discussion with the members of the Committee, the Department agreed to refine paragraph 110.5(1)“a” to clarify the requirement for contact information. The amendment proposed herein provides the requested clarification in accordance

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

with the aforementioned discussions between the Committee members and the Department and, when adopted, will supersede the amendment whose effective date has been delayed.

Any interested person may make written comments on the proposed amendment on or before December 16, 2014. Comments should be directed to Harry Rossander, Bureau of Policy Coordination, Department of Human Services, Hoover State Office Building, Fifth Floor, 1305 East Walnut Street, Des Moines, Iowa 50319-0114. Comments may be sent by fax to (515)281-4980 or by e-mail to [policyanalysis@dhs.state.ia.us](mailto:policyanalysis@dhs.state.ia.us).

This amendment does 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.

This amendment is intended to implement Iowa Code section 237A.12.

The following amendment is proposed.

Rescind paragraph **110.5(1)“a”** and adopt the following new paragraph in lieu thereof:

*a.* The home shall have a nonpay, working land-line or mobile telephone with emergency numbers posted for police, fire, ambulance, and the poison information center. The number for each child's parent, for a responsible person who can be reached when the parent cannot, and for the child's physician shall be written on paper and readily accessible by the telephone. The home must prominently display all emergency information, and all travel vehicles must have a paper copy of emergency parent contact information.

**ARC 1739C**

**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 237A.12, the Department of Human Services proposes to amend Chapter 110, “Child Development Homes,” Iowa Administrative Code.

The purpose of this amendment is to modify the height requirements for fences around swimming pools at child development homes. Many child development homes are unable to find approved pool covers for inflatable pools and, therefore, must fence in their pools. Rules currently indicate that fencing must be four feet above the side walls, which often would require eight-foot fencing. Most city ordinances do not allow fencing over six feet. This creates a barrier for child development homes to have pools at their homes that meet rule requirements.

Federal recommendations indicate that pools should be enclosed with a fence that is four to six feet high or higher. An effective fence is one that prevents a child from getting over, under, or through it and keeps children from gaining access to the pool. Recommendations cited in “Caring for Our Children” include a fencing height of at least five feet. The Web site [poolsafely.gov](http://poolsafely.gov) indicates that the top of the barrier should be at least 48 inches above the surface measure on the side of the barrier which faces away from the swimming pool.

Any interested person may make written comments on the proposed amendment on or before December 16, 2014. Comments should be directed to Harry Rossander, Bureau of Policy Coordination, Department of Human Services, Hoover State Office Building, Fifth Floor, 1305 East Walnut Street, Des Moines, Iowa 50319-0114. Comments may be sent by fax to (515)281-4980 or by e-mail to [policyanalysis@dhs.state.ia.us](mailto:policyanalysis@dhs.state.ia.us).

This amendment does 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).

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

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

This amendment is intended to implement Iowa Code section 237A.12.

The following amendment is proposed.

Amend paragraph **110.5(1)“r”** as follows:

*r.* When there is a swimming or wading pool on the premises:

- (1) A wading pool shall be drained daily and shall be inaccessible to children when it is not in use.
- (2) An aboveground or in-ground swimming pool that is not fenced shall be covered whenever the pool is not in use. The cover shall meet or exceed the ~~standards of the American Society for Testing and Materials~~ ASTM International (formerly known as the American Society for Testing and Materials) specification intended to reduce the risk of drowning by inhibiting access to the water by children under five years of age.
- (3) An uncovered aboveground swimming pool shall be enclosed with an approved fence that is ~~four feet above the side walls~~ non-climbable and has a minimum height of four feet.
- (4) An uncovered in-ground swimming pool shall be enclosed with a fence that is at least four feet high and flush with the ground.

**ARC 1737C**

**NURSING BOARD[655]**

**Notice of Intended Action**

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

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

Pursuant to the authority of Iowa Code sections 17A.3 and 147.76, the Board of Nursing hereby gives Notice of Intended Action to adopt new Chapter 18, “Military Service and Veteran Reciprocity,” Iowa Administrative Code.

Chapter 18 is being promulgated as a result of the Home Base Iowa Act, which requires all professional and occupational licensing boards, commissions, and other authorities subject to Iowa Code chapter 272C to adopt by January 1, 2015, rules on military service and veteran licensure. The rules address the process under which the Board will provide credit toward licensure qualifications for military service, education, and training and the procedures for expediting reciprocal and provisional licensure for veterans who are licensed in other states.

Any interested person may make written suggestions or comments on the proposed rules on or before December 16, 2014. Such written materials should be directed to the Executive Director, Iowa Board of Nursing, RiverPoint Business Park, 400 S.W. 8th Street, Suite B, Des Moines, Iowa 50309-4685. E-mail may be sent to [rules.comments@iowa.gov](mailto:rules.comments@iowa.gov). Persons who wish to convey their views orally should contact the Executive Director at (515)281-3256, or at the Board office at 400 S.W. 8th Street, Suite B, Des Moines, by appointment.

Also, there will be a public hearing on December 16, 2014, at 9 a.m. at the Board of Nursing office, 400 S.W. 8th Street, Suite B, Des Moines, 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 rules.

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

The proposed rules are subject to waiver or variance pursuant to 655—Chapter 15.

The proposed rules were approved by the Board on September 17, 2014.

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

## NURSING BOARD[655](cont'd)

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

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

The following amendment is proposed.

Adopt the following new 655—Chapter 18:

CHAPTER 18  
MILITARY SERVICE AND VETERAN RECIPROCITY

**655—18.1(85GA,ch1116) Definitions.**

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

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

*“Reciprocity”* means the process by which a nurse licensed in another jurisdiction becomes licensed in Iowa. Reciprocity may also be referred to as “endorsement.”

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

**655—18.2(85GA,ch1116) Military education, training, and service credit.** A military service applicant may apply for credit for verified military education, training, or service toward any experience or educational requirement for licensure by submitting a military service application form to the board office.

**18.2(1)** The application may be submitted with an application for licensure or examination or prior to application for licensure or to take an examination. No fee is required with submission of an application for military service credit.

**18.2(2)** The applicant shall identify the experience or educational licensure requirement to which the credit would be applied if granted. Credit shall not be applied to an examination requirement.

**18.2(3)** The applicant shall provide documents, military transcripts, a certified affidavit, or forms that verify completion of the relevant military education, training, or service, which may include, when applicable, the applicant’s Certificate of Release or Discharge from Active Duty (DD Form 214) or Verification of Military Experience and Training (VMET) (DD Form 2586).

**18.2(4)** Upon receipt of a completed military service application, the board shall promptly determine whether the verified military education, training, or service will satisfy all or any part of the identified experience or educational qualifications for licensure requirement.

**18.2(5)** The board shall grant the credit requested in the application in whole or in part if the board determines that the verified military education, training, or service satisfies all or part of the experience or educational qualifications for licensure.

**18.2(6)** The board shall inform the military service applicant in writing of the credit, if any, given toward an experience or educational qualification for licensure, or explain why no credit was granted. The applicant may request reconsideration upon submission of additional documentation or information.

**18.2(7)** A military service applicant who is aggrieved by the board’s decision may request a contested case (administrative hearing) and may participate in a contested case by telephone. A request for a contested case shall be made within 30 days of issuance of the board’s decision. No fees or costs shall be assessed against the military service applicant in connection with a contested case conducted pursuant to this subrule.

**18.2(8)** The board shall grant or deny the military service application prior to ruling on the application for licensure. The applicant shall not be required to submit any fees in connection with the licensure application unless the board grants the military service application. If the board does not grant the military service application, the applicant may withdraw the licensure application or request that the licensure application be placed in pending status for up to one year or as mutually agreed. The

## NURSING BOARD[655](cont'd)

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

**655—18.3(85GA,ch1116) Veteran reciprocity.**

**18.3(1)** A veteran with a nursing license in another jurisdiction may apply for licensure in Iowa through reciprocity (endorsement) pursuant to 655—Chapter 3. A veteran must pass any examinations required for licensure to be eligible for licensure through reciprocity. A fully completed application for licensure submitted by a veteran under this subrule shall be given priority and shall be expedited.

**18.3(2)** Such an application shall contain all of the information required of all applicants for licensure who hold licenses in other jurisdictions and who are applying for licensure by reciprocity, including, but not limited to, completion of all required forms, payment of applicable fees, disclosure of criminal or disciplinary histories, and, if applicable, a criminal history background check. The applicant shall use the same forms as any other applicant for licensure by reciprocity and shall additionally provide such documentation as is reasonably needed to verify the applicant's status as a veteran under Iowa Code section 35.1(2).

**18.3(3)** Upon receipt of a fully completed licensure application, the board shall promptly determine if the professional or occupational licensing requirements of the jurisdiction where the veteran is licensed are substantially equivalent to the licensing requirements in Iowa. The board shall make this determination based on information supplied by the applicant and such additional information as the board may acquire from the applicable jurisdiction. The board may consider the following factors in determining substantial equivalence: scope of practice, education and coursework, degree requirements, postgraduate experience, and examinations required for licensure.

**18.3(4)** The board shall promptly grant a license to the veteran if the veteran is licensed in the same or similar profession in another jurisdiction whose licensure requirements are substantially equivalent to those required in Iowa, unless the applicant is ineligible for licensure based on other grounds, for example, the applicant's disciplinary or criminal background.

**18.3(5)** If the board determines that the licensing requirements in the jurisdiction in which the veteran is licensed are not substantially equivalent to those required in Iowa, the board shall promptly inform the veteran of the additional experience, education, or examinations required for licensure in Iowa. Unless the applicant is ineligible for licensure based on other grounds, such as disciplinary or criminal background, the following shall apply:

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

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

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

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

**18.3(6)** A veteran who is aggrieved by the board's decision to deny an application for a reciprocal license or a provisional license or is aggrieved by the terms under which a provisional license will be granted may request a contested case (administrative hearing) and may participate in a contested case

## NURSING BOARD[655](cont'd)

by telephone. A request for a contested case shall be made within 30 days of issuance of the board's decision. No fees or costs shall be assessed against the veteran in connection with a contested case conducted pursuant to this subrule.

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

**ARC 1741C****PROFESSIONAL LICENSURE DIVISION[645]****Notice of Intended Action**

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

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

Pursuant to the authority of Iowa Code section 148C.3, the Board of Physician Assistants hereby gives Notice of Intended Action to amend Chapter 327, “Practice of Physician Assistants,” Iowa Administrative Code.

This rule making removes the requirement that a physician assistant who is practicing in a remote medical site must have a supervising physician physically visit and practice at the remote medical site at least every two weeks.

The current requirement that physicians leave their practice and travel to remote medical sites creates a financial burden. With advances in technology, the need for supervising physicians to be physically present has changed. With enhancements in medical care, including electronic medical records, cell phones, fax, and real-time audiovisual interaction via electronic means, appropriate supervision can occur effectively when the physician is not physically present at the practice location. In addition, effective July 11, 2014, the federal requirement that a physician be physically on site in a rural health clinic every two weeks was removed. Compared to the site visitation requirements of surrounding states, Iowa's site visitation requirement is the most restrictive. This rule making seeks to bring Iowa's requirements up to date with advances in technology and current national practice standards.

