IOWA ADMINISTRATIVE BULLETIN

Published Biweekly VOLUME XLII December 4, 2019 NUMBER 12 Pages 1271 to 1396

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PREFACE

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

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

The Bulletin may also contain public funds interest rates [12C.6]; usury rates [535.2(3)"a"]; agricultural credit corporation maximum loan rates [535.12]; and other items required by statute to be published in the Bulletin.

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

JACK EWING, Administrative Code Editor	Telephone: (515)281-6048	Email: Jack.Ewing@legis.iowa.gov
Publications Editing Office (Administrative Code)	Telephone: (515)281-3355	Email: AdminCode@legis.iowa.gov

CITATION of Administrative Rules

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

This citation format applies only to external citations to the Iowa Administrative Code or Iowa Administrative Bulletin and does not apply to citations within the Iowa Administrative Code or Iowa Administrative Bulletin.

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)
441 IAC 79.1(1)"a"(1)"1"	(Numbered paragraph)

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
2019

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

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14	**Wednesday, December 11, 2019**	**January 1, 2020**
15	**Thursday, December 26, 2019**	**January 15, 2020**
16	**Wednesday, January 8, 2020**	**January 29, 2020**

PLEASE NOTE:

Rules will not be accepted by the Publications Editing Office after **12 o'clock noon** on the filing deadline unless prior approval has been received from the Administrative Rules Coordinator and the Administrative Code Editor.

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

†To allow time for review by the Administrative Rules Coordinator prior to the Notice submission deadline, Notices should generally be submitted in RMS four or more working days in advance of the deadline.

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

The Administrative Rules Review Committee will hold its regular, statutory meeting on Tuesday, December 10, 2019, at 9 a.m. in Room 116, State Capitol, Des Moines, Iowa. The following rules will be reviewed:

NOTE: See also Agenda published in the November 30, 2019, Iowa Administrative Bulletin.

AGRICULTURE AND LAND STEWARDSHIP DEPARTMENT[21]

Storage of bulk dry animal nutrients, 49.1, 49.7 Filed **ARC 4788C** 12/4/19
Disease control—animals at exhibitions, 64.34 Notice **ARC 4784C** 12/4/19
Animal welfare, ch 67 Filed **ARC 4789C** 12/4/19
Meat and poultry inspection—cooperative interstate shipment (CIS) program, 76.2, 76.6
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ALCOHOLIC BEVERAGES DIVISION[185]

COMMERCE DEPARTMENT[181]"umbrella"

Alcoholic beverages trade practices, rescind 16.41 Filed **ARC 4791C** 12/4/19

AUDITOR OF STATE[81]

Periodic examination fee schedule, 21.2 Notice **ARC 4787C** 12/4/19

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Mandatory training for identifying and reporting abuse, 2.16 Filed **ARC 4796C** 12/4/19
Temporary designation of controlled substances—synthetic cannabinoids, brexanolone,
solriamfetol, 10.39 Filed **ARC 4797C** 12/4/19
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PROFESSIONAL LICENSURE DIVISION[645]

PUBLIC HEALTH DEPARTMENT[641]"umbrella"

Hearing aid specialists—child abuse and dependent adult abuse mandatory reporter training,
121.9(4) Notice **ARC 4786C** 12/4/19
Physical therapists and physical therapist assistants, occupational therapists and occupational
therapy assistants—child abuse and dependent adult abuse mandatory reporter training,
200.9(4), 206.10(4) Notice **ARC 4785C** 12/4/19

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Vehicle impoundment, ch 6 Filed **ARC 4800C** 12/4/19
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Closed circuit surveillance systems, 141.1, 141.6 Filed **ARC 4802C** 12/4/19
Public safety survivor benefits fund, ch 292 Filed **ARC 4799C** 12/4/19

TRANSPORTATION DEPARTMENT[761]

Electronic submission of proof of financial responsibility, 524.7(1)"c," 640.1(3), 640.3,
640.4, 640.5(1), 640.6 Filed **ARC 4803C** 12/4/19

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 Waylon Brown
109 South Summer Street
St. Ansgar, Iowa 50472

Senator Mark Costello
37265 Rains Avenue
Imogene, Iowa 51645

Senator Robert Hogg
P.O. Box 1361
Cedar Rapids, Iowa 52406

Senator Pam Jochum
2368 Jackson Street
Dubuque, Iowa 52001

Senator Zach Whiting
P.O. Box 385
Spirit Lake, Iowa 51360

Jack Ewing
Administrative Code Editor
Capitol
Des Moines, Iowa 50319
Telephone: (515)281-6048
Fax: (515)281-8451
Email: Jack.Ewing@legis.iowa.gov

Representative Steven Holt
1430 Third Avenue South
Denison, Iowa 51442

Representative Megan Jones
4470 Highway 71
Sioux Rapids, Iowa 50585

Representative Joe Mitchell
Mount Pleasant, Iowa

Representative Amy Nielsen
168 Lockmoor Circle
North Liberty, Iowa 52317

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

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

ADMINISTRATIVE SERVICES DEPARTMENT[11]

Volunteer leave of absence for executive branch employees, 63.17 to 63.21 IAB 11/20/19 **ARC 4777C**	Procurement Conference Room, A Level Hoover State Office Bldg. Des Moines, Iowa	December 10, 2019 9 to 10 a.m.

AGRICULTURE AND LAND STEWARDSHIP DEPARTMENT[21]

Disease control—animals at exhibitions, 64.34 IAB 12/4/19 **ARC 4784C**	Second Floor Conference Room Wallace State Office Bldg. Des Moines, Iowa	December 30, 2019 11 a.m. to 12 noon

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Continuing education; child abuse and dependent adult abuse mandatory reporter training, 5.2(4)"a," 5.2(5)"a," 5.2(10) IAB 11/6/19 **ARC 4744C**	Board Office, Suite B 400 S.W. 8th St. Des Moines, Iowa	December 6, 2019 9 to 10 a.m.

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Hearing aid specialists—child abuse and dependent adult abuse mandatory reporter training, 121.9(4) IAB 12/4/19 **ARC 4786C**	Fifth Floor Conference Room 526 Lucas State Office Bldg. Des Moines, Iowa	January 6, 2020 9:30 to 10 a.m.
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Towable recreational vehicles; certifications of trust; special farm truck weights, amendments to chs 400, 425 IAB 11/20/19 **ARC 4770C**	Department of Transportation Motor Vehicle Division 6310 SE Convenience Blvd. Ankeny, Iowa	December 12, 2019 9 a.m. (If requested)
Driver education, 634.1, 634.2, 634.4, 634.6 to 634.8, 634.11 IAB 11/20/19 **ARC 4771C**	Department of Transportation Motor Vehicle Division 6310 SE Convenience Blvd. Ankeny, Iowa	December 12, 2019 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.

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AGRICULTURE AND LAND STEWARDSHIP DEPARTMENT[21]

Notice of Intended Action

Proposing rule making related to exhibition of livestock and providing an opportunity for public comment

The Agriculture and Land Stewardship Department hereby proposes to amend Chapter 64, "Infectious and Contagious Diseases," Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code section 163.1.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code chapter 163.

Purpose and Summary

The proposed amendments clarify and describe rules for inspecting animals at exhibitions in order to control the spread of infectious or contagious disease affecting animals within the state.

Fiscal Impact

This rule making has no fiscal impact to the State of Iowa.

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to 21—Chapter 8.

Public Comment

Any interested person may submit written comments concerning this proposed rule making. Written comments in response to this rule making must be received by the Department no later than 4:30 p.m. on December 24, 2019. Comments should be directed to:

Maison Bleam
Iowa Department of Agriculture and Land Stewardship
Wallace State Office Building
502 East Ninth Street
Des Moines, Iowa 50319
Email: maison.bleam@iowaagriculture.gov

Public Hearing

A public hearing at which persons may present their views orally or in writing will be held as follows:

December 30, 2019 11 a.m. to 12 noon	Second Floor Conference Room Wallace State Office Building Des Moines, Iowa

Persons who wish to make oral comments at the public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rule making.

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

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making at its regular monthly meeting or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rule-making actions are proposed:

ITEM 1. Amend subrule 64.34(1) as follows:

64.34(1) *General requirements.* All animals, poultry and birds intended for any exhibition will be considered under quarantine and not eligible for showing until the owner or agent presents an official Certificate of Veterinary Inspection. ~~The certificate~~ Unless otherwise indicated herein, the Certificate of Veterinary Inspection must be issued by an accredited veterinarian within 30 days (14 days for sheep and 7 days for swine) prior to the date of entry~~,~~ and must indicate that the veterinarian has inspected the animals, poultry or birds and any nurse stock that accompany them, and that they are apparently free from symptoms of any infectious disease (including warts, ringworm, footrot, draining abscesses and pinkeye) or any communicable disease. Individual Certificates of Veterinary Inspection will not be required in certain classes, if the division superintendent for the exhibition has made prior arrangements with the official fair veterinarian and state veterinarian to have all animals and birds inspected on arrival.

ITEM 2. Amend subrule 64.34(2) as follows:

64.34(2) ~~*Breeding cattle*~~ *Cattle.*

a. Individual identification and certificate. All cattle intended for exhibition shall have individual official identification and be accompanied by a Certificate of Veterinary Inspection.

~~*a.*~~ *b. Tuberculosis.* Cattle originating from a USDA accredited-free state or zone may be exhibited without other testing requirements when accompanied by a Certificate of Veterinary Inspection that lists individual official identification. Cattle from a herd or area under quarantine for tuberculosis may not be exhibited. Cattle from a state or zone which is not a USDA accredited-free state or zone must meet the following requirements:

(1) Have had an individual animal test conducted within 60 days of the exhibition; or

(2) Originate from a tuberculosis accredited-free herd, with the accredited herd number and date of last test listed on the Certificate of Veterinary Inspection; and

(3) Have been issued a preentry permit from the state veterinarian's office.

~~*b.*~~ *c. Brucellosis.*

(1) Native Iowa cattle originating from a herd not under quarantine may be exhibited when accompanied by a Certificate of Veterinary Inspection that lists individual official identification.

(2) Cattle originating outside the state must meet one of the following requirements:

1. Originate from brucellosis class "free" states, accompanied by a Certificate of Veterinary Inspection that lists individual official identification; or

2. Be beef heifers under 24 months of age and dairy heifers under 20 months of age which are official brucellosis vaccinates, accompanied by a Certificate of Veterinary Inspection that lists the official calfhood vaccination tattoo and individual official identification; or

3. Be animals of any age that originate from a herd not under quarantine, accompanied by a Certificate of Veterinary Inspection that lists a report of a negative brucellosis test conducted within 30 days prior to opening date of exhibition and individual official identification; or

4. Originate from a certified brucellosis-free herd, accompanied by a Certificate of Veterinary Inspection that lists individual official identification, herd number, and date of last test; or

5. Be calves under six months of age, accompanied by a Certificate of Veterinary Inspection that lists individual official identification.

(3) All brucellosis tests must have been confirmed by a state-federal laboratory. All nurse cows which accompany calves to be exhibited must meet the health requirements set forth in ~~64.34(2)*"b."*~~ 64.34(2)*"c."*

(4) All cattle originating from states not classified as "free" for brucellosis must have been issued a preentry permit from the state veterinarian's office.

ITEM 3. Amend subrule 64.34(4), introductory paragraph, as follows:

64.34(4) *Swine.* All swine ~~must~~ shall originate from a herd or area not under quarantine ~~and must be individually identified on~~. All swine shall have official identification and be accompanied by a Certificate of Veterinary Inspection. ~~Plastic tags issued by 4-H officials may be substituted for an official metal test tag, when an additional identification (ear notch) is also recorded on the test chart and Certificate of Veterinary Inspection.~~ The Certificate of Veterinary Inspection shall indicate that a licensed and accredited veterinarian has inspected the swine and that the swine appear free from symptoms of any infectious or communicable disease. An initial inspection shall have occurred within seven days prior to the date of entry into the exhibition site. All swine shall be inspected again upon arrival at the exhibition site and before the swine are unloaded or leave a designated and isolated inspection area. Biosecurity and sanitary practices shall be implemented for all inspections. All identification is to be recorded on the pseudorabies test chart and the Certificate of Veterinary Inspection.

ARC 4787C

AUDITOR OF STATE[81]

Notice of Intended Action

Proposing rule making related to examination fee schedule and providing an opportunity for public comment

The Auditor of State hereby proposes to amend Chapter 21, "Filing Fees," Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code section 11.6.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code section 11.6.

Purpose and Summary

The proposed rule making will amend the fee schedules for approximately 600 Iowa municipalities with populations under 2,000 and budgeted expenditures less than $1 million. The municipalities are subject to periodic examinations by the Auditor of State pursuant to Iowa Code section 11.6. Each city is assessed an annual fee based on its annual budget. The Auditor proposes changing the fee schedule to allocate costs more equitably.

Fiscal Impact

The revised fee schedule will increase the amount of fees collected by the Auditor by approximately $20,000 annually.

Jobs Impact

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

AUDITOR OF STATE[81](cont'd)

Waivers

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Office of Auditor of State for a waiver of the discretionary provisions, if any.

Public Comment

Any interested person may submit written comments concerning this proposed rule making. Written comments in response to this rule making must be received by the Office no later than 4:30 p.m. on December 24, 2019. Comments should be directed to:

John McCormally
Office of Auditor of State
State Capitol, Room 111
Des Moines, Iowa 50319
Email: john.mccormally@aos.iowa.gov

Public Hearing

No public hearing is scheduled at this time. As provided in Iowa Code section 17A.4(1)"b," an oral presentation regarding this rule making may be demanded by 25 interested persons, a governmental subdivision, the Administrative Rules Review Committee, an agency, or an association having 25 or more members.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making at its regular monthly meeting or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rule-making action is proposed:

Amend rule 81—21.2(11) as follows:

81—21.2(11) Periodic examination fee. A periodic examination fee, as provided for under ~~2012 Iowa Acts, chapter 1107, section 2~~ Iowa Code section 11.6(11), shall be paid annually by cities that do not otherwise have an audit or fiscal year examination conducted pursuant to Iowa Code section 11.6, subsection 1 or subsection 3, during a fiscal year.

21.2(1) The fee shall be remitted according to a fee schedule using ~~four~~ five strata based on the average of actual budgeted expenditures ~~of the original certified budget~~ of the governmental subdivision for the previous two fiscal ~~year~~ years.

21.2(2) The designated strata and applicable fees are as follows:

~~Budgeted Expenditures in Thousands of Dollars~~	~~Fee Amount~~
~~Under 50~~	~~$ 100~~
~~At least 50 but less than 300~~	~~$ 475~~
~~At least 300 but less than 600~~	~~$ 900~~
~~600 or more~~	~~$1,200~~

AUDITOR OF STATE[81](cont'd)

Budget Expenditures in Thousands of Dollars	Fee Amount
Under 100	$ 200
At least 100 but less than 250	$ 550
At least 250 but less than 500	$ 800
At least 500 but less than 750	$1,200
750 or more	$1,500

21.2(3) The fee shall be remitted to the office of auditor of state on or before March 31 each year.

This rule is intended to implement ~~2012 Iowa Acts, chapter 1107, section 2~~ Iowa Code section 11.6(11).

ARC 4783C

EGG COUNCIL, IOWA[301]

Notice of Intended Action

Proposing rule making related to nomination petitions and technical updates and providing an opportunity for public comment

The Iowa Egg Council hereby proposes to amend Chapter 1, "Organization and Purpose," Chapter 2, "Rules of Practice," Chapter 3, "Election of Members," Chapter 4, "Assessment on Eggs," and Chapter 5, "Public Records and Fair Information Practices," Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code section 184.10(3).

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code chapter 184.

Purpose and Summary

The proposed amendments reduce the number of producers required to sign a nomination petition for nominees to the Council's board from 20 to 3. The Council's address is updated, and a number of technical changes are made.

Fiscal Impact

This rule making has no fiscal impact to the State of Iowa.

Jobs Impact

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

Waivers

The administrative rules for the Council do not contain a waiver provision.

Public Comment

Any interested person may submit written comments concerning this proposed rule making. Written comments in response to this rule making must be received by the Council no later than 4:30 p.m. on December 24, 2019. Comments should be directed to:

EGG COUNCIL, IOWA[301](cont'd)

Kevin Stiles
Iowa Egg Council
8515 Douglas Avenue, Suite 9
Urbandale, Iowa 50322
Email: kevins@iowapoultry.com

Public Hearing

No public hearing is scheduled at this time. As provided in Iowa Code section 17A.4(1)"b," an oral presentation regarding this rule making may be demanded by 25 interested persons, a governmental subdivision, the Administrative Rules Review Committee, an agency, or an association having 25 or more members.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making at its regular monthly meeting or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rule-making actions are proposed:

ITEM 1. Strike "196A" wherever it appears in the parenthetical implementation statutes of rules **301—1.1(196A)** to **301—1.5(196A)** and insert "184" in lieu thereof.

ITEM 2. Amend rule 301—1.1(196A), introductory paragraph, as follows:

301—1.1(196A) Iowa egg council composition. The Iowa egg council consists of seven members. Each council member must be a natural person who is a producer or an officer, equity owner, or employee of a producer. Two persons shall represent large producers, two persons shall represent medium producers, and three persons shall represent small producers. These members are elected according to 301—Chapter 3. The council is responsible for promoting market development for eggs, advancing public relations for the egg industry, and administering the assessment on eggs produced in Iowa imposed in Iowa Code chapter ~~196A~~ 184.

ITEM 3. Amend rule **301—1.5(196A)**, implementation sentence, as follows:

This rule is intended to implement Iowa Code section 17A.3 and ~~1995 Iowa Acts, House File 179~~ chapter 184.

ITEM 4. Strike "196A" wherever it appears in the parenthetical implementation statutes of **301—Chapter 2** and insert "184" in lieu thereof.

ITEM 5. Amend rules 301—2.1(196A) and 301—2.2(196A) as follows:

301—2.1(196A) Definitions. All words and terms defined in Iowa Code section ~~196A.1~~ 184.1 employed in these rules are given the definitions found in that chapter. The following words and terms used in these rules shall have the meaning hereafter ascribed to them:

"Eligible voter" means every producer who owns, or contracts for the care of, 30,000 or more layer-type chickens raised in this state.

This rule is intended to implement Iowa Code section ~~196A.12~~ 184.10.

301—2.2(196A) Public information. The public is invited to obtain information or make informal requests of the council by addressing these matters, either orally or in writing, to the executive director of the Iowa Egg Council, ~~535 East Lincoln Way, Ames, Iowa 50010~~ 8515 Douglas Avenue, Suite 9, Urbandale, Iowa 50322.

This rule is intended to implement Iowa Code section 17A.3.

ITEM 6. Amend subrule 2.4(2) as follows:

2.4(2) The petition shall be filed at the office of the council at ~~535 East Lincoln Way, Ames, Iowa 50010~~ 8515 Douglas Avenue, Suite 9, Urbandale, Iowa 50322.

ITEM 7. Amend rule 301—2.5(196A), introductory paragraph, as follows:

301—2.5(196A) Petition for adoption of rules. An interested person may file with the council a written request that the council adopt, amend, or repeal a rule. The petition shall be addressed to the Iowa Egg Council, ~~535 East Lincoln Way, Ames, Iowa 50010~~ 8515 Douglas Avenue, Suite 9, Urbandale, Iowa 50322, and shall include:

ITEM 8. Strike "196A" wherever it appears in the parenthetical implementation statutes of **301—Chapter 3** and insert "184" in lieu thereof.

ITEM 9. Amend subrule 3.1(6) as follows:

3.1(6) All eligible nominees nominated by valid petition signed by ~~20~~ three producers shall be included on the ballot and shall be eligible for election to the council.

ITEM 10. Amend rule **301—3.1(196A)**, implementation sentence, as follows:

This rule is intended to implement ~~1995 Iowa Acts, House File 179, section 9~~ Iowa Code section 184.8.

ITEM 11. Amend subrule 3.2(2) as follows:

3.2(2) In addition to the mailed notice provided for above, the council shall cause to be published ~~in a newspaper of general circulation in the state of Iowa,~~ on the Iowa egg council website and in the producer newsletter a notice of election and form of ballot ~~as the same appear in Exhibit 5, set out at the end of these rules and made a part hereof by reference~~. This published notice shall appear not less than 10 nor more than 20 days prior to the date of election, not counting the election day itself.

ITEM 12. Amend rule **301—3.2(196A)**, implementation sentence, as follows:

This rule is intended to implement Iowa Code section ~~196A.12 and 1995 Iowa Acts, House File 179, section 9~~ 184.8.

ITEM 13. Strike "196A" wherever it appears in the parenthetical implementation statutes of **301—Chapter 4** and insert "184" in lieu thereof.

ITEM 14. Amend rule 301—4.1(196A) as follows:

301—4.1(196A) Rate of assessment. The assessment on egg sales authorized by Iowa Code section ~~196A.15 as amended by 1995 Iowa Acts, House File 179,~~ 184.3 and established by referendum as specified in Iowa Code section ~~196A.4~~ 184.2 is set by the council at not more than five cents for each 30 dozen eggs (one case) sold by a producer.

This rule is intended to implement Iowa Code section ~~196A.15 as amended by 1995 Iowa Acts, House File 179~~ 184.3.

ITEM 15. Amend subrule 4.2(3) as follows:

4.2(3) Except as provided above, egg processors who have purchased eggs from producers during any calendar quarter must remit to the Iowa egg council all assessments collected during that quarter not later than 30 days after each calendar quarter. All other persons who collect the assessment but who are not referred to in Iowa Code section ~~196A.15 as amended by 1995 Iowa Acts, House File 179,~~ 184.3 must also forward to the council the amount assessed, not later than 30 days after each calendar quarter.

ITEM 16. Amend subrule 4.2(6), introductory paragraph, as follows:

4.2(6) An assessment is considered "remitted" within the meaning of Iowa Code section ~~196A.17~~ 184.13:

ITEM 17. Amend rule **301—4.2(196A)**, implementation sentence, as follows:

This rule is intended to implement Iowa Code section ~~196A.15 as amended by 1995 Iowa Acts, House File 179, and section 196A.17~~ 184.3.

EGG COUNCIL, IOWA[301](cont'd)

ITEM 18. Amend rule **301—4.3(196A)**, implementation sentence, as follows:

This rule is intended to implement Iowa Code section ~~196A.15 as amended by 1995 Iowa Acts, House File 179~~ 184.3.

ITEM 19. Amend **301—Chapter 4**, Exhibit 1, as follows:

EXHIBIT 1. NOTICE OF ELECTION OF IOWA EGG COUNCIL

TO: All Iowa Egg Producers

This is to notify all Iowa egg producers eligible to vote for representatives to the Iowa Egg Council, pursuant to Iowa Code chapter ~~196A~~ 184, that the election for members of the Council will be held on the ____ day of _____, _____. The following vacancies will be filled in this election: one Egg Producer Representative for large producers, one Egg Producer Representative for medium producers, one Egg Producer Representative for small producers.

The following nominations have been made by the Iowa Egg Council Nominating Committee. Egg Producer Representative for large egg producers: Egg Producer Jones and Egg Producer Smith. Egg Producer Representative for medium egg producers: Egg Producer Smith and Egg Producer Jones. Egg Producer Representative for small egg producers: Egg Producer Jones and Egg Producer Smith.

The Iowa Egg Council will ~~mail~~ send ballots to each eligible voter appearing on the council records by the ____ day of _____, _____. Additional ballots can be furnished upon request from the Iowa Egg Council~~, P.O. Box 408, Ames, Iowa 50010-0408~~.

In order to be counted, ballots must be ~~mailed to~~ received by the Iowa Egg Council ~~at P.O. Box 408, Ames, Iowa 50010-0408, with a postmark no later than the ____ day of _____, _____. Ballots may be delivered to 535 East Lincoln Way, Ames, Iowa 50010-0408,~~ no later than 5 p.m. on the ____ day of _____, _____.

_____

Executive Director
Iowa Egg Council
~~535 East Lincoln Way~~
~~Ames, Iowa 50010~~

ITEM 20. Amend **301—Chapter 4**, Exhibit 2, as follows:

EXHIBIT 2. NOMINATING PETITION

_____

Date Submitted

_____

_____

_____

Name and Address of Nominee

_____

Number of layer-type chickens raised in Iowa

EGG COUNCIL, IOWA[301](cont'd)

The undersigned, being egg producers in the state of Iowa, hereby nominate the above named person to be an Iowa Egg Council Egg Producer Candidate representing medium egg production. We certify that the nominee is willing to serve if elected.

	Name	Address
1.		
2.		
3.		
~~4.~~		
~~5.~~		
~~6.~~		
~~7.~~		
~~8.~~		
~~9.~~		
~~10.~~		
~~11.~~		
~~12.~~		
~~13.~~		
~~14.~~		
~~15.~~		
~~16.~~		
~~17.~~		
~~18.~~		
~~19.~~		
~~20.~~		

INSTRUCTIONS FOR PETITIONERS

All blank items must be legibly completed.
Show nominee's name as it is to be shown on the ballot.
The nominee must be:
Eligible to vote in the election.
A producer with layer-type chickens raised in Iowa within the classification (small, medium, or large) which represents the vacancy on the council.
Eligible to hold an office.
Willing to serve if elected.
The petition must be:
Signed by at least ~~20~~ three eligible Iowa Egg Council voters.
Delivered to the Iowa Egg Council office not later than _____.

ITEM 21. Amend **301—Chapter 4**, Exhibit 3, as follows:

EXHIBIT 3. ELECTION NOTIFICATION LETTER

Iowa Egg Council
~~535 East Lincoln Way~~ 8515 Douglas Avenue, Suite 9
~~Ames, Iowa 50010-0408~~ Urbandale, Iowa 50322

Date _____

Iowa Egg Producer:

EGG COUNCIL, IOWA[301](cont'd)

The Iowa Egg Council election will be held on the ____ day of _____, _____. ~~That is the final date for mailing voted ballots to the Iowa Egg Council.~~

~~Your official ballot is on the back of this letter.~~ Please use ~~it~~ the ballot to vote for your choice of representative(s) to the Iowa Egg Council. The ballot lists the names of the candidates.

~~If you know of any eligible voters who did not receive ballots, please let them know that they can request ballots from the Iowa Egg Council office.~~

If you have any questions on eligibility to vote or to hold office, please contact the Iowa Egg Council office to obtain an answer.

~~To~~ Efforts will be made to ensure the secrecy of your vote~~, the blank envelope containing your ballot will be thoroughly shuffled among the other ballot envelopes before opening~~. The number of votes received by any candidate is available to you on request after the vote counting is completed.

The candidate receiving the highest number of votes will be elected to the Council vacancy.

REMEMBER _____, _____ IS THE FINAL DATE TO ~~MAIL OR DELIVER~~ CAST YOUR ~~VOTED BALLOT~~ VOTE.

Iowa Egg Council elections are open to all eligible voters without regard to race, color, religion, sex, or national origin.

_____
Executive Director
Iowa Egg Council

ITEM 22. Amend **301—Chapter 4**, Exhibit 4, as follows:

EXHIBIT 4. IOWA EGG COUNCIL ELECTION OFFICIAL BALLOT

INSTRUCTIONS FOR VOTING:

1. If you are a producer who owns, or contracts for the care of, thirty thousand or more layer-type chickens raised in Iowa, you are eligible to vote for members of the Iowa Egg Council.
2. Vote for one candidate for each vacancy. If you vote for more than one for each vacancy, your vote will not be counted.
3. Mark an "X" ~~in the box~~ by the name of the candidate you are voting for.
4. ~~Seal the marked ballot in the ballot envelope. DO NOT ENCLOSE ANY OTHER MATERIAL IN THE BALLOT ENVELOPE.~~ Follow the instructions provided.
5. ~~Seal ballot envelope in business reply envelope addressed to the Iowa Egg Council.~~
6. ~~Sign and date the certification on the back of the business reply envelope. The ballot will not be counted unless the certification is properly signed.~~
7. ~~Mail the ballot envelope containing your marked ballot sealed in the business reply envelope.~~
8. ~~THE BUSINESS REPLY ENVELOPE CONTAINING THE BALLOT ENVELOPE MUST BE POSTMARKED OR RETURNED TO THE IOWA EGG COUNCIL OFFICE BY _____, _____ IN ORDER TO COUNT.~~

~~Date _____~~

~~NAMES OF CANDIDATES~~

~~Egg Producer Representative for large egg production. (Vote for one candidate.)~~

~~( ) Egg Producer Jones, Anywhere, Iowa.~~

~~( ) Egg Producer Smith, Anywhere, Iowa.~~

~~Egg Producer Representative for medium egg production. (Vote for one candidate.)~~

~~( ) Egg Producer Smith, Anywhere, Iowa.~~

~~( ) Egg Producer Jones, Anywhere, Iowa.~~

~~Egg Producer Representative for small egg production. (Vote for one candidate.)~~

~~( ) Egg Producer Jones, Anywhere, Iowa.~~

~~( ) Egg Producer Smith, Anywhere, Iowa.~~

ITEM 23. Rescind **301—Chapter 4**, Exhibit 5.

ITEM 24. Amend **301—Chapter 4**, Exhibit 6, as follows:

EXHIBIT ~~#6~~ 5. ASSESSMENT RECORD AND REMITTANCE REPORT

Page ____ of ____ Pages

MAIL OR SEND TO: Iowa Egg Council
~~535 East Lincoln Way~~ 8515 Douglas Avenue, Suite 9
~~Ames, Iowa 50010-0408~~ Urbandale, Iowa 50322

_____ Date of this report_____
(Handler or processor name)

_____ Report for period_____
(Route or Street & No.) Beginning Ending

_____ Employer identification
(City) (State) (ZIP Code) or social security number_____

Date of Purchase	Owner (and flock number if applicable)					No. of 30 doz. cases of eggs packed, handled, processed or purchased	Total Deduction ~~3¢~~ 2½¢ per 30 dozen cases
	Name	Route	City	State	ZIP		
	Total from Previous Page						

EGG COUNCIL, IOWA[301](cont'd)

	When using more than one page, carry totals to top line of succeeding page. TOTALS	30 Dozen cases	$

~~IEC—Revised 6/76—White copy to Iowa Egg Council, Pink copy to Processor~~

ITEM 25. Amend **301—Chapter 5**, introductory paragraph, as follows:

The Iowa egg council hereby adopts, with the following exceptions and amendments, rules of the Governor's Task Force on Uniform Rules of Agency Procedure relating to public records and fair information practices which are ~~printed in the first volume of the Iowa Administrative Code~~ published at www.legis.iowa.gov/docs/publications/ACOD/767403.pdf on the General Assembly's website.

ITEM 26. Amend subrule 5.3(1) as follows:

5.3(1) *Location of record.* In lieu of the words "(insert agency head)", insert "executive director". In lieu of the words "(insert agency name and address)", insert "Iowa Egg Council, ~~535 East Lincoln Way, Ames, Iowa 50010~~ 8515 Douglas Avenue, Suite 9, Urbandale, Iowa 50322".

ITEM 27. Amend rule 301—5.10(17A,22) as follows:

301—5.10(17A,22) Personally identifiable information. Agency records include the following personally identifiable information: excise tax remittance in identifying individual producers and the amounts remitted, refund requests from producers, and personal information in confidential personnel records. This information is collected pursuant to the authority of Iowa Code chapter ~~196A~~ 184 and is stored in the office files of the council office. Personally identifiable information contained in these records shall be confidential.

ARC 4786C

PROFESSIONAL LICENSURE DIVISION[645]

Notice of Intended Action

Proposing rule making related to mandatory child and dependent abuse identification and reporting training and providing an opportunity for public comment

The Board of Hearing Aid Specialists hereby proposes to amend Chapter 121, "Licensure of Hearing Aid Specialists," Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code sections 232.69(3)"e," 235B.16(5)"f," and 272C.2.

PROFESSIONAL LICENSURE DIVISION[645](cont'd)

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code sections 232.69 and 235B.16.

Purpose and Summary

2019 Iowa Acts, chapter 91 [House File 731], amends Iowa Code sections 232.69 and 235B.16, which govern mandatory training in child and dependent adult abuse identification and reporting for certain professionals. This proposed rule making amends the Board's requirements for mandatory training in child and dependent adult abuse identification and reporting to reflect the statutory changes and requires that hearing aid specialists who must make reports for child or dependent adult abuse comply with the training requirements provided in Iowa Code sections 232.69 and 235B.16 every three years. This proposed rule making also updates subrule 121.9(4) to correct a reference.

Fiscal Impact

This rule making has no fiscal impact to the State of Iowa.

Jobs Impact

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

Waivers

A waiver provision is not included in this rule making because all administrative rules of the professional licensure boards in the Professional Licensure Division are subject to the waiver provisions accorded under 645—Chapter 18.

Public Comment

Any interested person may submit written or oral comments concerning this proposed rule making. Written or oral comments in response to this rule making must be received by the Board no later than 4:30 p.m. on January 6, 2020. Comments should be directed to:

Venus Vendoures Walsh
Professional Licensure Division
Iowa Department of Public Health
Lucas State Office Building
321 East 12th Street
Des Moines, Iowa 50319
Phone: 515.242.6529
Email: venus.vendoures-walsh@idph.iowa.gov

Public Hearing

A public hearing at which persons may present their views orally or in writing will be held as follows:

January 6, 2020 9:30 to 10 a.m.	Fifth Floor Conference Room 526 Lucas State Office Building Des Moines, Iowa

Persons who wish to make oral comments at the public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rule making.

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

PROFESSIONAL LICENSURE DIVISION[645](cont'd)

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making at its regular monthly meeting or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rule-making action is proposed:

Amend subrule 121.9(4) as follows:

121.9(4) Mandatory reporter training requirements.

a. A licensee who, in the scope of professional practice or in the licensee's employment responsibilities, examines, attends, counsels or treats children in Iowa shall indicate on the renewal application completion of ~~two hours of~~ training in child abuse identification and reporting as required by Iowa Code section 232.69(3)*"b"* in the previous ~~five~~ three years or condition(s) for waiver of this requirement as identified in paragraph *"e."*

b. A licensee who, in the course of employment, examines, attends, counsels or treats adults in Iowa shall indicate on the renewal application completion of ~~two hours of~~ training in dependent adult abuse identification and reporting as required by Iowa Code section 235B.16(5)*"b"* in the previous ~~five~~ three years or condition(s) for waiver of this requirement as identified in paragraph *"e."*

c. ~~A licensee who, in the scope of professional practice or in the course of employment, examines, attends, counsels or treats both adults and children in Iowa shall indicate on the renewal application completion of training in abuse identification and reporting for dependent adults and children in the previous five years or condition(s) for waiver of this requirement as identified in paragraph *"e."* Training may be completed through separate courses as identified in paragraphs *"a"* and *"b"* or in one combined two-hour course that includes curricula for identifying and reporting child abuse and dependent adult abuse.~~ The ~~course~~ course(s) shall be ~~a~~ the curriculum ~~approved~~ provided by the Iowa department of ~~public health abuse education review panel~~ human services.

d. The licensee shall maintain written documentation for ~~five~~ three years after mandatory training as identified in paragraphs *"a"* to *"c,"* including program date(s), content, duration, and proof of participation.

e. The requirement for mandatory training for identifying and reporting child and dependent adult abuse shall be suspended if the board determines that suspension is in the public interest or that a person at the time of license renewal:

(1) Is engaged in active duty in the military service of this state or the United States.

(2) Holds a current waiver by the board based on evidence of significant hardship in complying with training requirements, including an exemption of continuing education requirements or extension of time in which to fulfill requirements due to a physical or mental disability or illness as identified in ~~645—Chapter 122~~ 645—Chapter 4.

f. The board may select licensees for audit of compliance with the requirements in paragraphs *"a"* to *"e."*

ARC 4785C

PROFESSIONAL LICENSURE DIVISION[645]

Notice of Intended Action

Proposing rule making related to mandatory child abuse and dependent adult abuse identification and reporting training and providing an opportunity for public comment

The Board of Physical and Occupational Therapy hereby proposes to amend Chapter 200, "Licensure of Physical Therapists and Physical Therapist Assistants," and Chapter 206, "Licensure of Occupational Therapists and Occupational Therapy Assistants," Iowa Administrative Code.

PROFESSIONAL LICENSURE DIVISION[645](cont'd)

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code sections 232.69(3)"e," 235B.16(5)"f," and 272C.2.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code sections 232.69 and 235B.16.

Purpose and Summary

2019 Iowa Acts, chapter 91 [House File 731], amends Iowa Code sections 232.69 and 235B.16, which govern mandatory training in child and dependent adult abuse identification and reporting for certain professionals. This proposed rule making amends the Board's requirements for mandatory training in child and dependent adult abuse identification and reporting to reflect the statutory changes and requires that licensees who must make reports for child or dependent adult abuse comply with the training requirements provided in Iowa Code sections 232.69 and 235B.16 every three years.

