



# IOWA ADMINISTRATIVE BULLETIN

Published Biweekly

VOLUME XXXVIII  
December 9, 2015

NUMBER 12"  
Pages 953 to 1076

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## PREFACE

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

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

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

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

STEPHANIE A. HOFF, Administrative Code Editor

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### CITATION of Administrative Rules

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

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

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

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

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

## Schedule for Rule Making 2016

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

### PRINTING SCHEDULE FOR IAB

<u>ISSUE NUMBER</u>	<u>SUBMISSION DEADLINE</u>	<u>ISSUE DATE</u>
14	Wednesday, December 16, 2015	January 6, 2016
15	Wednesday, December 30, 2015	January 20, 2016
16	Friday, January 15, 2016	February 3, 2016

**PLEASE NOTE:**

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

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

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

**ALCOHOLIC BEVERAGES DIVISION[185]**

Filling and selling of beer in a container other than the original container by class "C" beer permit holders, 4.1, 4.6 IAB 11/25/15 <b>ARC 2255C</b>	Division Board Room 1918 S.E. Hulsizer Rd. Ankeny, Iowa	December 18, 2015 10 a.m.
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**DENTAL BOARD[650]**

Retired volunteer license, 13.4 IAB 11/25/15 <b>ARC 2252C</b>	Board Office, Suite D 400 S.W. 8th St. Des Moines, Iowa	December 16, 2015 2 p.m.
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**HOMELAND SECURITY AND EMERGENCY MANAGEMENT DEPARTMENT[605]**

Mission of commission— membership, 100.1 IAB 12/9/15 <b>ARC 2284C</b>	Cyclones Conference Room, Suite 500 7900 Hickman Rd. Windsor Heights, Iowa	December 29, 2015 11 a.m.
Operations of commission, 101.2, 101.5(2), 101.7(1) IAB 12/9/15 <b>ARC 2283C</b>	Cyclones Conference Room, Suite 500 7900 Hickman Rd. Windsor Heights, Iowa	December 29, 2015 11 a.m.
Local emergency planning committee, 103.1(1), 103.2, 103.3(2), 103.4, 103.7 IAB 12/9/15 <b>ARC 2282C</b>	Cyclones Conference Room, Suite 500 7900 Hickman Rd. Windsor Heights, Iowa	December 29, 2015 11 a.m.
Required reports and records, amendments to ch 104 IAB 12/9/15 <b>ARC 2281C</b>	Cyclones Conference Room, Suite 500 7900 Hickman Rd. Windsor Heights, Iowa	December 29, 2015 11 a.m.

**IOWA FINANCE AUTHORITY[265]**

Title guaranty division, 9.1 to 9.22 IAB 9/2/15 <b>ARC 2128C</b> (See Regulatory Analysis, IAB 9/30/15)	Authority Office 2015 Grand Ave. Des Moines, Iowa	December 15, 2015 1:30 to 2:30 p.m.
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**LABOR SERVICES DIVISION[875]**

Alterations—residential elevators installed in public buildings, escalators, 71.10(3), 72.13(6), 73.8(7) IAB 11/25/15 <b>ARC 2264C</b>	Capitol View Room 1000 E. Grand Ave. Des Moines, Iowa	December 16, 2015 1:30 p.m. (If requested)
Boilers and pressure vessels—adoption of current industry standards by reference, 90.6(1), 91.1 IAB 11/25/15 <b>ARC 2251C</b>	Capitol View Room 1000 E. Grand Ave. Des Moines, Iowa	December 16, 2015 2:30 p.m. (If requested)

**MEDICINE BOARD[653]**

Standards of practice—prescribing epinephrine auto-injectors in the name of an authorized facility, 13.12 IAB 11/25/15 <b>ARC 2249C</b>	Board Office, Suite C 400 S.W. 8th St. Des Moines, Iowa	December 15, 2015 11 a.m.
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**MEDICINE BOARD[653] (cont'd)**

Licensure of acupuncturists, amendments to ch 17 IAB 12/9/15 <b>ARC 2298C</b>	Board Office, Suite C 400 S.W. 8th St. Des Moines, Iowa	December 29, 2015 11 a.m.
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**NATURAL RESOURCE COMMISSION[571]**

Special nonresident deer and turkey licenses, 15.26 IAB 12/9/15 <b>ARC 2300C</b>	Fourth Floor East Conference Room Wallace State Office Bldg. Des Moines, Iowa	December 29, 2015 12:30 to 2:30 p.m.
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**PUBLIC HEALTH DEPARTMENT[641]**

State mechanical code—update of references, 61.2 IAB 12/9/15 <b>ARC 2274C</b>	Conference Room 517 Lucas State Office Bldg. Des Moines, Iowa	December 29, 2015 10 a.m.
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**PUBLIC SAFETY DEPARTMENT[661]**

Fire code provisions—adoption by reference, amendments to chs 200 to 202, 210 IAB 11/25/15 <b>ARC 2266C</b>	First Floor Conference Room 125 Oran Pape State Office Bldg. 215 E. 7th St. Des Moines, Iowa	January 5, 2016 10 a.m.
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Iowa State Patrol Post #12 22365 20th Ave. Stockton, Iowa	January 7, 2016 11:30 a.m.
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Iowa State Patrol Post #3 2025 Hunt Ave. Council Bluffs, Iowa	January 8, 2016 11:30 a.m.
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State building code—adoption by reference of certain provisions of 2015 International Building Code (IBC), amendments to chs 300 to 302, 315 IAB 11/25/15 <b>ARC 2250C</b>	First Floor Conference Room 125 Oran Pape State Office Bldg. 215 E. 7th St. Des Moines, Iowa	January 5, 2016 10 a.m.
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Iowa State Patrol Post #12 22365 20th Ave. Stockton, Iowa	January 7, 2016 11:30 a.m.
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Iowa State Patrol Post #3 2025 Hunt Ave. Council Bluffs, Iowa	January 8, 2016 11:30 a.m.
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State historic building code—adoption of International Existing Building Code by reference, 350.1 IAB 11/25/15 <b>ARC 2265C</b>	First Floor Conference Room 125 Oran Pape State Office Bldg. 215 E. 7th St. Des Moines, Iowa	January 5, 2016 10 a.m.
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Iowa State Patrol Post #12 22365 20th Ave. Stockton, Iowa	January 7, 2016 11:30 a.m.
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Iowa State Patrol Post #3 2025 Hunt Ave. Council Bluffs, Iowa	January 8, 2016 11:30 a.m.
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**SECRETARY OF STATE[721]**

Voter registration in state agencies—national voter registration Act compliance, 23.3 to 23.6, 23.10 IAB 11/25/15 <b>ARC 2262C</b>	Secretary of State Office Lucas State Office Bldg. Des Moines, Iowa	December 23, 2015 8:30 a.m.
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**TRANSPORTATION DEPARTMENT[761]**

Farm-to-market review board,  
101.3(1), 101.4  
IAB 11/25/15 **ARC 2248C**

First Floor South Conference Room  
DOT Administration Bldg.  
800 Lincoln Way  
Ames, Iowa

December 17, 2015  
10 a.m.  
(If requested)

**VOTER REGISTRATION COMMISSION[821]**

Online voter registration,  
2.4, 2.8(2), 8.1, 11.6  
IAB 11/25/15 **ARC 2246C**  
(See **ARC 2160C**, IAB 9/30/15)

Secretary of State Office, First Floor  
Lucas State Office Bldg.  
Des Moines, Iowa

December 23, 2015  
8:30 a.m.

The following list will be updated as changes occur.

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

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

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

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## ARC 2284C

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

**Notice of Intended Action**

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

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

Pursuant to the authority of Iowa Code sections 17A.3 and 30.5, the Homeland Security and Emergency Management Department on behalf of the Iowa Emergency Response Commission hereby gives Notice of Intended Action to amend Chapter 100, “Mission of Commission,” Iowa Administrative Code.

This amendment is intended to update the membership of the Commission to accurately reflect Iowa Code chapter 30. The amendment includes changes to both state and local agencies as well as private industry members.

These changes were approved by the Commission at its scheduled meeting held on October 29, 2015.

Consideration will be given to all written suggestions or comments on the proposed amendment received on or before December 29, 2015. Such written materials should be sent to the Administrative Rules Coordinator, Department of Homeland Security and Emergency Management, 7900 Hickman Road, Suite 500, Windsor Heights, Iowa 50324; fax (515)725-3260; or via e-mail to [john.benson@iowa.gov](mailto:john.benson@iowa.gov).

Also, there will be a public hearing on December 29, 2015, at 11 a.m. in the Department of Homeland Security and Emergency Management Cyclones Conference Room at 7900 Hickman Road, Suite 500, Windsor Heights, Iowa, at which time persons may present their views either orally or in writing. At the hearing, persons will be asked to give their names and addresses for the record and to confine their remarks to the subject of the amendment.

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

This amendment is intended to implement Iowa Code chapter 30.

The following amendment is proposed.

Amend rule 605—100.1(30) as follows:

**605—100.1(30) Mission.** The Iowa emergency response commission (IERC) was created to implement the Emergency Planning and Community Right-to-Know Act (EPCRA).

The governor appoints one member each to represent ~~department~~ the departments of agriculture and land stewardship, ~~department of employment services~~ workforce development, homeland security and emergency management, ~~department of justice~~, ~~department of natural resources~~, ~~department of public defense~~, ~~department of public health~~, ~~department of public safety~~, ~~state department of and transportation~~, ~~fire service institute of Iowa State University of science and technology~~ state fire service and emergency response council, local emergency planning committee, hazardous materials task force, and the office of the governor, and ~~two~~ three members from private industry.

The IERC shall enter into agreements with the ~~department~~ departments of ~~employment services~~ workforce development, ~~the department of natural resources~~ and ~~the department of public defense~~ homeland security and emergency management to carry out ~~those~~ the duties allocated to those departments under Iowa Code chapter 30.

This rule is intended to implement Iowa Code chapter 30 and ~~1992 Iowa Acts, chapter 1139.~~

ARC 2283C

## HOMELAND SECURITY AND EMERGENCY MANAGEMENT DEPARTMENT[605]

### Notice of Intended Action

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

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

Pursuant to the authority of Iowa Code sections 17A.3 and 30.5, the Homeland Security and Emergency Management Department on behalf of the Iowa Emergency Response Commission hereby gives Notice of Intended Action to amend Chapter 101, “Operations of Commission,” Iowa Administrative Code.

These amendments are intended to update the membership of the Commission to accurately reflect Iowa Code chapter 30. These amendments include changes to both state and local agencies as well as private industry members.

These changes were approved by the Commission at its scheduled meeting held on October 29, 2015.

Consideration will be given to all written suggestions or comments on the proposed amendments received on or before December 29, 2015. Such written materials should be sent to the Administrative Rules Coordinator, Department of Homeland Security and Emergency Management, 7900 Hickman Road, Suite 500, Windsor Heights, Iowa 50324; fax (515)725-3260; or via e-mail to [john.benson@iowa.gov](mailto:john.benson@iowa.gov).

Also, there will be a public hearing on December 29, 2015, at 11 a.m. in the Department of Homeland Security and Emergency Management Cyclones Conference Room at 7900 Hickman Road, Suite 500, Windsor Heights, Iowa, at which time persons may present their views either orally or in writing. At the hearing, persons will be asked to give their names and addresses for the record and to confine their remarks to the subject of the amendments.

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

These amendments are intended to implement Iowa Code chapter 30.

The following amendments are proposed.

ITEM 1. Amend rule 605—101.2(30) as follows:

**605—101.2(30) Membership.** The Iowa emergency response commission is composed of ~~15~~ 16 members appointed by the governor.

**101.2(1) Voting members.** Members representing the departments of workforce development, natural resources, homeland security and emergency management, public defense, public safety, and transportation, a local emergency planning committee, and one of the private industry representatives, who is designated by the commission at the first meeting of the commission each year, serve as voting members of the commission.

**101.2(2) Nonvoting members.** The remaining members of the commission, representing the ~~department~~ departments of agriculture and land stewardship, ~~the department of justice, the department of and public health, the state fire service and emergency response council, a local emergency planning committee,~~ the Iowa hazardous materials task force, the office of the governor, and two members representing private industry serve as nonvoting, advisory members of the commission. Nonvoting members may fully participate in discussion of matters before the commission, serve on committees formed by the commission and serve as officers of the commission.

## HOMELAND SECURITY AND EMERGENCYMANAGEMENT DEPARTMENT[605](cont'd)

ITEM 2. Amend subrule 101.5(2) as follows:

**101.5(2) Posting of agenda.** The agenda for each meeting will be posted at the office of the chairperson and in the office of the ~~department of public defense,~~ homeland security and emergency management division ~~department.~~

ITEM 3. Amend subrule 101.7(1) as follows:

**101.7(1) Quorum.** ~~Four~~ Six of the ~~six~~ eight voting members of the commission constitute a quorum.

**ARC 2282C**

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

**Notice of Intended Action**

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

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

Pursuant to the authority of Iowa Code sections 17A.3 and 30.5, the Homeland Security and Emergency Management Department on behalf of the Iowa Emergency Response Commission hereby gives Notice of Intended Action to amend Chapter 103, “Local Emergency Planning Committees,” Iowa Administrative Code.

These amendments are intended to update the name of the Department as well as the membership on local emergency planning committees. Additionally, the proposed amendments update Iowa Administrative Code references within the chapter.

These changes were approved by the Commission at its scheduled meeting held on October 29, 2015.

Consideration will be given to all written suggestions or comments on the proposed amendments received on or before December 29, 2015. Such written materials should be sent to the Administrative Rules Coordinator, Department of Homeland Security and Emergency Management, 7900 Hickman Road, Suite 500, Windsor Heights, Iowa 50324; fax (515)725-3260; or via e-mail to [john.benson@iowa.gov](mailto:john.benson@iowa.gov).

Also, there will be a public hearing on December 29, 2015, at 11 a.m. in the Department of Homeland Security and Emergency Management Cyclones Conference Room at 7900 Hickman Road, Suite 500, Windsor Heights, Iowa, at which time persons may present their views either orally or in writing. At the hearing, persons will be asked to give their names and addresses for the record and to confine their remarks to the subject of the amendments.

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

These amendments are intended to implement Iowa Code chapter 30.

The following amendments are proposed.

ITEM 1. Amend subrule 103.1(1) as follows:

**103.1(1) Purpose.** The Iowa emergency response commission (IERC) is required to appoint members to local emergency planning committees. An LEPC is appointed for each of the emergency planning districts established in ~~607~~ 605—Chapter 102.

ITEM 2. Amend rule 605—103.2(30) as follows:

**605—103.2(30) Committee members.**

**103.2(1) Appointment of local emergency planning committees.** Nominations to the LEPC shall be made by the ~~county~~ local emergency management commission, established under Iowa Code section 29C.9, and shall be subject to review and appointment by the IERC. To the extent possible, membership of the LEPC shall be composed of members of the ~~county~~ local emergency management commission. Vacancies on the LEPC shall be filled in accordance with this subrule.

## HOMELAND SECURITY AND EMERGENCY MANAGEMENT DEPARTMENT[605](cont'd)

**103.2(2) Meeting participation.** Any member of the ~~county~~ local emergency management commission may participate in any meeting of the LEPC. If the ~~county~~ local emergency management commission member is not the appointed representative of one of the groups or organizations specified in subrule 103.1(2), the ~~county~~ local emergency management commission member shall not be eligible to vote on any issue before the LEPC.

**103.2(3)** No change.

ITEM 3. Amend subrule 103.3(2) as follows:

**103.3(2)** The LEPC shall establish procedures for receiving and processing requests from the public for information under EPCRA Section 324, including Form Tier ~~Two~~ II information under EPCRA Section 312. (42 U.S.C. 11001(c))

ITEM 4. Amend rule 605—103.4(30) as follows:

**605—103.4(30) Emergency response plan development.** The IERC recognizes that emergency planning includes more than chemical release planning. The chemical release planning required by this chapter and EPCRA shall be included in the comprehensive emergency planning conducted by the ~~county~~ local emergency management commission as required by Iowa Code chapter 29C and planning standards of the Iowa ~~division of~~ homeland security and emergency management department.

ITEM 5. Amend rule 605—103.7(30) as follows:

**605—103.7(30) Local emergency response plan submission.** After completion of the initial emergency response plan and any subsequent revisions thereto, the LEPC shall submit a copy to the IERC. The IERC shall review the submission and make recommendations to the LEPC on appropriate revisions that may be necessary to comply with provisions in 42 U.S.C. 11003(c) and state planning standards in ~~607~~ 605—Chapter ~~6~~ 7 to ensure coordination with emergency response plans of other emergency planning districts, the state of Iowa, and adjacent states. To the maximum extent practicable, the review shall not delay implementation of the plan or revisions thereto. All plans shall be submitted annually by October 17.

ITEM 6. Amend **605—Chapter 103**, implementation sentence, as follows:

These rules are intended to implement Iowa Code chapter 30 and ~~1992 Iowa Acts, chapter 1139.~~

**ARC 2281C**

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

**Notice of Intended Action**

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

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

Pursuant to the authority of Iowa Code sections 17A.3 and 30.5, the Homeland Security and Emergency Management Department on behalf of the Iowa Emergency Response Commission hereby gives Notice of Intended Action to amend Chapter 104, “Required Reports and Records,” Iowa Administrative Code.

These amendments are intended to update reporting form names, addresses, contact telephone numbers and the conversion of the Department from a division to accurately reflect Iowa Code chapters 29C and 30.

These changes were approved by the Commission at its scheduled meeting held on October 29, 2015.

## HOMELAND SECURITY AND EMERGENCYMANAGEMENT DEPARTMENT[605](cont'd)

Consideration will be given to all written suggestions or comments on the proposed amendments received on or before December 29, 2015. Such written materials should be sent to the Administrative Rules Coordinator, Department of Homeland Security and Emergency Management, 7900 Hickman Road, Suite 500, Windsor Heights, Iowa 50324; fax (515)725-3260; or via e-mail to [john.benson@iowa.gov](mailto:john.benson@iowa.gov).

Also, there will be a public hearing on December 29, 2015, at 11 a.m. in the Department of Homeland Security and Emergency Management Cyclones Conference Room at 7900 Hickman Road, Suite 500, Windsor Heights, Iowa, at which time persons may present their views either orally or in writing. At the hearing, persons will be asked to give their names and addresses for the record and to confine their remarks to the subject of the amendments.

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

These amendments are intended to implement Iowa Code chapter 30.

The following amendments are proposed.

Amend **605—Chapter 104** as follows:

CHAPTER 104  
REQUIRED REPORTS AND RECORDS

**605—104.1(30) Department of ~~public defense, homeland security and emergency management division.~~**

**104.1(1) *Emergency planning notification.*** The owner or operator of each facility subject to the planning notification requirement shall notify the ~~department of public defense, homeland security and emergency management division,~~ department that the facility is subject to the requirements of Section 302, Emergency Planning and Community Right-to-~~know~~ Know Act, 42 U.S.C. 11002. The notification is to be on the Tier ~~Two~~ II form specified in subrule 104.2(4). The facility owner or operator shall submit the notification to the department of natural resources by March 1 for covered chemicals in its possession. If the facility is reporting chemicals to the department of natural resources on the Tier ~~Two~~ II form pursuant to subrule 104.2(4), a duplicate report is not required. The report shall be revised by a notification on the Tier ~~Two~~ II form within 60 days after the acquisition of chemicals meeting the notification requirements and reported to the homeland security and emergency management ~~division~~ department.

**104.1(2)** No change.

**104.1(3) *Submissions.*** Plans and notifications required under this rule shall be submitted to the ~~Department of Public Defense, Homeland Security and Emergency Management Division~~ Department, Hoover State Office Building 7900 Hickman Road, Level A Suite 500, Des Moines Windsor Heights, Iowa 50319 50324.

This rule is intended to implement Iowa Code sections 30.5 and 30.9.

**605—104.2(30) Department of natural resources.**

**104.2(1) *Emergency notifications of releases.*** Each release subject to the requirements of Section 304, Emergency Planning and Community Right-to-~~know~~ Know Act, 42 U.S.C. 11004, shall be submitted to the department of natural resources. This notification shall be done in conjunction with the notification required by 567—131.2(455B). Notifications of release shall be telephoned to the department at (515)~~281-8694~~ 725-8694 immediately. A written follow-up emergency notice shall be made within 30 days.

**104.2(2) *Toxic chemical release form.*** The owner or operator of a facility subject to the requirements of Section 313, Emergency Planning and Community Right-to-~~know~~ Know Act, 42 U.S.C. 11023, shall submit information required by EPA regulations to the department of natural resources. The information for the previous calendar year shall be submitted by July 1 of the following year.

**104.2(3) *Material-~~safety~~ Safety data sheet information.*** The owner or operator of a facility required to prepare or have available a ~~material~~ safety data sheet for a hazardous chemical under the Occupational Safety and Health Act of 1970 and regulations promulgated under that Act shall submit a

## HOMELAND SECURITY AND EMERGENCYMANAGEMENT DEPARTMENT[605](cont'd)

list of each chemical required to be submitted under Section 311, Emergency Planning and Community Right-to-know ~~Know~~ Act, 42 U.S.C. 11021. The list shall be submitted to the department of natural resources and to the appropriate local emergency planning committee (LEPC) and the fire department in whose jurisdiction the facility is located. The submission of ~~material~~ safety data sheets in lieu of a list is not permitted. A form is not designated.

**104.2(4) *Emergency and hazardous chemical inventory form (Tier ~~Two~~ II)***. The owner or operator of a facility required to prepare or have available a ~~material~~ safety data sheet for a hazardous chemical under the Occupational Safety and Health Act of 1970 and regulations promulgated under that Act shall submit emergency and hazardous chemical inventory information required to be submitted under Section 312, Emergency Planning and Community Right-to-know ~~Know~~ Act, 42 U.S.C. 11022. The information shall be submitted to the department of natural resources, the appropriate local emergency planning committee (LEPC), and the fire department within whose jurisdiction the facility is located by March 1 for the chemicals in its inventory the preceding calendar year. Tier ~~One~~ I forms will not be accepted. The information shall be submitted on the Iowa Tier ~~Two~~ II form or in any electronic format approved by the department of natural resources.

**104.2(5) *Submissions***. Written notifications and reports required under this rule shall be submitted to the Department of Natural Resources, ~~Wallace State Office Building~~ 7900 Hickman Road, Suite 200, Des Moines Windsor Heights, Iowa 50319 50324. For additional information, see rule 567—131.2(455B).

This rule is intended to implement Iowa Code sections 30.5 and 30.8.

**605—104.3(30) Department of employment services, labor services division.** Rescinded IAB 2/13/08, effective 3/19/08.

**ARC 2302C****INSPECTIONS AND APPEALS DEPARTMENT[481]****Notice of Intended Action**

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

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

Pursuant to the authority of Iowa Code sections 10A.104(5) and 135B.7, the Department of Inspections and Appeals hereby gives Notice of Intended Action to amend Chapter 51, “Hospitals,” Iowa Administrative Code.

The Department and the Hospital Licensing Board reviewed Chapter 51 and determined certain changes were necessary to update outdated references and otherwise update the chapter.

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

The Hospital Licensing Board reviewed and approved the proposed amendments at its September 9, 2015, meeting. The State Board of Health initially reviewed the proposed amendments at its November 12, 2015, meeting.

Any interested person may make written suggestions or comments on the proposed amendments on or before December 29, 2015. Such written materials should be addressed to the Director, Department of Inspections and Appeals, Lucas State Office Building, 321 East 12th Street, Des Moines, Iowa 50319-0083; faxed to (515)242-6863; or e-mailed to [david.werning@dia.iowa.gov](mailto:david.werning@dia.iowa.gov).

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

These amendments are intended to implement Iowa Code sections 135B.7 and 135B.34.

The following amendments are proposed.

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

ITEM 1. Rescind the definitions of “Person” and “Registered nurse” in rule **481—51.1(135B)**.

ITEM 2. Amend subrule 51.2(4) as follows:

**51.2(4)** Posting of license. The license shall be conspicuously posted on the main premises of the hospital.

ITEM 3. Amend subrule 51.2(5) as follows:

**51.2(5)** The department shall recognize, in lieu of its own licensure inspection, the comparable inspections and inspection findings of The Joint Commission (~~JC~~) (TJC), the American Osteopathic Association (AOA), ~~Det Norske Veritas (DNV)~~ DNV GL – Healthcare (DNV GL), or the Center for Improvement in Healthcare Quality (CIHQ) if the department is provided with copies of all requested materials relating to the inspection process. In cases of the initial licensure, the department may require its own inspection when needed in addition to comparable accreditations to allow the hospital to begin operations. The department may also initiate its own inspection when it is determined that the inspection findings of ~~the JC TJC~~, AOA, DNV GL, or CIHQ are insufficient to address concerns identified as possible licensure issues.

ITEM 4. Amend subrule 51.2(6) as follows:

**51.2(6)** Hospitals not accredited by ~~the JC TJC~~, AOA, DNV GL, or CIHQ shall be inspected by the department utilizing the current Medicare conditions of participation found in Title XVIII of the federal Social Security Act and 42 CFR Part 482, Subparts A, B, C, D, and E, or 42 CFR Part 485, Subpart F, ~~as of October 1, 2006~~. Licensed-only hospitals shall be inspected utilizing the requirements of this chapter. The department may promulgate additional standards. The department may recognize, in lieu of its own licensure inspection, the comparable inspection and inspection findings of a Medicare conditions of participation survey.

ITEM 5. Amend rule 481—51.3(135B) as follows:

**481—51.3(135B) Quality improvement program.**

**51.3(1)** There shall be an ongoing hospitalwide quality improvement program. This program is to be designed to improve, as needed, the quality of patient care by:

1. ~~a.~~ Assessing clinical patient care;
2. ~~b.~~ Assessing nonclinical and patient-related services within the hospital;
3. ~~c.~~ Developing remedial action as needed;
4. ~~d.~~ Ongoing monitoring and evaluating of the progress of remedial action taken.

~~51.3(1)~~ **51.3(2)** The governing body shall ensure there is an effective hospitalwide patient-oriented quality improvement program.

~~51.3(2)~~ **51.3(3)** The quality improvement program shall involve active participation of physician members of the hospital’s medical staff and other health care professionals, as appropriate. Evidence of this participation will include ongoing case review and assessment of other patient care problems which have been identified through the quality improvement process.

~~51.3(3)~~ **51.3(4)** ~~There shall be a written plan for the quality improvement program that:~~ The quality improvement plan may include external, state, local, federal, and regional benchmarking activities designed to improve the quality of patient care. The quality improvement plan shall be written and may address the following:

- ~~a.~~ Describes the The program’s objectives, organization, scope, and mechanisms for overseeing the effectiveness of monitoring, evaluation, and problem-solving activities;
- ~~b.~~ Ensures The participation from all departments, services (including services provided both directly and under contract), and disciplines;
- ~~c.~~ Provides for An assessment of participation through a quality improvement committee meeting on an established periodic basis;
- ~~d.~~ Provides for The coordination of quality improvement activities;
- ~~e.~~ Ensures The communication, reporting and documentation of all quality improvement activities on a regular basis to the governing board, the medical staff, and the hospital administrator;



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

*f.* ~~Provides for an~~ An annual evaluation by the governing board of the effectiveness of the quality improvement program; and

*g.* ~~Addresses~~ The accessibility and confidentiality of materials relating to, generated by or part of the quality improvement process.

This rule is intended to implement Iowa Code chapter 135B.

ITEM 6. Amend subrule 51.5(3) as follows:

**51.5(3)** A hospital shall not deny clinical privileges to physicians and surgeons, podiatrists, osteopaths or osteopathic surgeons, dentists, certified health service providers in psychology, physician assistants, ~~or~~ advanced registered nurse practitioners or pharmacists licensed under Iowa Code chapter 147, 148, 148C, 149, 150, 150A, 152, or 153, or 155 or section 154B.7 solely by reason of the license held by the practitioner or solely by reasons of the school or institution in which the practitioner received ~~medical schooling~~ health care education or postgraduate training if the ~~medical schooling~~ health care education or postgraduate training was accredited by an organization recognized by the council on postsecondary accreditation or an accrediting group recognized by the United States Department of Education.

ITEM 7. Amend rule 481—51.6(135B), introductory paragraph, as follows:

**481—51.6(135B) Patient rights and responsibilities.** The hospital governing board shall adopt a statement of principles relating to patient rights and responsibilities. In developing a statement of principles, the hospital may use reference statements of patient rights and responsibilities developed by the American Hospital Association, The Joint Commission (~~HC~~) (TJC), the American Osteopathic Association (AOA), ~~Det Norske Veritas (DNV)~~ DNV GL – Healthcare (DNV GL), the Center for Improvement in Healthcare Quality (CIHQ), and other appropriate sources.

ITEM 8. Amend paragraph **51.6(2)“a”** as follows:

*a.* Access to treatment regardless of age, race, ~~ered,~~ ethnicity, religion, culture, language, physical or mental disability, socioeconomic status, sex, ~~national origin,~~ sexual orientation, gender identity or expression, diagnosis, or source of payment for care;

ITEM 9. Rescind subrule 51.7(1) and adopt the following **new** subrule in lieu thereof:

**51.7(1) Definitions.**

“*Abuse*” means the willful infliction of injury, unreasonable confinement, intimidation, or punishment, with resulting physical harm, pain or mental anguish. Neglect is a form of abuse and is defined as the failure to provide goods and services necessary to avoid physical harm, mental anguish, or mental illness.

“*Child abuse*” means the same as provided for in Iowa Code section 232.68.

“*Dependent adult abuse*” means the same as provided for in Iowa Code section 235E.1.

“*Domestic abuse,*” as defined in Iowa Code section 236.2, means the commission of assault under any of the following circumstances:

1. The assault is between family or household members who resided together at the time of the assault;

2. The assault is between separated spouses or persons divorced from each other and not residing together at the time of the assault;

3. The assault is between persons who are parents of the same minor child, regardless of whether they have been married or have lived together at any time; or

4. The assault is between persons who have been family or household members residing together within the past year and are not residing together at the time of the assault.

“*Elder abuse*” means the same as provided for in Iowa Code section 235F.1.

“*Family or household members,*” as defined in Iowa Code section 236.2, are spouses, persons cohabiting, parents, or other persons related by consanguinity or affinity, except children under the age of 18.

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

ITEM 10. Amend subrule 51.7(2), introductory paragraph, as follows:

**51.7(2) *Abuse prohibited.*** Each patient shall receive kind and considerate care at all times and shall be free from ~~mental, physical, and sexual~~ all forms of abuse or harassment.

ITEM 11. Amend subrule 51.7(3), introductory paragraph, as follows:

**51.7(3) *Domestic Hospital response to domestic abuse.*** Each hospital shall establish and implement protocols with respect to victims of domestic abuse.

ITEM 12. Renumber subrule **51.7(4)** as **51.7(5)**.

ITEM 13. Adopt the following **new** subrule 51.7(4):

**51.7(4) *Hospital response to elder abuse.*** Each hospital shall establish and implement protocols with respect to victims of elder abuse.

a. The policies and procedures shall at a minimum provide for:

(1) An interview with the victim in a place that ensures privacy;  
 (2) Confidentiality of the person's treatment and information; and  
 (3) Education of appropriate emergency department staff to assist in the identification of victims of elder abuse.

b. The treatment records of victims of elder abuse shall include:

(1) An assessment of the extent of abuse to the victim specifically describing the location and extent of the injury and reported pain;  
 (2) A record of the treatment and intervention by health care provider personnel;  
 (3) A record of the need for follow-up care and specification of the follow-up care to be given (e.g., X-rays, surgery, consultation, similar care); and  
 (4) The victim's statement of how the injury occurred.

ITEM 14. Amend renumbered subrule 51.7(5) as follows:

**51.7(5) *Child Mandatory reporting of child abuse and dependent adult abuse.*** Each hospital shall ensure that written policies and procedures cover all requirements for the mandatory reporting of abuse pursuant to the Iowa Code. Each hospital shall provide that the treatment records of victims of child abuse or dependent adult abuse include a statement that the department of human services' protective services was contacted.

ITEM 15. Amend rule 481—51.8(135B) as follows:

**481—51.8(135B) Organ, and tissue and eye —requests and procurement.**

~~**51.8(1)** Each hospital licensed in accordance with Iowa Code chapter 135B shall have in place written policies and protocols for organ, and tissue and eye donation. Hospital policies and protocols for organ and tissue donation shall require that the patient, or appropriate person able to consent on behalf of the patient, be made aware of the option to donate as well as the option to refuse donation and the ability, if any, to revoke consent once given.~~

a. Hospitals shall be familiar with the revised uniform anatomical gift law Act, Iowa Code chapter 142C, and shall develop policies and protocols for consent to organ, and tissue and eye donation by either the patient or an appropriate person to consent on the patient's behalf consistent with that law's Act's provisions. Hospitals shall ensure that the specific organ, tissue and eye procurement requirements are met, as provided in 42 CFR 482.45 or 42 CFR 485.643.

~~b. Hospital policies and protocols for organ and tissue donation shall set forth the responsibilities of the attending physician or physicians, nursing staff, and other appropriate hospital staff persons in the organ and tissue donation process. At a minimum, the policies shall set forth who in particular is authorized to make an organ or tissue donor request and that all such requests shall be made only in accordance with clearly delineated written protocol approved by the hospital's medical staff and governing board.~~

~~c. Hospital policies and protocols for organ and tissue donation shall provide that the attending physician inform appropriate family members or others of impending death or that death has occurred prior to an organ or tissue donor request.~~

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

~~d.—Hospital policies and protocols for organ and tissue donation shall set forth those situations in which donation shall not be made including, but not necessarily limited to, the following:~~

~~(1) Where the patient is not medically suitable, as determined by the organ or tissue procurement organization;~~

~~(2) Where the hospital lacks the appropriate facilities or equipment for maintaining the patient or the organs for the time and in the manner necessary to facilitate appropriate procurement of the organ(s);~~

~~(3) Where the medical examiner has refused to release the body, except a donor request may be made where the medical examiner indicates that the body will be available at a time where the patient remains medically suitable for organ or tissue donation;~~

~~(4) Where the hospital has appropriate documentation that the patient or the appropriate person to consent on behalf of the patient does not want to consider the donation option;~~

~~(5) Rescinded IAB 8/6/03, effective 9/10/03.~~

~~e.—Hospital policies and protocols for organ and tissue donation shall require documentation in the patient's medical record of the fact that a donor request was made and either accepted or refused, stating to whom the request was made and who accepted or refused; or that a donor request was not made, stating the reason why no request was made; or that a consent previously given was subsequently revoked.~~

~~f.—Method and manner of consent, where consent to organ or tissue donation has been given, shall be noted in the patient's medical record. Where revocation of consent, if applicable, occurs, the manner and method of revocation shall also be noted in the patient's medical record.~~

~~g.—Where the patient has validly executed a donation prior to death, attempt will be made to notify appropriate family members, if reasonably available, of the donation before the procurement process begins.~~

~~h.—Hospital policies and protocols for organ and tissue donation shall provide for ongoing communication with the patient's family or other appropriate representatives regarding the donation process, the present status of that process and unexpected delays in the process, and family rights and responsibilities following organ or tissue donation.~~

~~**51.8(2) Determination of death.**~~

~~a.—No organ or tissue shall be removed from a donor until death has been determined according to the requirements of Iowa law and generally acceptable standards of medical practice.~~

~~b.—Death is defined by Iowa Code section 702.8 as a condition determined by the following standards:~~

~~A person will be considered dead if in the announced opinion of a physician licensed pursuant to Iowa Code chapter 148, 150, or 150A, a physician assistant licensed pursuant to Iowa Code chapter 148C, or a registered nurse or a licensed practical nurse licensed pursuant to Iowa Code chapter 152, based on ordinary standards of medical practice, that person has experienced an irreversible cessation of spontaneous respiratory and circulatory functions. In the event that artificial means of support preclude a determination that these functions have ceased, a person will be considered dead if in the announced opinion of two physicians, based on ordinary standards of medical practice, that person has experienced an irreversible cessation of spontaneous brain functions. Death will have occurred at the time when the relevant functions ceased.~~

~~c.—The surgeon performing the organ removal shall not participate in the determination of brain death.~~

~~d.—The patient's medical record shall include documentation of the date and time of death and identification of the practitioner or practitioners who determined death, as provided in 51.8(2) "b."~~

~~**51.8(3) Determination of medical suitability.**~~

~~a.—At or near the time of the patient's death or when death has occurred, no organ and tissue donor request shall be made until the patient has been determined by the designated organ or tissue procurement organization to be medically suitable for organ or tissue donation.~~

~~b.—Each hospital shall consult with a recognized organ and tissue procurement program or programs in establishing medical requirements for organ and tissue donation and in evaluating a particular patient's suitability for donation. Where required by federal law, hospitals shall work only~~

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

~~with organ or tissue procurement organizations designated by the Department of Health and Human Services (DHHS). Organ and tissue procurement programs maintain guidelines for determining medical suitability and generally will provide a hospital with a copy of those guidelines which may be incorporated into the hospital's own policies and protocol for organ and tissue donation.~~

**51.8(4)** Organ and tissue procurement.

~~a.—Hospital policies and protocol for organ and tissue donation shall set forth the process to be used for contacting an organ procurement organization (OPO).~~

~~b.—Hospitals with an agreement with the designated OPO shall take into account the terms and conditions of the agreement in developing their policies and protocols. Hospitals shall contact only the OPO designated by the federal Department of Health and Human Services.~~

~~c.—Generally an OPO will assume the costs of procuring medically suitable organs and tissues, including costs borne by the donating hospital in maintaining the patient until organ retrieval can occur as well as in the retrieval process itself. A hospital shall be familiar with its financial obligations, if any, in the procurement process and with cost accounting/reporting responsibilities it bears, if any, under Medicare and Medicaid. In situations, if any, where the patient or the patient's family may be liable for certain costs associated with organ donation or procurement, the patient or person able to consent for the patient shall be fully informed of the potential financial obligations at the time of request and before consent is either given or refused.~~

~~d.—When an organ or tissue is retrieved for transplantation purposes, the hospital shall ensure that the medical records of the donor and, if applicable, the recipient fulfill the requirements for any surgical inpatient medical record. Medical record documentation shall include the method of maintenance of the patient while awaiting organ or tissue retrieval and operative report documentation (including an autopsy if an autopsy has been performed) regarding the removal of the organ or tissue.~~

~~e.—The procurement process shall not occur until necessary consent by the patient or appropriate person to consent on behalf of the patient is received and documented. Also, in cases requiring the involvement of the medical examiner, release of the body must be authorized by the medical examiner and documented.~~

~~f.—Where a donor specifies to whom the organ or tissue donation is to be made, the hospital shall first contact the named donee to determine whether the donee accepts the donation. Where the donee refuses the donation or is unable for other reasons to accept, then the hospital shall document in the medical record the fact that the donation was not accepted. The hospital shall then notify the appropriate consenting party that the donation was not accepted and determine whether the consenting party desires to make further donation. A hospital shall make good faith effort to cooperate in the donation/procurement process where a specific donee has been named but shall not be required to participate in the donation process where procurement for a specific donee would result in undue burden or unreasonable cost to the hospital; in such situations, the hospital shall notify the appropriate consenting party and determine whether the consenting party desires to make further donation.~~

~~g.—Where consent has been given for organ or tissue donation, revocation of prior consent, if applicable, shall not be effective once surgical procedures have begun on either the donor or the recipient.~~

**51.8(5)** Informed consent. ~~Hospital policies and protocols for organ and tissue donation shall be consistent with informed consent provisions provided by the organ or tissue procurement organization.~~

**51.8(6)** Confidentiality. ~~Hospital policies and protocols for organ and tissue donation shall provide that donor and recipient patient identifying information shall be kept confidential except and only to the extent necessary to assist and complete the procurement and transplant process.~~

**51.8(7)** Training of hospital personnel. ~~Hospital policies and protocols for organ and tissue donation shall include provisions for initial and ongoing training of hospital medical, nursing, and other appropriate staff persons regarding the various aspects of the organ and tissue donation and procurement process. The type and extent of training will vary from hospital to hospital, based on factors such as likelihood of medically suitable donors, capabilities for maintaining organ donors/patients, referral sources for potential organ and tissue donor candidates, and overall participation in organ and tissue procurement and transplants.~~

This rule is intended to implement Iowa Code section 135B.7.