Any interested person may make written suggestions or comments on the proposed amendment on or before December 16, 2014, addressed to Tony Alden, Professional Licensure Division, Department of Public Health, Lucas State Office Building, 321 E. 12th Street, Des Moines, Iowa 50319-0075. Comments may be sent by e-mail to [tony.alden@idph.iowa.gov](mailto:tony.alden@idph.iowa.gov).

A public hearing will be held on December 16, 2014, from 9 to 9:30 a.m. in the Fifth Floor Professional Licensure Conference Room, Lucas State Office Building, Des Moines, Iowa, at which time persons may present their views either orally or in writing. At the hearing, persons will be asked to give their names and addresses for the record and to confine their remarks to the subject of the amendment. Any persons who intend to attend the public hearing and have special requirements, such as those relating to hearing or mobility impairments, should contact the Division and advise of specific needs.

The proposed amendment is subject to the waiver provisions at 645—Chapter 18.

After analysis and review of this rule making, there is a potential for a positive impact on jobs with increased utilization of physician assistants in rural health clinics.

This amendment is intended to implement Iowa Code section 148C.3.

The following amendment is proposed.

Amend subrule 327.4(2) as follows:

**327.4(2)** A supervising physician must ~~visit a remote site to provide additional medical direction, medical services and consultation at least every two weeks or less frequently as specified in special circumstances~~ in accordance with the requirements in 645—subrule 326.8(4) and subrule 327.1(1).

## PROFESSIONAL LICENSURE DIVISION[645](cont'd)

~~When visits are less frequent than every two weeks in unusual or emergency circumstances, the board shall be notified in writing of these circumstances.~~

## ARC 1743C

## 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 to rule 681—1.7(262) increases the application fee at the University of Northern Iowa for Graduate/Professional Domestic Students from \$50 to \$60 and for Graduate/Professional International Students from \$70 to \$75. The revised fees will cover increased processing costs.

Any interested person may make written comments on the proposed amendment on or before December 17, 2014, addressed to Marcia Brunson, Board of Regents, State of Iowa, 11260 Aurora Avenue, Urbandale, Iowa 50322-7905; fax (515)281-6420; or e-mail [mbruns@iastate.edu](mailto:mbruns@iastate.edu).

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 jobs 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:

## 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

## 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

REGENTS BOARD[681](cont'd)

University of Northern Iowa

Undergraduate domestic student and nondegree student	\$40
Undergraduate international student	\$50
Graduate/professional domestic student	<del>\$50</del> <u>\$60</u>
Graduate/professional international student	<del>\$70</del> <u>\$75</u>
Reentry fee	\$20

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

**ARC 1735C**

## **SECRETARY OF STATE[721]**

### **Notice of Intended Action**

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

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

Pursuant to the authority of Iowa Code sections 47.1 and 17A.4, the Secretary of State hereby gives Notice of Intended Action to amend Chapter 21, “Election Forms and Instructions,” Iowa Administrative Code.

These amendments are necessary to update references and implementation language throughout Chapter 21. These amendments are purely technical in nature and will not have any effect on election administration in the state of Iowa.

Any interested person may make written suggestions or comments on the proposed amendments on or before December 16, 2014, by contacting Sarah Reisetter, Director of Elections, Office of the Secretary of State, First Floor, Lucas State Office Building, Des Moines, Iowa 50319. Persons who want to convey their views orally should contact the Secretary of State’s office by telephone at (515)281-0145 or in person at the Secretary of State’s office on the first floor of the Lucas State Office Building.

Requests for a public hearing must be received by December 16, 2014.

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

These amendments are intended to implement Iowa Code section 47.1.

The following amendments are proposed.

ITEM 1. Amend rule **721—21.2(47)**, implementation sentence, as follows:

This rule is intended to implement Iowa Code sections 43.11, 43.19, 43.54, 43.67, 43.78, 44.3, 45.3, 45.4, 46.20, 47.1, and 47.2, ~~sections 53.2, 53.8, 53.17, 53.22, 53.25, and 53.40, as amended by 2009 Iowa Acts, House File 475; sections 53.45, 61.3, 161A.5, 260C.15, and 277.4, sections 260C.15 and 376.4, as amended by 2009 Iowa Acts, House File 475; and sections 376.11 and 420.130.~~

ITEM 2. Amend subrule 21.3(1) as follows:

**21.3(1) Identification documents for persons other than election day registrants.** Unless the person is registering to vote at the polls on election day, precinct election officials shall accept the identification documents listed in Iowa Code section 48A.8 from any person who is asked or required to present identification pursuant to Iowa Code section 49.77 ~~as amended by 2009 Iowa Acts, House File 475.~~

ITEM 3. Amend rule **721—21.3(49,48A)**, implementation sentence, as follows:

This rule is intended to implement Iowa Code ~~section~~ sections 48A.7A and ~~section~~ 49.77 ~~as amended by 2009 Iowa Acts, House File 475, and P.L. 107-252, Section 303.~~



## SECRETARY OF STATE[721](cont'd)

ITEM 4. Amend rule **721—21.4(49)**, implementation sentence, as follows:

This rule is intended to implement Iowa Code section 49.77 ~~as amended by 2009 Iowa Acts, House File 475.~~

ITEM 5. Amend rule **721—21.7(48A)**, implementation sentence, as follows:

This rule is intended to implement ~~2007 Iowa Acts, House File 653~~ Iowa Code section 48A.7A.

ITEM 6. Amend rule **721—21.25(50)**, first unnumbered paragraph, as follows:

The recount shall be conducted by members of the absentee and special voters precinct board following the provisions of Iowa Code ~~section sections~~ 50.48 ~~as amended by 2009 Iowa Acts, House File 475, Iowa Code section and~~ 50.49 and 721—Chapter 26. The commissioner may use different memory cards for the recount and shall retain the information on the memory cards used in the election pursuant to 721—subrule 22.51(13). The commissioner may also use different election definition files if the commissioner believes the original election definition files were flawed. If the commissioner uses different election definition files for the recount, the commissioner shall also retain the election definition files for the election as required by 721—subrule 22.51(14).

ITEM 7. Amend rule **721—21.25(50)**, implementation sentence, as follows:

This rule is intended to implement Iowa Code section 50.48 ~~as amended by 2009 Iowa Acts, House File 475, and Iowa Code section 50.49~~ 50.50.

ITEM 8. Amend rule **721—21.202(43,52)**, implementation sentence, as follows:

This rule is intended to implement 2009 Iowa Code Supplement section 43.31 ~~[2009 Iowa Acts, House File 475, section 6].~~

ITEM 9. Amend rule **721—21.203(49,52)**, implementation sentence, as follows:

This rule is intended to implement 2009 Iowa Code Supplement section 49.57A ~~[2009 Iowa Acts, House File 475, section 32].~~

ITEM 10. Amend rule **721—21.301(53)**, implementation sentence, as follows:

This rule is intended to implement Iowa Code ~~section 48A.29 and sections 48A.26, 48A.29, 48A.37 and 53.25 as amended by 2009 Iowa Acts, House File 475.~~

ITEM 11. Amend rule 721—21.304(53) as follows:

**721—21.304(53) Absentee ballot requests from voters whose registration records are “pending.”** A voter who requests an absentee ballot and is assigned a status of “pending” must provide identification pursuant to Iowa Code section 48A.8 ~~as amended by 2009 Iowa Acts, House File 475.~~

**21.304(1) In-person applicants.** In-person applicants for absentee ballots assigned a status of “pending” must show identification pursuant to Iowa Code section 48A.8 ~~as amended by 2009 Iowa Acts, House File 475,~~ before casting a ballot. If an in-person applicant provides identification as required by Iowa Code section 48A.8 when casting an absentee ballot in person, the commissioner shall assign the voter’s registration record a status of “active” and provide the voter with an absentee ballot. Voters who are unable to provide identification as required by Iowa Code section 48A.8 shall be offered a provisional ballot pursuant to Iowa Code section 49.81.

**21.304(2) By-mail applicants.** By-mail applicants for absentee ballots assigned a status of “pending” must either come to the commissioner’s office and show identification pursuant to Iowa Code section 48A.8 ~~as amended by 2009 Iowa Acts, House File 475,~~ or mail a photocopy of identification pursuant to Iowa Code section 48A.8 before the voter’s absentee ballot can be counted by the absentee and special voters precinct board. The commissioner shall mail the voter a notice informing the voter of the requirement to provide one of the identification documents listed in Iowa Code section 48A.8 before the voter’s absentee ballot can be considered for counting by the absentee and special voters precinct board. If a by-mail applicant provides identification as required by Iowa Code section 48A.8, the commissioner shall assign the voter’s registration record a status of “active.”

**21.304(3) By-mail absentee voters assigned a status of “pending” who do not provide identification prior to election day.** The ballot of a by-mail absentee voter assigned a status of “pending” who has not shown identification in person at the commissioner’s office or provided a photocopy of identification

SECRETARY OF STATE[721](cont'd)

by mail pursuant to Iowa Code section 48A.8 ~~as amended by 2009 Iowa Acts, House File 475~~, shall be challenged by a member of the absentee and special voters precinct board on election day pursuant to Iowa Code section 53.31. The absentee and special voters precinct board shall immediately mail notice of the challenge to the voter. The notice shall include the deadline for the voter to provide identification pursuant to Iowa Code section 48A.8. If the voter provides identification pursuant to Iowa Code section 48A.8 prior to the time the absentee and special voters precinct board reconvenes to consider challenged absentee ballots pursuant to Iowa Code section 50.22, the voter's ballot shall be considered for counting by the absentee and special voters precinct board. If the voter does not provide identification pursuant to Iowa Code section 48A.8 prior to the time the absentee and special voters precinct board reconvenes to consider challenged absentee ballots pursuant to Iowa Code section 50.22, the voter's absentee ballot shall be rejected by the absentee and special voters precinct board. The voter shall be notified of the reason for rejection pursuant to Iowa Code section 53.25 ~~as amended by 2009 Iowa Acts, House File 475~~.

This rule is intended to implement Iowa Code ~~section~~ sections 48A.8, 53.25 and 53.31 and sections 48A.8 and 53.25 as amended by 2009 Iowa Acts, House File 475.

ITEM 12. Amend rule 721—21.305(53), introductory paragraph, as follows:

**721—21.305(53) Confirming commissioner's receipt of an absentee ballot on election day.** If a voter's name is on the absentee list prepared pursuant to Iowa Code sections 49.72 and 53.19 ~~as amended by 2010 Iowa Acts, Senate File 2196~~, and the voter appears at the polling place to vote on election day, the precinct election officials may contact the commissioner's office to confirm whether the commissioner has received the voter's absentee ballot. If the precinct election officials are able to confirm either that the commissioner has not received the voter's absentee ballot or that the voter's absentee ballot has been received but cannot be counted due to a defective or incomplete affidavit, the precinct election officials shall permit the voter to cast a regular ballot at the polling place.