Fiscal Impact

This rule making has no fiscal impact to the State of Iowa.

Jobs Impact

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

Waivers

A waiver provision is not included in this rule making because all administrative rules of the professional licensure boards in the Professional Licensure Division are subject to the waiver provisions accorded under 645—Chapter 18.

Public Comment

Any interested person may submit written or oral comments concerning this proposed rule making. Written or oral comments in response to this rule making must be received by the Board no later than 4:30 p.m. on January 6, 2020. Comments should be directed to:

Venus Vendoures Walsh
Professional Licensure Division
Iowa Department of Public Health
Lucas State Office Building
321 East 12th Street
Des Moines, Iowa 50319
Phone: 515.242.6529
Email: venus.vendoures-walsh@idph.iowa.gov

Public Hearing

A public hearing at which persons may present their views orally or in writing will be held as follows:

January 6, 2020 9 to 9:30 a.m.	Fifth Floor Conference Room 526 Lucas State Office Building Des Moines, Iowa

Persons who wish to make oral comments at the public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rule making.

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

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making at its regular monthly meeting or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rule-making actions are proposed:

ITEM 1. Amend subrule 200.9(4) as follows:

200.9(4) Mandatory reporter training requirements.

a. A licensee who ~~in the scope of professional practice regularly examines, attends, counsels or treats children in Iowa~~ is required by Iowa Code section 232.69 to report child abuse shall indicate on the renewal application completion of ~~two hours of~~ training in child abuse identification and reporting as required by Iowa Code section 232.69(3)*"b"* in the previous ~~five~~ three years ~~of~~ or condition(s) for waiver of this requirement as identified in paragraph *"e."*

b. A licensee who ~~in the scope of professional practice regularly examines, attends, counsels or treats adults in Iowa~~ is required by Iowa Code section 235B.3 or 235E.2 to report dependent adult abuse shall indicate on the renewal application completion of ~~two hours of~~ training in dependent adult abuse identification and reporting as required by Iowa Code section 235B.16(5)*"b"* in the previous ~~five~~ three years or condition(s) for waiver of this requirement as identified in paragraph *"e."*

c. ~~A licensee who in the scope of professional practice regularly examines, attends, counsels or treats both adults and children in Iowa shall indicate on the renewal application completion of training in abuse identification and reporting for dependent adults and children in the previous five years or condition(s) for waiver of this requirements as identified in paragraph *"e."*~~

~~Training may be completed through separate courses as identified in paragraphs *"a"* and *"b"* or in one combined two-hour course that includes curricula for identifying and reporting child abuse and dependent adult abuse.~~ The ~~course~~ course(s) shall be ~~a~~ the curriculum ~~approved~~ provided by the Iowa department of ~~public health abuse education review panel~~ human services.

d. The licensee shall maintain written documentation for ~~five~~ three years after mandatory training as identified in paragraphs *"a"* to *"c,"* including program date(s), content, duration, and proof of participation.

e. The requirement for mandatory training for identifying and reporting child and dependent adult abuse shall be suspended if the board determines that suspension is in the public interest or that a person at the time of license renewal:

(1) Is engaged in active duty in the military service of this state or the United States.

(2) Holds a current waiver by the board based on evidence of significant hardship in complying with training requirements, including an exemption of continuing education requirements or extension of time in which to fulfill requirements due to a physical or mental disability or illness as identified in 645—Chapter 4.

f. The board may select licensees for audit of compliance with the requirements in paragraphs *"a"* to *"e."*

ITEM 2. Amend subrule 206.10(4) as follows:

206.10(4) Mandatory reporter training requirements.

a. A licensee who ~~in the scope of professional practice regularly examines, attends, counsels or treats children in Iowa~~ is required by Iowa Code section 232.69 to report child abuse shall indicate on the renewal application completion of ~~two hours of~~ training in child abuse identification and reporting as required by Iowa Code section 232.69(3)*"b"* in the previous ~~five~~ three years or condition(s) for waiver of this requirement as identified in paragraph *"e."*

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b. A licensee who ~~in the scope of professional practice regularly examines, attends, counsels or treats adults in Iowa~~ is required by Iowa Code section 235B.3 or 235E.2 to report dependent adult abuse shall indicate on the renewal application completion of ~~two hours of~~ training in dependent adult abuse identification and reporting as required by Iowa Code section 235B.16(5)*"b"* in the previous ~~five~~ three years or condition(s) for waiver of this requirement as identified in paragraph *"e."*

c. ~~A licensee who in the scope of professional practice regularly examines, attends, counsels or treats both adults and children in Iowa shall indicate on the renewal application completion of training in abuse identification and reporting for dependent adults and children in the previous five years or condition(s) for waiver of this requirement as identified in paragraph *"e."*~~

~~Training may be completed through separate courses as identified in paragraphs *"a"* and *"b"* or in one combined two-hour course that includes curricula for identifying and reporting child abuse and dependent adult abuse.~~ The ~~course~~ course(s) shall be ~~a~~ the curriculum ~~approved~~ provided by the Iowa department of ~~public health abuse education review panel~~ human services.

d. The licensee shall maintain written documentation for ~~five~~ three years after mandatory training as identified in paragraphs *"a"* to *"c,"* including program date(s), content, duration, and proof of participation.

e. The requirement for mandatory training for identifying and reporting child and dependent adult abuse shall be suspended if the board determines that suspension is in the public interest or that a person at the time of license renewal:

(1) Is engaged in active duty in the military service of this state or the United States.

(2) Holds a current waiver by the board based on evidence of significant hardship in complying with training requirements, including an exemption of continuing education requirements or extension of time in which to fulfill requirements due to a physical or mental disability or illness as identified in 645—Chapter 4.

f. The board may select licensees for audit of compliance with the requirements in paragraphs *"a"* to *"e."*

REVENUE DEPARTMENT

Notice of Electric and Natural Gas Delivery Tax Rates and Municipal Electric and Natural Gas Transfer Replacement Tax Rates for Each Competitive Service Area

Pursuant to the authority of Iowa Code sections 437A.4 and 437A.5, the Director of Revenue hereby gives notice of the electric delivery tax rate, the municipal electric transfer replacement tax rate, the natural gas delivery tax rate, and the municipal natural gas transfer replacement tax rate for each competitive service area in the state. These rates will be used in conjunction with the number of kilowatt hours of electricity and the number of therms of natural gas delivered to consumers in calendar year 2019 by each taxpayer to determine the tax due for each taxpayer in the 2020-2021 fiscal year.

2019 ELECTRIC DELIVERY TAX RATES BY SERVICE AREA

CO. #	MUNICIPAL ELECTRICS	DELIVERY TAX RATE
3226	Akron Municipal Utilities	0.00005016
3201	Algona Municipal Utilities	0.00025144
3205	Alta Municipal Power Plant	0.00008290
3069	Alta Vista Municipal Utilities	0.00000000
3070	Alton Municipal Light & Power	0.00000000
3207	Ames Municipal Electric System	0.00000094
3071	Anita Municipal Utilities	0.00000000
3227	Anthon Municipal Electric Utility	0.00010389

REVENUE DEPARTMENT](cont'd)

CO. #	MUNICIPAL ELECTRICS	DELIVERY TAX RATE
3209	Atlantic Municipal Utilities	0.00019156
3073	Auburn Municipal Utility	0.00000000
3074	Aurelia Mun. Electric Utility	0.00007365
3211	Bancroft Municipal Utilities	0.00087760
3213	Bellevue Municipal Utilities	0.00008788
3228	Bigelow Municipal Electric Utility	0.00219770
3229	Bloomfield Municipal Electric Utility	0.00003607
3075	Breda Mun. Electric System	0.00000000
3076	Brooklyn Municipal Utilities	0.00132929
3216	Buffalo Municipal Electric System	0.00000203
3217	Burt Municipal Electric Utility	0.00000199
3077	Callender Electric	0.00000000
3078	Carlisle Municipal Utilities	0.00000000
3079	Cascade Municipal Utilities	0.00139918
3221	Cedar Falls Municipal Elec. Utility	0.00030357
3068	City of Afton	0.00000000
3072	City of Aplington	0.00000000
3082	City of Dike	0.00000000
3088	City of Estherville	0.00000000
3089	City of Fairbank	0.00000000
3090	City of Farnhamville	0.00000000
3230	City of Fredericksburg	0.00000539
3106	City of Larchwood	0.00000000
3107	City of Lawler	0.00000000
3108	City of Lehigh	0.00000000
3113	City of Marathon	0.00000000
3311	City of Pella	0.00007414
3125	City of Renwick	0.00000000
3129	City of Sergeant Bluff	0.00000000
3139	City of Westfield	0.00000000
3143	City of Woolstock	0.00000000
3236	Coggon Municipal Light Plant	0.00005044
3237	Coon Rapids Municipal Utilities	0.00052157
3242	Corning Municipal Utilities	0.00031761
3080	Corwith Municipal Utilities	0.00000000
3243	Danville Municipal Electric Utility	0.00000384
3081	Dayton Light & Power	0.00000000
3244	Denison Municipal Utilities	0.00001027
3245	Denver Municipal Electric Utility	0.00005700
3083	Durant Municipal Electric Plant	0.00000000
3084	Dysart Municipal Utilities	0.00000000
3085	Earlville Municipal Utilities	0.00130143
3087	Ellsworth Municipal Utilities	0.00000000
3091	Fonda Municipal Electric	0.00000000

REVENUE DEPARTMENT](cont'd)

CO. #	MUNICIPAL ELECTRICS	DELIVERY TAX RATE
3252	Fontanelle Municipal Utilities	0.00033407
3092	Forest City Municipal Utilities	0.00000000
3231	Glidden Municipal Electric Utility	0.00000214
3093	Gowrie Municipal Utilities	0.00148389
3256	Graettinger Municipal Light Plant	0.00028010
3094	Grafton Municipal Utilities	0.00000000
3258	Grand Junction Municipal Utilities	0.00000456
3095	Greenfield Municipal Utilities	0.00110806
3096	Grundy Center Light & Power	0.00022173
3232	Guttenberg Municipal Electric	0.00002873
3263	Harlan Municipal Utilities	0.00137185
3097	Hartley Municipal Utilities	0.00000000
3098	Hawarden Municipal Utility	0.00000000
3099	Hinton Municipal Electric/Water	0.00006822
3267	Hopkinton Municipal Utilities	0.00000824
3100	Hudson Municipal Utilities	0.00000000
3101	Independence Light & Power	0.00000000
3271	Indianola Municipal Utilities	0.00000742
3102	Keosauqua Light & Power	0.00000000
3103	Kimballton Municipal Utilities	0.00000000
3104	Lake Mills Municipal Utilities	0.00000000
3105	Lake Park Municipal Utilities	0.00000000
3233	Lake View Municipal Utilities	0.00015764
3274	Lamoni Municipal Utilities	0.00135315
3276	LaPorte City Utilities	0.00000998
3277	Laurens Municipal Utilities	0.00029015
3109	Lenox Mun. Light & Power	0.00043024
3110	Livermore Municipal Utilities	0.00000000
3111	Long Grove Mun. Elec./Water	0.00000000
3282	Manilla Municipal Elec. Utilities	0.00011092
3112	Manning Municipal Electric	0.00025521
3284	Mapleton Municipal Utilities	0.00008732
3285	Maquoketa Municipal Electric	0.00004721
3288	McGregor Municipal Utilities	0.00000695
3291	Milford Municipal Utilities	0.00018034
3114	Montezuma Municipal Light & Power	0.00000000
3115	Mount Pleasant Municipal Utilities	0.00000000
3293	Muscatine Municipal Utilities	0.00009555
3116	Neola Light & Water System	0.00000000
3297	New Hampton Municipal Light Plant	0.00009487
3298	New London Municipal Utility	0.00052973
3304	Ogden Municipal Utilities	0.00006019
3234	Onawa Municipal Utilities	0.00009815
3117	Orange City Municipal Utilities	0.00000000

REVENUE DEPARTMENT](cont'd)

CO. #	MUNICIPAL ELECTRICS	DELIVERY TAX RATE
3118	Orient Municipal Utilities	0.00000000
3307	Osage Municipal Utilities	0.00004946
3309	Panora Municipal Electric Utility	0.00006921
3119	Paton Municipal Utilities	0.00000000
3120	Paullina Municipal Utilities	0.00000000
3121	Pocahontas Municipal Utilities	0.00000000
3122	Preston Municipal Utilities	0.00000000
3315	Primghar Municipal Light Plant	0.00001643
3123	Readlyn Municipal Utilities	0.00000000
3124	Remsen Municipal Utilities	0.00000000
3318	Rock Rapids Municipal Utilities	0.00000479
3126	Rockford Municipal Light Plant	0.00000000
3127	Sabula Municipal Utilities	0.00000000
3128	Sanborn Municipal Light Plant	0.00000000
3130	Shelby Municipal Utilities	0.00000000
3131	Sibley Municipal Utilities	0.00000000
3321	Sioux Center Municipal Utilities	0.00000087
3323	Southern Minnesota Mun. Power	0.00000000
3324	Spencer Municipal Utilities	0.00012596
3132	Stanhope Municipal Utilities	0.00000000
3360	Stanton Municipal Utilities	0.00000000
3326	State Center Municipal Light Plant	0.00027766
3327	Story City Municipal Electric Utility	0.00010916
3134	Stratford Municipal Utilities	0.00000000
3135	Strawberry Point Electric Utility	0.00000000
3136	Stuart Municipal Utilities	0.00128625
3328	Sumner Municipal Light Plant	0.00020357
3330	Tipton Municipal Utilities	0.00143611
3332	Traer Municipal Utilities	0.00057746
3337	Villisca Municipal Power Plant	0.00022186
3137	Vinton Municipal Utilities	0.00000000
3138	Wall Lake Municipal Utilities	0.00000000
3338	Waverly Light & Power	0.00072786
3342	Webster City Municipal Utilities	0.00042187
3345	West Bend Municipal Power Plant	0.00082391
3346	West Liberty Municipal Electric Util.	0.00000641
3347	West Point Municipal Utility System	0.00012115
3140	Whittemore Municipal Utilities	0.00000000
3141	Wilton Municipal Light & Power	0.00000000
3351	Winterset Municipal Utilities	0.00133211
3142	Woodbine Municipal Utilities	0.00000000

REVENUE DEPARTMENT](cont'd)

CO. #	IOU's — ELECTRIC	DELIVERY TAX RATE
7206	Amana Society Service Co.	0.00053715
7248	Eldridge Electric & Water Utilities	0.00054889
7354	Geneseo Municipal Utilities	0.00000000
7270	IES Utilities	0.00237888
7272	Interstate Power	0.00103630
7289	MidAmerican Energy	0.00254101
7296	Nebraska Public Power District	0.00000000
7302	Northwestern Corporation	0.00000000
7305	Omaha Public Power District	0.00124531
7334	Union Electric	0.00000000

CO. #	REC's	DELIVERY TAX RATE
4319	Access Energy Coop	0.00040564
4203	Allamakee Clayton Electric Coop	0.00093586
4208	Atchison-Holt Electric Coop	0.00085628
4214	Boone Valley Electric Coop	0.00085075
4218	Butler County REC	0.00068865
4219	Calhoun County Electric Coop	0.00112974
4220	Cass Electric Coop	0.00004057
4224	Central Iowa Power Coop	0.00000000
4225	Chariton Valley Electric Coop	0.00102029
4235	Clarke Electric Coop	0.00230886
4287	Consumers Energy	0.00125819
4240	Corn Belt Power Coop	0.00000000
4246	East-Central Iowa REC	0.00193233
4247	Eastern Iowa Light & Power	0.00068026
4250	Farmers Electric Coop - Greenfield	0.00280330
4249	Farmers Electric Coop - Kalona	0.00047680
4251	Federated Rural Electric	0.00032175
4253	Franklin Rural Electric Coop	0.00081291
4254	Freeborn-Mower Cooperative	0.00171972
4255	Glidden Rural Electric Coop	0.00055807
4259	Grundy County REC	0.00086958
4260	Grundy Electric Cooperative	0.00052083
4261	Guthrie County REC	0.00121604
4262	Hancock Co. REC	0.00098343
4265	Harrison County REC	0.00072127
4266	Hawkeye REC	0.00051726
4223	Heartland Power Coop	0.00033885
4268	Humboldt County REC	0.00096090
4273	Iowa Lakes Electric Coop	0.00061700
4279	Linn County REC	0.00133993

REVENUE DEPARTMENT](cont'd)

CO. #	REC's	DELIVERY TAX RATE
4280	Lyon Rural Electric Coop	0.00051847
4286	Maquoketa Valley Electric Coop	0.00221262
4290	Midland Power Cooperative	0.00110248
4299	Nishnabotna Valley REC	0.00059726
4300	North West Rural Electric Coop	0.00034671
4301	Northwest Iowa Power Coop	0.00000000
4308	Osceola Electric Coop	0.00029411
4310	Pella Cooperative Electric	0.00182080
4313	Pleasant Hill Community Line	0.00023453
4316	Rideta Electric Coop	0.00261433
4320	Sac County Rural Electric Coop	0.00069402
4322	Southern Iowa Electric Coop	0.00134566
4379	Southwest Iowa Service Coop	0.00284449
4329	T.I.P. Rural Electric Coop	0.00203782
4333	Tri-County Electric Coop	0.00090205
4336	United Electric Coop	0.00112324
4348	Western Iowa Power Coop	0.00108160
4352	Woodbury County REC	0.00104762
4353	Wright County REC	0.00046231

2019 NATURAL GAS DELIVERY TAX RATES BY SERVICE AREA

CO. #	MUNICIPAL GAS	DELIVERY TAX RATE
5021	Bedford Municipal Gas	0.00000000
5215	Brighton Gas	0.00699385
5023	Brooklyn Municipal Gas	0.00000000
5024	Cascade Municipal Gas	0.00000000
5025	Cedar Falls Municipal Gas	0.00000000
5022	City of Bloomfield	0.00000000
5026	City of Clearfield	0.00000000
5028	City of Everly	0.00000000
5029	City of Fairbank	0.00000000
5238	Coon Rapids Municipal Gas	0.00004696
5241	Corning Municipal Gas	0.00000603
5027	Emmetsburg Municipal Gas	0.00000000
5030	Gilmore City Municipal Gas	0.00000000
5031	Graettinger Municipal Gas	0.00000000
5032	Guthrie Center Municipal Gas	0.00000000
5033	Harlan Municipal Gas	0.00000000
5034	Hartley Municipal Gas	0.00000000
5035	Hawarden Municipal Gas	0.00000000
5036	Lake Park Municipal Gas	0.00000000

REVENUE DEPARTMENT](cont'd)

CO. #	MUNICIPAL GAS	DELIVERY TAX RATE
5275	Lamoni Municipal Gas	0.00082594
5037	Lenox Municipal Gas	0.00000000
5038	Lineville City Natural Gas	0.00000000
5039	Lorimor Municipal Gas	0.00000000
5281	Manilla Municipal Gas	0.00039489
5283	Manning Municipal Gas	0.00012060
5040	Montezuma Natural Gas	0.00000000
5041	Morning Sun Municipal Gas	0.00000000
5042	Moulton Municipal Gas	0.00000000
5306	Osage Municipal Gas	0.00003126
5043	Prescott Municipal Gas	0.00000000
5044	Preston Municipal Gas	0.00000000
5055	Remsen Municipal Gas	0.00000000
5317	Rock Rapids Municipal Gas	0.00011616
5056	Rolfe Municipal Gas	0.00000000
5057	Sabula Municipal Gas	0.00000000
5058	Sac City Municipal Gas	0.00000000
5059	Sanborn Municipal Gas	0.00000000
5060	Sioux Center Municipal Gas	0.00000000
5061	Tipton Municipal Gas	0.00000000
5063	Waukee Municipal Gas	0.00000000
5340	Wayland Municipal Gas	0.00025660
5064	Wellman Municipal Gas	0.00000000
5344	West Bend Municipal Gas	0.00002049
5065	Whittemore Municipal Gas	0.00000000
5349	Winfield Municipal Gas	0.00063299
5066	Woodbine Gas	0.00000000

CO. #	IOU's — GAS	DELIVERY TAX RATE
5204	Allerton Gas	0.02459997
5270	IES Utilities-Gas	0.00677129
5272	Interstate Power-Gas	0.00250175
5289	MidAmerican Energy-Gas	0.00585745
5312	Peoples Natural Gas	0.00640722
5335	United Cities Gas	0.00825340

REVENUE DEPARTMENT](cont'd)

2019 MUNICIPAL ELECTRIC TRANSFER REPLACEMENT TAX RATES

CO. #	COMPANY	REPLACEMENT TAX RATE
3226	Akron Municipal Utilities	0.01968817
3201	Algona Municipal Utilities	0.00345994
3205	Alta Municipal Power Plant	0.00266644
3069	Alta Vista Municipal Utilities	0.11282797
3070	Alton Municipal Light & Power	0.00196722
3207	Ames Municipal Electric System	*
3071	Anita Municipal Utilities	0.00475903
3227	Anthon Municipal Electric Utility	0.00000000
3209	Atlantic Municipal Utilities	0.00303094
3073	Auburn Municipal Utility	0.00740351
3074	Aurelia Municipal Electric Utility	0.00115714
3211	Bancroft Municipal Utilities	*
3213	Bellevue Municipal Utilities	0.02007395
3228	Bigelow Municipal Utilities	*
3229	Bloomfield Municipal Electric Utility	*
3075	Breda Municipal Electric System	0.00696039
3076	Brooklyn Municipal Utilities	0.00000000
3216	Buffalo Municipal Electric System	*
3217	Burt Municipal Electric Utility	*
3077	Callender Electric	0.01025585
3078	Carlisle Municipal Utilities	*
3079	Cascade Municipal Utilities	0.00000000
3221	Cedar Falls Mun. Electric Utility	0.00562488
3068	City of Afton	0.00356059
3072	City of Aplington	0.00725107
3082	City of Dike	*
3088	City of Estherville	0.01937025
3089	City of Fairbank	0.00257214
3090	City of Farnhamville	*
3230	City of Fredericksburg	*
3106	City of Larchwood	*
3107	City of Lawler	0.00071674
3108	City of Lehigh	*
3113	City of Marathon	*
3311	City of Pella	0.00378011
3125	City of Renwick	0.00000000
3129	City of Sergeant Bluff	*
3139	City of Westfield	0.00000000
3143	City of Woolstock	*
3236	Coggon Municipal Light Plant	0.00000000
3237	Coon Rapids Municipal Utilities	*
3242	Corning Municipal Utilities	0.00000000

REVENUE DEPARTMENT](cont'd)

CO. #	COMPANY	REPLACEMENT TAX RATE
3080	Corwith Municipal Utilities	*
3243	Danville Municipal Electric Utility	0.00000000
3081	Dayton Light & Power	0.00157304
3244	Denison Municipal Utilities	0.00175748
3245	Denver Municipal Electric Utility	*
3083	Durant Municipal Electric Plant	0.00000000
3084	Dysart Municipal Utilities	0.02047272
3085	Earlville Municipal Utilities	*
3086	Eldridge Electric & Water Utility	*
3087	Ellsworth Municipal Utilities	0.00511961
3091	Fonda Municipal Electric	*
3252	Fontanelle Municipal Utilities	0.00000000
3092	Forest City Municipal Utilities	*
3231	Glidden Municipal Electric Utility	0.01417099
3093	Gowrie Municipal Utilities	0.00532169
3256	Graettinger Municipal Light Plant	0.00220495
3094	Grafton Municipal Utilities	0.01154717
3258	Grand Junction Municipal Utilities	0.00201298
3095	Greenfield Municipal Utilities	0.00244471
3096	Grundy Center Light & Power	*
3232	Guttenberg Municipal Electric	*
3263	Harlan Municipal Utilities	0.00337280
3097	Hartley Municipal Utilities	0.02092244
3098	Hawarden Municipal Utility	0.01081893
3099	Hinton Municipal Electric/Water	0.00106484
3267	Hopkinton Municipal Utilities	*
3100	Hudson Municipal Utilities	*
3101	Independence Light & Power	*
3271	Indianola Municipal Utilities	0.00556352
3102	Keosauqua Light & Power	0.00000000
3103	Kimballton Municipal Utilities	*
3104	Lake Mills Municipal Utilities	0.00913180
3105	Lake Park Municipal Utilities	0.00379256
3233	Lake View Municipal Utilities	0.00897064
3274	Lamoni Municipal Utilities	0.00275082
3276	LaPorte City Utilities	0.00247155
3277	Laurens Municipal Utilities	0.00345834
3109	Lenox Municipal Light & Power	0.00000000
3110	Livermore Municipal Utilities	0.01252626
3111	Long Grove Mun. Elec./Water	0.00000000
3282	Manilla Municipal Elec. Utilities	0.00291137
3112	Manning Municipal Electric	*
3284	Mapleton Municipal Utilities	0.00622770
3285	Maquoketa Municipal Electric	0.00235335

REVENUE DEPARTMENT](cont'd)

CO. #	COMPANY	REPLACEMENT TAX RATE
3288	McGregor Municipal Utilities	0.00208275
3291	Milford Municipal Utilities	0.00000000
3114	Montezuma Municipal Light & Power	0.00209481
3115	Mount Pleasant Municipal Utilities	0.00137314
3293	Muscatine Municipal Utilities	0.00000000
3116	Neola Light & Water System	*
3297	New Hampton Municipal Light Plant	0.00280579
3298	New London Municipal Utility	0.00507526
3304	Ogden Municipal Utilities	0.00283201
3234	Onawa Municipal Utilities	*
3117	Orange City Municipal Utilities	*
3118	Orient Municipal Utilities	*
3307	Osage Municipal Utilities	0.00264714
3309	Panora Municipal Electric Utility	*
3119	Paton Municipal Utilities	0.00000000
3120	Paullina Municipal Utilities	*
3121	Pocahontas Municipal Utilities	0.00534524
3122	Preston Municipal Utilities	*
3315	Primghar Municipal Light Plant	0.00000000
3123	Readlyn Municipal Utilities	0.00000000
3124	Remsen Municipal Utilities	0.00000000
3318	Rock Rapids Municipal Utilities	0.00424903
3126	Rockford Municipal Light Plant	*
3127	Sabula Municipal Utilities	0.01563339
3128	Sanborn Municipal Light Plant	*
3130	Shelby Municipal Utilities	0.00000000
3131	Sibley Municipal Utilities	0.03299310
3321	Sioux Center Municipal Utilities	0.00402953
3324	Spencer Municipal Utilities	0.00413768
3132	Stanhope Municipal Utilities	*
3360	Stanton Municipal Utilities	0.00405370
3326	State Center Municipal Light Plant	0.00808484
3327	Story City Municipal Electric Utility	*
3134	Stratford Municipal Utilities	0.02894565
3135	Strawberry Point Electric Utility	*
3136	Stuart Municipal Utilities	0.00500275
3328	Sumner Municipal Light Plant	0.00322587
3330	Tipton Municipal Utilities	0.02967402
3332	Traer Municipal Utilities	0.00699975
3337	Villisca Municipal Power Plant	0.00000000
3137	Vinton Municipal Utilities	0.00217427
3138	Wall Lake Municipal Utilities	0.00300674
3338	Waverly Light & Power	0.00551168
3342	Webster City Municipal Utilities	0.00564919

REVENUE DEPARTMENT](cont'd)

CO. #	COMPANY	REPLACEMENT TAX RATE
3345	West Bend Municipal Power Plant	0.00186024
3346	West Liberty Municipal Electric Util.	*
3347	West Point Municipal Utility System	0.00452479
3140	Whittemore Municipal Utilities	*
3141	Wilton Municipal Light & Power	0.00000000
3351	Winterset Municipal Utilities	*
3142	Woodbine Municipal Utilities	0.00379153
3143	Woolstock Municipal Utilities	*

*No rate provided to the Department by the Municipal

2019 MUNICIPAL NATURAL GAS TRANSFER REPLACEMENT TAX RATES

CO. #	COMPANY	REPLACEMENT TAX RATE
5401	Alton Municipal Gas	0.00000000
5021	Bedford Municipal Gas	0.38502568
5215	Brighton Gas	0.00000000
5023	Brooklyn Municipal Gas	0.00000000
5024	Cascade Municipal Gas	0.00000000
5025	Cedar Falls Municipal Gas	0.01199609
5022	City of Bloomfield	*
5026	City of Clearfield	*
5028	City of Everly	*
5029	City of Fairbank	0.04372260
5238	Coon Rapids Municipal Gas	*
5241	Corning Municipal Gas	0.00000000
5027	Emmetsburg Municipal Gas	0.02201918
5030	Gilmore City Municipal Gas	*
5031	Graettinger Municipal Gas	0.04091508
5032	Guthrie Center Municipal Gas	0.00000000
5033	Harlan Municipal Gas	*
5034	Hartley Municipal Gas	0.07973559
5035	Hawarden Municipal Gas	0.11349711
5036	Lake Park Municipal Gas	0.00810011
5275	Lamoni Municipal Gas	0.02006219
5037	Lenox Municipal Gas	*
5038	Lineville City Natural Gas	0.00000000
5039	Lorimor Municipal Gas	0.00000000
5281	Manilla Municipal Gas	0.13069075
5283	Manning Municipal Gas	0.05191252
5402	Mapleton Municipal Gas	0.00000000
5040	Montezuma Natural Gas	0.00000000
5041	Morning Sun Municipal Gas	0.00000000

REVENUE DEPARTMENT[701](cont'd)

CO. #	COMPANY	REPLACEMENT TAX RATE
5042	Moulton Municipal Gas	0.00000000
5369	Orange City Municipal Gas	*
5306	Osage Municipal Gas	0.00691403
5043	Prescott Municipal Gas	*
5044	Preston Municipal Gas	*
5055	Remsen Municipal Gas	0.00000000
5317	Rock Rapids Municipal Gas	0.01254410
5056	Rolfe Municipal Gas	*
5057	Sabula Municipal Gas	0.08194301
5058	Sac City Municipal Gas	*
5059	Sanborn Municipal Gas	*
5060	Sioux Center Municipal Gas	0.00974526
5061	Tipton Municipal Gas	*
5067	Wall Lake Municipal Gas	0.05743584
5063	Waukee Municipal Gas	*
5340	Wayland Municipal Gas	0.04243901
5064	Wellman Municipal Gas	0.09781706
5344	West Bend Municipal Gas	0.03384566
5065	Whittemore Municipal Gas	*
5349	Winfield Municipal Gas	*
5066	Woodbine Gas	0.00720844

*No rate provided to the Department by the Municipal

Notice of Rate-Regulated Water Utilities Delivery Tax Rate

Pursuant to the authority of Iowa Code section 437B.3, the Director of Revenue hereby gives notice of the rate-regulated water utility delivery tax rate. This rate will be used in conjunction with the total gallons of water delivered to consumers in calendar year 2019 by each taxpayer for replacement taxes payable in the 2020-2021 fiscal year.

2019 RATE-REGULATED WATER UTILITIES DELIVERY TAX RATE BY SERVICE AREA

CO. #	RATE-REGULATED WATER	DELIVERY TAX RATE
6020	Iowa American Water	0.00057387

ARC 4788C

AGRICULTURE AND LAND STEWARDSHIP DEPARTMENT[21]

Adopted and Filed

Rule making related to storage of bulk dry animal nutrients

The Agriculture and Land Stewardship Department hereby amends Chapter 49, "Bulk Dry Animal Nutrients," Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code section 200A.4.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code chapter 200A.

Purpose and Summary

The purpose of this rule making is to update the distance requirements for the storage of bulk dry animal nutrients.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on October 9, 2019, as **ARC 4698C**. A public hearing was held on October 30, 2019, at 11 a.m. in the second floor conference room of the Wallace State Office Building, Des Moines, Iowa. One person attended the public hearing.

The Department received one comment in support of the rule during the public hearing from the Iowa Cattlemen's Association, Iowa Poultry Association, and Iowa Turkey Federation.

The Iowa Cattlemen's Association, Iowa Poultry Association, and Iowa Turkey Federation submitted written comments to the Department in which they suggested the following additions and revisions to the definitions proposed for adoption in Item 1 of the Notice:

1. To supplement the definition of "business," add the definition of "commercial enterprise" from Iowa Code section 459.102(10).
2. To supplement the definition of "church," add the definition of "religious institution" from Iowa Code section 459.102(49).
3. To supplement the definition of "school," add the definition of "educational institution" from Iowa Code section 459.102(27).
4. Substitute the definition of "water of the state" from Iowa Code section 455B.171(41), which is referenced in Iowa Code section 459.102(59), for the proposed definition of "water of the state."
5. Add the definition of "water source" found in Iowa Code section 459.102(60).

The groups' comments also included the following suggestions relating to the proposed amendments to rule 21—49.7(200) in Item 2 of the Notice:

1. Revise paragraph "7" by substituting "400 feet" for "500 feet" and by replacing the word "watercourses" with the words "water sources" because "watercourses" is an obsolete term of art.
2. Provide a waiver process for the rule by adding the following new paragraph:

"8. Bulk dry animal nutrients shall not be stored within 500 feet of a residence, business, church, school, or public use area, unless the titleholder of the residence, business, church, school, or public use area executes a written waiver with the titleholder of the land where the bulk dry animal nutrients are stored."

After full and fair consideration of the comments, the Department adopted the suggested changes submitted by the Iowa Cattlemen's Association, Iowa Poultry Association, and Iowa Turkey Federation.

The adoption of the changes is within the scope of the original Notice and a logical outgrowth of the comments received on the proposal. No other changes from the Notice have been made.

Adoption of Rule Making

This rule making was adopted by the Department on November 13, 2019.

Fiscal Impact

This rule making has no fiscal impact to the State of Iowa.

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to 21—Chapter 8.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making at its regular monthly meeting or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

Effective Date

This rule making will become effective on January 8, 2020.

The following rule-making actions are adopted:

ITEM 1. Adopt the following **new** definitions of "Business," "Church," "Commercial enterprise," "Educational institution," "Grassed waterway," "Major water source," "Public use area," "Religious institution," "School," "Water of the state" and "Water source" in rule **21—49.1(200A)**:

"Business" means a commercial enterprise.

"Church" means a religious institution.

"Commercial enterprise" means a building which is used as a part of a business that manufactures goods, delivers services, or sells goods or services, which is customarily and regularly used by the general public during the entire calendar year and which is connected to electric, water, and sewer systems. A commercial enterprise does not include a farm operation.

"Educational institution" means a building in which an organized course of study or training is offered to students enrolled in kindergarten through grade 12 and served by local school districts, accredited or approved nonpublic schools, area education agencies, community colleges, institutions of higher education under the control of the state board of regents, and accredited independent colleges and universities.

"Grassed waterway" means a shaped or graded channel that is established with suitable vegetation for the stable conveyance of runoff.

"Major water source" means a water source that is a lake, reservoir, river or stream located within the territorial limits of the state, or any marginal river area adjacent to the state, if the water source is capable of supporting a floating vessel capable of carrying one or more persons during a total of a six-month period in one out of ten years, excluding periods of flooding.

"Public use area" means that portion of land owned by the United States, the state, or a political subdivision with facilities which attract the public to congregate and remain in the area for significant

periods of time. Facilities include, but are not limited to, picnic grounds, campgrounds, cemeteries, lodges and cabins, shelter houses, playground equipment, swimming beaches at lakes, and fishing docks, fishing houses, fishing jetties or fishing piers at lakes. It does not include a highway, road right-of-way, parking areas, recreational trails or other areas where the public passes through, but does not congregate or remain in the area for significant periods of time.

"Religious institution" means a building in which an active congregation is devoted to worship.

"School" means an educational institution.

"Water of the state" means any stream, lake, pond, marsh, watercourse, waterway, well, spring, reservoir, aquifer, irrigation system, drainage system, and any other body or accumulation of water, surface or underground, natural or artificial, public or private, which are contained within, flow through or border upon the state or any portion thereof.

"Water source" means a lake, river, reservoir, creek, stream, ditch, or other body of water or channel having definite banks and a bed with water flow, except lakes or ponds without outlet to which only one landowner is riparian.

ITEM 2. Amend rule 21—49.7(200A) as follows:

21—49.7(200A) Storage of bulk dry animal nutrients. A distributor ~~shall not store bulk dry animal nutrients in a manner which pollutes the waters of the state. Storage requirements include the following~~ storing bulk dry animal nutrients shall meet the following storage requirements:

1. Bulk dry animal nutrients shall not be stored in a manner which pollutes the waters of the state.

~~1.~~ 2. Bulk dry animal nutrients shall not be stored in a grassed waterway.

~~2.~~ 3. Bulk dry animal nutrients shall not be stored on ground with a slope of greater than class "B" as defined in the county soil survey.

~~3.~~ 4. Bulk dry animal nutrients shall not be stored within 200 feet of a shallow private water supply well ~~or within~~.

