



# IOWA ADMINISTRATIVE BULLETIN

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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 2015

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. 17 '14*</b>	Jan. 7 '15	Jan. 27 '15	Feb. 11 '15	Feb. 13 '15	Mar. 4 '15	Apr. 8 '15	July 6 '15
Jan. 2	Jan. 21	Feb. 10	Feb. 25	Feb. 27	Mar. 18	Apr. 22	July 20
Jan. 16	Feb. 4	Feb. 24	Mar. 11	Mar. 13	Apr. 1	May 6	Aug. 3
Jan. 30	Feb. 18	Mar. 10	Mar. 25	Mar. 27	Apr. 15	May 20	Aug. 17
Feb. 13	Mar. 4	Mar. 24	Apr. 8	Apr. 10	Apr. 29	June 3	Aug. 31
Feb. 27	Mar. 18	Apr. 7	Apr. 22	Apr. 24	May 13	June 17	Sep. 14
Mar. 13	Apr. 1	Apr. 21	May 6	May 8	May 27	July 1	Sep. 28
Mar. 27	Apr. 15	May 5	May 20	<b>***May 20***</b>	June 10	July 15	Oct. 12
Apr. 10	Apr. 29	May 19	June 3	June 5	June 24	July 29	Oct. 26
Apr. 24	May 13	June 2	June 17	June 19	July 8	Aug. 12	Nov. 9
May 8	May 27	June 16	July 1	<b>***July 1***</b>	July 22	Aug. 26	Nov. 23
<b>***May 20***</b>	June 10	June 30	July 15	July 17	Aug. 5	Sep. 9	Dec. 7
June 5	June 24	July 14	July 29	July 31	Aug. 19	Sep. 23	Dec. 21
June 19	July 8	July 28	Aug. 12	Aug. 14	Sep. 2	Oct. 7	Jan. 4 '16
<b>***July 1***</b>	July 22	Aug. 11	Aug. 26	<b>***Aug. 26***</b>	Sep. 16	Oct. 21	Jan. 18 '16
July 17	Aug. 5	Aug. 25	Sep. 9	Sep. 11	Sep. 30	Nov. 4	Feb. 1 '16
July 31	Aug. 19	Sep. 8	Sep. 23	Sep. 25	Oct. 14	Nov. 18	Feb. 15 '16
Aug. 14	Sep. 2	Sep. 22	Oct. 7	Oct. 9	Oct. 28	Dec. 2	Feb. 29 '16
<b>***Aug. 26***</b>	Sep. 16	Oct. 6	Oct. 21	<b>***Oct. 21***</b>	Nov. 11	Dec. 16	Mar. 14 '16
Sep. 11	Sep. 30	Oct. 20	Nov. 4	<b>***Nov. 4***</b>	Nov. 25	Dec. 30	Mar. 28 '16
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Oct. 9	Oct. 28	Nov. 17	Dec. 2	<b>***Dec. 2***</b>	Dec. 23	Jan. 27 '16	Apr. 25 '16
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<b>***Nov. 4***</b>	Nov. 25	Dec. 15	Dec. 30	Jan. 1 '16	Jan. 20 '16	Feb. 24 '16	May 23 '16
<b>***Nov. 18***</b>	Dec. 9	Dec. 29	Jan. 13 '16	Jan. 15 '16	Feb. 3 '16	Mar. 9 '16	June 6 '16
<b>***Dec. 2***</b>	Dec. 23	Jan. 12 '16	Jan. 27 '16	Jan. 29 '16	Feb. 17 '16	Mar. 23 '16	June 20 '16
<b>***Dec. 16***</b>	Jan. 6 '16	Jan. 26 '16	Feb. 10 '16	Feb. 12 '16	Mar. 2 '16	Apr. 6 '16	July 4 '16

### PRINTING SCHEDULE FOR IAB

<u>ISSUE NUMBER</u>	<u>SUBMISSION DEADLINE</u>	<u>ISSUE DATE</u>
14	Wednesday, December 17, 2014	January 7, 2015
15	Friday, January 2, 2015	January 21, 2015
16	Friday, January 16, 2015	February 4, 2015

**PLEASE NOTE:**

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

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

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

**ADMINISTRATIVE SERVICES DEPARTMENT[11]**

Offset of debts owed state agencies, 40.1 to 40.16 IAB 11/26/14 <b>ARC 1742C</b>	Room 8, A Level Hoover State Office Bldg. Des Moines, Iowa	December 16, 2014 9 to 10 a.m.
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**EDUCATION DEPARTMENT[281]**

Pathways for academic career and employment (PACE) program; gap tuition assistance program, amendments to ch 25 IAB 12/10/14 <b>ARC 1783C</b>	State Board Room, Second Floor Grimes State Office Bldg. Des Moines, Iowa	December 30, 2014 9 to 10 a.m.
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**ENVIRONMENTAL PROTECTION COMMISSION[567]**

Renewal of general permit no. 6—discharge of wastewater associated with well construction activities, 64.15(6) IAB 12/10/14 <b>ARC 1757C</b>	Second Floor North Conference Room Wallace State Office Bldg. Des Moines, Iowa	January 6, 2015 2 p.m.
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**INSURANCE DIVISION[191]**

Individual annuity and pure endowment contracts—delayed effective date for use of 2012 IAR mortality table, 43.3(5) IAB 12/10/14 <b>ARC 1794C</b>	Division Conference Room, Fourth Floor Two Ruan Center 601 Locust St. Des Moines, Iowa	December 30, 2014 10 a.m.
Insurance holding company systems, amendments to ch 45 IAB 12/10/14 <b>ARC 1784C</b>	Division Conference Room, Fourth Floor Two Ruan Center 601 Locust St. Des Moines, Iowa	December 30, 2014 10 a.m.
Prior authorization—prescription drug benefits, ch 79 IAB 12/10/14 <b>ARC 1772C</b>	Fourth Floor Two Ruan Center 601 Locust St. Des Moines, Iowa	January 6, 2015 10 a.m.

**LABOR SERVICES DIVISION[875]**

Elevators—adoption by reference of ASME A17.3(2011) with specified exceptions, 72.10, 73.1 IAB 12/10/14 <b>ARC 1771C</b>	Capitol View Room 1000 E. Grand Ave. Des Moines, Iowa	January 9, 2015 8:30 a.m.
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**MEDICINE BOARD[653]**

Standards of practice— telemedicine, 13.11 IAB 12/10/14 <b>ARC 1769C</b>	Auditorium Wallace State Office Bldg. Des Moines, Iowa	January 15, 2015 1:30 p.m.
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**NURSING BOARD[655]**

Military service and veteran reciprocity, ch 18 IAB 11/26/14 <b>ARC 1737C</b>	Board Office, Suite B 400 SE 8th St. Des Moines, Iowa	December 16, 2014 9 a.m.
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**PHARMACY BOARD[657]**

Compounding practices, amend chs 3, 6, 7; rescind chs 13, 20; adopt ch 20 IAB 12/10/14 <b>ARC 1791C</b>	Shared Conference Room, Suite E 400 SW 8th St. Des Moines, Iowa	January 15, 2015 1 p.m.
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**PHARMACY BOARD[657] (cont'd)**

Assignment of responsibility for pharmacy activities and functions, amendments to chs 6 to 9, 15, 18, 19, 22, 23 IAB 12/10/14 <b>ARC 1793C</b>	Shared Conference Room, Suite E 400 SW 8th St. Des Moines, Iowa	January 15, 2015 9 a.m.
Grounds for discipline, 36.1(4) IAB 12/10/14 <b>ARC 1790C</b>	Shared Conference Room, Suite E 400 SW 8th St. Des Moines, Iowa	January 15, 2015 11 a.m.

**PROFESSIONAL LICENSURE DIVISION[645]**

Physician assistants—on-site visits by supervising physician, 327.4(2) IAB 11/26/14 <b>ARC 1741C</b>	Professional Licensure Conference Room Fifth Floor Lucas State Office Bldg. Des Moines, Iowa	December 16, 2014 9 to 9:30 a.m.
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**RACING AND GAMING COMMISSION[491]**

Clarifications and updates; network security; wide area progressive systems, amendments to chs 5, 8, 10 to 12 IAB 12/10/14 <b>ARC 1770C</b>	Commission Office, Suite 100 1300 Des Moines St. Des Moines, Iowa	December 30, 2014 9 a.m.
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**TRANSPORTATION DEPARTMENT[761]**

Retention of contested case records, 13.10 IAB 11/26/14 <b>ARC 1736C</b>	First Floor South Conference Room DOT Administration Bldg. 800 Lincoln Way Ames, Iowa	December 18, 2014 10 a.m. (If requested)
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**UTILITIES DIVISION[199]**

Peak alert notification, 20.11 IAB 12/10/14 <b>ARC 1768C</b>	Board Hearing Room 69 1375 E. Court Ave. Des Moines, Iowa	January 28, 2015 10 a.m.
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**VOTER REGISTRATION COMMISSION[821]**

Use of electronic signature on online voter registration transactions via DOT Web site, 2.4, 2.8(2), 8.1, 11.6 IAB 12/10/14 <b>ARC 1777C</b> (See <b>ARC 1679C</b> , IAB 10/15/14)	Secretary of State Conference Room First Floor Lucas State Office Bldg. Des Moines, Iowa	December 30, 2014 10 a.m.
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The following list will be updated as changes occur.

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

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

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

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## ARC 1783C

## EDUCATION DEPARTMENT[281]

## 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 256.7(5), the State Board of Education hereby proposes to amend Chapter 25, "Pathways for Academic Career and Employment Program; Gap Tuition Assistance Program," Iowa Administrative Code.

Revised Chapter 25 incorporates changes to the Pathways for Academic Career and Employment Program and Gap Tuition Assistance Program included in 2013 Iowa Acts, House File 604, passed by the 2013 General Assembly. Changes as a result of 2013 Iowa Acts, House File 604, include the addition of pathway navigators and regional industry sector partnerships; an increase in the federal poverty level benchmark from 200 percent to 250 percent under target populations and applicants for tuition assistance; and the addition of staff support services under eligible costs. Changes not directly associated with 2013 Iowa Acts, House File 604, include the renumbering and reformatting of subrules.

An agencywide waiver provision is provided in 281—Chapter 4.

Interested individuals may make written comments on the proposed amendments until December 30, 2014, at 4:30 p.m. Comments on the proposed amendments should be directed to Nicole Proesch, Department of Education, Second Floor, Grimes State Office Building, Des Moines, Iowa 50319-0146; telephone (515)281-8661; e-mail [nicole.proesch@iowa.gov](mailto:nicole.proesch@iowa.gov); or fax (515)242-5988.

A public hearing will be held on December 30, 2014, from 9 to 10 a.m. in the State Board Room, Second Floor, Grimes State Office Building, East 14th Street and Grand Avenue, Des Moines, Iowa, at which time persons may present their views either orally or in writing. Any person who intends to attend the public hearing and has special requirements, such as those related to hearing or mobility impairments, should contact and advise the Department of Education of specific needs by calling (515)281-5295.

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

These amendments are intended to implement Iowa Code chapters 260H and 260I.

The following amendments are proposed.

ITEM 1. Amend rule 281—25.11(260H) as follows:

**281—25.11(260H) Purpose.** The pathways for academic career and employment program (hereinafter referred to as PACE) is established to provide funding to community colleges for the development of projects that will lead to gainful, quality, in-state employment for members of target populations by providing them with both effective academic and employment training to ensure gainful employment and customized support services.

ITEM 2. Amend rule 281—25.12(260H) as follows:

**281—25.12(260H) Target populations.** Individuals included in target populations are those individuals who meet one or more of the following:

1. Are deemed by definition to be low skilled.
2. Earn incomes at or below ~~200~~ 250 percent of the federal poverty level.
3. Are unemployed.
4. Are underemployed.
5. Are dislocated workers.

## EDUCATION DEPARTMENT[281](cont'd)

ITEM 3. Amend subrule 25.16(3) as follows:

**25.16(3)** The development of career pathways that support the attainment of industry-recognized credentials, diplomas, and degrees ~~through stackable, modularized program delivery~~.

ITEM 4. Adopt the following new rules 281—25.17(260H) and 281—25.18(260H):

**281—25.17(260H) Pathway navigators.**

**25.17(1)** A community college may use moneys for the PACE program to employ pathway navigators to assist students applying for or enrolled in eligible pathways for academic career and employment projects.

**25.17(2)** Pathway navigators shall provide services and support to aid students in selecting PACE projects that will result in gainful, quality, in-state employment and to ensure students are successful once enrolled in PACE projects. Services the pathway navigators may provide include but are not limited to the following:

- a.* Interviewing and selecting students for enrollment in PACE projects.
- b.* Assessing students' skills, interests, and previous academic and work experience for purposes of placement in PACE projects.
- c.* Working with students to develop academic and career plans and to adjust such plans as needed.
- d.* Assisting students in applying for and receiving resources for financial aid and other forms of tuition assistance.
- e.* Assisting students with the admissions process, remedial education, academic credit transfer, meeting assessment requirements, course registration, and other procedures necessary for successful completion of PACE projects.
- f.* Assisting in identifying and resolving obstacles to students' successful completion of PACE projects.
- g.* Connecting students with useful college resources or outside support services such as access to child care, transportation, and tutoring assistance, as needed.
- h.* Maintaining ongoing contact with students enrolled in PACE projects and ensuring students are making satisfactory progress toward the successful completion of projects.
- i.* Providing support to students transitioning from remedial education, short-term training, and classroom experience to employment.
- j.* Coordinating activities with community-based organizations that serve as key recruiters for PACE projects and assisting students throughout the recruitment process.
- k.* Coordinating adult basic education services.