ITEM 13. Amend rule **721—21.305(53)**, implementation sentence, as follows:

This rule is intended to implement Iowa Code sections 49.72, 49.81 and 53.19 ~~as amended by 2010 Iowa Acts, Senate File 2196~~.

ITEM 14. Amend paragraph **21.320(2)“g”** as follows:

*g. Requests for absentee ballots through the end of the calendar year.* ~~2009 Iowa Code Supplement section 53.40 as amended by 2010 Iowa Acts, Senate File 2194~~, permits UOCAVA voters to request the commissioner to send absentee ballots for all elections as permitted by state law. In response to an absentee ballot request in which the UOCAVA voter requests ballots for all elections, the commissioner shall send the applicant a ballot for each election held after the request is received through the end of the calendar year in which the request is received. If the applicant does not request ballots for all elections or does not specify which elections the request is for, the commissioner shall send the applicant a ballot only for federal elections through the end of the calendar year in which the request is received.

(1) and (2) No change.

ITEM 15. Amend rule 721—21.403(81GA, HF2282), parenthetical implementation statute, as follows:

**721—21.403(81GA, HF2282 372) Special elections to fill vacancies in elective city offices for cities that may be required to conduct primary elections.**

ITEM 16. Amend rule **721—21.403(372)**, implementation sentence, as follows:

This rule is intended to implement Iowa Code section 372.13(2) ~~as amended by 2006 Iowa Acts, House File 2282, section 2~~.

## SECRETARY OF STATE[721](cont'd)

ITEM 17. Amend rule 721—21.404(81GA,HF2282), parenthetical implementation statute, as follows:

**721—21.404(81GA,HF2282 372) Special elections to fill vacancies in elective city offices for cities without primary election requirements.**

ITEM 18. Amend rule **721—21.404(372)**, implementation sentence, as follows:

This rule is intended to implement Iowa Code section 372.13(2) ~~as amended by 2006 Iowa Acts, House File 2282, section 2.~~

ITEM 19. Amend paragraph **21.800(1)“c”** as follows:

c. The election shall be held on the first possible special election date for counties set forth in Iowa Code section 39.2, subsection 4, paragraph ~~“c,”~~ “a,” but no sooner than 84 days after the date upon which notice is given to the commissioner.

ITEM 20. Amend subrule 21.800(2) as follows:

**21.800(2)** As an alternative to the method of initiating a local option tax election described in subrule 21.800(1), governing bodies of cities and the county may initiate a local option tax election by filing motions with the county auditor pursuant to Iowa Code section 423B.1, subsection 4, paragraph “b,” requesting submission of a local option tax imposition, rate change, use change, or repeal to the qualified electors. Within 30 days of receiving a sufficient number of motions, the county commissioner shall notify affected jurisdictions of the local option tax election date. The election shall be held on the first possible special election date for counties set forth in Iowa Code section 39.2, subsection 4, paragraph ~~“c,”~~ “a,” but no sooner than 84 days after the date upon which the commissioner received the motion triggering the election.

ITEM 21. Amend paragraph **21.800(3)“d”** as follows:

d. The notice of election provided for in Iowa Code section 49.53 ~~as amended by 2009 Iowa Acts, House File 475,~~ shall also be published at the time and in the manner specified in that section.

ITEM 22. Amend paragraph **21.801(1)“a,”** fourth unnumbered paragraph, as follows:

(Insert in substantially the following form the entire text of the proposed public measure immediately below the summary on all paper ballots as provided in Iowa Code section 49.45. Counties using special paper ballots which are read by computerized tabulating equipment may summarize the question on the ballot and post the complete text as provided in Iowa Code section 52.25 ~~as amended by 2009 Iowa Acts, House File 475.~~)

ITEM 23. Amend paragraph **21.801(1)“b,”** fourth unnumbered paragraph, as follows:

(Insert in substantially the following form the entire text of the proposed public measure immediately below the summary on all paper ballots as provided in Iowa Code section 49.45. Counties using special paper ballots which are read by computerized tabulating equipment may summarize the question on the ballot and post the complete text as provided in Iowa Code section 52.25 ~~as amended by 2009 Iowa Acts, House File 475.~~)

ITEM 24. Amend paragraph **21.801(1)“c,”** fourth unnumbered paragraph, as follows:

(Insert in substantially the following form the entire text of the proposed public measure immediately below the summary on all paper ballots as provided in Iowa Code section 49.45. Counties using special paper ballots which are read by computerized tabulating equipment may summarize the question on the ballot and post the complete text as provided in Iowa Code section 52.25 ~~as amended by 2009 Iowa Acts, House File 475.~~)

ITEM 25. Amend paragraph **21.801(1)“d,”** fourth unnumbered paragraph, as follows:

(Insert in substantially the following form the entire text of the proposed public measure immediately below the summary on all paper ballots as provided in Iowa Code section 49.45. Counties using special paper ballots which are read by computerized tabulating equipment may summarize the question on the ballot and post the complete text as provided in Iowa Code section 52.25 ~~as amended by 2009 Iowa Acts, House File 475.~~)

## SECRETARY OF STATE[721](cont'd)

ITEM 26. Amend paragraph **21.801(1)“e,”** fourth unnumbered paragraph, as follows:  
(Insert in substantially the following form the entire text of the proposed public measure immediately below the summary on all paper ballots as provided in Iowa Code section 49.45. Counties using special paper ballots which are read by computerized tabulating equipment may summarize the question on the ballot and post the complete text as provided in Iowa Code section 52.25 ~~as amended by 2009 Iowa Acts, House File 475.~~)

ITEM 27. Amend paragraph **21.801(1)“f,”** fourth unnumbered paragraph, as follows:  
(Insert in substantially the following form the entire text of the proposed public measure immediately below the summary on all paper ballots as provided in Iowa Code section 49.45. Counties using special paper ballots which are read by computerized tabulating equipment may summarize the question on the ballot and post the complete text as provided in Iowa Code section 52.25 ~~as amended by 2009 Iowa Acts, House File 475.~~)

ITEM 28. Amend paragraph **21.801(1)“g,”** fourth unnumbered paragraph, as follows:  
(Insert in substantially the following form the entire text of the proposed public measure immediately below the summary on all paper ballots as provided in Iowa Code section 49.45. Counties using special paper ballots which are read by computerized tabulating equipment may summarize the question on the ballot and post the complete text as provided in Iowa Code section 52.25 ~~as amended by 2009 Iowa Acts, House File 475.~~)

ITEM 29. Amend paragraph **21.801(1)“h,”** fourth unnumbered paragraph, as follows:  
(Insert in substantially the following form the entire text of the proposed public measure immediately below the summary on all paper ballots as provided in Iowa Code section 49.45. Counties using special paper ballots which are read by computerized tabulating equipment may summarize the question on the ballot and post the complete text as provided in Iowa Code section 52.25 ~~as amended by 2009 Iowa Acts, House File 475.~~)

ITEM 30. Amend paragraph **21.801(1)“i,”** fourth unnumbered paragraph, as follows:  
(Insert in substantially the following form the entire text of the proposed public measure immediately below the summary on all paper ballots as provided in Iowa Code section 49.45. Counties using special paper ballots which are read by computerized tabulating equipment may summarize the question on the ballot and post the complete text as provided in Iowa Code section 52.25 ~~as amended by 2009 Iowa Acts, House File 475.~~)

ITEM 31. Amend paragraph **21.801(1)“j,”** fourth unnumbered paragraph, as follows:  
(Insert in substantially the following form the entire text of the proposed public measure immediately below the summary on all paper ballots as provided in Iowa Code section 49.45. Counties using special paper ballots which are read by computerized tabulating equipment may summarize the question on the ballot and post the complete text as provided in Iowa Code section 52.25 ~~as amended by 2009 Iowa Acts, House File 475.~~)

ITEM 32. Amend subrule **21.801(2),** fifth unnumbered paragraph, as follows:  
(Insert in substantially the following form the entire text of the proposed public measure immediately below the summary on all paper ballots as provided in Iowa Code section 49.45. Counties using optical scan ballots which are read by automatic tabulating equipment may summarize the question on the ballot and post the complete text as provided in Iowa Code section 52.25 ~~as amended by 2009 Iowa Acts, House File 475.~~)

ITEM 33. Amend subrule 21.802(2) as follows:

**21.802(2)** Notice of local vehicle tax election. Not less than 60 days before the date that a local vehicle tax election will be held, the county commissioner of elections shall publish notice of the ballot proposition. The notice does not need to include a sample ballot, but shall include all of the information that will appear on the ballot. The notice of election provided for in Iowa Code section 49.53 ~~as amended by 2009 Iowa Acts, House File 475,~~ shall also be published at the time and in the manner specified in that section.

SECRETARY OF STATE[721](cont'd)

ITEM 34. Amend rule 721—21.803(82GA,HF2663), parenthetical implementation statute, as follows:

**721—21.803(~~82GA,HF2663~~ 423F) Revenue purpose statement ballots.**

ITEM 35. Amend subrule **21.803(1)**, last unnumbered paragraph, as follows:

(Insert here the revenue purpose statement that was adopted by the school board and that states the intended uses of the funds by the school district. The use or uses must be among the approved uses of the tax that are authorized by ~~2008 Iowa Acts, House File 2663, section 29~~ Iowa Code chapter 423F.)

ITEM 36. Amend subrule **21.803(2)**, sixth unnumbered paragraph, as follows:

(Insert here the revenue purpose statement that was adopted by the school board and that states the intended uses of the funds by the school district. The use or uses must be among the approved uses of the tax that are authorized by ~~2008 Iowa Acts, House File 2663, section 29~~ Iowa Code chapter 423F.)

ITEM 37. Amend rule **721—21.803(423F)**, implementation sentence, as follows:

This rule is intended to implement ~~2008 Iowa Acts, House File 2663, section 29~~ Iowa Code section 423F.3.

**ARC 1736C**

**TRANSPORTATION DEPARTMENT[761]**

**Notice of Intended Action**

**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 307.10 and 307.12, the Iowa Department of Transportation hereby gives Notice of Intended Action to amend Chapter 13, “Contested Cases,” Iowa Administrative Code.

Item 1 makes proposed changes to expand the retention period of contested case records to coincide with Iowa Code section 17A.12, which requires that records relating to oral proceedings be retained for at least five years. Item 2 corrects an Iowa Code citation within the chapter’s implementation sentence.

These rules do not provide for waivers. Any person who believes that the person’s circumstances meet the statutory criteria for a waiver may petition the Department for a waiver under 761—Chapter 11.