5. Bulk dry animal nutrients shall not be stored within 100 feet of a deep water supply well.

6. Bulk dry animal nutrients shall not be stored within 500 feet of a surface intake, wellhead or cistern of agricultural drainage wells, known sinkholes or major water sources ~~or within 200~~.

7. Bulk dry animal nutrients shall not be stored within 400 feet of ~~watercourses~~ water sources other than major water sources (excluding farm ponds, privately owned lakes or when a secondary containment barrier is provided). ~~For purposes of this rule, terms used are considered to have the same meaning as defined in 567—65.1(455B).~~

8. Bulk dry animal nutrients shall not be stored within 500 feet of a residence, business, church, school, or public use area, unless the titleholder of the residence, business, church, school, or public use area executes a written waiver with the titleholder of the land where the bulk dry animal nutrients are stored.

[Filed 11/13/19, effective 1/8/20]
[Published 12/4/19]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 12/4/19.

ARC 4789C

AGRICULTURE AND LAND STEWARDSHIP DEPARTMENT[21]

Adopted and Filed

Rule making related to animal welfare

The Agriculture and Land Stewardship Department hereby rescinds Chapter 67, "Animal Welfare," Iowa Administrative Code, and adopts a new Chapter 67 with the same title.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code section 162.16.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code chapter 162.

Purpose and Summary

The purpose of this rule making is to accomplish the following:

- Ensure that all dogs and cats handled by commercial establishments are provided with humane care and treatment.
- Regulate the transportation, sale, purchase, housing, care, handling, and treatment of dogs and cats by persons engaged in transporting, buying, or selling them.
- Provide that all vertebrate animals consigned to pet shops are provided humane care and treatment by regulating the transportation, sale, purchase, housing, care, handling, and treatment of such animals by pet shops.
- Authorize the sale, trade, or adoption of only those animals which appear to be free of infectious or communicable disease.
- Protect the public from zoonotic disease.
- Establish subclassifications of licenses and further clarify requirements.

This rule making does not apply to livestock as defined in Iowa Code section 717.1 or any other agricultural animal used in agricultural production as provided in Iowa Code chapter 717A.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on October 9, 2019, as **ARC 4696C**. A public hearing was held on October 30, 2019, at 9 a.m. in the second floor conference room of the Wallace State Office Building, Des Moines, Iowa.

The Department received 391 comments during the public comment period and 45 comments during the public hearing from various stakeholder groups and citizens. The comments are posted on the Department's website at: https://iowaagriculture.gov/sites/default/files/2019/11.26.19%20Animal%20Welfare%20Comments%20Final.pdf.

After full and fair consideration of comments, the Department incorporated the following changes:

1. For further clarity, changed "free of rust" to "free of excessive rust that prevents required cleaning and sanitizing or that affects the structural strength of the surface or that may be detrimental to the health of the animal."
2. Further clarified that litter boxes must also be cleaned as often as necessary to prevent the accumulation of animal waste.
3. Clarified acceptable forms of vaccinations in order for an animal to enter a licensed facility.
4. Further defined what records a facility is required to keep.
5. Updated language for consistency throughout.
6. Due to biosecurity and safety concerns, changed the care-in-transit requirements in paragraph 67.6(1)"d" for animal exercise and for enclosure cleaning from 6 hours to 12 hours.
7. Removed the phrase "or other signs of illness" from subrule 67.6(3) so the content of the subrule matches the provision in existing Chapter 67.
8. Revised paragraph 67.13(6)"e" to clarify that treats are permissible for purposes of training or controlling dogs.
9. Rearranged rules in the chapter so that rules of general applicability are first; rules containing prescriptive requirements for individual licenses, next; and rules containing enforcement provisions, last.
10. Added definitions of the following terms:

- Parvo.

- Distemper.
- Veterinarian.
- Direct and immediate visual supervision.

11. Removed paragraphs 67.3(2)"e" and 67.4(2)"l" because the content of the paragraphs was duplicative.

The adoption of these changes is within the scope of the original Notice and a logical outgrowth of the comments received on the proposal. No other changes from the Notice have been made.

Adoption of Rule Making

This rule making was adopted by the Department on November 13, 2019.

Fiscal Impact

This rule making has no fiscal impact to the State of Iowa.

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to 21—Chapter 8.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making at its regular monthly meeting or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

Effective Date

This rule making will become effective on January 8, 2020.

The following rule-making action is adopted:

Rescind 21—Chapter 67 and adopt the following **new** chapter in lieu thereof:

CHAPTER 67
ANIMAL WELFARE

21—67.1(162) Definitions.

"Acclimated" means the animal is accustomed to a climate or environment and has the ability to maintain its body temperature.

"Adequate feed" means the provision at suitable intervals of not more than 24 hours or longer if the dietary requirements of the species so require, of a quantity of wholesome foodstuff suitable for the species and age, sufficient to maintain a reasonable level of nutrition in each animal. The foodstuff shall be served in a clean receptacle, dish or container.

"Adequate water" means reasonable access to a supply of clean, fresh, potable water provided in a sanitary manner or provided at suitable intervals for the species and not to exceed 24 hours at any interval.

"Ample space" means the animals contained within the primary enclosure all must have the ability to comfortably turn about, stand erect, sit or lie with limbs fully extended.

"Animal shelter" means a facility which is used to house or contain dogs or cats, or both, and which is owned, operated, or maintained by an incorporated humane society, animal welfare society, society for the prevention of cruelty to animals, or other nonprofit organization devoted to the welfare, protection, and humane treatment of such animals.

"Animal warden" means any person employed, contracted, or appointed by the state, municipal corporation, or any political subdivision of the state, for the purpose of aiding in the enforcement of the provisions of Iowa Code chapter 162 or any other law or ordinance relating to the licensing of animals, control of animals or seizure and impoundment of animals and includes any peace officer, animal control officer, or other employee whose duties in whole or in part include assignments which involve the seizure or taking into custody of any animal.

"Animal Welfare Act" means the federal Animal Welfare Act, 7 U.S.C. Ch. 54, and regulations promulgated by the United States Department of Agriculture and published in 9 C.F.R. Ch. 1.

"Authorization" means a state license, certificate of registration, or permit issued or renewed by the department to a commercial establishment as provided in Iowa Code section 162.2A.

"Boarding kennel" means a place or establishment other than a pound or animal shelter where dogs or cats not owned by the proprietor are sheltered, fed, and watered in return for a consideration.

"Breeding male or female" means any sexually intact adult dog or cat over 12 months of age.

"Cleaning" means the mechanical removal of organic matter and waste through the application of soap, detergent or other cleaning agent followed by the rinsing of all surfaces with clean water.

"Commercial breeder" means a person, engaged in the business of breeding dogs or cats, who sells, exchanges, or leases dogs or cats in return for consideration, or who offers to do so, whether or not the animals are raised, trained, groomed, or boarded by the person. A person who owns or harbors three or fewer breeding males or females is not a commercial breeder. However, a person who breeds any number of breeding male or female greyhounds for the purposes of using them for pari-mutuel wagering at a racetrack as provided in Iowa Code chapter 99D shall be considered a commercial breeder irrespective of whether the person sells, leases, or exchanges the greyhounds for consideration or offers to do so.

"Commercial establishment" or *"establishment"* means an animal shelter, boarding kennel, commercial breeder, commercial kennel, dealer, pet shop, pound, public auction, or research facility.

"Commercial kennel" means a kennel which performs grooming, boarding, or training services for dogs or cats in return for a consideration.

"Commingle" means to combine animals from different owners in a common area or enclosure.

"Common area" means any area where dogs are commingled for exercise or social interaction.

"Dealer" means any person who is engaged in the business of buying for resale or selling or exchanging dogs or cats, or both, as a principal or agent, or who claims to be so engaged.

"Department" means the department of agriculture and land stewardship.

"Direct and immediate visual supervision" means a person providing visual supervision is located on the premises and within the line of sight of the animal and is available to provide immediate attention to the animals within the group.

"Distemper" means canine distemper virus or feline panleukopenia virus.

"Dog day care" means a facility licensed as a commercial kennel or a boarding kennel and designed and operated with the intention that a dog admitted to the facility is allowed, in compliance with this chapter, to mingle and interact with other dogs in one or more playgroups operating in the facility.

"Euthanasia" means the humane destruction of an animal accomplished by a method that involves instantaneous unconsciousness and immediate death or by a method that involves anesthesia, produced by an agent which causes painless loss of consciousness, and death during the loss of consciousness.

"Facility" means all buildings, yards, pens and other areas, or any portion thereof, at a single location in which any animal is kept, handled, or transported for the purpose of adoption, breeding, boarding, grooming, handling, selling, sheltering, trading, rescuing or otherwise transferring.

"Federal license" means a license issued by the United States Department of Agriculture to a person classified as a dealer or exhibitor pursuant to the federal Animal Welfare Act.

"Federal licensee" means a person to whom a federal license as a dealer or exhibitor is issued.

"Foster care home" means a private residence that is authorized to provide temporary shelter and care for an animal that has been accepted by a foster oversight organization.

"Foster oversight organization" means a registered animal shelter or pound or licensed dealer which has been authorized by the department to utilize foster care homes in its operation.

"Group housing" means more than two animals housed together within the same primary enclosure.

"Housing facilities" means any room, building, or area used to contain a primary enclosure or enclosures.

"Identification" means breed, color, markings, sex, and age of the dog or cat. If applicable, identification can also include a microchip number, rabies tag number, tattoo, or other similar form of identification.

"In-home facility" means an individual required to be licensed as a boarding kennel, commercial breeder, commercial kennel, or dealer who maintains or harbors animals within the individual's residence.

"Isolation" means the separation, for the period of communicability, of infected animals from other animals in such a place and under such conditions to prevent the direct or indirect transmission of the infectious agent from those infected to those that are susceptible or that may spread the agent to others.

"Isolation facility" means the location where animals infected with disease may be placed to contain, control and limit the spread of disease.

"Kennel" means a facility, location, or area where dogs or cats are brought together or commingled for the purpose of, but not limited to, boarding, grooming, or training.

"Licensee" means any person or facility authorized to operate pursuant to Iowa Code chapter 162.

"Parvo" means canine parvovirus or feline panleukopenia virus.

"Permittee" means a commercial breeder, dealer, or public auction to whom a permit is issued by the department as a federal licensee pursuant to Iowa Code section 162.2A.

"Person" means person as defined in Iowa Code chapter 4.

"Pet shop" means an establishment where a dog, cat, rabbit, rodent, nonhuman primate, fish other than live bait, bird, or other vertebrate animal is bought, sold, exchanged, or offered for sale. However, a pet shop does not include an establishment if one of the following applies:

1. The establishment receives less than $500 from the sale or exchange of vertebrate animals during a 12-month period.
2. The establishment sells or exchanges less than six animals during a 12-month period.

"Potable water" means liquid water suitable for drinking.

"Pound" means a facility for the prevention of cruelty to animals operated by the state, a municipal corporation, or other political subdivision of the state for the purpose of impounding or harboring seized stray, homeless, abandoned, or unwanted dogs, cats, or other animals; or a facility operated for such a purpose under a contract with any municipal corporation or incorporated society.

"Primary enclosure" means any structure used to immediately restrict an animal to a limited amount of space, such as a room, pen, cage, or compartment.

"Public auction" means any place or location where dogs or cats, or both, are sold at auction to the highest bidder regardless of whether the dogs or cats are offered as individuals, as a group, or by weight.

"Registrant" means a pound, animal shelter, or research facility to whom a certificate of registration is issued by the department pursuant to Iowa Code section 162.2A.

"Rescue" means a person or group of persons, licensed as a dealer, who holds itself out as an animal rescue, or who accepts, purchases, exchanges or solicits for dogs or cats with the intention of finding permanent adoptive homes or providing lifelong care for such dogs and cats or who uses foster homes as a primary means of housing dogs or cats.

"Rescue manager" means any person designated by a rescue to carry out the responsibilities of the rescue.

"Research facility" means any school or college of medicine, veterinary medicine, pharmacy, dentistry, or osteopathic medicine, or hospital, diagnostic or research laboratories, or other educational or scientific establishment situated in this state concerned with the investigation of, or instruction

concerning the structure or function of living organisms, the cause, prevention, control or cure of diseases or abnormal conditions of human beings or animals.

"Residence" means any area or space where a person lives or resides.

"Sanitize" means to disinfect inanimate objects to eliminate as many or all pathogenic microorganisms, except bacterial spores.

"Seizure and impoundment," as used in this chapter, means either of the following:

1. The confinement of the animals to the property of the owner or custodian of the animals with provisions being made for the care of the animals pending review and final disposition.

2. The physical removal of the animals to another facility for care pending review and final disposition.

"State fiscal year" means the fiscal year described in Iowa Code section 3.12.

"State licensee" means any of the following:

1. A boarding kennel, commercial kennel, or pet shop to whom a state license is issued by the department pursuant to Iowa Code section 162.2A.

2. A commercial breeder, dealer, or public auction to whom a state license is issued in lieu of a permit by the department pursuant to Iowa Code section 162.2A.

"Transfer" means to adopt, sell, give away, trade, barter, exchange, return or convey ownership of an animal.

"Vertebrate animal" means those vertebrate animals other than members of the equine, bovine, ovine, and porcine species, and ostriches, rheas, or emus.

"Veterinarian" means a person who is validly and currently licensed to practice veterinary medicine in the state of Iowa.

21—67.2(162) Animals included in rules. "Dog," as that term is used in the rules, includes hybrid dog mixtures. "Animals," as that term is used in rules relating to boarding kennels, commercial kennels, commercial breeders, dealers, public auctions, animal shelters, and pounds, means dogs and cats. "Animals," as that term is used in rules relating to pet shops, means dogs, cats, rabbits, rodents, nonhuman primates, birds, fish other than live bait, or other vertebrate animals. This chapter does not apply to livestock as defined in Iowa Code section 717.1 or any other agricultural animal used in agricultural production as provided in Iowa Code chapter 717A.

21—67.3(162) Housing facilities and primary enclosures.

67.3(1) *Housing facilities.*

a. Buildings shall be of adequate structure and maintained in good repair so as to ensure protection of animals from injury.

b. Shelter shall be provided to allow access to shade from direct sunlight and regress from exposure to wind, rain or snow. Heat, insulation, or clean and dry bedding adequate to provide comfort shall be provided when the atmospheric temperature is below 50°F or the temperature to which the particular animals are acclimated. Indoor housing facilities shall be provided for dogs and cats under the age of eight weeks and for dogs and cats within two weeks of whelping. Dogs and cats that are not acclimated to the temperatures prevalent in the area or region where they are kept and sick, aged, young or infirm dogs and cats cannot be housed in outdoor facilities.

c. Temperature.

(1) Indoor housing facilities for dogs and cats must be capable of controlling the temperature in the housing facility and sufficiently heated and cooled when necessary to protect dogs and cats from temperature or humidity extremes and to provide for their well-being.

(2) When dogs and cats are present, the ambient temperature in the indoor housing facility cannot fall below 50°F for dogs and cats not acclimated to lower temperatures, for breeds that cannot tolerate lower temperatures without stress or discomfort, and for sick, aged, young or infirm dogs and cats except as approved by the attending veterinarian. Heat, insulation, clean and dry bedding or other methods of conserving body heat that are adequate to provide comfort shall be provided when the atmospheric

temperature is below 50°F. The ambient temperature must not fall below 45°F or rise above 85°F for more than four consecutive hours when dogs or cats are present.

d. Ventilation. Indoor and outdoor housing facilities shall at all times be provided with ventilation by means of doors, windows, vents, air conditioning or direct flow of fresh air that is adequate to provide for the good health and comfort of the animals. Such ventilation shall be environmentally provided so as to maintain adequate temperature and minimize drafts, moisture condensation, odors or stagnant vapors of excreta. Auxiliary ventilation, such as fans, blowers or air conditioning, must be provided when the ambient temperature is above 85°F. Relative humidity must be maintained at a level that ensures the health and well-being of the animals housed in the housing facility. Indoor housing facilities must be capable of the following:

(1) Maintaining humidity levels between 30 percent and 70 percent; and

(2) Rapidly eliminating odors from within the building.

e. Ample lighting shall be provided by natural or artificial means, or both, during sunrise to sunset hours to allow efficient cleaning of the facilities and routine inspection of the facilities and animals contained therein.

f. Ceilings, walls and floors shall be constructed so as to lend themselves to efficient cleaning and sanitizing. Such surfaces shall be kept in good repair and maintained so that they are substantially impervious to moisture. Floors and walls to a height of four feet shall have finished surfaces. No sharp or jagged edges may be present that may injure an animal. Animal contact surfaces must be free of excessive rust that prevents required cleaning and sanitizing or that affects the structural strength of the surface or that may be detrimental to the health of the animal.

g. Food supplies and bedding materials shall be stored so as to adequately protect them from contamination or infestation by vermin or other factors which would render the food or bedding unclean. Separate storage facilities shall be used to store cleaning and sanitizing equipment and supplies.

h. Washrooms, basins or sinks for maintaining cleanliness among animal caretakers and the sanitizing of food and water utensils shall be provided within or be readily accessible to each housing facility.

i. Equipment shall be available for removal and disposal of all waste materials from housing facilities to minimize vermin infestation, odors and disease hazards. Drainage systems shall be functional to effect the above purposes.

j. Group housing is permitted for animals that are compatible with one another, except as otherwise stated herein. Adequate space shall be provided to prevent crowding and to allow freedom of movement and comfort to animals of the size which are housed in the facility. Females in estrus shall not be housed with males except for breeding purposes.

k. Facilities shall be provided to isolate diseased animals and to prevent exposure to healthy animals.

l. Outdoor dog runs and exercise areas shall be of sound construction and kept in good repair so as to safely contain the animal(s) therein without injury. Floors shall be concrete, gravel or materials which can be regularly cleaned and kept free of waste accumulation. Grass runs and exercise areas are permissible provided that adequate ground cover is maintained, holes are kept filled and the ground cover is not allowed to become overgrown. Dog runs and exercise areas utilizing wire floors are permissible provided that the wire floors are not injurious to the animals and are adequately maintained. Wire flooring cannot cause injury to any animal contained in a dog run or exercise area that has wire flooring and must:

(1) Have a solid resting surface of adequate size for an animal to lay on its side;

(2) Be in good repair, free of excessive rust that prevents required cleaning and sanitizing or that affects the structural strength of the surface or that may be detrimental to the health of the animal;

(3) Be free of jagged or sharp edges, and constructed so as to lend itself to efficient cleaning and sanitizing; and

(4) Be of a gauge and construction to prevent bending and sagging and to prevent physical harm to an animal or entrapment of the feet of an animal housed within the primary enclosure.

m. Housing facilities and areas used for storage of food or bedding must be free of trash, garbage, waste, weeds, debris and other materials potentially harmful to animals.

n. Animal areas must be kept clean, neat, and free of clutter.

o. The department may limit the number of animals allowed in any housing facility based on, but not limited to, the number of available primary enclosures, the animal care space available within a facility, or lack of available personnel to care for the animals.

67.3(2) *Primary enclosures.*

a. Primary enclosures shall be of sound construction and maintained in good repair to protect the animals from injury. No sharp points or jagged edges may be present that may cause injury to an animal. Animal contact surfaces must be free of excessive rust that prevents required cleaning and sanitizing or that affects the structural strength of the surface or that may be detrimental to the health of the animal. Animal contact surfaces must also be free of jagged edges, sharp points and anything that may cause injury to an animal.

b. Construction materials and maintenance shall allow the animals to be kept clean and dry. Walls and floors shall be impervious to urine and other moisture and lend themselves to efficient cleaning and sanitizing.

c. A primary enclosure shall provide for adequate space appropriate for the age, size, weight, breed, and temperament of the animal.

d. The shape and size of the enclosure shall afford ample space for the individual animals within the enclosure. Ample space includes, but is not limited to, allowing the animal the ability to comfortably reposition, turn about, stand erect, sit or lie while limbs are fully extended. Cats must have adequate space for a litter box so that litter does not contaminate food and water.

e. A nursing bitch or queen must be provided additional space. The amount of additional space required should be based on the breed and behavioral characteristics of the animal.

f. The department may limit the number of animals housed in a primary enclosure based on, but not limited to, the amount of available and usable floor space, personnel available to care for the animals and the compatibility of the animals within the enclosure.

g. Group housing is permitted for animals that are compatible with one another, except as otherwise stated herein. Ample space shall be provided to prevent crowding and to allow freedom of movement and comfort to animals of the size which are housed within the primary enclosure. No more than 12 adult dogs or cats may be housed in the same primary enclosure. Dogs and cats shall not be housed in the same primary enclosure.

h. Elevated resting surfaces are required for cats housed in groups of four or more. Elevated resting surfaces must be collectively large enough to simultaneously hold all occupants of a primary enclosure and must be impervious to moisture, easily cleaned and sanitized, easily replaced, and of sufficient elevation for the cats enclosed in the primary enclosure to comfortably lay under the elevated surfaces.

i. Litter boxes containing clean litter shall be provided at all times for kittens and cats. Adequate litter boxes must be provided for the number of cats within a primary enclosure. Litter boxes must:

(1) Be cleaned at minimum once daily or more often as necessary to prevent the accumulation of animal waste;

(2) Contain adequate litter and be of adequate size; and

(3) Be cleaned and sanitized in a separate sink from food and water receptacles. If a separate sink is not available, then the sink must be cleaned and sanitized after the litter boxes are washed and before anything else is washed in the sink.

j. Animal waste, including used cat litter, must be removed from primary enclosures at minimum once daily or more frequently to prevent the accumulation of waste and contamination of the animals contained within the primary enclosure and must be discarded in accordance with state, county and local ordinances.

k. Means shall be provided to maintain the temperature and ventilation that are comfortable for the species within the primary enclosure. Lighting shall be adequate to allow observation of the animals, but the animals shall be protected from excessive illumination.

l. Animals shall be removed from their primary enclosures at least twice in each 24-hour period and exercised unless the primary enclosure is of sufficient size to provide for sufficient exercise.

The amount of exercise should be appropriate for the age, breed, and health condition of the animal. Impounded animals, animals deemed too dangerous to be removed from the primary enclosure, and animals undergoing rabies quarantine may be exempt from removal from their primary enclosure but must be housed in a primary enclosure large enough to allow for exercise within the primary enclosure. Animals under the medical supervision of a veterinarian may be exempt in writing from exercise if exemption is deemed medically appropriate by the attending veterinarian.

m. Doghouses with tethered restraints, including but not limited to chains, cannot be used as primary enclosures for dogs but may be used for the purpose of exercise. The tethered restraint used shall be placed or attached so that it cannot become entangled with the tethered restraints of other dogs or any other objects. Such tethered restraints shall be of a type commonly used for the size of dog involved and shall be attached to the dog by means of a well-fitted collar. Such tethered restraints shall be at least three times the length of the dog as measured from the tip of the dog's nose to the base of its tail and shall allow the dog convenient access to the doghouse.

n. Primary enclosures containing wire flooring cannot cause injury to any animal contained in the primary enclosure, and the wire flooring must:

(1) Have a solid resting surface of adequate size for an animal to lay on its side;

(2) Be in good repair, free of excessive rust that prevents required cleaning and sanitizing or that affects the structural strength of the surface or that may be detrimental to the health of the animal;

(3) Be free of jagged or sharp edges, and constructed so as to lend itself to efficient cleaning and sanitizing; and

(4) Be of a gauge and construction to prevent bending and sagging and to prevent physical harm to an animal or entrapment of the feet of an animal housed within the primary enclosure.

o. When primary enclosures are stacked, all stacked enclosures must be secured so that the upper primary enclosure(s) cannot fall in a manner which may cause injury or harm to any animal. A means to prevent urine, feces, and other debris from passing into or being discharged into the underlying primary enclosure(s) is required.

p. All enclosures must be impermeable to water and easily cleaned and sanitized.

q. Bedding within primary enclosures must be easily cleaned and sanitized or disposable.

21—67.4(162) General care and husbandry standards.

67.4(1) *Feeding and watering.*

a. All species covered under Iowa Code chapter 162 shall be provided with adequate feed and adequate water.

b. Young animals and animals under veterinary care shall be fed and given water at more frequent intervals and with specific diets as their needs dictate.

c. Water must be provided as often as necessary for the health and comfort of the animal. The frequency of providing water should be appropriate to the species, age, condition, and size of the animal as well as the environmental conditions.

d. Water for dogs and cats must be made available at minimum two times daily for at least one hour each time.

e. The receptacles for food and water must be:

(1) Readily accessible;

(2) Located to minimize contamination with excreta;

(3) Made of durable material that can easily be cleaned and sanitized or be disposable;

(4) Appropriate for the species, size, age and breed of animal; and

(5) Replaced after a single use if the receptacles are disposable.

67.4(2) *Cleaning and sanitation.*

a. Housing facilities and primary enclosures shall be cleaned a minimum of once in each 24-hour period and more frequently as may be necessary to reduce disease hazards and odors. Dirt, hair, excreta (including but not limited to urine and feces), food waste, and other debris shall be removed from a primary enclosure daily or at a frequency to prevent their accumulation and the contamination of the animals contained within the primary enclosure.

(1) When primary enclosures are stacked, a means to prevent urine, feces and other debris from passing into or being discharged into the underlying primary enclosure(s) is required.

(2) Pressure water systems or live steam may be used for cleaning if animals are removed while the cleaning takes place.

b. Housing facilities and primary enclosures shall be sanitized at intervals not to exceed two weeks or sanitized more frequently as may be necessary to reduce disease hazards. Sanitizing shall be done by washing the surfaces with hot water and soap or detergent, followed by the application of a safe and effective disinfectant. Runs and exercise areas having gravel or other nonpermanent surface materials shall be sanitized by periodic removal of soiled materials, application of suitable disinfectants, and replacement of the soiled materials with clean surface materials. Dirt, hair, excreta, food waste, and other debris shall be removed before sanitizing begins. Manufacturer labels shall be followed for dilution and contact time for all soaps, detergents, disinfectants, or other chemicals used for sanitization.

c. An effective program shall be established and maintained for the control of vermin infestation.

d. Before a primary enclosure, food receptacle or water receptacle is used for another animal, the primary enclosure, food receptacle or water receptacle shall be cleaned and sanitized.

67.4(3) *Veterinary care.*

a. Programs of disease prevention and control shall be established in writing and maintained.

b. Sick, diseased or injured animals shall be provided with prompt veterinary care or disposed of by euthanasia. Euthanasia must be performed in a manner deemed acceptable by and published in the American Veterinary Medical Association Guidelines for Euthanasia of Animals: 2013 Edition.

c. All species regulated under Iowa Code chapter 162 that are infected with contagious diseases shall be immediately placed into isolation facilities as provided for in this paragraph to prevent exposure to healthy animals. Isolation facilities must be an area separate from the remainder of the animals in a facility with the ability to contain disease and to reduce the risk of disease spread. Animals in isolation must be cared for separately from the remainder of the animals in a facility. All equipment and supplies used for animals in an isolation facility must be cleaned and disinfected prior to removal from the isolation facility or discarded in a manner that prevents disease spread.

d. Dogs and cats within all commercial establishments must be vaccinated for rabies when age-appropriate unless exempted by Iowa Code section 351.42.

e. All dogs and cats taken into the care of a dealer, or transported into housing facilities regulated under Iowa Code chapter 162, excluding pounds and animal shelters, shall have been vaccinated against distemper, parvo and rabies, unless exempted by direct written recommendation of the owner's veterinarian or exempted by Iowa Code section 351.42 before entering the housing facility or being taken into the care of a dealer. Rabies titers shall not be accepted by a commercial establishment in lieu of a rabies vaccination.

f. Animal shelters and pounds must vaccinate dogs and cats in their care for rabies, distemper and parvo within a reasonable time of the dog or cat entering the animal shelter or pound. Animal shelters and pounds must also keep dogs and cats current on vaccinations for rabies, distemper and parvo.

g. Vaccine titers shall not be accepted as a form of vaccine verification. Vaccine records and written vaccine exemptions shall be kept on file. Acceptable forms of documentation for vaccine verification for admittance of a dog or cat into a commercial establishment, excluding animal shelters and pounds, include the following:

(1) Written documentation of vaccination from a veterinarian.

(2) A rabies certificate signed by a veterinarian.

h. Dogs and cats brought into the state of Iowa must meet importation requirements under rule 21—65.10(163).

i. Commercial establishments, excluding commercial kennels and boarding kennels, shall enter into a written agreement with a veterinarian licensed by the state of Iowa to provide veterinary care for the animals maintained in the facility. The agreement shall include a requirement that the veterinarian visit the facility at least once every 12 months for the purpose of viewing all the animals in the facility, making a general determination concerning the health/disease status of the animals, and reviewing the facility's program for disease prevention and control. If during the course of the visit the veterinarian identifies

an animal that requires a more detailed individual examination to determine the specific condition of the animal or to determine an appropriate course of treatment, then such examination shall be undertaken.

j. Commercial kennels and boarding kennels must have a written agreement with a veterinarian licensed by the state of Iowa to provide veterinary care for an animal in their care should veterinary care be required.

k. If during an inspection of a facility the department finds an animal which appears to have a physical condition or disease that, in the opinion of the inspector, requires a veterinarian's attention, the department may order that the licensee subject the animal to a veterinarian's examination at the licensee's expense. The department may require the licensee to submit written proof of the veterinarian's examination and results of the examination within a time frame set by the department.

67.4(4) *Personnel.*

a. The owner or personnel shall be present at least once in each 24-hour period to supervise and ascertain that the care of animals and maintenance of facilities conform to all of the provisions of Iowa Code chapter 162.

b. A sufficient number of qualified personnel shall be utilized to provide the required care of animals and maintenance of facilities during normal business hours.

21—67.5(162) Transportation.

67.5(1) *Primary enclosures for transportation.* Primary enclosures are required within transportation vehicles.

a. Primary enclosures utilized in transportation shall:

(1) Be of sound construction, maintained in good repair to ensure protection of animals from injury, and readily cleaned and sanitized;

(2) Be free of sharp points, jagged edges or protrusions that could injure the animal; and

(3) Securely contain the animal so that the animal cannot injure itself, its handler or any persons or animals nearby.

b. Floors and lower sides shall be constructed or covered on the inner surfaces so as to contain excreta and bedding materials.

c. Adequate space shall be provided so that the animal(s) contained in the primary enclosure may comfortably turn about, stand erect, sit and lie.

d. Openings shall be provided in primary enclosures so that adequate ventilation can be maintained when the primary enclosures are positioned in the transporting vehicle.

e. Primary enclosures shall be cleaned and sanitized before each trip and between animals.

f. The temperature within primary enclosures shall not be allowed to exceed the atmospheric temperature. During transportation, the ambient temperature inside the primary enclosure cannot exceed 85°F for a period of more than four hours, nor may the temperature fall below 45°F for a period of more than four hours. Auxiliary ventilation, such as fans, blowers or air conditioning, must be used in the animal space when the ambient temperature in the space reaches 85°F.

67.5(2) *Vehicles.*

a. Protection shall be afforded to primary enclosures transported in the vehicle, sheltering the animals from drafts and extremes of hot or cold temperatures to which they are not acclimated.

b. Primary enclosures used in transportation shall be securely positioned in the vehicle to protect the animals from injury.

67.5(3) *Care in transit.*

a. Animals in transit shall be provided adequate feed and adequate water as defined in rule 21—67.1(162).

b. Incompatible animals shall not be placed together during shipment. Females in estrus shall not be placed in the same primary enclosure with a male.

c. Animals shall be inspected at least once in each four-hour period and the primary enclosures cleaned if necessary and the emergency needs of the animals attended to immediately.

d. Animals shall be removed for exercise and their enclosures cleaned if the animals have been en route for a 12-hour period.

21—67.6(162) Purchase, sale, trade and adoption.

67.6(1) Records shall be made and retained for a period of 12 months for any change of ownership of a dog, cat or nonhuman primate, including but not limited to any sale, exchange, transfer, trade, or adoption from any commercial establishment. Records shall be similarly kept on other small vertebrate animals sold or transferred, except that individual identifications shall not be required. Records shall include the following:

a. Date of change of ownership;

b. Identification of animal;

c. Names, mailing addresses, telephone numbers, and email addresses, if available, of seller and purchaser or transferor and recipient;

d. State of Iowa animal welfare license number of the seller or transferor;

e. Source of the animal;

f. Date animal entered the care of and left the care of the commercial establishment;

g. Method and date of euthanasia, if applicable;

h. Transfer of animal within or between commercial establishments;

i. List of prophylactic immunization(s) given, including date(s) administered (if applicable);

j. List of internal parasite medication(s) given and date(s) administered (if applicable); and

k. Description of other medical care provided to the animal, including type of medical care received and date(s) of medical care.

67.6(2) All commercial establishments shall furnish a statement of sale, exchange, transfer, trade, or adoption to each purchaser or recipient of a dog, cat, nonhuman primate, bird, or other vertebrate animal. This statement shall include the following:

a. Names, mailing addresses, telephone numbers, and email addresses, if available, of the seller or transferor and the purchaser or recipient;

b. State of Iowa animal welfare license number of the seller or transferor;

c. Date of sale, transfer, trade, adoption, exchange or any other change of ownership;

d. Description or identification of vertebrate sold;

e. List of prophylactic immunization(s) given, including date(s) administered (if applicable);

f. List of internal parasite medication(s) given and date(s) administered (if applicable); and

g. Description of other medical care provided to the animal, including type of medical care received and date(s) of medical care.

67.6(3) All vertebrate animals regulated under Iowa Code chapter 162 which are known to be exposed to or show symptoms of having infectious and contagious diseases or which show symptoms of parasitism or malnutrition sufficient to adversely affect the health of the animals are restricted from sale or transfer. The secretary of agriculture may order quarantine on premises or housing facilities in which any of the conditions listed in this subrule exist. Quarantine shall be removed when at the discretion of the secretary or the secretary's designee, the disease conditions for which quarantined are no longer evident and the apparent health of the animals indicates absence of contagion.

67.6(4) For the purposes of determining an individual's obligation to be licensed under Iowa Code section 162.8, "breeding animal" includes any sexually intact animal over the age of 12 months.

21—67.7(162) Boarding kennels, commercial kennels, animal shelters, pounds and dealers.

67.7(1) *Boarding kennels and commercial kennels.*

a. Records shall be made and retained for a period of 12 months for each animal boarded, groomed or trained. Records shall include the following:

(1) Owner's name, address, telephone number and email address;

(2) Identification of animal;

(3) Duration of animal's stay;

(4) Service(s) provided;

(5) Any illnesses which have occurred and veterinary treatment the animal received; and

(6) Written documentation of the animal's vaccinations or vaccination exemptions from a veterinarian.

b. All dogs and cats transported into boarding kennels and commercial kennels regulated under Iowa Code chapter 162 shall have been vaccinated against distemper, parvo and rabies, unless exempted by Iowa Code section 351.42 or the direct written recommendation of a qualified veterinarian. Vaccine records and exemptions must be kept on file for a period of 12 months for each animal boarded, groomed, or trained.

c. Vaccine titers shall not be accepted as a form of vaccine verification. Vaccine records and written vaccine exemptions shall be kept on file. Acceptable forms of documentation for vaccine verification include the following:

(1) Written documentation of vaccination from a veterinarian;

(2) A rabies certificate signed by a veterinarian.

d. Animals exhibiting symptoms of disease shall be promptly examined and treated by a veterinarian.

e. Group housing is permitted only if the animals are owned by the same person and are compatible.

f. Grooming and training utensils and equipment shall be cleaned and sanitized between use on animals owned by different persons.

g. Primary enclosures shall be cleaned and sanitized between use in containing animals owned by different persons. Primary enclosures must be cleaned at least once daily and sanitized weekly for animals staying overnight.

h. Primary enclosures shall utilize latches that cannot be inadvertently opened or shall be equipped with some form of locking device so as to prevent the accidental release of the animal contained in the primary enclosure.

67.7(2) *Animal shelters and pounds.*

a. Dogs, cats and other vertebrates upon which euthanasia may be permitted by law shall be destroyed only by euthanasia in a manner deemed acceptable by and published in the American Veterinary Medical Association Guidelines for Euthanasia of Animals: 2013 Edition.

b. Animal shelters and pounds shall develop and implement a plan providing for the surgical sterilization of all dogs and cats released, unless exempted from this provision in accordance with Iowa Code section 162.20(5).

c. Sterilization agreements shall contain the following:

(1) The name, address and signature of the person receiving custody of the dog or cat.

(2) A complete description of the animal, including any identification.

(3) The signature of the representative of the pound or animal shelter.

(4) The date that the agreement is executed and the date by which sterilization must be completed.

(5) A statement which states the following:

1. Sterilization of the animal is required pursuant to Iowa Code section 162.20.

2. Ownership of the dog or cat is conditioned upon the satisfaction of the terms of the agreement.

3. Failure to satisfy the terms of the agreement constitutes a breach of contract, requiring the return of the dog or cat.