**281—25.18(260H) Regional industry sector partnerships.**

**25.18(1)** A community college may use moneys for the PACE program to provide staff and support for the development and implementation of regional industry sector partnerships within the region served by the community college.

**25.18(2)** Regional industry sector partnerships may include but are not limited to the following activities:

- a.* Bringing together representatives from industry sectors, government, education, local workforce boards, community-based organizations, labor, economic development organizations, and other stakeholders within the regional labor market to determine how PACE projects should address workforce skills gaps, occupational shortages, and wage gaps.
- b.* Integrating PACE projects and other existing supply-side strategies with workforce needs within the region served by the community college.
- c.* Developing PACE projects that focus on the workforce skills, from entry-level to advanced, required by industry sectors within the region served by the community college.
- d.* Structuring pathways so that instruction and learning of workforce skills are aligned with industry-recognized standards where such standards exist.

## EDUCATION DEPARTMENT[281](cont'd)

ITEM 5. Rescind rules 281—25.21(260I) to 281—25.27(260I) and adopt the following new rules in lieu thereof:

**281—25.21(260I) Applicants for tuition assistance.**

**25.21(1) *Eligibility criteria.*** Eligibility for tuition assistance shall be based on financial need. Applicants may be found eligible for partial or total tuition assistance. Tuition assistance shall not be approved when the community college receiving the application determines that funding for an applicant's participation in an eligible certificate program is available from any other public or private funding source.

*a.* Criteria to determine financial need shall include but not be limited to:

- (1) The applicant's family income for the 12 months prior to the date of application.
- (2) The applicant's family size.
- (3) The applicant's county of residence.

*b.* An applicant for tuition assistance under this chapter must have a demonstrated capacity to achieve the following outcomes:

- (1) The ability to complete an eligible certificate program.
- (2) The ability to enter a postsecondary certificate, diploma, or degree program for credit.
- (3) The ability to gain full-time employment.
- (4) The ability to maintain full-time employment over a period of time.

*c.* The community college receiving the application shall, after considering factors including but not limited to the following, approve an applicant for tuition assistance under this chapter only if the community college determines that applicant is likely to succeed in achieving the outcomes described in 25.16(2):

- (1) Barriers that may prevent an applicant from completing the certificate program.
- (2) Barriers that may prevent an applicant from gaining employment in an in-demand occupation.

**25.21(2) *Additional provisions.***

*a.* An applicant for tuition assistance under Division II of this chapter shall provide to the gap tuition assistance coordinator at the community college receiving the application documentation of all sources of income.

*b.* Only an applicant eligible to work in the United States shall be approved for tuition assistance under Division II of this chapter.

*c.* An application shall be valid for six months from the date of signature on the application.

*d.* An applicant shall not be approved for tuition assistance under Division II of this chapter for more than one eligible certificate program.

*e.* Eligibility for tuition assistance under Division II of this chapter shall not be construed to guarantee enrollment in any community college certificate program.

*f.* Eligibility for tuition assistance under Division II of this chapter shall be limited to persons earning incomes at or below 250 percent of the federal poverty level as defined by the most recently revised poverty guidelines published by the U.S. Department of Health and Human Services.

**281—25.22(260I) Eligible costs.** Costs of a certificate program eligible for coverage by gap tuition assistance shall include but are not limited to the following:

1. Tuition.
2. Direct training costs.
3. Required books and equipment.
4. Fees, including but not limited to fees for industry testing services and background checks.
5. Costs of providing direct staff support services, including but not limited to marketing, outreach, application, interview, and assessment processes. Eligible costs for this purpose shall be limited to 20 percent of any allocation of moneys to the two smallest community colleges, 10 percent of any allocation of moneys to the two largest community colleges, and 15 percent of any allocation of moneys to the remaining 11 community colleges. Community college size shall be determined based on the most recent three-year rolling average full-time equivalent enrollment.

**281—25.23(260I) Eligible certificate programs.** For the purposes of this chapter, “eligible certificate program” means a program meeting all of the following criteria:

**25.23(1)** The program is not offered for credit but is aligned with a certificate, diploma, or degree for credit, and does at least one of the following:

- a. Offers a nationally, state-, or locally recognized certificate.
- b. Offers preparation for a professional examination or licensure.
- c. Provides endorsement for an existing credential or license.
- d. Represents recognized skill standards defined by an industrial sector.
- e. Offers a similar PACE credential or training.

**25.23(2)** The program offers training or a credential in an in-demand occupation. For the purposes of this chapter, “in-demand occupation” includes occupations in information technology, health care, advanced manufacturing, transportation and logistics, and any other industry designated as in demand by a regional advisory board established pursuant to Iowa Code section 84A.4.

**281—25.24(260I) Initial assessment.** An eligible applicant for tuition assistance under Division II of this chapter shall complete an initial assessment administered by the community college receiving the application to determine the applicant’s readiness to complete an eligible certificate program. The assessment shall include assessments for completion of a national career readiness certificate, including the areas of reading for information, applied mathematics, and locating information. An applicant must achieve at least a national bronze-level certificate defined as a minimum level 3 for reading, mathematics, and locating information in order to be approved for tuition assistance. An applicant shall complete any additional assessments and occupation research required by the gap tuition assistance program or an eligible certificate program, or both.

**281—25.25(260I) Program interview.** An eligible applicant for tuition assistance under Division II of this chapter shall meet with the gap tuition assistance coordinator for an eligible certificate program offered by the community college receiving the application. The gap tuition assistance coordinator shall discuss the relevant industry, any applicable occupation research, and any applicable training relating to the eligible certificate program. The discussion shall include an evaluation of the applicant’s capabilities, needs, family situation, work history, education background, attitude and motivation, employment dates, support needs, and other requirements for an eligible certificate program.

**281—25.26(260I) Participation requirements.**

**25.26(1)** A participant in an eligible certificate program who receives tuition assistance pursuant to Division II of this chapter shall do all of the following:

- a. Maintain regular contact with staff members for the certificate program to document the applicant’s progress in the program.
- b. Sign a release form to provide relevant information to community college faculty or case managers.
- c. Discuss with staff members for the certificate program any issues that may impact the participant’s ability to complete the certificate program, obtain employment, and maintain employment over a period of time.
- d. Attend all required courses regularly.
- e. Meet with staff members for the certificate program to develop a job search plan.

**25.26(2)** A community college may terminate tuition assistance for a participant who fails to meet the requirements of this rule. The participant may utilize the community college’s local appeal process to contest termination from the program. The process to appeal a termination will be provided to a participant through the gap tuition assistance coordinator.

**281—25.27(260I) Oversight.** Statewide oversight, evaluation, and reporting efforts for the gap tuition assistance program are coordinated by the department.

EDUCATION DEPARTMENT[281](cont'd)

**25.27(1)** A steering committee consisting of the Iowa department of education, the Iowa workforce development department, and community college continuing education deans and directors is established to determine if the performance measures of the gap tuition assistance program are being met and to correct any deficiencies. The steering committee shall meet at least quarterly to evaluate and monitor the performance of the gap tuition assistance program.

**25.27(2)** A common intake tracking system is established and shall be implemented consistently by each participating community college. The community colleges will work cooperatively in establishing the system, and the Iowa department of education will assist in gathering required reporting data elements.

**25.27(3)** The steering committee will develop the required program criteria for PACE and gap tuition assistance-certified programs to be eligible for tuition assistance and program funding. These criteria will be developed based on best practices in the development and delivery of career pathway programs that provide a clear sequence of education coursework and credentials aligned with regional workforce skill needs; clearly articulate from one level of instruction to the next; combine occupational skills and remedial adult education; lead to the attainment of a credential or degree; assist with job placement; and provide wraparound social and socioeconomic support services with the goal of increasing the individual's skills attainment and employment potential.

ITEM 6. Rescind and reserve rule **281—25.28(260I)**.

ITEM 7. Amend **281—Chapter 25**, implementation sentence, as follows:

These rules are intended to implement ~~2011~~ 2014 Iowa Code Supplement chapters 260H and 260I.

**ARC 1757C**

## **ENVIRONMENTAL PROTECTION COMMISSION[567]**

### **Notice of Intended Action**

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

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

Pursuant to the authority of Iowa Code sections 455B.105(3) and 455B.198, the Environmental Protection Commission hereby gives Notice of Intended Action to amend Chapter 64, “Wastewater Construction and Operation Permits,” Iowa Administrative Code.

The purpose of this rule making is to renew General Permit No. 6, which continues to authorize the discharge of wastewater associated with well construction activities through the use of best management practices (BMPs) and requires the monitoring of the wastewater effluent to determine compliance with the state's water quality standards.

Any interested person may file written comments on the proposed amendment on or before January 9, 2015. Written comments or questions regarding the proposed amendment should be directed to Wendy Hieb, Iowa Department of Natural Resources, 502 East 9th Street, Des Moines, Iowa 50309-0034; via fax to (515)281-8895; or via e-mail to [wendy.hieb@dnr.iowa.gov](mailto:wendy.hieb@dnr.iowa.gov).

Oral or written comments will also be accepted at a public hearing that will be held Tuesday, January 6, 2015, at 2 p.m. in the Second Floor North Conference Room of the Henry A. Wallace State Office Building, 502 East 9th Street, Des Moines, Iowa.

At the hearing, persons will be asked to give their names and addresses for the record and to confine their remarks to the content of the proposed amendment.

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

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

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

This amendment is intended to implement Iowa Code section 455B.198.

The following amendment is proposed.

Amend subrule 64.15(6) as follows:

**64.15(6)** "Discharge Associated with Well Construction Activities," NPDES General Permit No. 6, effective March ~~17~~ 1, ~~2010~~ 2015, to February 28, ~~2015~~ 2020.

**ARC 1794C**

**INSURANCE DIVISION[191]**

**Notice of Intended Action**

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

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

Pursuant to the authority of Iowa Code section 505.8, the Insurance Division hereby gives Notice of Intended Action to amend Chapter 43, "Annuity Mortality Tables for Use in Determining Reserve Liabilities for Annuities," Iowa Administrative Code.

The purpose of the rule making is to delay the mandatory effective date of the use of the 2012 IAR Mortality Table from January 1, 2015, to January 1, 2016. The delayed mandatory effective date is appropriate to the public interest and prevents Iowa-domiciled insurers from being placed at a competitive disadvantage that would adversely affect the insurer and its policyholders.

The Insurance Division intends that Iowa-domiciled insurance companies shall comply with the amendment on January 1, 2016.

Any interested person may make written comments on or before December 30, 2014. Written comments may be sent to Kimberlee Cross, Iowa Insurance Division, Two Ruan Center, 601 Locust Street, Fourth Floor, Des Moines, Iowa 50309-3738. Comments may also be submitted electronically to [kim.cross@iid.iowa.gov](mailto:kim.cross@iid.iowa.gov) or via facsimile to (515)281-3059.

A public hearing will be held on December 30, 2014, at 10 a.m. in the Conference Room at the Iowa Insurance Division, Two Ruan Center, 601 Locust Street, Fourth Floor, Des Moines, Iowa, at which time persons may present their views orally or in writing. At the hearing, persons will be asked to give their names and addresses for the record and to confine remarks to the subject of the amendment.

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

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

This amendment is intended to implement Iowa Code chapter 508.

The following amendment is proposed.

Amend subrule 43.3(5) as follows:

**43.3(5)** Except as provided in subrule 43.3(4), the 2012 IAR Mortality Table ~~shall~~ may be used for determining the minimum standard of valuation for any individual annuity or pure endowment contract issued on or after January 1, 2015. For any individual annuity or pure endowment contract issued on or after January 1, 2016, the 2012 IAR Mortality Table shall be used as provided in this subrule.

**ARC 1784C****INSURANCE DIVISION[191]****Notice of Intended Action**

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

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

Pursuant to the authority of Iowa Code sections 505.8 and 521A.8, the Insurance Division hereby gives Notice of Intended Action to amend Chapter 45, “Insurance Holding Company Systems,” Iowa Administrative Code.

The purpose of the rule making is to set forth the procedural requirements which the Insurance Commissioner deems necessary to carry out the provisions of Iowa Code chapter 521A as amended by 2014 Iowa Acts, Senate File 2104. The actions and information required by these amendments are necessary and appropriate to the public interest and protect the solvency of insurers within the insurance holding company system by monitoring transactions between insurers and their affiliates and assessing the “enterprise risk” within the insurance holding company system and determining the impact of such risk upon the solvency of insurers within the insurance group. The amendments add Form F, which is the newly required annual enterprise risk report that must be filed by an insurer’s ultimate controlling person. The amendments also list specific provisions that must be included in an insurer’s cost-sharing and management service agreements with other members of its holding company system.

Any interested person may make written comments on or before December 30, 2014. Written comments may be sent to Kimberlee Cross, Iowa Insurance Division, Two Ruan Center, 601 Locust Street, Fifth Floor, Des Moines, Iowa 50309-3738. Comments may also be submitted electronically to [kim.cross@iid.iowa.gov](mailto:kim.cross@iid.iowa.gov) or via facsimile to (515)281-3059.

A public hearing will be held on December 30, 2014, in the Conference Room at the Iowa Insurance Division, Two Ruan Center, 601 Locust Street, Fourth Floor, Des Moines, Iowa, at which time persons may present their views orally or in writing. At the hearing, persons will be asked to give their names and addresses for the record and to confine remarks to the subject of the proposed amendments.