Any person or agency may submit written comments concerning these proposed amendments or may submit a written request to make an oral presentation. The comments or request shall:

1. Include the name, address, and telephone number of the person or agency authoring the comments or request.
2. Reference the number and title of the proposed rule, as given in this Notice, that is the subject of the comments or request.
3. Indicate the general content of a requested oral presentation.
4. Be addressed to Tracy George, Rules Administrator, Iowa Department of Transportation, Office of Policy and Legislative Services, 800 Lincoln Way, Ames, Iowa 50010; Internet e-mail address: [tracy.george@dot.iowa.gov](mailto:tracy.george@dot.iowa.gov).

5. Be received by the Office of Policy and Legislative Services no later than December 16, 2014.

A meeting to hear requested oral presentations is scheduled for Thursday, December 18, 2014, at 10 a.m. in the Administration Building, First Floor, South Conference Room, Department of Transportation, 800 Lincoln Way, Ames, Iowa.

The meeting will be canceled without further notice if no oral presentation is requested.

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

These amendments are intended to implement Iowa Code sections 17A.12 and 10A.801.

The following amendments are proposed.

## TRANSPORTATION DEPARTMENT[761](cont'd)

ITEM 1. Amend rule 761—13.10(17A) as follows:

**761—13.10(17A) Maintenance of records.** The department shall retain for ~~three~~ at least five years from the date of the final decision copies of ~~decisions~~ the record made before the presiding officer, the decision received from the presiding officers officer, ~~decisions~~ the decision issued by the director, and related correspondence.

ITEM 2. Amend **761—Chapter 13**, implementation sentence, as follows:

These rules are intended to implement Iowa Code chapter 17A and Iowa Code section ~~40A.202~~ 10A.801.

## 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 James M. Schipper, 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 4.50%.

#### 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 11, 2014, setting the minimums that may be paid by Iowa depositories on public funds are listed below.

#### 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 .10%

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 1740C**

**INSPECTIONS AND APPEALS DEPARTMENT[481]**

**Adopted and Filed**

Pursuant to the authority of Iowa Code section 135G.10, the Department of Inspections and Appeals hereby adopts new Chapter 71, “Subacute Mental Health Care Facilities,” Iowa Administrative Code.

The rules implement Iowa Code chapter 135G, “Subacute Mental Health Care Facilities,” which provides for the establishment of basic standards for the operation of subacute care facilities to ensure the safe and adequate diagnosis, evaluation and treatment of persons with serious and persistent mental illness so that the persons are able to experience recovery and live successfully in the community.

Notice of Intended Action was published in the Iowa Administrative Bulletin on September 3, 2014, as **ARC 1615C**. Written and oral comments were received from associations and individuals. The comments:

- Recommended removing the definition of “physician extender” and replacing the term throughout the rules with references to “advanced registered nurse practitioner,” “physician assistant,” and “mental health professional,” as appropriate.
- Asked about and expressed concerns regarding the requirement that the individual receiving subacute mental health services in a subacute facility be voluntarily admitted.
- Asked whether there was a limit to how long a person can be in subacute care.
- Recommended clarification of paragraph 71.12(2)“b,” which requires the 24-hour-per-day, seven-day-per-week availability of a registered nurse with experience in psychiatric care.
- Asked about the discharge criteria policies in subrule 71.13(6).
- Suggested that discharge or transfer in subrule 71.13(7) should be a function of case management, IHHs, regions or someone who has funding decision authority.
- Recommended replacing “treatment staff” with “mental health professionals” in paragraph 71.14(2)“g.”
- Recommended eliminating the “at least daily” requirement for review and signature of treatment plans in paragraph 71.14(2)“j.”
- Suggested changes to subparagraph 71.14(2)“j”(4) to more accurately describe the individual who may justify services and to indicate that the individual has specialization in the mental health field.
- Suggested removing “all” from subrule 71.16(9) related to restraints and seclusion.

Changes to the rules published under Notice of Intended Action include replacing the term “physician extender” with “physician assistant,” “advanced registered nurse practitioner” or “mental health professional,” as appropriate, throughout the chapter. Paragraph 71.12(2)“b” was changed to clarify that a registered nurse must be on call 24 hours per day, seven days per week. Paragraph 71.14(2)“j” was revised to eliminate the requirement that the qualified prescriber sign and date the daily review of the treatment plan and the requirement that a statement of justification for the level of services be included in the daily review. Subrule 71.16(9) was rewritten to clarify orders for restraints.

In response to comments that did not lead to changes in the rules, the Department offers the following:

- The rules do not limit the length of time a person can be in a subacute facility, but do require a review of the resident’s status every ten days to determine if the person remains eligible for subacute care.
- The discharge and transfer provisions found in rule 481—71.13(135G) were not changed. A person who does not meet the criteria of subrule 71.13(6) would not be discharged. As with other health care facilities regulated by the Department, the subacute mental health care facility is expected to communicate with persons or entities that have funding decision authority in order to coordinate the resident’s discharge. The facility retains the ultimate responsibility for the safe and appropriate transfer of the resident.
- Pursuant to Iowa Code section 135G.10, the Department consulted with the Department of Human Services in writing these rules. It was concluded that individuals must be voluntarily admitted to subacute mental health care facilities. Individuals should be engaged in their treatment during the

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

recovery process. Subacute mental health care facilities should not be used as an alternative placement for individuals needing mental health commitment that requires an inpatient hospital level of care.

The Department does not believe that the adopted rules impose any financial hardship on any regulated entity, body, or individual.

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

These rules are intended to implement Iowa Code section 135G.10.

These rules shall become effective December 31, 2014.

The following amendment is adopted.

Adopt the following new 481—Chapter 71:

CHAPTER 71  
SUBACUTE MENTAL HEALTH CARE FACILITIES

**481—71.1(135G) Purpose—subacute mental health services.** Subacute mental health services are intended to be short-term, intensive, recovery-oriented services designed to stabilize an individual who is experiencing a decreased level of functioning due to a mental health condition.

**481—71.2(135G) Definitions.** For the purpose of these rules, the following terms shall have the meanings indicated in this chapter. The definitions set out in Iowa Code section 135G.1 are adopted by reference in the rules.

*“Administrator”* means an individual who administers, manages, supervises, and is in general administrative charge of a subacute care facility, whether or not such individual has an ownership interest in the facility and whether or not the functions and duties are shared with one or more individuals.

*“Assessment”* means the evaluation of a person in psychiatric crisis in order to ascertain the person’s current and previous level of functioning, psychiatric and medical history, potential for dangerousness, current psychiatric and medical condition factors contributing to the crisis and support systems that are available.

*“Distinct part”* means a clearly identifiable area or section within a health care facility, consisting of at least a residential unit, wing, floor, or building containing contiguous rooms.

*“Incident”* means an unusual occurrence within a facility or on its premises affecting residents, visitors, or employees whether or not there is apparent injury or where hidden injury may have occurred.

*“Medication”* means any drug including over-the-counter substances ordered and administered under the direction of a physician, physician assistant or advanced registered nurse practitioner.

*“Peer support”* means services that are provided by individuals in recovery from serious mental illness and delivered to others who also have mental illness.

*“Responsible party”* means the person who signs or cosigns the admission agreement required in rule 481—71.13(135G) or the resident’s guardian or conservator if one has been appointed. In the event that a resident does not have a guardian, conservator or other person signing the admission agreement, the term “responsible party” shall include the resident’s sponsoring agency, e.g., the department of human services, the U.S. Department of Veterans Affairs, a religious group, fraternal organization, or foundation that assumes responsibility and advocates for its client patients and pays for their health care.

*“Restraint”* means the application of physical force, use of a chemical agent, or a mechanical device for the purpose of restraining the free movement of an individual’s body to protect the individual or others from immediate harm. Restraint does not include briefly holding without undue force an individual to calm or comfort the individual or holding an individual’s hand to safely escort the individual from one area to another.

*“Restricted means of egress”* means an exit door alarm system for safety of the residents and the public.

*“Seclusion”* means the involuntary confinement of a resident alone in a room or an area from which the resident is physically prevented from leaving.



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

**481—71.3(135G) Application for licensure.**

**71.3(1) Initial application and licensing.** In order to obtain an initial license for a subacute care facility, the applicant must meet all the requirements of the rules, regulations, and standards contained in Iowa Code chapter 135G and in this chapter and must make application at least 30 days prior to the proposed licensure date of the subacute care facility on forms provided by the department. The applicant must:

- a. Submit a résumé of care with a narrative which includes the following information:
  - (1) The purpose of the facility.
  - (2) A description of the target population and limitations on resident eligibility.
  - (3) Identification and description of the services the facility will provide, which shall minimally include specific and measurable goals and objectives for each of the services to be made available by the facility and a description of the resources needed to provide each of the services, including staff, physical facilities and funds.
  - (4) A description of the human services system available in the area including, but not limited to, social, public health, visiting nurse, vocational training, and employment services, residential living arrangements, and services of private agencies.
  - (5) A description of working relationships with human services agencies when applicable, which shall include at a minimum:
    1. A description of how the facility will coordinate with human services agencies to facilitate continuity of care and coordination of services to residents; and
    2. A description of how the facility will coordinate with human services agencies to identify unnecessary duplication of services and plan for development and coordination of needed services;
- b. Submit a floor plan of each floor of the facility drawn on 8½- × 11-inch paper showing room areas in proportion, room dimensions, room numbers for all rooms, including bathrooms, the designation of the use to which each room will be put, and window and door location;
- c. Submit a photograph of the front and side elevation of the facility;
- d. Submit the statutory fee for a subacute care facility license;
- e. Show evidence of a certificate signed by the state fire marshal or deputy state fire marshal certifying compliance with fire safety rules.

**71.3(2) Conversion from an intermediate care facility for persons with mental illness.** An intermediate care facility for persons with mental illness may be converted to a subacute care facility pursuant to Iowa Code section 135G.4(2) if the facility:

- a. Provides written notice to the department that the facility has employed a full-time psychiatrist and desires to make the conversion; and
- b. Submits an application to the department.

**71.3(3) Renewal application or change of ownership.** In order to obtain a renewal or change of the subacute care facility license, the applicant must:

- a. Submit to the department the completed application form 30 days prior to the annual license renewal or change of ownership date;
- b. Submit the statutory license fee for a subacute care facility with the application for renewal or change of ownership;
- c. Have an approved, current certificate signed by the state fire marshal or deputy state fire marshal certifying compliance with fire safety rules and regulations; and
- d. Submit appropriate changes in the résumé of care to reflect any changes in the resident care program or other services.

**71.3(4) Issuance of license.** Licenses are issued to the person or governmental unit with responsibility for the operation of the facility and authority to comply with all applicable statutes, rules or regulations. The person or governmental unit must be the owner of the facility or, if the facility is leased, the lessee.

**71.3(5) Department of human services approval.** Prior to issuance of the license, the department of human services must submit to the department written approval of the application based upon the process used by the department of human services to identify the best-qualified providers.

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

**71.3(6) *Licensed beds limit.*** The total number of publicly funded subacute care facility beds licensed under this chapter shall not exceed 50.