4. A person failing to satisfy the sterilization provisions of the agreement is guilty of a simple misdemeanor.

d. In addition to maintaining the records required by subrule 67.6(1), animal shelters and pounds shall maintain, for a period of 12 months, the following records:

(1) Euthanasia records, including date of entry, source of animal, and date of euthanasia.

(2) Sterilization agreements, including confirmation in the form of a receipt furnished by the office of the attending veterinarian.

(3) Disposition records of all animals lawfully claimed by owners, research facilities, or Class B federal dealers.

e. A pound or animal shelter may apply in writing for an enforcement waiver pursuant to Iowa Code section 162.20(5)*"b."* The application shall include the specific guidelines under which the waiver is being requested and a certified copy of the ordinance providing the basis for the waiver application. A waiver application fee of $10 shall accompany the application.

f. A pound or animal shelter shall be subject to civil penalties as provided in Iowa Code section 162.20(3)*"c"* for not procuring and maintaining required records documenting compliance with the sterilization agreement, successfully seeking return of the animal from a noncompliant custodian, failing to effect a sterilization agreement when required for an animal which is released, or seeking legal recourse as provided in Iowa Code section 162.20(4). The pound or animal shelter shall be entitled to appeal pursuant to Iowa Code chapter 17A.

67.7(3) *Dealers.*

a. A dealer license is required to operate as a dealer in Iowa. This requirement applies to residents and nonresidents of Iowa, including dealer foster homes in Iowa.

b. All dogs and cats taken in by or in the possession of a dealer must be vaccinated and kept current against distemper, parvo and rabies, unless exempted by Iowa Code section 351.42 or the direct written recommendation of a qualified veterinarian. A signed rabies certificate or other written documentation from a veterinarian is required to verify vaccination compliance. Vaccine titers are not sufficient for demonstrating vaccine compliance. Dealers must provide vaccine records or exemptions to the department upon request.

c. Dogs and cats brought into the state of Iowa must meet the importation requirements stated in rule 21—65.10(163).

d. A dealer with housing facilities must meet the requirements provided for housing facilities and primary enclosures in rule 21—67.3(162) and in-home facilities in rule 21—67.9(162).

e. A dealer must maintain records and statement of sales as provided for in rule 21—67.6(162).

f. A dealer approved by the department to act as a fostering oversight organization must meet the requirements for fostering oversight organizations and foster care homes provided in rule 21—67.11(162). A dealer may not utilize or oversee a foster home without prior written authorization of the department.

21—67.8(162) Dog day cares.

67.8(1) *Purpose.* The purpose of a dog day care is to allow dogs participating in the day care to become socialized through interaction in playgroups with other compatible dogs.

67.8(2) *Subclassification of license.* Dog day cares can operate as a subclassification of a commercial kennel license or boarding kennel license. A commercial kennel or a boarding kennel that operates as a dog day care shall not provide overnight boarding or other kennel activities unless, during the time that the day care operation is closed, the kennel is operated in a manner consistent with applicable rules including, but not limited to, paragraphs 67.3(1)*"j"* and 67.7(1)*"e,"* which restrict the commingling of dogs.

67.8(3) *Approval based on number of dogs.* The department will approve a dog day care for a maximum number of dogs based on, but not limited to, available space, available staff, and staff's ability to supervise dogs.

67.8(4) *Facility requirements.* A facility licensed to be a dog day care shall meet the housing facility and primary enclosure requirements provided for in rule 21—67.3(162). The dog day care shall also comply with the following facility requirements:

a. Group interaction is permitted for dogs that are compatible with one another.

b. The play area for dogs shall provide for a minimum of 75 square feet per dog. Play areas smaller than 1,125 square feet must have a sign placed at the entry of the play area stating the maximum number of dogs allowed in the play area at any one time.

c. Each dog attending a dog day care must have a primary enclosure. When not under direct supervision, dogs at a dog day care must be housed within a primary enclosure at all times. Group housing within a primary enclosure is permitted for dogs from the same household that are compatible with one another.

67.8(5) *Sanitation requirements.* A facility licensed to be a dog day care shall comply with the cleaning and sanitation standards provided for in rule 21—67.4(162) and the following requirements:

a. All areas to which a dog has access shall be cleaned and sanitized a minimum of once in each 24-hour period and more frequently as may be necessary to reduce disease hazards and odors.

b. Used primary enclosures and food and water receptacles must be cleaned and sanitized before they can be used to house, feed or water another animal.

67.8(6) *Operations.* A facility licensed to be a dog day care shall comply with the following operational standards:

a. A dog, including a dog owned by the dog day care owner or a dog day care employee, shall be admitted into a dog day care only after the day care has:

(1) Subjected the dog to a pre-entry screening process that adequately evaluates the temperament of the dog, the dog's ability to interact with other dogs in a positive manner, and the dog's ability to interact with humans in a positive manner. The screening shall include, but not be limited to, obtaining a social history of the dog from the dog's owner. A written record of the testing shall be maintained by the facility for the time the dog is enrolled in the day care. The day care shall not admit any dog into the day care if the dog has a predisposition to be possessive of either the facility or a person owning or working in the facility. The day care shall not admit any dog that is known to have a predisposition of aggression toward other dogs or people.

(2) Obtained from the dog's owner written documentation of the medical history of the dog, including the dog's current vaccination status against distemper, parvo and rabies, unless exempted by direct, written recommendation of the owner's veterinarian or exempted by Iowa Code section 351.42.

(3) Obtained written documentation that the dog has been spayed or neutered, if the dog is over six months of age.

(4) Obtained a written acknowledgment from the dog's owner that the owner understands the inherent risk of injury or disease when dogs owned by different people are allowed to commingle. This written acknowledgment shall be separately signed or initialed by the dog's owner.

b. The dog day care shall separate dogs in the dog day care into playgroups comprised of compatible dogs. Dogs of incompatible personalities or temperaments shall be maintained separately.

c. The dog day care shall make advance arrangements in writing with a veterinarian to provide emergency veterinary care for dogs at the dog day care. This agreement must be updated annually.

d. A sick, diseased or injured dog shall be immediately removed from the playgroup and isolated. If circumstances indicate that immediate veterinary care is required, the dog shall be taken to a veterinarian or a veterinarian shall be called to examine the dog. The veterinarian can be either a veterinarian whose services have been contracted for by the dog day care or the veterinarian designated by the dog's owner, if a timely examination by that veterinarian is feasible.

e. The feeding of a dog and giving of snacks to a dog shall only be provided when the dog receiving the food or snack is contained within a primary enclosure. Treats for the purpose of training or managing a group of dogs are permissible.

f. A dog day care shall not establish a playgroup composed of more than 15 dogs.

g. A dog day care shall employ sufficient staffing so that there is a minimum of one person assigned to each playgroup. The person supervising a playgroup must provide direct and immediate visual supervision at all times.

h. At all times, a dog day care must ensure that dogs are safe within the dog day care group.

i. Rest time within a primary enclosure must be provided for a minimum of two hours per day. Direct supervision is not required while dogs are housed within primary enclosures.

21—67.9(162) In-home facilities.

67.9(1) *Maximum number of animals.* An in-home facility may not maintain or harbor more than six adult animals, including both breeding dogs or cats and surgically sterilized dogs or cats, in the individual's residence.

67.9(2) *Standards.* Notwithstanding subrules 67.4(1) and 67.4(2), an in-home facility shall comply with the following standards:

a. Food supplies and bedding shall be stored so as to adequately protect them from contamination or infestation by vermin or other factors which would render the food or bedding unclean. Separate storage facilities shall be used to store cleaning and sanitizing equipment and supplies.

b. Ample lighting shall be provided by natural or artificial means, or both, during sunrise to sunset hours. Animals shall be protected from excessive illumination.

c. The building shall be of adequate structure and maintained in good repair so as to ensure protection of animals from injury.

d. Facilities shall be available to isolate diseased animals to prevent exposure to healthy animals.

e. Outdoor dog runs and exercise areas shall be of sound construction and kept in good repair so as to safely contain the animal(s) therein without injury. Floors shall be concrete, gravel or materials which can be regularly cleaned and kept free of waste accumulation. Grass runs and exercise areas are permissible provided that adequate ground cover is maintained, holes are kept filled and the ground cover is not allowed to become overgrown.

f. Group housing is permitted for animals that are compatible with one another. Adequate space shall be provided to prevent crowding and to allow freedom of movement and comfort to animals of the size which are housed within the facility. Females in estrus shall not be housed with males, except for breeding purposes.

g. Every animal in an in-home facility must have a designated primary enclosure.

h. Litter boxes containing clean litter shall be provided at all times for kittens and cats. Litter boxes must be maintained as provided for in paragraph 67.3(2)*"j."*

i. Means shall be provided to maintain the temperature and ventilation that are comfortable for the species at all times.

j. Animals shall be removed from their primary enclosures at least twice in each 24-hour period and exercised. The amount of exercise should be appropriate for the age, breed and health condition of the animal.

k. Housing facilities shall be cleaned as set out in subrule 67.4(2) to reduce disease hazards, and an effective program shall be established and maintained for the control of vermin infestation. All surfaces within the in-home facility must be readily cleaned and maintained in good repair.

21—67.10(162) Rescues.

67.10(1) *Rescue manager.* A rescue must designate a rescue manager to carry out the responsibilities of the rescue. The responsibilities of a rescue manager include, but are not limited to, the following:

a. Establishing criteria for approving foster homes;

b. Approving foster homes;

c. Supervising dogs and cats taken into the care of the rescue;

d. Monitoring and ensuring all foster homes under the rescue's oversight are providing proper care and compliance with relevant laws and rules; and

e. Maintaining rescue records. Such records shall include, but are not limited to, the following:

(1) Source of the dog or cat;

(2) Date of placement of the dog or cat into a foster home;

(3) Adoption records;

(4) Disposition of dog or cat (if applicable);

(5) Medical care received by the dog or cat; and

(6) Vaccination and deworming records.

67.10(2) *Records.* Rescue records must be made available to the department upon request. A rescue must maintain records and statement of the sale, exchange, transfer, trade or adoption as provided for in rule 21—67.6(162).

67.10(3) *Vaccine requirements.* All dogs and cats taken in by or in the possession of a rescue shall have been vaccinated against distemper, parvo and rabies and kept current on distemper, parvo and rabies vaccinations, unless exempted by Iowa Code section 351.42 or by direct written recommendation of a qualified veterinarian. A signed rabies certificate and written documentation of parvo and distemper vaccinations from a veterinarian are required to verify vaccination. Titers are not an acceptable form

of vaccine verification. Vaccine titers are not sufficient for demonstrating vaccine compliance. Dealers must provide vaccine records or written exemptions to the department upon request.

67.10(4) *Importation requirements.* Dogs and cats brought into the state of Iowa must meet the importation requirements stated in rule 21—65.10(163).

67.10(5) *Housing facilities and primary enclosures.* A rescue with housing facilities must meet the requirements for housing facilities and primary enclosures in rule 21—67.3(162). Rescues operating as in-home facilities must meet the requirements in rule 21—67.9(162).

67.10(6) *Foster care homes.* A rescue approved by the department to act as a foster oversight organization must meet the requirements for foster oversight organizations and foster care homes provided in rule 21—67.11(162). A dealer may not utilize or oversee a foster care home without prior written authorization of the department.

67.10(7) *General care and husbandry.* A rescue must meet the general care and husbandry standards provided for in rule 21—67.4(162).

67.10(8) *Transportation.* A rescue transporting animals must meet the requirements provided in rule 21—67.5(162).

21—67.11(162) Foster oversight organizations and foster care homes.

67.11(1) A registered animal shelter, registered pound or licensed dealer shall not operate a foster care home or operate an organization that utilizes a foster care home unless the shelter, pound or dealer is in compliance with this rule and other applicable provisions of this chapter and Iowa Code chapter 162. If an out-of-state organization is utilizing foster care homes in Iowa, that organization must also be licensed or registered in the state of Iowa as an animal shelter, pound or dealer.

67.11(2) A registered animal shelter, registered pound or licensed dealer may apply to the department for a permit authorizing the shelter, pound or dealer to utilize one or more foster care homes in carrying out its mission of providing for the care and maintenance of an animal that has been taken in or entrusted to the animal shelter, pound or dealer. For purposes of this rule, an animal shelter, pound or dealer that has been granted such authorization shall be considered a foster oversight organization.

67.11(3) A registered animal shelter, registered pound or licensed dealer may not utilize a foster care home unless the shelter, pound or dealer has been granted authorization by the department to be a foster oversight organization. An animal shelter, pound or dealer that uses a foster care home without first obtaining a permit authorizing the shelter, pound or dealer to be a foster oversight organization shall be considered to be operating illegally, shall be subject to suspension or revocation of its license to operate, and may be subject to other penalties authorized in Iowa Code chapter 162.

67.11(4) A registered animal shelter, registered pound or licensed dealer seeking to obtain a permit to be a foster oversight organization shall make application to the department on a form prescribed by the department. When feasible, the application shall be submitted to the department at the same time that the registered animal shelter, registered pound or licensed dealer submits its certificate of registration renewal or license renewal application. The permit application shall provide sufficient information to allow the department to determine the ability of the proposed foster oversight organization to provide adequate screening and oversight of any foster care home operating under the authority of the foster oversight organization.

a. Such application shall include, but not be limited to, the following information:

(1) The proposed foster oversight organization's plan for providing oversight of the foster care home. The plan shall include the frequency of inspections of the foster care home by the foster oversight organization and the criteria to be used by the foster oversight organization in reviewing the foster care home during periodic inspections. The plan shall also include the actions to be taken by the foster oversight organization in the event that the foster oversight organization determines that the foster care home is not adequately providing for the animals in the foster care home. Foster oversight organizations shall inspect foster care homes annually, at minimum, and an annual written inspection report must be on file with the foster oversight organization. Annual inspection reports shall be retained for a minimum of two years.

(2) The name, mailing address, email address and telephone number of the staff person connected with the proposed foster oversight organization who will have primary responsibility for administering the proposed foster care program.

(3) The name, mailing address, email address and telephone number of a secondary staff person connected with the proposed foster oversight organization who will have responsibility for administering the proposed foster care program in the absence of the primary administrator.

(4) The number of foster care homes the foster oversight organization is applying for and currently oversees. During the first year of application, the foster oversight organization will be limited to a maximum of 20 foster care homes. Upon renewal of the foster oversight organization permit, the foster oversight organization may apply for more than 20 foster care homes, subject to the approval of the department.

(5) Copies of all forms utilized by the foster oversight organization. This includes, but is not limited to, inspection forms and applications.

(6) The number of paid employees, both full-time and part-time, working for the foster oversight organization, the number of volunteers serving the foster oversight organization, and the number of volunteer hours utilized per week.

(7) The criteria used to determine if a foster care home is capable of caring for an animal.

(8) The actions taken by the foster oversight organization if the foster care home is unable to care for an animal.

b. If the foster oversight organization changes locations, a new application must be submitted.

c. If the primary or secondary contact listed on the application is no longer associated with the foster oversight organization, the department must be notified and provided with the name, mailing address, email address and telephone number of the staff person administering the foster care program.

d. The foster oversight organization must provide documentation to demonstrate that the foster oversight organization has sufficient infrastructure to adequately supervise all foster care homes and the care of the animals within the foster care homes.

67.11(5) The initial approval of a foster oversight organization shall be in effect only until the next expiration date of the registered animal shelter's, registered pound's, or licensed dealer's license. Thereafter, a foster oversight organization permit renewal shall be concurrent with the facility's certificate of registration or license renewal, unless circumstances otherwise require.

Foster oversight agreements must be renewed yearly at the same time that the registered animal shelter, registered pound, or licensed dealer submits its certificate of registration renewal application. The renewal agreement must contain the number of foster care homes for which the animal shelter or pound is requesting approval.

67.11(6) A foster oversight organization shall require that all persons seeking to operate a foster care home under the foster oversight organization submit a written application to the foster oversight organization specifying the proposed foster care home's qualifications, including but not limited to the ability of the foster care home to provide adequate care, exercise, feed, water, shelter, space, and veterinary care.

67.11(7) A foster oversight organization shall not be authorized to approve more than 20 foster care homes during the first year of operation. In granting a permit to a foster oversight organization, the department may further restrict the number of foster care homes a particular foster oversight organization may utilize if the department determines that the foster oversight organization does not have adequate personnel to supervise the number of foster care homes for which authorization was sought or the adequate ability to care for all animals in foster care. The department may authorize the foster oversight organization to approve more than 20 foster care homes only if the department finds that the foster oversight organization has and maintains adequate personnel assigned to provide sufficient oversight of foster care homes.

67.11(8) A foster oversight organization shall not authorize a foster care home to have in its care more than six animals, including animals owned by the foster care home, with the exception of a litter of puppies or kittens under 16 weeks of age. A litter of puppies or kittens under 16 weeks of age is considered the equivalent of one dog or cat. The mother of the litter of puppies or kittens is considered

one dog or cat. No more than two litters of puppies or kittens under 16 weeks of age may be in a foster home at any given point in time.

67.11(9) A person who has been found to have engaged in or participated in an act constituting animal abandonment, neglect, cruelty, or abuse shall not be authorized to operate a foster care home. In addition, if a person has had a license or permit issued under Iowa Code chapter 162 or under the United States Department of Agriculture's animal care program revoked or has surrendered that person's license in lieu of revocation, then that person shall not be authorized to operate a foster care home.

67.11(10) A foster oversight organization shall not place a sexually intact animal in a foster care home where there is a sexually intact animal of the opposite sex of the same species unless the foster oversight organization determines that the fostered animal is too young to breed. If the foster oversight organization determines that a sexually intact animal may be placed in a foster care home with another sexually intact animal of the opposite sex of the same species because the fostered animal is too young to breed, then the foster oversight organization shall monitor the physical development of the fostered animal to either remove the animal before it is capable of breeding or to neuter or spay the fostered animal.

67.11(11) The foster oversight organization shall retain a copy of all the following documents for a period of 24 months and shall make such documents available for inspection by the department during regular business hours:

a. Applications to operate a foster care home, including any written approvals, conditional approvals, or denials.

b. Inspections or other reports relating to the operation of a foster care home. Inspection forms must be kept on file for each foster home. Inspections of a foster care home must be conducted by the foster oversight organization at minimum yearly.

c. Any written complaints or notes written by staff of the foster oversight organization relating to an oral complaint against a foster care home.

d. Any documents relating to the investigation or other resolution of a complaint regarding a foster care home.

e. Any documents relating to the revocation or suspension of a foster care home's authorization.

f. A current list of animals in foster care homes.

67.11(12) The foster oversight organization shall maintain detailed records as to which animals have been placed in a foster care home, when each animal was placed in a foster care home, and the ultimate disposition of each animal.

67.11(13) All adoptions and euthanasias of animals placed in a foster care home shall be the responsibility of the foster oversight organization and shall not be performed by the foster care home unless an emergency euthanasia must be performed by a licensed veterinarian to prevent the needless suffering of the animal.

67.11(14) All deaths, injuries, or emergency euthanasias occurring within a foster care home shall be reported to the foster oversight organization within 24 hours of the event.

67.11(15) It is the primary responsibility of the foster oversight organization to provide for oversight and regulation of its foster care homes; however, the department may choose to inspect a foster care home if the department determines that it would be in the best interests of the animals being maintained in the foster care home to conduct the inspection or if the department deems an inspection desirable to determine whether a foster oversight organization is properly fulfilling its role of screening and oversight of foster care homes. If the department determines that either serious or chronic problems exist in a foster care home, the department may order the foster oversight organization to suspend or rescind the authorization of the foster care home. The foster oversight organization shall immediately obtain physical examinations of all animals previously placed in the foster care home.

67.11(16) If the department determines that a foster oversight organization is not providing adequate screening or oversight of its foster care homes, the department may suspend or rescind the foster oversight organization's authorization to use foster care homes.

67.11(17) If the department suspends or revokes the license of an animal shelter, pound or dealer that is also a foster oversight organization, then the authorization to operate of the foster oversight

organization and that of the foster care homes operating under the foster oversight organization shall immediately cease.

21—67.12(162) Public health.

67.12(1) Animal wardens aiding in the enforcement of the provisions of Iowa Code chapter 162 shall enlist veterinary aid in programming control measures to protect the public from zoonotic diseases which may be suspected to be on the premises of a licensee or registrant.

67.12(2) Animals, housing facilities, or premises may be placed under quarantine by order of the secretary of agriculture when it is deemed necessary to protect the public from zoonotic diseases.

21—67.13(162) Access, seizure and impoundment.

67.13(1) *Access to facilities and records.* The premises, housing facilities and records required by Iowa Code chapter 162 and this chapter shall be open for inspection by authorized personnel of the department during normal business hours.

67.13(2) *Seizure and impoundment.*

a. Failure of any pound, animal shelter, pet shop, boarding kennel, commercial kennel, commercial breeder, public auction or dealer to adequately house, feed, water or care for the animals in the person's or facility's possession or custody may subject the animals to seizure and impoundment. Seizure and impoundment shall be at the discretion of the secretary of agriculture. Standards to guide discretion shall include, but not be limited to, the following:

(1) An assessment of the condition of the animals, including but not limited to direct visual examination. Such assessment may include procedures and testing necessary to accurately determine disease, nutritional, and health status.

(2) An assessment as to the likelihood that the condition of the animals will deteriorate if action is not taken.

(3) An assessment as to the degree of failure to provide for the animals. Primary consideration will be based on the general health of the animals and the adequacy with which the animals are being fed, watered and sheltered.

(4) An assessment as to the history, if any, of the facility's compliance, noncompliance, and willingness to take corrective action. Such an assessment will be based on past inspection reports completed by regulatory personnel from the appropriate licensing agency.

(5) Court determination, if any, as to the existence of cruelty, abuse or neglect under Iowa Code chapter 717B.

(6) The willingness of the facility to allow frequent monitoring and the ability of the department or local law enforcement officers to provide this service.

(7) A determination as to whether adequate impoundment facilities or resources exist and are available for use by the department for the seizure and impoundment of animals.

b. In proceeding under this subrule, the department may either:

(1) Petition the court in the county where the facility is located for an ex parte court order authorizing seizure and impoundment, either separately or as part of an action commenced pursuant to Iowa Code chapter 717B. The petition shall request an expedited hearing within seven days of the order for seizure and impoundment. The expedited hearing shall determine final disposition of the animals seized and impounded.

(2) Issue an administrative order authorizing seizure and impoundment. The order shall state the finding of facts on which issuance of the order was based. The order shall be personally served upon the owner or manager of the facility. If the owner or manager cannot be found after a reasonable effort to locate, the notice shall be posted conspicuously at the facility. The notice shall state the time and place of an administrative hearing to determine the appropriateness of the seizure and impoundment; and if such seizure and impoundment is upheld, then the hearing shall determine final disposition of the animals seized and impounded.

The administrative hearing shall be held within three days of the seizure unless a continuance is agreed upon by the department and the owner. A decision at the administrative hearing will not be

stayed by the department for more than 48 hours pending appeal without a court order. However, the department may delay the disposition if the department determines the delay is desirable for the orderly disposition of the animals. Unless otherwise provided in this subrule, the department will follow adopted departmental rules on the conduct of the administrative hearing.

c. The release of animals for final disposition to the department will allow for the sale, adoption or euthanasia of the animals. Determination of the most appropriate option for final disposition of a specific animal shall reside with the department and be based on, but not limited to, the animal's physical health, the presence of any condition which would necessitate treatment of significant duration or expense, and the appropriateness of the animal as a pet. All due consideration shall be given to the sale or adoption of an animal as the preferable option of disposition.

d. Any moneys generated from the sale or adoption of animals shall be used to provide compensation for the cost of care of the animals while impounded or the cost of disposition. Any residual moneys shall be directed to the owner. If the moneys generated from the sale and adoption of the animals are insufficient to meet the costs incurred in caring for the animals, the difference may be recovered in an action against the owner of the animals.

e. The department may arrange for impoundment services, including final disposition, with any licensed facility able to adequately provide for the care and disposition of the animals. Animals for which an order is issued authorizing seizure and impoundment shall be individually identified and records maintained relating to their care and final disposition. The department, or its representatives, shall be allowed access during normal business hours to the records and impounded animals.

f. In lieu of seizure and impoundment, the secretary of agriculture may authorize a one-time dispersal of animals, including by sale, as a remedial option. The owner may petition the department in writing for full or partial dispersal. The petition shall address the terms and conditions for dispersal which are being requested. The department may require additional terms and conditions. The terms and conditions governing dispersal will be contingent upon department approval. Such approval shall be in writing.

g. Conditions of this subrule and subrule 67.13(1) and Iowa Code sections 162.13 and 162.14 shall likewise apply to all eligible licensees and registrants, whether or not they have been properly licensed by Iowa Code chapter 162.

21—67.14(162) Loss of license or denial of license.

67.14(1) If the license of a licensee is revoked or is relinquished by the licensee while a revocation action is pending, the licensee shall not be eligible to reapply for a new license for at least three years from the date of the revocation or relinquishment. If a licensee has been found in court to have committed an act of animal cruelty or neglect, the licensee shall not be eligible for a new license for at least five years from the date of the revocation or relinquishment. If an applicant has been found in court to have committed an act of animal cruelty or neglect, the applicant shall not be eligible for a license for at least five years from the date of the conviction or guilty plea. The prohibition against relicensure or licensure in this subrule shall include any partnership, firm, corporation, or other legal entity in which the person has a substantial interest, financial or otherwise, and any person who has been or is an officer, agent or employee of the licensee if the person was responsible for or participated in the violation upon which the revocation or conviction was based. The department may waive the three-year bar to relicensure arising from a revocation or relinquishment of a license where a revocation action was pending. Such waiver shall be made on a case-by-case basis. Such waiver shall only be given if the department finds that the conditions which resulted in the revocation or revocation action have been addressed and there is little likelihood that they will be replicated.

67.14(2) If the license of a licensee is revoked or if the license is voluntarily relinquished by the licensee, the licensee shall file with the department a written plan detailing the numbers and types of animals in its facilities and how these animals are going to be legally disposed of to ensure that the animals are being humanely handled and to ensure that the remaining animals are being maintained properly. The licensee shall submit this plan to the department no later than ten calendar days from the date of revocation or relinquishment of the license.

21—67.15(162) Applicability to commercial establishments with federal licenses. In addition to obtaining the permit from the department, any person who operates a commercial establishment under a current and valid federal license shall provide care ensuring adequate feed, water, and housing facilities and appropriate sanitary control, grooming practices and veterinary care. The department has the authority to inspect the premises and the required records.

21—67.16(162) Acceptable forms of euthanasia. The euthanasia of all animals kept in facilities regulated under Iowa Code chapter 162 and these rules shall be performed in a manner deemed acceptable by and published in the American Veterinary Medical Association Guidelines for Euthanasia of Animals: 2013 Edition. A copy of this report is on file with the department.

21—67.17(162) Greyhound breeder or farm fee. A person who owns, keeps, breeds, or transports a greyhound dog for pari-mutuel wagering at a racetrack as provided in Iowa Code chapter 99D shall pay a fee of $40 for the issuance or renewal of a state license.

These rules are intended to implement Iowa Code chapter 162.

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EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 12/4/19.

ARC 4790C

AGRICULTURE AND LAND STEWARDSHIP DEPARTMENT[21]

Adopted and Filed

Rule making related to cooperative interstate shipment program

The Agriculture and Land Stewardship Department hereby amends Chapter 76, "Meat and Poultry Inspection," Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code section 189A.13.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code chapter 189A.

Purpose and Summary

The purpose of this rule making is to accomplish the following:

- By the adoption by reference of 9 CFR Part 332, allow the Department to participate in the United States Department of Agriculture's (USDA) Food Safety and Inspection Service (FSIS) Cooperative Interstate Shipment (CIS) Program.
- Provide opportunity for state-inspected meat and poultry establishments to develop new markets for their products. Under the CIS Program, state-inspected plants continue to operate under state inspection but adhere to federal food safety standards. As a result, they can also distribute their products in interstate commerce.

The CIS Program is available to states that have established a meat and poultry inspection program that is "at least equal to" FSIS's regulatory requirements. There are 27 states, including Iowa, that have met this standard.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on October 9, 2019, as **ARC 4697C**. A public hearing was held on October 30, 2019, at 10 a.m. in the second floor conference room of the Wallace State Office Building, 502 East 9th Street, Des Moines, Iowa. During the public hearing, the Department received one comment in support of the rule making from the Iowa Meat Processors Association, and one comment in support of the establishment of the program from a small locker owner who would qualify for the program. No changes from the Notice have been made.

Adoption of Rule Making

This rule making was adopted by the Department on November 13, 2019.

Fiscal Impact

Anticipated costs are one-time expenditures that include staff training and laboratory equipment purchases to meet federal standards. Federal grant dollars are being utilized for equipment expenditures.

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to 21—Chapter 8.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making at its regular monthly meeting or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

Effective Date

This rule making will become effective on January 8, 2020.

The following rule-making actions are adopted:

ITEM 1. Amend rule 21—76.2(189A) as follows:

21—76.2(189A) Federal Wholesome Meat Act regulations adopted. Part 303, Part 304, Part 305, Part 306, Parts 308 through 320, Part 329, Part 332, Part 412, Part 416, Part 417, Part 418, Part 424, Part 430, Part 431, Part 441 and Part 442 of Title 9, Chapter III, of the Code of Federal Regulations, revised as of July 30, 2018, are hereby adopted in their entirety by reference. Part 307 except Sections 307.5 and 307.6 and Part 325 except Sections 325.3 and 325.12 of Title 9, Chapter III, of the Code of Federal Regulations, revised as of July 30, 2018, are hereby adopted in their entirety by reference. Part 500 of Title 9, Chapter III, of the Code of Federal Regulations, revised as of January 1, 2016, is adopted by reference, except that references in Sections 500.5, 500.6, 500.7, and 500.8 to the federal Uniform Rules of Practice are not adopted.

This rule is intended to implement Iowa Code sections 189A.3 and 189A.7(8).

ITEM 2. Rescind rule 21—76.6(189A) and adopt the following **new** rule in lieu thereof:

21—76.6(189A) Forms and marks. Whenever an official form is designated by federal regulation, the appropriate Iowa form will be substituted, and whenever an official mark is designated, the following official Iowa marks will be substituted:

1. Iowa inspected and condemned brand:

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CONDEMNED

2. Iowa product label mark of inspection and carcass brand for amenable species:

3. Exotic carcass brand:

4. Exotic product label mark of inspection:

5. Notwithstanding any other provision of this rule, a red meat establishment that is a selected establishment under 9 CFR Part 332 shall use the official marks, devices, and certificates in 9 CFR Part 312 for products that are intended for interstate commerce with the modifications described in 9 CFR Sec. 332.5(c).

a. Cooperative Interstate Shipment program product label mark of inspection:

b. Cooperative Interstate Shipment program carcass brand. Sizing of brands shall be as described in 9 CFR Sec. 312.2(a), except that the 1¼″ brand shall be utilized in lieu of the ¾″ brand:

6. Notwithstanding any other provision of this rule, a poultry establishment that is a selected establishment under 9 CFR Part 381, Subpart Z, shall use the official marks, devices, and certificates in 9 CFR Part 381, Subpart M, for products that are intended for interstate commerce with the modifications described in 9 CFR Sec. 381.515(c). Cooperative Interstate Shipment program poultry product label mark of inspection:

This rule is intended to implement Iowa Code section 189A.5(2).

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ARC 4791C

ALCOHOLIC BEVERAGES DIVISION[185]

Adopted and Filed

Rule making related to alcoholic beverages trade practices

The Alcoholic Beverages Division hereby amends Chapter 16, "Trade Practices," Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code section 123.10.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code sections 123.45 and 123.186.

Purpose and Summary

This rule making rescinds a rule that is obsolete due to enactment of 2019 Iowa Acts, House File 668. Previously, Iowa Code section 123.45(1) prohibited a person engaged in the business of manufacturing, bottling, or wholesaling alcoholic beverages from having any interest, whether direct or indirect, in the ownership, conduct, or operation of another licensee or permittee authorized to sell at retail. Rule 185—16.41(123) elaborates upon possible scenarios that could constitute a prohibited interest. With the enactment of 2019 Iowa Acts, House File 668, Iowa Code section 123.45(1) now allows a person engaged in the business of manufacturing, bottling, or wholesaling alcoholic beverages to have an interest in the ownership, conduct, or operation of another licensee or permittee authorized to sell at retail, provided that the licensee or permittee does not sell any alcoholic beverage products manufactured or sold by that industry member. Because of this allowance, rule 185—16.41(123) is no longer necessary.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on October 9, 2019, as **ARC 4688C**. No public comments were received. No changes from the Notice have been made.

Adoption of Rule Making

This rule making was adopted by the Administrator of the Division on November 13, 2019.

Fiscal Impact

This rule making has no fiscal impact to the State of Iowa.

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Division for a waiver of the discretionary provisions, if any, pursuant to 185—Chapter 19.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making at its regular monthly meeting or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

Effective Date

This rule making will become effective on January 8, 2020.

The following rule-making action is adopted:

Rescind and reserve rule **185—16.41(123)**.

[Filed 11/13/19, effective 1/8/20]
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ARC 4792C

HUMAN SERVICES DEPARTMENT[441]

Adopted and Filed

Rule making related to brain injury waiver

The Human Services Department hereby amends Chapter 77, "Conditions of Participation for Providers of Medical and Remedial Care," Chapter 78, "Amount, Duration and Scope of Medical and Remedial Services," and Chapter 83, "Medicaid Waiver Services," Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code section 249A.3.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code section 249A.3.

Purpose and Summary

The Department is clarifying the brain injury (BI) waiver provider qualifications to align with the services and supports that are rendered by qualified brain injury professionals and accredited brain injury rehabilitation programs. The Department began evaluating core standardized assessments for the BI waiver in 2011 as part of the Balancing Incentive Payment Program (BIPP), and the Iowa Medicaid Enterprise (IME) adopted the interRAI Home Care Assessment Tool for the purposes of determining level of care for BI waiver eligibility. The Department adopted this tool recognizing that an additional or alternative tool would need to be identified which would address the cognitive disabilities related to brain injury. The primary goal of moving forward with adoption of the most current version of the Mayo-Portland Adaptability Inventory Scale is to fulfill the purposes of a valid and appropriate assessment of need, possible allocation of resources and comprehensive community-based, person-centered service planning for both the Home- and Community-Based Services (HCBS) brain injury waiver and the community-based neurobehavioral rehabilitation service.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on August 28, 2019, as **ARC 4628C**. No public comments were received. No changes from the Notice have been made.

Adoption of Rule Making

This rule making was adopted by the Council on Human Services on November 13, 2019.

Fiscal Impact

This rule making has a fiscal impact of $100,000 annually or $500,000 over five years to the State of Iowa. The fiscal impact for family training and counseling and behavior programming providers cannot be determined at this time because the number of new providers that will enroll and the number of members who will access the service are not known.

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to rule 441—1.8(17A,217).

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making at its regular monthly meeting or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

Effective Date

This rule making will become effective on January 8, 2020.

The following rule-making actions are adopted:

ITEM 1. Adopt the following **new** paragraph **77.39(21)"f"**:

f. Agencies which are accredited by a department-approved, nationally recognized accreditation organization as specialty brain injury rehabilitation service providers.

ITEM 2. Adopt the following **new** subparagraphs **77.39(23)"b"(6)** and **(7)**:

(6) Agencies which are accredited by a department-approved, nationally recognized accreditation organization as specialty brain injury rehabilitation service providers.

(7) Individuals who meet the definition of "qualified brain injury professional" as set forth in rule 441—83.81(249A).

ITEM 3. Amend subrule 77.52(3) as follows:

77.52(3) *Provider standards.* All community-based neurobehavioral rehabilitation service providers shall meet the following criteria:

a. The organization meets the outcome-based standards for community-based neurobehavioral rehabilitation service providers as follows:

(1) to (3) No change.

(4) The program administrator shall be a certified brain injury specialist trainer (CBIST) through the Academy of Certified Brain Injury Specialists or a certified brain injury specialist under the direct supervision of a CBIST or a qualified brain injury professional as defined in rule 441—83.81(249A) with additional certification as approved by the department. The administrator shall be present in the assigned location for 25 hours per week. In the event of an absence from the assigned location exceeding four weeks, the organization shall designate a qualified replacement to act as administrator for the duration of the assigned administrator's absence.

(5) A minimum of 75 percent of the organization's administrative and direct care personnel shall meet one of the following criteria:

1. to 3. No change.

4. Be a certified brain injury specialist (CBIS) certified through the Academy for the Certification of Brain Injury Specialists (ACBIS) or have other nationally recognized brain injury certification as approved by the department.