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

ITEM 16. Amend subrule 51.9(2) as follows:

**51.9(2)** Registered ~~nurse(s)~~ nurses shall utilize the nursing process in the ~~provision~~ practice of nursing ~~care to each patient,~~ consistent with accepted and prevailing practice. The nursing process is ongoing and includes:

a. Nursing assessment ~~assessments about the health status of the patient, analysis of the data, and formation of a nursing diagnosis;~~ an individual or group.

b. Formulation of a nursing diagnosis based on analysis of the data from the nursing assessment.

~~b. c.~~ Planning of nursing care, which includes determining goals and priorities for actions ~~which~~ that are based on the nursing diagnosis;

~~e. d.~~ Nursing interventions implementing the plan of care;

~~d. e.~~ Evaluation of ~~patient~~ the individual's or group's status in relation to established goals and the plan of care.

ITEM 17. Amend subrule 51.9(4) as follows:

**51.9(4)** All nurses employed in a hospital who practice nursing as a registered nurse or licensed practical nurse shall ~~be licensed in Iowa~~ hold an active Iowa license or hold an active license in another state and be recognized for licensure in this state pursuant to the nurse licensure compact in Iowa Code section 152E.1.

ITEM 18. Amend subrule 51.9(5) as follows:

**51.9(5)** There shall be a director of nursing service with administrative and executive competency who shall ~~be a registered nurse licensed in the state of Iowa~~ hold an active Iowa license or hold an active license in another state and be recognized for licensure in this state pursuant to the nurse licensure compact in Iowa Code section 152E.1.

ITEM 19. Amend subrule 51.9(6) as follows:

**51.9(6)** ~~Supervisors and head nurses~~ Nursing management shall have had preparation courses and experience in accordance with hospital policy commensurate with the responsibility of the specific assignment.

ITEM 20. Amend subrule 51.9(7) as follows:

**51.9(7)** All ~~nonprofessional workers~~ unlicensed personnel performing patient-care service shall be under the supervision of a registered nurse. ~~Their~~ The duties of unlicensed personnel shall be defined in writing by the hospital, ~~and they~~ unlicensed personnel shall be instructed in all duties assigned to them.

ITEM 21. Amend subrule 51.12(1) as follows:

**51.12(1)** *Medical records.* Accurate and complete medical records shall be ~~written~~ maintained for all patients and signed by the ~~attending physician~~ appropriate provider. These records shall be filed and stored in an accessible manner ~~in the hospital~~ and in accordance with the statute of limitations as specified in Iowa Code chapter 614.

ITEM 22. Rescind subrule 51.12(3) and adopt the following **new** subrule in lieu thereof:

**51.12(3)** *Electronic records.* In addition to the access provided in 481—subrule 50.10(2), an authorized representative of the department shall be provided unrestricted access to electronic records pertaining to the care provided to the patients of the hospital.

*a.* If access to an electronic record is requested by the authorized representative of the department, the hospital 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 hospital shall provide a terminal where the authorized representative may access records.

*c.* If the hospital is unable to provide direct print capability to the authorized representative, the hospital 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.

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

ITEM 23. Amend subrule 51.14(1) as follows:

**51.14(1) General requirements.** Hospital pharmaceutical services shall be licensed in accordance with Iowa board of pharmacy ~~examiners~~ rules in 657—~~Chapter~~ Chapters 7, 8, 9, 10, 11, 20, 21, 22 and 40.

ITEM 24. Amend subrule 51.14(3) as follows:

**51.14(3) Medication orders.** All verbal orders must be authenticated ~~in writing and signed by signature or other secure electronic method by~~ the prescribing practitioner within a period not to exceed 30 days following a patient's discharge.

When ~~telephone, oral~~ verbal or electronic mechanisms are used to transmit medication orders, they must be accepted only by personnel that are authorized to do so by hospital policies and procedures in a manner consistent with federal and state law.

ITEM 25. Amend paragraph **51.14(4)“a”** as follows:

a. Specify the ~~circumstances~~ clinical situations under which the drug is to be administered;

ITEM 26. Amend paragraph **51.14(4)“c”** as follows:

c. Be reviewed and revised by the ~~prescribing practitioner~~ medical staff and the hospital's nursing and pharmacy leadership on a regular basis as specified by hospital policies and procedures;

ITEM 27. Amend paragraph **51.14(4)“e”** as follows:

e. Be dated, ~~signed~~ authorized by signature or other secure electronic method by the prescribing practitioner within a period not to exceed 30 days following a patient's discharge, and included in the patient's medical record.

ITEM 28. Adopt the following new rule 481—51.15(135B):

**481—51.15(135B) Orders other than medication.** All verbal orders must be authenticated by the ordering practitioner within a period not to exceed 30 days following a patient's discharge. When verbal or electronic mechanisms are used to transmit orders, the orders must be accepted only by personnel who are authorized to accept them by hospital policies and procedures in a manner consistent with federal and state law.

ITEM 29. Amend paragraph **51.20(2)“a”** as follows:

a. All food shall be handled, prepared, served, and stored in compliance with the requirements of the ~~2005 Food and Drug Administration Food Code with Supplement~~ adopted under provisions of Iowa Code section 137F.2.

ITEM 30. Amend paragraph **51.20(2)“c”** as follows:

c. Policies and procedures shall be developed and maintained ~~in consultation with representatives of the medical staff, nursing staff, food and nutrition service staff, pharmacy staff, and administration to govern the provision of food and nutrition services.~~ Policies and procedures shall be approved by the medical staff, administration, and governing body.

ITEM 31. Amend paragraph **51.20(2)“e”** as follows:

e. Therapeutic diets shall be provided as ~~prescribed~~ ordered by the qualified health care practitioner, including a registered, licensed dietician, and shall be planned, prepared, and served with supervision or consultation from the registered, licensed dietitian. Persons responsible for therapeutic diets shall have sufficient knowledge of food to make appropriate substitutions when necessary.

ITEM 32. Amend paragraph **51.20(2)“f”** as follows:

f. The patient's ~~diet card~~ shall state likes, dislikes, food allergies, and other pertinent information shall be included with the patient's diet information.

ITEM 33. Amend subparagraph **51.20(2)“g”(1)** as follows:

(1) Menus for regular and therapeutic diets shall be ~~written, approved, dated and~~ nutritionally appropriate, meet the needs of patients, and be available in the food service area at least one week in advance.

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

ITEM 34. Amend rule 481—51.22(135B) as follows:

**481—51.22(135B) Equipment for patient care.** Hospital equipment shall be selected, maintained and utilized in accordance with the manufacturer's specifications and the needs of the patients.

~~51.22(1) Furnishings, supplies and equipment. Rescinded IAB 12/1/99, effective 1/5/00.~~

~~51.22(2) Hot water bags. Rescinded IAB 12/1/99, effective 1/5/00.~~

~~51.22(3) Restraints. Rescinded IAB 3/30/94, effective 5/4/94. See rule 51.7(135B).~~

~~51.22(4) Signals. Rescinded IAB 12/1/99, effective 1/5/00.~~

~~51.22(5) Screens. Rescinded IAB 12/1/99, effective 1/5/00.~~

~~51.22(6) Storage space. Rescinded IAB 12/1/99, effective 1/5/00.~~

ITEM 35. Amend rule 481—51.24(135B), introductory paragraph, as follows:

**481—51.24(135B) Infection control.** There shall be proper policies and procedures for the prevention and control of communicable diseases. The hospital shall provide for compliance with the current rules for the control of communicable disease as provided by the state Iowa department of public health in 641—Chapter 1, 1987 and 1988 current Centers for Disease Control and Prevention (CDC) guidelines on universal precautions and 1985 CDC guidelines for hand washing for isolation precautions.

ITEM 36. Amend paragraph **51.24(1)“b”** as follows:

*b.* Segregation of communicable cases shall include policies for the medical, nursing and lay staffs staff, providing for proper isolation technique in order to prevent cross-infection.

ITEM 37. Amend subrule 51.24(2) as follows:

**51.24(2) Visitors.** The governing authority of the hospital shall establish proper policies and procedures for the control of visitors to all services in the hospital in accordance with hospital practice. In the maternity area, each hospital should develop its own criteria, control measures, and protocols to ensure against introduction of infection in this critical area. These criteria should be reviewed and approved by the committee of the hospital.

ITEM 38. Amend subrule 51.24(3) as follows:

**51.24(3) Health examinations assessments.** Health examinations assessments for all contracted or employed personnel who provide direct services shall be required at the commencement of employment and thereafter at least every four years.

*a.* “Direct services” means services provided through person-to-person contact. “Direct services” excludes services provided by individuals such as building contractors, repair workers, or others who are in the hospital for a very limited purpose, who are not in the hospital on a regular basis, and who do not provide any treatment or services for the patients of the hospital.

*b.* The health assessment may be performed by the person's primary care provider.

*c.* The examination health assessment shall include, at a minimum, the health status of the employee vital signs and an assessment for infectious or communicable diseases. Consideration shall be given to requiring health examinations at shorter intervals for those employees working in high-risk areas.

*d.* Screening and testing for tuberculosis shall be conducted pursuant to 481—Chapter 59.

ITEM 39. Amend subrule 51.26(1) as follows:

**51.26(1)** Written policies and procedures shall be implemented governing surgical services that are consistent with the needs of the patient and the resources of the hospital.

*a.* Policies and procedures shall be developed in consultation with and the approval of the hospital's medical staff. At a minimum, the policies and procedures shall provide for:

*a.* (1) Surgical services under the direction of a qualified doctor of medicine or osteopathy.

*b.* (2) Delineation of the privileges and qualifications of individuals authorized to provide surgical services as set forth in the hospital's medical staff bylaws and in accordance with subrule 51.5(4). The surgical service must maintain a roster of these individuals specifying the surgical privileges of each. Surgical privileges shall be reviewed and updated at least once every two years.

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

- ~~e.~~ (3) Immediate availability of at least one registered nurse for the operating room suites to respond to emergencies.
- ~~f.~~ (4) The qualifications and job descriptions of nursing personnel, surgical technicians, and other support personnel and continuing education required.
- ~~e.~~ (5) Appropriate staffing for surgical services including physician and anesthesia coverage and other support personnel.
- ~~f.~~ (6) Availability of ancillary services for surgical patients including, but not limited to: blood banking, laboratory, radiology, and anesthesia.
- ~~g.~~ (7) Infection control and disease prevention, including aseptic surveillance and practice, identification of infected and noninfected cases, sterilization and disinfection procedures, and ongoing monitoring of infections and infection rates.
- ~~h.~~ (8) Housekeeping requirements.
- ~~i.~~ (9) Safety practices.
- ~~j.~~ (10) Ongoing quality assessment, performance improvement, and process improvement.
- ~~k.~~ (11) Provisions for the pathological examination of tissue specimens either directly or through contractual arrangements.
- ~~l.~~ (12) Appropriate preoperative teaching and discharge planning.
- ~~b.~~ ~~Reference sources to guide hospitals~~ Hospitals may consider the most recent edition of the following publications in the development of policies and procedures are: “Statement of Principles,” ~~March 1994 Edition,~~ American College of Surgeons; and “Standards and Recommended Practices,” ~~1995 Edition,~~ Association of Operating Room Nurses.

ITEM 40. Amend subrule 51.26(4) as follows:

**51.26(4)** ~~An~~ A full operative report must be written or dictated ~~promptly~~ within 24 hours following surgery and signed by the individual conducting the surgery.

ITEM 41. Amend subrule 51.28(2) as follows:

**51.28(2)** Policies and procedures may be adjusted as appropriate to reflect provision of anesthesia services in inpatient, or outpatient, ~~or one-day surgery~~ settings.

ITEM 42. Amend rule 481—51.30(135B) as follows:

**481—51.30(135B) Emergency services.**

**51.30(1)** All hospitals shall provide for emergency service which offers reasonable care within the medical capabilities of the facility in determining whether an emergency exists, renders care appropriate to the facility and at a minimum renders lifesaving first aid and makes appropriate referral to a facility that is capable of providing needed services.

**51.30(1)** ~~51.30(2)~~ The hospital ~~has~~ shall have written policies and procedures specifying the scope and conduct of patient care to be provided in the emergency service. The policies shall:

a. ~~The policies specify~~ Specify the mechanism for providing physician coverage at all times as defined by the medical staff bylaws.

b. ~~The policies provide~~ Provide for a ~~planned, formal training program~~ required of all personnel providing patient care in the emergency service. ~~This program shall cover emergency care for patients of all ages.~~

c. ~~The policies require~~ Require that a medical record be kept on every patient given treatment in the emergency service and establish the medical record documentation. The documentation should include at a minimum appropriate information regarding the medical screening provided, except where the person refuses, then notation of patient refusal; physician documentation of the presence or absence of an emergency medical condition or active labor; physician documentation of transfer or discharge, stating the basis for transfer or discharge; and where transfer occurs, identity of the facility of transfer, acceptance of the patient by the facility of transfer, and means of transfer of the patient.

~~d. The policies and procedures are reviewed and approved annually by the governing board.~~

**51.30(2)** ~~Hospital policies and procedures shall be developed in accordance with the hospital's medical, technological, personnel and equipment capabilities.~~



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

ITEM 43. Amend subrule 51.32(1) as follows:

**51.32(1)** All ~~general or specialized~~ hospitals providing for the obstetrical care of maternity patients shall be properly organized and equipped to provide accommodations for mothers and newborn infants. The supervision of the maternity area shall be under the direction of a qualified registered nurse, ~~and there shall be accommodations for the isolation of infected cases.~~

ITEM 44. Amend subrule 51.32(2) as follows:

**51.32(2)** Written policies and procedures shall be implemented governing obstetric and neonatal services that are consistent with the needs of the patient and resources of the hospital.

*a.* Policies and procedures shall be developed in consultation with and with the approval of the hospital's medical staff. At a minimum, the policies and procedures shall provide for:

~~*a.*~~ (1) Obstetric and neonatal services under the direction of a qualified doctor of medicine or osteopathy.

~~*b.*~~ (2) Delineation of the privileges and qualifications of individuals authorized to provide obstetrical/gynecological service as set out in the hospital's medical staff bylaws.

~~*c.*~~ (3) The qualifications of nursing personnel and continuing education required.

~~*d.*~~ (4) Adequate staffing for obstetrical and newborn services.

~~*e.*~~ (5) Location and arrangement of obstetric and newborn services.

~~*f.*~~ (6) Infection control and disease prevention.

~~*g.*~~ (7) Ongoing quality assessment.

*b.* ~~Reference sources to guide hospitals~~ Hospitals may consider the most recent edition of the following publications in the development of policies and procedures ~~are:~~ 641—Chapter 150, Iowa Regionalized System of Perinatal Health Care, Iowa Administrative Code, and Guidelines for Perinatal Care, ~~Fourth Edition~~, American Academy of Pediatrics, American College of Obstetrics and Gynecology.

ITEM 45. Amend rule 481—51.34(135B) as follows:

**481—51.34(135B) Pediatric services.**

**51.34(1)** All general or specialized hospitals providing pediatric care shall be properly organized and equipped to provide appropriate accommodations for children. The supervision of the pediatric area shall be under the direction of a qualified registered nurse.

**51.34(2)** Written policies and procedures shall be implemented governing pediatric services that are consistent with the needs of the child and resources of the hospital.

*a.* Policies and procedures shall be developed in consultation with and the approval of the hospital's medical staff. At a minimum, the policies and procedures shall provide for:

~~*a.*~~ (1) Pediatric services under the medical direction of a qualified doctor of medicine or osteopathy.

~~*b.*~~ (2) Delineation of the privileges and qualifications of individuals authorized to provide pediatric services as set out in the hospital's medical staff bylaws.

~~*c.*~~ (3) The qualifications of nursing personnel and continuing education required, including care in the event of emergency situations.

~~*d.*~~ (4) Adequate staffing and equipment for pediatric services including ancillary services. Staff participating in the care of pediatric patients shall have ~~an interest in pediatrics and shall have specialized education appropriate to their profession~~ for the care of pediatric patients.

~~*e.*~~ (5) Ancillary services for pediatric patients shall be available and include, but not be limited to, pharmaceutical care, laboratory services, respiratory therapy, physical therapy and speech therapy.

~~*f.*~~ (6) Ongoing quality assessment.

~~*g.*~~ (7) Written protocol for transfer of pediatric patients in the event the hospital does not have capability to provide care for these patients.

*b.* ~~Reference sources to guide hospitals~~ Hospitals may consider the most recent editions of the following publications in the development of policies and procedures: ~~are~~ the American Academy of Pediatrics' 1994 Policy Reference Guide and policy statements which are published on a monthly basis in

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

“Pediatrics” and the “Pediatric & Neonatal Dosage Handbook,” ~~Third Edition,~~ American Pharmaceutical Pharmacists Association.

~~51.34(3) There shall be proper facilities and procedures for the isolation of pediatric patients with communicable diseases.~~

ITEM 46. Amend subrule 51.36(1), introductory paragraph, as follows:

**51.36(1)** Any ~~institution~~ hospital operating as a psychiatric hospital or operating a ~~designated~~ psychiatric unit shall:

ITEM 47. Amend paragraph **51.36(2)“a”** as follows:

*a. Director of inpatient psychiatric services.* The director of inpatient psychiatric services shall be a doctor of medicine or osteopathy qualified to meet the training and experience requirements for examination by the American Board of Psychiatry and Neurology or the American Osteopathic Board of Neurology and Psychiatry. The number and qualifications of doctors of medicine, ~~or~~ doctors of osteopathy or advanced registered nurse practitioners certified in psychiatric or mental health nursing on staff must be adequate to provide essential psychiatric and medical services.

ITEM 48. Amend paragraph **51.36(2)“b”** as follows:

*b. Director of psychiatric nursing services.* The director of psychiatric nursing services shall:

(1) Be a registered nurse who has a master’s degree in psychiatric or mental health nursing; ~~or~~

(2) Be an advanced registered nurse practitioner certified in psychiatric or mental health nursing;

or

~~(2)~~ (3) Be qualified by education and two years’ experience in the care of persons with mental disorders.

ITEM 49. Amend paragraph **51.36(3)“f”** as follows:

*f.* Be reviewed as needed ~~or at least every 30 days~~ by the interdisciplinary team for the continued appropriateness of the plan and for a determination of needed changes.

ITEM 50. Rescind and reserve rule **481—51.40(135B)**.

ITEM 51. Amend subrule **51.41(1)**, definition of “Employee,” as follows:

“Employee” means any individual who is paid, either by the hospital or any other entity (i.e., temporary agency, private duty, Medicare/Medicaid or independent contractors) to provide direct or indirect services to patients of a hospital.

ITEM 52. Amend subrule 51.53(5) as follows:

**51.53(5)** The hospital shall meet the Medicare conditions of participation as a critical access hospital as described in 42 CFR Part 485, Subpart F, ~~as of October 1, 2004.~~

ITEM 53. Amend subrule 51.53(7) as follows:

**51.53(7)** The department shall recognize, in lieu of its own inspection, the comparable inspections and inspections findings of The Joint Commission (~~JC~~) (TJC), the American Osteopathic Association (AOA), ~~Det Norske Veritas (DNV)~~ DNV GL – Healthcare (DNV GL), or the Center for Improvement in Healthcare Quality (CIHQ) if the department is provided with copies of all requested materials relating to the inspections and the inspection process.

**ARC 2303C**

**INSPECTIONS AND APPEALS DEPARTMENT[481]**

**Notice of Intended Action**

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

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

Pursuant to the authority of Iowa Code sections 10A.104(5) and 135C.14, the Department of Inspections and Appeals hereby gives Notice of Intended Action to amend Chapter 58, “Nursing Facilities,” Iowa Administrative Code.

The proposed amendment in Item 1 rescinds the current dietary rule and replaces it with a new rule. The amendment adopts by reference the Food and Drug Administration Food Code adopted under provisions of Iowa Code section 137F.2 and requires nursing facilities to handle, prepare and serve food in accordance with the most current food code. Provisions in the current rule that were duplicative of food code requirements are removed. Provisions related to nutritional status, hydration and therapeutic diets are added.

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

The State Board of Health initially reviewed the proposed amendments at its November 12, 2015, meeting.

Any interested person may make written suggestions or comments on the proposed amendments on or before December 29, 2015. Such written materials should be addressed to the Director, Department of Inspections and Appeals, Lucas State Office Building, 321 East 12th Street, Des Moines, Iowa 50319-0083; faxed to (515)242-6863; or e-mailed to [david.werning@dia.iowa.gov](mailto:david.werning@dia.iowa.gov).

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

These amendments are intended to implement Iowa Code section 135C.14.

The following amendments are proposed.

ITEM 1. Adopt the following **new** subparagraph **58.19(1)“n”(8)**:

(8) Sufficient fluid intake to maintain proper hydration and health. (I, II, III)

ITEM 2. Rescind rule 481—58.24(135C) and adopt the following **new** rule in lieu thereof:

**481—58.24(135C) Dietary.**

**58.24(1) Organization of dietetic services.** The facility shall meet the needs of the residents and provide the services listed in this standard. If a service is contracted out, the contractor shall meet the same standard. A written agreement shall be formulated between the facility and the contractor and shall convey to the department the right to inspect the food service facilities of the contractor. (III)

*a.* There shall be written policies and procedures for dietetic services that include staffing, nutrition, menu planning, therapeutic diets, preparation, food service, ordering, receiving, storage, sanitation, and staff hygiene. The policies and procedures shall be made available for use by dietetic services. (III)

*b.* There shall be written job descriptions for each position in dietetic services. The job descriptions shall be made available for use by dietetic services. (III)

**58.24(2) Dietary staffing.**

*a.* The facility shall employ a qualified dietary supervisor who:

(1) Is a qualified dietitian as defined in 58.24(2)“e”; or

(2) Is a graduate of a dietetic technician training program approved by the Academy of Nutrition and Dietetics; or

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

(3) Is a certified dietary manager certified by the certifying board for dietary managers of the Association of Nutrition and Foodservice Professionals and maintains that credential through 45 hours of ANFP-approved continuing education; or

(4) Has completed an ANFP-approved course curriculum necessary to take the certification examination required to become a certified dietary manager; or

(5) Has documented evidence of at least two years' satisfactory work experience in food service supervision and who is in an approved dietary manager association program and will successfully complete the program within 12 months of the date of enrollment; or

(6) Has completed the 90-hour training course approved by the department and is a certified food protection manager who has received training from and passed a test that is part of an American National Standards Institute (ANSI)-accredited Certified Food Protection Manager Program. (II, III)

*b.* The supervisor shall have overall supervisory responsibility for dietetic services and shall be employed for a sufficient number of hours to complete management responsibilities that include:

(1) Participating in regular conferences with the consultant dietitian, the administrator and other department heads; (III)

(2) Writing menus with consultation from the dietitian and seeing that current menus are posted and followed and that menu changes are recorded; (III)

(3) Establishing and maintaining standards for food preparation and service; (II, III)

(4) Participating in selection, orientation, and in-service training of dietary personnel; (II, III)

(5) Supervising activities of dietary personnel; (II, III)

(6) Maintaining up-to-date records of residents identified by name, location and diet order; (III)

(7) Visiting residents to learn individual needs and communicating with other members of the health care team regarding nutritional needs of residents when necessary; (II, III)

(8) Keeping records of repairs of equipment in dietetic services. (III)

*c.* A minimum of one person with supervisory and management responsibility and the authority to direct and control food preparation and service shall be a certified food protection manager who has received training from and passed a test that is part of an American National Standards Institute (ANSI)-accredited Certified Food Protection Manager Program.

*d.* The facility shall employ sufficient supportive personnel to carry out the following functions:

(1) Preparing and serving adequate amounts of food that are handled in a manner to be bacteriologically safe; (II, III)

(2) Washing and sanitizing dishes, pots, pans and equipment at temperatures required by procedures described in the food code as defined in Iowa Code section 137F.2; (II, III)

(3) Serving of therapeutic diets as prescribed by the physician and following the planned menu. (II, III)

*e.* The facility may assign simultaneous duties in the kitchen and laundry, housekeeping, or nursing service to appropriately trained personnel. Proper sanitary and personal hygiene procedures shall be followed as outlined under the rules pertaining to staff hygiene. (II, III)

*f.* If the dietetic service supervisor is not a licensed dietitian, a consultant dietitian is required. The consultant dietitian shall be licensed by the state of Iowa pursuant to Iowa Code chapter 152A.

*g.* Consultants' visits shall be scheduled to be of sufficient duration and at a time convenient to:

(1) Record, in the resident's medical record, any observations, assessments and information pertinent to medical nutrition therapy; (I, II, III)

(2) Work with residents and staff on resident care plans; (III)

(3) Consult with the administrator and others on developing and implementing policies and procedures; (III)

(4) Write or approve general and therapeutic menus; (III)

(5) Work with the dietetic supervisor on developing procedures, recipes and other management tools; (III)

(6) Present planned in-service training and staff development for food service employees and others. Documentation of consultation shall be available for review in the facility by the department. (III)

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

*h.* In facilities licensed for more than 15 beds, dietetic services shall be available for a minimum of a 12-hour span extending from the time of preparation of breakfast through supper. (III)

**58.24(3) Nutrition and menu planning.**

*a.* Menus shall be planned and followed to meet the nutritional needs of each resident in accordance with the physician's orders and in consideration of the resident's choices and preferences. (II, III)

*b.* Menus shall be planned to provide 100 percent of the daily recommended dietary allowances as established by the Food and Nutrition Board of the National Research Council of the National Academy of Sciences. A current copy of the Simplified Diet Manual shall be available and used in the planning and serving of all meals. (II)

*c.* At least three meals or their equivalent shall be served daily at regular hours. (II)

(1) There shall be no more than a 14-hour span between a substantial evening meal and breakfast except as provided in subparagraph (3) below. (II, III)

(2) The facility shall offer snacks at bedtime daily. (II, III)

(3) When a nourishing snack is provided at bedtime, up to 16 hours may elapse between a substantial evening meal and breakfast of the following day. The current resident group must agree to this meal span and a nourishing snack must be served. (II)

*d.* Menus shall include a variety of foods prepared in various ways. (III)

*e.* Menus shall be written at least one week in advance. The current menu shall be located in an accessible place in the dietetic services department for easy use by persons purchasing, preparing and serving food. (III)

*f.* Records of menus as served shall be filed and maintained for 30 days and shall be available for review by department personnel. When substitutions are necessary, they shall be of similar nutritive value and recorded. (III)

*g.* A file of tested recipes adjusted to the number of people to be served in the facility shall be maintained. (III)

*h.* Alternate foods shall be offered to residents who refuse the food served. (II, III)

**58.24(4) Therapeutic diets and nutritional status.**

*a.* The facility shall ensure that each resident has a nutritional assessment completed by the licensed dietitian within 14 days of admission that addresses the residents' medical condition and therapeutic dietary needs, desires and rights in regard to their nutritional plan. (I, II, III)

*b.* Therapeutic diets shall be prescribed by the resident's physician, physician assistant or advanced registered nurse practitioner. A current edition of the Simplified Diet Manual shall be readily available to physicians, physician assistants, advanced registered nurse practitioners, nurses and dietetic services personnel. This manual shall be used as a guide for writing menus for therapeutic diets. A licensed dietitian shall be responsible for writing and approving the therapeutic menu and reviewing procedures for preparation and service of food. (II, III)

*c.* Personnel responsible for planning, preparing and serving therapeutic diets shall receive instructions on those diets. (II, III)

*d.* The facility shall ensure that each resident maintains acceptable parameters of nutritional status, such as body weight, unless the resident's clinical condition demonstrates that this is not possible. (I, II, III)

**58.24(5) Food handling, preparation and service.** All food shall be handled, prepared and served in compliance with the requirements of the Food and Drug Administration Food Code adopted under provisions of Iowa Code section 137F.2. (I, II, III) In addition, the following shall apply.

*a.* Methods used to prepare foods shall be those which conserve nutritive value and flavor and meet the taste preferences of the residents. (III)

*b.* Foods shall be attractively served. (III)

*c.* Foods shall be cut up, chopped, ground or blended to meet individual needs. (I, II, III)

*d.* Self-help devices shall be provided as needed. (II, III)

*e.* Disposables shall not be used routinely. Plasticware, china and glassware that are unsightly, unsanitary or hazardous because of chips, cracks or loss of glaze shall be discarded. (II, III)

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

- f.* All food that is transported through public corridors shall be covered. (III)
- g.* Residents may be allowed in the food preparation area. (III)
- h.* The food preparation area may be used as a dining area for residents, staff or food service personnel if the facility engages in person-directed care. (III)
- i.* There shall be effective written procedures established for cleaning all work and serving areas. (III)
- j.* A schedule of cleaning duties to be performed daily shall be posted. (III)
- k.* An exhaust system and hood shall be clean, operational and maintained in good repair. (III)
- l.* The food service area shall be located so it will not be used as a passageway by residents, guests or non-food service staff. (III)

**58.24(6) *Paid nutritional assistants.*** A paid nutritional assistant means an individual who meets the requirements of this subrule and who is an employee of the facility or an employee of a temporary employment agency employed by the facility. A facility may use an individual working in the facility as a paid nutritional assistant only if that individual has successfully completed a state-approved training program for paid nutritional assistants. (I, II, III)

*a. Training program requirements.*

(1) A state-approved training program for paid nutritional assistants must include, at a minimum, eight hours of training in the following areas:

1. Feeding techniques.
2. Assistance with feeding and hydration.
3. Communication and interpersonal skills.
4. Appropriate responses to resident behavior.
5. Safety and emergency procedures, including the Heimlich maneuver.
6. Infection control.
7. Resident rights.
8. Recognizing changes in residents that are inconsistent with their normal behavior and reporting these changes to the supervisory nurse.

(2) In addition to the training program requirements specified in subparagraph (1), the training program must include at least four hours of classroom study, two hours of supervised laboratory work, and two hours of supervised clinical experience.

(3) A facility that offers a paid nutritional assistant training program must provide sufficient supplies in order to teach the objectives of the course.

(4) All paid nutritional assistant training program instructors shall be registered nurses. Other qualified health care professionals may assist the instructor in teaching the classroom portion and clinical or laboratory experience. The ratio of students to instructor shall not exceed ten students per instructor in the clinical setting.

(5) Each individual enrolled in a paid nutritional assistant training program shall complete a 50-question multiple choice written test and must obtain a score of 80 percent or higher. In addition, the individual must successfully perform the feeding of a resident in a clinical setting. A registered nurse shall conduct the final competency determination.

(6) If an individual does not pass either the written test or competency demonstration, the individual may retest the failed portion a second time. If the individual does not pass either the written test or competency demonstration portion the second time, the individual shall not be allowed to retest.

*b. Program approval.* A facility or other entity may not offer or teach a paid nutritional assistant training program until the department has approved the program. Individuals trained in a program not approved by the department will not be allowed to function as paid nutritional assistants.

(1) A facility or other institution offering a paid nutritional assistant training program must provide the following information about the training program to the department before offering the program or teaching paid nutritional assistants:

1. Policies and procedures for program administration.
2. Qualifications of the instructors.
3. Maintenance of program records, including attendance records.

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

4. Criteria for determining competency.
5. Program costs and refund policies.
6. Lesson plans, including the objectives to be taught, skills demonstrations, assignments, quizzes, and classroom, laboratory and clinical hours.

(2) The facility or other institution offering a paid nutritional assistant training program must submit the materials specified in subparagraph (1) for department review. The department shall, within ten days of receipt of the material, advise the facility or institution whether the program is approved, or request additional information to assist the department in determining whether the curriculum meets the requirements for a paid nutritional assistant training program. Before approving any paid nutritional assistant training program, the department shall determine whether the curriculum meets the requirements specified in this subrule. The department shall maintain a list of facilities and institutions eligible to provide paid nutritional assistant training. (I, II, III)

(3) A facility shall maintain a record of all individuals who have successfully completed the required training program and are used by the facility as paid nutritional assistants. The individual shall complete the training program with a demonstration of knowledge and competency skills necessary to serve as a paid nutritional assistant. (I, II, III)

(4) The facility or other institution providing the training shall, within ten calendar days of an individual's successful completion of the training program, provide the individual with a signed and dated certificate of completion. A facility that employs paid nutritional assistants shall maintain on file copies of the completed certificate and skills checklist for each individual who has successfully completed the training program. (I, II, III)

*c. Working restrictions.*

(1) A paid nutritional assistant must work under the supervision of a registered nurse or a licensed practical nurse. In an emergency, a paid nutritional assistant must call a supervisory nurse on the resident call system for help. (I, II, III)

(2) A facility must ensure that a paid nutritional assistant feeds only residents who have no complicated feeding problems. Complicated feeding problems include, but are not limited to, difficulty swallowing, recurrent lung aspirations, and tube, parenteral or intravenous feedings. The facility must base resident selection on the charge nurse's assessment and the resident's latest assessment and plan of care. (I, II, III)

**ARC 2298C****MEDICINE BOARD[653]****Notice of Intended Action**

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

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

Pursuant to the authority of Iowa Code section 147.76, the Board of Medicine hereby proposes to amend Chapter 17, “Licensure of Acupuncturists,” Iowa Administrative Code.

The purpose of Chapter 17 is to establish licensure requirements for acupuncturists. The proposed amendments update requirements for licensure, renewal and reinstatement; provide definitions of additional terms associated with the practice of acupuncture; revise requirements for the display, distribution and retention of a disclosure sheet which contains information for patients; establish requirements for the delegation of certain aspects of treatment; and establish a requirement that licensees report changes in their full legal name.

The Board approved this Notice of Intended Action during a regularly scheduled meeting on October 16, 2015.

## MEDICINE BOARD[653](cont'd)

Any interested person may present written comments on the proposed amendments not later than 4:30 p.m. on December 29, 2015. Such written materials should be sent to Mark Bowden, Executive Director, Board of Medicine, 400 S.W. Eighth Street, Suite C, Des Moines, Iowa 50309-4686; or sent by e-mail to [mark.bowden@iowa.gov](mailto:mark.bowden@iowa.gov).

There will be a public hearing on December 29, 2015, at 11 a.m. at the Board's office, 400 S.W. Eighth Street, Suite C, Des Moines, Iowa, at which time persons may present their views either orally or in writing.

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

These amendments are intended to implement Iowa Code chapters 147, 148, 148E, and 272C.

The following amendments are proposed.

ITEM 1. Amend rule 653—17.2(148E) as follows:

**653—17.2(148E) Licensure exceptions.** In accordance with Iowa Code section 148E.3, the following rules govern those persons engaged in the practice of acupuncture not in this chapter shall not apply to the following:

1. A person otherwise licensed by the state to practice medicine and surgery, osteopathic medicine and surgery, chiropractic, podiatry, or dentistry who is exclusively engaged in the practice of the person's licensed profession.

2. A student practicing acupuncture under the direct supervision of a licensed acupuncturist as part of a course of study approved by the board as one that leads to eligibility for licensure is not required to obtain a license.

ITEM 2. Amend rule 653—17.3(148E) as follows:

**653—17.3(148E) Definitions.**

"Accreditation Commission for Acupuncture and Oriental Medicine" or "ACAOM" means the United States-based accreditation commission that certifies acupuncture and oriental medicine training programs and colleges. The ACAOM oversees all professional oriental medicine and acupuncture degree programs in the United States. The ACAOM was formerly known as the National Accreditation Commission for Schools and Colleges of Acupuncture and Oriental Medicine.

"Acupuncture" means a form of health care developed from traditional and modern oriental medical concepts that employs acupuncture, oriental medical diagnosis and treatment, and adjunctive therapies and diagnostic techniques, for the promotion, maintenance, and restoration of health and the prevention of disease.

"Acupuncture needle" means a solid-core instrument including but not limited to acupuncture needles, dermal needles, intradermal needles, press tacks, plum blossom needles, prismatic needles, and disposable lancets.

"Acupuncture point" means a specific anatomical location on the human body that serves as the treatment site for the use of acupuncture.

"Applicant" means a person not otherwise authorized to practice acupuncture under Iowa Code section 148E.3 who applies to the board for a license.

"Ashi acupuncture point" means an acupuncture point that is located according to tenderness upon palpation. An ashi acupuncture point is also known as a trigger point.

"Board" means the board of medicine established in Iowa Code chapter 147.

"Committee" means the license and examination licensure committee of the board with oversight responsibility for administration of the licensure of acupuncturists.

"Department" means the Iowa department of public health.

"Disclosure sheet" means the written information licensed acupuncturists must provide to patients on initial contact.

"Disposable needles" means presterilized needles that are discarded after initial use pursuant to Iowa Code section 148E.5.

"License" means a license issued by the board pursuant to Iowa Code section 148E.2.



## MEDICINE BOARD[653](cont'd)

~~“Licensed acupuncturist” or “licensee Licensee”~~ means a person holding a license to practice acupuncture ~~granted~~ issued by the board ~~under the provisions of~~ pursuant to Iowa Code chapter 148E.

~~“Meridians”~~ means connected points across the human anatomy that affect a specific organ or other part of the body.

~~“National Certification Commission for the Certification of Acupuncturists Acupuncture and Oriental Medicine” or “NCCAOM”~~ means the ~~National Certification Commission for Acupuncture and Oriental Medicine (NCCAOM)~~ United States-based commission that validates entry-level competency in the practice of acupuncture and oriental medicine through professional certification.

~~“Practice of acupuncture”~~ means ~~the insertion of acupuncture needles and the application of moxibustion to specific areas of the human body based upon oriental medical diagnosis as a primary mode of therapy. Adjunctive therapies within the scope of acupuncture may include manual, mechanical, thermal, electrical, and electromagnetic treatment, and the recommendation of dietary guidelines and therapeutic exercise based on traditional oriental medicine concepts.~~

1. The stimulation or piercing of the skin with an acupuncture needle for any of the following purposes:

- To evoke a therapeutic physiological response, either locally or distally to the area of insertion or stimulation.

- To relieve pain or treat the neuromusculoskeletal system.

- To stimulate ashi points to relieve pain and dysfunction.

- To promote, maintain, and restore health and to prevent disease.

- To stimulate the body according to auricular, hand, nose, face, foot or scalp acupuncture therapy.

- To use acupuncture needles with or without the use of herbs, electric current, or application of heat.

2. The use of oriental medical diagnosis and treatment, including:

- Moxibustion, cupping, thermal methods, magnets, gua sha scraping techniques, acupatches, herbal poultices, hot and cold packs, electromagnetic wave therapy, light and color therapy, sound therapy, or therapy lasers.

- Massage, acupressure, reflexology, shiatsu and tui na massage, or manual stimulation, including stimulation by an instrument or mechanical device that does not pierce the skin.

- Herbal medicine and dietary supplements, including those of plant, mineral, animal, and nutraceutical origin.

3. Any other adjunctive service or procedure that is clinically appropriate based on the licensee’s training as approved by NCCAOM or ACAOM.

~~“Professional development activity (PDA)” or “PDA”~~ means any activity for the purpose of continuing a person’s education that is defined and approved by NCCAOM. One PDA point equals one hour of continuing education.

~~“Service charge”~~ means the amount charged by the board for making a service available online and is in addition to the actual fee for a service itself. For example, one who renews a license online will pay the license renewal fee and a service charge.

ITEM 3. Amend paragraph **17.4(1)“d”** as follows:

*d.* Successfully complete a three-year postsecondary training program or acupuncture college program which is accredited by, in candidacy for accreditation by, or which meets the standards of, the National Accreditation Commission for Schools and Colleges of Acupuncture and Oriental Medicine the Accreditation Commission for Acupuncture and Oriental Medicine.

ITEM 4. Amend rule 653—17.5(147,148E) as follows:

**653—17.5(147,148E) Application requirements.**

**17.5(1) Application for licensure.** To apply for a license to practice acupuncture, an applicant shall:

*a.* Submit the completed application form provided by the board, including required credentials and documents, and a completed fingerprint packet and a sworn statement by the applicant attesting to the truth of all information provided by the applicant; and

## MEDICINE BOARD[653](cont'd)

*b.* No change.