**71.3(7) *Beds per facility.*** A single facility shall not be licensed for more than 16 beds.

**481—71.4(135G) Licenses for distinct parts.**

**71.4(1)** Separate licenses may be issued for distinct parts of a health care facility which are clearly identifiable, include specifically designated rooms within the facility, and provide separate categories of care and services.

**71.4(2)** The following requirements shall be met for a separate licensing of a distinct part:

- a. The distinct part shall serve only residents who require the category of care and services immediately available to the residents within that part;
- b. The distinct part shall meet all the standards, rules, and regulations pertaining to the category for which a license is being sought;
- c. A distinct part must be operationally and financially feasible.

**481—71.5(135G) Variances.**

**71.5(1)** Variances from these rules may be granted by the director of the department if, in addition to the requirements of 481—Chapter 6:

- a. The need for a variance has been established consistent with the résumé of care or the resident's individual program plan; and
- b. There is no danger to the health, safety, welfare, or rights of any resident.

**71.5(2)** The variance will apply only to a subacute care facility.

**71.5(3)** Variances shall be reviewed by the department at the time of each licensure survey to verify whether the facility is still eligible for the variance.

**481—71.6(135G) Provisional license.**

**71.6(1) *Provisional license procedure.*** The department may issue a provisional license to a subacute care facility pursuant to Iowa Code section 135G.8. The procedure for issuance of a provisional license shall be as follows:

- a. The department shall first issue to the facility a report which identifies the deficiency.
- b. Within 10 working days after receipt of the report, the facility shall provide the department with a written plan of correction.
- c. The department shall review the written plan of correction within 10 working days of receipt. The department may request additional information or revision to the plan, which shall be provided as requested.
- d. After accepting the written plan of correction, the department shall then issue a provisional license to the facility, which shall not exceed one year in duration.

**71.6(2) *Written plan of correction.*** The written plan of correction shall contain:

- a. How the facility will correct the deficient practice;
- b. How the facility will act to protect residents;
- c. The measures the facility will take or the systems it will alter to ensure that the deficient practice does not recur; and
- d. The date when the plan of correction will be completed, not to exceed 30 days from the date of the department's report.

**481—71.7(135G) General requirements.**

**71.7(1)** The license shall be displayed in the facility in a conspicuous place which is viewed by the public.

**71.7(2)** The license shall be valid only for the premises and person named on the license and is not transferable.

**71.7(3)** The posted license shall accurately reflect the current status of the subacute care facility's license.

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

**71.7(4)** A license shall expire one year after the date of issuance or as indicated on the license.

**71.7(5)** There shall be no more beds added than are stipulated on the license.

**481—71.8(135G) Required notifications to the department.**

**71.8(1)** The department shall be notified:

- a. Thirty days in advance of any proposed change in the subacute care facility's functional operation or the addition or deletion of required services;
- b. Thirty days before any addition, alteration, or new construction is begun in the subacute care facility or on the premises;
- c. Thirty days in advance of any closure of the subacute care facility;
- d. Within two weeks of any change in administrator;
- e. Within 30 days of the date on which any change in the category of license is sought;
- f. Within 30 days of any proposed change in the résumé of care for the subacute care facility.

**71.8(2)** Prior to the purchase, transfer, assignment, or lease of a subacute care facility, the licensee shall:

- a. Inform the department of the pending sale, transfer, assignment, or lease of the facility; and
- b. Inform the department of the name and address of the prospective purchaser, transferee, assignee, or lessee at least 30 days before the sale, transfer, assignment, or lease is completed.

**71.8(3)** Within 24 hours, or the next business day, by the most expeditious means available, the department shall be notified:

- a. Of any accident causing major injury. "Major injury" shall be defined as any injury which:
  - (1) Results in death; or
  - (2) Requires admission to a higher level of care for treatment, other than for observation; or
  - (3) Requires consultation with the attending physician, or designee of the physician, or advanced registered nurse practitioner who determines, in writing, on a form designated by the department, that an injury is a "major injury" based upon the circumstances of the accident, the previous functional ability of the resident, and the resident's prognosis;
- b. When a resident attempts suicide, regardless of injury;
- c. When damage to the facility is caused by a natural or other disaster;
- d. When a fire occurs in a facility and the fire requires the notification of emergency services, requires full or partial evacuation of the facility, or causes physical injury to a resident;
- e. When a defect or failure occurs in the fire sprinkler or fire alarm system for more than 4 hours in a 24-hour period. (This reporting requirement is in addition to the requirement to notify the state fire marshal.)

**481—71.9(135G) Reports of dependent adult abuse.** Reports of suspected dependent adult abuse shall be made to the department of human services.

**481—71.10(135G) Administrator.**

**71.10(1)** *Administrator required.* Each subacute care facility shall have one person in charge who is duly approved by the department or acting in a provisional capacity in accordance with these rules.

**71.10(2)** *Qualifications of an administrator.* The administrator shall be at least 21 years of age and shall have a high school diploma or equivalent. In addition, the person shall meet at least one of the following conditions:

- a. Be a mental health professional, as defined in Iowa Code section 228.1(6), with at least one year of experience in an administrative capacity; or
- b. Have a four-year degree in human services, psychology, sociology, nursing, health care administration, public administration, or a related field and have a minimum of one year of experience in the field; or
- c. Have a master's degree in human services, psychology, sociology, nursing, health care administration, public administration, or a related field; or
- d. Be a licensed nursing home administrator.

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

**71.10(3) Administrator—distinct part.** If a subacute care facility is a distinct part of a licensed health care facility, the administrator of the facility as a whole may serve as the administrator of the subacute care facility.

**71.10(4) Provisional administrator.** A provisional administrator may be appointed on a temporary basis by the subacute care facility licensee to assume the administrative responsibilities of the facility for a period not to exceed 12 months when the facility has, through no fault of its own, lost its administrator and has not been able to replace the administrator, provided the department has been notified and has approved the provisional administrator prior to the date of the administrator's appointment. The provisional administrator must meet the requirements of subrule 71.10(2).

**71.10(5) Administrator—initial licensing of facility.** A facility applying for an initial license shall not have a provisional administrator.

**71.10(6) Duties of administrator.** An administrator shall:

- a. Be responsible for the implementation of procedures to support the policies established by the licensee;
- b. Select and direct competent personnel who provide services for the subacute care facility;
- c. Make a policies and procedures manual available to all staff;
- d. Be responsible for a monthly in-service educational program for all employees and maintain records of programs and participants;
- e. Make staff payroll records available for departmental review as needed;
- f. Furnish to the department within 30 days of the department's request statistical information concerning the operation of the facility.

**481—71.11(135G) Administration.**

**71.11(1)** The licensee shall:

- a. Assume the responsibility for the overall operation of the subacute care facility;
- b. Be responsible for compliance with all applicable laws and with the rules of the department;
- c. Establish written policies, which shall be available for review, for the operation of the subacute care facility.

**71.11(2)** The policy and procedures shall include:

- a. Personnel;
- b. Admission;
- c. Evaluation services;
- d. Treatment and discharge plan;
- e. Crisis intervention, including restraint and seclusion;
- f. Involuntary discharge or transfer;
- g. Medication management;
- h. Records;
- i. Resident rights.

**481—71.12(135G) Personnel.**

**71.12(1)** Staffing requirements. Availability of personnel must be sufficient to meet psychiatric and medical treatment needs of the residents served.

**71.12(2)** Staffing shall include at minimum:

- a. Twenty-four-hour-per-day, seven-day-per-week availability of on-call psychiatrist or advanced registered nurse practitioner with at least one year of experience in psychiatric care;
- b. Twenty-four-hour-per-day, seven-day-per-week availability of on-call registered nurse with at least two years of experience in psychiatric care or a registered nurse with a bachelor of science in nursing (BSN) and at least one year of experience in psychiatric care;
- c. A mental health professional as defined in Iowa Code section 228.1(6);
- d. Direct care staff with at least three years of experience in a mental health care setting; and
- e. Social service staff at the bachelor level with at least one year of experience in a mental health care setting.

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

**71.12(3)** Personnel policies and procedures shall include the following requirements:

- a. Written job descriptions for all employees or agreements for all consultants, which include duties and responsibilities, education, experience, or other requirements, and supervisory relationships.
- b. Annual performance evaluations of all employees and consultants which are dated and signed by the employee or consultant and the supervisor.
- c. Personnel records which are current, accurate, complete, and confidential to the extent allowed by law. The record shall contain documentation of how the employee's or consultant's education and experience are relevant to the position for which the employee or consultant was hired.
- d. Roles, responsibilities, and limitations of student interns and volunteers.
- e. An orientation program for all newly hired employees and consultants that includes an introduction to the facility's personnel policies and procedures and a discussion of the facility's safety plan.
- f. Equal opportunity and affirmative action employment practices.
- g. Procedures to be used when disciplining an employee.
- h. Appropriate dress and personal hygiene for staff.
- i. An overview of recovery principles, person-centered planning and residents' rights.

**71.12(4)** The facility shall require regular health examinations for all personnel prior to employment and regular examinations thereafter at least every four years. The examination shall include, at a minimum, the health status of the employee, including screening and testing for tuberculosis as described in 481—Chapter 59.

- a. No person shall be allowed to provide services in a facility if the person has a disease:
  - (1) Which is transmissible through required workplace contact;
  - (2) Which presents a significant risk of infecting others;
  - (3) Which presents a substantial possibility of harming others; and
  - (4) For which no reasonable accommodation can eliminate the risk.
- b. There shall be written policies for emergency medical care for employees in case of sudden illness or accident. These policies shall include the administrative individuals to be contacted.
- c. Health certificates for all employees shall be available for review by the department.

**71.12(5)** Personnel record.

- a. A personnel record shall be kept for each employee.
- b. The record shall include the employee's:
  - (1) Name and address,
  - (2) Social security number,
  - (3) Date of birth,
  - (4) Date of employment,
  - (5) References,
  - (6) Position in the facility,
  - (7) Job description,
  - (8) Documentation of experience and education,
  - (9) Staff development plan,
  - (10) Annual performance evaluation,
  - (11) Documentation of disciplinary action,
  - (12) Date and reason for discharge or resignation,
  - (13) Current physical examination.

**481—71.13(135G) Admission, transfer, and discharge.**

**71.13(1)** *General admission policies.*

- a. A subacute care facility shall not admit or retain a resident who is in need of greater services than the facility can provide.
- b. Prior to admission of an applicant, the facility shall obtain sufficient information to determine if its program is appropriate and adequate to meet the individual's needs.

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

c. A subacute care facility shall admit only as many residents as indicated by the number of beds for which the facility is licensed.

d. A subacute care facility shall adopt policies regarding the admission requirements outlined in subrule 71.13(2).