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

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

These amendments are intended to implement Iowa Code chapter 521A as amended by 2014 Iowa Acts, Senate File 2104.

The following amendments are proposed.

ITEM 1. Amend rule 191—45.5(521A) as follows:

**191—45.5(521A) Registration of insurers.**

**45.5(1) *Annual registration.*** Any insured required to file an annual registration statement pursuant to Iowa Code section 521A.4 shall furnish all the information required on ~~FORM~~ Form B hereto annexed and hereby made a part of these rules.

**45.5(2) *Amendment to Form B.*** An amendment to Form B shall be filed within 15 days after the end of any month in which there is a material change to the information provided in the annual registration statement. Amendments shall be filed in the Form B format with only those items which are being amended reported. Each amendment shall include at the top of the cover page “Amendment No. [insert number] to Form B for [insert year]” and shall indicate the date of the change and not the date of the original filing.



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

**45.5(3) *Summary registration.*** An insurer required to file an annual registration statement pursuant to Iowa Code section 521A.4 is also required to furnish information required on ~~FORM~~ Form C, hereby made a part of these ~~regulations~~ rules. ~~An insurer shall file a copy of FORM C in each state in which the insurer is authorized to do business, if requested by the commissioner of that state.~~ Form C shall include all amendments for the statement period.

ITEM 2. Amend rule 191—45.9(521A) as follows:

**191—45.9(521A) Transactions subject to prior notice—notice filing.**

**45.9(1)** An insurer required to give notice of a proposed transaction pursuant to Iowa Code section 521A.5 shall furnish the required information on ~~FORM~~ Form D, hereby made a part of these ~~regulations~~ rules.

**45.9(2)** Agreements for cost-sharing services and management services shall, at a minimum and as applicable:

- a. Identify the person providing services and the nature of such services;
- b. Set forth the methods to allocate costs;
- c. Require timely settlement, not less frequently than on a quarterly basis, and compliance with the requirements in the Accounting Practices and Procedures Manual;
- d. Prohibit advancement of funds by the insurer to the affiliate except to pay for services defined in the agreement;
- e. State that the insurer will maintain oversight for functions provided to the insurer by the affiliate and that the insurer will monitor services annually for quality assurance;
- f. Define books and records of the insurer to include all books and records developed or maintained under or related to the agreement;
- g. Specify that all books and records of the insurer are and shall remain the property of the insurer and are subject to control of the insurer;
- h. State that all funds and invested assets of the insurer are the exclusive property of the insurer, held for the benefit of the insurer, and subject to the control of the insurer;
- i. Include standards for termination of the agreement with and without cause;
- j. Include provisions for indemnification of the insurer in the event of gross negligence or willful misconduct on the part of the affiliate providing the services;
- k. Specify that if the insurer is placed in receivership or seized by the commissioner under the state receivership Act:
  - (1) All of the rights of the insurer under the agreement extend to the receiver or the commissioner;
  - and
  - (2) All books and records will immediately be made available to the receiver or the commissioner and shall be turned over to the receiver or the commissioner immediately upon the receiver's or the commissioner's request;
- l. Specify that the affiliate has no automatic right to terminate the agreement if the insurer is placed in receivership pursuant to Iowa Code chapter 507C; and
- m. Specify that the affiliate will continue to maintain any systems, programs, or other infrastructure notwithstanding a seizure by the commissioner under Iowa Code chapter 507C, and will make them available to the receiver for so long as the affiliate continues to receive timely payment for services rendered.

ITEM 3. Amend rule 191—45.10(521A) as follows:

**191—45.10(521A) Extraordinary dividends and other distributions.**

**45.10(1)** Requests for approval of extraordinary dividends or any other extraordinary distribution to shareholders shall include the following:

- 45.10(1) a.** The date established for payment of the dividend;
- b.** The amount of the proposed dividend;

INSURANCE DIVISION[191](cont'd)

**45.10(2) c.** A statement as to whether the dividend is to be in cash or other property and, if in property, a description thereof of its cost, and its fair market value together with an explanation of the basis for valuation;

**45.10(3) d.** The A copy of the calculations used to determine that the proposed dividend is extraordinary, including the amounts and dates of all dividends (including regular dividends) paid within the period of 24 consecutive months ending on the date fixed for payment of the proposed dividend for which approval is sought and commencing on the day after the same day of the same month in the second and immediately preceding years;

**45.10(4) e.** A balance sheet and statement of income for the period intervening from the last annual statement filed with the commissioner and the end of the month preceding the month in which the request for dividend approval is submitted;

**45.10(5) f.** A brief statement as to the effect of the proposed dividend upon the insurer's surplus and the reasonableness of surplus in relation to the insurer's outstanding liabilities and the adequacy of surplus relative to the insurer's financial needs.

**45.10(6) 45.10(2)** A dividend or distribution to an insurer's shareholders which exceeds the greater of (a) 10 percent of the insurer's surplus as regards policyholders as of the 31st day of December next preceding, or (b) the net gain from operations of such insurer if the insurer is a life insurer, or the net income if the insurer is not a life insurer, not including realized capital gains, for the 12-month period ending the 31st day of December next preceding ~~must~~ shall be submitted to the commissioner 30 days in advance for approval. The commissioner may deem such dividend to be excessive and to constitute grounds under 191—subrule 5.23(6) 110.4(5) for finding the insurer to be in a financially hazardous condition and subject to the provisions of 191—subrule ~~5.24(2)~~ 110.5(2).

ITEM 4. Adopt the following new rules 191—45.11(521A) and 191—45.12(521A):

**191—45.11(521A) Enterprise risk report.** The ultimate controlling person of an insurer required to file an enterprise risk report pursuant to 2014 Iowa Acts, Senate File 2104, section 12, shall furnish the required information on Form F, hereby made a part of these rules.

**191—45.12(521A) Forms—additional information and exhibits.** In addition to the information expressly required to be included in Form A, Form B, Form C, Form D, and Form F, the commissioner may request such further material information, if any, as may be necessary to make the information contained therein not misleading. The person filing may also file such exhibits as the person may desire in addition to those expressly required by the statement. The exhibits shall be marked as to indicate clearly the subject matter to which they refer. Changes to Form A, B, C, D, or F shall include on the top of the cover page the phrase: "Change No. [insert number] to" and shall indicate the date of the change and not the date of the original filing.

ITEM 5. Amend **191—Chapter 45**, Forms A and B, as follows:

FORM A

STATEMENT REGARDING THE  
ACQUISITION OF CONTROL OF OR MERGER WITH A DOMESTIC INSURER

---

Name of Domestic Insurer  
BY

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Name of Acquiring Person (Applicant)

Filed with the Insurance Division of Iowa

Dated: \_\_\_\_\_, 20 \_\_\_\_\_

INSURANCE DIVISION[191](cont'd)

Name, Title, Address and Telephone Number of Individual to Whom Notices and Correspondence Concerning This Statement Should be Addressed:

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FORM A

**Item 1.** No change.

**Item 2. Identity and background of the applicant.**

(a) and (b) No change.

(c) Furnish a chart or listing clearly presenting the identities of the interrelationships among the applicant and all affiliates of the applicant. ~~No affiliate need be identified if its total assets are equal to less than one-half of one percent of the total assets of the ultimate controlling person affiliated with the applicant.~~ Indicate in such chart or listing the percentage of voting securities of each such person which is owned or controlled by the applicant or by any other such person. If control of any person is maintained other than by the ownership or control of voting securities, indicate the basis of such control. ~~As to~~ For each person specified in such chart or listing, indicate the type of organization (e.g., corporation, trust, partnership) and the state or other jurisdiction of domicile. If court proceedings involving a reorganization or liquidation are pending with respect to any such person, indicate which person, and set forth the title of the court, nature of proceedings and the date when commenced.

**Item 3. Identity and background of individuals associated with the applicant.**

State ~~On the biographical affidavit, include a third-party background check, and state the following~~ with respect to (1) the applicant if an individual or (2) all persons who are directors, executive officers or owners of 10 percent or more of the voting securities of the applicant if the applicant is not an individual.

(a) to (d) No change.

**Item 4. to Item 11.** No change.

**Item 12. Financial statements, and exhibits, and three-year financial projections.**

(a) Financial statements, ~~and~~ exhibits, and three-year financial projections of the insurer(s) shall be attached to this statement as an appendix, but list under this item the financial statements, ~~and~~ exhibits, and projections so attached.

(b) and (c) No change.

**Item 13. Agreement requirements for enterprise risk management.** Applicant agrees to provide, to the best of its knowledge and belief, the information required by Form F within 15 days after the end of the month in which the acquisition of control occurs.

**Item 13 14. Signature and certification.** No change.

FORM B

INSURANCE HOLDING COMPANY SYSTEM  
ANNUAL REGISTRATION STATEMENT

Filed with the Insurance Division of Iowa

By

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Name of Registrant  
On Behalf of the Following Insurance Companies

INSURANCE DIVISION[191](cont'd)

Name	Address

Date: \_\_\_\_\_, 20 \_\_\_\_\_

Name, Title, Address and Telephone Number of Individual to Whom Notices and Correspondence Concerning This Statement Should Be Addressed:


## FORM B

**Item 1.** No change.**Item 2. Organizational chart.**

Furnish a chart or listing clearly presenting the identities of and interrelationships among all affiliated persons within the insurance holding company system. ~~No affiliate need be shown if its total assets are equal to less than one-half of 1 percent of the total assets of the ultimate controlling person within the insurance holding company system.~~ The chart or listing should show the percentage of each class of voting securities of each affiliate which is owned, directly or indirectly, by another affiliate. If control of any person within the system is maintained other than by the ownership or control of voting securities, indicate the basis of such control. ~~As to~~ For each person specified in such chart or listing, indicate the type of organization (e.g., corporation, trust, partnership) and the state or other jurisdiction of domicile.

**Item 3. The ultimate controlling person.**

As to the ultimate controlling person in the insurance holding company system furnish ~~the~~ all of the following information:

(a) to (g) No change.

**Item 4. Biographical information.**

~~Furnish~~ If the ultimate controlling person is a corporation, an organization, a limited liability company, or other legal entity, furnish the following information for the directors and executive officers of the ultimate controlling person: the individual's name, address, principal occupation and all offices and positions held during the past five years; and any conviction of crimes other than minor traffic violations during the past ten years. If the ultimate controlling person is an individual, furnish the individual's name and address, the individual's principal occupation and all offices and positions held during the past five years, and any conviction of crimes other than minor traffic violations.

**Item 5.** and **Item 6.** No change.**Item 7. Financial statements and exhibits.**

(a) No change.

(b) ~~The~~ If the ultimate controlling person is a corporation, an organization, a limited liability company, or other legal entity, the financial statements shall include the annual financial statements of the ultimate controlling person in the insurance holding company system as of the end of the person's latest fiscal year.

If at the time of the initial registration, the annual financial statements for the latest fiscal year are not available, annual statements for the previous fiscal year may be filed and similar financial information shall be filed for any subsequent period to the extent such information is available. Such financial

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

statements may be prepared on either an individual basis; or, unless the commissioner otherwise requires, on a consolidated basis if such consolidated statements are prepared in the usual course of business.

Other than with respect to the foregoing, such financial statement shall be filed in a standard form and format adopted by the National Association of Insurance Commissioners, unless an alternative form is accepted by the commissioner. Documentation and financial statements filed with the Securities and Exchange Commission or audited generally accepted accounting principles financial statements shall be deemed to be an appropriate form and format.

Unless the commissioner otherwise permits, the annual financial statements shall be accompanied by the certificate of an independent public accountant to the effect that such statements present fairly the financial position of the ultimate controlling person and the results of its operations for the year then ended, in conformity with generally accepted accounting principles or with requirements of insurance or other accounting principles prescribed or permitted under law. If the ultimate controlling person is an insurer who is actively engaged in the business of insurance, the annual financial statements need not be certified, provided they are based on the Annual Statement of such insurer filed with the insurance department of the insurer's domiciliary state and are in accordance with requirements of insurance or other accounting principles prescribed or permitted under the law and regulations of such state.

Any ultimate controlling person who is an individual may file personal financial statements that are reviewed rather than audited by an independent public accountant. The review shall be conducted in accordance with standards for review of personal financial statements published in the Personal Financial Statements Guide by the American Institute of Certified Public Accountants. In order for personal financial statements to be in conformity with generally accepted accounting principles, the statements shall be accompanied by the independent public accountant's standard review report stating that the accountant is not aware of any material modifications that should be made to the financial statements.

(c) Exhibits shall include copies of the latest annual reports to shareholders of the ultimate controlling person and proxy material used by the ultimate controlling person; and any additional documents or papers required by FORM Form B requested by the commissioner or Form A, Items 4 and 6.

**Item 8. Annual Form C required.** A Form C, Summary of Changes to Registration Statement, shall be prepared and filed with this Form B.

## SIGNATURES

Signatures and certification of the form as follows:

## SIGNATURE

Pursuant to the requirements of Iowa Code section 521A.4 and ~~Regulation No. 4.01~~ rule 191—45.5(521A), the Registrant has caused this registration statement to be duly signed on its behalf in the City of \_\_\_\_\_ and State of \_\_\_\_\_ on the \_\_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_\_.