*c.* Pay the fee identified in 653—paragraph 8.2(2)—~~“f”~~ “e” for the evaluation of the fingerprint packet and the ~~DCI and FBI~~ national criminal history background checks by the Iowa division of criminal investigation (DCI) and the Federal Bureau of Investigation (FBI).

**17.5(2) Contents of the application form.** Each applicant shall submit the following information on the application form provided by the board:

*a.* The applicant’s full legal name, date and place of birth, and home address, mailing address and principal business address;

*b.* No change.

*c.* A chronology accounting for all time periods from the date the applicant entered an acupuncture and oriental medicine training program or college to the date of the application;

~~*d.*~~ *d.* The other jurisdictions in the United States or other nations or territories in which the applicant is authorized to practice acupuncture, including license, certificate of registration or certification numbers, and date of issuance, and an explanation indicating the basis upon which authorization to practice acupuncture was received;

~~*e.*~~ *e.* Full disclosure of the applicant’s involvement in civil litigation related to the practice of acupuncture in any jurisdiction of the United States, other nations or territories. Copies of the legal documents may be requested if needed during the review process;

~~*f.*~~ *f.* Full disclosure of any disciplinary action taken against the applicant by, but not limited to, a regulatory authority, educational institution, or health facility in any jurisdiction of the United States, other nations or territories. A statement disclosing and explaining any informal or nonpublic actions, warnings issued, investigations conducted, or disciplinary actions taken, whether by voluntary agreement or formal action, by a medical, acupuncture or professional regulatory authority, an educational institution, a training or research program, or a health facility in any jurisdiction;

*g.* A statement disclosing and explaining any charge of a misdemeanor or felony involving the applicant filed in any jurisdiction, whether or not any appeal or other proceeding is pending to have the conviction or plea set aside;

~~*h.*~~ *h.* The NCCAOM score report verification form submitted directly to the board by the NCCAOM;

~~*i.*~~ *i.* An official statement from NCCAOM that the applicant holds active status as a diplomate in NCCAOM or, after June 1, 2004, an official statement from NCCAOM that the applicant holds active status as a diplomate in acupuncture or oriental medicine;

~~*j.*~~ *j.* An official statement showing Proof of successful completion of a course in clean needle technique approved by the NCCAOM;

~~*k.*~~ *k.* A statement of the applicant’s physical and mental health, including full disclosure and a written explanation of any dysfunction or impairment which may affect the ability of the applicant to engage in the practice of acupuncture and provide patients with safe and healthful care;

~~*l.*~~ *l.* A description of the applicant’s clinical acupuncture training, work experience and, where applicable, supporting documentation;

*m.* A copy of the applicant’s acupuncture degree issued by an educational institution. If a copy of the acupuncture degree cannot be provided because of extraordinary circumstances, the board may accept other reliable evidence that the applicant obtained an acupuncture degree from a specific educational institution;

*n.* A complete translation of any diploma not written in English. An official transcript, written in English and received directly from the educational institution, showing graduation from an acupuncture training program or an educational institution is a suitable alternative;

*o.* A sworn statement from an official of the educational institution certifying the date the applicant received the acupuncture degree and acknowledging what, if any, derogatory comments exist in the institution’s record about the applicant. If a sworn statement from an official of the educational institution cannot be provided because of extraordinary circumstances, the board may accept other reliable evidence that the applicant obtained an acupuncture degree from a specific educational institution;

## MEDICINE BOARD[653](cont'd)

~~k. p.~~ An official transcript sent directly from ~~the institution of higher education or acupuncture school~~ an acupuncture training program or an educational institution attended by the applicant and, if necessary requested by the board, an English translation of the official transcript;

~~l. q.~~ Proof of the applicant's proficiency in the English language, when the applicant has not passed the English version of the NCCAOM written and practical examinations;

~~m.~~ A copy of the disclosure sheet to be used in practice, as described in 17.5(3); and

~~n.~~ A completed fingerprint packet to facilitate a national criminal history background check. The fee for evaluation of the fingerprint packet and the DCI and FBI criminal history background checks will be assessed to the applicant.

~~r.~~ Verification of an applicant's hospital and clinical staff privileges and other professional experience for the past five years if requested by the board; and

~~s.~~ A completed fingerprint packet to facilitate a national criminal history background check. The fee for evaluation of the fingerprint packet and the DCI and FBI criminal history background checks will be assessed to the applicant.

**17.5(3) Disclosure sheet.** Pursuant to Iowa Code section 148E.6, applicants shall also provide a copy of the disclosure sheet to be given to each patient that includes the following information:

~~a.~~ The name, business address and business telephone number of the acupuncturist;

~~b.~~ A fee schedule;

~~c.~~ A listing of the acupuncturist's education, experience, degrees, certificates, or other credentials related to acupuncture awarded by professional acupuncture organizations, the length of time required to obtain degrees or credentials, and experience;

~~d.~~ A statement indicating any license, certificate, or registration in a health care occupation which was revoked by any local, state, or national health care agency;

~~e.~~ A statement that the acupuncturist is complying with statutes and with rules adopted by the board, including a statement that only presterilized, disposable needles are used by the acupuncturist;

~~f.~~ A statement that the practice of acupuncture is regulated by the board; and

~~g.~~ A statement indicating that a license to practice acupuncture does not authorize a person to practice medicine and surgery in this state, and that the services of an acupuncturist must not be regarded as diagnosis and treatment by a person licensed to practice medicine and must not be regarded as medical opinion or advice.

Reserved.

**17.5(4) Application cycle.** Applications for initial licensure shall be open for 90 days from the date the application form is received in the board's office. If the applicant does not submit all materials, including a completed fingerprint packet, within 90 days of the board's initial request for further information, the application shall be considered inactive. The board office shall notify the applicant of this change in status.

~~a.~~ After the 90 days, applicants shall update credentials and submit a nonrefundable reactivation of application fee of \$100 unless granted an extension in writing by the committee or the board. The period for requesting reactivation of the application is limited to one year from the date the application form is received by the board. To reactivate the application, an applicant shall submit a nonrefundable reactivation of application fee of \$100 and shall update application materials if requested by the board. The period for requesting reactivation is limited to 90 days from the date the applicant is notified that the application is inactive, unless the applicant is granted an extension in writing by the committee or the board.

~~b.~~ Once the application reactivation period is expired, applicants must reapply and submit a new, nonrefundable initial application fee of \$300 and a new application, documents and credentials.

**17.5(5)** No change.

**17.5(6) Licensure application review process.** The process below shall be utilized to review each application. Priority shall be given to processing a licensure application when a written request is received in the board office from an applicant whose practice will primarily involve provision of services to underserved populations, including but not limited to persons who are minorities or low-income or who live in rural areas.

## MEDICINE BOARD[653](cont'd)

- a. No change.
- b. After reviewing each application, staff shall notify the applicant about how to resolve any problems identified by the reviewer. An applicant shall provide additional information when requested by staff or the board.
- c. No change.
- d. If the final review indicates questions or concerns that cannot be remedied by continued communication with the applicant, the executive director, the director of licensure and administration and the director of legal affairs shall determine if the questions or concerns indicate any uncertainty about the applicant's current qualifications for licensure.
- (1) and (2) No change.
- e. and f. No change.
- g. If the committee is not able to eliminate questions or concerns without dissension from staff or a committee member, the committee shall recommend that the board:
- (1) Request an investigation;
- (2) Request that the applicant appear for an interview;
- (3) Grant a license; If an applicant has not engaged in active practice in the past three years in any jurisdiction of the United States, require an applicant to:
1. Successfully complete continuing education or retraining programs in areas directly related to the safe and healthful practice of acupuncture deemed appropriate by the board or committee;
2. Successfully pass a competency evaluation approved by the board;
3. Successfully pass an examination approved by the board;
4. Successfully complete a reentry to practice program or monitoring program approved by the board;
- (4) Issue a license;
- ~~(4) (5)~~ ~~Grant~~ Issue a license under certain terms and conditions or with certain restrictions;
- ~~(5) (6)~~ Request that the applicant withdraw the licensure application; or
- ~~(6) (7)~~ Deny a license.
- h. The board shall consider applications and recommendations from the committee and shall:
- (1) Request an investigation;
- (2) Request that the applicant appear for an interview;
- (3) Grant a license; If an applicant has not engaged in active practice in the past three years in any jurisdiction of the United States, require an applicant to:
1. Successfully complete continuing education or retraining programs in areas directly related to the safe and healthful practice of acupuncture deemed appropriate by the board or committee;
2. Successfully pass a competency evaluation approved by the board;
3. Successfully pass an examination approved by the board;
4. Successfully complete a reentry to practice program or monitoring program approved by the board;
- (4) Issue a license;
- ~~(4) (5)~~ ~~Grant~~ Issue a license under certain terms and conditions or with certain restrictions;
- ~~(5) (6)~~ Request that the applicant withdraw the licensure application; or
- ~~(6) (7)~~ Deny a license. The board may deny a license for any grounds on which the board may discipline a license.

**17.5(7) to 17.5(13)** No change.

ITEM 5. Amend rule 653—17.6(147,148E) as follows:

**653—17.6(147,148E) Display of license and disclosure of information to patients.**

**17.6(1)** No change.

~~**17.6(2)** Approval of the disclosure sheet and time limit for revisions.~~ Pursuant to Iowa Code section 148E.6, upon issuing a license, the board shall provide notification to the licensee of the approval or rejection of the disclosure sheet to be provided to patients on initial contact submitted subsequent to 17.5(4) "m."

## MEDICINE BOARD[653](cont'd)

~~a. If rejected, the board shall provide the licensee with a written statement explaining the reasons for rejecting the disclosure sheet submitted and indicating the necessary amendments or revisions.~~

~~b. Upon receiving the rejection, the licensee shall submit within 14 days a revised mandatory disclosure sheet to the board for its approval.~~

~~17.6(3)~~ **17.6(2)** *Distribution and retention of disclosure sheet.* Pursuant to Iowa Code section 148E.6, the licensee shall distribute ~~the~~ a disclosure sheet on initial contact with patients and retain a copy, signed and dated by the patient, for a period of at least five years after termination of ~~the~~ treatment. The disclosure sheet shall include the following:

~~a.~~ a. The name, business address, and business telephone number of the acupuncturist.

~~b.~~ b. A fee schedule.

~~c.~~ c. A listing of the acupuncturist's education, experience, degrees, certificates, or credentials related to acupuncture awarded by professional acupuncture organizations, the length of time required to obtain the degrees or credentials, and experience.

~~d.~~ d. A statement indicating any license, certificate, or registration in a health care occupation which was revoked by any local, state, or national health care agency.

~~e.~~ e. A statement that the acupuncturist is complying with statutes and rules adopted by the board, including a statement that only presterilized, disposable needles are used by the acupuncturist.

~~f.~~ f. A statement indicating that the practice of acupuncture is regulated by the board.

~~g.~~ g. A statement indicating that a license to practice acupuncture does not authorize a person to practice medicine and surgery in this state and that the services of an acupuncturist must not be regarded as diagnosis and treatment by a person licensed to practice medicine and must not be regarded as medical opinion or advice.

ITEM 6. Amend rule 653—17.7(147,148E,272C) as follows:

**653—17.7(147,148E,272C) Biennial renewal of license required.** Pursuant to Iowa Code section 148E.2, a license is renewed every two years on ~~November 1~~ October 31 for a fee of \$300 ~~with documented evidence that the licensee has completed the 30 hours of continuing education required by the board.~~ Beginning June 1, 2004, renewal shall require evidence of the licensee's current active status as a diplomate in acupuncture or oriental medicine from NCCAOM.

**17.7(1)** No change.

**17.7(2) Prorated fees.** The first renewal fee for a license shall be prorated on a monthly basis according to the date of issue.

**17.7(3) Renewal requirements and penalties for late renewal.** Each licensee shall be sent a renewal notice at least 60 days prior to the expiration date. The licensee is responsible for renewing the license prior to its expiration. Failure of the licensee to receive the notice does not relieve the licensee of responsibility for renewing that license.

~~a. Pursuant to Iowa Code section 147.10, application for renewal shall be made in writing to the board accompanied by the required fee at least 30 days prior to the expiration date. When online renewal is used, the licensee must complete the online renewal prior to midnight December 31 in order to ensure that the license will not become inactive. The license becomes inactive and invalid at 12:01 a.m. on January 1.~~

b. Upon receipt of the completed renewal application, staff shall administratively issue a two-year license that expires on October 31. In the event the board receives adverse information on the renewal application, the board shall issue the renewal license but may refer the adverse information for further consideration.

~~b. c.~~ Every renewal shall be displayed in connection with the original certificate of licensure.

~~c. d.~~ A If the licensee fails to submit the renewal application and renewal fee prior to the expiration date on the current license, a \$50 penalty shall be assessed for renewal in the grace period, a period up until January 1 when the license lapses if not renewed.

**17.7(4)** No change.

## MEDICINE BOARD[653](cont'd)

ITEM 7. Amend rule 653—17.8(147,272C) as follows:

**653—17.8(147,272C) Reinstatement of an inactive license.**

**17.8(1) Reinstatement requirements.** Licensees who allow their licenses to go inactive by failing to renew may apply for reinstatement of a license. Pursuant to Iowa Code section 147.11, applicants for reinstatement shall:

*a.* Submit upon forms provided by the board a completed application for reinstatement of a license to practice acupuncture that includes. The application shall include the following information:

(1) The applicant's full legal name, date and place of birth, home address, mailing address, and principal business address.

(2) Full disclosure of the applicant's involvement in civil litigation related to the practice of acupuncture in any jurisdiction of the United States, other nations or territories. Every jurisdiction in which the applicant is or has been authorized to practice, including license numbers and dates of issuance.

(3) Full disclosure of any disciplinary action taken against the applicant by, but not limited to, a regulatory authority, educational institution, or health facility in any jurisdiction of the United States, other nations or territories. Full disclosure of the applicant's involvement in civil litigation related to the practice of acupuncture in any jurisdiction of the United States, other nations or territories. Copies of the legal documents may be requested if needed during the review process.

(4) A practice history for the period of the lapsed license. A statement disclosing and explaining any warnings issued, investigations conducted or disciplinary actions taken, whether by voluntary agreement or formal action, by a medical, acupuncture or professional regulatory authority, an educational institution, a training or research program, or a health facility in any jurisdiction.

(5) A statement of the applicant's physical and mental health, including full disclosure and a written explanation of any dysfunction or impairment which may affect the ability of the applicant to engage in practice and provide patients with safe and healthful care.

(6) Verification of an applicant's hospital and clinical staff privileges and other professional experience for the past five years if requested by the board.

(7) A chronology accounting for all time periods from the date of initial licensure.

(8) A statement disclosing and explaining any charge of a misdemeanor or felony involving the applicant filed in any jurisdiction, whether or not any appeal or other proceeding is pending to have the conviction or plea set aside.

*b.* Pay \$400. Submit a completed fingerprint packet to facilitate a national criminal history background check. The \$45 fee for the evaluation of the fingerprint packet and the DCI and FBI criminal history background checks will be assessed to the applicant.

*c.* Provide evidence of successful completion of 60 PDA points. Pay the reinstatement fee of \$400 plus the \$45 fee identified in 653—paragraph 8.2(2)“e” for the evaluation of the fingerprint packet and the DCI and FBI criminal history background checks.

*d.* Provide an official statement from NCCAOM that the applicant holds current active status as a diplomate of NCCAOM. After June 1, 2004, provide an official statement from NCCAOM that the applicant holds active status as a diplomate in acupuncture or oriental medicine. Provide evidence of successful completion of 60 PDA points within the previous two years.

*e.* Provide an official statement from NCCAOM that the applicant holds current active status as a diplomate of NCCAOM. After June 1, 2004, provide an official statement from NCCAOM that the applicant holds active status as a diplomate in acupuncture or oriental medicine.

*e.f.* Meet any new requirements instituted since the license lapsed.

**17.8(2) Reinstatement restrictions.** Pursuant to Iowa Code section 272C.3(2)“d,” the committee may require a licensee who fails to renew for a period of three years from the expiration date an applicant who has not engaged in active practice in the past three years in any jurisdiction of the United States to meet any or all of the following requirements prior to reinstatement of an inactive license:

*a.* Provide a written statement explaining the reasons for failing to renew;

## MEDICINE BOARD[653](cont'd)

- ~~b. a.~~ Successfully complete continuing education or retraining programs in areas directly related to the safe and healthful practice of acupuncture deemed appropriate by the board or committee;
- ~~b.~~ Successfully pass a competency evaluation approved by the board;
- ~~c.~~ ~~Appear before the committee or board for an interview.~~ Successfully pass an examination approved by the board; or
- ~~d.~~ Successfully complete a reentry to practice program or monitoring program approved by the board.

ITEM 8. Amend subrule 17.10(5) as follows:

**17.10(5)** ~~Delegation of responsibilities prohibited.~~ The licensee shall perform all aspects of acupuncture treatment ~~on a patient. Delegation of responsibility for acupuncture treatment is strictly prohibited.~~ that involve penetration of the skin of the patient. A licensee may delegate other aspects of treatment to staff and patients who are properly trained by the licensee. It is permissible for appropriately trained staff and patients to remove acupuncture needles from the patient's body. The licensee is responsible for establishing and maintaining written training standards for staff.

ITEM 9. Adopt the following **new** subrules 17.10(6) and 17.10(7):

**17.10(6)** *Change of full legal name.* A licensee shall notify the board of any change in the licensee's full legal name within one month of making the name change. Notification requires a notarized copy of a marriage license or a notarized copy of court documents.

**17.10(7)** *Deceased.* A licensee file shall be closed and labeled "deceased" when the board receives a copy of the licensee's death certificate.

**ARC 2300C****NATURAL RESOURCE COMMISSION[571]****Notice of Intended Action**

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

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

Pursuant to the authority of Iowa Code sections 455A.5(6)"a" and 483A.24(5)"g," the Natural Resource Commission (Commission) hereby gives Notice of Intended Action to amend Chapter 15, "General License Requirements," Iowa Administrative Code.

The Department of Natural Resources (Department) currently issues special nonresident deer and turkey hunting licenses pursuant to 561—Chapter 12, "Special Nonresident Deer and Turkey Licenses." The Department has proposed to amend 561—Chapter 12 (see **ARC 2132C**, IAB 9/2/15) to provide the opportunity for nonresident disabled members of the armed forces or veterans to buy hunting licenses in Iowa at resident prices pursuant to the program created in Iowa Code sections 483A.24(3) to 483A.24(5). Under that program, 25 of the 75 special nonresident deer tags, 25 of the 75 special nonresident turkey tags, and small-game hunting licenses are to be allocated to qualifying nonresident members of the armed forces or veterans who participate in hunts conducted by organizations that provide hunting experiences for the severely wounded. These nonresident tags and hunting licenses are to be sold at resident prices. Guidelines for the application process are outlined in the proposed amendments to 561—Chapter 12 in **ARC 2132C**.

The purpose of new rule 571—15.26(483A) is to provide the opportunity for the Commission to receive public input, review and approval of the proposed revisions to 561—Chapter 12. The statute divides the responsibility for implementing and developing license applications from the responsibility for rule making. The Department proposes to consolidate the program requirements in 561—Chapter 12 while maintaining Commission oversight.

## NATURAL RESOURCE COMMISSION[571](cont'd)

Any interested person may make written suggestions or comments on the proposed amendment on or before December 29, 2015. Written comments may be directed to the Department of Natural Resources, Licensing Section Supervisor, Wallace State Office Building, 502 E. 9th Street, Des Moines, Iowa 50319-0034; by e-mail at [Alex.Cross@dnr.iowa.gov](mailto:Alex.Cross@dnr.iowa.gov); or by fax at (515)725-8201. Persons who wish to convey their comments orally may contact the Licensing Section at (515)725-8255 or by visiting the fourth floor of the Wallace State Office Building during regular business hours.

There will be a public hearing on December 29, 2015, from 12:30 to 2:30 p.m. in the Fourth Floor East Conference Room of the Wallace State Office Building, Des Moines, Iowa. At the public hearing, persons may present their views either orally or in writing. Participants will be asked to give their names and addresses for the record and to confine their remarks to the subject of the amendment.

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

The proposed amendment will have no impact on jobs in the state.

This amendment is intended to implement Iowa Code sections 483A.24(3) to 483A.24(5).

The following amendment is proposed.

Adopt the following **new** rule 571—15.26(483A):

**571—15.26(483A) Special nonresident deer and turkey licenses.** The commission hereby authorizes the director to issue special nonresident deer and turkey licenses pursuant to the provisions of 561—Chapter 12.

**ARC 2301C****PHARMACY BOARD[657]****Notice of Intended Action**

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

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

Pursuant to the authority of Iowa Code sections 147.76 and 155A.6, the Board of Pharmacy hereby gives Notice of Intended Action to amend Chapter 4, “Pharmacist-Interns,” Iowa Administrative Code.

The amendment was approved at the November 4, 2015, regular meeting of the Board of Pharmacy.

The proposed amendment changes the elements required for registration as a pharmacist-intern to indicate that the Board will accept either a social security number or an individual tax identification number (ITIN). The ITIN enables a foreign student and the student’s dependents to be identified and to file tax returns when the student or dependents are not eligible for a social security number. The individuals identified using an ITIN may be employed or be in receipt of scholarship or fellowship funding. The Board’s proposed amendment recognizes the ITIN as a valid element of identification when a social security number is not obtainable.

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

Any interested person may present written comments, data, views, and arguments on the proposed amendment not later than 4:30 p.m. on December 29, 2015. Such written materials may be sent to Terry Witkowski, Executive Officer, Board of Pharmacy, 400 S.W. Eighth Street, Suite E, Des Moines, Iowa 50309-4688; or by e-mail to [terry.witkowski@iowa.gov](mailto:terry.witkowski@iowa.gov).

After analysis and review of this rule making, no substantial impact on jobs has been found. Changing the identification requirements for registration as a pharmacist-intern to accept either social security number or individual tax identification number (ITIN) enables a foreign student and the



## PHARMACY BOARD[657](cont'd)

student's dependents to be identified and file tax returns when the student or dependents are not eligible for a social security number. The individuals identified using an ITIN may be employed or be in receipt of scholarship or fellowship funding. The Board's acceptance of the ITIN in lieu of a social security number does not create or eliminate the job; the Board's action recognizes the ITIN as a valid means of identification.

This amendment is intended to implement Iowa Code section 155A.6.

The following amendment is proposed.

Amend subrule 4.6(1) as follows:

**4.6(1) Application for registration—required information.** Application for registration as a pharmacist-intern shall be on forms provided by the board, and all requested information shall be provided on or with such application. The application shall require that the applicant provide, at a minimum, the following: name; address; telephone number; date of birth; social security number or individual tax identification number (ITIN); and name and location of college of pharmacy and anticipated month and year of graduation. The college of pharmacy shall certify the applicant's eligibility to practice as a pharmacist-intern.

**ARC 2285C**

**PHARMACY BOARD[657]**

**Notice of Intended Action**

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

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

Pursuant to the authority of Iowa Code section 147.76, the Board of Pharmacy hereby gives Notice of Intended Action to amend Chapter 6, “General Pharmacy Practice,” Chapter 7, “Hospital Pharmacy Practice,” Chapter 8, “Universal Practice Standards,” Chapter 10, “Controlled Substances,” Chapter 17, “Wholesale Drug Licenses,” and Chapter 23, “Long-term Care Pharmacy Practice,” Iowa Administrative Code.

The amendments were approved at the November 4, 2015, regular meeting of the Board of Pharmacy.

The proposed amendments incorporate into Board rules updated federal regulations, finalized in October 2014, authorizing certain registrants to voluntarily administer an authorized collection program to collect unwanted controlled substances from patients for the purpose of disposal. The amendments also rescind rules that are in conflict with federal regulations and that would otherwise prohibit such collection activities.

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

Any interested person may present written comments, data, views, and arguments on the proposed amendments not later than 4:30 p.m. on December 29, 2015. Such written materials may be sent to Terry Witkowski, Executive Officer, Board of Pharmacy, 400 S.W. Eighth Street, Suite E, Des Moines, Iowa 50309-4688; or by e-mail to [terry.witkowski@iowa.gov](mailto:terry.witkowski@iowa.gov).

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

These amendments are intended to implement Iowa Code section 124.301.

The following amendments are proposed.

ITEM 1. Amend rule 657—6.7(124,155A), introductory paragraph, as follows:

**657—6.7(124,155A) Security.** While on duty, each pharmacist shall be responsible for the security of the prescription department, ~~including~~ and of the provisions for effective control against theft of, diversion of, or unauthorized access to prescription drugs, including those collected through

## PHARMACY BOARD[657](cont'd)

an authorized collection program, records for such drugs and authorized collection program activities, and patient records as provided in 657—Chapter Chapters 10 and 21 and federal regulations for authorized controlled substance collection programs, which can be found at [http://deadiversion.usdoj.gov/drug\\_disposal/](http://deadiversion.usdoj.gov/drug_disposal/).

ITEM 2. Amend rule 657—7.6(124,155A) as follows:

**657—7.6(124,155A) Security.** The pharmacy shall be located in an area or areas that facilitate the provision of services to patients and shall be integrated with the facility's communication and transportation systems. The following conditions must be met to ensure appropriate control over drugs and chemicals in and under the control of the pharmacy:

**7.6(1) to 7.6(5)** No change.

**7.6(6) Authorized collection program.** Receptacles that are located in the hospital for the authorized collection of controlled substances shall be secured pursuant to 657—Chapter 10 and federal regulations for disposal of controlled substances. Federal regulations regarding disposal of controlled substances can be found at [http://deadiversion.usdoj.gov/drug\\_disposal/](http://deadiversion.usdoj.gov/drug_disposal/).

ITEM 3. Adopt the following **new** subrule 8.5(9):

**8.5(9) Authorized collection program.** A pharmacy that is registered with the United States Department of Justice, Drug Enforcement Administration, to administer an authorized collection program shall provide adequate space, equipment, and supplies for such collection program pursuant to 657—Chapter 10 and federal regulations for authorized collection programs, which can be found at [http://deadiversion.usdoj.gov/drug\\_disposal/](http://deadiversion.usdoj.gov/drug_disposal/).

ITEM 4. Amend rule 657—10.1(124) as follows:

**657—10.1(124) ~~Who shall register~~ Purpose and definitions.** Any person or business located in Iowa that manufactures, distributes, dispenses, prescribes, imports or exports, conducts research or instructional activities, or conducts chemical analysis with controlled substances in the state of Iowa, or that proposes to engage in such activities with controlled substances in the state, shall obtain and maintain a registration issued by the board unless exempt from registration pursuant to rule 657—10.6(124). A person or business required to be registered shall not engage in any activity for which registration is required until the application for registration is granted and the board has issued a certificate of registration to such person or business.

**10.1(1) Who shall register.** Manufacturers, distributors, reverse distributors, importers and exporters, individual practitioners (M.D., D.O., D.D.S., D.V.M., D.P.M., O.D., P.A., resident physician, advanced registered nurse practitioner), pharmacies, hospitals and animal shelters, care facilities, researchers and dog trainers, analytical laboratories, and teaching institutions shall register on forms provided by the board office. To be eligible to register, individual practitioners must hold a current, active license in good standing, issued by the appropriate Iowa professional licensing board, to practice their profession in Iowa.

**10.1(2) Definitions.** For the purpose of this chapter, the following definitions shall apply:

"Authorized collection program" means a program administered by a registrant that has modified its registration with DEA to collect controlled substances for the purpose of disposal. Federal regulations for such programs can be found at [http://deadiversion.usdoj.gov/drug\\_disposal/](http://deadiversion.usdoj.gov/drug_disposal/). Modification to the registrant's Iowa Controlled Substances Act registration shall not be required.

"DEA" means the United States Department of Justice, Drug Enforcement Administration.

ITEM 5. Amend rule 657—10.6(124) as follows:

**657—10.6(124) Separate registrations for separate locations; exemption from registration.** A separate registration is required for each principal place of business or professional practice location where controlled substances are manufactured, distributed, imported, exported, ~~or~~ dispensed, or collected for the purpose of disposal unless the person or business is exempt from registration pursuant to Iowa Code subsection 124.302(3), ~~or this rule, or federal regulations.~~

## PHARMACY BOARD[657](cont'd)

**10.6(1) to 10.6(5)** No change.

ITEM 6. Amend subrule 10.15(1) as follows:

**10.15(1) *Physical security.*** Physical security controls shall be commensurate with the schedules and quantity of controlled substances in the possession of the registrant in normal business operation. A registrant shall periodically review and adjust security measures based on rescheduling of substances or changes in the quantity of substances in the possession of the registrant.

*a.* and *b.* No change.

*c.* Controlled substances collected via an authorized collection program for the purpose of disposal shall be stored pursuant to federal regulations, which can be found at [http://deادiversion.usdoj.gov/drug\\_disposal/](http://deادiversion.usdoj.gov/drug_disposal/).

ITEM 7. Amend rule 657—10.18(124) as follows:

**657—10.18(124) Disposal of registrant stock.** Any persons legally authorized to possess controlled substances in the course of their professional practice or the conduct of their business shall dispose of such drugs pursuant to the procedures and requirements of this rule. Disposal records shall be maintained ~~in the files of~~ by the registrant.

**10.18(1) and 10.18(2)** No change.

~~**10.18(3) *Previously dispensed controlled substances.*** Controlled substances dispensed to or for a patient and subsequently requiring destruction due to discontinuance of the drug, death of the patient, or other reasons necessitating destruction may be destroyed or otherwise disposed of by a pharmacist in witness of one other responsible adult pursuant to this subrule. All licenses and registrations issued to the pharmacy, the pharmacist, and any individual witnessing the destruction or other disposition shall not be subject to sanctions relating to controlled substances at the time of the destruction or disposition. The individuals involved in the destruction or other disposition shall not have been subject to any criminal, civil, or administrative action relating to violations of controlled substances laws, rules, or regulations within the past five years. The pharmacist in charge shall be responsible for designating pharmacists authorized to participate in the destruction or other disposition pursuant to this subrule. The authorized pharmacist shall prepare and maintain in the pharmacy a readily retrievable record of the destruction or other disposition, which shall be clearly marked to indicate the destruction or other disposition of noninventory or patient drugs. The record shall include, at a minimum, the following:~~

~~*a.* The source of the controlled substance (patient identifier or administering practitioner, if applicable, prescription number or other unique identification number, and date of return);~~

~~*b.* The name, strength, and dosage form of the substance;~~

~~*c.* The quantity returned and destroyed or otherwise disposed of;~~

~~*d.* The date the substance is destroyed or otherwise disposed of;~~

~~*e.* The signatures or other unique identification of the pharmacist and the witness;~~

~~*f.* The name and address of the dispensing pharmacy or practitioner if the controlled substance was not dispensed by the pharmacy completing the destruction.~~

ITEM 8. Rescind rule 657—10.19(124) and adopt the following **new** rule in lieu thereof:

**657—10.19(124) Disposal of previously dispensed controlled substances.** A registrant may not dispose of previously dispensed controlled substances unless the registrant has modified its registration with DEA to administer an authorized collection program. A registrant shall not take possession of a previously dispensed controlled substance except for reuse for the same patient.

ITEM 9. Amend subrule 10.34(3) as follows:

**10.34(3) *Date of record.*** The date on which a controlled substance is actually received, imported, distributed, exported, disposed of, or otherwise transferred shall be used as the date of receipt, importation, ~~or distribution, exportation, disposal, or transfer.~~

## PHARMACY BOARD[657](cont'd)

ITEM 10. Amend subrule 10.35(1) as follows:

**10.35(1) Record and procedure.** Each inventory record, except the periodic count and reconciliation required pursuant to subrule 10.33(4), shall comply with the requirements of this subrule and shall be maintained for a minimum of two years from the date of the inventory.

*a.* and *b.* No change.

*c.* Controlled substances shall be deemed to be on hand if they are in the possession of or under the control of the registrant. These shall include prescriptions prepared for dispensing to a patient but not yet delivered to the patient, substances maintained in emergency medical services programs or care facility emergency supplies, outdated or adulterated substances pending destruction, and substances stored in a warehouse on behalf of the registrant. Controlled substances obtained through an authorized collection program for the purpose of disposal shall not be examined, inspected, counted, sorted, inventoried, or otherwise handled.

*d.* and *e.* No change.

*f.* The inventory record, unless otherwise provided under federal law, shall include the following information:

- (1) The name of the substance;
- (2) The strength and dosage form of the substance; ~~and~~
- (3) The quantity of the substance; ~~and~~
- (4) Information required of authorized collection programs pursuant to federal regulations for such collection programs.

*g.* and *h.* No change.

ITEM 11. Adopt the following **new** definitions in rule **657—17.1(155A)**:

*“Authorized collection program”* means a program administered by a registrant that has modified its registration with DEA to collect controlled substances for the purpose of disposal. Federal regulations for such programs can be found at [http://deadiversion.usdoj.gov/drug\\_disposal/](http://deadiversion.usdoj.gov/drug_disposal/). Modification to the registrant’s Iowa Controlled Substances Act registration shall not be required.

*“DEA”* means the United States Department of Justice, Drug Enforcement Administration.

ITEM 12. Amend rule 657—17.3(155A), introductory paragraph, as follows:

**657—17.3(155A) Wholesale drug license.** Every wholesaler as defined in rule 657—17.1(155A), wherever located, that engages in wholesale distribution into, out of, or within this state must be licensed by the board in accordance with the laws and rules of Iowa before engaging in wholesale distribution of prescription drugs. Where operations are conducted at more than one location by a single wholesaler, each such location shall be separately licensed in Iowa. A wholesaler located within Iowa that engages in wholesale distribution of or collection via an authorized collection program of controlled substances shall also register pursuant to 657—Chapter 10.

ITEM 13. Adopt the following **new** subrule 17.10(4):

**17.10(4) Authorized collection program.** Licensees that are authorized to administer a controlled substances collection program shall provide security pursuant to 657—Chapter 10 and federal regulations.

ITEM 14. Adopt the following **new** subrule 17.14(4):

**17.14(4) Authorized collection program.** Substances, including controlled substances, collected through an authorized collection program shall not be examined, inspected, counted, sorted, inventoried, or otherwise handled.

ITEM 15. Adopt the following **new** subrule 17.16(5):

**17.16(5) Authorized collection program.** A licensee that is authorized to administer a collection program shall maintain all records and inventories as required by 657—Chapter 10, this chapter, and federal regulations.

## PHARMACY BOARD[657](cont'd)

ITEM 16. Adopt the following **new** definitions in rule **657—23.1(155A)**:

“*Authorized collection program*” means a program administered by a registrant that has modified its registration with DEA to collect controlled substances for the purpose of disposal. Federal regulations for such programs can be found at [http://deadiversion.usdoj.gov/drug\\_disposal/](http://deadiversion.usdoj.gov/drug_disposal/).

“*DEA*” means the United States Department of Justice, Drug Enforcement Administration.

ITEM 17. Amend subrule 23.11(4) as follows:

**23.11(4) Floor stock.** Prescription drugs, as defined by Iowa Code section ~~455A.3(30)~~ 155A.3(37), shall not be floor-stocked in a long-term care facility except as provided in this subrule or in subrule 23.5(2). Bulk supplies of nonprescription drugs may be maintained as provided in subrule 23.13(3). Any pharmacy that utilizes a floor stock distribution system pursuant to this subrule shall develop and implement procedures to accurately establish proof of use of prescription drugs and shall maintain a perpetual inventory, whether by electronic or manual means, of all prescription drugs so dispensed. A floor stock distribution system for prescription drugs may be permitted only under the following circumstances:

*a.* and *b.* No change.

ITEM 18. Amend rule 657—23.21(124,155A) as follows:

**657—23.21(124,155A) Destruction Disposal of previously dispensed controlled substances.** Controlled substances dispensed to a resident in a long-term care facility and subsequently requiring ~~destruction disposal~~ due to discontinuance of the drug, death of the resident, or other reasons necessitating ~~destruction disposal~~ shall be ~~destroyed disposed of~~ by one of the following methods. Controlled substances shall not be returned to a pharmacy for disposal.

**23.21(1) ~~Destruction Disposal in the facility.~~** In facilities staffed by one or more persons licensed to administer drugs, a licensed health care professional (pharmacist, registered nurse, licensed practical nurse) may ~~destroy dispose~~ of controlled substances in witness of one other responsible adult. The professional ~~destroying or otherwise~~ disposing of the drug shall prepare and maintain a readily retrievable record of the ~~destruction or other~~ disposition which shall be clearly marked to indicate the ~~destruction or other~~ disposition of resident drugs. The record shall include, at a minimum, the following:

- a.* Resident name and unique identification or number assigned by the dispensing pharmacy to the prescription;
- b.* The name, strength, and dosage form of the substance;
- c.* The quantity ~~destroyed or otherwise~~ disposed of;
- d.* The date the substance is ~~destroyed or otherwise~~ disposed of;
- e.* The signature or uniquely identifying initials or other unique identification of the professional and the witness;
- f.* The name and address of the dispensing pharmacy or the dispensing practitioner.

**23.21(2) ~~Destruction or other disposition in the long-term care pharmacy~~ *Authorized collection program within a facility.*** ~~Controlled substances returned to the pharmacy for destruction or other disposition may be destroyed or otherwise disposed of pursuant to the requirements of 657—subrule 40.18(3).~~ Registrants registered with DEA to administer an authorized collection program may install and maintain a collection receptacle in a long-term care facility for the purpose of disposal of prescription drugs, including controlled substances, pursuant to federal regulations, which can be found at [http://deadiversion.usdoj.gov/drug\\_disposal/](http://deadiversion.usdoj.gov/drug_disposal/).

**ARC 2288C****PHARMACY BOARD[657]****Notice of Intended Action**

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

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

Pursuant to the authority of Iowa Code section 147.76, the Board of Pharmacy hereby gives Notice of Intended Action to amend Chapter 6, “General Pharmacy Practice,” and Chapter 8, “Universal Practice Standards,” Iowa Administrative Code.

The amendments were approved at the August 31, 2015, regular meeting of the Board of Pharmacy.

The proposed amendments are intended to implement 2015 Iowa Acts, Senate File 462, which authorizes the prescribing of epinephrine auto-injectors in the name of a facility as defined in Iowa Code subsection 135.185(1), a school district, or an accredited nonpublic school. The proposed amendments exclude such a prescription from the requirement for a preexisting patient-prescriber relationship and establish the unique prescription label and record-keeping requirements for a prescription issued to a facility, school district, or accredited nonpublic school as authorized by 2015 Iowa Acts, Senate File 462.

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

Any interested person may present written comments, data, views, and arguments on the proposed amendments not later than 4:30 p.m. on December 29, 2015. Such written materials may be sent to Terry Witkowski, Executive Officer, Board of Pharmacy, 400 S.W. Eighth Street, Suite E, Des Moines, Iowa 50309-4688; or by e-mail to [terry.witkowski@iowa.gov](mailto:terry.witkowski@iowa.gov).

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

These amendments are intended to implement Iowa Code section 155A.27 and 2015 Iowa Acts, Senate File 462.

The following amendments are proposed.

ITEM 1. Amend subrule 6.10(1) as follows:

**6.10(1) Required information.** The label affixed to or on the dispensing container of any prescription drug or device dispensed by a pharmacy pursuant to a prescription drug order shall bear the following:

- a. and b. No change.
- c. ~~The Except as provided in 657—subrule 8.19(7) for epinephrine auto-injectors,~~ the name of the patient or, if such drug is prescribed for an animal, the species of the animal and the name of its owner;
- d. to h. No change.

ITEM 2. Amend subrule 8.19(1) as follows:

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

a. *Written, electronic, or facsimile prescription.* In addition to the electronic prescription application and pharmacy prescription application requirements of this rule, a written, electronic, or facsimile prescription shall include:

- (1) The date issued.
- (2) The name and address of the patient ~~except as provided in subrule 8.19(7) for epinephrine auto-injectors.~~
- (3) The name, strength, and quantity of the drug or device prescribed.
- (4) The name and address of the prescriber and, if the prescription is for a controlled substance, the prescriber’s DEA registration number.
- (5) The written or electronic signature of the prescriber.