**71.13(2) Admission requirements.**

a. Eligibility for individualized subacute mental health services will be determined by the standardized preadmission screening utilized by the facility, which shall be conducted by a mental health professional, as defined in Iowa Code section 228.1(6).

b. In order to be admitted, the individual must:

(1) Be 18 years or older;

(2) Be voluntarily admitted;

(3) During the past year, have had a diagnosable mental, behavioral or emotional disorder that meets the diagnostic criteria specified in the most current edition of the Diagnostic and Statistical Manual of Mental Disorders (DSM);

(4) Demonstrate a high degree of impairment through significantly impaired mental, social, or educational functioning arising from the psychiatric condition or serious emotional disturbance;

(5) Demonstrate an impairment that severely limits the skills necessary to maintain an adequate level of functioning outside a treatment program and requires active treatment to obtain an adequate level of functioning;

(6) Demonstrate a low level of stability through any two of the following conditions:

1. The individual presents moderate to high risk of danger to self or others.

2. The individual lacks adequate skills or social support to address mental health symptoms.

3. The individual is medically stable but requires observation and care for stabilization of a mental health condition or impairment.

**71.13(3) Admission agreement.** A subacute care facility shall provide an admission agreement to each resident upon admission to the facility. Each admission agreement shall include:

a. Method of payment;

b. Schedule of services and any additional fees;

c. The facility's policies regarding length of stay, discharge and transfer.

**71.13(4) Exclusion criteria.**

a. A subacute care facility shall not admit an individual into the facility if:

(1) The individual manifests behavioral or psychiatric symptoms that require acute care;

(2) The individual can be safely maintained and effectively treated with less intensive services in a community setting;

(3) The symptoms of the individual do not meet admission criteria in subrule 71.13(2); or

(4) The individual does not voluntarily consent to treatment.

b. An individual's lack of adequate place of residence, placement, or housing is not reason to receive subacute mental health services.

**71.13(5) Continued stay criteria policies.** By the tenth day following admission and every ten calendar days thereafter, the mental health professional shall conduct and document an assessment of the resident and determine if:

a. The severity of the behavioral and emotional symptoms continues to require the subacute level of intervention and the DSM diagnosis remains the principal diagnosis.

b. The prescribed interventions remain consistent with the intended treatment plan outcomes.

c. There is documented evidence of active, individualized discharge planning.

d. There is a reasonable likelihood of substantial benefit in the resident's mental health condition as a result of active intervention of the 24-hour supervised program.

e. Symptoms and behaviors that required admission are continuing.

f. A less intensive level of care would be insufficient to stabilize the resident's condition.

g. New issues that meet the admission guidelines in subrule 71.13(2) have appeared.

h. The resident requires further stabilization subsequent to acute care to treat active mental health symptoms such as psychosis, depression or mood disorder.

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

**71.13(6) Discharge criteria policies.** A resident may be discharged from subacute level of care if:

- a. The resident's treatment plan goals and objectives for subacute services have been met and a discharge plan to outpatient or other community-based services is in place.
- b. The resident withdraws consent for treatment.
- c. The resident's physical condition necessitates transfer to a more intensive level of care.
- d. The resident is not making progress toward treatment goals and there is no reasonable expectation of progress at the subacute level of care.
- e. The resident becomes a danger to self, others, or facility structure and requires an emergency transfer to a higher level of care.
- f. The resident repeatedly refuses to participate in the resident's treatment plan.

**71.13(7) Discharge or transfer.**

- a. The facility shall give prior notification to the resident, as well as the resident's next of kin, legal representative, attending physician or advanced registered nurse practitioner, and sponsoring agency, if any, prior to transfer or discharge of any resident.
- b. The subacute care facility shall make proper arrangements for the welfare of the resident prior to transfer or discharge in the event of an emergency or inability to reach the next of kin or legal representative.
- c. The facility shall make advance notification to the receiving facility prior to the transfer of any resident if the resident is to be transferred to another facility. Prior to the transfer or discharge of a resident to another health care facility, arrangements to provide for continuity of care shall be made with the facility to which the resident is being transferred.
- d. The appropriate record as set forth in subrule 71.18(1) shall accompany the resident when the resident is transferred or discharged.

**481—71.14(135G) Treatment plan.**

**71.14(1)** A treatment plan must be developed with each resident. The plan must be based on initial and ongoing assessment of need, be designed to resolve the acute or crisis mental health symptoms or the imminent risk of acute or crisis mental health symptoms, and be completed within six hours of admission.

**71.14(2)** The treatment plan must be documented in the resident's record and must include the following:

- a. The resident's name.
- b. The date the plan is developed.
- c. Standardized diagnostic formulations, including but not limited to the current Diagnostic and Statistical Manual (DSM) or the current International Statistical Classification of Diseases and Related Health Problems (ICD).
- d. Problems and strengths of the resident that are to be addressed.
- e. Observable and measurable individual objectives that relate to the specific problems identified.
- f. Interventions that address specific objectives, identification of staff responsible for interventions, and planned frequency of interventions.
- g. Signatures of mental health professionals responsible for developing the plan, including the qualified prescriber.
- h. Signatures of the resident and any parent, guardian, conservator, or legal custodian. Reasons for refusal to sign or inability to participate in treatment plan development must be documented.
- i. A projected discharge date and anticipated postdischarge needs, including documentation of resources needed in the community.
- j. Review of the treatment plan by the appropriate treatment staff at least daily and upon completion of the stated goals or objectives and documentation of the following:
  - (1) Progress toward each treatment objective, with revisions as indicated; and
  - (2) Status of discharge plans, including availability of resources needed by the resident in the community, with revisions as indicated.

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

**481—71.15(135G) Crisis intervention.**

**71.15(1)** There shall be written policies and procedures concerning crisis intervention. These policies and procedures shall be:

- a.* Directed to maximizing the growth and development of the individual by incorporating a hierarchy of available alternative methods that emphasize positive approaches;
- b.* Available in each program area and living unit;
- c.* Available to individuals and their families; and
- d.* Developed with the participation, as appropriate, of individuals served.

**71.15(2)** An emergency safety intervention must be performed in a manner that is safe, proportionate, and appropriate to the severity of the behavior and to the individual's chronological and developmental age, size, gender, physical, medical, and psychiatric condition and personal history, including any history of physical or sexual abuse.

**481—71.16(135G) Seclusion and restraint.**

**71.16(1)** Pursuant to Iowa Code section 135G.3(2), a subacute care facility utilizing a seclusion room must meet the conditions of 42 CFR § 483.364(b). Use of the seclusion room shall be approved by a licensed psychiatrist or by order of the resident's physician, a physician assistant, or an advanced registered nurse practitioner.

**71.16(2)** There shall be written policies that define the use of restraint, designate the staff member who may authorize its use, and establish a mechanism for monitoring and controlling its use.

**71.16(3)** Restraint shall not be used for punishment, for the convenience of staff, or as a substitution for supervision. Restraint shall only be used:

- a.* In an emergency to prevent injury to the resident or to others; or
- b.* For crisis intervention.

**71.16(4)** Restraint must not result in harm or injury to the resident and must be used only to ensure the safety of the resident or others during an emergency situation until the emergency situation has ceased, even if the restraint order has not expired.

**71.16(5)** The use of restraint should be selected only when other less restrictive measures have been found to be ineffective to protect the resident or others. The staff shall demonstrate effective treatment approaches and alternatives to the use of restraint.

**71.16(6)** Standing or as-needed orders for restraint are prohibited.

**71.16(7)** Under no circumstances shall a resident be allowed to actively or passively assist in the restraint of another resident.

**71.16(8)** Staff trained in the use of emergency safety interventions must be physically present and continually assessing and monitoring the well-being of the resident and the safe use of restraint throughout the duration of the emergency situation.

**71.16(9)** Orders for restraint or seclusion must be by a physician or other licensed practitioner permitted by law to order restraint or seclusion.

*a.* Verbal orders must be received while the emergency safety intervention is being initiated by staff or immediately after the emergency safety situation ends and must be verified in writing in the resident's record by the physician or other licensed practitioner permitted by law to order restraint or seclusion.

*b.* Once the one-time order for the specific resident in an emergency safety situation has expired, it may not be renewed on a planned, anticipated, or as-needed basis.

**71.16(10)** Staff must document in the resident's record and in a centralized tracking system any use of restraint or seclusion.

**71.16(11)** As soon as reasonably possible after the restraint or seclusion of a resident has terminated, staff must meet to process the restraint or seclusion occurrence and document in writing the meeting.

**71.16(12)** A resident who requires restraint or seclusion on multiple occasions should be considered for a higher level of care.

**71.16(13)** The facility shall provide to the staff training by qualified professionals on physical restraint and seclusion theory and techniques.



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

*a.* The facility shall keep a record of the training, including attendance, for review by the department.

*b.* Only staff who have documented training in physical restraint and seclusion theory and techniques shall be authorized to assist with seclusion or physical restraint of a resident.

**481—71.17(135G) Medication management.**

**71.17(1)** Medications must be ordered by qualified prescribers and administered by qualified personnel.

**71.17(2)** Prescription medication must be legally dispensed and labeled according to state law.

**71.17(3)** All medication errors, drug reactions and suspected drug overmedication must be documented and reported to the practitioner who prescribed the medication.

**71.17(4)** All medications and other preparations intended for internal or external human use must be stored in medicine cabinets or drug rooms. When preservation of the medication or other preparation requires refrigeration, the facility must provide a means of securely refrigerating these items. Such cabinets or drug rooms must be kept securely locked when not in use, and the key must be in the possession of the supervising nurse or other authorized person.

**71.17(5)** Schedule II drugs must be stored within two separately locked compartments at all times and accessible only to qualified personnel in charge of administering medication.

**71.17(6)** Any unused portions of program-prescribed medication(s) must be either turned over to the resident with written authorization and directions by the qualified prescriber or returned to a pharmacy for proper disposition by the pharmacist.

**71.17(7)** Whenever a resident brings the resident's own prescribed medications into the facility, such medications must not be administered unless identified and ordered by a qualified prescriber. If such medications cannot be administered, they must be packaged, sealed, and returned to an adult member of the resident's immediate family or the legal guardian or securely stored and returned to the resident upon discharge. However, if previously prescribed medication would prove harmful to the resident, the medication may be withheld from the resident and disposed of in accordance with subrule 71.17(6). There must be documentation by the qualified prescriber in the resident's clinical record citing the dangers or contraindications of the medication being withheld.

**71.17(8)** All potent, poisonous, or caustic materials shall be stored separately from medications. All potent, poisonous, or caustic materials shall be plainly labeled and stored in a specific, well-illuminated cabinet, closet or storeroom and made accessible only to authorized personnel.