(SEAL)

\_\_\_\_\_  
(Name of Registrant)

By

\_\_\_\_\_  
(Name)

\_\_\_\_\_  
(Title)

Attest:

\_\_\_\_\_  
(Signature of Officer)

\_\_\_\_\_  
(Title)

## CERTIFICATION

The undersigned deposes and says that deponent has duly executed the attached ~~application~~ annual registration statement dated \_\_\_\_\_, 20 \_\_\_\_\_, for and on behalf of \_\_\_\_\_;

(Name of Company)

INSURANCE DIVISION[191](cont'd)

that deponent is the \_\_\_\_\_ of such company, and that deponent is authorized to

(Title of Officer)

execute and file such instrument. Deponent further says that deponent is familiar with such instrument and the contents thereof, and that the facts therein set forth are true to the best of the deponent's knowledge, information and belief.

(Signature) \_\_\_\_\_

(Type or print name beneath) \_\_\_\_\_

ITEM 6. Amend **191—Chapter 45**, Form C, title, as follows:

FORM C  
SUMMARY OF CHANGES TO REGISTRATION STATEMENT

ITEM 7. Amend **191—Chapter 45**, Form D, Items 2, 4 and 5, as follows:

**Item 2. Description of the transaction.**

Furnish the following information for each transaction for which notice is being given:

(a) A statement as to whether notice is being given under Iowa Code section 521A.5(1) "b" or section 521A.5(1) "c."

(b) A statement of the nature of the transaction.

(c) A statement describing how the transaction meets the "fair and reasonable" standard under Iowa Code section 521A.5(1) "a"(1).

~~(e)~~ (d) The proposed effective date of the transaction.

**Item 4. Reinsurance.**

If the transaction is a reinsurance agreement or modification thereto, or a reinsurance pooling agreement or modification thereto, as described in Iowa Code section 521A.5(1) "c," furnish a description of the known or estimated amount of liability to be ceded or assumed in each calendar year, the period of time during which the agreement will be in effect, and a statement of whether an agreement will be in effect, and a statement of whether an agreement or understanding exists between the insurer and a nonaffiliate to the effect that any portion of the assets constituting the consideration for the agreement will be transferred to one or more of the insurer's affiliates. Furnish a brief description of the consideration involved in the transaction; and a brief statement as to the effect of the transaction upon the insurer's surplus.

No notice need be given for reinsurance agreements or modification thereto if the reinsurance premium or a change in the insurer's liabilities, or the projected reinsurance premium or change in the insurer's liabilities in any of the next three years, in connection with the reinsurance agreement or modification thereto is less than 25 5 percent of the insurer's surplus as regards policyholders, as of the preceding 31st day of December. Notice shall be given for all reinsurance pooling agreements including modifications thereto.

**Item 5. Management agreements, service agreements and cost-sharing agreements.**

For management and service agreements, furnish:

(a) and (b) No change.

For cost-sharing arrangements, furnish:

(a) and (b) No change.

(c) A brief description of each party's expenses or costs covered by the agreement; ~~and~~

(d) A brief description of the accounting basis to be used in calculating each party's costs under the agreement;

(e) A brief statement as to the effect of the transaction upon the insurer's policyholder surplus;

(f) A statement regarding the cost allocation methods that specifies whether the proposed charges are based on cost or market. If the proposed changes are market-based, the rationale for using market instead

INSURANCE DIVISION[191](cont'd)

of cost, including justification for the company's determination that amounts are fair and reasonable, shall be included; and

(g) A statement regarding compliance with the NAIC Accounting Practices and Procedures Manual regarding expense allocation.

ITEM 8. Adopt the following new Form F in **191—Chapter 45**:

FORM F

## ENTERPRISE RISK REPORT

Filed with the Insurance Division of the State of Iowa

By

\_\_\_\_\_  
Name of Registrant/Applicant

On Behalf of/Related to the Following Insurance Companies

Name	Address

Date: \_\_\_\_\_, 20 \_\_\_\_\_

Name, Title, Address and Telephone Number of Individual to Whom Notices and Correspondence Concerning This Statement Should Be Addressed:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**Item 1. Enterprise risk.**

The registrant/applicant, to the best of its knowledge and belief, shall provide information regarding the following areas that could produce enterprise risk as defined in 2014 Iowa Acts, Senate File 2104, section 2, provided such information is not disclosed in the insurance holding company system annual registration statement filed on behalf of the registrant/applicant or another insurer for which the registrant/applicant is the ultimate controlling person:

(a) Any material developments regarding strategy, internal audit findings, compliance or risk management affecting the insurance holding company system;

(b) Acquisition or disposal of insurance entities and reallocating of existing financial or insurance entities within the insurance holding company system;

(c) Any changes of shareholders of the insurance holding company system exceeding 10 percent or more of voting securities;

(d) Developments in various investigations, regulatory activities or litigation that may have a significant bearing or impact on the insurance holding company system;

(e) Business plan of the insurance holding company system and summarized strategies for the next 12 months;

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

(f) Identification of material concerns of the insurance holding company system raised by supervisory college, if any, in the last year;

(g) Identification of insurance holding company system capital resources and material distribution patterns;

(h) Identification of any negative movement or discussions with rating agencies which may have caused, or may cause, potential negative movement in the credit ratings and individual insurer financial strength ratings assessment of the insurance holding company system (including both the rating score and outlook);

(i) Information on corporate or parental guarantees throughout the holding company and the expected source of liquidity should such guarantees be called upon; and

(j) Identification of any material activity or development of the insurance holding company system that, in the opinion of senior management, could adversely affect the insurance holding company system.

The registrant/applicant may attach the appropriate form most recently filed with the U.S. Securities and Exchange Commission, provided the registrant/applicant includes specific references to those areas listed in Item 1 for which the form provides responsive information. If the registrant/applicant is not domiciled in the United States, it may attach its most recent public audited financial statement filed in its country of domicile, provided the registrant/applicant includes specific references to those areas listed in Item 1 for which the financial statement provides responsive information.

**Item 2. Obligation to report.**

If the registrant/applicant has not disclosed any information pursuant to Item 1, the registrant/applicant shall include a statement affirming that, to the best of its knowledge and belief, it has not identified enterprise risk subject to disclosure pursuant to Item 1.

**ARC 1772C****INSURANCE DIVISION[191]****Notice of Intended Action**

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

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

Pursuant to the authority of 2014 Iowa Acts, House File 2463, section 98 [Iowa Code section 505.26(2)], the Insurance Division hereby gives Notice of Intended Action to adopt new Chapter 79, “Prior Authorization—Prescription Drug Benefits,” Iowa Administrative Code.

The rules in proposed Chapter 79 describe the requirements for prior authorization for prescription drug benefits. The Commissioner of Insurance is required to adopt rules to provide for a single prior authorization form and prior authorization process for approval of prescription drug benefits by health carriers and pharmacy benefits managers.

This chapter does not provide for waivers. Persons seeking waivers must petition the Division for a waiver in the manner set forth under 191—Chapter 4.

Any interested person may make written comments on the proposed rules on or before January 6, 2015. Written comments may be sent to Angela Burke Boston, Assistant Commissioner, Insurance Division, Two Ruan Center, 601 Locust, Fourth Floor, Des Moines, Iowa 50309-3738. Comments may also be submitted electronically to [angela.burke.boston@iid.iowa.gov](mailto:angela.burke.boston@iid.iowa.gov).

A public hearing will be held at the office of the Insurance Division, at the address noted above, at 10 a.m. on Tuesday, January 6, 2015, 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 confine their remarks to the subject of the rules.

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



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

A fiscal impact summary prepared by the Legislative Services Agency pursuant to Iowa Code section 17A.4(3) will be available at <https://www.legis.iowa.gov/publications/fiscal/adminRulesFiscalImpact> or at (515)281-5279 prior to the Administrative Rules Review Committee's review of this rule making.

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

These rules are intended to implement 2014 Iowa Acts, House File 2463, section 98 [Iowa Code section 505.26].

The following amendment is proposed.

Adopt the following **new** 191—Chapter 79:

CHAPTER 79  
PRIOR AUTHORIZATION—PRESCRIPTION DRUG BENEFITS

**191—79.1(505) Purpose.** These rules implement 2014 Iowa Acts, House File 2463, section 98 [Iowa Code section 505.26], which requires the commissioner to adopt rules to provide for a single prior authorization form and prior authorization process for approval of prescription drug benefits by health carriers and pharmacy benefits managers.

**191—79.2(505) Definitions.** For purposes of this chapter, the definitions found in 2014 Iowa Acts, House File 2463, section 98 [Iowa Code section 505.26], shall apply. In addition, the following definitions shall apply:

“*Commissioner*” means the Iowa insurance commissioner.

“*Division*” means the Iowa insurance division.

“*Exigent*” means circumstances exist when, in the opinion of the physician or health care professional, as defined in Iowa Code chapter 514J, with knowledge of the patient's medical condition, a patient either is suffering from a health condition that may seriously jeopardize the patient's life, health or ability to regain maximum function or is undergoing a current course of treatment using a prescription requiring preauthorization.

“*Prescription drug prior authorization*” means requests for preapproval from a payor for specified medications or quantities of medications.

“*Qualified health plan*” or “*QHP*” means a health insurance plan under the Affordable Care Act, which is certified by the health insurance marketplace.

“*Urgent*” means any claim for medical care or treatment to which the application of time periods that either could seriously jeopardize the life or health of the patient or the ability of the patient to regain maximum function or, in the opinion of the physician or health care professional, as defined in Iowa Code chapter 514J, with knowledge of the patient's medical condition, would subject the patient to severe pain that cannot be adequately managed without the care or treatment that is the subject of the claim.

**191—79.3(505) Prior authorization protocols.** All health carriers, health benefit plans and pharmacy benefits managers must accept the approved prior authorization form from health care providers.

**79.3(1) Posting of prior authorization drugs.** The health carrier, health benefit plan or pharmacy benefits manager shall post a current list of prescription drugs requiring prior authorization to the Web site of the health carrier, health benefit plan or pharmacy benefits manager.

**79.3(2) Posting of prior authorization form.** The approved prior authorization form shall be made electronically available on the Web site of the division and on the Web site of each health carrier, health benefit plan or pharmacy benefits manager that uses the form.

**79.3(3) Assignment of identification number.** The health carrier, health benefit plan or pharmacy benefits manager shall assign to each prior authorization request a unique electronic identification number that a provider may use during the prior authorization process to track the request electronically, through a call center, or by fax.

**79.3(4) Urgent claims.** Prior authorization requests for urgent claims shall be approved or denied as soon as possible, but in no case later than 72 hours after receipt of the request.

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

**79.3(5) *Nonurgent claims.*** Prior authorization requests for nonurgent claims shall be approved or denied as soon as possible, but in no case later than 15 calendar days after receipt of the request.

**79.3(6) *Prescription drug benefits provided by a qualified health plan.*** A QHP shall have procedures in place that comply with the health insurance issuer standards related to expedited review based on exigent circumstances and coverage determinations no later than 24 hours after receipt of requests as provided for in 45 CFR 156.122(c).

**79.3(7) *Prior authorization granted.*** If a health carrier, health benefit plan or pharmacy benefits manager does not approve or deny a completed prior authorization request or solicit missing information within the time limits set forth in this rule, the prior authorization request shall be deemed to have been granted.

**79.3(8) *Denial of prior authorization request.*** In the case of a denial of a prior authorization request, the health carrier, health benefit plan or pharmacy benefits manager shall provide the reason for the denial, an alternative covered medication, if applicable, and information regarding the denial.

**191—79.4(505) Filing with the division.**

**79.4(1)** The prior authorization form utilized by health carriers and pharmacy benefits managers shall first be examined and approved by the commissioner. Health carriers shall submit the form electronically using the National Association of Insurance Commissioners' System for Electronic Rate and Form Filing (SERFF). Pharmacy benefits managers shall submit the form in writing to the commissioner by regular mail, fax or electronic means.

**79.4(2)** The form submitted for approval shall consider any prior authorization forms developed by the federal Centers for Medicare and Medicaid Services or the Department of Health and Human Services and any national standards pertaining to electronic prior authorization for prescription drugs, including ASC X12 278 standard transactions and NCPDP SCRIPT Standard ePA transactions.

**79.4(3)** A health carrier, health benefit plan or pharmacy benefits manager found after hearing to have violated a provision of this chapter shall be subject to the penalties set forth in Iowa Code chapter 505.

**191—79.5(505) Applicability.** This chapter shall not apply to Medicare or Medicaid.

**191—79.6(505) Effective date.** These rules shall take effect on March 11, 2015.

These rules are intended to implement 2014 Iowa Acts, House File 2463, section 98 [Iowa Code section 505.26].

**ARC 1764C**

**IOWA FINANCE AUTHORITY[265]**

**Notice of Intended Action**

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

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

Pursuant to the authority of Iowa Code sections 17A.3(1)“b” and 16.5(1)“r,” the Iowa Finance Authority proposes to amend Chapter 1, “General,” Iowa Administrative Code.

The purpose of this amendment is to update the implementation sentence at the end of the chapter.

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

The Authority will receive written comments on the proposed amendment until 4:30 p.m. on December 30, 2014. Comments may be addressed to Mark Thompson, General Counsel, Iowa Finance

## IOWA FINANCE AUTHORITY[265](cont'd)

Authority, 2015 Grand Avenue, Des Moines, Iowa 50312. Comments may also be faxed to Mark Thompson at (515)725-4901 or e-mailed to [mark.thompson@iowa.gov](mailto:mark.thompson@iowa.gov).