(6) No change.

b. No change.

c. Within 30 days of commencement of direct service provision, employees shall complete nationally recognized cardiopulmonary resuscitation (CPR) ~~training~~ certification, a first-aid course, fire prevention and reaction training and universal precautions training. These training courses shall be completed no less than annually, with the exception of CPR certification, which must be renewed prior to expiration of the certification.

d. Within the first six months of commencement of direct service provision, employees shall complete training required by ~~441—subparagraph 78.54(3)*"a"*(6)~~ subparagraph 77.52(3)*"a"*(6).

e. Within 12 months of the commencement of direct service provision, employees shall complete a department-approved, nationally recognized certified brain injury specialist training. A majority of eligible employees within 12 months of the commencement of direct service provision shall be CBISs certified through ACBIS or have other nationally recognized brain injury certification as approved by the department.

f. to *j.* No change.

k. The organization shall implement the following outcome-based standards for rights and dignity:

(1) to (4) No change.

(5) When a member requires any restrictive interventions, the interventions will be implemented in accordance with ~~481—subrule 63.23(4), rule 481—63.33(135C), and rule 481—63.37(135C)~~ rules 481—63.21(135C), 481—63.27(135C), and 481—63.28(135C). When a member has a guardian or legal representative, the guardian or legal representative shall provide informed consent to treat and consent for any restrictive interventions that may be required to protect the health or safety of the member. Restrictive interventions include but are not limited to:

1. to 8. No change.

(6) to (11) No change.

ITEM 4. Amend subrule 78.56(2) as follows:

78.56(2) *Member eligibility.* To be eligible to receive community-based neurobehavioral rehabilitation services, a member shall meet the following criteria:

a. to *c.* No change.

d. Needs assessment. The member shall have ~~a standardized comprehensive functional neurobehavioral assessment reviewed or~~ an assessment of need completed prior to admission. The member shall have the Mayo-Portland Adaptability Inventory (MPAI) assessment completed by a ~~licensed neuropsychologist, neurologist, M.D., or D.O~~ qualified trained assessor. The ~~neurobehavioral~~ assessment of need shall document the member's need for community-based neurobehavioral rehabilitation, and the medical services unit of the Iowa Medicaid enterprise or the member's managed care organization has determined that the member is in need of specialty neurobehavioral rehabilitation services.

e. Standards for assessment. Each member will have had ~~a department-approved, standardized comprehensive functional neurobehavioral~~ the MPAI assessment completed within the 90 days prior to admission. ~~Each~~ In addition to the functional assessment, the needs assessment will have been completed and will include the assessment of a member's individual physical, emotional, cognitive, medical and psychosocial residuals related to the member's brain injury~~, which~~ and must include the following:

(1) to (10) No change.

f. No change.

ITEM 5. Amend rule **441—83.81(249A)**, definition of "Qualified brain injury professional," as follows:

"Qualified brain injury professional" means one of the following who meets the educational and licensure or certification requirements for the profession as required in the state of Iowa and who has two years' experience working with people living with a brain injury: a psychologist; psychiatrist; physician; physician assistant; registered nurse; certified teacher; licensed clinical social worker; mental health counselor; physical, occupational, recreational, or speech therapist; or a person with a bachelor of arts or science degree in human services, social work, psychology, sociology, or public health or rehabilitation services plus 4,000 hours of direct experience with people living with a brain injury.

ITEM 6. Amend paragraph **83.82(1)"f"** as follows:

f. Be determined by the IME medical services unit as in need of intermediate care facility for persons with an intellectual disability (ICF/ID), skilled nursing, or ICF level of care based on information submitted on a completed Form 470-4694 for children aged 3 and under, the interRAI - Pediatric Home Care (PEDS-HC) for those aged 4 to 20, or the interRAI - Home Care (HC) for those aged 21 and over, the most recent version of the Mayo-Portland Adaptability Inventory (MPAI), and other supporting documentation as relevant. Form 470-4694, the interRAI - Pediatric Home Care (PEDS-HC), and the interRAI - Home Care (HC), Form 470-4694, and Form 470-5572, the Mayo-Portland Adaptability Inventory (MPAI), are available on request from the member's managed care organization or the IME medical services unit. Copies of the completed information submission tool for an individual are available to that individual from the individual's case manager or managed care organization.

ITEM 7. Amend subrule 83.82(4) as follows:

83.82(4) *Securing a state payment slot.*

a. to *c.* No change.

d. Applicants who currently reside in a community-based neurobehavioral rehabilitation residential setting, an intermediate care facility for persons with an intellectual disability (ICF/ID), a skilled nursing facility, or an ICF and have resided in that setting for six or more months may request a reserved capacity slot through the brain injury waiver.

(1) Applicants shall be allocated a reserved capacity slot on the basis of the date the request is received by the income maintenance worker or the waiver slot manager.

(2) In the event that more than one request for a reserved capacity slot is received at one time, applicants shall be allocated the next available reserved capacity slot on the basis of the month of birth, January being month one and the lowest number.

(3) Persons who do not fall within the available reserved capacity slots shall have their names maintained on the reserved capacity slot waiting list. As reserved capacity slots become available at the beginning of the next waiver year, persons shall be selected from the reserved capacity slot waiting list to utilize the number of approved reserved capacity slots based on their order on the waiting list.

e. The department shall reserve a set number of funding slots each waiver year for emergency need for all applicants who are on the waiting list maintained by the state on July 1, 2019, and for all new applications received on or after July 1, 2019. Applicants may request an emergency need reserved capacity slot by submitting the completed Home- and Community-Based Services (HCBS) Brain Injury Waiver Emergency Need Assessment, Form 470-5583, to the IME medical services unit.

(1) Emergency need criteria are as follows:

1. The usual caregiver has died or is incapable of providing care, and no other caregivers are available to provide needed supports.

2. The applicant has lost primary residence or will be losing housing within 30 days and has no other housing options available.

3. The applicant is living in a homeless shelter, and no alternative housing options are available.

4. There is founded abuse or neglect by a caregiver or others living within the home of the applicant, and the applicant must move from the home.

5. The applicant cannot meet basic health and safety needs without immediate supports.

(2) Urgent need criteria are as follows:

1. The caregiver will need support within 60 days in order for the applicant to remain living in the current situation.

2. The caregiver will be unable to continue to provide care within the next 60 days.

3. The caregiver is 55 years of age or older and has a chronic or long-term physical or psychological condition that limits the ability to provide care.

4. The applicant is living in temporary housing and plans to move within 31 to 120 days.

5. The applicant is losing permanent housing and plans to move within 31 to 120 days.

6. The caregiver will be unable to be employed if services are not available.

7. There is a potential risk of abuse or neglect by a caregiver or others within the home of the applicant.

8. The applicant has behaviors that put the applicant at risk.

9. The applicant has behaviors that put others at risk.

10. The applicant is at risk of facility placement when needs could be met through community-based services.

(3) Applicants who meet an emergency need criterion shall be placed on the emergency reserved capacity priority waiting list based on the total number of criteria in subparagraph 83.82(4)*"e"*(1) that are met. If applicants meet an equal number of criteria, the position on the waiting list shall be based on the date of application and the age of the applicant. The applicant who has been on the waiting list longer shall be placed higher on the waiting list. If the application date is the same, the older applicant shall be placed higher on the waiting list.

(4) Applicants who meet an urgent need criterion shall be placed on the priority waiting list after applicants who meet emergency need criteria. The position on the waiting list shall be based on the total number of criteria in subparagraph 83.82(4)*"e"*(2) that are met. If applicants meet an equal number of criteria, the position on the waiting list shall be based on the date of application and the age of the applicant. The applicant who has been on the waiting list longer shall be placed higher on the waiting list. If the application date is the same, the older applicant shall be placed higher on the waiting list.

(5) Applicants who do not meet emergency or urgent need criteria shall remain on the waiting list, based on the date of application. If the application date is the same, the older applicant shall be placed higher on the waiting list.

(6) Applicants shall remain on the waiting list until a payment slot has been assigned to them for use, they withdraw from the list, or they become ineligible for the waiver. If there is a change in an applicant's need, the applicant may contact the local department office and request that a new emergency needs assessment be completed. The outcome of the assessment shall determine placement on the waiting list as directed in this subrule.

f. To maintain the approved number of members in the program, persons shall be selected from the waiting list as payment slots become available, based on their priority order on the waiting list.

(1) Once a payment slot is assigned, the department shall give written notice to the person within five working days.

(2) The department shall hold the payment slot for 30 days for the person to file a new application. If an application has not been filed within 30 days, the slot shall revert for use by the next person on the waiting list, if applicable. The person originally assigned the slot must reapply for a new slot.

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EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 12/4/19.

ARC 4793C

HUMAN SERVICES DEPARTMENT[441]

Adopted and Filed

Rule making related to residential care facilities for children

The Human Services Department hereby amends Chapter 105, "Juvenile Detention and Shelter Care Homes," Chapter 112, "Licensing and Regulation of Child Foster Care Facilities," Chapter 114, "Licensing and Regulation of All Group Living Foster Care Facilities for Children," Chapter 115, "Licensing and Regulation of Comprehensive Residential Facilities for Children," and Chapter 116, "Licensing and Regulation of Residential Facilities for Children With an Intellectual Disability," Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code section 234.6.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code section 234.6.

Purpose and Summary

These amendments remove obsolete elements within the administrative rules, bring better alignment to current practice and implement changes required by federal law.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on August 28, 2019, as **ARC 4629C**.

The Department received written comments from three organizations regarding proposed changes in Chapters 105, 114, and 115. Comments concerned the federal Juvenile Justice Reform Act of 2018 and the elimination of mechanical restraints, staff ratios enacted in 2012 under the federal Prison Rape Elimination Act, fiscal impacts of background checks, burdens of physicals and tuberculosis tests

required before employment can occur, potential transfer of responsibility from the Department to the provider, questions whether dietary requirements met by the school lunch program are satisfactory, questions about the rationale of eliminating prime programming, unrestricted access by the Department to electronic records, the change in the definition of "secure facility," documentation requirements, and questions on the use of the term "permanent placement."

The Department received comments from three organizations regarding proposed changes to Chapter 105. Those comments and responses are as follows:

Comment 1:

Regarding Item 3: Eliminate "prime programming."

Response 1:

The Department has adopted the rescission of the definition of "prime programming time."

Comment 2:

Regarding Item 8: Amend paragraph 105.5(1)"d" to require a minimum of one staff person awake in each living unit and to ensure a minimum staff-child ratio of 1:16 is maintained in juvenile detention facilities.

Response 2:

The Department agrees. The change was made to ensure a 1:16 staff-child ratio is maintained. Paragraph 105.5(1)"d" has been amended to read as follows:

"*d. Night hours.* At night, there shall be a staff person awake in each living unit and making regular visual checks throughout the night. The visual checks shall be made at least every hour in shelter care and every half hour in detention. A log shall be kept of all checks, including the time of the check and any significant observations. The minimum staff-to-child ratio must be maintained at 1:16 during the overnight shift."

Comment 3:

Regarding Item 6: The language "tested for tuberculosis and have had a physical examination within six months prior to hiring" could lead to complications. Currently, if someone from another agency applies and has documentation that the person had a tuberculosis test and physical in the last three years (and can produce documentation), we do not need to send the results.

Response 3:

The Department agrees and has revised the introductory paragraph of subrule 105.3(2) to read as follows:

"**105.3(2)***Health of employees.* Each staff person who has direct client contact or is involved in food preparation shall be tested for tuberculosis and have had a physical examination within six months prior to hiring, unless the staff can produce valid documentation of the physical and tuberculosis test from within the previous three years. Physical examinations shall be completed at least every three years thereafter, or whenever circumstances require them more frequently. Evidence of these examinations or tests shall be included in each personnel file. The examinations or tests shall be completed by one of the following:"

Comment 4:

Regarding Item 8: Requiring coed staff creates staffing challenges, including an agency potentially needing to specifically post hiring ads for staff of a particular sex in order to meet this requirement. Some staff identify as gender fluid or may be transgender, which adds additional challenges to meeting this requirement.

Response 4:

The Department agrees, and this particular hardship for agencies can be remedied by striking the sex/gender requirement of staff. Paragraph 105.5(1)"a" has therefore been amended to read as follows:

"*a. Generally.* A sufficient number of child care staff shall be on duty at all times so as to provide adequate coverage. The number of staff required will vary depending on the size and complexity of the program. All facilities shall have at least one staff person on duty. A minimum staff-to-child ratio of one child care worker to five children shall be maintained at all times children are awake and present in the facility and during supervised outings. All child care staff shall be at least 18 years of age."

Comment 5:

Regarding Item 8: The changes add a requirement that the on-call system be operational 24 hours a day to provide supervisory consultation. Was the fiscal impact on providers considered when making the changes to the on-call system rule?

Response 5:

The Department agrees that the fiscal cost associated with a 24 hour/day consultation has a significant cost and is not necessary to meeting the needs of the youth placed in the facility. A change has been made to paragraph 105.5(1)"b," which now reads as follows:

"*b. On-call system.* There shall be an on-call system to provide supervisory consultation. There shall be a written plan documenting this system."

Comment 6:

Regarding Item 9: This change in rule requires the agency to request information if it has not been sent by the Department.

Response 6:

The Department is still responsible for sending the information and has policies and procedures in place to require the sending of that information. If the shelter does not receive the information, the expectation will be that said information is requested. The Department made no change based on this comment.

Comment 7:

Regarding Item 12: Agencies using the school lunch program are assumed to be meeting the dietary requirements of these rules.

Response 7:

Residents of shelters must have their dietary needs met by the facilities, which may include special requirements as determined by medical personnel and/or dietitians. The Department made no change based on this comment.

Comment 8:

Regarding Item 24 of the Notice (Item 25 herein): Time frames for placement in shelter are described as 30 days or less, but the new federal expectation is 14 days or less.

Response 8:

The Department agrees that the rule should include a target of 14 days or less, in keeping with the spirit of the Family First Act. The Department is not in agreement that a maximum length of stay not to exceed 45 days should be written into rules. Rule 441—105.18(232) has been revised to read as follows: "**441—105.18(232) Discharge.** Children in shelter care should be discharged to, preferably, a permanent placement, or, alternatively, a lower level of care in a familylike setting, at the earliest possible time, preferably within 14 days. The facility shall collaborate with referral workers to assess each child's need for ongoing placement, and the reasons for longer stays shall be documented in the child's case file. Children in detention shall be discharged as determined by the court."

Comment 9:

Regarding Item 28 of the Notice (Item 29 herein): Amend paragraph 105.21(1)"d" to eliminate the use of restraints on known pregnant juveniles in order to ensure compliance with the federal Juvenile Justice Reform Act of 2018.

Response 9:

The Department agrees and has revised subrule 105.16(3) by adding two new paragraphs, in order to be in compliance with federal requirements. New paragraphs 105.16(3)"e" and "f" read as follows:

"*e.* A child known to be pregnant may not be restrained during labor, delivery, and postpartum recovery, unless credible, reasonable grounds exist to believe the detainee presents an immediate and serious threat of hurting herself, staff, or others.

"*f.* A facility may not use abdominal restraints, leg and ankle restraints, wrist restraints behind the back, and four-point restraints on a known pregnant child, unless credible reasonable grounds exist to believe the detainee presents an immediate and serious threat of hurting herself, staff, or others, or reasonable grounds exist to believe the detainee presents an immediate and credible risk of escape that cannot be reasonably minimized through any other method."

The Department received comments from three organizations regarding changes to Chapter 114. Those comments and responses are as follows:

Comment 10:

Regarding Item 48 of the Notice (Item 49 herein): Item 48 does indeed have significant fiscal impact in direct dissonance with the fiscal impact statement attached to the Notice of Intended Action.

Response 10:

Minimum staff-child ratios are defined in the contract and are required when youth are present in the program. Contractors are also required to provide staff at the ratio needed to meet needs of youth in the program. Prime programming has been irregularly defined and has not been enforceable. Removing this definition creates more flexibility to contractors without compromising the safety of children.

Comment 11:

The process of getting fingerprints completed is challenging and impacting the workforce.

Response 11:

The Department is aware of the challenges in getting fingerprint checks returned in a timely manner. Subrule 114.24(1) is a result of the federal requirement under the Family First Act and the legislative change to Iowa Code made last session. The Department understands the concerns and is actively working on a solution with the Department of Public Safety to expedite the process.

Comment 12:

Regarding Item 57 of the Notice (Item 58 herein): The language "tested for tuberculosis and have a physical examination within six months prior to hiring" could lead to complications. Currently, if someone from another agency applies and has documentation that they have had a tuberculosis test and physical in the last three years (and can produce documentation), we do not need to send the results.

Response 12:

The Department agrees. The introductory paragraph of subrule 114.7(2) has been changed to read as follows:

"**114.7(2)***Health of staff.* Each staff person who has direct client contact or is involved in food preparation shall be tested for tuberculosis and have a physical examination within six months prior to hiring, unless the staff can produce valid documentation of the physical and tuberculosis test from within the previous three years. Physical examinations shall be completed every three years thereafter. Evidence of these examinations or tests shall be included in each personnel file. The examinations or tests shall be completed by one of the following:"

Comment 13:

Regarding Item 59 of the Notice (Item 60 herein): While the amendment to paragraph 114.8(2)"d" takes out the prime programming time and sets the ratio at one to eight staff to client, there is not a subsequent amendment to the corresponding subrule 115.4(1), regarding number of staff, which still states, "There shall be at least a one to five staff to child ratio during prime programming time." Without a definition of prime programming time any longer (Item 48 of the Notice rescinds it), this does not make sense.

Response 13:

The Department agrees. The change made to subrule 115.4(1) in response to this comment is described below in Response 18.

Comment 14:

Regarding Item 63 of the Notice (Item 64 herein): This change in rule requires the agency to request information if it has not been sent by the Department.

Response 14:

The Department is still responsible for sending the information and has policies and procedures in place to require as such. If the shelter does not receive the information, the expectation will be that said information is requested. Language in the introductory paragraph of subrule 114.9(3) has been modified based on this comment.

Comment 15:

Regarding Item 68 of the Notice (Item 69 herein): Agencies using the school lunch program are assumed to be meeting the dietary requirements of these rules.

Response 15:

Residents of shelters must have their dietary needs met by the facilities, which may include special requirements as determined by medical personnel and/or dietitians.

Comment 16:

Regarding Item 75 of the Notice (Item 76 herein): The language allows too much Department access to information for children who may not even be in the facility due to a Department contract.

Response 16:

The allowable information will be limited to children in the facility as a result of a Department contract.

The Department received two written comments from organizations regarding proposed changes in Chapter 115. The comments and responses are as follows:

Comment 17:

Regarding Item 59 of the Notice (Item 60 herein): While the amendment to paragraph 114.8(2)"d" takes out the prime programming time and sets the ratio at one to eight staff to client, there is not a subsequent amendment to the corresponding subrule 115.4(1), regarding number of staff, which still states, "There shall be at least a one to five staff to child ratio during prime programming time." Without a definition of prime programming time any longer (Item 48 of the Notice rescinds it), this does not make sense.

Response 18:

The Department agrees that striking language about "prime programming time" in subrule 115.4(1) must occur. Paragraph 115.4(1)"a" has been amended to read as follows:

"*a.* The number and qualifications of the staff will vary depending on the needs of the children. There shall be at least a one to eight staff to client ratio at all times children are awake and present in the facility and during supervised outings."

Comment 19:

Regarding Item 98 of the Notice (Item 99 herein): Only adjudicated delinquent youth can be placed in a locked secure facility. Which rule supersedes the other?

Response 19:

It is not clear what other rule the commenter is referencing as it pertains to which rule supersedes; however, the Department is confident that the final sentence in the definition of "secure facility" makes clear that only delinquent youth may be in a secure facility. The definition, which has not been changed from the Notice, reads as follows:

"'Secure facility' means any comprehensive residential facility which employs, on a regular basis, locked doors or other building characteristics intended to prevent children in care from leaving the facility without authorization. Secure facilities may only be used for children who have been adjudicated delinquent or placed pursuant to provisions of Iowa Code chapter 229."

Adoption of Rule Making

This rule making was adopted by the Council on Human Services on November 13, 2019.

Fiscal Impact

This rule making makes a number of changes, most of which have no fiscal impact. However, federal law changes now require fingerprint checks for group care and shelter care staff. There are fiscal impacts associated with this new requirement.

Jobs Impact

The background checks included in these licensure or approval standards could prohibit employment of persons with criminal or abuse histories. The number of potential jobs that would result from implementation of these amendments is unknown.

Waivers

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to rule 441—1.8(17A,217).

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making at its regular monthly meeting or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

Effective Date

This rule making will become effective on January 8, 2020.

The following rule-making actions are adopted:

ITEM 1. Adopt the following **new** definitions of "Administrator," "Immediate family," "Schedule II medications," "Staff" and "Time out" in rule **441—105.1(232)**:

"Administrator," when used for matters related to a certificate of approval or a certificate of license, means the administrator of the division of adult, children and family services.

"Immediate family," for the purposes of this chapter, means persons who have a blood or legal relationship with the child.

"Schedule II medications" means those controlled substances identified in Iowa Code chapter 124.

"Staff" means any person providing care or services to or on behalf of the residents whether the person is an employee of the facility, an independent contractor or any other person who contracts with the facility, an employee of an independent contractor or any other person who contracts with the facility, or a volunteer.

"Time out" applies only to shelter care homes and means the temporary and short-term restriction of a resident for a period of time to a designated area from which the resident is not physically prevented from leaving, for the purpose of providing the resident an opportunity to regain self-control. Staff physically preventing the resident from leaving the time out area would be considered seclusion in control room conditions.

ITEM 2. Amend rule **441—105.1(232)**, definitions of "Administer medication," "Child care worker or house parent" and "Facility," as follows:

"~~Administer medication~~ Medication management and administration" means to ~~remove~~ properly tend to prescription and nonprescription medications, including, but not limited to: properly obtaining and storing medication; removing medication from its storage place; ~~to ensure~~ ensuring to the extent possible that the child ingests, applies, or uses the appropriate dosage at the appropriate time of day; and ~~to document~~ documenting the dosage and the time and date that the child ingested, applied, or used the medication.

"Child care worker ~~or house parent~~" shall mean an individual employed by a facility whose primary responsibility is the direct care of the children in the facility.

"Facility" shall mean a county or multicounty "juvenile detention home" or county or multicounty "juvenile shelter care home" as ~~those terms are~~ defined in Iowa Code section 232.2~~.~~, and private juvenile detention and shelter care homes as defined in Iowa Code section 232.2 which do not meet the requirements of being "county or multicounty."

ITEM 3. Rescind the definitions of "Controlled substances," "Family shelter home" and "Prime programming time" in rule **441—105.1(232)**.

ITEM 4. Rescind subrule 105.2(12) and adopt the following **new** subrule in lieu thereof:

105.2(12) *Private water supplies.*

a. Maintenance and operation. Each privately operated water supply shall be maintained and operated in a manner that ensures safe drinking water. Each water supply used as part of a facility shall be annually inspected and evaluated for deficiencies that may allow contaminants access to the well interior. Items such as open or loose well caps, missing or defective well vents, poor drainage around the wells, and the nearby storage of potential contaminants shall be evaluated. All deficiencies shall be corrected by a well contractor certified by the state within 30 days of discovery.

b. Evaluation and water testing. As part of the inspection and evaluation, water samples shall be collected and submitted by the local health sanitarian or a well contractor certified by the state to the state hygienic laboratory or other laboratory certified for drinking water analysis by the department of natural resources. The minimum yearly water analysis shall include coliform bacteria and nitrate (NO3-) content. Total arsenic testing shall be performed once every three years. The water shall be deemed safe when there are no detectible coliform bacteria, when nitrate levels are less than 10 mg/L as nitrogen, and when total arsenic levels are 10 μg/L or less. A copy of the laboratory analysis report shall be provided to the department within 72 hours of receipt by the water supply.

c. Multiple wells supplying water. When the water supply obtains water from more than one well, each well connected to the water distribution system shall meet all of the requirements of these rules.

d. Deficiencies. When no apparent deficiencies exist with the well or its operations and the water supply is proven safe by meeting the minimum sampling and analysis requirements, water safety requirements have been met. Wells with deficiencies that result in unsafe water analysis require corrective actions through the use of a well contractor certified by the state.

e. When water is proven unsafe. When the water supply is proven unsafe by sampling and analysis, the facility shall immediately provide a known source of safe drinking water for all water users and hang notification at each point of water use disclosing the water is unsafe for drinking water uses. In addition, the facility shall provide a written statement to the department disclosing the unsafe result and detail a plan on how the water supply deficiencies will be corrected and the supply brought back into a safe and maintained condition. The statement shall be submitted to the department within ten days of the laboratory notice. All corrective work shall be performed and the water supply sampled and analyzed again within 45 days after any water test analysis report that indicates the water supply is unsafe for drinking water uses.

f. Water obtained from another source through hauling and storage must meet the requirements of the department of natural resources.

ITEM 5. Amend subrule 105.2(17) as follows:

105.2(17) *Emergency evacuation and safety procedures.* Upon admission, all children shall receive instruction regarding evacuation and safety procedures. All living units utilized by children shall have a posted plan for evacuation ~~in case of~~ and safety procedures regarding severe weather events, fire or ~~disaster with practice~~ other natural or man-made disasters. Practice fire drills shall be held ~~at least every six months~~ monthly, and severe weather drills shall be held twice annually.

ITEM 6. Amend subrule 105.3(2) as follows:

105.3(2) *Health of employees.* Each staff person who has direct client contact or is involved in food preparation shall be ~~medically determined to be free of serious infectious communicable diseases and able to perform assigned duties~~ tested for tuberculosis and have had a physical examination within six months prior to hiring, unless the staff can produce valid documentation of the physical and tuberculosis test from within the previous three years. ~~A statement attesting to these facts shall be secured at the time of employment and filed in the personnel records of the staff person. A new statement shall be secured at least every three years.~~ Physical examinations shall be completed at least every three years thereafter, or whenever circumstances require them more frequently. Evidence of these examinations or tests shall be

included in each personnel file. The ~~statement shall be signed~~ examinations or tests shall be completed by one of the following:

a. to *c.* No change.

ITEM 7. Rescind and reserve rule **441—105.4(232)**.

ITEM 8. Amend rule 441—105.5(232) as follows:

441—105.5(232) Staff.

105.5(1) *Number of staff.*

a. *Generally.* A sufficient number of child care ~~or house parent~~ staff shall be on duty at all times so as to provide adequate coverage. The number of staff required will vary depending on the size and complexity of the program. All facilities shall have at least one staff person on duty. ~~Facilities having six or more residents shall have at least two staff persons on duty at all times that children are usually awake and present in the facility. Coed facilities having more than five residents should have both male and female staff on duty at all times.~~ A minimum staff-to-child ratio of one child care worker to five children shall be maintained at all times children are awake and present in the facility and during supervised outings. All child care ~~or house parent~~ staff shall be at least 18 years of age.

b. *On-call system.* ~~There shall be an on-call system for coed facilities to provide that staff of the same sex as the resident shall perform the following:~~ There shall be an on-call system to provide supervisory consultation. There shall be a written plan documenting this system.

~~(1) All personal body searches.~~

~~(2) Supervision of personal care.~~

c. ~~*Prime programming time.* A minimum staff-child ratio of one child care worker or house parent to five children shall be maintained during prime programming times~~ Reserved.

d. *Night hours.* At night, there shall be a staff person awake in each living unit and making regular visual checks throughout the night. The visual checks shall be made at least every hour in shelter care and every half hour in detention. A log shall be kept of all checks, including the time of the check and any significant observations. ~~There shall be an on-call system which allows backup within minutes for both child care staff and casework personnel.~~ The minimum staff-to-child ratio must be maintained at 1:16 during the overnight shift.

105.5(2) and **105.5(3)** No change.

105.5(4) *Organization and administration.* Whenever there is a change in the name of the facility, the address of the facility, the executive, or the capacity, the information shall be reported to the ~~licensing manager~~ department. A table of organization including the identification of lines of responsibility and authority from policymaking to service to clients shall be available to the licensing staff. An executive director shall have full administrative responsibility for carrying out the policies, procedures and programs.

105.5(5) *Record checks.* Record checks are required for an entity being considered for a certificate of approval or a certificate of license or employment on a facility campus where children reside to determine whether any founded child abuse reports, convictions for crimes for the mistreatment or exploitation of children, or criminal convictions exist related to the person having been placed on a sex offender registry. The facility shall not employ or use any staff person ~~or give any person direct volunteer responsibility for a child or access to a child when the child is alone~~ if that person has been convicted of a crime involving the mistreatment or exploitation of a child. The facility shall not employ or use any staff person ~~or give any person direct volunteer responsibility for a child or access to a child when the child is alone~~ if that person has a record of a criminal conviction or founded child abuse report unless the department has evaluated the crime or abuse and determined that the crime or abuse does not merit prohibition of a certificate of approval or a certificate of license, volunteering or employment. For each person working in a shelter care home on a facility campus where children reside, fingerprints shall be provided to the department of public safety for submission through the state criminal history repository to the United States Department of Justice, Federal Bureau of Investigation, for a national criminal history check. Fingerprinting, for the purpose of a national criminal history check, is required for any entity being

considered for a certificate of approval or a certificate of license or employment by an approved entity on a facility campus where children reside.

a. and *b.* No change.

105.5(6) *Record check procedure.* Each entity being considered for a certificate of approval or a certificate of license or employment by an approved entity on a facility campus where children reside shall be checked for all of the following:

a. Records with the Iowa central abuse registry;

b. Records with the Iowa division of criminal investigation;

c. Records with the Iowa sex offender registry;

d. Records with the child abuse registry of any state where the person has lived during the past five years; and

e. Fingerprints provided to the department of public safety for submission through the state criminal history repository to the United States Department of Justice, Federal Bureau of Investigation, for a national criminal history check.

105.5(7) *Evaluation of record.* If the entity for whom background checks are required has a record of founded child or dependent adult abuse, a criminal conviction, or placement on a sex offender registry, the department shall complete an evaluation to determine that the abuse, criminal conviction, or placement on a sex offender registry does not warrant prohibition of a certificate of approval or a certificate of license or employment by an approved entity on a facility campus where children reside.

105.5(8) *Evaluation form.* The entity with the founded child or dependent adult abuse or criminal conviction report shall complete and return record check evaluation forms required by the department within ten calendar days of the date of receipt to be used to assist in the evaluation.

105.5(9) *Evaluation decision.* The department shall conduct the evaluation and issue a notice of decision in writing to the requesting entity.

ITEM 9. Amend paragraph **105.6(2)"c"** as follows:

c. When the child is in the facility more than four days, the following information shall be ~~made available to~~ requested by the facility if not yet received.

(1) to (3) No change.

ITEM 10. Amend subrule 105.8(1) as follows:

105.8(1) ~~*Care*~~ *Service plan.* There shall be a written ~~care~~ service plan developed for each resident remaining in the facility over four days and completed according to the time frames identified for the contracted service. The ~~care~~ service plan will be based on individual needs determined through the assessment of each youth. The ~~care~~ service plan shall be developed in consultation with child care services, probation services, social services and educational, medical, psychiatric and psychological personnel as appropriate. The plan shall include:

a. to *e.* No change.

ITEM 11. Amend paragraph **105.8(5)"b"** as follows:

b. ~~The facility~~ Shelter care homes shall plan and carry out efforts to establish and maintain workable relationships with the community recreational resources. The facility staff shall enlist the support of these resources to provide opportunities for children to participate in community recreational activities.

ITEM 12. Amend subrule 105.8(8) as follows:

105.8(8) *Dietary program.* The facility shall provide properly planned, nutritious and inviting food and take into consideration the ~~special food~~ dietary and health needs ~~and tastes~~ of children. The facility shall follow all dietary recommendations prescribed by medical personnel or a dietitian licensed in the state of Iowa.

ITEM 13. Adopt the following **new** subrule 105.8(10):

105.8(10) *Safety, protection, and well-being of children in care.* Facilities shall develop and follow written policies that assure the safety, protection, and well-being of children in care. Policies shall address, but not be limited to, the following:

a. Supportive leadership of the facility that promotes protecting each child from abuse or bullying from other children and staff.

b. Defining the facility's culture to reduce the use of unnecessary restraint.

c. Clear definitions of unsafe behavior and the emergency situations when it is appropriate to use physical interventions.

d. Staff training and development that give staff confidence that they are supported by leadership with proper supervision and ongoing access to information about best practices and evidence-based approaches to care.

e. Adequate supervision of children while the children are using any hazardous or dangerous objects or equipment and when children are using the Internet or other social media.

f. The social, cultural, and developmental needs of children in care.

ITEM 14. Adopt the following **new** subrule 105.8(11):

105.8(11) *Staff duties.* The staff duties shall include, but not be limited to, the following:

a. Providing a supportive atmosphere for each child.

b. Providing for coordination of internal and external activities of each child as needed.

c. Providing leadership and guidance to each child as needed.

d. Being responsible for overseeing and maintaining the general health and well-being of each child.

e. Supervising all living activities.

f. At all times, knowing where the children are and where they are supposed to be to ensure ongoing safety.

g. Providing for a liaison with the referring agency.

h. Monitoring and recording behavior on a daily basis.

ITEM 15. Adopt the following **new** subrule 105.8(12):

105.8(12) *Volunteers.* A facility that utilizes volunteers to work directly with a particular child or group of children shall have a written plan for using volunteers. This plan shall be given to all volunteers. The plan shall indicate that all volunteers shall:

a. Be directly supervised by a paid staff member.

b. Be oriented and trained in the philosophy of the facility and the needs of children in care and methods of meeting those needs.

c. Be subject to character, reference, and record check requirements as described in this chapter.

ITEM 16. Amend rule 441—105.9(232) as follows:

441—105.9(232) Medication management and administration. The facility shall have and follow written policies and procedures governing the methods of handling prescription drugs and over-the-counter drugs within the facility. No prescription or narcotic drugs are allowed in the facility without the authorization of a licensed physician or other prescriber authorized by law. Only drugs which have been approved by the federal Food and Drug Administration for use in the United States may be used. No experimental drugs may be used.

105.9(1) *Obtaining prescription medications.* Facilities shall permit prescription medications to be brought into the facility for a child.

a. Prescription medication in its original container, clearly labeled and prescribed for the child, may be accepted as legitimate prescription medication for the child. The label serves as verification that the medication was ordered by an authorized prescriber. Medication shall be prescribed by a provider authorized to prescribe the medication. Medication provided to residents shall be dispensed only from a licensed pharmacy in the state of Iowa in accordance with the pharmacy laws in the Iowa Code, from a licensed pharmacy in another state according to the laws of that state, or by a licensed physician.

b. No change.

105.9(2) No change.

105.9(3) *Storing medications.* Prescription and nonprescription medications shall be stored in a locked cabinet, a locked refrigerator, or a locked box within an unlocked refrigerator.

a. ~~Controlled substances~~ Schedule II medications shall be stored in a locked box within a locked cabinet. Nothing other than ~~controlled substances~~ Schedule II medications shall be stored in the locked box. ~~Controlled substances~~ Schedule II medications requiring refrigeration also shall be maintained within a double-locked container separate from food and other items.

b. The facility administrator shall determine distribution and maintenance of keys or other access to the medication storage cabinets and boxes.

c. A shelter facility administrator or the administrator's designee may preapprove shelter staff to carry prescription or nonprescription medications with them temporarily for use ~~while on day trips or~~ at sites away from the facility.

105.9(4) *Labeling medications.* ~~Controlled substances~~ Schedule II medications and prescription medications shall be maintained in their original containers, clearly labeled by an authorized prescriber and prescribed for the child. Sample prescription medications shall be accompanied by a written prescription. Nonprescription medications shall be maintained as purchased in their original containers.

105.9(5) *Administering ~~controlled~~ Schedule II medications.* Only staff who have completed a medication ~~administration~~ management course shall be allowed to administer ~~controlled substances~~ Schedule II medications.

105.9(6) *Administering prescription and nonprescription medications.* The facility administrator shall determine and provide written authority as to which staff may administer prescription and nonprescription medications.

a. Prescription medications shall be administered only in accordance with the orders of the authorized prescriber. Nonprescription medications shall be administered by following the directions on the label.

b. The facility administrator or the administrator's designee may allow a child to self-administer prescription ~~and nonprescription~~ medication ~~in appropriate situations~~ with written authorization by the authorized prescriber. The facility shall have written policies relating to self-administration of prescription and nonprescription medication. The facility shall require documentation if the child self-administers a medication.

105.9(7) No change.

105.9(8) *Medication for discharged residents.* When a child is discharged or leaves the facility, the facility shall turn over to a responsible agent ~~controlled substances~~ Schedule II medications and prescription medications currently being administered. The facility may send nonprescription medications with the child as needed. The facility shall document in the child's file:

a. to *c.* No change.

105.9(9) *Destroying outdated and unused medications.* Unused ~~controlled~~ Schedule II medications and prescription medications ~~kept at the facility for more than six months~~ may not be kept at the facility for more than 15 days after the child has left the facility and the Schedule II medications and prescription medications shall be destroyed by the administrator or the administrator's designee in the presence of at least one witness. Outdated, discontinued, or unusable nonprescription medications shall also be destroyed in a similar manner. The person destroying the medication shall document:

a. to *d.* No change.