## PHARMACY BOARD[657](cont'd)

*b. to d.* No change.

ITEM 3. Amend subrule 8.19(5) as follows:

**8.19(5) *Legitimate purpose.*** The pharmacist shall ensure that the prescription drug or medication order, regardless of the means of transmission, has been issued for a legitimate medical purpose by an authorized practitioner acting in the usual course of the practitioner's professional practice. A pharmacist shall not dispense a prescription drug if the pharmacist knows or should have known that the prescription was issued solely on the basis of an Internet-based questionnaire, an Internet-based consultation, or a telephonic consultation and without a valid preexisting patient-practitioner relationship except as provided in subrule 8.19(7) for epinephrine auto-injectors.

ITEM 4. Adopt the following **new** subrule 8.19(7):

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

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

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

**ARC 2286C**

**PHARMACY BOARD[657]**

**Notice of Intended Action**

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

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

Pursuant to the authority of Iowa Code section 147.76, the Board of Pharmacy hereby gives Notice of Intended Action to amend Chapter 7, “Hospital Pharmacy Practice,” Iowa Administrative Code.

The amendment was approved at the November 4, 2015, regular meeting of the Board of Pharmacy.

The proposed amendment eliminates restrictions regarding the dispensing of prescription drugs to patients seen in a hospital emergency department when 24-hour pharmacy services are available within 15 miles of the hospital. The amendment specifically authorizes the dispensing, to hospital emergency department patients, of appropriately packaged and labeled prescription drugs in quantities not exceeding a 72-hour supply except as specifically identified in subrule 7.12(3). The amendment eliminates the requirement that drugs dispensed through the emergency department only be dispensed in prepackaged quantities, clarifies that the prescriber is responsible for ensuring the drug is appropriately packaged and labeled but not that the prescriber must complete the labeling, and adds that the quantity of the drug dispensed must be included on the dispensing label.

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

Any interested person may present written comments, data, views, and arguments on the proposed amendment not later than 4:30 p.m. on December 29, 2015. Such written materials may be sent to Terry

## PHARMACY BOARD[657](cont'd)

Witkowski, Executive Officer, Board of Pharmacy, 400 S.W. Eighth Street, Suite E, Des Moines, Iowa 50309-4688; or by e-mail to [terry.witkowski@iowa.gov](mailto:terry.witkowski@iowa.gov).

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

This amendment is intended to implement Iowa Code sections 124.301, 155A.13, and 155A.28.

The following amendment is proposed.

Amend subrule 7.12(3) as follows:

**7.12(3) Drug dispensing.** ~~In those facilities with 24-hour pharmacy services, only~~ Only a pharmacist or prescriber may dispense any drugs to an emergency department patient. ~~In those facilities located in an area of the state where 24-hour outpatient or 24-hour on-call pharmacy services are not available within 15 miles of the hospital, and which facilities are without 24-hour outpatient pharmacy services, pursuant to the provisions of this rule shall apply.~~

*a. Responsibility.* Pursuant to rule 657—8.3(155A), the accuracy and labeling of prepackaged drugs shall be ensured and accurate records of dispensing of drugs from the emergency department shall be maintained.

(1) Prepackaging. Except as provided in subrule 7.12(4), drugs dispensed to an emergency department patient ~~in greater than a 24-hour supply~~ may be dispensed ~~only~~ in ~~prepackaged~~ quantities not to exceed a 72-hour supply or the minimum prepackaged quantity in suitable containers, except that a seven-day supply of doxycycline provided through the department of public health pursuant to the crime victim compensation program of the Iowa department of justice may be dispensed for the treatment of a victim of sexual assault. Prepackaged drugs shall be prepared pursuant to the requirements of rule 657—22.3(126).

(2) Labeling. Drugs dispensed pursuant to this paragraph shall be appropriately labeled as required in paragraph 7.12(3) “b,” including necessary auxiliary labels.

*b. Prescriber responsibility.* Except as provided in subrule 7.12(4), a prescriber who authorizes dispensing of a prescription drug to an emergency department patient is responsible for the accuracy of the dispensed drug and for the accurate completion of label information pursuant to this paragraph.

(1) Labeling. Except as provided in subrule 7.12(4), at the time of delivery of the drug the prescriber shall ~~appropriately complete the label such~~ be responsible for ensuring that the dispensing container bears a label with at least the following information:

1. Name and address of the hospital;
2. Date dispensed;
3. Name of prescriber;
4. Name of patient;
5. Directions for use;
6. Name, quantity, and strength of drug.

(2) Delivery of drug to patient. Except as provided in subrule 7.12(4), the prescriber, or a licensed nurse under the supervision of the prescriber, shall give the appropriately labeled, ~~prepackaged~~ packaged drug to the patient or patient’s caregiver. The prescriber, or a licensed nurse under the supervision of the prescriber, shall explain the correct use of the drug and shall explain to the patient that the dispensing is for an emergency or starter supply of the drug. If additional quantities of the drug are required to complete the needed course of treatment, the prescriber shall provide the patient with a prescription for the additional quantities.



**ARC 2307C****PHARMACY BOARD[657]****Notice of Intended Action**

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

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

Pursuant to the authority of Iowa Code section 147.76, the Board of Pharmacy hereby gives Notice of Intended Action to amend Chapter 8, “Universal Practice Standards,” Iowa Administrative Code.

The amendment was approved at the August 31, 2015, regular meeting of the Board of Pharmacy.

The proposed amendment requires that the initial record or report of a continuous quality improvement program event shall be documented no later than three days following the date the error or event was discovered.

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

Any interested person may present written comments, data, views, and arguments on the proposed amendment not later than 4:30 p.m. on December 29, 2015. Such written materials may be sent to Terry Witkowski, Executive Officer, Board of Pharmacy, 400 S.W. Eighth Street, Suite E, Des Moines, Iowa 50309-4688; or by e-mail to [terry.witkowski@iowa.gov](mailto:terry.witkowski@iowa.gov).

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

This amendment is intended to implement Iowa Code section 155A.41.

The following amendment is proposed.

Amend subrule 8.26(5) as follows:

**8.26(5) CQI program records.** All CQI program records shall be maintained on site at the pharmacy or shall be accessible at the pharmacy and be available for inspection and copying by the board or its representative for at least two years from the date of the record. When a reportable program event occurs or is suspected to have occurred, the program event shall be documented in a written or electronic storage record created solely for that purpose. Records of program events shall be maintained in an orderly manner and shall be filed chronologically by date of discovery.

*a.* The program event shall initially be documented as soon as practicable but no more than three days following discovery of the event by the staff member who discovers the event or is informed of the event.

*b.* No change.

**ARC 2287C****PHARMACY BOARD[657]****Notice of Intended Action**

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

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

Pursuant to the authority of Iowa Code section 124.201, the Board of Pharmacy hereby gives Notice of Intended Action to amend Chapter 10, “Controlled Substances,” Iowa Administrative Code.

The amendment was approved at the August 31, 2015, regular meeting of the Board of Pharmacy.

## PHARMACY BOARD[657](cont'd)

The proposed amendment rescinds current rule 657—10.38(124) and adopts new rule 657—10.38(124) temporarily designating certain identified substances as controlled substances, subject to the applicable security and control requirements and penalties provided for in the Iowa Controlled Substances Act (CSA), and removing one substance from the CSA, in conformance with recent scheduling actions of the federal Drug Enforcement Administration (DEA). The substances affected by this action include three synthetic cannabinoids and acetyl fentanyl, all of which are temporarily placed into Schedule 1 of the CSA. Synthetic cannabinoids are chemicals synthesized in laboratories and mimic the biological effects of THC, the main psychoactive ingredient in marijuana. These chemicals are much more potent than marijuana and are often marketed as herbal incense or potpourri. They have no accepted medical use in the United States and have been reported to produce adverse health effects, including acute and chronic abuse, addiction, and withdrawal. Acetyl fentanyl, a synthetic opioid, has been linked to at least 39 fatalities nationwide in 2013 and 2014 and poses an imminent hazard to public safety. There is currently no approved medical use for acetyl fentanyl, and it should be appropriately classified as a Schedule 1 controlled substance.

Also affected by this temporary action is naloxegol, a new molecular entity and derivative of naloxone. The Food and Drug Administration (FDA) recently approved naloxegol for marketing for the treatment of opioid-induced constipation in adults with chronic noncancer pain. Based on the FDA's approval of naloxegol for marketing for an identified medical purpose and the lack of evidence of a high potential for abuse of this product, the Board concurs with the DEA's decision to remove naloxegol from control under the CSA.

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

Any interested person may present written comments, data, views, and arguments on the proposed amendment not later than 4:30 p.m. on December 29, 2015. Such written materials may be sent to Terry Witkowski, Executive Officer, Board of Pharmacy, 400 S.W. Eighth Street, Suite E, Des Moines, Iowa 50309-4688; or by e-mail to [terry.witkowski@iowa.gov](mailto:terry.witkowski@iowa.gov).

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

This amendment is intended to implement Iowa Code section 124.201.

The following amendment is proposed.

Rescind rule 657—10.38(124) and adopt the following **new** rule in lieu thereof:

**657—10.38(124) Temporary designation of controlled substances.**

**10.38(1)** Amend Iowa Code subsection 124.204(9) by adding the following new paragraphs “g,” “h,” “i,” and “j”:

*g.* N-(1-amino-3-methyl-1-oxobutan-2-yl)-1-(cyclohexylmethyl)-1H-indazole-3-carboxamide, its optical, positional, and geometric isomers, salts, and salts of isomers. Other names: AB-CHMINACA.

*h.* N-(1-amino-3-methyl-1-oxobutan-2-yl)-1-pentyl-1H-indazole-3-carboxamide, its optical, positional, and geometric isomers, salts, and salts of isomers. Other names: AB-PINACA.

*i.* [1-(5-fluoropentyl)-1H-indazol-3-yl](naphthalen-1-yl)methanone, its optical, positional, and geometric isomers, salts, and salts of isomers. Other names: THJ-2201.

*j.* N-(1-phenethylpiperidin-4-yl)-N-phenylacetamide, its optical, positional, and geometric isomers, salts, and salts of isomers. Other names: acetyl fentanyl.

**10.38(2)** Amend Iowa Code subsection 124.206(2), paragraph “a,” introductory paragraph, as follows:

*a.* Opium and opiate, and any salt, compound, derivative, or preparation of opium or opiate, excluding apomorphine, thebaine-derived butorphanol, dextroprhan, nalbuphine, nalmefene, naloxegol, naloxone, and naltrexone, and their respective salts, but including the following:

## ARC 2289C

## PHARMACY BOARD[657]

## Notice of Intended Action

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

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

Pursuant to the authority of Iowa Code section 147.76, the Board of Pharmacy hereby gives Notice of Intended Action to amend Chapter 22, “Unit Dose, Alternative Packaging, and Emergency Boxes,” Iowa Administrative Code.

The amendment was approved at the August 31, 2015, regular meeting of the Board of Pharmacy.

The proposed amendment eliminates the requirement for a record, on the prescription, identifying the patient med pak in which the prescription drug is packaged. The patient med pak record requires identification of each prescription included in the patient med pak. Requiring the complementary record on the prescription is duplicative and unnecessary. The amendment further clarifies that the unique identification number of the current prescription drug order must be included in the patient med pak record. Also, because of the removal of paragraph 22.5(8)“b,” paragraph “a” is restructured.

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

Any interested person may present written comments, data, views, and arguments on the proposed amendment not later than 4:30 p.m. on December 29, 2015. Such written materials may be sent to Terry Witkowski, Executive Officer, Board of Pharmacy, 400 S.W. Eighth Street, Suite E, Des Moines, Iowa 50309-4688; or by e-mail to [terry.witkowski@iowa.gov](mailto:terry.witkowski@iowa.gov).

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

This amendment is intended to implement Iowa Code sections 126.10, 126.11, and 155A.28.

The following amendment is proposed.

Amend subrule 22.5(8) as follows:

**22.5(8) Record keeping.**

~~a.~~ The record of each patient med pak shall contain, at a minimum:

(1) ~~a.~~ The name and address of the patient;

(2) ~~b.~~ **A** The unique identification number for each of the current prescription drug orders for each of the drug products contained therein;

(3) ~~c.~~ A unique identification number for the patient med pak;

(4) ~~d.~~ Information identifying or describing the design, characteristics, or specifications of the patient med pak sufficient to allow subsequent preparation of an identical patient med pak for the patient;

(5) ~~e.~~ The date of preparation of the patient med pak and the beyond-use date that was assigned;

(6) ~~f.~~ Any special labeling instructions; and

(7) ~~g.~~ The name, unique identification, or initials of the responsible pharmacist.

~~b.~~ The record of the individual prescription drug orders for each of the drug products packaged in a patient med pak shall include the unique identification number for the patient med pak wherein the prescription drug is dispensed.

**ARC 2305C****PUBLIC HEALTH DEPARTMENT[641]****Notice of Intended Action**

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

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

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

The proposed amendments revise the time line for the development of policies and procedures for obtaining informed consent for the storage and release of residual newborn screening specimens and clarify the use of linked specimens in feasibility studies approved by the Congenital and Inherited Disorders Advisory Committee (CIDAC) for the purpose of incorporating new tests or evaluating new test methodologies when the clinical validity and reliability of the test methodologies have previously been determined. The proposed amendments also replace the defunct Iowa Registry for Congenital and Inherited Disorders (IRCID) Internal Advisory Committee with CIDAC for the review of proposals for research and correct a typographical error in rule 641—4.11(136A).

These proposed amendments have been reviewed by the Congenital and Inherited Disorders Advisory Committee and interested individuals within the field.

Any interested person may make written suggestions or comments on these proposed amendments on or before December 29, 2015. Such written comments should be directed to Kimberly Noble Piper, State Genetics Coordinator, Center for Congenital and Inherited Disorders, Department of Public Health, Lucas State Office Building, 321 East 12th Street, Des Moines, Iowa 50319; fax (515)725-1760. E-mail may be sent to [kimberly.piper@idph.iowa.gov](mailto:kimberly.piper@idph.iowa.gov).

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

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

The following amendments are proposed.

ITEM 1. Amend paragraph 4.3(2)“e” as follows:

*e. Informed consent for the storage and release of residual specimens for research use. ~~The By~~ By July 1, 2017, the department shall establish policies and procedures, including an informed consent procedure for the storage and release of specimens for research, to allow a parent or guardian the ability to provide informed consent prior to the release of the newborn’s residual newborn screening specimen for research purposes. The parent or guardian, birthing facility or attending health care provider shall submit ~~the informed consent form~~ documentation of informed consent to the ~~central laboratory~~ state hygienic laboratory or its designee pursuant to established policy and procedure. The informed consent procedure shall apply to all specimens collected on or after ~~January 1, 2016~~ July 1, 2017. For specimens collected prior to ~~January 1, 2016~~ July 1, 2017, a parent or guardian may send a letter stating that the newborn’s specimen is not to be released for research purposes. This letter shall include the parent’s or guardian’s name, the newborn’s name at birth, and the newborn’s date of birth. The letter of notice shall be sent to the ~~State Hygienic Laboratory at Newborn Screening Program, State Hygienic Laboratory, 2220 S. Ankeny Blvd., Ankeny, Iowa 50023-9093~~ state genetics coordinator at the Iowa Department of Public Health, 321 East 12th Street, Des Moines, Iowa 50319-0075.*

ITEM 2. Amend paragraph 4.3(8)“c” as follows:

*c. Research. A residual newborn screening specimen may be released for research purposes only if ~~written~~ informed consent has been received from a parent or guardian of the child, or the individual adult upon whom the screening was performed, and each of the following conditions is satisfied:*

(1) to (3) No change.

## PUBLIC HEALTH DEPARTMENT[641](cont'd)

ITEM 3. Amend paragraph **4.3(8)“d”** as follows:

*d.* Newborn screening program operations. Residual newborn screening specimens may be used for activities, testing, and procedures directly related to the operation of the newborn screening program, including confirmatory testing, laboratory quality control assurance and improvement, calibration of equipment, evaluation and improvement of the accuracy of newborn screening tests, and validation of equipment and screening methods, and the use of linked specimens in feasibility studies approved by the Congenital and Inherited Disorders Advisory Committee for the purpose of incorporating new tests or evaluating new test methodologies when clinical validity and reliability of the test methodologies have previously been determined.

ITEM 4. Amend subparagraphs **4.7(6)“e”(1)** and **(2)** as follows:

(1) All proposals for research using the IRCID data to be conducted by persons other than program staff shall first be submitted to and accepted by the researcher's institutional review board. Proposals shall then be reviewed and approved by CIDAC and the department ~~and the IRCID's internal advisory committee~~ before research can commence.

(2) The IRCID shall submit to ~~the IRCID's internal advisory committee~~ CIDAC and the department for approval a protocol describing any research conducted by the IRCID in which the IRCID deems it necessary to contact case subjects and controls.

ITEM 5. Amend rule 641—4.11(136A), introductory paragraph, as follows:

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

**ARC 2306C**

**PUBLIC HEALTH DEPARTMENT[641]**

**Notice of Intended Action**

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

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

Pursuant to the authority of Iowa Code section 139A.8, the Department of Public Health hereby gives Notice of Intended Action to amend Chapter 7, “Immunization and Immunization Education: Persons Attending Elementary or Secondary Schools, Licensed Child Care Centers or Institutions of Higher Education,” Iowa Administrative Code.

Chapter 7 describes the permitted use of the Immunization Registry Information System (IRIS) for immunization and health screenings and addresses the release of IRIS information to the Department and among health care providers. The proposed amendments implement a refugee health screening module in IRIS. The proposed amendments will expand the definition of “health screening” to include refugee health screenings and allow refugee health screening information to be shared between the Department and health care providers.

Any interested person may make written suggestions or comments on these proposed amendments on or before December 29, 2015. Such written comments should be directed to Don Callaghan, Bureau Chief of Bureau of Immunization and TB, Department of Public Health, 321 East 12th Street, Des Moines, Iowa 50319. E-mail may be sent to [Donald.Callaghan@idph.iowa.gov](mailto:Donald.Callaghan@idph.iowa.gov).

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

These amendments are intended to implement Iowa Code chapter 139A.

The following amendments are proposed.

## PUBLIC HEALTH DEPARTMENT[641](cont'd)

ITEM 1. Amend rule **641—7.1(139A)**, definitions of “Health screening” and “Screening provider,” as follows:

“*Health screening*” means a vision screen, ~~or~~ dental screen, or refugee health screen.

“*Screening provider*” means an ophthalmologist, optometrist, pediatrician, ~~family practice~~ physician, free clinic, child care center, local public health department, public or accredited nonpublic school, community-based organization, advanced registered nurse practitioner (ARNP), physician assistant, dentist or dental hygienist.

ITEM 2. Adopt the following new subrule 7.12(5):

**7.12(5)** *Among the department and physicians, physician assistants, nurses, and certified medical assistants conducting refugee health screenings.* Refugee health screenings shall be disclosed only as indicated in this rule. Immunization or health screening information, including the patient’s last name, first name, date of birth, and demographic information; the vaccine(s) administered and the month, day, and year of administration; health screening results; and clinic source and location, shall be disclosed upon written or verbal request among the department, physicians, physician assistants, nurses, certified medical assistants, or screening providers to another health care provider or the department. Written or verbal permission from the parent, guardian or patient is not required to release this information.

**ARC 2274C**

**PUBLIC HEALTH DEPARTMENT[641]**

**Notice of Intended Action**

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

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

Pursuant to the authority of Iowa Code section 105.4, the Department of Public Health hereby gives Notice of Intended Action to amend Chapter 61, “State Mechanical Code,” Iowa Administrative Code.

The proposed amendments update the state mechanical code from the 2012 edition of the International Mechanical Code (IMC) to the 2015 edition of the International Mechanical Code as required by Iowa Code section 105.4. An additional amendment is proposed to add section 504.8.2 of the IMC related to dryer duct installations. The proposed amendments also update the edition of the National Fuel Gas Code from the 2012 edition to the 2015 edition, and update the Liquefied Petroleum Gas Code from the 2011 to the 2014 edition. The proposed amendments update the reference to the American Society of Heating, Refrigerating, and Air-Conditioning Engineers (ASHRAE) Standard 62.1 to the 2013 edition.

Any interested person may make written suggestions or comments on the amendments on or before December 29, 2015. Written materials should be directed to Jennifer Hart, Plumbing and Mechanical Systems Board, 321 E. 12th Street, Des Moines, Iowa 50319-0075; fax (515)281-6114; e-mail [jennifer.hart@idph.iowa.gov](mailto:jennifer.hart@idph.iowa.gov).

Also, there will be a public hearing on December 29, 2015, at 10 a.m. in the Lucas State Office Building, Conference Room 517, at 321 E. 12th Street, Des Moines, Iowa, at which time persons may present their views either orally or in writing. At the hearing, persons will be asked to give their names and addresses for the record and to confine their remarks to the subject of the amendments.

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

These rules are subject to waiver under the Board’s general waiver provisions contained in 641—Chapter 31.

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

These amendments are intended to implement Iowa Code section 105.4.

The following amendments are proposed.

## PUBLIC HEALTH DEPARTMENT[641](cont'd)

ITEM 1. Amend rule 641—61.2(105), introductory paragraph, as follows:

**641—61.2(105) Adoption by reference.** The provisions of the International Mechanical Code, ~~2012~~ 2015 edition, published by the International Code Council, ~~5203 Leesburg Pike, Suite 600, Falls Church, VA 22041~~ 4051 West Flossmoor Road, Country Club Hills, IL 60478, are hereby adopted by reference as the requirements for the design, installation, maintenance, alteration, and inspection of mechanical systems that are permanently installed and utilized to provide control of environmental conditions and related processes within buildings, with the following amendments:

ITEM 2. Amend subrule 61.2(2) as follows:

**61.2(2)** In section 101.2, delete the phrase “International Fuel Gas Code” and insert in lieu thereof “NFPA 54, National Fuel Gas Code, ~~2012~~ 2015 edition; NFPA 58, Liquefied Petroleum Gas Code, ~~2011~~ 2014 edition; and the provisions of ~~661—Chapter 226~~; and the state plumbing code.”

ITEM 3. Amend subrule 61.2(4) as follows:

**61.2(4)** Delete section 401.1 and insert in lieu thereof the following new section:

**401.1 Scope.** This chapter shall govern the ventilation of spaces within a building intended to be occupied. These buildings shall meet either the requirements of ASHRAE Standard 62.1, “Ventilation for Acceptable Indoor Air Quality,” ~~2010~~ 2013 edition, published by the American Society of Heating, Refrigeration, and Air-Conditioning Engineers, 1791 Tullie Circle N.E., Atlanta, GA 30329, or the requirements contained in this chapter. Mechanical exhaust systems, including exhaust systems serving clothes dryers and cooking appliances; hazardous exhaust systems; dust, stock, and refuse conveyor systems; slab soil exhaust systems; smoke control systems; energy recovery ventilation systems; and other systems specified in Section 502 shall comply with Chapter 5.

ITEM 4. Renumber subrules **61.2(6)** and **61.2(7)** as **61.2(7)** and **61.2(8)**.

ITEM 5. Adopt the following **new** subrule 61.2(6):

**61.2(6)** Delete section 504.8.2 and insert in lieu thereof the following new section:

**504.8.2 Duct Installation.** Exhaust ducts shall be supported at 4-foot (1219 mm) intervals and secured in place. The insert end of the duct shall extend into the adjoining duct or fitting in the direction of airflow. Ducts shall not be joined by screws or similar fasteners that protrude into the inside of the duct.

**ARC 2304C**

**PUBLIC HEALTH DEPARTMENT[641]**

**Notice of Intended Action**

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

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

Pursuant to the authority of Iowa Code section 147A.4, the Department of Public Health hereby gives Notice of Intended Action to amend Chapter 132, “Emergency Medical Services—Service Program Authorization,” Iowa Administrative Code.

The proposed amendments correct an oversight from previous rule makings and clarify that all authorized EMS services are required to have a driving policy and documented training for all responding members. The current rules address policy and training for ambulance service members only. These amendments will reduce confusion for all EMS service types and ensure that all EMS personnel have received basic training on appropriate emergency driving skills.

Any interested person may make written comments or suggestions on the proposed amendments on or before December 29, 2015. Such written comments should be directed to Rebecca Curtis, Bureau Chief

## PUBLIC HEALTH DEPARTMENT[641](cont'd)

of Emergency and Trauma Services, Department of Public Health, 321 East 12th Street, Des Moines, Iowa 50319. E-mail may be sent to [Rebecca.Curtiss@idph.iowa.gov](mailto:Rebecca.Curtiss@idph.iowa.gov).

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

These amendments are intended to implement Iowa Code sections 147A.4(1)“a” and 147A.4(2).

The following amendments are proposed.

ITEM 1. Amend paragraph **132.8(1)“c”** as follows:

c. Provide as a minimum, on each ambulance call, the following staff:

(1) One currently certified EMT-B or EMT.

(2) One currently licensed driver. The service shall document each driver’s training in CPR (AED training not required), ~~in emergency driving techniques and in the use of the service’s communications equipment. Training in emergency driving techniques shall include:~~

~~1. A review of Iowa laws regarding emergency vehicle operations.~~

~~2. A review of the service program’s driving policy for first response vehicles, ambulances, rescue vehicles or personal vehicles of an emergency medical care provider responding as a member of the service. The policy shall include, at a minimum:~~

~~● Frequency and content of driver’s training requirements.~~

~~● Criteria for response with lights or sirens or both.~~

~~● Speed limits when responding with lights or sirens or both.~~

~~● Procedure of approaching intersections with lights or sirens or both.~~

~~● Notification process in the event of a motor vehicle collision involving a first response vehicle, ambulance, rescue vehicle or personal vehicle of an emergency medical care provider responding as a member of the service.~~

~~3. Behind-the-wheel driving of the service’s first response vehicles, ambulances and rescue vehicles.~~

ITEM 2. Adopt the following **new** paragraph **132.8(3)“s”**:

s. Ensure that any member of the service driving a service’s first response vehicle, ambulance, or rescue vehicle or a personal vehicle when responding as a member of the service has documented training in emergency driving techniques and in the use of the service’s communications equipment. Training in emergency driving techniques shall include:

(1) A review of Iowa laws regarding emergency vehicle operations.

(2) A review of the service program’s driving policy for first response vehicles, ambulances, rescue vehicles or personal vehicles when used by a service member responding as a member of the service.

The policy shall include, at a minimum:

1. Frequency and content of driver’s training requirements.

2. Criteria for response with lights or sirens or both.

3. Speed limits when responding with lights or sirens or both.

4. Procedure for approaching intersections with lights or sirens or both.

5. Notification process in the event of a motor vehicle collision involving a first response vehicle, ambulance, rescue vehicle or personal vehicle when used by a service member responding as a member of the service.

(3) Behind-the-wheel driving of the service’s first response vehicles, ambulances and rescue vehicles.

## REVENUE DEPARTMENT[701]

### 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



## REVENUE DEPARTMENT[701]

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 2015 by each taxpayer to determine the tax due for each taxpayer in the 2016-2017 fiscal year.

**2015 ELECTRIC DELIVERY TAX RATES BY SERVICE AREA**

<b>CO. #</b>	<b>MUNICIPAL ELECTRICS</b>	<b>DELIVERY TAX RATE</b>
3226	Akron Municipal Utilities	0.00005331
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
3209	Atlantic Municipal Utilities	0.00024840
3073	Auburn Municipal Utility	0.00000000
3074	Aurelia Mun. Electric Utility	0.00007585
3211	Bancroft Municipal Utilities	0.00087760
3213	Bellevue Municipal Utilities	0.00008622
3228	Bigelow Municipal Electric Utility	0.00169211
3229	Bloomfield Municipal Electric Utility	0.00003481
3075	Breda Mun. Electric System	0.00000000
3076	Brooklyn Municipal Utilities	0.00162223
3216	Buffalo Municipal Electric System	0.00000215
3217	Burt Municipal Electric Utility	0.00000190
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	0.00000507
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

## REVENUE DEPARTMENT[701]

<b>CO. #</b>	<b>MUNICIPAL ELECTRICS</b>	<b>DELIVERY TAX RATE</b>
3143	City of Woolstock	0.00000000
3236	Coggon Municipal Light Plant	0.00004637
3237	Coon Rapids Municipal Utilities	0.00050314
3242	Corning Municipal Utilities	0.00029978
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	0.00006206
3083	Durant Municipal Electric Plant	0.00000000
3084	Dysart Municipal Utilities	0.00000000
3085	Earlville Municipal Utilities	0.00118350
3087	Ellsworth Municipal Utilities	0.00000000
3091	Fonda Municipal Electric	0.00000000
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	0.00114365
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	0.00000844
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	0.00000913
3277	Laurens Municipal Utilities	0.00027651
3109	Lenox Mun. Light & Power	0.00045704
3110	Livermore Municipal Utilities	0.00000000
3111	Long Grove Mun. Elec./Water	0.00000000
3282	Manilla Municipal Elec. Utilities	0.00011092

## REVENUE DEPARTMENT[701]

<b>CO. #</b>	<b>MUNICIPAL ELECTRICS</b>	<b>DELIVERY TAX RATE</b>
3112	Manning Municipal Electric	0.00022981
3284	Mapleton Municipal Utilities	0.00008732
3285	Maquoketa Municipal Electric	0.00004721
3288	McGregor Municipal Utilities	0.00000695
3291	Milford Municipal Utilities	0.00017311
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	0.00009962
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
3118	Orient Municipal Utilities	0.00000000
3307	Osage Municipal Utilities	0.00004946
3309	Panora Municipal Electric Utility	0.00006632
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	0.00012104
3132	Stanhope Municipal Utilities	0.00000000
3360	Stanton Municipal Utilities	0.00000000
3326	State Center Municipal Light Plant	0.00029879
3327	Story City Municipal Electric Utility	0.00011022
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	0.00066520
3337	Villisca Municipal Power Plant	0.00022186

## REVENUE DEPARTMENT[701]

<b>CO. #</b>	<b>MUNICIPAL ELECTRICS</b>	<b>DELIVERY TAX RATE</b>
3137	Vinton Municipal Utilities	0.00000000
3138	Wall Lake Municipal Utilities	0.00000000
3338	Waverly Light & Power	0.00072786
3342	Webster City Municipal Utilities	0.00043548
3345	West Bend Municipal Power Plant	0.00082391
3346	West Liberty Municipal Electric Util.	0.00000641
3347	West Point Municipal Utility System	0.00009639
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

<b>CO. #</b>	<b>IOU's — ELECTRIC</b>	<b>DELIVERY TAX RATE</b>
7206	Amana Society Service Co.	0.00056524
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	0.00264702
7296	Nebraska Public Power District	0.00000000
7302	Northwestern Corporation	0.00000000
7305	Omaha Public Power District	0.00133761
7334	Union Electric	0.00000000

<b>CO. #</b>	<b>REC's</b>	<b>DELIVERY TAX RATE</b>
4319	Access Energy Coop	0.00075412
4203	Allamakee Clayton Electric Coop	0.00093586
4208	Atchison-Holt Electric Coop	0.00085628
4214	Boone Valley Electric Coop	0.00086284
4218	Butler County REC	0.00068865
4219	Calhoun County Electric Coop	0.00123234
4220	Cass Electric Coop	0.0004089
4224	Central Iowa Power Coop	0.00000000
4225	Chariton Valley Electric Coop	0.00102029
4235	Clarke Electric Coop	0.00252219
4287	Consumers Energy	0.00193459
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	0.00261293

## REVENUE DEPARTMENT[701]

<b>CO. #</b>	<b>REC's</b>	<b>DELIVERY TAX RATE</b>
4249	Farmers Electric Coop - Kalona	0.00040105
4251	Federated Rural Electric	0.00032175
4253	Franklin Rural Electric Coop	0.00078432
4254	Freeborn-Mower Cooperative	0.00101377
4255	Glidden Rural Electric Coop	0.00055807
4259	Grundy County REC	0.00086958
4260	Grundy Electric Cooperative	0.00046960
4261	Guthrie County REC	0.00121604
4262	Hancock Co. REC	0.00103984
4265	Harrison County REC	0.00072127
4266	Hawkeye REC	0.00051726
4223	Heartland Power Coop	0.00035022
4268	Humboldt County REC	0.00095243
4273	Iowa Lakes Electric Coop	0.00061700
4279	Linn County REC	0.00142321
4280	Lyon Rural Electric Coop	0.00055902
4286	Maquoketa Valley Electric Coop	0.00221262
4290	Midland Power Cooperative	0.00116065
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	0.00033499
4310	Pella Cooperative Electric	0.00194961
4313	Pleasant Hill Community Line	0.00023453
4316	Rideta Electric Coop	0.00274284
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	0.00122351
4336	United Electric Coop	0.00112324
4348	Western Iowa Power Coop	0.00093220
4352	Woodbury County REC	0.00104762
4353	Wright County REC	0.00051745

REVENUE DEPARTMENT[701]

**2015 NATURAL GAS DELIVERY TAX RATES BY SERVICE AREA**

<b>CO. #</b>	<b>MUNICIPAL GAS</b>	<b>DELIVERY TAX RATE</b>
5021	Bedford Municipal Gas	0.00000000
5215	Brighton Gas	0.00677346
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	0.00004787
5241	Corning Municipal Gas	0.00000613
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
5275	Lamoni Municipal Gas	0.00078798
5037	Lenox Municipal Gas	0.00000000
5038	Lineville City Natural Gas	0.00000000
5039	Lorimor Municipal Gas	0.00000000
5281	Manilla Municipal Gas	0.00032558
5283	Manning Municipal Gas	0.00015233
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	0.00010492
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

## REVENUE DEPARTMENT[701]

<b>CO. #</b>	<b>MUNICIPAL GAS</b>	<b>DELIVERY TAX RATE</b>
5340	Wayland Municipal Gas	0.00025198
5064	Wellman Municipal Gas	0.00000000
5344	West Bend Municipal Gas	0.00001834
5065	Whittemore Municipal Gas	0.00000000
5349	Winfield Municipal Gas	0.00048575
5066	Woodbine Gas	0.00000000

<b>CO. #</b>	<b>IOU's — GAS</b>	<b>DELIVERY TAX RATE</b>
5204	Allerton Gas	0.02200410
5270	IES Utilities	0.00677129
5272	Interstate Power	0.00252602
5289	MidAmerican Energy	0.00913634
5312	Peoples Natural Gas	0.00640722
5335	United Cities Gas	0.01123945

**2015 MUNICIPAL ELECTRIC TRANSFER REPLACEMENT TAX RATES**

<b>CO. #</b>	<b>COMPANY</b>	<b>REPLACEMENT TAX RATE</b>
3226	Akron Municipal Utilities	0.01565182
3201	Algona Municipal Utilities	0.00331512
3205	Alta Municipal Power Plant	0.00285127
3069	Alta Vista Municipal Utilities	*
3070	Alton Municipal Light & Power	0.00182745
3207	Ames Municipal Electric System	*
3071	Anita Municipal Utilities	0.00494504
3227	Anthon Municipal Electric Utility	*
3209	Atlantic Municipal Utilities	0.00348895
3073	Auburn Municipal Utility	*
3074	Aurelia Municipal Electric Utility	*
3211	Bancroft Municipal Utilities	*
3213	Bellevue Municipal Utilities	0.01255793
3229	Bloomfield Municipal Electric Utility	0.02732115
3075	Breda Municipal Electric System	0.00000000
3076	Brooklyn Municipal Utilities	0.00000000
3216	Buffalo Municipal Electric System	*
3217	Burt Municipal Electric Utility	0.00212381
3077	Callender Electric	*
3078	Carlisle Municipal Utilities	*
3079	Cascade Municipal Utilities	0.00000000
3221	Cedar Falls Mun. Electric Utility	0.00273075

## REVENUE DEPARTMENT[701]

<b>CO. #</b>	<b>COMPANY</b>	<b>REPLACEMENT TAX RATE</b>
3068	City of Afton	0.00443414
3072	City of Aplington	0.00984888
3082	City of Dike	0.00000000
3088	City of Estherville	0.01796068
3089	City of Fairbank	*
3090	City of Farnhamville	0.00000000
3230	City of Fredericksburg	*
3106	City of Larchwood	0.00000000
3107	City of Lawler	0.00429523
3108	City of Lehigh	0.00000000
3113	City of Marathon	*
3311	City of Pella	0.00314133
3125	City of Renwick	0.00000000
3129	City of Sergeant Bluff	*
3139	City of Westfield	*
3143	City of Woolstock	*
3236	Coggon Municipal Light Plant	0.00000000
3237	Coon Rapids Municipal Utilities	0.00342851
3242	Corning Municipal Utilities	0.00000000
3080	Corwith Municipal Utilities	*
3243	Danville Municipal Electric Utility	0.00454601
3081	Dayton Light & Power	0.00203585
3244	Denison Municipal Utilities	0.00194792
3245	Denver Municipal Electric Utility	*
3083	Durant Municipal Electric Plant	0.00000000
3084	Dysart Municipal Utilities	0.01040080
3085	Earlville Municipal Utilities	*
3086	Eldridge Electric & Water Utility	*
3087	Ellsworth Municipal Utilities	0.00730948
3091	Fonda Municipal Electric	*
3252	Fontanelle Municipal Utilities	*
3092	Forest City Municipal Utilities	*
3231	Glidden Municipal Electric Utility	0.01843011
3093	Gowrie Municipal Utilities	0.00305345
3256	Graettinger Municipal Light Plant	*
3094	Grafton Municipal Utilities	0.01043930
3258	Grand Junction Municipal Utilities	*
3095	Greenfield Municipal Utilities	*
3096	Grundy Center Light & Power	0.00141822
3232	Guttenberg Municipal Electric	0.01066969
3263	Harlan Municipal Utilities	0.00264692
3097	Hartley Municipal Utilities	0.00693074
3098	Hawarden Municipal Utility	0.00965243
3099	Hinton Municipal Electric/Water	0.00102465



## REVENUE DEPARTMENT[701]

<b>CO. #</b>	<b>COMPANY</b>	<b>REPLACEMENT TAX RATE</b>
3267	Hopkinton Municipal Utilities	0.00000000
3100	Hudson Municipal Utilities	0.00000000
3101	Independence Light & Power	0.00221482
3271	Indianola Municipal Utilities	0.00456690
3102	Keosauqua Light & Power	0.00000000
3103	Kimballton Municipal Utilities	*
3104	Lake Mills Municipal Utilities	*
3105	Lake Park Municipal Utilities	0.00325642
3233	Lake View Municipal Utilities	0.00878542
3274	Lamoni Municipal Utilities	0.00240459
3276	LaPorte City Utilities	0.00343786
3277	Laurens Municipal Utilities	0.00350073
3109	Lenox Municipal Light & Power	0.00000000
3110	Livermore Municipal Utilities	0.01010421
3111	Long Grove Mun. Elec./Water	0.00000000
3282	Manilla Municipal Elec. Utilities	0.00724715
3112	Manning Municipal Electric	*
3284	Mapleton Municipal Utilities	0.00182207
3285	Maquoketa Municipal Electric	0.00251168
3288	McGregor Municipal Utilities	0.00199678
3291	Milford Municipal Utilities	0.00000000
3114	Montezuma Municipal Light & Power	0.00215560
3115	Mount Pleasant Municipal Utilities	0.00142002
3293	Muscatine Municipal Utilities	0.00000000
3116	Neola Light & Water System	0.00000000
3297	New Hampton Municipal Light Plant	0.00268226
3298	New London Municipal Utility	0.00470628
3304	Ogden Municipal Utilities	0.00265200
3234	Onawa Municipal Utilities	0.00347188
3117	Orange City Municipal Utilities	*
3118	Orient Municipal Utilities	*
3307	Osage Municipal Utilities	0.00146315
3309	Panora Municipal Electric Utility	0.00283258
3119	Paton Municipal Utilities	0.00000000
3120	Paullina Municipal Utilities	0.01500109
3121	Pocahontas Municipal Utilities	0.00999966
3122	Preston Municipal Utilities	0.00764422
3315	Primghar Municipal Light Plant	0.00000000
3123	Readlyn Municipal Utilities	0.00000000
3124	Remsen Municipal Utilities	0.00085480
3318	Rock Rapids Municipal Utilities	0.00461301
3126	Rockford Municipal Light Plant	0.00000000
3127	Sabula Municipal Utilities	0.03611574
3128	Sanborn Municipal Light & Plant	*

## REVENUE DEPARTMENT[701]

<b>CO. #</b>	<b>COMPANY</b>	<b>REPLACEMENT TAX RATE</b>
3130	Shelby Municipal Utilities	*
3131	Sibley Municipal Utilities	0.00230405
3321	Sioux Center Municipal Utilities	0.00357025
3324	Spencer Municipal Utilities	0.00543415
3132	Stanhope Municipal Utilities	0.00918497
3360	Stanton Municipal Utilities	0.00424165
3326	State Center Municipal Light Plant	*
3327	Story City Municipal Electric Utility	*
3134	Stratford Municipal Utilities	0.01222765
3135	Strawberry Point Electric Utility	0.00000000
3136	Stuart Municipal Utilities	0.00525254
3328	Sumner Municipal Light Plant	0.00844799
3330	Tipton Municipal Utilities	*
3332	Traer Municipal Utilities	0.00778714
3337	Villisca Municipal Power Plant	0.00000000
3137	Vinton Municipal Utilities	0.00199082
3138	Wall Lake Municipal Utilities	0.00726897
3338	Waverly Light & Power	0.00660890
3342	Webster City Municipal Utilities	0.00637503
3345	West Bend Municipal Power Plant	0.00190340
3346	West Liberty Municipal Electric Util.	0.00316508
3347	West Point Municipal Utility System	0.00491855
3140	Whittemore Municipal Utilities	*
3141	Wilton Municipal Light & Power	0.00000000
3351	Winterset Municipal Utilities	*
3142	Woodbine Municipal Utilities	0.00293240
3143	Woolstock Municipal Utilities	0.00000000

\*No rate provided to the Department by the Municipal

**2015 MUNICIPAL NATURAL GAS TRANSFER REPLACEMENT TAX RATES**

<b>CO. #</b>	<b>COMPANY</b>	<b>REPLACEMENT TAX RATE</b>
5401	Alton Municipal Gas	0.00000000
5021	Bedford Municipal Gas	0.06418828
5215	Brighton Gas	0.01632014
5023	Brooklyn Municipal Gas	0.00000000
5024	Cascade Municipal Gas	0.00000000
5025	Cedar Falls Municipal Gas	0.01436646
5022	City of Bloomfield	0.79956757
5026	City of Clearfield	*
5028	City of Everly	*
5029	City of Fairbank	*

## REVENUE DEPARTMENT[701]

<b>CO. #</b>	<b>COMPANY</b>	<b>REPLACEMENT TAX RATE</b>
5238	Coon Rapids Municipal Gas	0.00679996
5241	Corning Municipal Gas	0.00000000
5027	Emmetsburg Municipal Gas	0.02868065
5030	Gilmore City Municipal Gas	*
5031	Graettinger Municipal Gas	*
5032	Guthrie Center Municipal Gas	0.00000000
5033	Harlan Municipal Gas	0.94500981
5034	Hartley Municipal Gas	0.04108674
5035	Hawarden Municipal Gas	0.68706020
5036	Lake Park Municipal Gas	0.00837452
5275	Lamoni Municipal Gas	0.00844499
5037	Lenox Municipal Gas	*
5038	Lineville City Natural Gas	0.00000000
5039	Lorimor Municipal Gas	0.01470425
5281	Manilla Municipal Gas	0.09207120
5283	Manning Municipal Gas	0.03760692
5402	Mapleton Municipal Gas	0.00000000
5040	Montezuma Natural Gas	0.00000000
5041	Morning Sun Municipal Gas	*
5042	Moulton Municipal Gas	*
5369	Orange City Municipal Gas	0.01448696
5306	Osage Municipal Gas	0.01175890
5043	Prescott Municipal Gas	*
5044	Preston Municipal Gas	1.09744560
5055	Remsen Municipal Gas	0.01438414
5317	Rock Rapids Municipal Gas	0.01483943
5056	Rolfe Municipal Gas	*
5057	Sabula Municipal Gas	0.13066571
5058	Sac City Municipal Gas	0.02123992
5059	Sanborn Municipal Gas	*
5060	Sioux Center Municipal Gas	0.01033224
5061	Tipton Municipal Gas	0.01629660
5067	Wall Lake Municipal Gas	0.01971044
5063	Waukee Municipal Gas	*
5340	Wayland Municipal Gas	0.02927143
5064	Wellman Municipal Gas	0.04381699
5344	West Bend Municipal Gas	0.02558228
5065	Whittemore Municipal Gas	*
5349	Winfield Municipal Gas	0.00000000
5066	Woodbine Gas	*

\*No rate provided to the Department by the Municipal

REVENUE DEPARTMENT[701](cont'd)

**ARC 2299C****REVENUE DEPARTMENT[701]****Notice of Intended Action**

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

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

Pursuant to the authority of Iowa Code sections 17A.3 and 421.14, the Department of Revenue hereby gives Notice of Intended Action to amend Chapter 38, “Administration,” Iowa Administrative Code.