The Authority anticipates that it may make changes to the proposed amendment based on comments received from the public.

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

This amendment is intended to implement 2014 Iowa Code section 16.5.

The following amendment is proposed.

Amend **265—Chapter 1**, implementation sentence, as follows:

These rules are intended to implement Iowa Code sections 17A.3(1) and ~~46.5(17)~~ 16.5(1)“r.”

**ARC 1763C**

**IOWA FINANCE AUTHORITY[265]****Notice of Intended Action**

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

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

Pursuant to the authority of Iowa Code sections 17A.3(1)“b,” 16.5(1)“r,” and 16.5C, the Iowa Finance Authority proposes to amend Chapter 2, “Loan Programs,” Iowa Administrative Code.

The purpose of these amendments is to update the implementation sentences for seven rules.

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

The Authority will receive written comments on the proposed amendments until 4:30 p.m. on December 30, 2014. Comments may be addressed to Mark Thompson, General Counsel, Iowa Finance Authority, 2015 Grand Avenue, Des Moines, Iowa 50312. Comments may also be faxed to Mark Thompson at (515)725-4901 or e-mailed to [mark.thompson@iowa.gov](mailto:mark.thompson@iowa.gov).

The Authority anticipates that it may make changes to the proposed amendments based on comments received from the public.

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

These amendments are intended to implement 2014 Iowa Code sections 16.5 and 16.5C and 2014 Iowa Acts, chapter 1080, sections 19, 38, and 39 (2015 Iowa Code sections 16.5C, 16.38, and 16.39).

The following amendments are proposed.

ITEM 1. Amend rule **265—2.1(16)**, implementation sentence, as follows:

This rule is intended to implement Iowa Code sections ~~16.5(5), 16.5(14), 16.12(3)~~ 16.5 and 16.5C.

ITEM 2. Amend rule **265—2.2(16)**, implementation sentence, as follows:

This rule is intended to implement Iowa Code sections ~~16.12(4), 16.14(4), 16.5(15)~~ 16.5 and 16.5C.

ITEM 3. Amend rule **265—2.4(16)**, implementation sentence, as follows:

This rule is intended to implement Iowa Code sections ~~16.5(9), 16.12(4), 16.18 and 16.18(2)~~ 16.5 and 16.5C.

ITEM 4. Amend rule **265—2.5(16)**, implementation sentence, as follows:

This rule is intended to implement Iowa Code ~~section 16.5(15)~~ sections 16.5 and 16.5C.

ITEM 5. Amend rule **265—2.6(16)**, implementation sentence, as follows:

This rule is intended to implement Iowa Code ~~sections 16.12, 16.14, 16.17(3), 16.18(2), 16.20 and 16.21~~ section 16.5C.

ITEM 6. Amend rule **265—2.9(16)**, implementation sentence, as follows:

This rule is intended to implement Iowa Code sections ~~16.20 to 16.22~~ 16.5C, 16.38, and 16.39.

IOWA FINANCE AUTHORITY[265](cont'd)

ITEM 7. Amend rule **265—2.10(16)**, implementation sentence, as follows:  
This rule is intended to implement Iowa Code ~~sections~~ section 16.22 and 16.38.

**ARC 1762C**

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

### **Notice of Intended Action**

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

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

Pursuant to the authority of Iowa Code sections 17A.3(1)“b,” 16.5, and 16.5C, the Iowa Finance Authority proposes to amend Chapter 3, “Multifamily Housing,” Iowa Administrative Code.

The purpose of this amendment is to update the implementation sentence at the end of the chapter.

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

The Authority will receive written comments on the proposed amendment until 4:30 p.m. on December 30, 2014. Comments may be addressed to Mark Thompson, General Counsel, Iowa Finance Authority, 2015 Grand Avenue, Des Moines, Iowa 50312. Comments may also be faxed to Mark Thompson at (515)725-4901 or e-mailed to [mark.thompson@iowa.gov](mailto:mark.thompson@iowa.gov).

The Authority anticipates that it may make changes to the proposed amendment based on comments received from the public.

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

This amendment is intended to implement 2014 Iowa Code sections 16.5(1)“r” and 16.5C.

The following amendment is proposed.

Amend **265—Chapter 3**, implementation sentence, as follows:

These rules are intended to implement Iowa Code sections ~~16.5(17), 16.18(1) and 16.18(2).~~  
16.5(1)“r” and 16.5C.

**ARC 1760C**

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

### **Notice of Intended Action**

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

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

Pursuant to the authority of Iowa Code sections 17A.3(1)“b” and 16.5(1)“r,” the Iowa Finance Authority proposes to rescind Chapter 5, “Small Business Loan Program,” Iowa Administrative Code.

The purpose of this amendment is to rescind the administrative rules for an obsolete program.

The Authority will receive written comments on the proposed amendment until 4:30 p.m. on December 30, 2014. Comments may be addressed to Mark Thompson, General Counsel, Iowa Finance Authority, 2015 Grand Avenue, Des Moines, Iowa 50312. Comments may also be faxed to Mark Thompson at (515)725-4937 or e-mailed to [mark.thompson@iowa.gov](mailto:mark.thompson@iowa.gov).

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

This amendment is intended to implement Iowa Code section 16.5.

The following amendment is proposed.

IOWA FINANCE AUTHORITY[265](cont'd)

Rescind and reserve **265—Chapter 5.**

**ARC 1759C**

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

### **Notice of Intended Action**

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

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

Pursuant to the authority of Iowa Code sections 17A.3(1)“b” and 16.5(1)“r,” the Iowa Finance Authority proposes to rescind Chapter 6, “Group Home Facilities Loan Program,” Iowa Administrative Code.

The purpose of this amendment is to rescind the administrative rules for an obsolete program.

The Authority will receive written comments on the proposed amendment until 4:30 p.m. on December 30, 2014. Comments may be addressed to Mark Thompson, General Counsel, Iowa Finance Authority, 2015 Grand Avenue, Des Moines, Iowa 50312. Comments may also be faxed to Mark Thompson at (515)725-4937 or e-mailed to [mark.thompson@iowa.gov](mailto:mark.thompson@iowa.gov).

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

This amendment is intended to implement Iowa Code section 16.5.

The following amendment is proposed.

Rescind and reserve **265—Chapter 6.**

**ARC 1761C**

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

### **Notice of Intended Action**

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

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

Pursuant to the authority of Iowa Code sections 17A.3(1)“b,” 16.5(1)“r,” 16.1, and 16.5C, the Iowa Finance Authority proposes to amend Chapter 11, “Iowa Main Street Loan Program,” Iowa Administrative Code.

The purpose of these amendments is to update an internal reference in a definition and the implementation sentence for Chapter 11.

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

The Authority will receive written comments on the proposed amendments until 4:30 p.m. on December 30, 2014. Comments may be addressed to Mark Thompson, General Counsel, Iowa Finance Authority, 2015 Grand Avenue, Des Moines, Iowa 50312. Comments may also be faxed to Mark Thompson at (515)725-4901 or e-mailed to [mark.thompson@iowa.gov](mailto:mark.thompson@iowa.gov).

The Authority anticipates that it may make changes to the proposed amendments based on comments received from the public.

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

These amendments are intended to implement 2014 Iowa Code section 16.5C and 2014 Iowa Acts, chapter 1080, section 2 (2015 Iowa Code sections 16.1, 16.4, 16.4D, and 16.19).

IOWA FINANCE AUTHORITY[265](cont'd)

The following amendments are proposed.

ITEM 1. Amend rule **265—11.4(16)**, definition of “Housing,” as follows:

“*Housing*” means housing as defined in Iowa Code section ~~46.1(16)~~“*a.*” 16.1(14).

ITEM 2. Amend **265—Chapter 11**, implementation sentence, as follows:

These rules are intended to implement Iowa Code sections ~~16.12, 16.18,~~ 16.1, 16.4, 16.4D, 16.5C, 16.19, and 16.51,~~16.100 and 16.101.~~

**ARC 1771C**

## **LABOR SERVICES DIVISION[875]**

### **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 89A.3, the Elevator Safety Board (Board) hereby gives Notice of Intended Action to amend Chapter 72, “Conveyances Installed On or After January 1, 1975,” and Chapter 73, “Conveyances Installed Prior to January 1, 1975,” Iowa Administrative Code.

While existing elevators have generally not been required to meet current standards and install modern safety technologies, these proposed amendments would require some limited upgrades of older elevators. The amendments propose to adopt by reference significant portions of the American Society of Mechanical Engineers (ASME) Safety Code for Existing Elevators and Escalators, known as A17.3 (2011). These proposed changes have a long history.

In 1975, Iowa adopted requirements for existing elevators that were loosely based on the American National Standard Safety Code for Elevators, Dumbwaiters, Escalators, and Moving Walks, A17.1 (1971), which is the predecessor to the ASME A17.1 code. Although the ASME A17.1 code for new elevators has been updated numerous times to reflect new technologies and safety improvements, there have been very limited changes to Iowa’s regulations for existing elevators since 1975.

ASME adopted its first edition of A17.3 in 1986, and there have been several subsequent editions. About 27 states and three cities are enforcing some form of A17.3. Iowa Code section 89A.3(3) gives the Board specific authority to adopt A17.3.

On February 24, 2010, the Board formed a subcommittee to study A17.3. The subcommittee met numerous times to evaluate the differences between A17.3 and Iowa’s current requirements for existing conveyances found in 875—Chapter 73. The subcommittee determined that there will be no significant impact on escalators in Iowa as a result of the adoption of ASME A17.3 (2011).

The subcommittee met with the State Fire Marshal regarding the impact of ASME A17.3 (2011) on emergency response. The Board decided to seek public comment regarding A17.3 (2011). In July 2012, the Board sent to 875 owners of older elevators written notices of the proposed changes and instructions for how to comment. The Board published advance notice of proposed rule making three times and used various electronic methods to notify stakeholders.

In September and October of 2012, the Board held public hearings in Des Moines, Ottumwa, Fort Dodge, Waterloo, and Creston. Forty-six members of the public attended a hearing, and many of them made verbal comments. In addition, about 30 written comments were received and reviewed by the Board.

The public response was mostly negative due to the cost of a new controller. As a result, the Board decided to exclude from further consideration adoption of the emergency response provisions and car top operation requirements that would have required a new controller. In lieu of car top operation requirements, the adoption of one narrow provision of ASME A17.1 (2013) that requires car top lights

## LABOR SERVICES DIVISION[875](cont'd)

and outlets is proposed herein to achieve minimal safety improvements for inspectors and mechanics without the cost of a new controller.

The Board also decided to conduct a one-year survey of existing elevators to obtain better data about what upgrades would be required by the adoption of ASME A17.3 (2011). All elevator inspectors were instructed to complete the survey form for each elevator that was installed prior to 1993 and was inspected during calendar year 2013. Most owners of older elevators now have specific information about what ASME A17.3 (2011) would require for their equipment because copies of the completed surveys were left with the building owners. The survey data was tabulated in 2014.

Although the Board recognizes that there will be costs for building owners associated with the ASME A17.3 (2011) upgrades, the Board also recognizes the importance of the upgrades for the safety of passengers, freight handlers, elevator mechanics and inspectors. A car door restrictor can, for as little as \$400, prevent someone from falling down a hoistway. Emergency lights and a telephone in an elevator car are important for a trapped passenger. Many upgrades eliminate hazards for inspectors and elevator mechanics. For example, a counterweight weighs hundreds or thousands of pounds. For a price of about \$300, a counterweight guard could prevent someone from being crushed by a falling counterweight.

By providing for a 2020 implementation date, the Board will allow building owners five years to make the necessary changes to their equipment. The Board plans an outreach program to notify building owners of the requirements. Although no variance procedures are included in these amendments, applicable variance procedures are set forth in 875—Chapter 66. A variance application form is available on the Board's Web site, and the Board typically reviews variance applications several times a year.

The purposes of these amendments are to protect the health and safety of the public and implement legislative intent.

A public hearing will be held on January 9, 2015, at 8:30 a.m. in the Capitol View Room at 1000 East Grand Avenue, Des Moines, Iowa. Interested persons will be given the opportunity to make oral statements and file documents concerning the proposed amendments. The facility for the oral presentations is accessible to and functional for persons with physical disabilities. Persons who have special requirements should call (515)281-5915 in advance to arrange access or other needed services.

Written data, views, or arguments to be considered in adoption shall be submitted by interested persons no later than January 9, 2015, to Division of Labor Services, 1000 East Grand Avenue, Des Moines, Iowa 50319-0209. Comments may be sent electronically to [kathleen.uehling@iwd.iowa.gov](mailto:kathleen.uehling@iwd.iowa.gov).

After analysis and review, this rule making could have an impact on jobs. However, the five-year grace period allows building owners flexibility to make updates that are necessary to meet minimum safety requirements.

These amendments are intended to implement Iowa Code chapter 89A.

The following amendments are proposed.

ITEM 1. Amend rule 875—72.10(89A) as follows:

**875—72.10(89A) General requirements.**

**72.10(1)** The provisions contained in ASME A17.1, Part 8, are adopted by reference unless specifically excluded herein.

**72.10(2)** Except as noted in this rule, the American Society of Mechanical Engineers Safety Code for Existing Elevators and Escalators, A17.3 (2011), is adopted by reference with an enforcement date of May 1, 2020.

**a.** If a code provision that is more restrictive than A17.3 (2011) applied to a conveyance when the conveyance was installed, the more restrictive provision shall remain in effect.