ITEM 17. Amend paragraph **105.10(3)"f"** as follows:

f. A staff member shall always be ~~within hearing distance~~ positioned outside of the control room ~~and the child shall be visually checked by the staff at least every 15 minutes and each check shall be recorded~~. Visual and auditory observations of the child's behavior and condition shall be recorded at five-minute intervals, and a complete written report shall be documented in the child's file by the end of the staff person's work shift.

ITEM 18. Amend rule 441—105.14(232) as follows:

441—105.14(232) Daily log. The facility shall maintain a daily log to generally record noteworthy occurrences regarding the children in care. ~~The log shall be used to note general progress in regard~~

~~to the care plan and any problem areas or unusual behavior for each child.~~ Problem areas or unusual behavior for specific children shall be recorded in individual children's records.

ITEM 19. Amend subrule 105.16(1) as follows:

105.16(1) *Generally.* A facility shall have written policies regarding methods used for control and discipline of children which shall be available to all staff and to the child's family. Discipline shall not include withholding of basic necessities such as food, clothing, or sleep. Discipline shall not be used for anyone other than a child whose actions resulted in consequences. Group discipline shall not be used because of actions of an individual child or other children. Agency staff shall be in control of and responsible for discipline at all times.

ITEM 20. Adopt the following **new** paragraphs **105.16(3)"e"** and **"f"**:

e. A child known to be pregnant may not be restrained during labor, delivery, and postpartum recovery, unless credible, reasonable grounds exist to believe the detainee presents an immediate and serious threat of hurting herself, staff, or others.

f. A facility may not use abdominal restraints, leg and ankle restraints, wrist restraints behind the back, and four-point restraints on a known pregnant child, unless credible, reasonable grounds exist to believe the detainee presents an immediate and serious threat of hurting herself, staff, or others or reasonable grounds exist to believe the detainee presents an immediate and credible risk of escape that cannot be reasonably minimized through any other method.

ITEM 21. Amend subrule 105.16(4) as follows:

105.16(4) *Room confinement—juvenile detention home only.* ~~Facilities shall provide sufficient programming and staff coverage to enable children to be involved in group activities during the day and evening hours. A child shall only be confined to the child's room for illness, at the child's own request, or for disciplinary reasons.~~ A juvenile detention home may confine a child to the child's room during normal sleeping hours or for disciplinary reasons if the facility has written policies and procedures ~~which are approved by the department regarding this confinement~~ that include, but are not limited to, the reasons for and time limitations of the confinement.

ITEM 22. Renumber subrule **105.16(5)** as **105.16(6)**.

ITEM 23. Adopt the following **new** subrule 105.16(5):

105.16(5) *Time out—juvenile shelter care home only.*

a. A resident in time out must never be physically prevented from leaving the time out area.

b. Time out may take place away from the area of activity or from other residents, such as in the resident's room, or in the area of activity of other residents.

c. Staff must monitor the resident while the resident is in time out.

ITEM 24. Rescind paragraph **105.17(4)"b"** and adopt the following **new** paragraph in lieu thereof:

b. A summary related to discharge from the facility including:

(1) The name, address, and relationship of the person or agency to whom the child was discharged.

(2) The discharge summary (as included in the service plan).

(3) Final disposition of a child's medications as applicable.

(4) Identification of who transported the child and destination postdischarge.

ITEM 25. Rescind rule 441—105.18(232) and adopt the following **new** rule in lieu thereof:

441—105.18(232) Discharge. Children in shelter care should be discharged to, preferably, a permanent placement, or, alternatively, a lower level of care in a familylike setting, at the earliest possible time, preferably within 14 days. The facility shall collaborate with referral workers to assess each child's need for ongoing placement, and the reasons for longer stays shall be documented in the child's case file. Children in detention shall be discharged as determined by the court.

ITEM 26. Amend rule 441—105.19(232), introductory paragraph, as follows:

441—105.19(232) Approval. The department will issue a Certificate of Approval~~, Form 470-0620,~~ or a certificate of license annually without cost to any juvenile detention home or juvenile shelter care home which meets the standards. The department may offer consultation to assist homes in meeting the standards.

ITEM 27. Amend subrule 105.19(7) as follows:

105.19(7) *Certificate of approval or certificate of license.* Upon approval, ~~the home~~ county or multicounty homes will be issued a certificate of approval and private juvenile detention and shelter care homes will be issued a certificate of license containing the name of the home, address, capacity, and the date of expiration. Renewals will be shown by a seal bearing the new date of expiration, unless a change requires a new certificate to be issued.

ITEM 28. Rescind rule 441—105.20(232) and adopt the following **new** rule in lieu thereof:

441—105.20(232) Provisional approval.

105.20(1) *Required conditions.* The administrator may issue a provisional license for not more than one year when a facility does not meet the requirements of this chapter and the facility submits a written corrective action plan that is approved by the administrator to bring the facility into compliance with the applicable requirements.

105.20(2) *Written report.* The department or the department's designee will provide a report identifying the reasons for the provisional license and the standards that have not been met.

105.20(3) *Corrective action.* The director of the facility, chairperson of the county board of supervisors, or chairperson of the multicounty board of directors shall provide the department with a written plan of action that is approved by the department for correcting the deficiencies to bring the facility into compliance with the applicable requirements. The plan shall give specific dates by which the corrective action will be completed.

105.20(4) *Completed corrective action.* When the corrective action is completed on or before the date specified, a full approval shall be issued.

105.20(5) *Uncompleted corrective action.* When the corrective action is not completed by the date specified on a provisional approval, the department shall not grant a full approval and has the option of rejecting or extending the provisional approval. An extension of a provisional approval shall not cause the effective period of a provisional approval to exceed 18 months. If the corrective action plan is not completed within 18 months, the approval shall be rejected.

ITEM 29. Amend paragraph **105.21(1)"d"** as follows:

d. ~~Each~~ Except for mechanical restraint of a child by the staff of a juvenile detention facility for the amount of time needed while that child is being transported to a point outside the facility and as necessary when there is a serious risk of the child exiting a vehicle while the vehicle is in motion or otherwise absconding, each authorization of mechanical restraint shall not exceed ~~one~~ 1 hour in duration without a visit by and written authorization from a licensed psychologist, psychiatrist or physician ~~or psychologist employed by a local mental health center~~.

ITEM 30. Amend paragraph **105.21(1)"e"** as follows:

e. No child shall be kept in mechanical restraint for more than 1 hour in a 12-hour period without a visit by and written authorization from a licensed psychologist, psychiatrist or physician ~~or psychologist employed by a local mental health center~~.

ITEM 31. Amend paragraph **105.21(2)"c"** as follows:

c. Each facility authorized to use mechanical restraint shall submit a quarterly report, which shall include all the information required in paragraph 105.21(2)*"b,"* to ~~the bureau of adult, children and family services of the department which shall include all the information required in 105.21(2)*"b."*~~ its licensing manager.

ITEM 32. Amend subrule 105.21(4) as follows:

105.21(4) *In transporting children.* ~~Notwithstanding 105.21(1)*"d,"* mechanical restraint of a child by the staff of a juvenile detention facility while that child is being transported to a point outside the facility is permitted when there is a serious risk of the child exiting the vehicle while the vehicle is in motion. The facility shall place a written report on each use in the child's case record and the mechanical restraint file. This report shall document the necessity for the use of restraint.~~

Seat belts are not considered mechanical restraints. Agency policies should encourage the use of seat belts and comply with Iowa law while transporting children.

ITEM 33. Adopt the following **new** rule 441—105.23(232):

441—105.23(232) Mandatory reporting of child abuse and training.

105.23(1) *Mandatory reporters.* All defined in Iowa Code section 232.69 who, in the scope of professional practice or in their employment responsibilities, examine, attend, counsel, or treat a child and reasonably believe a child has suffered abuse shall make a report in accordance with Iowa Code section 232.69 whenever the provider reasonably believes a child for whom the provider is providing foster care has suffered abuse.

105.23(2) *Required training.* Mandatory reporters shall receive training relating to the identification and reporting of child abuse as required by Iowa Code section 232.69.

105.23(3) *Training documentation.* Each licensee shall develop and maintain a written record for each mandatory reporter in order to document the content and amount of training.

This rule is intended to implement Iowa Code section 232.69.

ITEM 34. Amend rule 441—112.1(237) as follows:

441—112.1(237) Applicability. This chapter relates to licensing procedures for all child foster care facilities authorized by Iowa Code chapter 237. Rules relating to specific types of facilities are located in 441—Chapter 113, "Licensing and Regulation of Foster Family Homes," 441—Chapter 114, "Licensing and Regulation of All Group Living Foster Care Facilities for Children," 441—Chapter 115, "Licensing and Regulation of Comprehensive Residential Facilities for Children," and 441—Chapter 116, "Licensing and Regulation of Residential Facilities for Children with an Intellectual Disability or Brain Injury."

This rule is intended to implement Iowa Code chapter 237.

ITEM 35. Adopt the following **new** definition of "Administrator" in rule **441—112.2(237)**:

"Administrator," when used for matters related to licensing, means the administrator of the division of adult, children and family services.

ITEM 36. Amend rule **441—112.2(237)**, definitions of "Applicant," "Comprehensive residential facility," "Director's designee," and "Residential facility for children with an intellectual disability" as follows:

"Applicant:"

1. No change.
2. For a proprietary ~~child caring~~ facility, the applicant is the owner or designee of the facility.
3. No change.

"Comprehensive residential facility" means a facility which provides care and treatment for children who are unable to live in a family situation due to social, emotional, or physical disabilities and who require varying degrees of supervision as indicated in the individual ~~treatment~~ service plan. Care includes room and board. Services include the internal capacity for individual, family, and group treatment. These services and others provided to the child shall be under the administrative control of the facility. Community resources may be used for medical, recreational, and educational needs. Comprehensive residential facilities have higher staff to client ratios than community residential facilities and may use control rooms, locked cottages, and mechanical restraints~~, and chemical restraints~~ when these controls meet licensing requirements.

"~~Director's~~ Administrator's designee:"

1. For group facilities, the ~~director's~~ administrator's designee is the chief of the bureau of ~~protective~~ child welfare and community services.

2. For foster family homes, the designee is the department of human services' service area manager.

"Residential facility for children with an intellectual disability or brain injury" means any residential facility which serves children with an intellectual disability as defined in Iowa Code chapter 222 or children with brain injury as defined in Iowa Code chapter 225C.

ITEM 37. Amend paragraph **112.3(1)"b"** as follows:

b. Group care. A person wishing to apply for a group care license ~~shall~~ may contact the department:

(1) ~~Through the "Child Welfare" link~~ Using the "Contact Us" link found on the department's ~~Web~~ Internet site~~, www.dhs.iowa.gov~~ at dhs.iowa.gov; or

(2) By mail to the ~~DHS~~ Iowa Department of Human Services, Division of ~~Child~~ Adult, Children and Family Services, Attn: Group Care Licensing, 1305 East Walnut Street, Des Moines, Iowa 50319-0114.

ITEM 38. Amend subrule 112.4(6) as follows:

112.4(6) A foster family home license shall be approved for a term of one year for the first and second years of licensure. Thereafter, the license shall be approved for a term of two years unless it is determined by the administrator that a one-year license shall be issued. A group facility license shall be approved for a term of one to three years according to the following criteria:

a. A one-year license may be approved for all new ~~agencies~~ facilities that meet licensure standards.

b. A ~~two-year~~ one- to two-year license may be approved ~~upon completion of a survey for a renewal license~~ when it is determined:

(1) Some health or safety concerns have been identified~~, but they are determined to be minor or easily corrected~~; or

(2) Some complaints against a facility have been substantiated~~, but they are determined to be minor~~; ~~and~~ or

(3) Deficiencies ~~that~~ have been identified ~~are determined to be minor or easily corrected~~.

c. A three-year license may be approved ~~upon completion of a survey for a renewal license~~ when:

(1) to (3) No change.

ITEM 39. Amend paragraph **112.5(1)"a"** as follows:

a. The minimum standards set forth in these rules are not met and a provisional license is inappropriate or disapproved by the ~~director's~~ administrator or administrator's designee.

ITEM 40. Amend subrule 112.7(1) as follows:

112.7(1) ~~*Statement of reasons*~~ *Time frame for provisional licenses.* ~~Provisional licenses shall be accompanied by a statement of the reasons for the provisional license, the standards that have not been met, the date that the facility must make required changes to meet standards.~~ The administrator may issue a provisional license for not more than one year when a licensee's facility does not meet the requirements of this chapter and the licensee submits a written corrective action plan that is approved by the administrator to bring the facility into compliance with the applicable requirements.

ITEM 41. Amend subrule 112.7(2) as follows:

112.7(2) ~~*Corrective action*~~ *Written report.* ~~The facility shall furnish the licensing agency with a plan of action to correct deficiencies listed that resulted in the provisional license. The plan shall give specific dates upon which the corrective action will be completed.~~ The administrator or the administrator's designee will provide a report identifying the reasons for the provisional license and the standards that have not been met.

ITEM 42. Adopt the following **new** subrule 112.7(3):

112.7(3) *Corrective action plan.* The facility shall furnish the licensing agency with a plan of action to correct deficiencies listed that resulted in the provisional license. The plan shall give specific dates upon which the corrective action will be completed.

ITEM 43. Amend subrule 112.9(2) as follows:

112.9(2) *Requirements for emergency suspension.* The emergency suspension of a license by the ~~director~~ administrator or administrator's designee shall occur only when all of the following conditions exist:

a. to *d.* No change.

ITEM 44. Amend subrule 112.9(3) as follows:

112.9(3) *Requirements for time-limited suspensions.* The time-limited suspension of a license by the ~~director~~ administrator or administrator's designee shall occur only when all of the following conditions exist:

a. to *f.* No change.

ITEM 45. Amend rule 441—112.10(232) as follows:

441—112.10(232) Mandatory reporting of child abuse and training.

112.10(1) *Mandatory reporters.* ~~The following foster care providers~~ All defined in Iowa Code section 232.69 who, in the scope of professional practice or in their employment responsibilities, examine, attend, counsel, or treat a child and reasonably believe a child has suffered abuse shall make a report~~,~~ in accordance with Iowa Code section 232.69~~,~~ whenever ~~they~~ the provider reasonably ~~believe~~ believes a child for whom ~~they are~~ the provider is providing foster care has suffered abuse~~:~~.

~~*a.* Any social worker who is employed by a licensed child foster care facility and who works with foster children.~~

~~*b.* Any licensed foster parent providing child foster care.~~

112.10(2) *Required training.* ~~After completing the initial mandatory reporter training, and every five years thereafter, any person required to make a report under subrule 112.10(1) shall complete two hours of training relating to the identification and reporting of child abuse.~~ Mandatory reporters shall receive training relating to the identification and reporting of child abuse as required by Iowa Code section 232.69.

~~**112.10(3)** *Training provider.*~~

~~*a.* If the foster care provider is a social worker employed by a licensed child foster care facility, the employer shall be responsible for providing the required training in child abuse identification and reporting.~~

~~*b.* If the foster care provider is a licensed foster parent, the foster parent shall be responsible for obtaining the required two-hour training in child abuse identification and reporting as part of a continuing education program required under Iowa Code section 232.69 and chapter 272C and approved by the department of public health.~~

~~**112.10(4)** *Training content.*~~

~~*a.* Training in child abuse identification shall include physical and behavioral signs of physical abuse, denial of critical care, sexual abuse and other categories of child abuse pursuant to Iowa Code section 232.68.~~

~~*b.* Training in child abuse reporting shall include reporting requirements and procedures.~~

~~**112.10(5)**~~ **112.10(3)** *Training documentation.* Each licensee shall develop and maintain a written record for each mandatory reporter in order to document the content and amount of training.

~~*a.* If the foster care provider is a social worker employed by a licensed child foster care facility, the employer shall document in the employee's personnel record the content and amount of training.~~

~~*b.* If the foster care provider is a licensed foster parent, the foster parent shall be responsible for securing documentation of the training content, amount, and provider, and shall forward the documentation to the department's recruitment and retention contractor, which will provide a copy to the department licensing worker for the service area where the family resides for inclusion in the licensing file.~~

This rule is intended to implement Iowa Code section 232.69.

ITEM 46. Adopt the following **new** rule 441—112.12(237):

441—112.12(237) Record checks. Record checks as defined in 441—Chapter 114 are required for any entity being considered for licensure or employment by a licensee on a facility campus where children reside to determine whether any applicant has any founded child abuse reports or criminal convictions or has been placed on a sex offender registry.

This rule is intended to implement Iowa Code section 237.8.

ITEM 47. Adopt the following **new** definitions of "Immediate family," "Schedule II medications" and "Time out" in rule **441—114.2(237)**:

"Immediate family," for the purposes of this chapter, means persons who have a blood or legal relationship with the child.

"Schedule II medications" means those controlled substances identified in Iowa Code chapter 124.

"Time out" means the temporary and short-term restriction of a resident for a period of time to a designated area from which the resident is not physically prevented from leaving, for the purpose of providing the resident an opportunity to regain self-control. Staff physically preventing the resident from leaving the time out area would be considered seclusion in control room conditions.

ITEM 48. Amend rule **441—114.2(237)**, definition of "Staff," as follows:

"Staff" means any person providing care or services to or on behalf of the ~~facility~~ residents whether the person is an employee of the facility, an independent contractor or any other person who contracts with the facility, an employee of an independent contractor or any other person who contracts with the facility, or a volunteer.

ITEM 49. Rescind the definitions of "Highly structured juvenile program," "Locked cottage," and "Prime programming time" in rule **441—114.2(237)**.

ITEM 50. Amend subrule 114.4(1) as follows:

114.4(1) *Bathroom facilities.*

a. No change.

b. Each bathroom shall be properly equipped with toilet tissue in dispensers, paper towels~~,~~ or functional hand dryers, soap, and other items required for personal hygiene ~~unless children are individually given these items~~. ~~Paper towels, when used, and toilet tissue shall be in dispensers.~~

c. to *e.* No change.

f. At least one toilet and one ~~lavatory~~ wash basin shall be provided for each six children or portion thereof.

g. to *k.* No change.

ITEM 51. Rescind subrule 114.4(8) and adopt the following **new** subrule in lieu thereof:

114.4(8) *Private water supplies.* Any facility that serves at least 25 people for at least 60 days during the year and is supplied by its own well meets the definition of a public water supply and must be regulated by the department of natural resources.

a. Maintenance and operation. Each privately operated water supply shall be maintained and operated in a manner that ensures safe drinking water. Each water supply used as part of a facility shall be annually inspected and evaluated for deficiencies that may allow contaminants access to the well interior. Items such as open or loose well caps, missing or defective well vents, poor drainage around the wells, and the nearby storage of potential contaminants shall be evaluated. All deficiencies shall be corrected within 30 days of discovery by a well contractor certified by the state.

b. Evaluation and water testing. As part of the inspection and evaluation, water samples shall be collected and submitted by the local health sanitarian or a well contractor certified by the state to the state hygienic laboratory or other laboratory certified for drinking water analysis by the department of natural resources. The minimum yearly water analysis shall include coliform bacteria and nitrate (NO3-) content. Total arsenic testing shall be performed once every three years. The water shall be deemed safe when there are no detectible coliform bacteria, when nitrate levels are less than 10 mg/L as nitrogen, and

when total arsenic levels are 10 μg/L or less. A copy of the laboratory analysis report shall be provided to the department within 72 hours of receipt by the water supply.

c. Multiple wells supplying water. When the water supply obtains water from more than one well, each well connected to the water distribution system shall meet all of the requirements of these rules.

d. Deficiencies. When no apparent deficiencies exist with the well or its operations and the water supply is proven safe by meeting the minimum sampling and analysis requirements, water safety requirements have been met. Wells with deficiencies that result in unsafe water analysis require corrective actions through the use of a well contractor certified by the state.

e. When water is proven unsafe. When the water supply is proven unsafe by sampling and analysis, the facility shall immediately provide a known source of safe drinking water for all water users and hang notification at each point of water use disclosing the water is unsafe for drinking water uses. In addition, the facility shall provide a written statement to the department disclosing the unsafe result and detail a plan on how the water supply deficiencies will be corrected and the supply brought back into a safe and maintained condition. The statement shall be submitted to the department within ten days of the laboratory notice. All corrective work shall be performed and the water supply sampled and analyzed again within 45 days from any water test analysis report that indicates the water supply is unsafe for drinking water uses.

f. Water obtained from another source through hauling and storage must meet the requirements of the department of natural resources.

ITEM 52. Amend subrule 114.5(1) as follows:

114.5(1) *General.*

~~*a.*~~ Facilities shall take sufficient measures to ensure the safety of the children in care in all of their programs.

~~*b.* Stairways, halls and aisles shall be of substantial nonslippery material, shall be maintained in a good state of repair, shall be adequately lighted and shall be kept free from obstructions at all times. All stairways shall have handrails.~~

~~*c.* Radiators, registers, and steam and hot water pipes shall have protective covering or insulation. Electrical outlets and switches shall have wall plates.~~

~~*d.* Fuse boxes shall be inaccessible to children.~~

~~*e.* Facilities shall have written procedures for the handling and storage of hazardous materials.~~

~~*f.* Firearms and ammunition shall be kept under lock and key and inaccessible to children. When firearms are used, the facility shall have written policies regarding their purpose, use, and storage.~~

~~*g.* All swimming pools shall conform to state and local health and safety regulations. Adult supervision shall be provided at all times when children are using the pool.~~

~~*h.* The facility shall have policies regarding fishing ponds, lakes, or any bodies of water located on or near the institution grounds and accessible to the children.~~

ITEM 53. Renumber subrules **114.5(2)** to **114.5(4)** as **114.5(3)** to **114.5(5)**.

ITEM 54. Adopt the following **new** subrule 114.5(2):

114.5(2) *Premises.*

a. Stairways, halls and aisles shall be of substantial nonslippery material, shall be maintained in a good state of repair, shall be adequately lighted and shall be kept free from obstructions at all times. All stairways shall have handrails.

b. Radiators, registers, and steam and hot water pipes shall have protective covering or insulation. Electrical outlets and switches shall have wall plates.

c. Fuse boxes and circuit breakers shall be inaccessible to children.

d. Facilities shall have written procedures for the handling and storage of hazardous materials.

e. Firearms and ammunition shall be kept under lock and key and inaccessible to children. When firearms are used, the facility shall have written policies regarding their purpose, use, and storage.

f. All swimming pools shall conform to state and local health and safety regulations. Adult supervision shall be provided at all times when children are using the pool.

g. The facility shall have policies regarding fishing ponds, lakes, or any bodies of water located on or near the facility grounds and accessible to the children.

ITEM 55. Amend renumbered subrule 114.5(3) as follows:

114.5(3) *Emergency evacuation and safety procedures.* Upon admission all children shall receive instruction regarding evacuation and safety procedures. All living units utilized by children shall have a posted plan for evacuation ~~in case of~~ and safety procedures regarding severe weather events, fire or ~~disaster with practice~~ other natural or man-made disasters. Practice fire drills shall be held ~~at least every six months~~ monthly, and severe weather drills shall be held twice annually.

ITEM 56. Adopt the following **new** subrule 114.5(6):

114.5(6) *Safety, protection, and well-being of children in care.* Facilities shall develop and follow written policies and procedures that assure the safety, protection, and well-being of children in care. Policies shall address, but not be limited to, the following:

a. Supportive leadership of the facility that promotes protecting each child from abuse or bullying from other children and staff.

b. Defining the facility's culture to reduce the use of unnecessary restraint.

c. Clear definitions of unsafe behavior and the emergency situations when it is appropriate to use physical interventions.

d. Staff training and development that give staff confidence they are supported by leadership with proper supervision and ongoing access to information about best practices and evidence-based approaches to care.

e. Adequate supervision of children while the children are using any hazardous or dangerous objects or equipment and when children are using the Internet or other social media.

f. The social, cultural, and developmental needs of children in care.

ITEM 57. Amend rule 441—114.6(237) as follows:

441—114.6(237) Organization and administration. Any change in the name of the facility, the address of the facility, the executive, or the capacity shall be reported to the ~~licensing manager~~ department.

114.6(1) No change.

114.6(2) *Purpose of agency or facility.* The purpose or function of the organization shall be clearly defined in writing and shall include a description of the children to be accepted for care and the services offered.

114.6(3) No change.

114.6(4) *Executive director.* The governing body or proprietor or partner(s) shall select and appoint an executive director with full administrative responsibility and qualifications for carrying out the policies, procedures and programs established by the governing body.

114.6(5) No change.

This rule is intended to implement Iowa Code section 237.2.

ITEM 58. Amend subrule 114.7(2) as follows:

114.7(2) *Health of staff.* Each staff person who has direct client contact or is involved in food preparation shall be ~~medically determined to be free of serious infectious communicable diseases and able to perform assigned duties~~ be tested for tuberculosis and have a physical examination within six months prior to hiring, unless the staff can produce valid documentation of the physical and tuberculosis test from within the previous three years. Physical examinations shall be completed every three years thereafter. ~~A statement attesting to these facts shall be secured at the time of employment and filed in the staff record of the staff person. A new statement shall be secured at least every three years.~~ Evidence of these examinations or tests shall be included in each personnel file. The ~~statement shall be signed~~ examinations or tests shall be completed by one of the following:

a. to *c.* No change.

ITEM 59. Amend paragraph **114.7(3)"a"** as follows:

a. The facility shall maintain the following information with respect to each staff person:

(1) and (2) No change.

(3) Documentation ~~that a criminal records check with the Iowa division of criminal investigation has been completed on the staff person prior to providing any care or service directly or indirectly to children under the care of the agency. A copy of the department's evaluation of the criminal record check shall be kept in the staff record~~ of all record checks and evaluations as required in subrule 114.24(1).

(4) No change.

(5) ~~Documentation that a check of the staff person has been completed with the Iowa central abuse registry for any founded reports of child abuse prior to the person's providing any care or services directly or indirectly to children under the care of the agency. A copy of the department's evaluation of this child abuse record check shall be kept in the staff record~~ Reserved.

(6) Records of a ~~health~~ physical examination or a record of a health report, as required in subrule 114.7(2), plus a written record of subsequent health services rendered to staff necessary to ensure that each individual is physically able to perform the job duties or functions.

(7) ~~If the staff person has completed and submitted Form 470-2310, Record Check Evaluation, to the agency, a copy shall be kept in the staff record~~ Reserved.

(8) and (9) No change.

ITEM 60. Amend paragraph **114.8(2)"d"** as follows:

d. The number and qualifications of the staff will vary depending on the needs of the children. There shall be at least a one to eight staff to client ratio during ~~prime programming time~~ all times children are awake and present in the facility and during supervised outings.

ITEM 61. Amend subrule 114.8(3) as follows:

114.8(3) *Staff duties.*

a. No change.

b. Caseworkers shall:

(1) Develop a ~~care~~ service plan for each child containing goals and objectives with projected dates of accomplishment and shall involve the client, referral agency, and family whenever possible.

(2) No change.

c. The facility staff shall ~~define in writing who shall~~ be responsible for the following ~~staff duties~~:

(1) Documenting case reassessments quarterly, involving the same personnel as previously involved in ~~care~~ service plan development.

(2) Documenting the implementation of the ~~care~~ service plan.

(3) to (11) No change.

(12) At all times, knowing where the children are and where they are supposed to be to assure ongoing safety.

ITEM 62. Amend subparagraph **114.8(4)"c"(5)** as follows:

(5) Access to current ~~literature, including books, monographs, and journals~~ information and evidence-based practices relevant to the facility's services.

ITEM 63. Adopt the following **new** subrule 114.8(5):

114.8(5) *Volunteers.* A facility that utilizes volunteers to work directly with a particular child or group of children shall have a written plan for using volunteers. This plan shall be given to all volunteers. The plan shall indicate that all volunteers shall:

a. Be directly supervised by a paid staff member.

b. Be oriented and trained in the philosophy of the facility and the needs of children in care, and methods of meeting those needs.

c. Be subject to character, reference, and record check requirements described in subrule 114.24(1).

ITEM 64. Amend subrule 114.9(3) as follows:

114.9(3) *Referral* ~~*requirements*~~ *information.* The following information shall be made available prior to any decision being made regarding the acceptance of a child~~:~~. The following information shall be requested by the facility if not yet received.

a. to *g.* No change.

ITEM 65. Amend subrule 114.9(5) as follows:

114.9(5) *Personal assessment.* At the time of intake, individual needs will be identified by staff based on written and verbal information from referral sources, observable behavior at intake and the initial interview with youth or family, school contacts, physical examinations, and other relevant material. The individual assessment shall provide the basis for development of a ~~care~~ service plan for each child.

ITEM 66. Amend subrule 114.10(2) as follows:

114.10(2) ~~*Care*~~ *Service plan.* There shall be a written ~~care~~ service plan for each child. The ~~care~~ service plan shall be based on the individual needs determined through the assessment of each resident, provide for consultation with the family, and shall include the following:

a. No change.

b. Description of planned services including measurable goals and objectives which indicate which staff person will be responsible for the specific services in the plan.

c. No change.

d. A discharge summary.

ITEM 67. Rescind subrule 114.10(4) and adopt the following **new** subrule in lieu thereof:

114.10(4) *Daily log.* The facility shall maintain a daily log to generally record noteworthy occurrences regarding the children in care. Problem areas or unusual behavior for specific children shall be recorded in individual children's records.

ITEM 68. Amend paragraph **114.10(6)"d"** as follows:

d. A facility shall have and staff shall follow written procedures ~~for staff members to follow~~ in case of medical emergency.

ITEM 69. Amend subrule 114.10(7) as follows:

114.10(7) *Dietary program.* The facility shall provide properly planned, nutritious and inviting food and take into consideration the ~~special food~~ dietary and health needs ~~and tastes~~ of children. The facility shall follow all dietary recommendations prescribed by medical personnel or a dietitian licensed in the state of Iowa.

ITEM 70. Rescind subrule 114.10(8) and adopt the following **new** subrule in lieu thereof:

114.10(8) *Recreation and leisure programs.*

a. The facility shall provide adequately designed and maintained indoor and outdoor activity areas, equipment, and equipment storage facilities appropriate for the residents it serves. There shall be a variety of activity areas and equipment so that all children can be active participants in different types of individual and group sports and other motor activities.

b. Games, toys, equipment, and arts and crafts material shall be selected according to the ages and number of children with consideration to the needs of the children to engage in active and quiet play.

c. The facility shall plan and carry out efforts to establish and maintain workable relationships with community recreational resources so these resources may provide opportunities for children to participate in community recreational activities.

ITEM 71. Amend subrule 114.10(9) as follows:

114.10(9) *Casework services.* A facility shall provide or obtain casework services in the form of counseling in accordance with the needs of each child's individual ~~care~~ service plan. Casework services include crisis intervention, daily living skills, interpersonal relationships, future planning and preparation for placement as required by the child.

ITEM 72. Rescind and reserve subrule **114.10(11)**.

ITEM 73. Amend paragraph **114.11(2)"g"** as follows:

g. Telephone number and address of the agency or court making the referral and contact information of the child's attorney or guardian ad litem.

ITEM 74. Amend subrule 114.11(9) as follows:

114.11(9) ~~*Care*~~ *Service plan.* Individual child ~~care~~ service plan, ~~and semiannual review~~ quarterly update, and ~~revision~~ revisions of ~~care~~ the service plan. The service plan shall be updated quarterly or any time upon receipt of a new case permanency plan or juvenile court services plan or as otherwise needed to address the changing needs of the child. Discharge summary completing the service plan information shall be completed upon a child's discharge from placement.

ITEM 75. Amend subrule 114.11(10) as follows:

114.11(10) ~~*Dictation*~~ *Documentation.* The following information shall be documented in each child's record.

a. No change.

b. ~~Information on release of the child from the facility including the name, address and relationship of the person or agency to whom the child was released.~~ A summary related to discharge including:

(1) The name, address and relationship of the person or agency to whom the child was released.

(2) The discharge summary (as included in the service plan).

(3) Final disposition of a child's medications as applicable.

(4) Identification of who transported the child and destination postdischarge.

ITEM 76. Adopt the following **new** subrule 114.11(11):

114.11(11) *Electronic records.* An authorized representative of the department shall be provided unrestricted access to electronic records pertaining to the care provided to the residents, who are served as a result of a contract with the department, of the facility.

a. If access to an electronic record is requested by the authorized representative of the department, the facility may provide a tutorial on how to use its particular electronic system or may designate an individual who will, when requested, access the system, respond to any questions or assist the authorized representative as needed in accessing electronic information in a timely fashion.

b. The facility shall provide a terminal where the authorized representative may access records.

c. If the facility is unable to provide direct print capability to the authorized representative, the facility shall make available a printout of any record or part of a record on request in a time frame that does not intentionally prevent or interfere with the department's survey or investigation.

ITEM 77. Amend rule 441—114.12(237), introductory paragraph, as follows:

441—114.12(237) Drug utilization and control. The agency shall have and follow written policies and procedures governing the methods of handling prescription drugs and over-the-counter drugs within the facility. No prescription or narcotic drugs are to be allowed in the facility without the authorization of a licensed physician or authorized prescriber.

ITEM 78. Amend subrule 114.12(2) as follows:

114.12(2) *Prescribed by physician or other authorized prescriber.* Drugs shall be prescribed by a physician licensed to practice in the state of Iowa or the state in which the physician is currently practicing, or by an advanced registered nurse practitioner or physician assistant as permitted by Iowa law, and may be prescribed only for use in accordance with dosage ranges and indications approved by the federal Food and Drug Administration.

ITEM 79. Amend subrule 114.12(4) as follows:

114.12(4) *Locked cabinet.* All drugs shall be maintained in a locked cabinet. ~~Controlled substances~~ Schedule II medications shall be maintained in a locked box within the locked cabinet. The cabinet key shall be in the possession of a staff person. A bathroom shall not be used for drug storage. A documented exception can be made by ~~a physician for~~ persons identified in these rules who may allow self-administered drugs as discussed in subrule 114.12(17).

ITEM 80. Amend subrule 114.12(9) as follows:

114.12(9) *Medication for discharged residents.* When a resident is discharged or leaves the facility, ~~medications currently being administered shall be sent, in the original container, with the resident or with a responsible agent, and with the approval of the physician~~ the facility shall turn over to a responsible

agent Schedule II medications and prescription medications currently being administered. The facility may send nonprescription medications with the child as needed. The facility shall document in the child's file:

a. The name, strength, dosage form, and quantity of each medication.

b. The signature of the facility staff person who turned over the medications to the responsible agent.

c. The signature of the responsible agent receiving the medications.

ITEM 81. Rescind subrule 114.12(10) and adopt the following **new** subrule in lieu thereof:

114.12(10) *Unused prescription drugs.* Unused prescription drugs prescribed for residents may not be kept at the facility for more 15 days after the resident has left the facility. The unused prescription drugs shall be destroyed by the facility executive director or the executive director's designee in the presence of at least one witness. Outdated, discontinued, or unusable nonprescription medications shall also be destroyed in a similar manner. The person destroying the medication shall document:

a. The resident's name.

b. The name, strength, dosage form, and quantity of each medication.

c. The date the medication was destroyed.

d. The names and signatures of the witness and staff person who destroyed the medication.

ITEM 82. Amend subrule 114.12(11) as follows:

114.12(11) *Refills.* Prescriptions shall be refilled only with the permission of the ~~attending physician~~ prescriber authorized under Iowa law.

ITEM 83. Amend subrule 114.12(13) as follows:

114.12(13) *Order of ~~physician~~ authorized prescriber.* No prescription medication may be administered to a resident without the order of ~~a licensed physician~~ an authorized prescriber.

ITEM 84. Amend subrule 114.12(14) as follows:

114.12(14) *Patient reaction.* Any unusual patient reaction to a drug shall be reported to the attending physician or prescriber immediately.

ITEM 85. Amend subrule 114.12(16) as follows:

114.12(16) *Administration of drugs.* Medications shall be administered only in accordance with the instructions of the attending physician or authorized prescriber. ~~Controlled substances~~ Medications shall be administered only by ~~qualified personnel~~ staff who have completed a medication management course. The type and amount of the medication, the time and date, and the staff member administering the medication shall be documented in the child's record. ~~(See IAC 620—8.16(204).)~~

ITEM 86. Amend subrule 114.12(17) as follows:

114.12(17) *Self-administration of drugs.* There shall be written policy and procedures relative to self-administration of prescription medications by residents and only when:

a. Medications are prescribed by a physician or other authorized prescriber.

b. The physician ~~agrees~~ or authorized prescriber provides written approval that the patient is capable of participating and can self-administer the drug.

c. No change.