The Iowa Code mandates that the Department follow the federal provisions in the determination of innocent spouse relief from state income tax liability. The proposed amendment simplifies the process and criteria the Department considers in granting innocent spouse relief by referring directly to the relevant sections of the federal code and related regulations. Going forward, the Department will presume that a person granted innocent spouse relief for federal tax purposes also qualifies for relief for Iowa tax purposes. In addition, there will be a rebuttable presumption that a person who has not been approved as an innocent spouse for federal tax purposes does not qualify as an innocent spouse for Iowa tax purposes.

The Department has considered the factors listed in Iowa Code section 17A.4A. The Department will issue a regulatory analysis as provided in Iowa Code section 17A.4A if a written request is filed by delivery or by mailing postmarked no later than January 11, 2016, to Ben Clough, Policy and Communications Division, Department of Revenue, Hoover State Office Building, P.O. Box 10457, Des Moines, Iowa 50306-0457. Alternatively, requests may be e-mailed to [ben.clough@iowa.gov](mailto:ben.clough@iowa.gov). The request may be made by the Administrative Rules Review Committee, the Administrative Rules Coordinator, at least 25 persons signing that request who each qualify as a small business, or an organization representing at least 25 such persons.

Interested persons may make written comments on the proposed amendment on or before December 29, 2015. Comments on the proposed amendment should be directed to Ben Clough by e-mail at [ben.clough@iowa.gov](mailto:ben.clough@iowa.gov); by telephone at (515)725-2176; or by mail to Ben Clough, Policy and Communications Division, Department of Revenue, Hoover State Office Building, P.O. Box 10457, Des Moines, Iowa 50306-0457.

Requests for a public hearing must be received by December 29, 2015.

Any person who believes that the application of the discretionary provisions of these rules would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any.

After analysis and review of this rule making, the Department finds that the changes to this rule are likely to have little or no impact on jobs. The proposed amendment does not substantively change the existing rule but provides clarification and helps to streamline the Department’s own internal processes.

This amendment is intended to implement Iowa Code section 422.21(7).

The following amendment is proposed.

Amend rule 701—38.15(422) as follows:

**701—38.15(422) Relief of innocent spouse for substantial understatement of tax attributable to other spouse.** ~~A husband and wife~~ Married taxpayers are generally jointly and severally liable for the total tax, penalty, and interest from a joint return or from a return where ~~they~~ the spouses file separately on the combined return form. However, ~~effective for tax years beginning on or after January 1, 1994,~~ a married person who meets the criteria for an innocent spouse established in Section 6015 of the Internal Revenue Code may be relieved of liability for ~~a substantial~~ an understatement of tax that is attributable to ~~grossly~~ erroneous items of the other spouse. ~~For purposes of determining if an individual is an~~

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

innocent spouse for state income tax purposes, the provisions in Section 6015 of the Internal Revenue Code will be followed as well as federal court cases, letter rulings, and revenue rulings which deal with innocent spouse. In addition, for tax years beginning on or after January 1, 2002, the provisions of Sections 6015(e) and 6015(f) of the Internal Revenue Code regarding relief for separation of liabilities and equitable relief, respectively, are applicable for Iowa income tax purposes. The following are the criteria that must be considered for purposes of determining if an individual is an innocent spouse for Iowa income tax purposes:

1. ~~Understatement of tax attributable to grossly erroneous items of the other spouse. An understatement of the tax is the excess of the tax required to be shown over the tax actually shown on the return. The understatement must be entirely attributable to grossly erroneous items of one spouse in order for the other spouse to be eligible for status as an innocent spouse. As an innocent spouse, the individual will not be liable for the substantial understatement of tax of the other spouse. The tax liability attributable to the understatement is computed by adding penalties and interest that accrued by the date of the deficiency notice. Grossly erroneous items may include any omission from gross income such as income from embezzled funds. Grossly erroneous items may also include deductions or Iowa tax credits that are without factual or legal foundation.~~

2. **38.15(1)** *Filing status for return with an innocent spouse.* For state income tax purposes, a married taxpayer filing a return with a spouse can qualify as an innocent spouse only if the taxpayers file a joint return or file separately on the combined return form. A married taxpayer who files a separate state return that has been accepted by the state will not be eligible for innocent spouse status.

**38.15(2)** *Scope of relief for Iowa income tax purposes.* An understatement of the tax is the excess of the tax required to be shown over the tax actually shown on the return. An erroneous item is any item resulting in an understatement or deficiency in Iowa taxes to the extent that the item is omitted from, or improperly reported or characterized on, an Iowa tax return, including Iowa deductions and tax credits that would not be included on a federal return.

3. ~~Innocent spouse must establish lack of knowledge of other spouse's substantial understatement. Innocent spouse relief applies only if the individual claiming to be an innocent spouse can establish that in signing the state return, the individual did not know and had no reason to know that there was a substantial understatement of tax. The innocent spouse's lack of knowledge must exist until the time the return is filed and not just until the end of the year (or period) covered by the return. The U.S. Tax Court has provided that the standard for determining if a taxpayer had reason to know of an omission is whether a reasonable person under the particular circumstances at the time of signing the return could be expected to know of the omission.~~

~~In many cases in which innocent spouse relief is sought, the following factors play a role: business background or education of person claiming innocent spouse relief, involvement in family financial affairs by the person claiming innocent spouse relief, involvement in the family business or the transaction giving rise to the understatement by the person claiming innocent spouse relief, whether or not there were lavish or unusual expenditures in the family or increase in standard of living of the family and knowledge of embezzlement activities of the other spouse.~~

4. ~~Whether or not it would be equitable to hold the innocent spouse for the substantial understatement. Innocent spouse relief applies only if, taking into account all facts and circumstances, it would be inequitable to hold the claimed innocent spouse liable for the deficiency in tax for the taxable year attributable to the substantial understatement. Factors taken into account in determining whether it is inequitable to hold a spouse liable for a tax deficiency include whether the spouse seeking relief has been deserted, divorced, separated, or widowed or has been the subject of abuse or financial control by the other spouse. See Internal Revenue Service Notice 2012-8.~~

~~Another important factor in determining equitable treatment for the person claiming innocent spouse relief is whether the person received a benefit attributable to the substantial understatement of taxes. The fact that the spouse received a benefit in the nature of "ordinary support" does not support a finding of significant benefit to deny the spouse relief. In addition, ordinary family support may include maintaining an affluent lifestyle if the standard of living is not enhanced by the tax understatement.~~

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

~~Where the taxpayer participated in the financial affairs of the other spouse and enjoyed the benefits from the activities of the other spouse, innocent spouse relief will not be granted.~~

**38.15(3) *Presumption and burden of proof when requesting innocent spouse relief.***

*a. Presumption.* The department shall presume that a final determination letter or other document issued by the Internal Revenue Service approving a request for innocent spouse relief for the relevant tax years shows that the innocent spouse granted relief by that document qualifies for innocent spouse relief for Iowa income tax purposes for those tax years. If the person seeking innocent spouse relief does not provide the department with a final determination letter or other document issued by the Internal Revenue Service approving a request for innocent spouse relief within the time frame set forth in subrule 38.15(4), the department shall presume that the person seeking innocent spouse relief does not meet the criteria to qualify for innocent spouse relief for Iowa income tax purposes and shall deny the request. The burden is on the person seeking innocent spouse relief to rebut this presumption with other evidence.

*b. Request without Internal Revenue Service approval.* If the department denies a claim for innocent spouse relief, the person seeking innocent spouse relief may protest the department's determination under 701—Chapter 7. The department will evaluate the protest by applying the criteria set forth in Section 6015 of the Internal Revenue Code and the related regulations. The department will defer to federal court cases, letter rulings, and revenue rulings in interpreting Section 6015 of the Internal Revenue Code and the related regulations. The provisions of Sections 6015(c) and 6015(f) of the Internal Revenue Code regarding relief for separation of liabilities and equitable relief, respectively, are applicable for Iowa income tax purposes for tax years beginning on or after January 1, 2002. The burden is on the person seeking innocent spouse relief to show that the person meets the federal criteria for innocent spouse relief.

~~5. 38.15(4) *Time period for requesting innocent spouse relief.* For tax periods beginning on or after January 1, 2004, innocent spouse relief must be requested within two years after the date the department initiates collection action on an income tax deficiency or assessment against the person claiming innocent spouse relief. However, an extended time period to request innocent spouse equitable relief for innocent spouses under Section 6015(f) of the Internal Revenue Code can be granted under the provisions of Internal Revenue Service Notice 2011-70, which became effective July 25, 2011.~~

This rule is intended to implement Iowa Code section 422.21 as amended by 2002 Iowa Acts, House File 2116.

## USURY

In accordance with the provisions of Iowa Code section 535.2, subsection 3, paragraph “a,” the Superintendent of Banking has determined that the maximum lawful rate of interest shall be:

December 1, 2014 — December 31, 2014	4.25%
January 1, 2015 — January 31, 2015	4.25%
February 1, 2015 — February 28, 2015	4.25%
March 1, 2015 — March 31, 2015	4.00%
April 1, 2015 — April 30, 2015	4.00%
May 1, 2015 — May 31, 2015	4.00%
June 1, 2015 — June 30, 2015	4.00%
July 1, 2015 — July 31, 2015	4.25%
August 1, 2015 — August 31, 2015	4.25%
September 1, 2015 — September 30, 2015	4.25%
October 1, 2015 — October 31, 2015	4.25%
November 1, 2015 — November 30, 2015	4.25%
December 1, 2015 — December 31, 2015	4.00%

## ARC 2312C

## EDUCATION DEPARTMENT[281]

## Adopted and Filed

Pursuant to the authority of Iowa Code section 256.7(21), the State Board of Education hereby amends Chapter 12, "General Accreditation Standards," Iowa Administrative Code.

On August 6, 2015, the State Board of Education directed the Iowa Department of Education to present proposed rules for Notice to incorporate the recommendations of the Assessment Task Force convened pursuant to Iowa Code section 256.7(21). The task force's report is available at the following url: <https://www.educateiowa.gov/documents/boards-committees-councils-and-task-forces/2015/01/2014-12-31-iowa-assessment-task-force>. On September 17, 2015, the State Board of Education approved a notice to amend Chapter 12 to implement those recommendations.

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

Notice of Intended Action was published in the October 14, 2015, Iowa Administrative Bulletin as **ARC 2185C**. Public comments were allowed until 4:30 p.m. on November 3, 2015. A public hearing was held on that date. Seventeen persons attended the public hearing, and nine persons spoke at the hearing. Of those persons speaking, six supported the adoption of **ARC 2185C**, and three opposed its adoption.

Twenty written public comments were received regarding this amendment. Of those written comments, thirteen supported the adoption of **ARC 2185C**, and six opposed its adoption. One individual expressed concerns about the assessment developed by the Smarter Balanced Assessment Consortium, but did not articulate opposition to the rule.

In many cases, individuals spoke or wrote on their own behalf. In many other cases, individuals spoke or wrote on behalf of an organization. Those organizations formally expressing support for adoption of **ARC 2185C** include the following: the School Administrators of Iowa; the Iowa Association of School Boards; the Urban Education Network of Iowa; the Rural School Advocates of Iowa; Reaching Higher Iowa; the Cedar Rapids Community School District; and the Cedar Rapids Metro Economic Alliance. The only organization expressing opposition to adoption during the public comment period was the Iowa City Community School District.

The only change made to the amendment published under Notice was to replace "SBAC" with "the SBAC assessment" in subparagraph 12.8(1)"h"(2). Subparagraph (2) now reads:

"(2) The department shall select a vendor to administer the SBAC assessment through a request-for-proposal process."

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

This amendment is intended to implement Iowa Code section 256.7(21).

This amendment will become effective on January 13, 2016.

The following amendment is adopted.

Adopt the following **new** paragraph **12.8(1)"h"**:

*h. Designation of "at least one districtwide assessment."*

(1) For purposes of Iowa Code section 256.7, at least one of the districtwide assessments used to measure student progress in core academic indicators in reading and math shall be the assessment developed by the Smarter Balanced Assessment Consortium (SBAC).

(2) The department shall select a vendor to administer the SBAC assessment through a request-for-proposal process.

EDUCATION DEPARTMENT[281](cont'd)

(3) The assessment task force shall review SBAC administration and make a recommendation pursuant to Iowa Code section 256.7(21)“b”(3) on or before June 30, 2020.

[Filed 11/18/15, effective 1/13/16]

[Published 12/9/15]

EDITOR’S NOTE: For replacement pages for IAC, see IAC Supplement 12/9/15.

**ARC 2311C**

**EDUCATION DEPARTMENT[281]**

**Adopted and Filed**

Pursuant to the authority of Iowa Code section 256.7(5) and 2015 Iowa Acts, Senate File 462, the Department of Education hereby adopts new Chapter 14, “School Health Services,” Iowa Administrative Code.

The 86th General Assembly, in 2015 Iowa Acts, Senate File 462, established that school districts and accredited nonpublic schools may stock an epinephrine auto-injector supply and directed the Department of Education to adopt rules necessary for schools to voluntarily implement the Act. This new chapter includes rules for the implementation of 2015 Iowa Acts, Senate File 462.

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

Notice of Intended Action was published in the October 14, 2015, Iowa Administrative Bulletin as **ARC 2183C**. Public comments were allowed until 4:30 p.m. on November 3, 2015. A public hearing was held on that date. Three people were in attendance, and two provided public comments at the hearing. One person provided written comments prior to the hearing.

Of the comments received, one comment asserted that the definition of “school building” was too broad. As a result of the comment, the Department made a change to this definition to clarify that a school building is an attendance center within a school district or an accredited nonpublic school in which students or other individuals are present, as provided for in 2015 Iowa Acts, Senate File 462.

There were comments regarding the requirement of having both one adult dose and one pediatric dose in each school building; some were in favor and some were against. This requirement ensures equitable access for all students and other individuals regardless of size, weight, or age and ensures that the proper dosing is available.

There were also comments regarding the Department’s authority to implement the rules as written. The statute provides broad statutory authority to the Department to write rules in this area with the collaboration of the Board of Pharmacy, the Board of Nursing, the Board of Medicine, the Iowa Department of Public Health, and the Iowa School Nurse Organization, all of which provided feedback on these rules.

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

These rules are intended to implement 2015 Iowa Acts, Senate File 462.

These rules will become effective January 13, 2016.

The following amendment is adopted.

Adopt the following **new** 281—Chapter 14:

CHAPTER 14  
SCHOOL HEALTH SERVICES

**281—14.1 and 14.2** Reserved.

**281—14.3(256) School district and accredited nonpublic school stock epinephrine auto-injector voluntary supply.**

**14.3(1) Definitions.** For the purpose of this rule, the following definitions apply:



## EDUCATION DEPARTMENT[281](cont'd)

“*Act*” means 2015 Iowa Acts, Senate File 462, which amends Iowa Code section 280.16 and creates Iowa Code section 280.16A.

“*Department*” means the department of education.

“*Epinephrine auto-injector*” means a disposable drug delivery device that has a spring-activated concealed needle and is designed for immediate self-administration or administration by another trained individual of a measured dose of epinephrine to a student or individual at risk of anaphylaxis.

“*Licensed health care professional*” means a person who has prescriptive authority and is licensed under Iowa Code chapter 148 to practice medicine and surgery, an advanced nurse practitioner licensed pursuant to Iowa Code chapter 152, or a physician assistant licensed to practice under the supervision of a physician as authorized in Iowa Code chapters 147 and 148C.

“*Medication administration course*” means a course approved or provided by the department that includes safe storage of medication, handling of medication, general principles, procedural aspects, skills demonstration and documentation requirements of safe medication administration in schools.

“*Medication error*” means the failure to administer an epinephrine auto-injector to a student or individual by proper route, failure to administer the correct dosage, or failure to administer an epinephrine auto-injector according to generally accepted standards of practice.

“*Medication incident*” means accidental injection of an epinephrine auto-injector into a digit of the authorized personnel administering the medication.

“*Personnel authorized to administer epinephrine*” means a school employee who has successfully completed the medication administration course requirements and who completes an annual anaphylaxis training program approved by the department and conducted by the school nurse, including a return-skills demonstration on the use of an epinephrine auto-injector.

“*School building*” means each attendance center within a school district or accredited nonpublic school where students or other individuals are present.

“*School nurse*” means a registered nurse holding current licensure recognized by the Iowa board of nursing who practices in the school setting to promote and protect the health of the school population by using knowledge from the nursing, social, and public health sciences.

**14.3(2) *Applicability.*** This rule applies to and permits:

- a. A licensed health care professional to prescribe a stock epinephrine auto-injector in the name of a school district or accredited nonpublic school for use in accordance with the Act and this rule,
- b. A pharmacist to dispense epinephrine auto-injectors pursuant to a prescription issued in the name of a school district or accredited nonpublic school, and
- c. A school district or accredited nonpublic school to acquire and maintain a stock supply of epinephrine auto-injectors pursuant to a prescription issued in accordance with the Act.

**14.3(3) *Prescription for stock epinephrine auto-injector.*** A school district or accredited nonpublic school may obtain a prescription for epinephrine auto-injectors from a licensed health care professional annually in the name of the school district or accredited nonpublic school for administration to a student or individual who may be experiencing an anaphylactic reaction. The school district or accredited nonpublic school shall maintain the supply of such auto-injectors in a secure, dark, temperature-controlled location in each school building. If a school district or accredited nonpublic school obtains a prescription pursuant to the Act and these rules, the school district or accredited nonpublic school shall stock a minimum of one pediatric dose and one adult dose epinephrine auto-injector for each school building. A school district or accredited nonpublic school may obtain a prescription for more than the minimum and may maintain a supply in other buildings.

**14.3(4) *Authorized personnel and stock epinephrine auto-injector administration.*** A school nurse or personnel trained and authorized may provide or administer an epinephrine auto-injector from a school supply to a student or individual if the authorized personnel or school nurse reasonably and in good faith believes the student or individual is having an anaphylactic reaction.

a. The following persons, provided they have acted reasonably and in good faith, shall not be liable for any injury arising from the provision, administration, failure to administer, or assistance in the administration of an epinephrine auto-injector:

- (1) Authorized personnel and the school nurse,

## EDUCATION DEPARTMENT[281](cont'd)

- (2) The school district or accredited nonpublic school employing the personnel or school nurse,
- (3) The board of directors in charge of the school district or authorities in charge of the accredited nonpublic school, and
- (4) The prescriber of the epinephrine auto-injector.

*b.* Pursuant to Iowa Code section 280.23, authorized personnel will submit a signed statement to the school nurse stating that the authorized personnel agree to perform the service of administering a stock epinephrine auto-injector to a student or individual who may be experiencing an anaphylactic reaction.

*c.* Emergency medical services (911) will be contacted immediately after a stock epinephrine auto-injector is administered to a student or individual, and the school nurse or authorized personnel will remain with the student or individual until emergency medical services arrive.

*d.* The administration of an epinephrine auto-injector in accordance with this chapter is not the practice of medicine.

**14.3(5)** *Stock epinephrine auto-injector training.* School employees may obtain a signed certificate to become authorized personnel.

*a.* Training to obtain a signed certificate may be accomplished by:

(1) Successfully completing, every five years, the medication administration course provided by the department;

(2) Annually demonstrating to the school nurse a procedural return-skills check on medication administration;

(3) Annually completing an anaphylaxis training program approved by the department;

(4) Demonstrating to the school nurse a procedural return-skills check on the use of an epinephrine auto-injector using information from the training, authorized prescriber instructions regarding the administration of the stock epinephrine auto-injector, and as directed by the prescription epinephrine auto-injector's manufacturing label; and

(5) Providing to the school nurse a signed statement, pursuant to Iowa Code section 280.23, that the person agrees to perform the service of administering a stock epinephrine auto-injector to a student or individual who may be experiencing an anaphylactic reaction.

*b.* Training required after a medication error or medication incident. Authorized personnel or the school nurse directly involved with a medication error or medication incident with the administration of stock epinephrine auto-injectors shall be required to follow the medication error or medication incident protocol adopted by the board of directors of the school district or authorities in charge of the school district or accredited nonpublic school. To retain authorization to administer stock epinephrine auto-injectors in the school setting, authorized personnel directly involved with a medication error or medication incident will be required to provide a procedural skills demonstration to the school nurse demonstrating competency in the administration of stock epinephrine auto-injectors.

**14.3(6)** *Procurement and maintenance of stock epinephrine auto-injector supply.* A school district or accredited nonpublic school may obtain a prescription to stock, possess, and maintain epinephrine auto-injectors.

*a.* Stock epinephrine auto-injectors shall be stored in a secure, easily accessible area for an emergency within the school building, or in addition to other locations as determined by the school district or accredited nonpublic school, that is dark and maintained at room temperature (between 59 to 86 degrees) or in accordance with the manufacturing label of the stock epinephrine auto-injector.

*b.* A school district or school will designate an employee to routinely check stock epinephrine auto-injectors and document in a log monthly throughout the calendar year for:

(1) The expiration date;

(2) Any visualized particles; or

(3) Color change.

*c.* The school district or school shall develop a protocol to replace as soon as reasonably possible any logged epinephrine auto-injector that is used, close to expiration, or discolored or has particles visible in the liquid.

## EDUCATION DEPARTMENT[281](cont'd)

**14.3(7)** *Disposal of used stock epinephrine auto-injectors.* The school district or school that administers epinephrine auto-injectors shall dispose of used cartridge injectors as infectious waste pursuant to the department's medication waste guidance.

**14.3(8)** *Reporting.* A school district or school that obtains a prescription for stock epinephrine auto-injectors shall report each medication incident with the administration of stock epinephrine, medication error with the administration of stock epinephrine, or the administration of a stock epinephrine auto-injector to the department within 48 hours, using the reporting format approved by the department.

**14.3(9)** *School district or accredited nonpublic school policy.* A school district or school may stock epinephrine auto-injectors. The board of directors in charge of the school district or authorities in charge of the accredited nonpublic school that stocks epinephrine auto-injectors shall establish a policy and procedure for the administration of a stock epinephrine auto-injector, which shall comply with the minimum requirements of this rule.

**14.3(10)** *Rule of construction.* This rule shall not be construed to require school districts or accredited nonpublic schools to maintain a stock of epinephrine auto-injectors. An election not to maintain such a stock shall not be considered to be negligence.

**281—14.4(256,280) Severability.** If any provisions of these rules or the application thereof to any person or circumstance shall be held invalid, such invalidity shall not affect the provisions or application of these rules which can be given effect, and to this end the provisions of these rules are declared to be severable.

These rules are intended to implement 2015 Iowa Acts, Senate File 462.

[Filed 11/18/15, effective 1/13/16]

[Published 12/9/15]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 12/9/15.

**ARC 2313C**

**EDUCATION DEPARTMENT[281]**

**Adopted and Filed**

Pursuant to the authority of Iowa Code section 256.7(5), the State Board of Education hereby amends Chapter 15, "Use of Online Learning and Telecommunications for Instruction by Schools," Iowa Administrative Code.

Chapter 15 was promulgated to implement 2012 Iowa Acts, chapter 1119, sections 13 through 17, and became effective January 16, 2013. 2012 Iowa Acts, chapter 1119, section 15, amended Iowa Code section 256.7 by adding a new subsection in which the State Board of Education was required to adopt rules "prohibiting the open enrollment of students whose educational instruction and course content are delivered primarily over the internet." An exception to that prohibition is contained in Iowa Code section 256.7, subsection 32, paragraph "c," which applies exclusively to the CAM Community School District and the Clayton Ridge Community School District. Pursuant to 2015 Iowa Acts, Senate File 510, section 99, Iowa Code section 256.7, subsection 32, paragraph "c," is amended to provide exceptions to prior enrollment limitations and to provide additional reporting requirements for the school districts. This amendment implements those changes.

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

Notice of Intended Action was published in the September 2, 2015, Iowa Administrative Bulletin as **ARC 2118C**. Public comments were allowed until 4:30 p.m. on September 22, 2015. A public hearing was held on that date. No one attended the public hearing, and no written comments were received. This amendment is identical to that published under Notice of Intended Action.

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

## EDUCATION DEPARTMENT[281](cont'd)

This amendment is intended to implement Iowa Code section 256.7(32)“c” as amended by 2015 Iowa Acts, Senate File 510, section 99.

This amendment will become effective January 13, 2016.

The following amendment is adopted.

Rescind rule 281—15.8(256) and adopt the following new rule in lieu thereof:

**281—15.8(256) Prohibition regarding open enrollment.** Open enrollment of students to a school district that offers online coursework is limited to open enrollment to the receiving school districts of Cumberland-Anita-Massena (CAM) and Clayton Ridge, pursuant to Iowa Code section 256.7(32)“c” as amended by 2015 Iowa Acts, Senate File 510, section 99. In implementing any numerical limitation required by Iowa Code section 256.7(32)“c” as amended by 2015 Iowa Acts, Senate File 510, section 99, priority shall be given to students who are documented victims of bullying and harassment, as defined in Iowa Code section 280.28.

[Filed 11/18/15, effective 1/13/16]

[Published 12/9/15]

EDITOR’S NOTE: For replacement pages for IAC, see IAC Supplement 12/9/15.

**ARC 2309C**

**EDUCATION DEPARTMENT[281]**

**Adopted and Filed**

Pursuant to the authority of Iowa Code section 256.7(5), the State Board of Education hereby amends Chapter 25, “Pathways for Academic Career and Employment Program; Gap Tuition Assistance Program,” Iowa Administrative Code.

The amendments to Chapter 25 incorporate changes to the Gap Tuition Assistance Program included in 2015 Iowa Acts, House File 658. Changes as a result of 2015 Iowa Acts, House File 658, include modification of the criteria to determine financial need by decreasing the family income requirement from 12 to 6 months and the addition of two provisions which (1) prioritize the provision of assistance to individuals earning income between 150 percent and 250 percent of the federal poverty level and (2) bar individuals eligible from receiving assistance under the Gap Tuition Assistance Program if they are eligible for assistance under the federal Workforce Investment Act and Workforce Innovation and Opportunity Act unless all budgeted funds under these Acts have been fully expended.

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

Notice of Intended Action was published in the October 14, 2015, Iowa Administrative Bulletin as **ARC 2182C**. Public comments were allowed until 4:30 p.m. on November 3, 2015. A public hearing was held on that date. No one attended the public hearing. There were no comments received on the rule making. These amendments are identical to those published under Notice.

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

These amendments are intended to implement 2015 Iowa Acts, House File 658.

These amendments will become effective January 13, 2016.

The following amendments are adopted.

ITEM 1. Amend subparagraph **25.21(1)“a”(1)** as follows:

(1) The applicant’s family income for the ~~12~~ six months prior to the date of application.

ITEM 2. Adopt the following new paragraphs **25.21(2)“g”** and **“h”**:

g. Applicants earning incomes between 150 percent and 250 percent, both percentages inclusive, of the federal poverty level as defined by the most recently revised poverty income guidelines published by the U.S. Department of Health and Human Services shall be given first priority for tuition assistance under this chapter. Persons earning incomes below 150 percent of the federal poverty level shall be given secondary priority for tuition assistance under this chapter.

## EDUCATION DEPARTMENT[281](cont'd)

*h.* An applicant who is eligible for financial assistance pursuant to the federal Workforce Investment Act of 1998, Pub. L. No. 105-220, or the federal Workforce Innovation and Opportunity Act, Pub. L. No. 113-128, shall be ineligible for tuition assistance under this chapter unless such funds budgeted for training assistance for adult, dislocated worker, or youth programs have been fully expended by a workforce region.

[Filed 11/18/15, effective 1/13/16]

[Published 12/9/15]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 12/9/15.

**ARC 2310C**

**EDUCATION DEPARTMENT[281]**

**Adopted and Filed**

Pursuant to the authority of Iowa Code section 256.7(5), the Department of Education hereby amends Chapter 98, "Financial Management of Categorical Funding," Iowa Administrative Code.

Chapter 98 outlines the financial management of categorical funding. The amendments to Chapter 98 reflect legislative changes impacting the following: the statewide voluntary four-year-old preschool program, at-risk formula weighting, the returning dropout and dropout prevention program, the management fund, and the physical plant and equipment levy (PPEL) fund. A more detailed explanation of these amendments follows:

Item 1: 2015 Iowa Acts, House File 658, amends Iowa Code section 256C.4 to expand the permissive uses of the administrative funds from preschool foundation aid received by a school district. This amendment provides for these additional allowable uses.

Item 2: This amendment removes an incorrect reference to Chapter 41, which does not deal with special education weighting.

Items 3 and 4: 2015 Iowa Acts, House File 658, amends Iowa Code sections 257.10, 257.11, 257.38, 257.40 and 257.41 to allow greater flexibility and align allowable uses of funds for at-risk programs, alternative programs and alternative schools, and programs for potential or returning dropouts and also incorporates changes included in 2015 Iowa Acts, House File 445, regarding the use of these funds. The amendments in Items 3 and 4 are consistent with these changes to the Iowa Code.

Item 5: 2015 Iowa Acts, House File 515, amends Iowa Code section 298.4 by adding payment of the costs of mediation and arbitration to the allowable uses of the management fund. This amendment provides for this additional allowable use.

Item 6: 2015 Iowa Acts, House File 646, amends language in Iowa Code section 298.3 to allow payment for repair of transportation equipment from the physical plant and equipment levy if the cost of the repair exceeds \$2,500. This amendment reflects this change.

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

Notice of Intended Action was published in the October 14, 2015, Iowa Administrative Bulletin as **ARC 2184C**. Public comments were allowed until 4:30 p.m. on November 3, 2015. A public hearing was held on that date. No one attended the public hearing. No written comments were received. The adopted amendments are identical to those published under Notice.

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

These amendments are intended to implement Iowa Code sections 256C.4, 257.10, 257.11, 257.38, 257.40 and 257.41 as amended by 2015 Iowa Acts, House File 658; section 298.3(1)"i" as amended by 2015 Iowa Acts, House File 646; and section 298.4 as amended by 2015 Iowa Acts, House File 515.

These amendments will become effective January 13, 2016.

The following amendments are adopted.

EDUCATION DEPARTMENT[281](cont'd)

ITEM 1. Amend rule 281—98.13(256C,257) as follows:

**281—98.13(256C,257) Statewide voluntary four-year-old preschool program.** The statewide voluntary four-year-old preschool program is a program for a specific category of students. Funding for the program is for the purpose of providing a high-quality early learning environment for four-year-old children whose families choose to access such programs.

**98.13(1) *Appropriate uses of categorical funding.*** Because the program is specifically instructional, expenditures generally are limited to the functions of instruction, student support services and staff support services, but ~~include expenditures up to 5 percent of the allocation can be used for actual documented costs of program administration, up to 5 percent of the allocation~~ outreach activities, and rent for facilities not owned by the school district.

**98.13(2) *Pass-through funding to community-based providers.*** The school district shall pass through to a community-based provider for each eligible pupil enrolled in the district's approved local program not less than 95 percent of the per-pupil amount.

*a.* The community-based provider may use up to 5 10 percent of the 95 percent portion for documented allowable administrative and operational costs of providing the district's approved local program. The costs of outreach activities, rent for facilities not owned by the school district, and transportation for children participating in the preschool program are also permissive costs allowed as part of the 10 percent under this paragraph.

*b. and c.* No change.

**98.13(3) *Inappropriate uses of categorical funding.*** Inappropriate uses of the statewide voluntary four-year-old preschool program funding include, but are not limited to, indirect costs or use charges, capital expenditures other than equipment, facility acquisition not expressly allowed by the Iowa Code, construction, debt service, operational or maintenance costs or administrative costs that supplant or that exceed 5 percent, or any other expenditures not directly related to providing the statewide voluntary four-year-old preschool program or that supplant existing public funding for preschool programming.

ITEM 2. Amend rule 281—98.17(256B,257) as follows:

**281—98.17(256B,257) Special education weighting.** Special education weighting provides funding in addition to the student count that generates general purpose revenues for the purpose of providing additional instruction and services to an identified group of students. ~~Further information on the special education program is provided in 281—Chapter 41.~~

ITEM 3. Amend rule 281—98.18(257) as follows:

**281—98.18(257) At-risk program, alternative program or alternative school, and potential or returning dropout prevention program formula supplementary weighting.** At-risk formula Formula supplementary weighting provides funding in addition to the student count that generates general purpose revenues for the purpose of providing additional instruction and services to an students identified group of as at-risk, potential or returning dropouts, and secondary students attending an alternative program or alternative school secondary students pursuant to Iowa Code section 257.11(4)“a.” 257.11(4)“a” as amended by 2015 Iowa Acts, House File 658, section 37.

**98.18(1) *Appropriate uses of categorical funding.*** Appropriate uses of at-risk formula supplementary weighting funding include costs to develop or maintain programs for at-risk pupils<sup>2</sup> programs pupils, which may include alternative school programs, and alternative schools for secondary students, and returning dropout and dropout prevention programs. Appropriate uses include, but are not limited to:

*a.* Salary and benefits for the teacher(s) and guidance counselor(s) of identified students participating in the at-risk or alternative school approved programs when the teacher (or counselor) is dedicated to working providing services directly and exclusively with to the identified students beyond the services provided by the school district to students who are not identified as at risk or as potential or returning dropouts. If the teacher (or counselor) is part-time at-risk serving the program and part-time regular classroom teacher (or counselor), then the portion of time that is related to ~~the at-risk program~~

EDUCATION DEPARTMENT[281](cont'd)

these programs may be charged to the program funding, but the portion of time that is related to the regular classroom shall not.

b. Professional development for all teachers and staff working with ~~at-risk identified students and programs involving intervention strategies~~ under an approved program or in an alternative school setting.

c. Research-based resources, materials, software, supplies, equipment, and purchased services that meet all of the following criteria:

- (1) Meet the needs of K through 12 identified students ~~at-risk~~,
- (2) Are beyond those provided by the regular school program,
- (3) Are necessary to provide the services listed in the school district's approved at-risk or returning dropout and dropout prevention program plan, and
- (4) Will remain with the K through 12 at-risk program, alternative program or alternative school, or returning dropout and dropout prevention program.

d. Instructional costs necessary to address the behavior of a child during instructional time when those services are not otherwise provided to students who do not require special education and when the costs exceed the costs of instruction of pupils in a regular curriculum, the costs exceed the maximum tuition rate prescribed in Iowa Code section 282.24, the child has not been placed in a facility operated by the state, and all of the following apply:

- (1) The child does not require special education.
- (2) The child is not placed by the department of human services or a court in a residential or day treatment program where the treatment necessary to address the student's behavior was included in the contract with the placement agency.
- (3) The child is not placed in a hospital unit, health care facility, psychiatric medical institution for children or other treatment facility where the cost of treatment necessary to address the student's behavior is covered by insurance or Medicaid.
- (4) The board of directors of the district of residence has determined that the child is likely to inflict self-harm or likely to harm another student.

e. Up to 5 percent of the total amount that a school district receives as formula supplementary weighting pursuant to Iowa Code section 257.11(4) "a" as amended by 2015 Iowa Acts, House File 658, or as a modified supplemental amount received under Iowa Code section 257.41 as amended by 2015 Iowa Acts, House File 658, may be used in the budget year for purposes of providing districtwide or buildingwide at-risk and dropout prevention programming targeted to nonidentified students.