**481—71.18(135G) Records.**

**71.18(1)** *Resident record.* The licensee shall keep a permanent record about each resident with all entries current, dated, and signed. The record shall include:

- a.* Name and previous address of resident;
- b.* Birth date, sex, and marital status of resident;
- c.* Provisional or admitting diagnosis;
- d.* A biopsychosocial history sufficient to provide data on the resident's relevant past history, present situation, social support system, community resource contacts, and other information relevant to appropriate treatment and discharge planning;
- e.* The name, telephone number and address of the licensed mental health professional completing the biopsychosocial history;
- f.* Name, address and telephone number of next of kin or legal representative;
- g.* Name, address and telephone number of the person to be notified in case of emergency;
- h.* Pharmacy name, telephone number, and address;
- i.* Written orders for treatment and medications, signed by a physician, physician assistant or advanced registered nurse practitioner;
- j.* Any change in the resident's condition;
- k.* Notations describing the resident's condition on admission, transfer, and discharge;

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

*l.* A copy of instructions given to the resident, legal representative, or facility in the event of discharge or transfer;

*m.* Individualized treatment and discharge or transfer plan pursuant to rule 481—71.14(135G);

*n.* Progress notes, including any use of seclusion or restraint pursuant to rule 481—71.16(135G), recorded by the physician, physician assistant, advanced registered nurse practitioner or mental health professional and, when appropriate, others significantly involved in active treatment modalities. Progress notes must contain a concise assessment of the resident's progress and recommendations for revising the treatment plan as indicated by the resident's condition;

*o.* The discharge summary, including a recapitulation of the resident's hospitalization, recommendations for appropriate services concerning follow-up, and a brief summary of the resident's condition on discharge.

**71.18(2) Confidentiality of resident records.** The facility shall have policies and procedures providing that each resident shall be assured confidential treatment of all information, including information contained in electronic records.

*a.* The facility shall limit access to any resident records to staff and consultants providing professional services to the resident. Information shall be made available to staff only to the extent that the information is relevant to the staff person's responsibilities and duties. This restriction shall not preclude access by representatives of state or federal regulatory agencies.

*b.* The resident, or the resident's legal guardian, shall be entitled to examine all information and shall have the right to secure full copies of the record at reasonable cost upon request, unless the physician, physician assistant, advanced registered nurse practitioner or mental health professional determines the disclosure of the record or a section thereof is contraindicated, in which case the designated information will be redacted prior to making the record available to the resident. This determination and the reasons for it must be documented in the resident's record.

**71.18(3) Incident records.**

*a.* Each subacute care facility shall maintain an incident record report and shall have available incident report forms.

*b.* A report of every unusual occurrence shall be detailed on the printed incident report form.

*c.* The person in charge at the time of the unusual occurrence shall oversee the preparation of and sign the incident report.

*d.* A copy of the incident report shall be kept on file in the facility and shall be available for review and a part of administrative records.

**71.18(4) Retention of records.**

*a.* Records shall be retained in the facility for five years following termination of services to the resident, even when there is a change of ownership.

*b.* When the facility ceases to operate, the resident's record shall be released to the facility to which the resident is transferred. If no transfer occurs, the record shall be released to the individual's physician or advanced registered nurse practitioner.

**481—71.19(135G) Residents' rights in general.**

**71.19(1) Policies and procedures.** Each facility shall ensure that policies and procedures are written and implemented, include all of the following subrules, and govern all areas of service provided to staff and residents, their families or legal representatives. The policies and procedures shall be available to the public and shall be reviewed annually by the facility.

**71.19(2) Grievances.** Written policies and procedures shall include a method for submission of grievances and recommendations by residents or their responsible parties and a method to ensure a response and disposition by the facility. The written grievance procedure shall ensure protection of the resident from any form of reprisal or intimidation and shall include:

*a.* The name of an employee or an alternate staff person designated to be responsible for handling grievances and recommendations; and

*b.* Methods to investigate and assess the validity of a grievance or recommendation, resolve grievances, and take action.

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

**71.19(3) *Informed of rights and responsibilities.*** Policies and procedures shall include a provision that each resident shall be fully informed of the resident's rights and responsibilities as a resident and of all rules governing resident conduct and responsibilities. This information must be provided upon admission.

*a.* The facility shall inform residents about what they may expect from the facility and its staff and what is expected from residents.

*b.* Residents' rights and responsibilities shall be presented in language understandable to the resident. If the facility serves residents who are not English-speaking or are hearing impaired, steps shall be taken to translate the information into the person's native language or sign language. In the case of visually impaired residents, either Braille or a recording shall be provided.

*c.* A statement shall be signed by the resident and legal guardian, if applicable, indicating an understanding of these rights and responsibilities, and the statement shall be maintained in the record. A copy of the signed statement shall be given to the resident or legal guardian.

**71.19(4) *Informed of health condition.*** Each resident or legal guardian shall be fully informed by a physician, physician assistant, advanced registered nurse practitioner or mental health professional of the resident's health and medical condition unless medically contraindicated as documented by a physician, physician assistant, advanced registered nurse practitioner or mental health professional in the resident's record.

**71.19(5) *Posting of names.*** The facility shall post in a prominent area the name, telephone number, and address of the survey agency, the local law enforcement agency and the protection and advocacy agency designated to provide to residents another course of redress.

**71.19(6) *Dignity preserved.*** Each resident shall be treated with consideration, respect, and full recognition of the resident's dignity and individuality, including privacy in treatment and in care of personal needs.

*a.* Corporal punishment, verbal abuse, or any other activity that would be damaging to an individual's self-respect shall be prohibited by written policy.

*b.* Medication shall not be used as punishment, for the convenience of staff, or as a substitute for a program.

*c.* Staff shall display respect for residents when speaking with, caring for, or talking about them, as constant affirmation of the individuality and dignity of human beings.

*d.* Residents shall be examined and treated in a manner that maintains the privacy of their bodies. A closed door shall shield the resident from passersby. People not involved in the care of the residents shall not be present without the resident's consent while the resident is being examined or treated.

*e.* Staff shall knock and be acknowledged before entering a resident's room unless the resident is not capable of a response. This requirement does not apply under emergency conditions.

**71.19(7) *Communications.*** Each resident may communicate, associate, and meet privately with persons of the resident's choice, unless to do so would infringe upon the rights of other residents. Each resident may send and receive personal mail unopened unless prohibited in the treatment plan, which requires explicit approval of the resident or legal guardian.

**71.19(8) *Visiting hours.*** Subject to reasonable scheduling restrictions, visiting policies and procedures shall permit residents to receive visits from anyone they wish. Visiting hours shall be posted.

*a.* Reasonable, regular visiting hours shall not be less than 12 hours per day and shall take into consideration the special circumstances of each visitor. A particular visitor(s) may be restricted by the facility for one of the following reasons:

(1) The resident refuses to see the visitor(s).

(2) The visit would not be in accordance with the treatment plan.

(3) The visitor's behavior is unreasonably disruptive to the functioning of the facility.

*b.* Reasons for denial of visitation shall be documented in the resident's records.

**71.19(9) *Privacy.*** Space shall be provided for residents to receive visitors in comfort and privacy.

**71.19(10) *Telephone calls.*** Telephones shall be available and accessible for residents to make and receive calls with privacy. Residents who need help shall be assisted in using the telephone.

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

**71.19(11) Mail.** Arrangements shall be made to provide assistance to residents who require help in reading or sending mail.

**71.19(12) Permission to leave premises.** Residents shall be permitted to leave the facility and environs at reasonable times if permitted in writing by the physician, physician assistant, advanced registered nurse practitioner, mental health professional, or administrator.

**71.19(13) Resident activities.** Each resident may participate in recreational activities as desired unless contraindicated for reasons documented in the resident's record.

**71.19(14) Resident property.** Each resident may retain and use personal clothing and possessions, as space permits, and cash and other financial instruments, provided that the use of such items is not otherwise prohibited.

*a.* The personal property shall be kept in a secure location which is convenient to the resident.

*b.* Residents shall be advised, prior to or at the time of admission, of the kinds and amounts of clothing and possessions permitted for personal use and whether the facility will accept responsibility for maintaining these items, e.g., cleaning and laundry.

*c.* Any personal clothing or possessions retained by the facility for the resident shall be identified and recorded on admission and the record placed on the resident's chart. The facility shall be responsible for secure storage of items, and the items shall be returned to the resident promptly upon request or upon discharge from the facility.

**481—71.20(135G) Health and safety.**

**71.20(1) Emergency care.** Each facility shall have written policies and procedures for emergency medical and psychiatric care, which shall include immediate notification by the person in charge to the physician, physician assistant, advanced registered nurse practitioner or mental health professional of any accident, injury or adverse change in the resident's condition. "Immediate" for purposes of this subrule means within 24 hours.

**71.20(2) First-aid kit.** A first-aid emergency kit shall be available on each floor.

**71.20(3) Infection control.** Each facility shall have a written and implemented infection control program.

**71.20(4) Safe environment.** The licensee of a subacute care facility is responsible for the provision and maintenance of a safe environment for residents and personnel. The subacute care facility shall meet the fire and safety rules as promulgated by the state fire marshal.

**71.20(5) Disaster.** The licensee shall have a written emergency plan to be followed in the event of fire, tornado, explosion, or other emergency.

*a.* The plan shall be posted.

*b.* Training shall be provided to ensure that all employees are knowledgeable of the emergency plan. The training shall be documented.

**71.20(6) Smoking.** A subacute care facility shall follow the smokefree air Act, Iowa Code chapter 142D.

These rules are intended to implement Iowa Code chapter 135G.

[Filed 10/31/14, effective 12/31/14]

[Published 11/26/14]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 11/26/14.

**ARC 1734C**

**PROFESSIONAL LICENSING AND REGULATION BUREAU[193]**

**Adopted and Filed**

Pursuant to the authority of Iowa Code sections 546.3 and 546.10 and 2014 Iowa Acts, chapter 1116, division VI, the Professional Licensing and Regulation Bureau hereby adopts new Chapter 14, "Military Service and Veteran Reciprocity," Iowa Administrative Code.

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

Chapter 14 is adopted as a result of the Home Base Iowa Act, which requires all professional and occupational licensing boards, commissions, and other authorities subject to Iowa Code chapter 272C to adopt rules by January 1, 2015, on military service and veteran licensure. The rules address the process under which the Bureau will provide credit toward licensure qualifications for military service, education, and training and the procedures for expediting reciprocal and provisional licensure for veterans who are licensed in other states. The rules establish the same procedure for all seven boards within the Bureau.

Notice of Intended Action was published in the Iowa Administrative Bulletin as **ARC 1630C** on September 17, 2014. A public hearing was held on October 7, 2014. No oral or written public comment was received. No changes were made to the rules published under Notice of Intended Action.

These rules are subject to waiver or variance pursuant to 193—Chapter 5.

The rules were adopted by the Accountancy Examining Board on October 27, 2014; the Architectural Examining Board on October 23, 2014; the Engineering and Land Surveying Examining Board on October 22, 2014; the Interior Design Examining Board on October 28, 2014; the Landscape Architectural Examining Board on October 28, 2014; the Real Estate Commission on October 28, 2014; and the Real Estate Appraiser Examining Board on October 22, 2014.

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

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

These rules will become effective December 31, 2014.

The following amendment is adopted.