ITEM 87. Adopt the following **new** subrule 114.12(18):

114.12(18) *Obtaining nonprescription medications.* Facilities shall maintain a supply of standard nonprescription medications for use for children residing at the facility. Examples of standard nonprescription medications include cough drops and cough syrups, aspirin substitutes and other pain control medication, poison antidote, and diarrhea control medication.

a. All nonprescription medications kept on the premises for the use of residents shall be preapproved annually by a licensed pharmacist or an authorized prescriber.

b. Facilities shall maintain a list of all preapproved nonprescription medications. The list shall indicate standard uses, standard dosages, contraindications, side effects, and common drug interaction

warnings. The facility administrator or the administrator's designee shall be responsible for determining the scope of the list and brands and types of medications included.

c. Only nonprescription medications on the preapproved list shall be available for use. However, the facility administrator or the administrator's designee, in consultation with an authorized prescriber or licensed pharmacist, may approve use of a nonprescription medication that is not on the preapproved list for a specific child.

ITEM 88. Amend paragraph **114.13(3)"f"** as follows:

f. The child shall be allowed to send and receive mail unopened unless contraindicated. Contraindications, except those listed below, should be documented in the child's file. The facility may require the child to open incoming mail in the presence of a staff member when it is suspected to contain contraband articles, or when there is money that should be receipted and deposited.

ITEM 89. Amend subrule 114.20(1) as follows:

114.20(1) *Generally.* The facility shall have written policies regarding methods used for control and discipline of children which shall be available to all staff and to the child's family. Agency staff shall be in control of and responsible for discipline at all times. Discipline shall not include the withholding of basic necessities such as food, clothing, or sleep. Discipline shall not be used for anyone other than a child whose actions resulted in consequences. Group discipline shall not be used because of actions of an individual child or other children.

ITEM 90. Amend subrule 114.20(3) as follows:

114.20(3) *Physical restraint.* The use of physical restraint shall be employed only to prevent the child from injury to self, to others, or to property. Physical restraint must be conducted with the child in a standing position whenever possible. Each child has the right to be free from restraint and seclusion, of any form, used as a means of coercion, discipline, convenience, or retaliation.

a. to *c.* No change.

d. The rationale and authorization for the use of physical restraint and staff action and procedures carried out to protect the child's rights and to ensure safety shall be clearly ~~set forth~~ documented in the child's record by the responsible staff persons no later than the end of the shift in which the restraint was used.

e. Documentation of restraint use shall include, but need not be limited to, the following:

(1) Each use of restraint or control room.

(2) The time the intervention began and ended.

(3) The reason that required the resident to be restrained or put in a control room.

(4) The name of staff involved in the intervention.

ITEM 91. Amend subrule 114.20(4) as follows:

114.20(4) *Other restraints and control room.* Only comprehensive residential facilities may use a control room, locked cottages, or mechanical restraints ~~or chemical restraint~~.

ITEM 92. Adopt the following **new** subrule 114.20(6):

114.20(6) *Time out.*

a. A resident in time out must never be physically prevented from leaving the time out area.

b. Time out may take place away from the area of activity or from other residents, such as in the resident's room, or in the area of activity of other residents.

c. Staff must monitor the resident while the resident is in time out.

ITEM 93. Amend rule 441—114.21(237) as follows:

441—114.21(237) Illness, accident, death, or unauthorized absence from the facility.

114.21(1) *Notification of illness.* A facility shall notify the child's parent(s), guardian and responsible agency of any serious illness, incident involving serious bodily injury, ~~or~~ circumstances causing removal of the child from the facility, or elopement.

114.21(2) No change.

This rule is intended to implement Iowa Code section 237.2.

ITEM 94. Amend rule 441—114.22(237) as follows:

441—114.22(237) Records. In the event of closure of a facility, children's records shall be sent to the department of human services for retention according to the department's records retention policy or the period defined in the department's contract for services, whichever is longer.

This rule is intended to implement Iowa Code section 237.2.

ITEM 95. Rescind rule 441—114.23(237) and adopt the following **new** rule in lieu thereof:

441—114.23(237) Unannounced visits.

114.23(1) Frequency.

a. *Time.* At least one annual unannounced visit shall occur during periods of the day when the child would normally be in the facility and awake.

b. *Activities.* The visit shall include an assessment of, but not be limited to, the following areas:

(1) Interaction between the staff and child.

(2) Interaction between the children.

(3) Discussion with the child about experiences in the facility.

(4) A check on any previously cited deficiencies.

(5) Overall impression of the facility.

(6) Staff record checks.

c. *Recommendation.* The licensing staff shall recommend follow-up when needed.

114.23(2) Visits at other times may occur as a result of a self-reported incident or specific complaint.

This rule is intended to implement Iowa Code section 237.7.

ITEM 96. Renumber rule **441—114.24(237)** as **441—114.25(237)**.

ITEM 97. Adopt the following **new** rule 441—114.24(237):

441—114.24(237) Record check information. Record checks are required for any entity being considered for licensure or employment by a licensee on a facility campus where children reside to determine whether any founded child abuse reports or criminal convictions exist or whether the entity has been placed on a sex offender registry. The facility shall not employ any person who has been convicted of a crime involving the mistreatment or exploitation of a child. The facility shall not employ any person who has a record of a criminal conviction or founded child abuse report unless the department has evaluated the crime or abuse and determined that the crime or abuse does not merit prohibition of licensure, volunteering or employment.

114.24(1) *Procedure.* Each entity being considered for licensure or employment shall be checked for all of the following:

a. Records with the Iowa central abuse registry, using the request for child and dependent adult abuse information form;

b. Records with the Iowa division of criminal investigation, using the department's criminal history record check form;

c. Records with the Iowa sex offender registry;

d. Records with the child abuse registry of any state where the person has lived during the past five years; and,

e. Fingerprints provided to the department of public safety for submission through the state criminal history repository to the United States Department of Justice, Federal Bureau of Investigation, for a national criminal history check. Fingerprinting, for the purpose of a national criminal history check, is required for all entities considered for licensure or employment by a licensee on a facility campus where children reside.

114.24(2) *Evaluation of record.* If an entity for which a background check is required has a record of founded child or dependent adult abuse, a criminal conviction, or placement on a sex offender registry, the department shall prohibit licensure or employment unless an evaluation determines that the abuse, criminal conviction, or placement on a sex offender registry does not warrant prohibition.

a. Scope. The evaluation shall consider the nature and seriousness of the founded child or dependent adult abuse or criminal conviction report in relation to:

(1) The position sought or held,

(2) The time elapsed since the abuse or crime was committed,

(3) The degree of rehabilitation,

(4) The likelihood that the person will commit the abuse or crime again, and

(5) The number of abuses or crimes committed by the person.

b. Evaluation form. The person with the founded child or dependent adult abuse or criminal conviction report shall complete and return the department's record check evaluation form within ten calendar days of the date of receipt to be used to assist in the evaluation.

114.24(3) *Evaluation decision.* The department shall conduct the evaluation and make the decision of whether or not the founded child or dependent adult abuse or criminal conviction warrants prohibition of licensure or employment by a licensee. The department shall issue a notice of decision in writing to the requesting entity. The requesting entity is responsible for providing a copy of the notice to the prospective employee. Record check evaluations are valid for 30 days from the date the notice of decision is issued.

This rule is intended to implement Iowa Code section 237.7 and 2019 Iowa Acts, House File 644.

ITEM 98. Adopt the following **new** definition of "Locked cottage" in rule **441—115.2(237)**:

"Locked cottage" means an occupied comprehensive residential facility or an occupied unit of a comprehensive residential facility which is physically restrictive because of the continual locking of doors to prevent the children in care from leaving the facility.

ITEM 99. Amend rule **441—115.2(237)**, definitions of "Comprehensive residential facility" and "Secure facility," as follows:

"Comprehensive residential facility" means a facility which provides care and treatment for children who are unable to live in a family situation due to social, emotional, or physical disabilities and who require varying degrees of supervision as indicated in the individual ~~treatment~~ service plan. Care includes room and board. Services include the internal capacity for individual, family, and group treatment. These services and others provided to the child shall be under the administrative control of the facility. Community resources may be used for medical, recreational, and educational needs. Comprehensive residential facilities have higher staff to client ratios than community residential facilities and may use control rooms, locked cottages, and mechanical restraints~~, and chemical restraints~~ when these controls meet licensing requirements.

"Secure facility" means any comprehensive residential facility which employs, on a regular basis, locked doors or other ~~physical means~~ building characteristics intended to prevent children in care from leaving the facility without authorization. Secure facilities may only be used for children who have been adjudicated delinquent or placed pursuant to provisions of Iowa Code chapter 229.

ITEM 100. Amend subrule 115.4(1) as follows:

115.4(1) *Number of staff.*

a. The number and qualifications of the staff will vary depending on the needs of the children. There shall be at least a one to ~~five~~ eight staff to child ratio ~~during prime programming time~~ at all times children are awake and present in the facility and during supervised outings.

b. No change.

ITEM 101. Amend subparagraph **115.4(2)"b"(1)** as follows:

(1) Provide at least weekly group or individually scheduled in-person conferences with each resident for whom the caseworker is responsible. More frequent in-person contact shall be provided if required in the ~~care~~ service plan.

ITEM 102. Rescind rule 441—115.5(237) and adopt the following **new** rule in lieu thereof:

441—115.5(237) Casework services. The facility shall have the internal capacity to provide individual, family and group counseling and shall provide, but not be limited to, casework dealing with crisis intervention, daily living skills, peer relationships, future planning and preparation for discharge.

This rule is intended to implement Iowa Code section 237C.3.

ITEM 103. Amend subrule 115.6(4) as follows:

115.6(4) *Use of restraint.*

a. and *b.* No change.

c. A secure facility which uses ~~any form of~~ restraint permitted by licensing standards, other than physical restraint, shall ensure that all direct service staff are adequately trained in the following areas:

(1) The appropriate use and application or administration of each ~~approved~~ permitted form of restraint.

(2) and (3) No change.

d. A secure facility shall continually review any ~~placement of~~ use of a restraint on a child, ~~in any form of restraint~~ other than physical restraint. The facility shall release the child from restraint immediately when the situation precipitating restraint no longer exists.

ITEM 104. Amend subrule 115.7(2) as follows:

115.7(2) *Written policies.* When a comprehensive residential ~~treatment~~ facility uses a control room as part of its treatment program, the facility shall have written policies regarding its use. The policy shall:

a. to *c.* No change.

d. Limit the utilization of the control room to one of the following two circumstances:

(1) The child's ~~care~~ service plan includes and explains how this use of the control room fits into the ~~treatment~~ service plan for the child.

(2) A ~~one time~~ one-time placement in an emergency without a ~~care~~ service plan outlining the rationale for its use. This treatment shall be included in the ~~care~~ service plan for a second placement of a child in the control room.

ITEM 105. Amend subrule 115.7(4) as follows:

115.7(4) *Use of control room.* The control room shall be used only when a less restrictive alternative to quiet the child or ~~allow~~ allowing the child to gain control has failed and when it is in the ~~care~~ service plan. The following policies shall apply to the use of the control room:

a. to *e.* No change.

f. A staff member shall always be ~~within hearing distance of~~ positioned outside of the control room~~, the child shall be visually checked by the staff at least every 15 minutes, and each check shall be recorded~~. Visual and auditory observations of the child's behavior and condition shall be recorded at five-minute intervals, and a complete written report shall be documented in the child's file by the end of the staff person's work shift.

g. and *h.* No change.

ITEM 106. Amend subrule 115.8(3) as follows:

115.8(3) ~~*As one unit of treatment program*~~ *Policies.* ~~When a facility utilizes~~ Licensees utilizing a locked cottage ~~as one unit of its treatment program, it~~ shall have and follow written policies for the locked cottage. The policies shall be provided to the child, the child's parents or guardian and, when the child has an attorney, the child's attorney at the time of admission. The policies shall include:

a. and *b.* No change.

c. ~~Requirement~~ Requirements for documentation in writing of particular behaviors of a particular child that led to the ~~locked cottage~~ placement.

d. to *h.* No change.

ITEM 107. Amend rule 441—115.9(237) as follows:

441—115.9(237) Mechanical restraint. When a facility uses mechanical restraints as a part of its treatment program, the facility shall have and follow written policies regarding their use. These policies shall be approved by the licensor prior to their use. The policies shall be available to clients, parents or guardians, and referral sources at the time of admission. Policies shall also be available to staff.

115.9(1) and **115.9(2)** No change.

115.9(3) *In transporting children.* Notwithstanding paragraph 115.9(1)*"d,"* mechanical restraint of a child in case of a secure facility while that child is being transported to a point outside the facility is permitted when there is a serious risk of the child exiting the vehicle while the vehicle is in motion. The facility shall place a written report on each use in the child's case record. This report shall document the necessity for the use of restraint. Seat belts are not considered mechanical restraints. Agency policies should encourage the use of seat belts while transporting children and comply with Iowa law.

This rule is intended to implement Iowa Code section 237.4.

ITEM 108. Rescind rule 441—115.10(237) and adopt the following **new** rule in lieu thereof:

441—115.10(237) Restraint and control room use debriefing.

115.10(1) *Initial discussion.* Within a short time after the use of the restraint or control room, staff involved in an intervention and the resident must have a face-to-face discussion except when the presence of a particular staff person may jeopardize the well-being of the resident.

a. Other staff and the resident's parent(s) or legal guardian(s) may participate in the discussion when it is deemed appropriate by the facility. The facility must conduct such discussion in a language that is understood by the resident's parent(s) or legal guardian(s).

b. The discussion must provide both the resident and staff the opportunity to discuss the circumstances resulting in the use of the restraint or control room and strategies to be used by the staff, the resident, or others that could prevent the future use of the restraint or control room.

115.10(2) *Staff discussion.* Within 24 hours after the use of the restraint or control room, all staff involved in the intervention, and appropriate supervisory and administrative staff, must conduct a debriefing session that includes, at a minimum, a review and discussion of the intervention including, but not limited to, the following:

a. The emergency safety situation that required the intervention, including discussion of the precipitating factors that led up to the intervention;

b. Alternative techniques that might have prevented the use of the restraint or control room;

c. The procedures, if any, that staff are to implement to prevent any recurrence of the use of the restraint or control room; and

d. The outcome of the intervention, including any injuries that may have resulted from the use of the restraint or control room.

115.10(3) *Documentation.* Staff must document in the resident's record that both debriefing sessions took place and must include in that documentation the names of staff who were present for the debriefing, the names of staff who were excused from the debriefing, and any reasons that are applicable.

This rule is intended to implement Iowa Code section 237C.3.

ITEM 109. Adopt the following **new** rule 441—115.11(237):

441—115.11(237) Chemical restraint. Chemical restraint shall not be utilized in a comprehensive residential facility and each comprehensive residential facility shall have written policies that clearly prohibit the use of chemical restraint.

This rule is intended to implement Iowa Code section 237C.3.

ITEM 110. Amend **441—Chapter 116**, title, as follows:

LICENSING AND REGULATION OF RESIDENTIAL FACILITIES
FOR CHILDREN WITH AN INTELLECTUAL DISABILITY OR BRAIN INJURY

ITEM 111. Amend rule 441—116.1(237) as follows:

441—116.1(237) Applicability. This chapter relates specifically to the licensing and regulation of residential facilities serving children with an intellectual disability or brain injury. Refer to 441—Chapter 112 for basic licensing and regulation of all foster care facilities, 441—Chapter 114 for definitions and minimum standards for all group living foster care facilities~~, including community care facilities,~~ and 441—Chapter 115 for definitions and standards for comprehensive residential facilities for children. Chapters 112 and 114 apply to community residential facilities for children with an intellectual disability or brain injury and Chapters 112, 114 and 115 apply to comprehensive residential facilities for children with an intellectual disability or brain injury with the exception of the areas discussed specifically in this chapter.

This rule is intended to implement Iowa Code chapter 237.

ITEM 112. Amend rule **441—116.2(237)**, definitions of "Community residential facility for children with an intellectual disability" and "Comprehensive residential facility for children with an intellectual disability," as follows:

"Community residential facility for children with an intellectual disability or brain injury" means a community residential facility as defined in rule 441—114.2(237) which serves children with an intellectual disability as defined in Iowa Code chapter 222 or brain injury as defined in Iowa Code chapter 225C.

"Comprehensive residential facility for children with an intellectual disability or brain injury" means a comprehensive residential facility as defined in rule 441—115.2(237) which serves children with an intellectual disability as defined in Iowa Code chapter 222 or brain injury as defined in Iowa Code chapter 225C.

ITEM 113. Amend rule 441—116.5(237) as follows:

441—116.5(237) Program components. In addition to the requirements of 441—subrule 114.8(3), the facility shall ~~define in writing~~ have and follow a written procedure that defines who is responsible for overseeing personal hygiene of children and maintaining general orderliness of the facility.

This rule is intended to implement Iowa Code section 237.3.

ITEM 114. Amend rule 441—116.6(237) as follows:

441—116.6(237) Restraint. In addition to the provisions of 441—Chapters 114 and 115, a restraint may be used as stated in the child's individual ~~care~~ service plan as approved by the parent or guardian, caseworker, and facility as long as that facility meets the standards for utilizing that particular type of restraint.

This rule is intended to implement Iowa Code section 237.4.

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EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 12/4/19.

ARC 4794C

IOWA FINANCE AUTHORITY[265]

Adopted and Filed

Rule making related to qualified allocation plans

The Iowa Finance Authority hereby amends Chapter 12, "Low-Income Housing Tax Credits," Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code section 16.5.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code section 16.35 and Section 42 of the Internal Revenue Code.

Purpose and Summary

The updated 2020-21 9% Qualified Allocation Plan (QAP) and the updated 2020-21 4% Qualified Allocation Plan set forth the purposes of the plans, administrative information required for participation, threshold criteria, selection criteria, postreservation requirements, the appeal process, and compliance-monitoring components. The plans also establish the fees for filing an application for low-income housing tax credits and for compliance monitoring. Copies of the QAPs are available upon request from the Authority and are available electronically on the Authority's website at www.iowafinanceauthority.gov. It is the Authority's intent to incorporate the updated 2020-21 QAPs by reference consistent with Iowa Code chapter 17A and 265—subrules 17.4(2) and 17.12(2).

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on September 25, 2019, as **ARC 4665C**. A public hearing was held on October 15, 2019, at 10 a.m. at the Authority's offices, 1963 Bell Avenue, Suite 200, Des Moines, Iowa.

Comments on the QAPs received at the public hearing included comments relating to the set-aside awards, underwriting, developer fees, and scoring items. The Authority also received written comments about the QAPs that were similar to the comments made at the public hearing.

The only changes from the amendments published in the Notice were made in rules 265—12.1(16) and 265—12.2(16) to adjust the date subsequent to which no amendments or additions to the QAPs may be included and no modifications or amendments to the Internal Revenue Code may be incorporated by reference. The date proposed in the Notice was September 4, 2019; that date has been changed to November 6, 2019.

In addition, in response to public comments about the QAPs, the Authority made certain changes to the QAPs based on those comments. For example, each state-allowed set-aside category will be limited to one award, allowing more funds for developers in the general pool, and the expenses and debt allowed in underwriting calculations have been adjusted. Also, funds from the HOME Investment Partnerships Program (HOME funds) will be available to rural projects and the Supportive Housing for Families Project. Additionally, as a result of public comments, scoring items related to construction have been eliminated, a late fee has been removed, and the tax credit cap has been increased to assist in reducing development costs.

Adoption of Rule Making

This rule making was adopted by the Authority on November 6, 2019.

Fiscal Impact

The removal of late fees will result in a decrease of revenue for the Authority. Because of fluctuations in the need for payment of late fees, the estimated fiscal impact of removing late fees is uncertain but likely to be less than $10,000.

Jobs Impact

After analysis and review of this rule making, the impact on jobs is expected to be consistent with the impact of previous years' QAPs. The Low-Income Housing Tax Credit Program has had a substantial

positive impact on employment in Iowa, creating many jobs annually in the construction, finance, and property management fields, among others.

Waivers

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Authority for a waiver of the discretionary provisions, if any, pursuant to 265—Chapter 18.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making at its regular monthly meeting or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

Effective Date

This rule making will become effective on January 8, 2020.

The following rule-making actions are adopted:

ITEM 1. Amend rule 265—12.1(16) as follows:

265—12.1(16) Qualified allocation plans.

12.1(1) *Four percent qualified allocation plan.* The qualified allocation plan ~~entitled~~ titled Iowa Finance Authority Low-Income Housing Tax Credit Program 2020-21 4% Qualified Allocation Plan ("4% QAP") dated ~~September 5, 2018~~ November 6, 2019, shall be the qualified allocation plan for the allocation of 4 percent low-income housing tax credits consistent with IRC Section 42 and the applicable Treasury regulations and Iowa Code section 16.35. The 4% QAP is incorporated by reference pursuant to Iowa Code section 17A.6 and 265—subrules 17.4(2) and 17.12(2). The 4% QAP does not include any amendments or editions created subsequent to ~~September 5, 2018~~ November 6, 2019.

12.1(2) *Nine percent qualified allocation plan.* The qualified allocation plan ~~entitled~~ titled Iowa Finance Authority Low-Income Housing Tax Credit Program ~~2019~~ 2020-21 9% Qualified Allocation Plan ("9% QAP") shall be the qualified allocation plan for the allocation of 9 percent low-income housing tax credits consistent with IRC Section 42 and the applicable Treasury regulations and Iowa Code section 16.35. The 9% QAP is incorporated by reference pursuant to Iowa Code section 17A.6 and 265—subrules 17.4(2) and 17.12(2). The 9% QAP does not include any amendments or editions created subsequent to ~~September 5, 2018~~ November 6, 2019.

ITEM 2. Amend rule 265—12.2(16) as follows:

265—12.2(16) Location of copies of the plans.

12.2(1) *4% QAP.* The 4% QAP can be reviewed and copied in its entirety on the authority's website at www.iowafinanceauthority.gov. Copies of the 4% QAP, application, and all related attachments and exhibits shall be deposited with the administrative rules coordinator and at the state law library and shall be available on the authority's website. The 4% QAP incorporates by reference IRC Section 42 and the regulations in effect as of ~~September 5, 2018~~ November 6, 2019. Additionally, the 4% QAP incorporates by reference Iowa Code section 16.35. These documents are available from the state law library, and information about these statutes, regulations and rules is on the authority's website.

12.2(2) *9% QAP.* The 9% QAP can be reviewed and copied in its entirety on the authority's website at www.iowafinanceauthority.gov. Copies of the 9% QAP, application, and all related attachments and exhibits shall be deposited with the administrative rules coordinator and at the state law library and shall be available on the authority's website. The 9% QAP incorporates by reference IRC Section 42 and the regulations in effect as of ~~September 5, 2018~~ November 6, 2019. Additionally, the 9% QAP incorporates

by reference Iowa Code section 16.35. These documents are available from the state law library, and information about these statutes, regulations and rules is on the authority's website.

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ARC 4795C

IOWA FINANCE AUTHORITY[265]

Adopted and Filed

Rule making related to the home and community-based services revolving loan program

The Iowa Finance Authority hereby amends Chapter 21, "Home and Community-Based Services Revolving Loan Program," Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code section 16.5.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code section 16.47.

Purpose and Summary

This rule making updates statutory references and references to departments that no longer exist. This rule making also changes the requirements to demonstrate a local contributing effort in order to better align the Home and Community-Based Services Revolving Loan Program with other revolving loan programs administered by the Authority.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on September 25, 2019, as **ARC 4666C**. No public comments were received. No changes from the Notice have been made.

Adoption of Rule Making

This rule making was adopted by the Authority on November 6, 2019.

Fiscal Impact

This rule making has no fiscal impact to the State of Iowa.

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Authority for a waiver of the discretionary provisions, if any, pursuant to 265—Chapter 18.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making at its regular monthly meeting or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

Effective Date

This rule making will become effective on January 8, 2020.

The following rule-making actions are adopted:

ITEM 1. Amend rule 265—21.1(16) as follows:

265—21.1(16) Purpose. Through its home and community-based services revolving loan program (program), the authority seeks to assist in the development and expansion of specific community-based services (adult day services, respite services, congregate meals, health and wellness, health screening, and nutritional assessments) that will allow ~~older~~ persons of low income to remain in their homes. This chapter implements Iowa Code section ~~16.183 as amended by 2006 Iowa Acts, House File 2734, section 34,~~ 16.47 and furthers the goals specified in Iowa Code section 231.3.

ITEM 2. Amend subrule 21.5(1) as follows:

21.5(1) Projects eligible for assistance must meet the following criteria:

a. In the case of adult day services, the project must:

(1) to (3) No change.

(4) Become and remain certified as an adult day services provider, as set forth in ~~321—Chapter 24~~ 481—Chapters 67 and 70.

b. to *e.* No change.

f. In the case of programming space for nutritional assessments, the program must:

(1) and (2) No change.

(3) Accept third-party reimbursement for nutritional counseling, including one or both of the following:

1. Medicaid 1915(c) waiver(s) and meet the standards set forth in human services department rules in 441—Chapters 77 and 78;

2. The Older Americans Act, 42 U.S.C. § 3001 et seq., and meet the standards set forth in ~~elder affairs department~~ the department on aging's rules in ~~321—Chapter 7~~ 17—Chapter 7.

g. to *j.* No change.

ITEM 3. Amend subrule 21.5(3) as follows:

21.5(3) Assistance will be provided upon the following terms and conditions:

a. to *e.* No change.

f. Each project receiving assistance ~~must~~ may demonstrate a local contributing effort, as such term is used in Iowa Code section 16.4~~, of not less than 1 percent of the total loan amount~~.

g. No change.

ITEM 4. Amend rule 265—21.6(16) as follows:

265—21.6(16) Authority analysis of applications. Authority staff, in cooperation with the department of ~~elder affairs staff~~ inspections and appeals or the department on aging (or both, as necessary), will analyze and underwrite each potential project and will make recommendations for funding assistance to the board of the authority. Authority staff will use such procedures and processes in its underwriting and analysis as it deems necessary and appropriate in connection with furthering the purposes of this program. In addition, the authority anticipates that, because of the complex nature of each transaction, and the particular set of circumstances attributable to each particular application/transaction, the terms

and conditions of loans may vary from project to project. The authority will make available its general operating procedures and guidelines for this program.

ITEM 5. Amend **265—Chapter 21**, implementation sentence, as follows:

These rules are intended to implement Iowa Code section ~~16.5(17) and section 16.183 as amended by 2006 Iowa Acts, House File 2734, section 34~~ 16.47.

[Filed 11/12/19, effective 1/8/20]
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EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 12/4/19.

ARC 4796C

PHARMACY BOARD[657]

Adopted and Filed

Rule making related to abuse identification and reporting training

The Board of Pharmacy hereby amends Chapter 2, "Pharmacist Licenses," Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code section 147.76.

State or Federal Law Implemented

This rule making implements, in whole or in part, 2019 Iowa Acts, House File 731.

Purpose and Summary

During the 2019 Legislative Session, changes were made to the Iowa Code relating to training of health care professionals who qualify as mandatory reporters. These amendments reflect the changes made to the Iowa Code.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on August 14, 2019, as **ARC 4591C**. The Board received comments from three pharmacists who stated that the existing training requirements were sufficient and requested that the Board allow combined training programs and not implement the changes. The suggestions provided by the commenters could not be implemented by the Board because they are contrary to the language in the Iowa Code. No changes from the Notice have been made.

Adoption of Rule Making

This rule making was adopted by the Board on November 5, 2019.

Fiscal Impact

This rule making has no fiscal impact to the State of Iowa.

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Board for a waiver of the discretionary provisions, if any, pursuant to 657—Chapter 34.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making at its regular monthly meeting or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

Effective Date

This rule making will become effective on January 8, 2020.

The following rule-making action is adopted:

Amend rule 657—2.16(235B,272C) as follows:

657—2.16(235B,272C) Mandatory training for identifying and reporting abuse. "Mandatory training for identifying and reporting abuse" means training on identifying and reporting child abuse or dependent adult abuse required of a pharmacist who qualifies as a mandatory abuse reporter under Iowa Code section 232.69 or 235B.16. A licensed pharmacist shall be responsible for determining whether or not, by virtue of the pharmacist's practice or employment, the pharmacist qualifies as a mandatory abuse reporter under either or both of these sections.

2.16(1) *Training required.* A licensed pharmacist who qualifies as a mandatory abuse reporter shall have completed ~~approved~~ abuse education training provided by the Iowa department of human services as follows.

a. Mandatory reporter of child abuse. A pharmacist who qualifies as a mandatory reporter of child abuse shall have completed two hours of training in child abuse identification and reporting within ~~the previous five years~~ six months of initial employment or self-employment. The pharmacist shall complete at least one hour of additional child abuse identification and reporting training every three years.

b. Mandatory reporter of dependent adult abuse. A pharmacist who qualifies as a mandatory reporter of dependent adult abuse shall have completed two hours of training in dependent adult abuse identification and reporting within ~~the previous five years~~ six months of initial employment or self-employment. The pharmacist shall complete at least one hour of additional dependent adult abuse identification and reporting training every three years.

~~*c. Mandatory reporter of child abuse and dependent adult abuse.* A pharmacist who qualifies as a mandatory reporter of child abuse and dependent adult abuse may complete separate courses pursuant to paragraphs *"a"* and *"b"* or may complete, within the previous five years, one combined two-hour course that includes curricula for identifying and reporting child abuse and dependent adult abuse.~~

2.16(2) No change.

2.16(3) *Mandatory training records.* A pharmacist subject to the requirements of this rule shall maintain documentation of completion of the mandatory training for identifying and reporting abuse, including dates, subjects, duration of programs, and proof of participation, for ~~five~~ three years following the date of the training. The board may audit this information at any time within the ~~five-year~~ three-year period.

~~**2.16(4)** *Approved programs.* "Approved abuse education training" means a training program using a curriculum approved by the abuse education review panel of the Iowa department of public health.~~

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ARC 4797C

PHARMACY BOARD[657]

Adopted and Filed

Rule making related to synthetic cannabinoids and Schedule IV substances

The Board of Pharmacy hereby amends Chapter 10, "Controlled Substances," Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code sections 124.201 and 124.301.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code sections 124.201 and 124.301.

Purpose and Summary

The amendments temporarily place five synthetic cannabinoids into Schedule I as well as two substances into Schedule IV of the Iowa Uniform Controlled Substances Act in response to action taken by the federal Drug Enforcement Administration (DEA).

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on August 14, 2019, as **ARC 4592C**. No public comments were received. A minor change was made in Item 4 (schedule of solriamfetol) in response to a recent correction published by DEA in the federal register to change the spelling of "car-bamate" to "carbamate."

Adoption of Rule Making

This rule making was adopted by the Board on November 5, 2019.

Fiscal Impact

This rule making has no fiscal impact to the State of Iowa.

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Board for a waiver of the discretionary provisions, if any, pursuant to 657—Chapter 34.

PHARMACY BOARD[657](cont'd)

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making at its regular monthly meeting or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

Effective Date

This rule making will become effective on January 8, 2020.

The following rule-making actions are adopted:

ITEM 1. Rescind paragraphs **10.39(2)"t"** to **"ae."**

ITEM 2. Adopt the following **new** paragraphs **10.39(2)"at"** to **"ax"**:

at. Ethyl 2-(1-(5-fluoropentyl)-1H-indazole-3-carboxamido)-3,3-dimethylbutanoate, its optical, positional, and geometric isomers, salts and salts of isomers. Other name: 5F-EDMB-PINACA.

au. Methyl 2-(1-(5-fluoropentyl)-1H-indole-3-carboxamido)-3,3-dimethylbutanoate, its optical, positional, and geometric isomers, salts and salts of isomers. Other name: 5F-MDMB-PICA.

av. N-(adamantan-1-yl)-1-(4-fluorobenzyl)-1H-indazole-3-carboxamide, its optical, positional, and geometric isomers, salts and salts of isomers. Other names: FUB-AKB48, FUB-APINACA, AKB48 N-(4-FLUOROBENZYL).

aw. 1-(5-fluoropentyl)-N-(2-phenylpropan-2-yl)-1H-indazole-3-carboxamide, its optical, positional, and geometric isomers, salts and salts of isomers. Other names: 5F-CUMYL-PINACA, SGT-25.

ax. (1-(4-fluorobenzyl)-1H-indol-3-yl)(2,2,3,3-tetramethylcyclopropyl) methanone, its optical, positional, and geometric isomers, salts and salts of isomers. Other name: FUB-144.

ITEM 3. Adopt the following **new** subrule 10.39(6):

10.39(6) Amend Iowa Code section 124.210(3) by adding the following new paragraph *"bd"*:

bd. Brexanolone.

ITEM 4. Adopt the following **new** subrule 10.39(7):

10.39(7) Amend Iowa Code section 124.210(6) by adding the following new paragraph *"m"*:

m. Solriamfetol (2-amino-3-phenylpropyl carbamate; benzenepropanol, beta-amino-, carbamate (ester)).

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EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 12/4/19.

ARC 4798C

PHARMACY BOARD[657]

Adopted and Filed

Rule making related to telepharmacy practice

The Board of Pharmacy hereby amends Chapter 13, "Telepharmacy Practice," Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code sections 147.76 and 155A.13.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code section 155A.13.

Purpose and Summary

These amendments allow the pharmacist in charge (PIC) of a managing pharmacy to designate another pharmacist to serve as PIC of a telepharmacy site, require the PIC of the telepharmacy site to be employed by the managing pharmacy and to be identified on the pharmacy license of the telepharmacy site, allow training of telepharmacy technicians at the managing pharmacy or at another pharmacy that uses the same audiovisual technology system, and require the display at the telepharmacy site of the original license to practice pharmacy in Iowa of the telepharmacy site's PIC and the current license renewal certificates of the telepharmacy site's PIC and of any pharmacist who may provide counseling to patients at the telepharmacy site.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on August 14, 2019, as **ARC 4593C**.

The Board received three comments on the proposed rule making. One comment proposed a change to subrule 13.9(4) to not require that the PIC of the managing pharmacy ensure that the audiovisual connection is functional but to instead require that any pharmacist who is on duty ensure the functioning of the connection. The Board declined this suggestion since the Board's expectation for the PIC to ensure the functioning of the connection is not intended to mean that only the PIC can do this. The Board recognizes that the PIC is not physically in the pharmacy at all times and expects the PIC to ensure a legal operation through the establishment and implementation of policies and procedures. The second comment related to the proposed amendment which directs the PIC at the managing pharmacy to designate a PIC for the telepharmacy site but which allows the PIC to oversee both sites if desired. The commenter suggested changing "shall" to "may," but the Board declined the suggestion because it did not want to cause confusion by causing people to think that having a PIC at the telepharmacy site is optional. The third comment was in support of the rule making, with no recommended changes.

While the Board made no changes in responses to the comments, it did add a new Item 3 to make one nonsubstantive amendment to paragraph 13.8(7)"d" to change the phrase "tech-check-tech practice" to "technician product verification activities" for consistency in the Board's rules. Subsequent item numbers have been renumbered accordingly.

Adoption of Rule Making

This rule making was adopted by the Board on November 5, 2019.

Fiscal Impact

This rule making has no fiscal impact to the State of Iowa.

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Board for a waiver of the discretionary provisions, if any, pursuant to 657—Chapter 34.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making at its regular monthly meeting or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

Effective Date

This rule making will become effective on January 8, 2020.

The following rule-making actions are adopted:

ITEM 1. Amend rule 657—13.4(155A) as follows:

657—13.4(155A) Responsible parties. The responsibilities identified and assigned pursuant to rule 657—8.3(155A) shall be assigned, as appropriate, to the managing pharmacy and the telepharmacy site, by and through their respective owners or license holders, to the pharmacist in charge of each respective pharmacy and to staff pharmacists, including verifying pharmacists. A telepharmacy technician shall share responsibility with the pharmacist in charge of the telepharmacy site, the telepharmacy site, and the verifying pharmacist, as assigned in rule 657—8.3(155A), for all functions assigned to and performed by the telepharmacy technician.

ITEM 2. Amend subrule 13.8(2) as follows:

13.8(2) *Pharmacist in charge.* The pharmacist in charge of the ~~telepharmacy site shall be the pharmacist in charge of the~~ managing pharmacy shall designate a pharmacist in charge of the telepharmacy site pursuant to subrule 13.9(3).

ITEM 3. Amend paragraph **13.8(7)"d"** as follows:

d. ~~Tech-check-tech practice~~ Technician product verification activities.

ITEM 4. Adopt the following **new** subrule 13.8(11):

13.8(11) *Display of pharmacist license.* A telepharmacy site shall display, in a position visible to the public, the original license to practice pharmacy in Iowa of the pharmacist in charge of the telepharmacy site. The telepharmacy site shall display, in a position visible to the public, the current license renewal certificate, which may be a photocopy of an original renewal certificate, of the pharmacist in charge of the telepharmacy site and of each pharmacist who may provide patient counseling to patients at the telepharmacy site. A pharmacist working on site while the telepharmacy site is open to the public shall display an original license and current license renewal certificate pursuant to 657—subrule 8.4(1).