**98.18(2) *Inappropriate uses of categorical funding.*** Inappropriate uses of the ~~at-risk~~ formula supplementary weighting program funding include, but are not limited to, indirect costs or use charges, operational or maintenance costs, capital expenditures other than equipment, student transportation other than as allowed in subrule 98.18(1), administrative costs other than as allowed in subrule 98.18(1), or any other expenditures not directly related to providing the ~~at-risk or alternative school~~ approved program beyond the scope of the regular classroom program.

ITEM 4. Amend rule 281—98.21(257) as follows:

**281—98.21(257) Returning At-risk program, alternative program or alternative school, and potential or returning dropout and dropout prevention program—modified supplemental amount.** Returning dropout and dropout prevention programs are funded A modified supplemental amount is available through a school district-initiated request to the school budget review committee for a modified supplemental amount pursuant to Iowa Code sections section 257.38 to as amended by 2015 Iowa Acts, House File 658; section 257.39; and sections 257.40 and 257.41 as amended by 2015 Iowa Acts, House File 658. This amount must account for ~~not~~ no more than 75 percent of the school district's total at-risk program, alternative program or alternative school, and potential or returning dropout prevention budget. The school district must also provide a local match from the school district's regular program district cost, and the local match portion must be a minimum of 25 percent of the total dropout prevention program budget. In addition, school districts may receive donations and grants, and the school district may contribute more local school district resources toward the program. The

EDUCATION DEPARTMENT[281](cont'd)

75 percent portion, ~~the~~ local match, previous year carryforward, and all donations and grants shall be accounted for as categorical funding.

**98.21(1)** *Purpose of categorical funding.* The purpose of the ~~dropout prevention funding~~ modified supplemental amount is to provide funding to meet the needs of identified students ~~at risk of dropping out of school beyond the instructional program and services provided by the regular school program~~ for costs in excess of the amount received under rule 281—98.18(257) pursuant to Iowa Code section 257.11(4) as amended by 2015 Iowa Acts, House File 658. The funding shall be used only for expenditures that are directly related to the ~~returning dropout and dropout prevention~~ district's approved program plan established pursuant to Iowa Code sections 257.38 through 257.41.

a. and b. No change.

**98.21(2)** *Appropriate uses of categorical funding.* Appropriate uses of the ~~returning dropout and dropout prevention program~~ funding for an approved program include, but are not limited to:

a. Salary and benefits for instructional staff, instructional support staff, and school-based youth services staff ~~who are working with~~ dedicated to providing services directly and exclusively to the identified students who are participating in dropout prevention programs, alternative programs, and alternative schools, in a traditional or alternative setting, if the staff person's time is dedicated to working with returning dropouts or students who are deemed, at any time during the school year, to be at risk of dropping out, in order to provide services the approved program beyond those which are the services provided by the school district to students who are not identified as at risk of ~~becoming~~ or as potential or returning dropouts. However, if the staff person works part-time with students who are participating in ~~returning dropout and dropout prevention programs, alternative programs, and alternative schools~~ the approved program and has another unrelated staff assignment, only the portion of the staff person's time that is related to the ~~returning dropout and dropout prevention program, alternative program, or alternative school~~ program may be charged to the program funding.

For purposes of this paragraph, an alternative setting may be necessary to provide for a program which is offered at a location off school grounds and which is intended to serve student needs by improving relationships and connections to school, decreasing truancy and tardiness, providing opportunities for course credit recovery, or helping students identified as at risk of ~~dropping out~~ to accelerate through multiple grade levels of achievement within a shortened time frame.

b. Professional development for all teachers and staff working with ~~at-risk~~ identified students and programs involving dropout prevention strategies under an approved program.

c. Research-based resources, materials, software, supplies, equipment, and purchased services that meet all of the following criteria:

(1) Meet the needs of K through grade 12 identified students ~~identified as at risk of dropping out and of returning dropouts,~~

(2) Are beyond those provided by the regular school program,

(3) Are necessary to provide the services listed in the school district's approved at-risk or returning dropout and dropout prevention program plan, and

(4) Will remain with the K through grade 12 at-risk program, alternative program or alternative school, or returning dropout and dropout prevention program.

d. Transportation provided by the school district exclusively to transport identified students to an alternative school or alternative program located in and provided by another Iowa school district.

e. The portion of the maximum tuition allowed by Iowa Code section 282.24 that corresponds to the portion exclusively providing direct additional instruction and services to an identified group of students above the costs of instruction of pupils in a regular curriculum.

f. School-level administrator assigned exclusively to an off-site alternative school or alternative program within the district. If the principal is administering the school or program part-time, ~~then~~ the portion of time that is exclusively and directly related to the program may be charged to the program funding, but the portion of time that is related to other purposes shall not.

g. ~~Up to 5 percent of the total budgeted amount received pursuant to 2012 Iowa Acts, Senate File 451, section 1(1), may be used for purposes of providing districtwide or buildingwide returning dropout and dropout prevention programming targeted to students who are not deemed at risk of dropping out.~~



EDUCATION DEPARTMENT[281](cont'd)

g. Instructional costs necessary to address the behavior of a child during instructional time when those services are not otherwise provided to students who do not require special education and when the costs exceed the costs of instruction of pupils in a regular curriculum, the costs exceed the maximum tuition rate prescribed in Iowa Code section 282.24, the child has not been placed in a facility operated by the state, and all of the following apply:

(1) The child does not require special education.

(2) The child is not placed by the department of human services or a court in a residential or day treatment program where the treatment necessary to address the student's behavior was included in the contract with the placement agency.

(3) The child is not placed in a hospital unit, health care facility, psychiatric medical institution for children or other treatment facility where the cost of treatment necessary to address the student's behavior is covered by insurance or Medicaid.

(4) The board of directors of the district of residence has determined that the child is likely to inflict self-harm or likely to harm another student.

h. Up to 5 percent of the total amount that a school district receives as formula supplementary weighting pursuant to Iowa Code section 257.11(4) "a" as amended by 2015 Iowa Acts, House File 658, or as a modified supplemental amount received under Iowa Code section 257.41 may be used in the budget year for purposes of providing districtwide or buildingwide at-risk and dropout prevention programming targeted to nonidentified students.

**98.21(3)** *Inappropriate uses of categorical funding.* Inappropriate uses of the ~~returning dropout and dropout prevention~~ modified supplemental amount program funding include, but are not limited to, indirect costs or use charges, operational or maintenance costs, capital expenditures other than equipment, student transportation other than as allowed in subrule 98.21(2), administrative costs other than those allowed in subrule 98.21(2), expenses related to the routine duties of a school nurse, general support for a school guidance counselor including any activities performed with ~~qualified identified~~ students that are also provided to all students, or any other expenditures not directly related to providing the ~~returning dropout and dropout prevention~~ approved program beyond the scope of the regular classroom.

ITEM 5. Adopt the following **new** paragraph **98.62(2)"i"**:

*i.* Payment of costs of mediation and arbitration, including but not limited to legal fees associated with such mediation or arbitration, but not including the results of the mediation or arbitration if those costs do not qualify under paragraph 98.62(2) "c" above.

ITEM 6. Amend paragraph **98.64(2)"1"** as follows:

*l.* Purchase of transportation equipment for transporting students and for repairing such transportation equipment when the cost of the repair exceeds \$2,500. "Repairing," for purposes of this paragraph, means restoring an existing item of transportation equipment to its original condition, as near as may be, after gradual obsolescence of physical and functional use due to wear and tear, corrosion and decay, or partial destruction, and includes maintenance that meets the definition of equipment and repair and the cost of which exceeds \$2,500.

[Filed 11/18/15, effective 1/13/16]

[Published 12/9/15]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 12/9/15.

## ARC 2292C

## HOMELAND SECURITY AND EMERGENCY MANAGEMENT DEPARTMENT[605]

### Adopted and Filed

Pursuant to the authority of Iowa Code section 17A.3, the Department of Homeland Security and Emergency Management hereby amends Chapter 1, "Organization," Iowa Administrative Code.

These amendments implement changes that have been made in Iowa Code chapter 29C that transformed the Homeland Security and Emergency Management Division of the Department of Public Defense to a stand-alone department.

Notice of Intended Action was published in the Iowa Administrative Bulletin on October 14, 2015, as **ARC 2187C**. A public hearing was held on November 3, 2015. No public comment was received during the comment period or during the public hearing. These amendments are identical to those published under Notice of Intended Action.

The Department of Homeland Security and Emergency Management adopted these amendments on November 18, 2015.

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

These amendments are intended to implement Iowa Code chapter 29C.

These amendments will become effective January 13, 2016.

The following amendments are adopted.

ITEM 1. Amend rule 605—1.1(29C) as follows:

**605—1.1(29C) Description.** ~~The homeland security and emergency management division~~ department ~~is a division within the department of public defense~~ is created in Iowa Code chapter 29C.

~~**1.1(1) Director.** The adjutant general, as the director of the department of public defense under the direction and control of the governor, shall have supervisory direction and control of the homeland security and emergency management division and shall be responsible to the governor for the carrying out of the provisions of Iowa Code chapter 29C. In the event of disaster beyond local control, the adjutant general may assume direct operational control over all or any part of the emergency management functions within this state.~~

~~**1.1(2) Administrator.** The homeland security and emergency management division~~ department ~~shall be under the management of an administrator~~ a director ~~appointed by the governor. The administrator~~ director ~~shall be vested with the authority to administer homeland security and emergency management affairs in this state and shall be responsible for preparing and executing the homeland security and emergency management programs of this state subject to the direction of the adjutant general~~ governor. ~~The administrator~~ director, upon the direction of the governor ~~and supervisory control of the director of the department of public defense~~, shall: prepare a comprehensive plan and emergency management program for homeland security, disaster preparedness, response, mitigation, recovery, emergency operation, and emergency resource management of this state; make such studies and surveys of the industries, resources and facilities in this state as may be necessary to ascertain the capabilities of the state for disaster recovery, disaster planning and operations, and emergency resource management, and to plan for the most efficient emergency use thereof; provide technical assistance to any local emergency management commission or joint commission requiring such assistance in the development of an emergency management program; and implement planning and training for emergency response teams as mandated by the federal government under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 as amended by the Superfund Amendments and Reauthorization Act of 1986 42 U.S.C. § 9601 et seq.; ~~the administrator~~ The director, with the approval of the governor ~~and upon recommendation of the adjutant general~~, may employ a deputy administrator and such technical, clerical, stenographic and other personnel and make such expenditures within the appropriation or from other funds made available to the department ~~of public defense~~ for purposes of

## HOMELAND SECURITY AND EMERGENCYMANAGEMENT DEPARTMENT[605](cont'd)

homeland security and emergency management, as may be necessary to administer the purposes of Iowa Code chapters 29C, 30, and 34A.

ITEM 2. Amend rule 605—1.2(29C), introductory paragraph, as follows:

**605—1.2(29C) Definitions.** The following definitions are applicable to the homeland security and emergency management ~~division~~ department:

ITEM 3. Amend rule **605—1.2(29C)**, definitions of “Administrator” and “Division,” as follows:

“*Administrator Director*” means the ~~administrator~~ director of the homeland security and emergency management ~~division of the~~ department of public defense.

“*Division Department*” means the homeland security and emergency management ~~division of the~~ department of public defense.

[Filed 11/18/15, effective 1/13/16]

[Published 12/9/15]

EDITOR’S NOTE: For replacement pages for IAC, see IAC Supplement 12/9/15.

**ARC 2293C**

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

**Adopted and Filed**

Pursuant to the authority of Iowa Code section 17A.3, the Department of Homeland Security and Emergency Management hereby amends Chapter 2, “Petitions for Rule Making,” Iowa Administrative Code.

These amendments implement changes that have been made in Iowa Code chapter 29C that transformed the Homeland Security and Emergency Management Division of the Department of Public Defense to a stand-alone department and update the physical address of the Department.

Notice of Intended Action was published in the Iowa Administrative Bulletin on October 14, 2015, as **ARC 2188C**. A public hearing was held on November 3, 2015. No public comment was received during the comment period or during the public hearing. These amendments are identical to those published under Notice of Intended Action.

The Department of Homeland Security and Emergency Management adopted these amendments on November 18, 2015.

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

These amendments are intended to implement Iowa Code chapter 29C.

These amendments will become effective on January 13, 2016.

The following amendment is adopted.

Amend **605—Chapter 2** as follows:

CHAPTER 2  
PETITIONS FOR RULE MAKING

**605—2.1(17A) Petition for rule making.** Any person or agency may file a petition for rule making with the ~~division~~ department at the Homeland Security and Emergency Management ~~Division Department~~, 7105 NW 70th Avenue 7900 Hickman Road, ~~Camp Dodge Building W4 Suite 500, Johnston Windsor Heights~~, Iowa ~~50134~~ 50324. A petition is deemed filed when it is received by that office. The ~~division~~ department must provide the petitioner with a file-stamped copy of the petition if the petitioner provides the ~~division~~ department an extra copy for this purpose. The petition must be typewritten or legibly handwritten in ink and must substantially conform to the following form:

## HOMELAND SECURITY AND EMERGENCY MANAGEMENT DEPARTMENT[605](cont'd)

HOMELAND SECURITY AND EMERGENCY MANAGEMENT ~~DIVISION~~ DEPARTMENT

Petition by (Name of Petitioner)  
for the (adoption, amendment, or  
repeal) of rules relating to  
(state subject matter).

}

PETITION FOR  
RULE MAKING

The petition must provide the following information:

1. No change.
2. A citation to any law deemed relevant to the ~~division's~~ department's authority to take the action urged or to the desirability of that action.
3. to 6. No change.
- 2.1(1)** No change.
- 2.1(2)** The homeland security and emergency management ~~division~~ department may deny a petition because it does not substantially conform to the required form.

**605—2.2(17A) Briefs.** The petitioner may attach a brief to the petition in support of the action urged in the petition. The homeland security and emergency management ~~division~~ department may request a brief from the petitioner or from any other person concerning the substance of the petition.

**605—2.3(17A) Inquiries.** Inquiries concerning the status of a petition for rule making may be made to the ~~Administrator~~ Director, Homeland Security and Emergency Management ~~Division~~ Department, 7105 NW 70th Avenue 7900 Hickman Road, ~~Camp Dodge Building W4~~ Suite 500, Johnston Windsor Heights, Iowa ~~50134~~ 50324.

**605—2.4(17A) Consideration.**

**2.4(1)** Within 14 days after the filing of a petition, the ~~division~~ department must submit a copy of the petition and any accompanying brief to the administrative rules coordinator and to the administrative rules review committee. Upon request by petitioner in the petition, the homeland security and emergency management ~~division~~ department must schedule a brief and informal meeting between the petitioner and the ~~division~~ department, a member of the ~~division~~ department, or a member of the staff of the ~~division~~ department to discuss the petition. The homeland security and emergency management ~~division~~ department may request the petitioner to submit additional information or argument concerning the petition. The ~~division~~ department may also solicit comments from any person on the substance of the petition. Also, comments on the substance of the petition may be submitted to the homeland security and emergency management ~~division~~ department by any person.

**2.4(2)** Within 60 days after the filing of the petition, or within any longer period agreed to by the petitioner, the homeland security and emergency management ~~division~~ department must, in writing, deny the petition and notify petitioner of its action and the specific grounds for the denial, or grant the petition and notify petitioner that it has instituted rule-making proceedings on the subject of the petition. Petitioner shall be deemed notified of the denial or grant of the petition on the date when the ~~division~~ department mails or delivers the required notification to petitioner.

**2.4(3)** Denial of a petition because it does not substantially conform to the required form does not preclude the filing of a new petition on the same subject that seeks to eliminate the grounds for the ~~division's~~ department's rejection of the petition.

These rules are intended to implement Iowa Code chapter 17A.

[Filed 11/18/15, effective 1/13/16]

[Published 12/9/15]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 12/9/15.

**ARC 2294C**

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

**Adopted and Filed**

Pursuant to the authority of Iowa Code section 17A.3, the Homeland Security and Emergency Management Department hereby amends Chapter 3, “Declaratory Orders,” Iowa Administrative Code.

These amendments implement changes that have been made in Iowa Code chapter 29C that transformed the Homeland Security and Emergency Management Division of the Department of Public Defense to a stand-alone department and update the physical address of the Department.

Notice of Intended Action was published in the Iowa Administrative Bulletin on October 14, 2015, as **ARC 2189C**. A public hearing was held on November 3, 2015. No public comment was received during the comment period or during the public hearing. These amendments are identical to those published under Notice of Intended Action.

The Department of Homeland Security and Emergency Management adopted these amendments on November 18, 2015.

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

These amendments are intended to implement Iowa Code chapter 29C.

These amendments will become effective January 13, 2016.

The following amendment is adopted.

Amend **605—Chapter 3** as follows:

CHAPTER 3  
DECLARATORY ORDERS

**605—3.1(17A) Petition for declaratory order.** Any person may file a petition with the homeland security and emergency management ~~division~~ department for a declaratory order as to the applicability to specified circumstances of a statute, rule, or order within the primary jurisdiction of the division department at Homeland Security and Emergency Management ~~Division~~ Department, Hoover State Office Building 7900 Hickman Road, Suite 500, Des Moines Windsor Heights, Iowa 50319 50324. A petition is deemed filed when it is received by that office. The division department shall provide the petitioner with a file-stamped copy of the petition if the petitioner provides the division department an extra copy for this purpose. The petition must be typewritten or legibly handwritten in ink and must substantially conform to the following form:

<u>HOMELAND SECURITY AND EMERGENCY MANAGEMENT <del>DIVISION</del> DEPARTMENT</u>		
Petition by (Name of Petitioner) for a Declaratory Order on (Cite provisions of law involved).	}	PETITION FOR DECLARATORY ORDER

The petition must provide the following information:

1. to 8. No change.

The petition must be dated and signed by the petitioner or the petitioner’s representative. It must also include the name, mailing address, and telephone number of the petitioner and petitioner’s representative and a statement indicating the person to whom communications concerning the petition should be directed.

**605—3.2(17A) Notice of petition.** Within 15 days after receipt of a petition for a declaratory order, the homeland security and emergency management ~~division~~ department shall give notice of the petition to all persons not served by the petitioner pursuant to 605—3.6(17A) to whom notice is required by any provision of law. The division department may also give notice to any other persons.

## HOMELAND SECURITY AND EMERGENCYMANAGEMENT DEPARTMENT[605](cont'd)

**605—3.3(17A) Intervention.**

**3.3(1)** No change.

**3.3(2)** Any person who files a petition for intervention at any time prior to the issuance of an order may be allowed to intervene in a proceeding for a declaratory order at the discretion of the homeland security and emergency management ~~division~~ department.

**3.3(3)** A petition for intervention shall be filed at the Homeland Security and Emergency Management ~~Division~~ Department, Hoover State Office Building 7900 Hickman Road, Suite 500, Des Moines Windsor Heights, Iowa 50319 50324. Such a petition is deemed filed when it is received by that office. The ~~division~~ department will provide the petitioner with a file-stamped copy of the petition for intervention if the petitioner provides an extra copy for this purpose. A petition for intervention must be typewritten or legibly handwritten in ink and must substantially conform to the following form:

<u>HOMELAND SECURITY AND EMERGENCY MANAGEMENT <del>DIVISION</del> DEPARTMENT</u>		
Petition by (Name of Original Petitioner) for a Declaratory Order on (Cite provisions of law cited in original petition).	}	PETITION FOR INTERVENTION

The petition for intervention must provide the following information:

1. to 6. No change.

The petition must be dated and signed by the intervenor or the intervenor's representative. It must also include the name, mailing address, and telephone number of the intervenor and intervenor's representative, and a statement indicating the person to whom communications should be directed.

**605—3.4(17A) Briefs.** The petitioner or any intervenor may file a brief in support of the position urged. The homeland security and emergency management ~~division~~ department may request a brief from the petitioner, any intervenor, or any other person concerning the questions raised.

**605—3.5(17A) Inquiries.** Inquiries concerning the status of a declaratory order proceeding may be made to the Administrator Director, Homeland Security and Emergency Management ~~Division~~ Department, Hoover State Office Building 7900 Hickman Road, Suite 500, Des Moines Windsor Heights, Iowa 50319 50324.

**605—3.6(17A) Service and filing of petitions and other papers.**

**3.6(1)** No change.

**3.6(2) Filing—when required.** All petitions for declaratory orders, petitions for intervention, briefs, or other papers in a proceeding for a declaratory order shall be filed with the Homeland Security and Emergency Management ~~Division~~ Department, Hoover State Office Building 7900 Hickman Road, Suite 500, Des Moines Windsor Heights, Iowa 50319 50324. All petitions, briefs, or other papers that are required to be served upon a party shall be filed simultaneously with the ~~division~~ department.

**3.6(3)** No change.

**605—3.7(17A) Consideration.** Upon request by petitioner, the homeland security and emergency management ~~division~~ department must schedule a brief and informal meeting between the original petitioner, all intervenors, and the ~~division~~ department, a member of the ~~division~~ department, or a member of the staff of the ~~division~~ department, to discuss the questions raised. The ~~division~~ department may solicit comments from any person on the questions raised. Also, comments on the questions raised may be submitted to the ~~division~~ department by any person.

**605—3.8(17A) Action on petition.**

**3.8(1)** Within the time allowed by Iowa Code section 17A.9(5), after receipt of a petition for a declaratory order, the administrator director or designee shall take action on the petition as required by Iowa Code section 17A.9(5).

**3.8(2)** No change.

## HOMELAND SECURITY AND EMERGENCYMANAGEMENT DEPARTMENT[605](cont'd)

**605—3.9(17A) Refusal to issue order.**

**3.9(1)** The homeland security and emergency management ~~division~~ department shall not issue a declaratory order where prohibited by Iowa Code section 17A.9(1) and may refuse to issue a declaratory order on some or all questions raised for the following reasons:

1. No change.
2. The petition does not contain facts sufficient to demonstrate that the petitioner will be aggrieved or adversely affected by the failure of the ~~division~~ department to issue an order.
3. The ~~division~~ department does not have jurisdiction over the questions presented in the petition.
4. to 7. No change.
8. The petition is not based upon facts calculated to aid in the planning of future conduct but is, instead, based solely upon prior conduct in an effort to establish the effect of that conduct or to challenge a ~~division~~ department decision already made.
9. No change.
10. The petitioner requests the homeland security and emergency management ~~division~~ department to determine whether a statute is unconstitutional on its face.

**3.9(2)** A refusal to issue a declaratory order must indicate the specific grounds for the refusal and constitutes final ~~division~~ department action on the petition.

**3.9(3)** No change.

**605—3.10(17A) Contents of declaratory order—effective date.** In addition to the order itself, a declaratory order must contain the date of its issuance, the name of petitioner and all intervenors, the specific statutes, rules, policies, decisions, or orders involved, the particular facts upon which it is based, and the reasons for its conclusion.

A declaratory order is effective on the date of issuance.

**605—3.11(17A) Copies of orders.** A copy of all orders issued in response to a petition for a declaratory order shall be mailed promptly to the original petitioner and all intervenors.

**605—3.12(17A) Effect of a declaratory order.** A declaratory order has the same status and binding effect as a final order issued in a contested case proceeding. It is binding on the homeland security and emergency management ~~division~~ department, the petitioner, and any intervenors and is applicable only in circumstances where the relevant facts and the law involved are indistinguishable from those on which the order was based. As to all other persons, a declaratory order serves only as precedent and is not binding on the homeland security and emergency management ~~division~~ department. The issuance of a declaratory order constitutes final agency action on the petition.

These rules are intended to implement Iowa Code chapter 17A.

[Filed 11/18/15, effective 1/13/16]

[Published 12/9/15]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 12/9/15.

**ARC 2295C**

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

**Adopted and Filed**

Pursuant to the authority of Iowa Code section 17A.3, the Department of Homeland Security and Emergency Management hereby amends Chapter 4, "Agency Procedure for Rule Making," Iowa Administrative Code.

## HOMELAND SECURITY AND EMERGENCYMANAGEMENT DEPARTMENT[605](cont'd)

These amendments implement changes that have been made in Iowa Code chapter 29C that transformed the Homeland Security and Emergency Management Division of the Department of Public Defense to a stand-alone department and update the physical address of the Department.

Notice of Intended Action was published in the Iowa Administrative Bulletin on October 14, 2015, as **ARC 2190C**. A public hearing was held on November 3, 2015. No public comment was received during the comment period or during the public hearing. These amendments are identical to those published under Notice of Intended Action.

The Department of Homeland Security and Emergency Management adopted these amendments on November 18, 2015.

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

These amendments are intended to implement Iowa Code chapter 29C.

These amendments will become effective on January 13, 2016.

The following amendment is adopted.

Amend **605—Chapter 4** as follows:

CHAPTER 4  
AGENCY PROCEDURE FOR RULE MAKING

**605—4.1(17A) Adoption by reference.** The homeland security and emergency management division department hereby adopts the agency procedure for rule making segment of the Uniform Rules on Agency Procedure, which are found on the general assembly's Web site at <https://www.legis.iowa.gov/DOCS/Rules/Current/UniformRules.pdf> and which are printed in the first volume of the Iowa Administrative Code, with the following amendments:

1. In lieu of the words "(commission, board, council, director)" insert "administrator director".
2. In lieu of the words "(specify time period)" insert "one year".
3. In lieu of the words "(identify office and address)" insert "Administrator Director, Homeland Security and Emergency Management Division Department, Hoover State Office Building 7900 Hickman Road, Suite 500, Des Moines Windsor Heights, Iowa 50319 50324".
4. In lieu of the words "(designate office and telephone number)" insert "the administrator director at (515)281 725-3231".
5. In lieu of the words "(designate office)" insert "Homeland Security and Emergency Management Division Department, Hoover State Office Building 7900 Hickman Road, Suite 500, Des Moines Windsor Heights, Iowa 50319 50324".
6. In lieu of the words "(specify the office and address)" insert "Homeland Security and Emergency Management Division Department, Hoover State Office Building 7900 Hickman Road, Suite 500, Des Moines Windsor Heights, Iowa 50319 50324".
7. In lieu of the words "(agency head)" insert "administrator director".

These rules are intended to implement Iowa Code chapter 17A.

[Filed 11/18/15, effective 1/13/16]

[Published 12/9/15]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 12/9/15.

**ARC 2272C**

**HUMAN SERVICES DEPARTMENT[441]**

**Adopted and Filed**

Pursuant to the authority of Iowa Code sections 217.6, 239B.4(6), and 249A.4, the Department of Human Services amends Chapter 41, "Granting Assistance," and Chapter 46, "Overpayment Recovery," Iowa Administrative Code.



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

These amendments implement policies that allow a family that includes an adult who is a nonqualified alien to apply for and receive Family Investment Program (FIP) assistance for more than 60 months for the family's children who are U.S. citizens or qualified aliens if the family meets hardship criteria and all other FIP eligibility criteria.

Polk County District Court found that the Department violated the Iowa constitutional rights of U.S. citizens who are children whose parent(s) is a nonqualified alien by denying, because the parent(s) is a nonqualified alien, a hardship application for the household to receive FIP for more than 60 months for those U.S. citizen children.

Notice of Intended Action was published in the Iowa Administrative Bulletin as **ARC 2147C** on September 16, 2015. The Department received no comments during the public comment period. These amendments are identical to those published under Notice of Intended Action.

The Council on Human Services adopted these amendments on November 10, 2015.

These amendments do not provide for waivers in specified situations because requests for the waiver of any rule may be submitted under the Department's general rule on exceptions at 441—1.8(17A,217). After analysis and review of this rule making, no impact on jobs has been found.

These amendments are intended to implement Iowa Code sections 217.6, 239B.4(6), and 249A.4.

These amendments will become effective February 1, 2016.

The following amendments are adopted.

ITEM 1. Amend paragraph **41.24(4)“b”** as follows:

*b. Hardship applicants.* While the eligibility decision is pending, unless the applicants are exempt from referral as defined in subrule 41.24(2), the department shall refer applicants who must qualify for a hardship exemption before approval of FIP to PROMISE JOBS to sign a family investment agreement as described in paragraph 41.24(4)“a” and shall treat applicants in accordance with subrule 41.30(3).

ITEM 2. Amend subrule 41.30(1) as follows:

**41.30(1) Sixty-month limit.** Assistance shall not be provided to a FIP applicant or recipient family that includes an adult who has received assistance for 60 calendar months under FIP ~~or any state program in Iowa~~ or under any program in another state that is funded by the federal Temporary Assistance for Needy Families (TANF) block grant unless the applicant or recipient family is eligible for a hardship as defined in subrule 41.30(3). The 60-month period need not be consecutive. In two-parent households or households that include a parent and a stepparent, the 60-month limit is determined when either a parent or stepparent has received assistance for 60 months.

*a.* An “adult” is any person who is a parent of the FIP child in the home, the parent's spouse, or included as an optional member under ~~subparagraphs subparagraph 41.28(1)“b”(1); or (2) and (3).~~ ~~In two-parent households or households that include a parent and a stepparent, the 60-month limit is determined when either a parent or stepparent has received assistance for 60 months.~~

*b.* “Assistance<sub>2</sub>” for the purpose of this rule, shall include any month for which the adult receives a FIP grant or a payment in another state using federal Temporary Assistance for Needy Families (TANF) funds that the other state deems countable toward the 60-month federal limit. Assistance received for a partial month shall count as a full month.

ITEM 3. Rescind and reserve paragraph **41.30(3)“a.”**

ITEM 4. Amend paragraph **41.30(3)“d”** as follows:

*d.* Eligibility for a hardship exemption.

(1) No change.

(2) Families with FIA-responsible persons who are not exempt from referral as defined in subrule 41.24(2) determined eligible for more than 60 months of FIP shall make incremental steps toward overcoming the hardship and participate to their maximum potential in activities reasonably expected to result in self-sufficiency.

(3) Barriers to economic self-sufficiency that an FIA-responsible person who is not exempt as defined in subrule 41.24(2) has that were known and existing before the family reached the 60-month

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

limit shall not be considered as meeting eligibility criteria for hardship unless the individual complied with PROMISE JOBS activities offered to overcome that specific barrier.

ITEM 5. Amend paragraph **41.30(3)“e”** as follows:

*e.* Requesting a hardship exemption.

(1) Families ~~with adults as defined in subrule 41.30(1) who~~ that have or are close to having received 60 months of FIP assistance as defined in subrule 41.30(1) may request a hardship exemption. Requests for the hardship exemption shall be made on Form 470-3826 or Form 470-3826(S), Request for FIP Beyond 60 Months. In addition, families that have received FIP assistance for 60 months shall complete Form 470-0462 or Form 470-0462(S), Financial Support Application, as described at rule 441—40.22(239B) as a condition for regaining FIP eligibility. Failure to provide the required application within ten days from the date of the department's request shall result in denial of the hardship request.

(2) No change.

(3) Requests for a hardship exemption shall not be accepted prior to the first day of the family's fifty-ninth month of FIP assistance. The date of the request shall be the date an identifiable Form 470-3826 or Form 470-3826(S) is received in any department of human services or PROMISE JOBS office. An identifiable form is one that contains a legible name and address and that has been signed.

(4) No change.

(5) When an adult as defined in subrule 41.30(1) who has received FIP assistance for 60 months joins a recipient family that has not received 60 months of FIP assistance, eligibility shall continue only if the recipient family submits Form 470-3826 or Form 470-3826(S) and is approved for a hardship exemption as described in subrule 41.30(3) and meets all other FIP eligibility requirements.

(6) and (7) No change.

ITEM 6. Amend paragraph **41.30(3)“f”** as follows:

*f.* Determination of hardship exemption.

(1) A determination on the request shall be made as soon as possible, but no later than 30 days following the date an identifiable Form 470-3826 or Form 470-3826(S) is received in any department of human services or PROMISE JOBS office. A written notice of decision shall be issued to the family the next working day following a determination of eligibility or ineligibility for a hardship exemption. The 30-day time standard shall apply except in unusual circumstances, such as when the department and the family have made every reasonable effort to secure necessary information which has not been supplied by the date the time limit expired; or because of emergency situations, such as fire, flood or other conditions beyond the administrative control of the department.

(2) to (8) No change.

(9) Recipients whose FIP assistance is canceled at the end of the sixtieth month shall be eligible for reinstatement as described at 441—subrule 40.22(5) when Form 470-3826 or Form 470-3826(S) is received before the effective date of cancellation even if eligibility for a hardship exemption is not determined until on or after the effective date of cancellation.

(10) When Form 470-3826 or Form 470-3826(S) is not received before the effective date of the FIP cancellation and a Financial Support Application is required for the family to regain FIP eligibility, the effective date of assistance shall be no earlier than seven days from the date of application as described at rule 441—40.26(239B).

(11) Eligibility for a hardship exemption shall last for six consecutive calendar months. EXCEPTION: The six-month hardship exemption ends when FIP for the family is canceled for any reason and a Financial Support Application is required for the family to regain FIP eligibility. In addition, when FIP eligibility depends on receiving a hardship exemption, the family shall submit a new Form 470-3826 or Form 470-3826(S). A new hardship exemption determination shall be required prior to FIP approval.

(12) and (13) No change.

HUMAN SERVICES DEPARTMENT[441](cont'd)

ITEM 7. Amend subparagraph **41.30(3)“g”(6)** as follows:

(6) Any family that is not exempt from referral as defined in subrule 41.24(2), that has been granted a hardship exemption, and that does not follow the terms of the family's six-month FIA will have chosen a limited benefit plan in accordance with 441—Chapters 41 and 93.

ITEM 8. Amend rule **441—46.21(239B)**, definition of “Procedural error,” as follows:

“*Procedural error*” means a technical error that does not in and of itself result in an overpayment. Procedural errors include:

1. No change.
2. Failure to secure a properly signed Form 470-3826 or Form 470-3826(S), Request for FIP Beyond 60 Months, as described at 441—subrule 41.30(3).
3. to 5. No change.

[Filed 11/10/15, effective 2/1/16]

[Published 12/9/15]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 12/9/15.

**ARC 2273C**

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

**Adopted and Filed**

Pursuant to the authority of Iowa Code sections 10A.104(5) and 135C.14, the Department of Inspections and Appeals hereby amends Chapter 57, “Residential Care Facilities,” Iowa Administrative Code.

A full review and rewrite of Chapter 57 was completed by the Department in 2014. The Department determined after adoption of the new Chapter 57 that one provision was inadvertently removed from the chapter during the process. The provision required qualified personnel to implement orders for medications and treatments. The adopted amendment adds this requirement back into the chapter.

The Department does not believe that the amendment poses a financial hardship on any regulated entity or individual.

The State Board of Health initially reviewed the amendment at its September 9, 2015, meeting, and approved the amendment at the Board's November 12, 2015, meeting.

Notice of Intended Action was published in the Iowa Administrative Bulletin on September 30, 2015, as **ARC 2162C**. The Department received no comments during the public comment period. This amendment is identical to the one published under Notice of Intended Action.

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

This amendment is intended to implement Iowa Code section 135C.14.

This amendment shall become effective January 13, 2016.

The following amendment is adopted.

Adopt the following **new** subrule 57.11(7):

**57.11(7) Orders for medications and treatments.** Orders for medications and treatments shall be correctly implemented by qualified personnel. (I, II, III)

[Filed 11/12/15, effective 1/13/16]

[Published 12/9/15]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 12/9/15.

**ARC 2296C****INSURANCE DIVISION[191]****Adopted and Filed**

Pursuant to the authority of Iowa Code sections 507B.12 and 514G.11, the Insurance Division hereby amends Chapter 15, “Unfair Trade Practices,” Iowa Administrative Code.

These amendments implement Iowa Code chapters 507B and 514G and make rule 191—15.32(507B) be in accordance with 2015 Iowa Acts, House File 632, section 21. Iowa Code chapter 507B regulates trade practices in the business of insurance in Iowa and authorizes the Iowa Insurance Commissioner to adopt rules as are necessary or proper to identify specific methods of competition or acts or practices which are prohibited by Iowa Code chapter 507B. Iowa Code chapter 514G regulates long-term care insurance and authorizes the Iowa Insurance Commissioner to adopt rules related to long-term care insurance, including ensuring the prompt payment of clean claims.

The amendments to Chapter 15 remove the exemption for long-term care insurance from the requirements for the prompt payment of health claims under rule 191—15.32(507B) so that the rule is in accordance with 2015 Iowa Acts, House File 632, section 21, which amends Iowa Code section 514G.102 to make the requirements of Iowa Code chapter 514G related to prompt payment of claims and the payment of interest apply to all long-term care insurance policies. Also, these amendments update the Division’s Web site address in two places in Chapter 15.

Notice of Intended Action (the Notice) was published in the Iowa Administrative Bulletin on October 14, 2015, as **ARC 2201C**. Written comments were accepted through November 3, 2015, and a public hearing was held on November 3, 2015, at the offices of the Iowa Insurance Division, Two Ruan Center, 601 Locust Street, Fourth Floor, Des Moines, Iowa. No comments were received.

These amendments are identical to those published under Notice.

These amendments are subject to waiver consistent with the waiver provisions provided at 191—Chapter 4.

These amendments will impose no fiscal impact on the State.

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

These amendments are intended to implement Iowa Code chapter 507B and chapter 514G as amended by 2015 Iowa Acts, House File 632, section 21.

These amendments shall become effective January 13, 2016.

The following amendments are adopted.

ITEM 1. Amend subrule 15.32(3) as follows:

**15.32(3)** *Certain insurance products exempt.* Claims paid under the following insurance products are exempt from the provisions of this subrule: liability insurance, workers’ compensation or similar insurance, automobile or homeowners insurance, medical payment insurance, or disability income insurance, ~~or long-term care insurance.~~

ITEM 2. Amend rule **191—15.32(507B)**, implementation sentence, as follows:

This rule is intended to implement ~~2001 Iowa Acts, chapter 69, section 8, and Iowa Code section 507B.4 as amended by 2001 Iowa Acts, chapter 69~~ sections 507B.4A and 514G.111 and 2015 Iowa Acts, House File 632, section 21.

ITEM 3. Amend subrule 15.83(1) as follows:

**15.83(1)** The indexed products training shall include information on all topics listed in the most recent version of the indexed products training outline available at the division’s Web site, ~~www.iid.state.ia.us~~ www.iid.iowa.gov.

INSURANCE DIVISION[191](cont'd)

ITEM 4. Amend rule 191—15.85(507B,522B) as follows:

**191—15.85(507B,522B) Verification of training.** Insurers, producers and third-party contractors may verify a producer's completion of the indexed products training by accessing the division's Web site at ~~www.iid.state.ia.us~~ www.iid.iowa.gov.

[Filed 11/18/15, effective 1/13/16]

[Published 12/9/15]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 12/9/15.

**ARC 2271C**

**IOWA PUBLIC INFORMATION BOARD[497]**

**Adopted and Filed**

Pursuant to the authority of Iowa Code section 23.6, the Iowa Public Information Board hereby amends Chapter 1, "Organization and General Administration," Iowa Administrative Code.

This amendment permits the Board to elect a vice chair.

Notice of Intended Action for this amendment was published in the Iowa Administrative Bulletin on August 5, 2015, as **ARC 2093C**. The Board received no public comment on the proposed amendment. No changes were made to the amendment published under Notice of Intended Action.

The Iowa Public Information Board adopted this amendment on October 15, 2015.

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

This amendment is intended to implement Iowa Code chapter 23.

This amendment will become effective on January 13, 2016.

The following amendment is adopted.

Amend rule 497—1.1(84GA, ch1115) as follows:

**497—1.1(84GA, ~~ch1115~~ 23) Board description.**

**1.1(1)** The Iowa public information board is established by ~~2012 Iowa Acts, chapter 1115, section 6,~~ Iowa Code chapter 23 and consists of nine members, including a chairperson.