**b.** A17.3 (2011) Part X applies to handicapped restricted use elevators without regard to the scope provisions set forth in A17.3 (2011) Part X.

**c.** Provisions of A17.3 (2011) that require installation of a new controller to implement Phase 1 and Phase 2 fire service or car top operation are not adopted by reference and shall not be enforced in Iowa.

## LABOR SERVICES DIVISION[875](cont'd)

d. A17.3 (2011), Rule 2.3.2, is intended to prevent the accumulation of sewer gas in an elevator pit and shall not be interpreted to require the addition of a drain pipe in an existing pit. An air gap in an existing drain pipe shall be considered adequate compliance.

e. An elevator that was legally installed with guide rails made of materials other than steel shall not be required to replace the guide rails due to the adoption of A17.3 (2011).

ITEM 2. Amend rule 875—73.1(89A) as follows:

**875—73.1(89A) Scope, and definitions, and schedule.**

**73.1(1)** This chapter establishes minimum safety standards for all conveyances installed prior to January 1, 1975, except material lift elevators. Conveyances installed on or after January 1, 1975, shall conform with the requirements set forth in 875—Chapter 72. Material lift elevators installed prior to January 1, 1975, are not subject to regulation pursuant to Iowa Code section 89A.2.

**73.1(2)** The definitions contained in ~~ASME (1971)~~ American National Standard Safety Code for Elevators, Dumbwaiters, Escalators, and Moving Walks, A17.1 (1971), shall be applicable as used in this chapter to the extent that they do not conflict with the definitions contained in Iowa Code chapter 89A or 875—Chapter 71.

**73.1(3)** Except as noted in this rule, the American Society of Mechanical Engineers Safety Code for Existing Elevators and Escalators, A17.3 (2011), is adopted by reference with an enforcement date of May 1, 2020.

a. If a code provision that is more restrictive than A17.3 (2011) applied to a conveyance when the conveyance was installed, the more restrictive provision shall remain in effect.

b. A17.3 (2011) Part X applies to elevators covered by rule 875—73.21(89A) without regard to the scope provisions set forth in A17.3 (2011) Part X.

c. Provisions of A17.3 (2011) that require installation of a new controller to implement Phase 1 and Phase 2 fire service or car top operation are not adopted by reference and shall not be enforced in Iowa.

d. A17.3 (2011), Rule 2.3.2, is intended to prevent the accumulation of sewer gas in an elevator pit and shall not be interpreted to require the addition of a drain pipe in an existing pit. An air gap in an existing drain pipe shall be considered adequate compliance.

e. The following shall substitute for the final sentence of A17.3 (2011) Rule 2.1.5(b): “Previously installed 60-inch chains are deemed to be in compliance.”

f. An elevator that was legally installed with guide rails made of materials other than steel shall not be required to replace the guide rails due to the adoption of A17.3 (2011).

**73.1(4)** The American Society of Mechanical Engineers Safety Code for Elevators and Escalators, A17.1-2013/CSA B44-13 (2013), Rule 2.14.7.1.4, is adopted by reference with an effective date of May 1, 2020.

**73.1(5)** Rules 875—73.2(89A) through 875—73.6(89A), 875—73.9(89A) to 875—73.17(89A), 875—73.19(89A), 875—73.22(89A), and 875—73.24(89A); and subrules 73.1(2), 73.7(1) to 73.7(9), 73.7(11), 73.18(1), and 73.18(3) to 73.18(7) shall be superseded by corresponding provisions of A17.3 (2011) on May 1, 2020.



## ARC 1769C

## 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 13, “Standards of Practice and Principles of Medical Ethics,” Iowa Administrative Code.

The purpose of Chapter 13 is to establish standards of medical practice for medical physicians and osteopathic physicians. The proposed rule establishes the standards of practice for physicians who use telemedicine, which is the practice of medicine using electronic communication, information technology or other means of interaction between a licensee in one location and a patient in another location with or without an intervening health care provider.

The Board approved this Notice of Intended Action during a regularly scheduled meeting on October 3, 2014.

Any interested person may present written comments on the proposed rule not later than 4:30 p.m. on January 15, 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 January 15, 2015, at 1:30 p.m. in the auditorium in the Wallace State Office Building, 502 East Ninth Street, Des Moines, Iowa, at which time persons may present their views either orally or in writing.

After analysis and review of this rule making, it has been determined that this rule could have a positive impact on jobs in Iowa. The new rule will facilitate the practice of medicine at more locations within the state.

This rule is intended to implement Iowa Code chapters 147, 148 and 272C.

The following amendment is proposed.

Adopt the following **new** rule 653—13.11(147,148,272C):

**653—13.11(147,148,272C) Standards of practice—telemedicine.** This rule establishes standards of practice for the practice of medicine using telemedicine.

1. The board recognizes that technological advances have made it possible for licensees in one location to provide medical care to patients in another location with or without an intervening health care provider.

2. Telemedicine is a useful tool that, if applied appropriately, can provide important benefits to patients, including increased access to health care, expanded utilization of specialty expertise, rapid availability of patient records, and potential cost savings.

3. The board advises that licensees using telemedicine will be held to the same standards of care and professional ethics as licensees using traditional in-person medical care.

4. Failure to conform to the appropriate standards of care or professional ethics while using telemedicine may subject the licensee to potential discipline by the board.

**13.11(1) Definitions.** As used in this rule:

“Board” means the Iowa board of medicine.

“In-person encounter” means that the physician and the patient are in the physical presence of each other and are in the same physical location during the physician-patient encounter.

“Licensee” means a medical physician or osteopathic physician licensed by the board.

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

*“Telemedicine”* means the practice of medicine using electronic audio-visual communications and information technologies or other means between a licensee in one location and a patient in another location with or without an intervening health care provider. Telemedicine shall not include the provision of medical services only through an audio-only telephone, e-mail messages, facsimile transmissions, or U.S. mail or other parcel service, or any combination thereof.

*“Telemedicine technologies”* means technologies and devices enabling secure electronic communications and information exchanges between a licensee in one location and a patient in another location with or without an intervening health care provider.

**13.11(2) *Nationally recognized telemedicine guidelines.*** A licensee who uses telemedicine should be aware that nationally recognized medical specialty organizations have established comprehensive telemedicine practice guidelines that address the clinical and technological aspects of telemedicine for many medical specialties. A licensee who uses telemedicine shall utilize evidence-based telemedicine practice guidelines, to the degree they are available, to ensure patient safety, quality of care, and positive outcomes.

**13.11(3) *Iowa medical license required.*** A physician who uses telemedicine in the diagnosis and treatment of a patient located in Iowa shall hold an active Iowa medical license.

**13.11(4) *Standards of care and professional ethics.*** A licensee who uses telemedicine shall be held to the same standards of care and professional ethics as a licensee using traditional in-person encounters with patients. Failure to conform to the appropriate standards of care or professional ethics while using telemedicine may be a violation of the laws and rules governing the practice of medicine and may subject the licensee to potential discipline by the board.

**13.11(5) *Scope of practice.*** A licensee who uses telemedicine shall ensure that the services provided are consistent with the licensee’s scope of practice, including the licensee’s education, training, experience, ability, licensure, and certification.

**13.11(6) *Identification of patient and physician.*** A licensee who uses telemedicine shall verify the identity of the patient and ensure that the patient has the ability to verify the identity, licensure status, certification, credentials, and qualifications of all health care providers who provide telemedicine services prior to the provision of care.

**13.11(7) *Physician-patient relationship.***

*a.* A licensee who uses telemedicine shall establish a valid physician-patient relationship with the person who receives telemedicine services. The physician-patient relationship begins when:

- (1) The person with a health-related matter seeks assistance from a licensee;
- (2) The licensee agrees to undertake diagnosis and treatment of the person; and
- (3) The person agrees to be treated by the licensee whether or not there has been an in person encounter between the physician and the person.

*b.* A valid physician-patient relationship may be established:

(1) Through an in person medical interview and a physical examination (when medically necessary) where an in person encounter would otherwise be required in the provision of the same service not delivered via telemedicine;

(2) Through consultation with another licensee (or other health care provider) who has an established relationship with the patient and who agrees to participate in, or supervise, the patient’s care; or

(3) In accordance with evidence-based telemedicine practice guidelines that are established by nationally recognized medical specialty organizations and address the clinical and technological aspects of telemedicine.

**13.11(8) *Medical history and physical examination.*** Prior to providing treatment, including issuing prescriptions, electronically or otherwise, a licensee who uses telemedicine shall ensure that the patient is interviewed to collect the patient’s relevant medical history and that the patient receives a physical examination, when medically necessary, sufficient for the diagnosis and treatment of the patient. Generally, the licensee shall perform an in-person medical interview and a physical examination of the patient. However, the medical interview and physical examination may not be in person if the technology utilized in a telemedicine encounter is sufficient to establish an informed diagnosis as

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

though the medical interview and physical examination had been performed in person. An Internet questionnaire alone does not constitute an acceptable medical interview and physical examination for the provision of treatment, including issuance of prescriptions, electronically or otherwise, by a licensee.

**13.11(9) *Nonphysician health care providers.*** If a licensee who uses telemedicine relies upon or delegates medical services to a nonphysician health care provider who requires physician supervision, the licensee shall:

*a.* Personally assess each nonphysician health care provider's education, training, experience and ability to ensure that each provider is qualified and competent to safely perform each medical service being provided;

*b.* Ensure that each medical service provided is within the scope of practice of the licensee and that of the nonphysician health care provider, as evidenced by the education, training, experience, ability, licensure or certification of the licensee and the nonphysician health care provider;

*c.* Ensure that the licensee is available electronically to consult with nonphysician health care providers, particularly in the case of injury or an emergency.

**13.11(10) *Informed consent.*** A licensee who uses telemedicine shall ensure that the patient provides appropriate informed consent for the medical services provided, including consent for the use of telemedicine to diagnose and treat the patient, and that such informed consent is timely documented in the patient's medical record.

**13.11(11) *Coordination of care.*** A licensee who uses telemedicine shall identify the medical home or treating physician(s) for the patient, when available, where in-person services can be delivered in coordination with the telemedicine services. The licensee shall provide a copy of the medical record to the patient's medical home or treating physician(s).

**13.11(12) *Follow-up care.*** A licensee who uses telemedicine shall ensure that the patient has access to appropriate follow-up care following a telemedicine encounter. The physician shall have adequate knowledge of the nature and availability of local medical resources to provide appropriate follow-up care to the patient following a telemedicine encounter.

**13.11(13) *Emergency services.*** A licensee who uses telemedicine shall establish written protocols for referral of the patient to an acute care facility or an emergency department when referral is necessary for the safety of the patient or in the case of an emergency.

**13.11(14) *Medical records.*** A licensee who uses telemedicine shall ensure that complete, accurate and timely medical records are maintained for the patient when appropriate, including all patient-related electronic communications, records of past care, physician-patient communications, laboratory and test results, evaluations and consultations, prescriptions, and instructions obtained or produced in connection with the use of telemedicine technologies. The licensee shall note in the patient's record when telemedicine is used to provide diagnosis and treatment. The licensee shall ensure that the patient or another licensee designated by the patient has timely access to all information obtained during the telemedicine encounter. The licensee shall ensure that the patient receives, upon request, a summary of each telemedicine encounter in a timely manner.

**13.11(15) *Privacy and security.*** A licensee who uses telemedicine shall ensure that all telemedicine encounters comply with the privacy and security measures of the Health Insurance Portability and Accountability Act to ensure that all patient communications and records are secure and remain confidential.

*a.* The licensee shall establish written protocols that address the following:

- (1) Privacy;
- (2) Health care personnel who will process messages;
- (3) Hours of operation;
- (4) Types of transactions that will be permitted electronically;
- (5) Required patient information to be included in the communication, including patient name, identification number and type of transaction;
- (6) Archiving and retrieval; and
- (7) Quality oversight mechanisms.

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

b. The written protocols should be periodically evaluated for currency and should be maintained in an accessible and readily available manner for review. The written protocols shall include sufficient privacy and security measures to ensure the confidentiality and integrity of patient-identifiable information, including password protection, encryption or other reliable authentication techniques.

**13.11(16) *Technology and equipment.*** The board recognizes that three broad categories of telemedicine technologies currently exist, including store-and-forward technologies, remote monitoring, and real-time interactive services. While some telemedicine programs are multispecialty in nature, others are tailored to specific diseases and medical specialties. A licensee who uses telemedicine shall ensure that the technology and equipment utilized for telemedicine comply with the following requirements:

a. All technology and equipment utilized must comply with all relevant safety laws, rules, regulations, and codes for technology and technical safety for devices that interact with patients or are integral to diagnostic capabilities;

b. All technology and equipment utilized must be of sufficient quality, size, resolution and clarity such that the licensee can safely and effectively provide the telemedicine services; and

c. All technology and equipment must be compliant with the Health Insurance Portability and Accountability Act.

**13.11(17) *Disclosure and functionality of telemedicine services.*** A licensee who uses telemedicine shall clearly disclose the following information to the patient:

a. Types of services provided;

b. Contact information for the licensee;

c. Identity, licensure, certification, credentials, and qualifications of all health care providers who are providing the telemedicine services;

d. Limitations in the drugs and services that can be provided via telemedicine;

e. Fees for services, cost-sharing responsibilities, and how payment is to be made;

f. Financial interests, other than fees charged, in any information, products, or services provided by the licensee(s);

g. Appropriate uses and limitations of the technologies, including in emergency situations;

h. Uses of and response times for e-mails, electronic messages and other communications transmitted via telemedicine technologies;

i. To whom patient health information may be disclosed and for what purpose;

j. Rights of patients with respect to patient health information; and

k. Information collected and passive tracking mechanisms utilized.