Adopt the following new 193—Chapter 14:

CHAPTER 14  
MILITARY SERVICE AND VETERAN RECIPROCITY

**193—14.1(85GA,ch1116) Definitions.**

*“Board”* means an examining board or commission within the professional licensing and regulation bureau.

*“License”* or *“licensure”* means any license, registration, certificate, or permit that may be granted by an examining board or commission within the professional licensing and regulation bureau.

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

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

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

**193—14.2(85GA,ch1116) Military education, training, and service credit.** A military service applicant may apply for credit for verified military education, training, or service toward any experience or educational requirement for licensure by submitting a military service application form to the board office.

**14.2(1)** The application may be submitted with an application for licensure or examination or prior to an applicant’s applying for licensure or to take an examination. No fee is required for submission of an application for military service credit.

**14.2(2)** The applicant shall identify the experience or educational licensure requirement to which the credit would be applied if granted. Credit shall not be applied to an examination requirement.

**14.2(3)** The applicant shall provide documents, military transcripts, a certified affidavit, or forms that verify completion of the relevant military education, training, or service, which may include, when applicable, the applicant’s Certificate of Release or Discharge from Active Duty (DD Form 214) or Verification of Military Experience and Training (VMET) (DD Form 2586).

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

**14.2(4)** Upon receipt of a completed military service application, the board shall promptly determine whether the verified military education, training, or service will satisfy all or any part of the identified experience or educational qualifications for licensure.

**14.2(5)** The board shall grant the application in whole or in part if the board determines that the verified military education, training, or service satisfies all or part of the experience or educational qualifications for licensure.

**14.2(6)** The board shall inform the military service applicant in writing of the credit, if any, given toward an experience or educational qualification for licensure or explain why no credit was granted. The applicant may request reconsideration upon submission of additional documentation or information.

**14.2(7)** A military service applicant who is aggrieved by the board's decision may request a contested case (administrative hearing) and may participate in a contested case by telephone. A request for a contested case shall be made within 30 days of issuance of the board's decision. The provisions of 193—Chapter 7 shall apply, except that no fees or costs shall be assessed against the military service applicant in connection with a contested case conducted pursuant to this subrule.

**14.2(8)** The board shall grant or deny the military service application prior to ruling on the application for licensure. The applicant shall not be required to submit any fees in connection with the licensure application unless the board grants the military service application. If the board does not grant the military service application, the applicant may withdraw the licensure application or request that the licensure application be placed in pending status for up to one year or as mutually agreed. The withdrawal of a licensure application shall not preclude subsequent applications supported by additional documentation or information.

**193—14.3(85GA,ch1116) Veteran reciprocity.**

**14.3(1)** A veteran with an unrestricted professional license in another jurisdiction may apply for licensure in Iowa through reciprocity. A veteran must pass any examinations required for licensure to be eligible for licensure through reciprocity and will be given credit for examinations previously passed when consistent with board laws and rules on examination requirements. A fully completed application for licensure submitted by a veteran under this subrule shall be given priority and shall be expedited.

**14.3(2)** Such an application shall contain all of the information required of all applicants for licensure who hold unrestricted licenses in other jurisdictions and who are applying for licensure by reciprocity, including, but not limited to, completion of all required forms, payment of applicable fees, disclosure of criminal or disciplinary history, and, if applicable, a criminal history background check. The applicant shall use the same forms as any other applicant for licensure by reciprocity and shall additionally provide such documentation as is reasonably needed to verify the applicant's status as a veteran under Iowa Code section 35.1(2).

**14.3(3)** Upon receipt of a fully completed licensure application, the board shall promptly determine if the professional or occupational licensing requirements of the jurisdiction where the veteran is licensed are substantially equivalent to the licensing requirements in Iowa. The board shall make this determination based on information supplied by the applicant and such additional information as the board may acquire from the applicable jurisdiction. As relevant to the license at issue, the board may consider the following factors in determining substantial equivalence: scope of practice, education and coursework, degree requirements, postgraduate experience, and examinations required for licensure.

**14.3(4)** The board shall promptly grant a license to the veteran if the applicant is licensed in the same or similar profession in another jurisdiction whose licensure requirements are substantially equivalent to those required in Iowa, unless the applicant is ineligible for licensure based on other grounds, for example, the applicant's disciplinary or criminal background.

**14.3(5)** If the board determines that the licensing requirements in the jurisdiction in which the veteran is licensed are not substantially equivalent to those required in Iowa, the board shall promptly inform the veteran of the additional experience, education, or examinations required for licensure in Iowa. Unless the applicant is ineligible for licensure based on other grounds, such as disciplinary or criminal background, the following shall apply:

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

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

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

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

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

**14.3(6)** A veteran who is aggrieved by the board's decision to deny an application for a reciprocal license or a provisional license or is aggrieved by the terms under which a provisional license will be granted may request a contested case (administrative hearing) and may participate in a contested case by telephone. A request for a contested case shall be made within 30 days of issuance of the board's decision. The provisions of 193—Chapter 7 shall apply, except that no fees or costs shall be assessed against the veteran in connection with a contested case conducted pursuant to this subrule.

**14.3(7)** The licensure requirements for some professions regulated by the boards are very similar or identical across jurisdictions. Given federal mandates, for instance, the requirements to become certified as a real estate appraiser authorized to perform appraisals for federally related transactions are substantially the same nationwide. The requirements to become certified as a certified public accountant are also substantially equivalent nationwide as long as the certified public accountant also holds a license or permit to practice in those jurisdictions which have a two-tiered system of issuing a certificate and a separate license or permit to practice public accounting. For other professions, the veteran is encouraged to consult with board staff prior to submitting an application for reciprocal licensure to determine in advance whether there are jurisdictional variations that may impact reciprocal licensure.

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

[Filed 10/29/14, effective 12/31/14]

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EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 11/26/14.

**ARC 1744C**

**REVENUE DEPARTMENT[701]**

**Adopted and Filed**

Pursuant to the authority of Iowa Code sections 421.14 and 422.68, the Department of Revenue hereby adopts amendments to Chapter 12, "Filing Returns, Payment of Tax, Penalty and Interest," Chapter 42, "Adjustments to Computed Tax and Tax Credits," Chapter 46, "Withholding," Chapter 52, "Filing Returns, Payment of Tax, Penalty and Interest, and Tax Credits," and Chapter 58, "Filing Returns, Payment of Tax, Penalty and Interest, and Tax Credits," Iowa Administrative Code.

Notice of Intended Action was published in IAB Vol. XXXVII, No. 7, p. 554, on October 1, 2014, as **ARC 1654C**.

## REVENUE DEPARTMENT[701](cont'd)

Item 1 amends rule 701—12.9(15) to provide that the sales and use tax refund for eligible businesses includes businesses approved under the Workforce Housing Tax Incentives Program.

Item 2 amends paragraph 12.19(3)“b” to provide that the Department of Revenue may request invoices when reviewing sales and use tax refund claims filed by eligible businesses.

Items 3, 4, 7, 28, 33, 36 and 53 amend various rules and subrules for individual income, corporation income and franchise tax to provide that the Enterprise Zone Program is repealed effective July 1, 2014, but any tax credits earned by businesses approved under the Enterprise Zone Program remain valid and can be claimed on tax returns filed after July 1, 2014.

Items 5, 11, 12, 14, 15, 17 through 20, 24, 30, 31, 40, 41, 43, 44, and 46 through 49 amend various rules and subrules for individual income and corporation income tax to provide that tax credit certificates are included with tax return filings, instead of being attached to tax return filings.

Items 6, 8, 13, 16, 29, 34, 37, 42, 45 and 54 amend various rules and subrules for individual income, corporation income and franchise tax to provide a reference to an Economic Development Authority subrule regarding the calculation of repayment of tax incentives if an eligible business does not meet the requirements of a tax credit program. In addition, a reference to a Department of Revenue case on the repayment of tax incentives is provided.

Items 9, 38 and 55 amend subrules 42.17(2), 52.15(2) and 58.8(2) to provide that the excess of the \$3 million limitation of tax credits eligible for transfer in the 2013 and 2014 calendar years for housing developments located in brownfield sites or blighted areas cannot be claimed by a transferee prior to January 1, 2016, for individual income, corporation income and franchise tax.

Item 10 amends the implementation sentence for rule 701—42.17(15E).

Items 21 and 50 add new subrules 42.42(3) and 52.40(3) to provide for the repayment of tax incentives if an eligible business does not meet the requirements of the High Quality Jobs Program for individual and corporation income tax.

Item 22 amends rule 701—42.44(422) to update the sequence for the claiming of tax credits for individual income tax.

Items 23 and 51 amend rules 701—42.45(15) and 701—52.41(15) to update the list of economic development programs subject to an aggregate tax credit limit for individual and corporation income tax.

Items 25, 52 and 57 adopt new rules 701—42.53(15), 701—52.46(15) and 701—58.22(15) to provide for the new Workforce Housing Tax Incentives Program for individual income, corporation income and franchise taxes. The Economic Development Authority’s proposed 261—Chapter 48 (referenced within these new rules), which sets forth the new Workforce Housing Tax Incentives Program, was published under Notice of Intended Action as **ARC 1628C** in the September 17, 2014, Iowa Administrative Bulletin.

Item 26 amends subrule 46.9(1) to update the Iowa Code reference that provides for the supplemental new jobs credit from withholding.

Item 27 updates the implementation sentence for rule 701—46.9(15).

Item 32 amends rule 701—52.12(422) to update the sequence for the claiming of tax credits for corporation income tax.

Items 35, 39 and 56 update the implementation sentences for rules 701—52.14(15E), 701—52.15(15E) and 701—58.8(15E).

These amendments are identical to those published under Notice of Intended Action.

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

These amendments are intended to implement Iowa Code sections 15.331C, 15E.44, 15E.45, 15E.193B (2014 Iowa Code), 422.11S, 476B.6 and 476B.8 as amended by 2014 Iowa Acts, House File 2438; Iowa Code sections 422.33 and 422.60 as amended by 2014 Iowa Acts, House File 2448; and 2014 Iowa Acts, House File 2448, sections 15 and 19.



## REVENUE DEPARTMENT[701](cont'd)

These amendments will become effective December 31, 2014, after filing with the Administrative Rules Coordinator and publication in the Iowa Administrative Bulletin.

EDITOR'S NOTE: Pursuant to recommendation of the Administrative Rules Review Committee published in the Iowa Administrative Bulletin, September 10, 1986, the text of these amendments [amendments to Chs 12, 42, 46, 52, 58] is being omitted. These amendments are identical to those published under Notice as **ARC 1654C**, IAB 10/1/14.

[Filed 11/5/14, effective 12/31/14]

[Published 11/26/14]

[For replacement pages for IAC, see IAC Supplement 11/26/14.]

AGENCY	RULE	DELAY
Education Department[281]	43.15 [IAB 10/15/14, <b>ARC 1661C</b> ]	Effective date of November 19, 2014, delayed 70 days by the Administrative Rules Review Committee at its meeting held November 18, 2014. [Pursuant to §17A.4(7)]