**1.1(2) and 1.1(3)** No change.

**1.1(4)** On an annual basis at the board's first meeting on or after July 1, the members shall elect a chairperson and vice chair. The board shall also employ a person who shall be an attorney admitted to practice law before the courts of Iowa to serve as the executive director of the board. The chairperson and vice chair may be reelected or elected to a different office. If the chairperson is absent, the vice chair shall act as chairperson.

**1.1(5) to 1.1(7)** No change.

**1.1(8)** The board is available to assist in achieving compliance with open meetings and public records laws in alternative ways. Information is available on the board's Web site at https://ipib.iowa.gov/. The members of governmental bodies and the public may call the board for informal answers to questions during office hours from 8 a.m. to 4:30 p.m. on Monday through Friday at (515)725-1781. Written guidance about compliance with the open meetings and public records laws may be provided by advisory opinions (see rules ~~497—1.2(84GA, ch1115 23)~~ and ~~497—1.3(84GA, ch1115 23)~~) or by declaratory orders (see rules ~~497—3.1(84GA, ch1115 17A)~~ to ~~497—3.8(84GA, ch1115 17A)~~). In

IOWA PUBLIC INFORMATION BOARD[497](cont'd)

addition, complaints may be filed alleging violations of open meetings or public records laws under rule 497—2.1(84GA, ch 1115 23).

This rule is intended to implement ~~2012 Iowa Acts, chapter 1115, section 6~~ Iowa Code chapter 23.

[Filed 11/5/15, effective 1/13/16]

[Published 12/9/15]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 12/9/15.

## ARC 2308C

### PUBLIC EMPLOYMENT RELATIONS BOARD[621]

#### Adopted and Filed

Pursuant to the authority of Iowa Code section 20.6(5), the Public Employment Relations Board hereby amends Chapter 6, "Negotiations and Negotiability Disputes," Iowa Administrative Code.

Item 1 reflects amendments to the existing rule regarding scope of negotiations. The amendments were identified in the Board's ongoing review of its administrative rules.

Item 2 reflects amendments to the existing rule regarding negotiability disputes. The amendments were identified in the Board's ongoing review of its administrative rules and include a reorganization of current language, which has been moved to newly titled subrules. The amendments include the addition of specific information required for a petition for resolution of a negotiability dispute filed with the agency and clarify that the proposal at issue must be a proposal made during the course of collective bargaining. The amendments eliminate the option by which parties may request that arbitrators file petitions for the resolution of negotiability disputes raised at arbitrations but retain current language requiring the objecting party to file the petition.

Item 3 reflects nonsubstantive amendments to the existing rule regarding acceptance of agreements. The amendments have been identified in the Board's ongoing review of its administrative rules and include a reorganization of current language, which has been moved to newly titled subrules.

Item 4 reflects nonsubstantive amendments to the existing rule regarding the filing of agreements. The amendments have been identified in the Board's ongoing review of its administrative rules and include the elimination of the requirement that paper copies of collective bargaining agreements be submitted to the agency.

Notice of Intended Action was published in the Iowa Administrative Bulletin as **ARC 2191C** on October 14, 2015. Written and oral comments and requests for a public hearing were accepted through November 3, 2015. No request for a public hearing was received although one question was received and answered about the amendments. These amendments are identical to those published under Notice of Intended Action.

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

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

These amendments are intended to implement Iowa Code chapter 20.

These amendments will become effective January 13, 2016.

The following amendments are adopted.

ITEM 1. Amend rule 621—6.1(20) as follows:

**621—6.1(20) Scope of negotiations.** The scope of negotiations shall be include the mandatory subjects of collective bargaining as provided in Iowa Code section 20.9. "Permissive" matters are all other subjects upon which bargaining is not prohibited. Either party may introduce ~~other, nonmandatory~~ permissive matters for negotiation, and negotiation on these matters may continue until resolved by mutual agreement of the parties or until negotiations reach the arbitration stage of impasse; ~~provided,~~ however, ~~that no party may be~~ is required to negotiate on ~~nonmandatory~~ permissive subjects of bargaining. Unresolved ~~nonmandatory~~ permissive matters shall be excluded from arbitration unless

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

submission of the matter has been mutually agreed upon by the parties. Such an agreement is applicable only to negotiations toward the collective bargaining agreement then sought and is not binding upon the parties for future negotiations.

ITEM 2. Amend rule 621—6.3(20) as follows:

**621—6.3(20) Negotiability disputes.**

**6.3(1) Defined.** A “Negotiability negotiability dispute” is a dispute arising in good faith during the course of collective bargaining as to whether a proposal made during bargaining is a mandatory, permissive, or prohibited subject to of collective bargaining under Iowa Code section 20.9 or whether a proposal which is subject to collective bargaining under Iowa Code section 20.9 is a mandatory topic of bargaining.

**6.3(2) Expedited Petitions for expedited resolution.**

*a.* In the event that a negotiability dispute arises between the employer and the certified employee organization, either party may petition the agency for expedited resolution of the dispute. The petition shall be filed and set forth the material facts of the dispute and the precise question of negotiability submitted for resolution. following:

(1) The name and address of the petitioner and the name, address, telephone number, and e-mail address of the petitioner’s representative;

(2) The name and address of the respondent and the name, address, telephone number, and e-mail address of the respondent’s representative;

(3) The material facts of the dispute; and

(4) The verbatim text of the proposal at issue.

*b.* The petitioner shall promptly serve the other party with a copy of the petition and file proof thereof with the agency in accordance with 621—subrules 2.15(3) and 16.10(1). Unless the dispute is resolved prior to the arbitration hearing, the parties shall present evidence on all items to the arbitrator, including the item which is the subject of the negotiability dispute. A negotiability dispute raised at the arbitration hearing shall be upon written objection to the submission of the proposal to the arbitrator. The objection shall request the arbitrator to seek a negotiability ruling from the agency regarding the proposal or state that the objecting party will file a petition for resolution of the dispute, which petition shall be filed within five days of the making of the objection. Arbitrators shall rule on all items submitted to them including the item which is the subject of the negotiability dispute, unless explicitly stayed by the board. Arbitration awards issued prior to the final determination of the negotiability dispute will be contingent upon that determination.

**6.3(3) Decisions.** Petitions filed pursuant to subrule 6.3(2) shall be given priority by the board. If deemed necessary by the board, the petition may be set for oral argument.

**6.3(3) Preliminary ruling.** The agency will give priority to a petition for expedited resolution of a negotiability dispute. Parties may file briefs in support of their positions within the time specified by the agency, and the agency may set the matter for oral argument. The agency may issue a preliminary ruling, without analysis, that the proposal is mandatory, permissive, or prohibited.

**6.3(4) Final ruling.** Within 20 days following the issuance of a preliminary ruling, either party may request the agency to issue a final ruling, which will set forth the agency’s analysis and conclusions.

**6.3(5) Arbitration.** Unless the dispute is resolved prior to the arbitration hearing, the parties shall present evidence on all items to the arbitrator, including the item which is the subject of the negotiability dispute. A negotiability dispute raised at the arbitration hearing shall be upon written objection to the submission of the proposal to the arbitrator. The objection shall state that the objecting party will file a petition for resolution of the dispute with the agency, which petition shall be filed within five days of the making of the objection. Arbitrators shall rule on all items submitted to them including the item which is the subject of the negotiability dispute, unless explicitly stayed by the agency. Arbitration awards issued prior to the final determination of the negotiability dispute are contingent upon the agency’s determination.

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

**6.3(6) *Negotiability outside of bargaining.*** Questions of negotiability which do not arise during the course of bargaining are not negotiability disputes within the scope of this rule but may be posed to the agency by a petition for declaratory order filed pursuant to 621—Chapter 10.

ITEM 3. Amend rule 621—6.4(20) as follows:

**621—6.4(20) ~~Acceptance of proposed agreement~~ Voluntary settlement procedures.**

**6.4(1) *Terms made public.*** Where the parties have reached a proposed (or “tentative”) collective bargaining agreement, the public employer shall make the terms of that the agreement shall be made public by the public employer, and the employee organization shall give reasonable notice of the date, time and place of a ratification election on the tentative agreement to the public employees; provided, however, that such notice shall be at least 24 hours prior to the election and the election shall be within seven days of the date of the tentative agreement. The vote shall be by secret ballot and only members of the employee organization shall be entitled to vote; provided, however, that the employee organization may, pursuant to its internal procedures, extend voting rights to nonmember bargaining unit employees. The employee organization shall within 24 hours notify the public employer whether the proposed agreement has been ratified.

**6.4(2) *Ratification or rejection by employee organization.*** Within seven days of the date of the tentative agreement, the employee organization shall conduct a ratification election on the tentative agreement. The employee organization shall give reasonable notice of the date, time and place of the election to the public employees; however, such notice shall be at least 24 hours prior to the election. The vote shall be by secret ballot, and the majority of votes cast will determine acceptance or rejection of the tentative agreement. Only members of the employee organization shall be entitled to vote; however, the employee organization may, pursuant to its internal procedures, extend voting rights to nonmember bargaining unit employees. The employee organization shall, within 24 hours of the conclusion of the election, serve notice on the public employer as to whether or not the proposed agreement has been ratified.

**6.4(3) *Acceptance or rejection by public employer.*** The public employer shall, within ten days of the tentative agreement, likewise meet to accept or reject the agreement, and shall within 24 hours of the acceptance or rejection serve notice on the employee organization of its acceptance or rejection of the proposed agreement; provided, however, that the public employer shall not be required to either accept or reject the tentative agreement if it has been rejected by the employee organization.

**6.4(4) *Time limits.***

*a.* The above time limits may be modified by a written mutual agreement between the public employer and the employee organization.

*b.* The above time limits shall not apply to proposed agreements between the state and any bargaining unit of state employees.

ITEM 4. Amend rule 621—6.5(20) as follows:

**621—6.5(20) ~~Negotiations report—filing~~ Filing of agreement.** Not later than 60 days after conclusion ratification and acceptance of an a tentative agreement or the issuance of an interest arbitration award, the public employer shall submit the collective bargaining agreement to the board a report of negotiations procedures on a form provided by the board and shall attach two copies of the agreement agency.

[Filed 11/18/15, effective 1/13/16]

[Published 12/9/15]

EDITOR’S NOTE: For replacement pages for IAC, see IAC Supplement 12/9/15.



## ARC 2291C

## PUBLIC HEALTH DEPARTMENT[641]

## Adopted and Filed

Pursuant to the authority of Iowa Code chapters 135, 136A, 139A, 141A and 144, the Department of Public Health hereby amends Chapter 1, “Reportable Diseases, Poisonings and Conditions, and Quarantine and Isolation,” Iowa Administrative Code.

The adopted amendments add language to protect the confidentiality of a subject during a contested case hearing; remove references to outdated guidance documents; add language about specimens for which the fee charged by the state hygienic laboratory shall be waived, to clarify Iowa Code section 263.8 and 681—subrule 5.3(1); add microcystin toxin poisoning to the list of reportable poisonings and conditions in Appendix B; and provide clarification of existing language throughout the chapter.

In addition, several modifications have been made to Appendix A. The following reportable communicable and infectious diseases have been removed from Appendix A: Enterococcus invasive disease; group A Streptococcus invasive disease; Staphylococcus aureus invasive disease; methicillin-resistant invasive disease; Streptococcus pneumoniae invasive disease; toxic shock syndrome; and trichinosis. The following reportable communicable and infectious diseases have been added to Appendix A: Q fever; tularemia; viral hemorrhagic fever; and vancomycin intermediate Staphylococcus aureus/vancomycin-resistant Staphylococcus aureus. In addition, reporting requirements for the following reportable communicable and infectious diseases have been clarified in Appendix A: anthrax; botulism; chlamydia; gonorrhea; mosquito-borne diseases; tickborne diseases; and tuberculosis.

Notice of Intended Action was published in the Iowa Administrative Bulletin as **ARC 2083C** on August 5, 2015. One public comment from the Sierra Club was received in favor of the addition of microcystin toxin poisoning to the list of reportable poisonings and conditions.

Based upon internal review, the Department has edited the wording of subrule 1.18(3) in Item 14 to add risks associated with injection drug use to be consistent across the conditions of hepatitis B, hepatitis C, and HIV. Additionally, the Department removed wording in subrule 1.18(3) related to individuals with hepatitis C who had long-term hemodialysis or received blood, blood products, or an organ transplant prior to 1992 as these individuals are unlikely to be in a position to spread the infection to others. The Department also added signs and symptoms as criteria for testing of primary and secondary syphilis in paragraph 1.18(3)“g” to be consistent with guidelines from the Centers for Disease Control and Prevention. In addition, the Department made changes in Appendix A to ensure that both “isolate” and “specimen” are included in disease reporting for Escherichia coli shiga toxin-producing and related diseases, Haemophilus influenzae type B invasive disease, Listeria monocytogenes invasive disease, meningococcal invasive disease, Salmonellosis (Salmonella), and Shigellosis (Shigella).

The State Board of Health adopted these amendments on November 12, 2015.

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

These amendments are intended to implement Iowa Code chapters 135, 136A, 139A, 141A and 144.

These amendments will become effective January 13, 2016.

The following amendments are adopted.

ITEM 1. Adopt the following **new** definitions of “Microcystin toxin” and “Microcystin toxin poisoning” in rule **641—1.1(139A)**:

“*Microcystin toxin*” means the toxin that is released by blue-green algae or cyanobacteria.

“*Microcystin toxin poisoning*” means any acute or subacute systemic, ophthalmologic, or dermatologic illness or injury resulting from or suspected of resulting from inhalation, ingestion, or dermal exposure to toxins associated with a blue-green algae or cyanobacteria bloom in water.

ITEM 2. Amend rule **641—1.1(139A)**, definitions of “Infectious tuberculosis,” “Quarantine” and “Sexually transmitted disease or infection,” as follows:

“*Infectious tuberculosis*” means pulmonary or laryngeal tuberculosis as evidenced by:

1. Isolation of *M. tuberculosis* complex (positive culture) from a clinical specimen or positive nucleic acid amplification test, or

## PUBLIC HEALTH DEPARTMENT[641](cont'd)

2. Both radiographic evidence of tuberculosis, such as an abnormal chest X-ray, and clinical evidence, such as a positive skin test or whole blood assay test for tuberculosis infection, coughing, sputum production, fever, or other symptoms compatible with infectious tuberculosis that lead a physician health care provider to diagnose infectious tuberculosis according to currently acceptable standards of medical practice and to initiate treatment for tuberculosis.

“*Quarantine*” means the limitation of freedom of movement of persons or animals that have been exposed to a quarantinable disease within specified limits marked by placards, if necessary, for a period of time equal to the longest usual incubation period of the disease in such manner as to prevent the spread of a quarantinable disease which affects people.

“*Sexually transmitted disease or infection*” or “*STI*” means a disease or infection as identified by this chapter that is transmitted through sexual practices. “Sexually transmitted disease or infection” includes, but is not limited to, acquired immunodeficiency syndrome (AIDS), chlamydia, gonorrhea, hepatitis B, hepatitis C, human immunodeficiency virus (HIV), human papillomavirus, and syphilis.

ITEM 3. Adopt the following new paragraph **1.4(2)“m”**:

*m.* The treatment provided for the reportable disease (for STIs only).

ITEM 4. Amend paragraph **1.6(2)“g”** as follows:

*g.* The ~~patient's~~ patient's telephone number.

ITEM 5. Amend rule 641—1.8(139A) as follows:

**641—1.8(139A) Isolation and quarantine.** Isolation and quarantine should be consistent with guidelines provided by the Centers for Disease Control and Prevention’s 2007 Guideline for Isolation Precautions: Preventing Transmission of Infectious Agents in Healthcare Settings, June 2007; <http://www.cdc.gov/ncidod/dhqp/pdf/guidelines/Isolation2007.pdf> Prevention.

ITEM 6. Amend paragraphs **1.9(1)“a,” “b,” “d” and “e”** as follows:

*a.* A health care provider who attends an individual with a suspected or active quarantinable disease shall make all reasonable efforts in accordance with guidance from a local health department or the department to examine or cause all household and other known contacts of the individual to be examined by a physician health care provider. The physician health care provider shall promptly report to the department the results of such examination. If the individual refuses or is unable to undergo examination, the health care provider shall promptly report such information to the department.

*b.* When required by the department, all contacts ~~not examined by a physician~~ of an individual who has a suspected or active quarantinable disease, including all adult and minor contacts, shall submit to a diagnostic test or tests or other monitoring. If any suspicious abnormality is found, steps satisfactory to the department shall be taken to refer the individual promptly to a physician health care provider or appropriate medical facility for further evaluation and, if necessary, treatment. The department or the referring health care provider or facility shall notify the receiving health care provider or facility of the suspicious abnormality. When requested by the department, a physician health care provider shall report the results of the examination of a contact to the case or suspected case or incident. If an individual with a suspected or active quarantinable disease fails to comply with a department order to submit to diagnostic testing or monitoring, such individual may be ordered to be quarantined or isolated as determined by the department.

*d.* A person diagnosed with or clinically suspected of having infectious tuberculosis shall complete voluntary treatment until, in the opinion of the attending physician health care provider or the state public health medical director and epidemiologist, the person’s tuberculosis is cured or such person is no longer a threat to public health. If such person refuses to complete the course of voluntary treatment, the department or local board of health may issue an order compelling mandatory treatment. Such order shall include the identity of the person subject to the mandatory treatment order, a description of the treatment ordered, the medical basis upon which the treatment is ordered, and a description of the potential medical and legal consequences of violating such order. A person who violates a mandatory treatment order may be subject to the penalties provided in Iowa Code section 135.38 or ~~137.24~~ 137.117 and may be placed under mandatory quarantine or isolation in accordance with the provisions of this chapter.

## PUBLIC HEALTH DEPARTMENT[641](cont'd)

*e.* A person diagnosed with extrapulmonary tuberculosis or clinically suspected of having infectious tuberculosis who fails to comply with a ~~physician's~~ health care provider's recommendation for diagnostic testing may be ordered to undergo diagnostic testing by the department or local board of health. Such order shall include the identity of the person subject to mandatory diagnostic testing, a description of the diagnostic testing ordered, the medical basis upon which the diagnostic testing is ordered, and a description of the potential medical and legal consequences of violating such order. A person who violates a mandatory diagnostic testing order may be subject to the penalties provided in Iowa Code section 135.38 or ~~137.21~~ 137.117 and may be placed under mandatory quarantine or isolation in accordance with the provisions of this chapter.

ITEM 7. Amend paragraphs **1.9(4)“a”** and **“b”** as follows:

*a.* Sites If deemed appropriate by the department, sites of isolation or quarantine shall be prominently placarded with isolation or quarantine signs prescribed and furnished by the department and posted on all sides of the building wherever access is possible.

*b.* An individual subject to isolation or quarantine shall obey the rules and orders of the department or the local board of health and shall not go beyond the isolation or quarantine premises unless expressly authorized to do so by the order.

ITEM 8. Amend subparagraph **1.9(6)“a”(1)** as follows:

(1) The department, through the director, the department's medical director, or the director's or medical director's designee, may:

1. Isolate individuals or groups of individuals who are presumably or actually infected with a quarantinable disease; and

2. Quarantine individuals or groups of individuals who have been exposed to a quarantinable disease, including individuals who are unable or unwilling to undergo examination, testing, vaccination, or treatment, pursuant to Iowa Code section ~~135.144(9)~~ 135.144.

ITEM 9. Amend paragraph **1.9(7)“c”** as follows:

*c.* *Proceeding.* The contested case hearing shall be conducted in accordance with the provisions contained at 641—Chapter 173. The hearing shall be held as soon as is practicable, and in no case later than ten days from the date of receipt of the appeal. The hearing may be held by telephonic or other electronic means if necessary to prevent additional exposure to the communicable or possibly communicable disease. In extraordinary circumstances and for good cause shown, the department may apply to continue the hearing date for up to ten additional days on a petition filed pursuant to this rule. The presiding officer may use discretion in granting a continuance giving due regard to the rights of the affected individuals, the protection of the public's health, and the availability of necessary witnesses and evidence. Pursuant to Iowa Code sections 139A.3(2) and 22.7(16), the hearing shall be closed to the public at the discretion of the subject of the order. If the hearing is closed to the public, the department's final decision shall redact information which could lead to the identification of the subject of the order.

ITEM 10. Amend paragraphs **1.12(5)“a”** and **“b”** as follows:

*a.* Sites If deemed appropriate by the department, sites of isolation or quarantine shall be prominently placarded with isolation or quarantine signs prescribed and furnished by the department and posted on all sides of the building wherever access is possible.

*b.* An individual subject to isolation or quarantine shall obey the rules and orders of the board and shall not go beyond the isolation or quarantine premises unless expressly authorized to do so by the order.

ITEM 11. Amend subrule 1.14(2) as follows:

**1.14(2)** *What to report.* The content of the reports shall include, but not be limited to, follow-up data and demographic, diagnostic, treatment, and other medical information. ~~Tissue samples may also be submitted under the authority of this rule.~~

PUBLIC HEALTH DEPARTMENT[641](cont'd)

ITEM 12. Amend subrule 1.17(3) as follows:

**1.17(3)** Reportable disease records and information, with the exception of AIDS and HIV records, which identify a person or a business named in a report, may be disclosed under the following limited circumstances:

- a. No change.
- b. By and between department employees and agents and local boards of health and local health departments as necessary to conduct an investigation or to enforce a department order or an order of a local board of health.
- c. By and between department employees and agents and health care providers, laboratories, and hospitals as necessary to conduct an investigation or to enforce a department order or an order of a local board of health.
- d. By and between department employees and agents and employees and agents of federal, state, and local agencies as necessary to conduct an investigation or to enforce a department order or an order of a local board of health.
- e. and f. No change.

ITEM 13. Adopt the following **new** division heading to precede rule 641—1.18(135,139A):

STATE HYGIENIC LABORATORY

ITEM 14. Adopt the following **new** rule 641—1.18(135,139A):

**641—1.18(135,139A) Specimens for which the fee charged by the state hygienic laboratory shall be waived.**

**1.18(1)** *Purpose.* Iowa Code section 263.8 and 681—subrule 5.3(1) provide that the state hygienic laboratory shall perform without charge all bacteriological, serological, and epidemiological examinations and investigations which are required by the department and established in rule, including specimens relating to diseases communicable from human to human and from animals to human and any specimen when there is probable cause that a direct threat to public health exists. The purpose of this rule is to designate those examinations which shall be performed by the state hygienic laboratory without charge pursuant to these legal authorities.

**1.18(2)** *Acute infectious diseases.* Regardless of the entity that submits the specimen, the following examinations shall be performed by the state hygienic laboratory without charge:

- a. Anthrax;
- b. Botulism;
- c. Cholera;
- d. Diphtheria;
- e. Haemophilus influenzae type B invasive disease;
- f. Measles;
- g. Meningococcal invasive disease;
- h. Pulsed-field gel electrophoresis (PFGE) (Listeria, Salmonella, E. coli);
- i. Plague;
- j. Poliomyelitis;
- k. Rabies, animal (human exposure only);
- l. Rabies, human;
- m. Smallpox;
- n. Vancomycin intermediate Staphylococcus aureus (VISA) and vancomycin-resistant Staphylococcus aureus (VRSA) confirmation;
- o. Tuberculosis (exception: QuantiFERON-TB Gold testing that is not associated with contact investigation);
- p. Viral hemorrhagic fever;
- q. Yellow fever; and
- r. Under any of the following circumstances:

## PUBLIC HEALTH DEPARTMENT[641](cont'd)

(1) All outbreaks (respiratory and enteric pathogens, and environmental contaminants where justified) shall be reported to the department, and the department will instruct the state hygienic laboratory to waive the fee.

(2) Periodic confirmations at the request of the department.

(3) All situations where negative stool cultures are being requested for public health purposes.

(4) When the state hygienic laboratory is specifically funded to do testing.

**1.18(3) Sexually transmitted disease and infections and HIV/AIDS.** The following examinations shall be performed by the state hygienic laboratory without charge if the following defined criteria have been met and if the specimen was sent to the state hygienic laboratory from sites approved by and submitted to the laboratory by the department:

a. Chlamydia and gonorrhea.

(1) All individuals 24 years of age or younger.

(2) Individuals above the age of 24 with any of the following:

1. New or multiple sex partners in the last 90 days;

2. Persons with reported symptoms consistent with chlamydia or gonorrhea;

3. Persons with observed clinical signs consistent with chlamydia or gonorrhea or pelvic inflammatory disease (PID);

4. Persons recently diagnosed with another sexually transmitted infection (STI);

5. Persons who have a sex partner in one of the other risk groups (new or multiple partners, STI diagnosis); or

6. Women presenting for an intrauterine device (IUD) insertion.

(3) Persons who have tested positive within the last four months (i.e., retesting).

(4) Persons diagnosed with gonorrhea and treated with alternative regimens as defined by the Centers for Disease Control and Prevention (CDC) (i.e., tests of cure).

b. Hepatitis B. All unvaccinated individuals at increased risk, including:

(1) Men who have sex with men;

(2) HIV-positive persons; or

(3) Persons who have ever injected drugs.

c. Maternal hepatitis B.

(1) Testing related to case management of HBsAG-positive pregnant women;

(2) Household contacts of HBsAG-positive pregnant women tested for infection or immunity (HBsAG, anti-HBs);

(3) Children born to HBsAG-positive women (postvaccination serology testing).

d. Hepatitis C. All individuals at increased risk, including persons who have ever injected drugs.

e. Herpes simplex virus. Individuals who present with clinical signs of genital herpes.

f. Human immunodeficiency virus (HIV). All individuals at increased risk, including:

(1) Men who have sex with men;

(2) Disproportionately impacted populations (as determined by the department based on epidemiological data);

(3) Persons who have ever injected drugs;

(4) Persons who exchange sex for drugs or money; or

(5) Persons with an STI diagnosis within the last 12 months or someone who has a partner in another risk group (IDU, MSM, recent STI, exchange sex for drugs or money).

g. Syphilis.

(1) All individuals at increased risk, including:

1. Persons who have had signs or symptoms consistent with primary or secondary syphilis within the last 12 months;

2. Men who have sex with men;

3. Persons diagnosed with other STIs;

4. Persons who exchange sex for drugs or money; or

5. Persons who have recently been treated for syphilis to monitor serologic response (titers) at intervals recommended by the CDC.

PUBLIC HEALTH DEPARTMENT[641](cont'd)

(2) All pregnant women at first prenatal visit. Tests that are initially reactive will be followed up with a secondary test of different methodology to assist with diagnosis and staging of the infection (i.e., specimens reactive using a nontreponemal test will be analyzed using a treponemal test). Testing should be repeated in the third trimester for women at high risk of having been exposed to the infection.

ITEM 15. Amend **641—Chapter 1**, Appendix A, as follows:

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

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

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

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

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

**Report diseases by:**

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

Fax: (515)281-5698

Mail:

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

Isolates or specimens shall be sent to:

University State Hygienic Laboratory at the University of Iowa (SHL)  
102 Oakdale Campus, H101-OH  
Iowa City, Iowa 52242  
U of I Research Park  
2490 Crosspark Road  
Coralville, Iowa 52241-4721

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

## PUBLIC HEALTH DEPARTMENT[641](cont'd)

Diseases	When to Report	How to Report
Acquired immune deficiency syndrome (AIDS) and AIDS-defining conditions	7 days	<p><u>Report by mail</u> Report by one of the following methods: Phone (515)242-5141 or (515)281-6918 <u>Mail</u></p> <ul style="list-style-type: none"> <li>Health care providers: use the Pediatric or Adult Confidential Case Report Form</li> <li>Laboratories: send copy of lab report or the Iowa Confidential Report of Sexually Transmitted Disease &amp; HIV Infection. Mark envelope "Attention 03"</li> </ul> <p><b>For HIV/AIDS-related questions, call (515)242-5141</b></p>
Anthrax	1-day <b>Immediately</b>	Phone, IDSS, or fax 24/7 disease reporting telephone hotline: 1-800-362-2736
Arboviral disease (includes West Nile Disease, St. Louis, LaCrosse, WEE, EEE, VEE encephalitis)	3 days	Phone, IDSS, fax or mail
Botulism (including infant botulism)	<b>Immediately</b>	24/7 disease reporting telephone hotline: 1-800-362-2736
Brucellosis (Brucella)	3 days	Phone, IDSS, fax or mail
Campylobacteriosis (Campylobacter)	3 days	Phone, IDSS, fax or mail
Chlamydia	3 days	<p>Use the Iowa Confidential Report of Sexually Transmitted Disease and HIV Infection Report by one of the following methods: <u>Secure electronic data system (as determined by the Department)</u> Fax (515)725-1278 Phone (515)281-3031 <u>Mail</u></p> <ul style="list-style-type: none"> <li>Use the Iowa Confidential Report of Sexually Transmitted Disease</li> <li>Mark envelope "Attention 00"</li> </ul>
Cholera	<b>Immediately</b>	24/7 disease reporting telephone hotline: 1-800-362-2736
Cryptosporidiosis	3 days	Phone, IDSS, fax or mail
Cyclospora	3 days	Phone, IDSS, fax or mail
Diphtheria	<b>Immediately</b>	24/7 disease reporting telephone hotline: 1-800-362-2736
<del>Enterococcus invasive disease</del>	3 days	<del>Laboratories send isolate to the UHL</del>
Escherichia coli shiga toxin-producing and related diseases (includes HUS and TTP)	3 days	Phone, IDSS, fax or mail Laboratories send isolate <u>or specimen</u> to the <del>UHL</del> <u>SHL</u>
Giardiasis (Giardia)	3 days	Phone, IDSS, fax or mail
Gonorrhea	3 days	<p>Use the Iowa Confidential Report of Sexually Transmitted Disease and HIV Infection Report by one of the following methods: <u>Secure electronic data system (as determined by the Department)</u> Fax (515)725-1278 Phone (515)281-3031 <u>Mail</u></p> <ul style="list-style-type: none"> <li>Use the Iowa Confidential Report of Sexually Transmitted Disease</li> <li>Mark envelope "Attention 00"</li> </ul>

## PUBLIC HEALTH DEPARTMENT[641](cont'd)

Diseases	When to Report	How to Report
Group A <del>Streptococcus</del> <u>invasive disease</u>	3 days	<del>Send isolate to the UHL</del>
Haemophilus <del>influenza</del> <u>influenzae</u> type B invasive disease	<b>Immediately</b>	24/7 disease reporting telephone hotline: 1-800-362-2736 <del>Laboratories send isolate or specimen to the UHL SHL</del>
Hansen's disease (leprosy)	3 days	Phone, IDSS, fax or mail
Hantavirus syndromes	3 days	Phone, IDSS, fax or mail
Hepatitis A	1 day	Phone, IDSS or fax
Hepatitis B, C, D, E	3 days	Phone, IDSS, fax or mail
Human immunodeficiency virus (HIV) cases  Death of a person with HIV  Perinatally exposed newborn and child (newborn and child who was born to an HIV-infected mother)	7 days	<del>Report by mail</del> Report by one of the following methods: Phone (515)242-5141 or (515)281-6918 Mail <ul style="list-style-type: none"> <li>• Health care providers: use the Pediatric or Adult Confidential Case Report Form</li> <li>• Laboratories: send copy of lab report or the Iowa Confidential Report of Sexually Transmitted Disease &amp; HIV Infection. Mark envelope "Attention 03"</li> </ul> <b>For HIV/AIDS-related questions, call (515)242-5141</b>
Legionellosis (Legionella)	3 days	Phone, IDSS, fax or mail
Listeria monocytogenes invasive disease	1 day	Phone, IDSS, or fax <del>Laboratories send isolate or specimen to the UHL SHL</del>
<del>Lyme disease</del>	<del>3 days</del>	<del>Phone, IDSS, fax or mail</del>
Malaria	3 days	Phone, IDSS, fax or mail
Measles (rubeola)	<b>Immediately</b>	24/7 disease reporting telephone hotline: 1-800-362-2736
Meningococcal invasive disease	<b>Immediately</b>	24/7 disease reporting telephone hotline: 1-800-362-2736 <del>Laboratories send isolate or specimen to the UHL SHL</del>
<u>Mosquito-borne diseases (includes chikungunya, dengue, eastern equine encephalitis, La Crosse, St. Louis, Venezuelan equine encephalitis, West Nile, and western equine encephalitis)</u>	<u>3 days</u>	<u>Phone, IDSS, fax or mail</u>
Mumps	3 days	Phone, IDSS, fax or mail
Pertussis	3 days	Phone, IDSS, fax or mail
Plague	<b>Immediately</b>	24/7 disease reporting telephone hotline: 1-800-362-2736
Poliomyelitis	<b>Immediately</b>	24/7 disease reporting telephone hotline: 1-800-362-2736
Psittacosis	3 days	Phone, IDSS, fax or mail
<u>Q fever</u>	<u>3 days</u>	<u>Phone, IDSS, fax or mail</u>
Rabies, animal	3 days	Phone, IDSS, fax or mail
Rabies, human	<b>Immediately</b>	24/7 disease reporting telephone hotline: 1-800-362-2736
<del>Rocky Mountain spotted fever</del>	<del>3 days</del>	<del>Phone, IDSS, fax or mail</del>
Rubella (including congenital)	1 day	Phone, IDSS, <u>or fax or mail</u>



## PUBLIC HEALTH DEPARTMENT[641](cont'd)

<b>Diseases</b>	<b>When to Report</b>	<b>How to Report</b>
Salmonellosis (Salmonella)	3 days	Phone, IDSS, fax or mail Laboratories send isolate <u>or specimen</u> to the <del>UHL</del> <u>SHL</u>
Severe acute respiratory syndrome (SARS)	<b>Immediately</b>	24/7 disease reporting telephone hotline: <u>1-800-362-2736</u>
Shigellosis (Shigella)	3 days	Phone, IDSS, fax or mail Laboratories send isolate <u>or specimen</u> to the <del>UHL</del> <u>SHL</u>
Smallpox	<b>Immediately</b>	24/7 disease reporting telephone hotline: <u>1-800-362-2736</u>
<del>Staphylococcus aureus invasive disease: Methicillin-resistant invasive disease (number of S. aureus isolates should be reported to the department quarterly)</del>	<del>3 days</del>	<del>Laboratories send isolate to the UHL Mail the number of staphylococcus isolated quarterly to UHL</del>
<u>Vancomycin-resistant S. aureus</u>	<b>Immediately</b>	24/7 disease reporting telephone hotline: <u>800-362-2736</u>
<u>Streptococcus pneumoniae invasive disease</u>	3 days	Laboratories send isolate to the UHL
Syphilis	3 days	Use the Iowa Confidential Report of Sexually Transmitted Disease and HIV Infection Report by one of the following methods: <u>Secure electronic data system (as determined by the Department)</u> <u>Fax (515)725-1278</u> <u>Phone (515)281-3031</u> <u>Mail</u> <ul style="list-style-type: none"> <li>• <u>Use the Iowa Confidential Report of Sexually Transmitted Disease</u></li> <li>• <u>Mark envelope "Attention 00"</u></li> </ul>
Tetanus	3 days	Phone, IDSS, fax or mail
<u>Tickborne diseases (includes anaplasmosis, babesiosis, ehrlichiosis, Lyme disease, and Rocky Mountain spotted fever)</u>	3 days	<u>Phone, IDSS, fax or mail</u>
<u>Toxic Shock Syndrome</u>	3 days	<u>Phone, IDSS, fax or mail</u>
<u>Trichinosis</u>	3 days	<u>Phone, IDSS, fax or mail</u>
<u>Tuberculosis, pulmonary and laryngeal (infectious)</u>	1 day	<u>Phone (515)281-7504 or fax to (515)281-4570</u>
<u>Tuberculosis, extrapulmonary</u>	3 days	<u>Phone, IDSS, (515)281-7504 or fax or mail to (515)281-4570</u>
<u>Tularemia</u>	3 days	<u>Phone, IDSS or fax</u>
<u>Typhoid fever</u>	1 day	<u>Phone, IDSS or fax</u>
<u>Vancomycin intermediate Staphylococcus aureus (VISA) and vancomycin-resistant Staphylococcus aureus (VRSA)</u>	1 day	<u>Phone, IDSS or fax</u>
<u>Viral hemorrhagic fever (VHF) (e.g., Lassa, Marburg, Ebola, and Crimean-Congo)</u>	<b>Immediately</b>	24/7 disease reporting telephone hotline: <u>1-800-362-2736</u>
<u>Yellow fever</u>	<b>Immediately</b>	24/7 disease reporting telephone hotline: <u>1-800-362-2736</u>

PUBLIC HEALTH DEPARTMENT[641](cont'd)

ITEM 16. Amend 641—Chapter 1, Appendix B, as follows:

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

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

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

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

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

**Mailing address:**

**Bureau of ~~Lead Poisoning Prevention Division of Environmental Health Services~~**  
**Iowa Department of Public Health**  
**321 East 12th Street**  
**Des Moines, Iowa 50319-0075**

**Telephone: 1-800-972-2026**

**Fax: (515)281-4529**

Poisoning or Condition	Cases to Report	When to Report	How to Report
Arsenic poisoning	Blood arsenic values equal to or greater than 70 µg/L Urine arsenic values equal to or greater than 100 µg/g of creatinine	Weekly	Format specified by department. Web-based reporting if available. Alternatives include by mail, telephone, and facsimile.
Blood lead testing	All analytical results greater than or equal to 20 micrograms per deciliter (µg/dL) in a child under the age of 6 years or a pregnant woman	Daily	By telephone: <u>1-800-972-2026</u>
	All other analytical values for all blood lead analyses	Weekly	Electronic format specified by the department

## PUBLIC HEALTH DEPARTMENT[641](cont'd)

Poisoning or Condition	Cases to Report	When to Report	How to Report
Cadmium poisoning	Blood cadmium values equal to or greater than 5 µg/L Urine cadmium values equal to or greater than 3 µg/g of creatinine	Weekly	Format specified by department. Web-based reporting if available. Alternatives include by mail, telephone, and facsimile.
Carbon monoxide (CO) poisoning	Blood carbon monoxide level equal to or greater than 10% carboxyhemoglobin or its equivalent with a breath analyzer test, or a clinical diagnosis of CO poisoning regardless of any test results	Daily	By telephone: <u>1-800-972-2026</u>
Hypersensitivity pneumonitis	All cases	Weekly	Format specified by department. Web-based reporting if available. Alternatives include by mail, telephone, and facsimile.
Mercury poisoning	Blood mercury values equal to or greater than 2.8 µg/dL Urine mercury values equal to or greater than 20 µg/L	Weekly	Format specified by department. Web-based reporting if available. Alternatives include by mail, telephone, and facsimile.
Methemoglobinemia	Blood analyses showing greater than 5% of total hemoglobin present as methemoglobin	Weekly	Format specified by department. Web-based reporting if available. Alternatives include by mail, telephone, and facsimile.
<u>Microcystin toxin poisoning</u>	<u>All cases</u>	<u>Weekly</u>	<u>Format specified by department. Web-based reporting if available. Alternatives include by mail, telephone, and facsimile.</u>
Noncommunicable respiratory illness	All cases	Weekly	Format specified by department. Web-based reporting if available. Alternatives include by mail, telephone, and facsimile.
Occupationally related asthma, bronchitis or respiratory hypersensitivity reaction	All cases	Weekly	Format specified by department. Web-based reporting if available. Alternatives include by mail, telephone, and facsimile.
Pesticide poisoning (including pesticide-related contact dermatitis)	All cases	Weekly	Format specified by department. Web-based reporting if available. Alternatives include by mail, telephone, and facsimile.
Severe skin disorder	All cases	Weekly	Format specified by department. Web-based reporting if available. Alternatives include by mail, telephone, and facsimile.
Toxic hepatitis	All cases	Weekly	Format specified by department. Web-based reporting if available. Alternatives include by mail, telephone, and facsimile.

[Filed 11/17/15, effective 1/13/16]

[Published 12/9/15]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 12/9/15.