**13.11(18) *Patient access and feedback.*** A licensee who uses telemedicine shall ensure that the patient has easy access to a mechanism for the following purposes:

a. To access, supplement and amend patient-provided personal health information;

b. To provide feedback regarding the quality of the telemedicine services provided; and

c. To register complaints. The mechanism shall include information regarding the filing of complaints with the board.

**13.11(19) *Financial interests.*** Advertising or promotion of goods or products from which the licensee(s) receives direct remuneration, benefit or incentives (other than the fees for the medical services) is prohibited. Notwithstanding such prohibition, Internet services may provide links to general health information sites to enhance education; however, the licensee(s) should not benefit financially from providing such links or from the services or products marketed by such links. When providing links to other sites, physicians should be aware of the implied endorsement of the information, services or products offered from such sites. The maintenance of a preferred relationship with any pharmacy is prohibited. Licensees shall not transmit prescriptions to a specific pharmacy, or recommend a pharmacy, in exchange for any type of consideration or benefit from the pharmacy.

**13.11(20) *Circumstances when a physician may not personally examine a patient.*** Under the following limited circumstances, a licensee may treat a patient who has not been personally interviewed, examined and diagnosed by the licensee:

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

- a. Situations in which the licensee prescribes medications on a short-term basis for a new patient and has scheduled or is in the process of scheduling an appointment to personally examine the patient;
- b. Institutional settings, including writing initial admission orders for a newly hospitalized patient;
- c. Call situations in which a licensee is taking call for another licensee who has an established physician-patient relationship with the patient;
- d. Cross-coverage situations in which a licensee is providing coverage for another licensee who has an established physician-patient relationship with the patient;
- e. Situations in which the patient has been examined in person by an advanced registered nurse practitioner or a physician assistant or other licensed practitioner with whom the licensee has a supervisory or collaborative relationship;
- f. Emergency situations in which the life or health of the patient is in imminent danger;
- g. Emergency situations that constitute an immediate threat to the public health including, but not limited to, empiric treatment or prophylaxis to prevent or control an infectious disease outbreak;
- h. Situations in which the licensee has diagnosed a sexually transmitted disease in a patient and the licensee prescribes or dispenses antibiotics to the patient's named sexual partner(s) for the treatment of the sexually transmitted disease as recommended by the U.S. Centers for Disease Control and Prevention; and
- i. Certain nursing home and hospice settings.

**13.11(21) *Prescribing controlled substances—prohibited.*** Prescribing controlled substances to a patient based solely on an Internet request, Internet questionnaire or a telephonic evaluation is prohibited.

**13.11(22) *Medications or treatment regimens that can be administered only by a physician.*** The licensee must be physically present in the same location as the patient when prescribing, administering, or dispensing medications or providing treatment regimens that can be administered only by a physician, as required by law or administrative rule, by protocols approved by the U.S. Food and Drug Administration, or by appropriate standards of care. Nothing in this rule shall be interpreted to contradict or supersede the requirements established in rule 653—13.10(147,148,272C).

This rule is intended to implement Iowa Code chapters 147, 148 and 272C.

**ARC 1791C****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 3, “Pharmacy Technicians,” Chapter 6, “General Pharmacy Practice,” and Chapter 7, “Hospital Pharmacy Practice”; to rescind Chapter 13, “Sterile Compounding Practices”; and to rescind Chapter 20, “Pharmacy Compounding Practices,” and adopt a new Chapter 20, “Compounding Practices,” Iowa Administrative Code.

The amendments were approved at the November 19, 2014, regular meeting of the Board of Pharmacy.

The proposed amendments are intended to combine the requirements currently in Chapters 13 and 20 for the compounding of drug products into a single chapter, Chapter 20, that fully adopts national minimum practice standards for compounding found in General Chapters 795 and 797 of the United States Pharmacopeia. The proposed amendments also incorporate new federal regulations as established in the Drug Quality and Security Act of 2013, also known as the Compounding Quality Act, with respect to compounding and outsourcing facilities. Current Chapter 13 will be rescinded and reserved.

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

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 January 15, 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).

A public hearing will be held on January 15, 2015, at 1 p.m. in the shared conference room at the Board of Pharmacy office, 400 S.W. Eighth Street, Suite E, Des Moines, Iowa, for the purpose of receiving oral and written comments. Interested 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, the Board has been unable to determine any impact on jobs.

These amendments are intended to implement Iowa Code sections 124.302, 124.303, 124.306, 124.308, 124.501, 126.9, 126.10, 126.18, 155A.2, 155A.13, 155A.28, 155A.33, and 155A.35.

The following amendments are proposed.

ITEM 1. Amend rule 657—3.22(155A) as follows:

**657—3.22(155A) Technical functions.** At the discretion of the supervising pharmacist, the following technical functions, in addition to any of the functions authorized for a pharmacy support person pursuant to 657—Chapter 5, may be delegated to a pharmacy technician as specified in the following subrules.

**3.22(1) *Certified pharmacy technician.*** Under the supervision of a pharmacist, a certified pharmacy technician may perform technical functions delegated by the supervising pharmacist including, but not limited to, the following:

*a. to h.* No change.

*i.* Perform drug compounding processes ~~for nonsterile compounding~~ as provided in 657—Chapter 20.

~~*j.* Perform drug compounding processes for sterile compounding as provided in 657—Chapter 13.~~

~~*k. j.*~~ As provided in rule 657—3.24(155A), accept new prescription drug orders or medication orders communicated to the pharmacy by a prescriber or by the prescriber's agent.

**3.22(2) *Pharmacy technician trainee.*** Under the supervision of a pharmacist, a pharmacy technician trainee may perform only the following technical functions delegated by the supervising pharmacist:

*a. to g.* No change.

*h.* Under the supervision of a pharmacist who provides training and evaluates and monitors trainee competence in the compounding processes, perform drug compounding processes ~~for nonsterile compounding~~ as provided in 657—Chapter 20.

~~*i.* Under the supervision of a pharmacist who provides training and evaluates and monitors trainees, and contingent on successful completion of appropriate media fill testing processes, perform drug compounding processes for sterile compounding as provided in 657—Chapter 13.~~

ITEM 2. Amend subrule 6.10(2) as follows:

**6.10(2) *Exceptions.*** The requirements of subrule 6.10(1) do not apply to unit dose dispensing systems, 657—22.1(155A); ~~sterile products, 657—Chapter 13;~~<sub>2</sub> and patient med paks, 657—22.5(126,155A).

ITEM 3. Amend paragraph **7.8(1)“b”** as follows:

*b.* Pharmacy personnel shall, except as specified in policies and procedures, prepare all sterile products in conformance with 657—Chapter ~~13~~ 20.

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

ITEM 4. Rescind and reserve **657—Chapter 13**.

ITEM 5. Rescind 657—Chapter 20 and adopt the following **new** chapter in lieu thereof:

CHAPTER 20  
COMPOUNDING PRACTICES

**657—20.1(124,126,155A) Purpose and scope.** The requirements of this chapter apply to compounded preparations that are dispensed, distributed, or administered to an ultimate user in the state of Iowa, regardless of the location of the pharmacy or outsourcing facility where the preparation was compounded. This chapter applies to compounded preparations intended for humans and animals. In addition to the requirements in this chapter, all pharmacies and outsourcing facilities engaged in compounding shall comply with all applicable federal laws and regulations governing compounding and all applicable state laws, rules and regulations governing the practice of pharmacy. In the event the requirements in this chapter directly conflict with any federal law or regulation, the federal law or regulation shall supersede the requirements in this chapter. The requirements of 657—Chapter 16 apply to the compounding of radiopharmaceuticals.

**657—20.2(124,126,155A) Definitions.** For purposes of this chapter, the following definitions apply:

*“Anticipatory compounding”* means the compounding of preparations in advance of receiving a patient-specific prescription.

*“Batch preparation compounding”* means anticipatory compounding, compounding preparations intended for multiple disbursements or compounding preparations in a multiple-dose container for administration to more than one patient.

*“Beyond-use date”* means the date after which a compounded preparation should not be used, determined from the date that the preparation is compounded.

*“Bulk drug substance”* means any substance that is represented for use in a drug and that, when used in the manufacturing, processing, or packaging of a drug, becomes an active ingredient or a finished dosage form of the drug. The term does not include intermediates used in the synthesis of such substances.

*“Compounding”* means the combining, mixing, diluting, pooling, flavoring, or otherwise altering of a drug or bulk drug substance to create a drug. Compounding includes the preparation of drugs or devices in which all bulk drug substances and components are nonprescription products. Compounding does not include mixing or reconstituting a drug according to the product’s labeling or to the manufacturer’s directions.

*“FDA”* means the Food and Drug Administration of the U.S. Department of Health and Human Services.

*“Outsourcing facility”* means a facility that is located at a single geographic location and has registered with the FDA in accordance with Section 503B of the Federal Food, Drug, and Cosmetic Act as an outsourcing facility.

*“USP”* means United States Pharmacopeia.

**657—20.3(124,126,155A) Nonsterile compounding.** Iowa-licensed pharmacies that compound nonsterile preparations for ultimate users in the state of Iowa shall follow the current revision of USP Chapter 795 standards. Additional USP chapters incorporated by reference into USP Chapter 795 shall also be followed.

**657—20.4(124,126,155A) Sterile compounding.** Iowa-licensed pharmacies that compound sterile preparations for ultimate users in the state of Iowa shall follow the current revision of USP Chapter 797 standards. Additional USP chapters incorporated by reference into USP Chapter 797 shall also be followed.

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

**657—20.5(126,155A) Delayed compliance.** A pharmacy that is unable to meet full compliance with these rules and with USP Chapter 795 or USP Chapter 797 by [six months following the effective date of these rules] shall, prior to that date, request and obtain from the board a waiver of the specific requirement or requirements that the pharmacy is unable to meet. A pharmacy that cannot meet full compliance with these rules, including applicable USP chapters, and that has not obtained from the board a waiver of the specific requirement or requirements shall not engage in compounding until the pharmacy is in full compliance with all requirements or the board has approved a waiver of the specific requirement or requirements.

**657—20.6(126,155A) Compounding standards for outsourcing facilities.** An FDA-registered outsourcing facility shall be properly licensed in Iowa and shall follow the FDA's current good manufacturing practices (cGMPs) for outsourcing facilities when compounding preparations for hospitals, practitioners, or patients in the state of Iowa.

**657—20.7 and 20.8** Reserved.

**657—20.9(124,155A) Prescriber/patient/pharmacist relationship.** All compounded preparations shall be dispensed pursuant to a patient-specific prescription unless the compounded preparation is distributed pursuant to rule 657—20.15(124,126,155A) or 657—20.16(124,126,155A). A prescription for a compounded preparation shall be authorized by the prescriber for a specific patient. Prescriptions for all compounded preparations shall be maintained on file at the dispensing pharmacy.

**657—20.10(126,155A) Anticipatory compounding.**

**20.10(1) Outsourcing facilities.** Outsourcing facilities are authorized to engage in anticipatory compounding. Outsourcing facilities are not required to obtain patient-specific prescriptions in order to distribute compounded preparations.

**20.10(2) Pharmacies.** Pharmacies may engage in anticipatory compounding only if the anticipatory compounding is based on a history of receiving valid prescriptions generated solely within an established prescriber/patient/pharmacist relationship, so long as each compounded preparation is dispensed pursuant to a patient-specific prescription.

**657—20.11(126,155A) Prohibition on resale of compounded preparations.** The sale of compounded preparations to other pharmacies, prescribers, or facilities, except as explicitly authorized by this chapter, is considered manufacturing.

**657—20.12(126,155A) Compounding copies of an approved drug.** A pharmacy or outsourcing facility may only compound preparations that are essentially copies of approved drugs if the compounded preparation is changed to produce for an individual patient a clinically significant difference to meet a medical need as determined and authorized by the prescriber. A pharmacy or outsourcing facility may compound a preparation that is essentially a copy of an approved drug if the approved drug is identified as currently in shortage on the FDA drug shortages database published on the FDA Web site <http://www.accessdata.fda.gov/scripts/drugshortages/default.cfm>.

**657—20.13 and 20.14** Reserved.

**657—20.15(124,126,155A) Compounding for office use.**

**20.15(1) Human compounded preparations.** Only an FDA-registered outsourcing facility properly licensed in Iowa may distribute to a practitioner for office use human compounded preparations without a patient-specific prescription.

**20.15(2) Veterinary compounded preparations.** Veterinary compounded preparations may be sold to a practitioner for office use if compounded by an Iowa-licensed pharmacy and sold directly to the practitioner by the compounding pharmacy.



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

**20.15(3) *Office administration.*** Compounded preparations distributed for office use pursuant to subrule 20.15(1) or 20.15(2) and in accordance with the labeling requirements of subrule 20.15(4) do not require a patient-specific prescription but do require that the compounded preparation be administered to an individual patient in the practitioner's office. Compounded preparations distributed for office use pursuant to this rule shall not be further distributed to other practitioners or to patients for administration outside of the office.

**20.15(4) *Labeling.*** Compounded preparations for office use, in addition to the labeling requirements specified in rule 657—20.19(124,126,155A), shall include on the prescription label the practitioner's name in place of the patient's name. The label shall state "For Office Use Only—Not for Resale." If the sterility or integrity of the compounded preparation cannot be maintained after the initial opening of the container, the label shall state "Single-Dose Only."