ITEM 5. Amend subrules 13.9(3) to 13.9(5) as follows:

13.9(3) *Pharmacist in charge.* The pharmacist in charge of the managing pharmacy shall ~~be the~~ designate a pharmacist in charge of the telepharmacy site, who will be identified on the license of the telepharmacy site. The pharmacist in charge of the telepharmacy site shall be employed by the managing pharmacy. Nothing in this subrule shall prohibit the pharmacist in charge of the managing pharmacy from simultaneously serving as the pharmacist in charge of the telepharmacy site.

13.9(4) *Adequate audiovisual connection.* The pharmacist in charge of the managing pharmacy shall ensure adequate audiovisual connection with the telepharmacy site during all periods when the telepharmacy site is open for business including ensuring confidentiality of communications in compliance with state and federal confidentiality laws.

13.9(5) *Monthly inspection.* The pharmacist in charge of the telepharmacy site or delegate pharmacist shall be responsible for performing a monthly inspection of the telepharmacy site. Inspection reports shall be signed by the individual pharmacist who performed the inspection. Inspection records and reports shall be maintained at the telepharmacy site for two years following the date of the inspection. A copy of the inspection report shall be provided to and maintained at the managing pharmacy. The monthly inspection shall include, but may not be limited to, the following:

a. to *j.* No change.

ITEM 6. Amend subrule 13.11(1) as follows:

13.11(1) *Practice experience.* Before practicing in a telepharmacy site, a telepharmacy technician shall have completed a minimum of 2,000 hours of practice experience as a certified pharmacy technician, at least 1,000 hours of which shall be practicing in an Iowa-licensed pharmacy and 160 hours of which shall be practicing in a managing pharmacy, at another pharmacy which uses the same audiovisual technology system, or at the telepharmacy site under the direct supervision of an onsite pharmacist.

ITEM 7. Amend subrules 13.16(3) and 13.16(6) as follows:

13.16(3) *Identification of managing pharmacy.* The telepharmacy site application shall include identification of the managing pharmacy, including pharmacy name, license number, address, telephone number, and pharmacist in charge~~, and~~; a statement from the managing pharmacy or pharmacist in charge indicating that the managing pharmacy has executed a written agreement to provide the required services and oversight to the telepharmacy site; and a statement from the pharmacist in charge of the managing pharmacy designating the pharmacist in charge of the telepharmacy site pursuant to subrule 13.9(3).

13.16(6) *Key personnel.* The telepharmacy site application shall identify key personnel including the pharmacist in charge of the managing pharmacy ~~and~~, the pharmacist in charge of the telepharmacy site, and the telepharmacy technician or technicians at the telepharmacy site. Identification shall include the names, the license or registration numbers, and the titles of the key personnel. Telepharmacy technician identification shall also include a copy of the telepharmacy technician's current national certification or other verification of the telepharmacy technician's current national certification.

ITEM 8. Amend rule 657—13.17(124,155A) as follows:

657—13.17(124,155A) Changes to telepharmacy site or managing pharmacy. Except as specifically provided by these rules, a change to a telepharmacy site shall require compliance with the licensure and notification requirements of the specific type of change identified in 657—subrules 8.35(6) and 8.35(7). A change affecting the CSA registration shall comply with the appropriate requirements of rule ~~657—10.11(124)~~ 657—10.9(124).

13.17(1) *Change of pharmacist in charge.* A change of pharmacist in charge at either the managing pharmacy or telepharmacy site shall require submission of a pharmacy license application for the ~~managing pharmacy and the telepharmacy site~~ respective pharmacy location as provided by 657—subrule 8.35(6) and rule 657—13.16(124,155A).

13.17(2) and **13.17(3)** No change.

ITEM 9. Amend subrule 13.21(1) as follows:

13.21(1) *Minimum requirements.* Policies and procedures shall define the frequency of review, and written documentation of review by the respective pharmacist in charge shall be maintained. Policies and procedures shall address, at a minimum, the following:

a. to *k.* No change.

[Filed 11/8/19, effective 1/8/20]

[Published 12/4/19]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 12/4/19.

ARC 4800C

PUBLIC SAFETY DEPARTMENT[661]

Adopted and Filed

Rule making related to vehicle impoundment

The Department of Public Safety hereby amends Chapter 6, "Vehicle Impoundment," Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code sections 80.9(2) and 321.89.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code sections 80.9(2) and 321.89.

Purpose and Summary

The purpose of the amendments to Chapter 6 is to update the Department's rules for vehicle impoundment in order to align them with the Iowa Supreme Court decision in *State v. Ingram* dealing with the inventory of closed containers. Additional amendments are made within the chapter to provide a clearer interpretation of when a vehicle may be impounded.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on September 25, 2019, as **ARC 4667C**. No public comments were received. No changes from the Notice have been made.

Adoption of Rule Making

This rule making was adopted by the Department on November 1, 2019.

Fiscal Impact

This rule making has no fiscal impact to the State of Iowa.

Jobs Impact

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

Waivers

Pursuant to the provisions of rule 661—10.222(17A), the Department does not have authority to waive requirements established by statute. Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to the provisions of rule 661—10.222(17A).

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making at its regular monthly meeting or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

Effective Date

This rule making will become effective on January 8, 2020.

The following rule-making action is adopted:

Amend **661—Chapter 6** as follows:

CHAPTER 6
VEHICLE IMPOUNDMENT

661—6.1(17A,321) Vehicle impoundment. The patrol division and other peace officer members of the department may impound any vehicle determined to be "abandoned" as defined in Iowa Code section ~~321.89(1)~~ ~~*"b,"*~~ 321.89(1)*"a,"* provided that:

1. The officer shall first attempt to determine the owner through department of transportation records and request that the communications division advise an owner found thereby that the vehicle must be moved within a reasonable time or it will be impounded, and

2. Either the owner cannot be found or the owner fails to remove the vehicle within a reasonable time.

661—6.2(17A,321) Vehicles which may be impounded immediately.

6.2(1) No change.

6.2(2) Vehicles which are involved in an accident when immediate impoundment is necessary:

a. To preserve evidence which will be used in an administrative or judicial proceeding; or

b. To protect the vehicle from theft or further damage when the ~~legal custodian~~ driver or owner is unavailable or incapable to give consent to such impoundment or make other arrangements for the vehicle; or

c. To prevent further accidents when the vehicle is so situated as to appear to constitute a hazard to traffic.

6.2(3) Vehicles which an officer has ~~reason to believe are~~ probable cause that the vehicle is being used to transport contraband.

6.2(4) Vehicles involved in a person's death when the medical examiner or a peace officer determines:

a. That seizure is necessary to secure evidence needed in the investigation, including but not limited to an investigation of the cause and manner of death.

b. That circumstances indicate the vehicle may be removed or tampered with before written authorization for its impoundment can be obtained, or that written authorization for impoundment has been refused or is impracticable.

c. That the vehicle is situated on a public highway in such a manner that it may constitute a hazard to traffic.

6.2(5) Vehicles under the control of a person at the time of arrest:

a. No change.

b. If the vehicle is not capable of legal operation or the vehicle is not legally parked under state or local code or ordinance; or

~~*b.*~~ *c.* To preserve evidence which will be used in an administrative or judicial proceeding; or

~~*c.*~~ *d.* To protect the vehicle from theft or further damage when the ~~legal custodian~~ driver or owner is unavailable or incapable to give consent to such impoundment or make other arrangements for the vehicle.

6.2(6) Vehicles positioned upon a public highway in such a ~~location as to indicate~~ manner that ~~they~~ may constitute a hazard to traffic.

661—6.3(17A,321) Vehicles which need not be impounded immediately.

~~**6.3(1)**~~ If a vehicle is unattended, an officer shall tag it. A record is kept by the officer at the district to which the officer is assigned. After the period of time prescribed in Iowa Code section 321.89, the unattended vehicle shall be declared an abandoned vehicle.

~~**6.3(2)** If the vehicle is thought to be abandoned, the officer shall attempt to determine the owner through department of transportation records, and request that the communications division advise the owner that the vehicle must be moved within a reasonable time or it will be impounded. If the owner cannot be contacted, or if the owner does not remove the vehicle, the vehicle may be impounded.~~

661—6.4(17A,321) Impoundment procedure.

6.4(1) No change.

6.4(2) Within 24 hours of towing an impounded vehicle, the officer shall:

a. Complete an inventory of all property in the vehicle and a notation of any parts of the vehicle which appear to be missing or damaged. ~~The inventory shall include a list of the contents of each container in the vehicle. Each container shall be opened unless the contents of a particular container are evident from its exterior. If keys, a locksmith, or other means of access are not reasonably available to the officer, the officer is authorized to break locks to gain access to the vehicle and its locked compartments.~~ The inventory is a record which is intended for use in ensuring the safe return of the lawful possessor's property and resolving questions regarding the condition or contents of the vehicle.

b. No change.

This rule is intended to implement Iowa Code sections 80.9(2)*"a"* and 321.89.

661—6.5(17A,321) No change.

661—6.6(321) No change.

These rules are intended to implement Iowa Code sections 80.9(2)*"a"* and 321.89 and *Florida v. Wells,* 110 Sup. Ct. 1632.

[Filed 11/5/19, effective 1/8/20]
[Published 12/4/19]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 12/4/19.

ARC 4801C

PUBLIC SAFETY DEPARTMENT[661]

Adopted and Filed

Rule making related to identification card replacement fees

The Department of Public Safety hereby amends Chapter 93, "Identification Cards for Former Peace Officers of the Iowa Department of Public Safety," Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in 18 U.S.C. §926C.

State or Federal Law Implemented

This rule making implements, in whole or in part, 18 U.S.C. §926C.

Purpose and Summary

The purpose of the amendment to Chapter 93 is to more accurately reflect the Department's practice of not charging a fee to qualified former peace officers who request a replacement identification card.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on July 17, 2019, as **ARC 4549C**. No public comments were received. No changes from the Notice have been made.

Adoption of Rule Making

This rule making was adopted by the Department on November 1, 2019.

Fiscal Impact

This rule making has an extremely low fiscal impact to the State of Iowa. Although the amendment removes a fee of $5 per replacement identification card, this fee is routinely not charged to qualified former peace officers. The Department only began printing these replacement cards in-house nine months ago and has printed three replacement cards in that time frame.

Jobs Impact

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

Waivers

Pursuant to the provisions of rule 661—10.222(17A), the Department does not have authority to waive requirements established by statute. Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to the provisions of rule 661—10.222(17A).

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making at its regular monthly meeting or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

Effective Date

This rule making will become effective on January 8, 2020.

The following rule-making action is adopted:

Amend subrule 93.3(9) as follows:

93.3(9) If a qualified former peace officer of the department loses an identification card, or if a card is damaged, a replacement may be issued. The former officer shall notify the office of the commissioner of the loss or damage and may apply for a replacement card. ~~A nonrefundable fee of $5, to defray expenses of the department, shall be charged for each application for a replacement former peace officer ID card. The fee is payable to the Iowa Department of Public Safety by personal check or money order. If loss of or damage to the former peace officer identification card occurred in an area subject to a formal disaster emergency declaration issued by the governor pursuant to Iowa Code section 29.6 and is attributable to the conditions which led to the disaster emergency declaration, no charge shall apply.~~

[Filed 10/21/19, effective 1/8/20]
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EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 12/4/19.

ARC 4802C

PUBLIC SAFETY DEPARTMENT[661]

Adopted and Filed

Rule making related to closed circuit surveillance systems

The Department of Public Safety hereby amends Chapter 141, "Closed Circuit Surveillance Systems," Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code section 99F.4.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code section 99F.4.

Purpose and Summary

The purpose of amending Chapter 141, regarding closed circuit surveillance systems, is to incorporate sports wagering into the existing scheme of surveillance required of gambling activities in the state. The goal is to ensure that surveillance systems are able to capture all sports wagering-related activities within approved areas of a casino.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on September 11, 2019, as **ARC 4650C**. No public comments were received. No changes from the Notice have been made.

Adoption of Rule Making

This rule making was adopted by the Department on October 28, 2019.

Fiscal Impact

This rule making has no fiscal impact to the State of Iowa.

Jobs Impact

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

Waivers

Pursuant to the provisions of rule 661—10.222(17A), the Department does not have authority to waive requirements established by statute. Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to the provisions of rule 661—10.222(17A).

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making at its regular monthly meeting or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

Effective Date

This rule making will become effective on January 8, 2020.

The following rule-making actions are adopted:

ITEM 1. Adopt the following **new** definition of "Designated sports wagering area" in rule **661—141.1(99F)**:

"Designated sports wagering area" means an area, as designated by a licensee and approved by the commission, in which sports wagering is conducted.

ITEM 2. Amend rule **661—141.1(99F)**, definition of "Gambling activities," as follows:

"Gambling activities" means participating in ~~or wagering on gambling games on the gaming floor~~ any form of on-site wagering as defined by Iowa Code chapter 99F and approved by the commission; the movement, storage, and handling of uncounted gambling revenues; the manual exchange of moneys for forms of wagering credit on the gaming floor; public entrance into and public egress from the gaming floor, except that egress through emergency ~~exists~~ exits that are actively alarmed is not included; and any other activities so defined by the commission.

ITEM 3. Amend rule 661—141.6(99F) as follows:

661—141.6(99F) Required surveillance. Every licensee or operator shall conduct and record, as required by either the commission or the DCI, surveillance that allows clear, unobstructed views of all on-site gambling activities in the following areas of the gaming floor, designated sports wagering area, and related areas, land-based facilities, and racetrack enclosures:

141.6(1) *Slot machines.* Every licensee who exposes slot machines for play shall install, maintain, and operate a casino surveillance system that possesses the capability to monitor and record the slot machine number.

141.6(2) *Table games.* The surveillance system must possess the capability to monitor and record all gaming or card table surfaces; table number, including table bank trays, with sufficient clarity to permit identification of all chips, cash, card values, and the outcome of the game; dice in craps games, with sufficient clarity to read the dice in their stopped position after each roll; and all roulette tables and wheels must be capable of being monitored and recorded on a split screen to permit views of both the table and the wheel on one monitor screen. Each table or card game shall have the capability of being monitored and recorded by no less than two cameras.

141.6(3) *Progressive table games.* Each progressive table game must be monitored by dedicated coverage that provides views of the table surface so that the card values and card suits can be identified and a view of the progressive meter jackpot amount.

141.6(4) *Casino cage, slot change booth, sports wagering counter, and self-service coin, token, sports wagering or ticket redemption center.* The surveillance system must possess the capability to monitor and record a general overview of activities occurring in each casino cage, slot change booth, sports wagering counter and self-service coin, token, sports wagering or ticket redemption center with sufficient clarity to identify patrons and employees at the counter area, cash drawers, vaults, safes, countertops, coin and currency counting machines, and chip and token storage, and to identify chip, token, and currency denominations. The casino cage ~~and~~, sports wagering counter, and slot change booth area in which fills, credits, sports wagering tickets, and jackpots are transacted must be monitored by dedicated coverage that provides views with sufficient clarity to identify the chip, token, and currency values and the amounts on the fill/credit slips.

141.6(5) *Count rooms.* The surveillance system must possess the capability to monitor and record all areas within the hard or soft count room, including walls, doors, scales, wrapping machines, coin sorters, currency counters, vaults, safes, and general work surfaces, whenever funds or persons are present. The counting surface in the soft count room must be made of a transparent material. Any area where uncounted coin or currency is stored must be monitored by dedicated coverage. In addition, the hard count and soft count process must be monitored by dedicated coverage.

141.6(6) *Movement of funds.* The surveillance system must possess the capability to monitor and record the movement of cash, gaming chips, tokens, drop boxes and drop buckets. All casino and designated sports wagering area entrance and exit doors, elevators, stairs, gangplanks, and loading and unloading areas shall also possess the capability to be monitored and recorded if they are utilized for the movement of uncounted moneys, tokens, or chips.

141.6(7) *Admissions entrance and exits.* The admissions entrance and exit areas of the excursion gambling boat and racetrack enclosures must be monitored by dedicated coverage with sufficient clarity to identify patrons and employees at the admissions entrance and exit areas.

141.6(8) *Overall views.* The surveillance system must possess the capability to monitor and record the casino pit area and general casino floor with sufficient clarity to permit identification of players, employees, patrons, and spectators.

~~**141.6(9)** *Additional coverage.* Rescinded IAB 4/22/09, effective 4/1/09.~~

~~**141.6(10)**~~ **141.6(9)** *Digital systems.* All areas that require dedicated coverage and all images viewed on a surveillance operator's working monitor shall be recorded at a sufficient rate of images per second so that, when played back in real time, there is no motion loss detectable to the human eye.

[Filed 10/21/19, effective 1/8/20]
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EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 12/4/19.

ARC 4799C

PUBLIC SAFETY DEPARTMENT[661]

Adopted and Filed

Rule making related to public safety survivor benefits

The Department of Public Safety hereby adopts Chapter 292, "Public Safety Survivor Benefits Fund," Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code section 80.47.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code section 80.47.

Purpose and Summary

The purpose of Chapter 292 is to create the parameters that will regulate the distribution of the public safety survivor benefits fund. The rules in Chapter 292 include the application process and describe how organizations eligible for funding will be chosen by the Department.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on September 11, 2019, as **ARC 4651C**. No public comments were received. A change was made to a phrase in rule 661—292.2(80) to read "a fire fighter, to whom" to make clear that the rule is about a peace officer or fire fighter as a person and not an entity. Also, subrule 292.4(3) was modified to note that awards determined annually in subrule 292.4(2) will be distributed annually. Finally, a change was made to the implementation sentence at the end of the chapter to remove the reference to 2019 Iowa Acts since the amendments in the Acts are codified in the 2020 Iowa Code.

Adoption of Rule Making

This rule making was adopted by the Department on November 1, 2019.

Fiscal Impact

This rule making has no fiscal impact to the State of Iowa.

Jobs Impact

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

Waivers

Pursuant to the provisions of rule 661—10.222(17A), the Department does not have authority to waive requirements established by statute. Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to the provisions of rule 661—10.222(17A).

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making at its regular monthly meeting or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

Effective Date

This rule making will become effective on January 8, 2020.

The following rule-making action is adopted:

Adopt the following **new** 661—Chapter 292:

CHAPTER 292
PUBLIC SAFETY SURVIVOR BENEFITS FUND

661—292.1(80) Purpose. These rules establish the operation of the public safety survivor benefits fund. This fund shall be used to assist the surviving families of eligible peace officers and fire fighters killed in the line of duty with the payment of costs associated with accident or health care coverage pursuant to Iowa Code section 509A.13C.

661—292.2(80) Definition. For the purposes of this chapter, "eligible peace officer or fire fighter" means a peace officer as defined in Iowa Code section 801.4, or a fire fighter, to whom a line of duty death benefit is payable pursuant to Iowa Code section 97A.6(16), 97B.52(2), or 411.6(15).

661—292.3(80) Fund eligibility. To be awarded funding from the public safety survivor benefits fund, an applicant shall be a nonprofit organization that provides resources to assist the surviving families of eligible peace officers or fire fighters killed in the line of duty.

661—292.4(80) Procedure. Applications for the public safety survivor benefits fund shall be submitted to the Iowa Department of Public Safety, Commissioner's Office, 215 East 7th Street, Des Moines, Iowa 50319. Applications shall be submitted annually by November 1.

292.4(1) *Application process.* An application shall contain all of the following:

a. The name and address of the organization,

b. Articles of incorporation of the organization,

c. The mission statement of the organization,

d. The employment identification number (EIN) of the organization,

e. A statement proposing how the grant will be used for the surviving families of eligible peace officers or fire fighters, and

f. Any other details that the department may deem useful in the evaluation of an award of the grants as set forth in this chapter.

292.4(2) *Award determination.*

a. The commissioner of the department or the commissioner's designee shall review the applications and determine the organizations to receive grant funding. At least one organization for the surviving families of peace officers and one organization for the surviving families of fire fighters shall be chosen each year. Organizations shall be notified annually by December 1.

b. The department shall give first consideration to:

(1) Iowa Concerns of Police Survivors, Inc., and similar nonprofit organizations.

(2) Iowa Professional Fire Fighters, Inc., and similar nonprofit organizations.

292.4(3) *Award disbursement.* Chosen organizations shall receive the award annually by January 1.

292.4(4) *Report required.* All organizations receiving funding shall file a report with the department no later than July 1 for each year that funding is received. The report shall contain all of the following:

a. The number of surviving families that received benefits associated with accident or health care coverage from the nonprofit organization,

b. The number of surviving families that were denied benefits,

c. The amount of actual benefits paid to each surviving family,

d. The total amount of administrative costs associated with providing benefits to surviving families.

These rules are intended to implement Iowa Code section 80.47.

[Filed 10/25/19, effective 1/8/20]
[Published 12/4/19]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 12/4/19.

ARC 4803C

TRANSPORTATION DEPARTMENT[761]

Adopted and Filed

Rule making related to electronic submission of proof of financial responsibility

The Department of Transportation hereby amends Chapter 524, "For-Hire Intrastate Motor Carrier Authority," and Chapter 640, "Financial Responsibility," Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code sections 307.12, 321A.2 and 325A.10.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code chapters 321A and 325A.

Purpose and Summary

These amendments update the Department's rules regarding financial responsibility. Minor amendments within Chapter 640 update the contact information for the Driver and Identification Services Bureau, change "driver's license examination stations" to "driver's license service centers,"

remove unnecessary language, correct terminology, correct form numbers, and add or correct form names for consistency within the chapter.

The most significant changes to Chapters 524 and 640 require the proof of financial responsibility forms (SR-22 and SR-23) and the cancellation of future proof of financial responsibility form (SR-26), as well as "Motor Carrier Certificate of Insurance" Form E and Form K, to be submitted electronically to the Department in a format approved by the Department. SR-22, SR-23 and SR-26 forms are required under Iowa Code section 321A.17 to demonstrate proof of financial responsibility whenever the Department suspends or revokes a person's driver's license as a result of a qualifying traffic conviction. Forms E and K demonstrate required proof of financial responsibility for motor carriers under Iowa Code chapter 325A. Electronic submission of these forms will have a positive effect on the Department's processing turnaround times and will improve efficiency and performance in processing customer paperwork.

The Department has offered insurance carriers the ability to submit required proof of financial responsibility forms to the Department electronically for approximately four years, and several carriers have elected to use the electronic submission process. However, several other carriers still continue to submit the required forms via a paper-based process.

The electronic filing process is efficient and secure, and it provides faster results for the Department's customers than a paper-based process. However, the switch from a paper-based to an electronic process can take some planning, and in the interest of providing sufficient notice of the Department's intention to require electronic submission of these forms, the Department contacted all insurance carriers licensed to do business in the state of Iowa in April 2018 and informed them of the pending transition to the electronic submission process and the Department's intent to require electronic submission in advance of the rule requirement becoming effective. Several carriers volunteered to transition to the electronic submission process after receiving the Department's notification, but some carriers indicated their preference not to make the switch until the requirement was mandatory. This rule making seeks to require all insurance carriers to implement the electronic filing process for these required forms no later than July 1, 2021. The Department's available electronic submission process consists of two options:

- The first option is a trusted third-party administrator (TPA) website. This website solution is designed for low-volume submitters that may not have the technical staff or otherwise be in the position to dedicate the resources to implement an end-to-end solution. The website offers the functionality of submitting single filings, much like submitting the filing by paper, except that using the website offers the additional security and efficient processing that is not available in the paper-based process.
- The second option is a web service application program interface (API) that allows an insurance carrier's system to directly communicate with the Department's driver's license record system (known as ARTS). The web service solution is designed for high-volume submitters. The web service contains several validation checks against data submitted and provides the insurance carrier's computer system with success/error feedback. To ease the implementation process, the Department developed guidance documentation for integrating with the Department's web service API. The Department is enthusiastic about fully implementing this electronic submission solution, not only for the security and efficiency it offers but also for the faster processing time the Department will be able to offer to customers whose livelihoods rely on the timely submission of these documents.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on October 9, 2019, as **ARC 4681C**. No public comments were received. One change from the Notice has been made in subrule 640.6(8) to change the word "proofs" to "proof."

Adoption of Rule Making

This rule making was adopted by the Department on November 13, 2019.

Fiscal Impact

This rule making has no fiscal impact to the State of Iowa and does not change the proof of financial responsibility forms that insurance carriers are currently required to submit to the Department. It also does not change or expand the circumstances under which proof of financial responsibility is required. This rule making only changes the submission method from a paper-based process to a secure, electronic process.

Jobs Impact

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

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.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making at its regular monthly meeting or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

Effective Date

This rule making will become effective on January 8, 2020.

The following rule-making actions are adopted:

ITEM 1. Adopt the following **new** paragraph **524.7(1)"c"**:

c. Prior to July 1, 2021, the certificate of insurance may be submitted electronically in a format approved by the department. An insurance carrier that submits the certificate of insurance under this rule shall implement electronic submission of such certificate no later than July 1, 2021. As of July 1, 2021, no paper submissions of such certificates shall be accepted, and all certificates of insurance shall be submitted electronically in a format approved by the department.

ITEM 2. Amend subrule 640.1(3) as follows:

640.1(3) *Submissions and information.* ~~All~~ Except as otherwise provided in this chapter, required submissions shall be either mailed to the ~~Office of~~ Driver and Identification Services Bureau, Iowa Department of Transportation, P.O. Box ~~9235~~ 9204, Des Moines, Iowa ~~50306-9235~~ 50306-9204; delivered in person to 6310 SE Convenience Blvd., Ankeny, Iowa; or sent by facsimile to ~~(515)237-3071~~ (515)239-1837. Information about the financial responsibility law is available from these sources or by telephone at ~~(800)532-1121~~ (515)244-8725.

ITEM 3. Amend rule 761—640.3(321A) as follows:

761—640.3(321A) Accident reporting requirements. Accident reporting requirements are specified in Iowa Code section 321.266 and on Form 433002, "Iowa Accident Report Form," which is available from law enforcement officers, driver's license ~~examination stations~~ service centers, or from the ~~office of~~ driver and identification services bureau at the address in subrule 640.1(3).

This rule is intended to implement Iowa Code sections 321.266 and 321A.4.

ITEM 4. Amend subrule 640.4(3) as follows:

640.4(3) *Security—amounts and type.*

a. The amount of security required of the uninsured driver and owner shall be determined from reports of the drivers involved in the accident, reports of investigating officers and from supplemental

information obtained from persons involved in the accident concerning amounts of damage and injury sustained. Form ~~431020~~ 431074, "Insurance Request Letter," may be mailed to parties to the accident for supplemental information. The security required shall not be increased after the suspension notice has been served, but may be reduced if evidence of exact costs is submitted to the department. The amount of security shall not exceed the minimum limits of liability for death or injury specified in Iowa Code chapter 321A.

b. The security shall be deposited with the ~~office of~~ driver and identification services bureau at the address in subrule 640.1(3). The department shall issue to the depositor a receipt when the security is received. ~~The depositor shall surrender the receipt when a refund is requested.~~ Security shall be one of the following types:

(1) to (3) No change.

ITEM 5. Amend subrule 640.4(4) as follows:

640.4(4) *Security disposition.*

a. Security is held by the state treasurer and can be released only for payment of a judgment or as otherwise provided in Iowa Code section 321A.10; or by a court, including by Form 431097, "Order for Release of Security~~,~~"; ~~Form 431097,~~ or by Form 433010, "Assignment and Release~~,~~." ~~Form 433010.~~

b. The security can be refunded at any time as follows:

(1) When compliance as provided in 640.4(5) is presented to the ~~office of~~ driver and identification services bureau; or

(2) When Form 433007, "District Court Affidavit," is completed by the clerk of the district court of the county where the accident occurred, the form indicates that no action has been initiated or judgment rendered, and the form is submitted to the ~~office of~~ driver and identification services bureau.

ITEM 6. Amend subrule 640.4(5) as follows:

640.4(5) *Exceptions to requirement of security.* Compliance can be shown as follows: general releases, agreement releases, confession of judgment, accord and satisfaction, covenant not to sue, no-fault or no reasonable possibility of judgment, adjudication nonliability, and bankruptcy.

a. General release. Form 431036, "General Release," may be obtained from the ~~office of~~ driver and identification services bureau at the address in subrule 640.1(3). The signature of the party giving the release shall be notarized or witnessed by a disinterested person. The release shall be accompanied by a power of attorney or subrogation authority if signed by a person other than the party sustaining damage or injury.

b. Agreement release. Form 181301, "Agreement ~~Release~~," may be obtained from the ~~office of~~ driver and identification services bureau at the address in subrule 640.1(3). Complete information shall be provided on the form including the total amount of settlement agreed upon by the parties involved and a release of liability upon fulfillment of payments. The signatures of all parties to the agreement shall be notarized. The release shall be accompanied by a power of attorney or subrogation authority if signed by a person other than a party sustaining damage or injury. Compliance shall be credited only to a party who has agreed to make payment and whose signature appears on the agreement release.

c. Confession of judgment. A court certified copy of a confession of judgment including the payment schedule agreed to by the parties is acceptable compliance. No specific form is provided by the ~~office of~~ driver and identification services bureau.

d. to *g.* No change.

h. Bankruptcy. Security is not required of a person when all possible claims against the person arising from the accident have been scheduled in the bankruptcy petition. To establish this exception, the person shall submit a copy of the petition for bankruptcy to the ~~office of~~ driver and identification services bureau at the address in subrule 640.1(3).

ITEM 7. Amend paragraph **640.4(6)"b"** as follows:

b. A person may be exempted from the security requirements applicable to an owner if the motor vehicle had been sold but the title had not been transferred when the accident occurred.

(1) The person who sold the motor vehicle may qualify for this exemption by submitting to the department ~~an~~ Form 431125, "~~Affidavit of Buyer-Seller,~~ Affidavit of Seller." ~~Form 431125.~~ This form

must be completed by both the buyer and seller with signatures notarized or attested to by an officer of the department.

(2) A sworn affidavit by the seller and witnesses to the sale that the vehicle had been sold may be furnished in lieu of Form 431125~~.~~, "Affidavit of Seller." The affidavit must include a description of the vehicle, the date of the sale, the monetary consideration, facts concerning the assignment of title and delivery of possession, and the names of witnesses to the sale.

ITEM 8. Amend subrule 640.5(1) as follows:

640.5(1) *Suspension.* The suspension becomes effective on the date Form 431010, ~~a suspension notice,~~ "Suspension Notice," is served pursuant to 761—615.37(321). The notice shall inform the person that the privilege to operate and register motor vehicles in Iowa is suspended until the judgment is satisfied and proof of financial responsibility is shown. The duration of the suspension is provided in Iowa Code section 321A.14. When the suspension ends, the department shall issue to the person Form 431009, ~~a suspension termination notice.~~ "Suspension Termination Notice."

ITEM 9. Amend rule 761—640.6(321A) as follows:

761—640.6(321A) Proof of financial responsibility for the future. Proof of financial responsibility for the future is required pursuant to Iowa Code sections 321A.13, 321A.14, 321A.16 and 321A.17. Unless the person has filed proof of financial responsibility for all motor vehicles registered to that person, the department shall also suspend the person's motor vehicle registrations.

640.6(1) No change.

640.6(2) *Methods of giving proof.*

a. Proof of financial responsibility may be shown by a liability insurance certificate pursuant to Iowa Code section 321A.19. Form SR-22, "AAMVA Uniform Financial Responsibility Form," is required as the form of the certificate except when proof of financial responsibility is submitted electronically. When proof of financial responsibility is submitted electronically, the proof shall be in a format approved by the department. The form may describe an owner's or operator's policy and shall identify the policyholder by name, address, ~~driver~~ driver's license number, and birth date. The effective date of the policy shall be the same as the effective date on the form. The vehicles covered shall be identified by year, make, model and vehicle identification number. The form shall be certified in accordance with the Iowa financial responsibility law by an insurance carrier authorized to transact insurance business in Iowa or by a ~~company~~ carrier authorized by power of attorney. The policy shall be canceled only as provided in Iowa Code section 321A.22. Certification of coverage for an owner's policy authorizes the policyholder to have registrations for the described vehicles. Certification of coverage for an operator's policy does not authorize registrations.

~~(1) In lieu of Form SR-22, the department shall accept a copy of the form if the copy is no larger than 8½ by 11 inches and is generated by a process that produces an unaltered image or reproduction, except for size and color, of Form SR-22.~~

~~(2) In lieu of Form SR-22, the department shall accept an electronic record if the format of the record is approved by the department.~~

b. Proof may be given for a person who is an operator in the employ of the owner of the motor vehicle, or who is a member of the immediate family or household of the owner pursuant to Iowa Code section 321A.26, if the owner's insurance ~~company~~ carrier certifies ~~Form SR-22~~ for the person required to show proof. ~~The~~ In addition to the requirements ~~are given~~ in paragraph ~~640.6(2)*"a"* except that~~ 640.6(2)*"a,"* the ~~form~~ proof shall identify both the policyholder and the person for whom proof is given. This certification does not authorize the person required to give proof to register a motor vehicle.

c. Proof may be given for a person who is an operator in the employ of an owner of a fleet of motor vehicles ~~on~~, if the owner's insurance carrier certifies for the person required to show proof, by submitting Form SR-23, "AAMVA Uniform Financial Responsibility Form~~.~~," except when proof of financial responsibility is submitted electronically. When proof of financial responsibility is submitted electronically, the proof shall be in a format approved by the department. The form shall identify the

policyholder's name and address, policy number, policy dates and effective date. This certification does not authorize the person required to give proof to register a motor vehicle.

d. No change.

640.6(3) Rescinded, effective 1/26/83.

640.6(4) *Terminating the suspension upon filing of proof.* When future proof of financial responsibility is shown and the person is otherwise eligible for licensing, the department shall issue Form 431009, ~~a suspension termination notice,~~ "Suspension Termination Notice," to the person whose privileges were suspended under Iowa Code ~~sections~~ section 321A.13, 321A.14, 321A.16 or 321A.17 or rules ~~640.5(321A)~~ 761—640.5(321A) and ~~640.6(321A)~~ 761—640.6(321A). To regain operating privileges, the person shall ~~appear before an Iowa driver license examiner,~~ pass the required examinations~~,~~ and pay the required fees. The person's operating and registration privileges are restricted to the motor vehicles covered under the proof of financial responsibility filed by the applicant.

640.6(5) *Cancellation of future proof.* An insurance carrier shall only cancel or terminate a certificate of insurance pursuant to Iowa Code section 321A.22. The cancellation shall be certified by an authorized ~~company~~ carrier representative on Form SR-26, "AAMVA Uniform Financial Responsibility~~."~~ Form," except when cancellation of future proof of financial responsibility is submitted electronically. When cancellation of future proof of financial responsibility is submitted electronically, the cancellation shall be in a format approved by the department. The ~~Form SR-26~~ cancellation of future proof of financial responsibility shall identify the ~~SR-22 or SR-23~~ proof of financial responsibility certificate to be canceled by name and address of the person, social security number, birth date, ~~driver~~ driver's license number, number of the policy to be canceled and the effective date of cancellation.

640.6(6) *Suspension when future proof is canceled.*

a. No change.

b. If the person fails to refile, Form 431010, ~~a suspension notice,~~ "Suspension Notice," shall be served in accordance with 761—615.37(321). The effective date of the suspension shall be the date the notice is served. The notice shall inform the person that the privilege to operate and register motor vehicles in Iowa is suspended until future proof is refiled. When the person refiles future proof, the department shall issue to the person Form 431009, ~~a suspension termination notice.~~ "Suspension Termination Notice."

640.6(7) *Terminating the two-year proof requirement.* Form 431009, ~~a suspension termination notice,~~ "Suspension Termination Notice," shall be issued to a person who has completed future proof requirements. The form shall notify the person that proof is no longer required and that the person may operate and register motor vehicles without the proof restrictions. If the person's driver's license is still valid, the person ~~shall appear before an Iowa driver license examiner to~~ may obtain a duplicate driver's license without the proof restrictions. If the driver's license has expired or has not been reinstated and the person is otherwise eligible for licensing, the person shall pass the required examinations and pay the required fees. The suspension termination notice may also be presented to the county treasurer to obtain a new registration.

640.6(8) *Electronic submission of proof of financial responsibility and cancellation of future proof of financial responsibility.* Prior to July 1, 2021, an insurance carrier authorized to transact business in the state of Iowa may electronically submit proof of financial responsibility and cancellation of future proof of financial responsibility in a format approved by the department. An insurance carrier that submits proof of financial responsibility or cancellation of future proof of financial responsibility under this rule shall implement electronic submission of such proof no later than July 1, 2021. As of July 1, 2021, no paper submissions of such proof shall be accepted, and all proof of financial responsibility

and cancellation of future proof of financial responsibility shall be submitted electronically in a format approved by the department.

This rule is intended to implement Iowa Code sections 321A.12 to 321A.29, 321A.31 and 321A.34.

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