**ARC 2290C****PUBLIC HEALTH DEPARTMENT[641]****Adopted and Filed**

Pursuant to the authority of Iowa Code section 135.131, the Department of Public Health hereby amends Chapter 3, “Early Hearing Detection and Intervention,” Iowa Administrative Code.

This chapter contains rules for the universal hearing screening of all newborns and infants in Iowa and the transfer of data to the Department to enhance the capacity of agencies and practitioners to provide services to children and their families. The goal of universal hearing screening of all newborns and infants in Iowa is early detection of hearing loss to allow children and their families the earliest opportunity to obtain appropriate early intervention services.

These amendments further define roles and responsibilities of the Department and providers for infants who did not receive a newborn hearing screening or did not pass their hearing screening and require follow-up; clarify who is eligible to perform hearing screens on infants and children under the age of three; add language to accommodate parental objection beyond the newborn hearing screening if an infant does not pass the hearing screening at birth; update Iowa Code citations; and outline the role of the Early Hearing Detection and Intervention (EHDI) Advisory Committee members, including service, attendance and voting. The changes facilitate timely follow up for infants in need of a hearing screening, rescreening or diagnostic assessment and help avoid unnecessary contact with parents and providers. The proposed changes also allow the Iowa EHDI program to monitor the quality of care and assist the Department in providing recommendations for improving care. These amendments further define the composition and role of the EHDI Advisory Committee and bring language into alignment with Iowa Code chapter 17A to offer better transparency in the operations of the Committee. All amendments have been reviewed by and input gathered from the EHDI Advisory Committee members.

Notice of Intended Action was published in the Iowa Administrative Bulletin on August 5, 2015, as **ARC 2082C**. A public hearing was held on August 26, 2015. No comments were received. The adopted amendments are identical to those published under Notice.

The State Board of Health adopted these amendments on November 12, 2015.

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

These amendments are intended to implement Iowa Code section 135.131.

These amendments will become effective on January 13, 2016.

The following amendments are adopted.

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

**EARLY HEARING DETECTION AND INTERVENTION (EHDI) PROGRAM**

ITEM 2. Adopt the following **new** definitions in rule **641—3.1(135)**:

“*Audiology assistant*” means a person who works under the supervision of an Iowa-licensed speech pathologist or audiologist, does not meet the requirements to be licensed as a speech pathologist or audiologist, and meets the minimum requirements set forth in 645—Chapter 300.

“*Audiometrist*” means a technician who has received special training in the use of pure-tone audiometry equipment. An audiometrist conducts the hearing tests selected and interpreted by an audiologist, who supervises the process.

“*Health care professional*” means a licensed physician, nurse practitioner, physician assistant, certified midwife, registered nurse, licensed practical nurse, patient care technician, certified nursing assistant, licensed audiologist, audiology assistant, audiometrist, hearing aid specialist, speech-language pathologist or other licensed or certified professional for whom hearing screening is within the professional’s scope of practice.

“*Primary care provider*” means a licensed physician, nurse practitioner, physician assistant or certified midwife who undertakes primary pediatric care responsibility for an infant or child to provide ongoing medical care and referrals to promote overall health and well-being.

PUBLIC HEALTH DEPARTMENT[641](cont'd)

ITEM 3. Amend rule **641—3.1(135)**, definitions of “Discharge,” “Initial screening,” “Protocol” and “Provider,” as follows:

“*Discharge*” means a release from a birthing hospital to the parent or legal guardian of the child.

“*Initial screening*” or “*newborn hearing screening*” means a ~~newborn hearing~~ screening performed ~~during the birth admission for an infant born~~ in a birthing hospital, birth center or ~~the first newborn hearing screening performed on a newborn born in a facility other than a birthing hospital within the first month of life.~~

“*Protocol*” means a document which guides decision making and provides the criteria to be used regarding screening, diagnosis, management, and treatment of children related to hearing health care. Early hearing detection and intervention protocols not otherwise specified in this chapter are available on the department’s Web site at <http://www.idph.state.ia.us/iaehdi/professionals.asp> [www.idph.iowa.gov](http://www.idph.iowa.gov).

“*Provider*” means a licensed audiologist, otolaryngologist or hearing aid ~~dispenser~~ specialist who agrees to provide hearing aids or audiologic services to eligible patients.

ITEM 4. Amend rule 641—3.2(135) as follows:

**641—3.2(135) Purpose.** The overall purpose of this chapter is to establish administrative rules in accordance with Iowa Code section 135.131 ~~as amended by 2009 Iowa Acts, House File 314, division H,~~ relative to the following:

1. Universal hearing screening of all newborns and infants in Iowa.
2. Facilitating the transfer of data to the department to enhance the capacity of agencies and practitioners to provide services to children and their families.
3. Establishing procedures for infants who were not screened or do not pass their initial hearing screening to receive appropriate follow-up to determine if the infants have normal hearing or have hearing loss.
- ~~3.~~ 4. Establishing the procedure for distribution of funds to support the purchase of hearing aids and audiologic services for children ~~in accordance with 2009 Iowa Acts, House File 811, section 60(2)“e.”.~~

ITEM 5. Amend subrule 3.4(1) as follows:

**3.4(1)** ~~The early hearing detection and intervention (EHDI) coordinator assigned within the department provides administrative oversight to, including follow-up activities, for the early hearing detection and intervention~~ EHDI program within Iowa.

ITEM 6. Rescind paragraphs **3.4(2)“a”** and **“b.”**

ITEM 7. Amend subrule 3.4(3) as follows:

**3.4(3)** ~~The early hearing detection and intervention~~ EHDI program has an association with the Iowa Title V maternal and child health programs to promote comprehensive services for infants and children with special health care needs.

ITEM 8. Adopt the following **new** subrule 3.4(4):

**3.4(4)** The EHDI program provides hearing screening surveillance and follow-up for infants and children under the age of three. Follow-up may include:

- a. Contact with the parent or legal guardian of an infant who was not screened or does not pass the initial hearing screening, outpatient hearing screening or diagnostic audiologic assessment.
- b. Contact with the infant’s primary care provider to ensure the infant receives appropriate follow-up no later than the recommended time line as outlined in the Joint Committee on Infant Hearing position statement at [www.jcih.org](http://www.jcih.org).
- c. Contact with the birthing hospital or health care professional for inquiries on missing results, data entry discrepancies and recommendations for additional referrals.
- d. Referrals to family support or early intervention service providers for infants or toddlers diagnosed with a hearing loss.
- e. Technical assistance to birthing facilities, primary care providers and health care professionals regarding best practices related to newborn hearing screening, diagnosis and follow-up best practices.

## PUBLIC HEALTH DEPARTMENT[641](cont'd)

ITEM 9. Amend subrule 3.6(1) as follows:

**3.6(1)** Each birthing hospital shall designate an employee of the hospital to be responsible for the newborn hearing screening program in that institution. If a birthing hospital contracts with a third party for newborn screening services, the hospital retains ultimate responsibility for screening and reporting.

ITEM 10. Amend subrules 3.6(4) to 3.6(7) as follows:

**3.6(4)** Newborn hearing screening shall be performed by ~~an audiologist, audiology assistant, audiometrist, registered nurse, licensed physician, or other person for whom newborn hearing screening is within the person's scope of practice~~ a health care professional.

**3.6(5)** The birthing hospital shall report newborn hearing screening results to the parent or guardian in written form.

**3.6(6)** The birthing hospital shall report newborn hearing screening results to the department ~~in a manner prescribed in~~ pursuant to 641—3.9(135).

**3.6(7)** The birthing hospital shall report the results of the hearing screening to the primary care provider of the newborn or infant upon the newborn's or infant's discharge from the birthing hospital. If the newborn or infant was not tested prior to discharge, the birthing hospital shall report the status of the hearing screening to the primary care provider of the newborn or infant.

ITEM 11. Amend subrules 3.7(2) to 3.7(5) as follows:

**3.7(2)** Prior to discharge of the newborn, each birth center shall refer every newborn delivered in the birth center to ~~an audiologist, physician, or hospital~~ a health care professional for a newborn hearing screening. Before discharge of the newborn, the birth center shall arrange an appointment for the newborn hearing screening no more than 15 days from the date of discharge and report the appointment time, date and location to the parent ~~the appointment time, date, and location.~~

**3.7(3)** The facility health care professional to which whom the newborn is referred for screening shall complete the screening within 30 days of the newborn's discharge from the birth center, unless the parent fails to attend the appointment. If the parent fails to attend the appointment, the facility health care professional shall document such failure in the medical or educational record and shall report such failure to the department.

**3.7(4)** The ~~person~~ health care professional who completes the newborn hearing screening shall report screening results to the parent in written form.

**3.7(5)** The ~~person~~ health care professional who completes the newborn hearing screening shall report screening results to the department ~~in the manner prescribed in~~ pursuant to 641—3.9(135).

ITEM 12. Renumber subrule **3.7(6)** as **3.7(7)**.

ITEM 13. Adopt the following new subrule 3.7(6):

**3.7(6)** The health care professional who completes the newborn hearing screening shall report the results of the hearing screening to the primary care provider of the newborn or infant.

ITEM 14. Amend subrules 3.8(1) to 3.8(3) as follows:

**3.8(1)** ~~A physician or other health care professional~~ The primary care provider who undertakes primary pediatric care of a newborn delivered in a location other than a birthing hospital or birth center shall refer the newborn to ~~an audiologist, physician, or hospital~~ a health care professional for completion of the newborn hearing screening within three months of the newborn's birth no later than one month of age. The health care professional ~~who undertakes primary pediatric care of the newborn~~ shall arrange an appointment for the newborn hearing screening and report to the parent the appointment time, date, and location.

**3.8(2)** The ~~person~~ health care professional who completes the newborn hearing screening shall report screening results to the parent in written form.

**3.8(3)** The ~~person~~ health care professional who completes the newborn hearing screening shall report screening results to the department ~~in the manner prescribed in~~ pursuant to 641—3.9(135). If the parent fails to attend the appointment, the facility shall document such failure in the medical or educational record and shall report such failure to the department.

## PUBLIC HEALTH DEPARTMENT[641](cont'd)

ITEM 15. Renumber subrule **3.8(4)** as **3.8(5)**.

ITEM 16. Adopt the following **new** subrule 3.8(4):

**3.8(4)** The health care professional who completes the newborn hearing screening shall report the results of the hearing screening to the primary care provider of the newborn or infant.

ITEM 17. Amend rule 641—3.9(135), introductory paragraph, as follows:

**641—3.9(135) Reporting hearing screening results and information to the department and child's primary care provider.** Any birthing hospital, birth center, physician, audiologist or other health care professional required to report information pursuant to Iowa Code section 135.131 ~~as amended by 2009 Iowa Acts, House File 314, division II,~~ shall report all of the following information to the department relating to each newborn's hearing screening within six working days of the birth of the newborn and within six working days of any hearing rescreen, utilizing the department's designated reporting system.

ITEM 18. Amend subrules 3.9(1) and 3.9(6) as follows:

**3.9(1)** The name ~~and~~, date of birth, and gender of the newborn.

**3.9(6)** Known risk indicators for hearing loss of the ~~newborn or infant~~ or child.

ITEM 19. Adopt the following **new** subrules 3.9(7) and 3.9(8):

**3.9(7)** If the parent fails to attend the appointment, the facility shall document such failure in the medical or educational record and shall report such failure to the department.

**3.9(8)** The person who completes the newborn hearing screening shall report the results of the hearing screening to the primary care provider of the infant or child.

ITEM 20. Amend rule 641—3.10(135), introductory paragraph, as follows:

**641—3.10(135) Conducting and reporting screening results and diagnostic audiologic assessments to the department and child's primary care provider.** Any ~~facility, licensed audiologist or~~ health care professional conducting newborn hearing screens, rescreens, or diagnostic audiologic assessments shall report the results within six working days for any child under three years of age to the department utilizing the department's designated reporting system. ~~The facility~~ health care professional shall conduct the diagnostic hearing assessment in accordance with the Pediatric Audiologic Diagnostic Protocol ~~contained at Appendix A~~ prescribed by the department at [www.idph.iowa.gov](http://www.idph.iowa.gov). Results of a hearing screen, rescreen or diagnostic audiologic assessment shall be reported as follows.

ITEM 21. Amend paragraph **3.10(1)“a”** as follows:

a. The name ~~and~~, date of birth, and gender of the child.

ITEM 22. Adopt the following **new** paragraphs **3.10(1)“e”** to **“g”**:

e. The date the child is fit with a hearing aid(s) or a cochlear implant(s), if applicable.

f. The date of referral to early intervention, if applicable.

g. The date of referral to family support, if applicable.

ITEM 23. Amend subrule 3.10(5) as follows:

**3.10(5)** Any diagnosis of hearing loss shall also be reported except for transient conductive hearing loss lasting for less than 90 days in the professional judgment of the practitioner. This exception will apply only if the child passed the initial hearing screening or rescreening or had a diagnostic assessment resulting in normal hearing for both ears.

ITEM 24. Adopt the following **new** subrule 3.10(7):

**3.10(7)** Any health care professional conducting newborn hearing screens, rescreens, or diagnostic audiologic assessments shall report the results to the primary care provider of the infant or child.

ITEM 25. Amend rule 641—3.11(135), introductory paragraph, as follows:

**641—3.11(135) Sharing of information and confidentiality.** Reports, records, and other information collected by or provided to the department relating to a child's newborn hearing screening, rescreen, ~~and~~

## PUBLIC HEALTH DEPARTMENT[641](cont'd)

diagnostic audiologic assessment, and early intervention enrollment are confidential records pursuant to Iowa Code section 22.7.

ITEM 26. Amend subrule 3.11(1) as follows:

**3.11(1)** Personnel of the department shall maintain the confidentiality of all information and records used in the review and analysis of newborn hearing screenings, rescreens, ~~and~~ diagnostic audiologic assessments, and early intervention enrollment, including information which is confidential under Iowa Code chapter 22 or any other provisions of state law.

ITEM 27. Amend paragraph **3.11(3)“c”** as follows:

c. A ~~local~~ health care professional or primary care provider.

ITEM 28. Amend subrules 3.13(1) and 3.13(2) as follows:

**3.13(1)** If a parent objects to the screening, the birthing hospital, birth center, physician, or other health care professional shall obtain a written refusal from the parent or guardian on the department newborn hearing screening or diagnostic assessment refusal form and shall maintain the original copy of the written refusal in the newborn's ~~or~~ infant's or child's medical record.

**3.13(2)** The birthing hospital, birth center, physician, or other health care professional shall send a copy of the written newborn hearing screening or diagnostic assessment refusal form to the department within six days of the birth of the newborn.

ITEM 29. Adopt the following new subrule 3.13(3):

**3.13(3)** If a parent objects to a hearing rescreen or diagnostic assessment orally to a department EHDI staff member during follow-up, the staff member shall document the refusal in the department's designated reporting system and mail to the parent or guardian the department newborn hearing screening or diagnostic assessment refusal form in an attempt to obtain a written refusal to be maintained in the newborn's, infant's or child's medical record.

ITEM 30. Adopt the following new rule 641—3.15(135):

**641—3.15(135) Early hearing detection and intervention advisory committee.**

**3.15(1) Membership.** The membership of the advisory committee shall be geographically representative of stakeholders with an interest in and concern for newborn hearing screening and follow-up. The advisory committee shall be appointed by the department director and consist of no more than 25 members and include the state EHDI coordinator. The EHDI coordinator will assist in facilitation of committee meetings. Membership will include a minimum of one representative from each of the following areas:

- a. Advocate (e.g., office of deaf services).
- b. Audiology.
- c. Children with special health care needs program.
- d. Deaf/hard-of-hearing community.
- e. Early intervention services.
- f. Ears, nose and throat specialist/otolaryngologists.
- g. Family support.
- h. Iowa Hospital Association or designee.
- i. Hospitals (preferably hearing screening coordinator).
- j. Parent(s) of deaf or hard-of-hearing child.
- k. Family practice physician.
- l. Pediatrician.
- m. Representation from a state agency that is not the department.

**3.15(2) Meetings.** The committee shall meet three times per year. Location and times will be prescribed by the department.

**3.15(3) Voting.** The committee will make its recommendations by consensus. In the event that consensus cannot be reached within a reasonable time frame, there will be a majority rule, as in a simple majority of those present or more than 50 percent. At least 50 percent of the members must be present.



## PUBLIC HEALTH DEPARTMENT[641](cont'd)

**3.15(4) Service, vacancies and attendance.**

a. Each committee member is appointed to serve a term of three years. Members may serve longer at the request of the department director unless their absence at meetings exceeds that permitted by the attendance policy. Terms for existing members will begin at the first of the year or as positions vacate. The term for a new member replacing a member before the member's term is up will begin when the vacancy is filled.

b. Vacancies will be filled within six months. The term will begin when the vacancy is filled. The EHDI coordinator will work with advisory committee members, EHDI program staff and associations to identify new members. Names and short biographies will be given to the department director to make a final determination for committee member vacancies.

c. Committee members are expected to be present in person for advisory committee meetings with the exception of extenuating circumstances that have been communicated to the state EHDI coordinator. Any member who cannot attend the scheduled meetings should notify the state EHDI coordinator at least 24 hours prior to the start of the regularly scheduled meeting. If there are extenuating circumstances and a member can send a representative, the member is encouraged to do so. Appointed members may be recommended for dismissal from the committee if the members miss more than two meetings per year.

ITEM 31. Amend subrule 3.18(2) as follows:

**3.18(2)** Funding does not pay for services ~~denied~~ covered by insurance ~~because the applicant received services outside the provider network.~~

ITEM 32. Amend paragraph **3.19(2)“g”** as follows:

g. Parent/guardian's or child's medical insurance plan ~~name~~ coverage.

ITEM 33. Amend paragraph **3.21(7)“a”** as follows:

a. ~~Health Care Financing Administration Form HCFA-1500~~ Centers for Medicare and Medicaid Services Form CMS 1500. Forms will be furnished by the providers and will include the applicant's enrollee number in the upper right-hand corner of the form.

ITEM 34. Rescind and reserve **641—Chapter 3, Appendix A**.

[Filed 11/17/15, effective 1/13/16]

[Published 12/9/15]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 12/9/15.

**ARC 2279C**

**PUBLIC HEALTH DEPARTMENT[641]**

**Adopted and Filed**

Pursuant to the authority of 2015 Iowa Acts, Senate File 510, section 97, the Department of Public Health hereby amends Chapter 15, “Swimming Pools and Spas,” Iowa Administrative Code.

These adopted amendments clarify the definition of residential swimming pool used for commercial purposes and correct the existing underwater lighting requirement.

Notice of Intended Action was published in the Iowa Administrative Bulletin as **ARC 2148C** on September 16, 2015. No comments were received. The adopted amendments are identical to those published under Notice.

The Department of Public Health adopted these amendments on November 12, 2015.

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

These amendments are intended to implement 2015 Iowa Acts, Senate File 510, and Iowa Code section 135I.4(3,5).

These amendments will become effective January 13, 2016.

The following amendments are adopted.

## PUBLIC HEALTH DEPARTMENT[641](cont'd)

ITEM 1. Amend subrule **15.3(1)**, definition of “Residential swimming pool,” as follows:

“*Residential swimming pool*” means any swimming pool that is used, or intended to be used, in connection with a single-family residence and that is available only to the family of the householder and the householder’s private guests. A residential swimming pool used for any commercial purpose, including, but not limited to, swimming lessons or exercise classes, shall comply with the requirements of 15.4(6)“n.” A residential swimming pool used for private swimming lessons for over 207 hours in a calendar month, or the number of hours prescribed by local ordinance applicable to such use of a residential swimming pool, whichever is greater, shall be considered a public swimming pool and shall be subject to all the requirements of this chapter. A residential swimming pool used for any other commercial purposes for more than 60 hours in a calendar month shall be considered a public swimming pool and shall be subject to all the requirements of this chapter.

ITEM 2. Amend subparagraph **15.5(13)“k”(1)** as follows:

(1) Underwater lighting of at least ~~60~~ 8 lamp lumens/ft<sup>2</sup> or 0.5 watts/ft<sup>2</sup> of water surface area, located to provide illumination of the entire swimming pool bottom, and area lighting of at least 10 lumens/ft<sup>2</sup> or 0.6 watts/ft<sup>2</sup> of deck area.

[Filed 11/16/15, effective 1/13/16]

[Published 12/9/15]

EDITOR’S NOTE: For replacement pages for IAC, see IAC Supplement 12/9/15.

**ARC 2275C**

**PUBLIC HEALTH DEPARTMENT[641]**

**Adopted and Filed**

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

The Iowa Department of Public Health, Bureau of Health Statistics, is continuing its effort to review and amend administrative rules to allow for processing through the electronic statewide vital records system and meet the needs of Department stakeholders.

These adopted amendments implement changes that have been made to Iowa Code chapter 144 in 2015 Iowa Acts, House File 662, to remove the requirement that a fee be charged for all searches of vital records when no record is found and no copy is issued and to allow county registrars access to all birth records available in the electronic vital records system.

Notice of Intended Action was published in the Iowa Administrative Bulletin as **ARC 2155C** on September 30, 2015. No public comments were received. The Department received comments from the Administrative Rules Review Committee that resulted in the following changes to the noticed amendments: In subrule 95.9(5) as revised, if a search is conducted and no record is on file, the state registrar or county registrar may retain the fee for the search. In subrule 95.9(6), clarification was added indicating the reasons why the state registrar could refuse an Affidavit of Non-Receipt and requiring the state registrar to provide written notice to the registrant of the reason and intention to refuse the Affidavit.

The Iowa Department of Public Health adopted these amendments on November 12, 2015.

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

These amendments are intended to implement Iowa Code chapter 144.

These amendments will become effective January 13, 2016.

The following amendments are adopted.

ITEM 1. Adopt the following **new** definitions in rule **641—95.1(144)**:

“*Competent and disinterested person*” means an individual of legal age who is acquainted with both applicants who plan to marry.

## PUBLIC HEALTH DEPARTMENT[641](cont'd)

“*Electronic access*” means authority given by the state registrar to a county registrar to access electronic vital records through the electronic statewide vital records system for purposes of retrieving information. The state registrar shall provide guidelines for electronic access and the retrieval of information from the electronic statewide vital records system.

“*Electronic statewide vital records system*” means the combined vital records system for registration of birth records, registration of death records, issuance of certified copies of vital records by the state registrar and county registrar, and fee accounting.

ITEM 2. Amend rule **641—95.1(144)**, definition of “Certified copy,” as follows:

“*Certified copy*” means an official copy of a registered vital record that is authenticated by the state registrar in whose jurisdiction the record is registered or county registrar. A certified copy contains a statement certifying the facts are true and accurate as recorded, is printed on security paper, and has authentication seals and signatures. A certified copy excludes all entries indicated as confidential or for statistical information.

ITEM 3. Amend subparagraph **95.6(1)“a”(3)** as follows:

(3) If, following a search, no record is found and no certified copy is printed, the \$20 fee ~~shall~~ may be retained. On and after July 1, 2019, this fee will revert to \$15.

ITEM 4. Adopt the following new subrule 95.6(9):

**95.6(9) Retention of applications and reports.** An application for a certified copy of a vital record in Iowa shall be retained by the county registrar for a minimum of six months from date of issuance of the certified copy. All financial reports for vital records fees shall be retained by the county registrar for a minimum of three calendar years.

ITEM 5. Amend subrule 95.7(2) as follows:

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

ITEM 6. Amend subrule 95.7(4) as follows:

**95.7(4)** County registrars may issue uncertified copies of vital records held in the registrars’ physical custody and or accessible to the general public through the electronic statewide vital records system, except those records excluded by statute or at the direction of the state registrar.

*a.* and *b.* No change.

ITEM 7. Amend subrules 95.7(7) to 95.7(9) as follows:

**95.7(7)** For records available in the electronic statewide vital records system, the state registrar shall send to the county registrars a list of all records that have been modified. County registrars shall, as directed by the state registrar, remove all forms of any vital record in their physical custody from the county vital records system if the vital record appears on the list of modified records. Records of births prior to July 1, 1995, that have been determined to be single parent births shall not be in the custody of the county registrar or accessible to the public. The county registrar shall allow the general public access to the electronic statewide vital records system to search as a public user as a right under Iowa Code chapter 22.

**95.7(8)** Records of births on and after July 1, 1995, that have been determined to be single parent births shall be accessible to the public as a right under Iowa Code chapter 22. For records not available in the electronic statewide vital records system, the state registrar shall send a copy of any modified vital record to the county of event and, if the record is a death record, to the county of residence.

**95.7(9)** For a record of death registered on or after April 5, 2012, for a decedent who died outside of the county of the decedent’s residence, the state registrar shall send a clearly marked copy of the decedent’s death certificate and any amendments to the county registrar of the county of the decedent’s residence. The county registrar shall incorporate the clearly marked copy of the county resident death certificate in the vital records system maintained by the county. Certified or uncertified copies of county resident death certificates shall be clearly marked as “county resident copy.”

## PUBLIC HEALTH DEPARTMENT[641](cont'd)

ITEM 8. Amend subrule 95.9(5) as follows:

**95.9(5)** If, after the search is conducted, no record is on file, and the state registrar or county registrar shall issue issues a “notification of record search” on certified paper, ~~and~~ the fee for the search ~~shall~~ may be retained pursuant to paragraph 95.6(1) “a.”

ITEM 9. Adopt the following new subrules 95.9(6) and 95.9(7):

**95.9(6)** If a certified copy of a vital record is issued and sent to the applicant using a mail service and the applicant does not receive the certified copy, the state registrar or the county registrar may replace the certified copy without an additional fee using an Affidavit of Non-Receipt. The applicant must contact the issuing registrar within 90 days of the date of request. A minimum of 30 days must have elapsed from the time the certified copy was mailed. The applicant shall read the instructions, complete the Affidavit of Non-Receipt and have the applicant’s signature notarized. The original Affidavit of Non-Receipt and a photocopy of the applicant’s driver’s license must be reviewed by the issuing registrar before the certified copy can be replaced for no additional fee. The state registrar or county registrar may refuse any Affidavit of Non-Receipt when the state registrar or county registrar determines proof of receipt, fraud or misrepresentation. The state registrar shall give to the registrant a notice in writing of the state registrar’s reason and intention to refuse the Affidavit of Non-Receipt.

**95.9(7)** If printed from the electronic statewide vital records system by a county registrar, the certified copy of a vital record shall be stamped by the issuing county registrar to reflect the county in which the certified copy was issued.

ITEM 10. Rescind paragraph **95.11(1)“b”**

ITEM 11. Reletter paragraph **95.11(1)“c”** as **95.11(1)“b.”**

ITEM 12. Amend subrule 95.12(2) as follows:

**95.12(2)** Confidential verifications of the facts contained in vital records may be furnished by the state registrar to any federal, state, county or municipal government agency or other entity in the conduct of the agency’s or entity’s official duties, subject to conditions the state registrar may impose to ensure that the verification is limited to official purposes. Confidential verification of the facts contained in vital records may be furnished by a county registrar to another county office, within the county jurisdiction, in the conduct of the county’s official duties, subject to conditions the state and county registrar may impose to ensure that the verification is limited to official purposes.

*a. and b.* No change.

ITEM 13. Amend **641—Chapter 95**, implementation sentence, as follows:

These rules are intended to implement Iowa Code chapter 144 as amended by 2015 Iowa Acts, House File 662.

[Filed 11/16/15, effective 1/13/16]

[Published 12/9/15]

EDITOR’S NOTE: For replacement pages for IAC, see IAC Supplement 12/9/15.

**ARC 2276C**

**PUBLIC HEALTH DEPARTMENT[641]**

**Adopted and Filed**

Pursuant to the authority of Iowa Code section 144.3, the Department of Public Health hereby amends Chapter 97, “Death Registration and Disposition Of Dead Human Bodies,” Iowa Administrative Code.

The amendments reflect changes that have been made to Iowa Code chapter 144 that require the use of the electronic statewide vital records system for the registration of death records. The amendments give medical certifiers access for up to one year from the date of death to view a death record using the electronic statewide vital records system. The amendments also incorporate fetal death certificates into the electronic statewide vital records system.

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Notice of Intended Action was published in the Iowa Administrative Bulletin as **ARC 2156C** on September 30, 2015. No public comments were received. These amendments are identical to those published under Notice.

The Iowa Department of Public Health adopted these amendments on November 12, 2015.

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

These amendments are intended to implement Iowa Code sections 135.11(7), 144.12, 144.16 to 144.18, 144.26 to 144.29, 144.30 to 144.35, 144.47, 144.49 to 144.51, 144C.5, 331.802(3) and 633.517 to 633.520.

These amendments will become effective January 13, 2016.

The following amendments are adopted.

ITEM 1. Amend paragraph **97.5(1)“c”** as follows:

c. Within three days after the death and prior to final disposition of the dead human body, file the completed certificate of death ~~in the county where the death occurred~~ using the electronic statewide vital records system or, within three days after delivery and prior to disposition of the fetus, file the completed certificate of fetal death with the state registrar.

ITEM 2. Amend subrule 97.5(2) as follows:

**97.5(2)** The funeral director or person other than the funeral director who first assumes custody of the dead human body ~~or fetus~~ for the purposes of disposition shall prepare the certificate of death ~~or fetal death on the official paper issued by the state registrar by one of the following means:~~ using the electronic statewide vital records system.

- a. ~~Use of a typewriter with dark blue or black ribbon to complete the standard certificate form;~~
- b. ~~Use of a funeral director's computer program to complete the form that has been preapproved by the state registrar pursuant to subrules 97.3(4) and 97.4(6);~~
- c. ~~Use of an electronic form prescribed by the state registrar; or~~
- d. ~~As directed by the state registrar.~~

ITEM 3. Renumber subrule **97.5(3)** as **97.5(4)**.

ITEM 4. Adopt the following **new** subrule 97.5(3):

**97.5(3)** The funeral director or person other than the funeral director who first assumes custody of the dead fetus for the purposes of disposition shall prepare the certificate of fetal death on the official paper issued by the state registrar by one of the following means:

- a. Use of a typewriter with dark blue or black ribbon to complete the standard certificate form;
- b. Use of a funeral director's computer program to complete the form that has been preapproved by the state registrar pursuant to subrules 97.3(4) and 97.4(6);
- c. Use of an electronic form prescribed by the state registrar; or
- d. As directed by the state registrar.

ITEM 5. Amend renumbered subrule 97.5(4) as follows:

**97.5(4)** Unless otherwise directed by the state registrar, a certificate of ~~death or~~ fetal death shall be accepted for filing and registration only when:

- a. to g. No change.

ITEM 6. Adopt the following **new** subrule 97.8(4):

**97.8(4)** The medical certifier who signs the medical certification on a certificate of death shall be entitled to view the death record through the electronic statewide vital records system for up to one year from the date of death.

[Filed 11/16/15, effective 1/13/16]

[Published 12/9/15]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 12/9/15.

**ARC 2277C****PUBLIC HEALTH DEPARTMENT[641]****Adopted and Filed**

Pursuant to the authority of Iowa Code section 147A.4, the Department of Public Health hereby amends Chapter 131, “Emergency Medical Services—Provider Education/Training/Certification,” Iowa Administrative Code.

The rules in Chapter 131 describe the standards for the education, training, and certification of emergency medical providers and establish a standard of conduct for training programs, students, and providers. This adopted amendment updates the reference to the Iowa Emergency Medical Care Provider Scope of Practice document to the most recent edition, April 2015.

Notice of Intended Action was published in the Iowa Administrative Bulletin as **ARC 2150C** on September 16, 2015. No public comments were received. This amendment is identical to the one published under Notice.

The Iowa Department of Public Health adopted this amendment on November 12, 2015.

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

This amendment is intended to implement Iowa Code section 147A.4.

This amendment will become effective January 13, 2016.

The following amendment is adopted.

Amend paragraph **131.3(3)“b”** as follows:

*b.* Scope of Practice for Iowa EMS Providers (April ~~2013~~ 2015) is hereby incorporated and adopted by reference for emergency medical care providers. For any differences that may occur between the Scope of Practice adopted by reference and these administrative rules, the administrative rules shall prevail.

[Filed 11/16/15, effective 1/13/16]

[Published 12/9/15]

EDITOR’S NOTE: For replacement pages for IAC, see IAC Supplement 12/9/15.

**ARC 2278C****PUBLIC HEALTH DEPARTMENT[641]****Adopted and Filed**

Pursuant to the authority of Iowa Code section 147A.4, the Department of Public Health hereby amends Chapter 132, “Emergency Medical Services—Service Program Authorization,” Iowa Administrative Code.

The rules in Chapter 132 describe the standards for the authorization of EMS services. This adopted amendment updates the reference to the Iowa Emergency Medical Care Provider Scope of Practice document to the most recent edition, April 2015.

Notice of Intended Action was published in the Iowa Administrative Bulletin as **ARC 2149C** on September 16, 2015. No public comments were received. This amendment is identical to the one published under Notice.

The Iowa Department of Public Health adopted this amendment on November 12, 2015.

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

This amendment is intended to implement Iowa Code section 147A.4.

This amendment will become effective January 13, 2016.

The following amendment is adopted.

Amend paragraph **132.2(4)“b”** as follows:

*b.* Scope of Practice for Iowa EMS Providers (April ~~2013~~ 2015) is hereby incorporated and adopted by reference for emergency medical care providers. For any differences that may occur

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between the Scope of Practice adopted by reference and these administrative rules, the administrative rules shall prevail.

[Filed 11/16/15, effective 1/13/16]

[Published 12/9/15]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 12/9/15.

**ARC 2280C**

**PUBLIC HEALTH DEPARTMENT[641]**

**Adopted and Filed**

Pursuant to the authority of Iowa Code section 144D.2, the Department of Public Health hereby adopts new Chapter 145, "Iowa Physician Orders for Scope of Treatment," Iowa Administrative Code.

These rules specify the characteristics of the physician orders for scope of treatment (POST) form and specify who can complete the POST form. These rules also establish the process for the review, modification, and posting of the POST form.

Notice of Intended Action was published in the Iowa Administrative Bulletin as **ARC 2084C** on August 5, 2015.

One comment was received from the Bioethics Center at Loras College. The POST form used in the pilot project currently contains all of the required components included in Iowa Code section 144D.2 and, therefore, has not been changed.

A second comment was received from the Iowa Catholic Conference. The comment indicated no requirement for public comment was included before modifications were made to the POST form. A task force was added to subrule 145.3(3) to receive input from interested parties.

The State Board adopted these rules on November 12, 2015.

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

These rules are intended to implement Iowa Code section 144D.2.

These rules will become effective January 13, 2016.

The following amendment is adopted.

Adopt the following **new** 641—Chapter 145:

CHAPTER 145

IOWA PHYSICIAN ORDERS FOR SCOPE OF TREATMENT

**641—145.1(144D) Definitions.** For the purpose of these rules, the following definitions shall apply:

*"Advanced registered nurse practitioner"* means an advanced registered nurse practitioner licensed pursuant to Iowa Code chapter 152 or 152E.

*"Department"* means the department of public health.

*"Director"* means the director of the department of public health.

*"Emergency medical care provider"* means emergency medical care provider as defined in Iowa Code section 147A.1.

*"Health care facility"* means health care facility as defined in Iowa Code section 135C.1, a hospice program as defined in Iowa Code section 135J.1, an elder group home as defined in Iowa Code section 231B.1, and an assisted living program as defined in Iowa Code section 231C.2.

*"Health care provider"* means an individual, including an emergency medical care provider and an individual providing home- and community-based services, and including a home health agency, licensed, certified, or otherwise authorized or permitted by the law of this state to administer health care in the ordinary course of business or in the practice of a profession.

*"Home health agency"* means home health agency as defined in 42 CFR Part 484.

*"Hospital"* means hospital as defined in Iowa Code section 135B.1.

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*“Legal representative”* means an individual authorized to execute a POST form on behalf of a patient who is not competent to do so, in the order of priority set out in Iowa Code section 144A.7, subsection 1, and guided by the express or implied intentions of the patient or, if such intentions are unknown, by the patient’s best interests given the patient’s overall medical condition and prognosis.

*“Patient”* means an individual who is frail and elderly or who has a chronic, critical medical condition or a terminal illness and for which a physician orders for scope of treatment is consistent with the individual’s goals of care.

*“Physician”* means a person licensed to practice medicine and surgery or osteopathic medicine and surgery in this state.

*“Physician assistant”* means a person licensed as a physician assistant under Iowa Code chapter 148C.

*“Physician orders for scope of treatment form”* or *“POST form”* means a document containing medical orders which may be relied upon across medical settings that consolidates and summarizes a patient’s preferences for life-sustaining treatments and interventions and acts as a complement to and does not supersede any valid advance directive.

**641—145.2(144D) Purpose.** The purpose of this chapter is to establish the process for the development, review, modification, and posting of the POST form.

**641—145.3(144D) Responsibilities of the department.**

**145.3(1)** The department shall prescribe the uniform POST form and shall post the form on the department’s Web site [www.idph.iowa.gov](http://www.idph.iowa.gov) for public availability.

**145.3(2)** The POST form shall be a uniform form based upon the national physician orders for life-sustaining treatment (POLST) paradigm form. The form shall have all of the following characteristics:

- a. The form shall include the patient’s name and date of birth.
- b. The form shall be signed and dated by the patient or the patient’s legal representative.
- c. The form shall be signed and dated by the patient’s physician, advanced registered nurse practitioner, or physician assistant.
- d. If preparation of the form was facilitated by an individual other than the patient’s physician, advanced registered nurse practitioner, or physician assistant, the facilitator shall also sign and date the form.
- e. The form shall include the patient’s wishes regarding the care of the patient, including but not limited to all of the following:
  - (1) The administration of cardiopulmonary resuscitation.
  - (2) The level of medical interventions in the event of a medical emergency.
  - (3) The use of medically administered nutrition by tube.
  - (4) The rationale for the orders.
- f. The form shall be easily distinguishable to facilitate recognition by health care providers, hospitals, and health care facilities.
- g. An incomplete section on the form shall imply the patient’s wishes for full treatment for the type of treatment addressed in that section.

**145.3(3)** The POST form shall be reviewed by the department on an annual basis and may be reviewed more frequently at the discretion of the director. The POST form may be modified based on changes to the national POLST paradigm, input from interested parties, advances in evidence-based research or quality improvement processes, or clinical experience. The director shall annually designate a task force to review and recommend modifications to the POST form. The director shall review the



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task force recommendations and approve all final modifications to the POST form before it is posted on the department's Web site.

These rules are intended to implement Iowa Code section 144D.2.

[Filed 11/16/15, effective 1/13/16]

[Published 12/9/15]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 12/9/15.

**ARC 2297C**

**PUBLIC HEALTH DEPARTMENT[641]**

**Adopted and Filed**

Pursuant to the authority of Iowa Code section 135.72, the Department of Public Health hereby amends Chapter 203, "Standards for Certificate of Need Review," Iowa Administrative Code.

Certificate of Need is a regulatory review process that requires application to the Department of Public Health for and receipt of a Certificate of Need (CON) prior to the offering or development of a new or changed institutional health service. These amendments initiate the first phase of the revision of Chapter 203. The amendments rescind six rules that provide standards that are now excluded from Certificate of Need review under Iowa Code section 135.64 or have not been used in several years.

The amendments were approved by the State Health Facilities Council on August 4, 2015.

Notice of Intended Action was published in the Iowa Administrative Bulletin on September 30, 2015, as **ARC 2177C**. No comments were received. The adopted amendments are identical to those published under Notice.

The State Board of Health adopted these amendments on November 12, 2015.

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

These amendments are intended to implement Iowa Code sections 135.61 to 135.83.

These amendments will become effective January 13, 2016.

The following amendments are adopted.

ITEM 1. Rescind and reserve rule **641—203.1(135)**.

ITEM 2. Rescind and reserve rules **641—203.6(135)** and **641—203.7(135)**.

ITEM 3. Rescind and reserve rules **641—203.9(135)**, **641—203.10(135)** and **641—203.11(135)**.

[Filed 11/18/15, effective 1/13/16]

[Published 12/9/15]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 12/9/15.