**657—20.16(124,126,155A) *Compounding for hospital use.*** Compounded preparations distributed or dispensed to a hospital or hospital pharmacy pursuant to this rule shall be administered to an individual patient in the hospital.

**20.16(1) *By an FDA-registered outsourcing facility.*** Only an FDA-registered outsourcing facility properly licensed in Iowa may distribute human compounded preparations to a hospital or hospital pharmacy in the absence of a patient-specific prescription. The compounded preparation shall be labeled in compliance with subrule 20.19(3).

**20.16(2) *By a pharmacy that is not an FDA-registered outsourcing facility.*** Human compounded preparations that are not compounded at an FDA-registered outsourcing facility may be dispensed to a hospital or hospital pharmacy by an Iowa-licensed pharmacy pursuant to a prescriber's authorization for administration to a specific patient. The compounded preparation shall be labeled in compliance with subrule 20.19(2).

**657—20.17 and 20.18** Reserved.

**657—20.19(124,126,155A) *Labeling.*** The label, or attached auxiliary labeling if necessary, affixed to the container of any compounded preparation dispensed or distributed into or within Iowa shall contain at least the information identified in one of the following subrules, as applicable.

**20.19(1) *General pharmacy or outpatient dispensing.*** The label shall meet the labeling requirements of 657—subrule 6.10(1) and shall include the following additional information:

- a. The name and concentration of each active ingredient.
- b. The date that the preparation was compounded.
- c. The beyond-use date of the compounded preparation.
- d. Special storage and handling instructions, if applicable.
- e. FDA contact information ([www.fda.gov/medwatch](http://www.fda.gov/medwatch) and 1-800-FDA-1088 or successor Web site or telephone number) to facilitate adverse event reporting.
- f. The statement "COMPOUNDED PREPARATION" or a reasonable comparable alternative statement that prominently identifies the drug as a compounded preparation.
- g. If the compounded preparation is sterile, the word "STERILE."
- h. If the compounded preparation was prepared from batch preparation compounding, the batch identification or control number.

**20.19(2) *Hospital pharmacy or inpatient administration.*** The label shall meet the labeling requirements of 657—subrule 22.1(3) and shall include the following additional information:

- a. The name and concentration of each active ingredient.
- b. The date that the preparation was compounded.
- c. The beyond-use date of the compounded preparation.
- d. If the compounded preparation was prepared from batch preparation compounding, the batch identification or control number.
- e. Special storage and handling instructions, if applicable.

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

**20.19(3) Outsourcing facility distribution or dispensing.** The label, or auxiliary labeling if necessary, shall include the following information:

- a. The statement “THIS IS A COMPOUNDED DRUG” or a reasonable comparable alternative statement that prominently identifies the drug as a compounded preparation.
- b. The name, address, and telephone number of the outsourcing facility that compounded the preparation.
- c. The established name of the preparation.
- d. The dosage form and strength.
- e. The quantity of the preparation.
- f. The date that the preparation was compounded.
- g. The beyond-use date of the compounded preparation.
- h. Storage and handling instructions.
- i. The lot or batch identification or control number.
- j. The national drug code number, if available.
- k. The statement “Not for resale” and, if the preparation is dispensed or distributed other than pursuant to a prescription for an individual identified patient, the statement “OFFICE USE ONLY.”
- l. The following additional information, which can be included on the labeling of a container (such as a plastic bag containing individual product syringes) from which individual units of the drug are removed for dispensing or for administration if there is not space on the label for such information :
  - (1) Directions for use including, as appropriate, dosage and administration;
  - (2) A list of the active and inactive ingredients, identified by established name and quantity or proportion of each ingredient;
  - (3) FDA contact information ([www.fda.gov/medwatch](http://www.fda.gov/medwatch) and 1-800-FDA-1088 or successor Web site or telephone number) to facilitate adverse event reporting.
- m. If the preparation is compounded pursuant to a prescription for a specific patient, the label shall also include the label requirements in 657—subrule 6.10(1).
- n. If the preparation is compounded for office use, the label shall also include the label requirements in subrule 20.15(4).

**657—20.20(126,155A) Labeling for batch preparation compounding.** Compounded preparations resulting from batch preparation compounding shall be labeled with the following information until such time as they are labeled pursuant to rule 657—20.19(124,126,155A) for distribution to hospitals or practitioners or for dispensing or administration to patients:

1. The date that the preparation was compounded.
2. Compounded preparation name or formula.
3. Dosage form.
4. Strength.
5. Quantity per container.
6. Unique internal batch identification or control number.
7. Beyond-use date.
8. Special storage and handling instructions, if applicable.

**657—20.21 and 20.22** Reserved.

**657—20.23(124,126,155A) Records.** All records required by this chapter shall be retained as original records of the pharmacy or outsourcing facility and shall be readily available for inspection and photocopying by agents of the board or other authorized authorities for at least two years following the date of the record. Records shall allow for the identification of all ingredients used in compounding, all personnel involved in compounding, and all personnel involved in reviewing compounded preparations.

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

The pharmacy or outsourcing facility shall maintain records documenting the disbursements from each batch of a compounded preparation.

These rules are intended to implement Iowa Code sections 124.302, 124.303, 124.306, 124.308, 124.501, 126.9, 126.10, 126.18, 155A.2, 155A.13, 155A.28, 155A.33, and 155A.35.

**ARC 1793C****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 9, “Automated Medication Distribution Systems and Telepharmacy Services,” Chapter 15, “Correctional Pharmacy Practice,” Chapter 18, “Centralized Prescription Filling and Processing,” Chapter 19, “Nonresident Pharmacy Practice,” Chapter 22, “Unit Dose, Alternative Packaging, and Emergency Boxes,” and Chapter 23, “Long-Term Care Pharmacy Practice,” Iowa Administrative Code.

The amendments were approved at the November 19, 2014, regular meeting of the Board of Pharmacy.

The proposed amendments update and clarify the persons responsible for various activities required by Board rules including responsibilities shared by a pharmacy, by and through its owner or license holder, the pharmacist in charge (PIC), and staff pharmacists. The purpose for the proposed amendments is to assign responsibility for pharmacy activities and functions to the party or parties that have the ability to control those activities and functions. The proposed amendments are a result of recommendations made by the 2014 PIC Task Force. The PIC Task Force was established at the recommendation of the 2013 Patient Safety Task Force. In developing its recommendations to the Board, the PIC Task Force reviewed current Board rules and the rules and regulations of other state licensing authorities, in addition to discussing responsibility issues and current pharmacy management and practice issues and standards.

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 January 15, 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).

A public hearing will be held on January 15, 2015, at 9 a.m. in the shared conference room at the Board of Pharmacy Office, 400 S.W. Eighth Street, Suite E, Des Moines, Iowa, for the purpose of receiving oral and written comments. Interested 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 sections 124.301, 126.11, 147.107, 155A.13, 155A.13A, 155A.15, 155A.19, and 155A.33.

The following amendments are proposed.

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

ITEM 1. Amend rule 657—6.2(155A) as follows:

**657—6.2(155A) Pharmacist in charge.** One professionally competent, legally qualified pharmacist in charge in each pharmacy shall be responsible for, at a minimum, ~~the following:~~ the responsibilities identified in rule 657—8.3(155A).

- ~~1. Ensuring that the pharmacy utilizes an ongoing, systematic program for achieving performance improvement and ensuring the quality of pharmaceutical services.~~
- ~~2. Ensuring that the pharmacy employs an adequate number of qualified personnel commensurate with the size and scope of services provided by the pharmacy.~~
- ~~3. Ensuring the availability of any equipment and references necessary for the particular practice of pharmacy.~~
- ~~4. Ensuring that a pharmacist performs prospective drug use review as specified in rule 657—8.21(155A).~~
- ~~5. Ensuring that a pharmacist provides patient counseling as specified in rule 657—6.14(155A).~~
- ~~6. Dispensing drugs to patients, including the packaging, preparation, compounding, and labeling functions performed by pharmacy personnel.~~
- ~~7. Delivering drugs to the patient or the patient's agent.~~
- ~~8. Ensuring that patient medication records are maintained as specified in rule 657—6.13(155A).~~
- ~~9. Training pharmacy technicians and pharmacy support persons.~~
- ~~10. Procuring and storing prescription drugs and devices and other products dispensed from the pharmacy.~~
- ~~11. Distributing and disposing of drugs from the pharmacy.~~
- ~~12. Maintaining records of all transactions of the pharmacy necessary to maintain accurate control over and accountability for all drugs as required by applicable state and federal laws, rules, and regulations.~~
- ~~13. Establishing and maintaining effective controls against the theft or diversion of prescription drugs and records for such drugs.~~
- ~~14. Establishing, implementing, and periodically reviewing and revising written policies and procedures to reflect changes in processes, organization, and other functions for all operations of the pharmacy and ensuring that all pharmacy personnel are familiar with those policies and procedures.~~
- ~~15. Ensuring the legal operation of the pharmacy, including meeting all inspection and other requirements of state and federal laws, rules, and regulations governing the practice of pharmacy.~~
- ~~16. Ensuring that there is adequate space within the prescription department or a locked room not accessible to the public for the storage of prescription drugs, devices, and controlled substances and to support the operations of the pharmacy.~~

ITEM 2. Amend rule 657—7.2(155A) as follows:

**657—7.2(155A) Pharmacist in charge.** One professionally competent, legally qualified pharmacist in charge in each pharmacy shall be responsible for, at a minimum, ~~the items identified in this rule~~ responsibilities identified in rule 657—8.3(155A). ~~A part-time pharmacist in charge has the same obligations and responsibilities as a full-time pharmacist in charge.~~ Where 24-hour operation of the pharmacy is not feasible, a pharmacist shall be available on an “on call” basis. ~~The pharmacist in charge, at a minimum, shall be responsible for:~~

- ~~1. Ensuring that the pharmacy utilizes an ongoing, systematic program for achieving performance improvement and ensuring the quality of pharmaceutical services.~~
- ~~2. Ensuring that the pharmacy employs an adequate number of qualified personnel commensurate with the size and scope of services provided by the pharmacy and sufficient to ensure adequate levels of quality patient care services. Drug dispensing by nonpharmacists shall be minimized and eliminated wherever possible.~~
- ~~3. Ensuring the availability of any equipment and references necessary for the particular practice of pharmacy.~~
- ~~4. Ensuring that a pharmacist performs therapeutic drug monitoring and drug use evaluation.~~

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

- ~~5. Ensuring that a pharmacist provides drug information to other health professionals and to patients.~~
- ~~6. Dispensing drugs to patients, including the packaging, preparation, compounding, and labeling functions performed by pharmacy personnel.~~
- ~~7. Delivering drugs to the patient or the patient's agent.~~
- ~~8. Ensuring that patient medication records are maintained as specified in rule 657—7.10(124,155A).~~
- ~~9. Training pharmacy technicians and pharmacy support persons.~~
- ~~10. Ensuring adequate and appropriate pharmacist oversight and supervision of pharmacy technicians and pharmacy support persons.~~
- ~~11. Procuring and storing prescription drugs and devices and other products dispensed from the pharmacy.~~
- ~~12. Distributing and disposing of drugs from the pharmacy.~~
- ~~13. Maintaining records of all transactions of the pharmacy necessary to maintain accurate control over and accountability for all drugs as required by applicable state and federal laws, rules, and regulations.~~
- ~~14. Establishing and maintaining effective controls against the theft or diversion of prescription drugs, controlled substances, and records for such drugs.~~
- ~~15. Preparing a written operations manual governing pharmacy functions; periodically reviewing and revising those policies and procedures to reflect changes in processes, organization, and other pharmacy functions; and ensuring that all pharmacy personnel are familiar with the contents of the manual.~~
- ~~16. Ensuring the legal operation of the pharmacy, including meeting all inspection and other requirements of state and federal laws, rules, and regulations governing the practice of pharmacy.~~

ITEM 3. Amend rule 657—7.8(124,126,155A) as follows:

**657—7.8(124,126,155A) Drug distribution and control.** Policies and procedures governing drug distribution and control shall be ~~developed by the pharmacist in charge~~ established pursuant to rule 657—8.3(155A) with input from other involved hospital staff such as physicians and nurses, from committees such as the pharmacy and therapeutics committee or its equivalent, and from any related patient care committee. It is essential that the pharmacist in charge or designee routinely be available to or on all patient care areas to establish rapport with the personnel and to become familiar with and contribute to medical and nursing procedures relating to drugs.

**7.8(1) Drug preparation.** ~~The pharmacist shall institute the control~~ Control and adequate quality assurance procedures needed to ensure that patients receive the correct drugs at the proper times shall be established pursuant to rule 657—8.3(155A). ~~Adequate quality assurance procedures shall be developed.~~

*a.* Hospitals shall utilize a unit dose dispensing system pursuant to rule 657—22.1(155A). All drugs dispensed by the ~~pharmacist~~ pharmacy for administration to patients shall be in single unit or unit dose packages if practicable unless the dosage form or drug delivery device makes it impracticable to package the drug in a unit dose or single unit package.

(1) ~~The pharmacist in charge shall establish~~ Established policies and procedures that shall identify situations when drugs may be dispensed in other than unit dose or single unit packages outside the unit dose dispensing system.

(2) The need for nurses to manipulate drugs prior to their administration shall be minimized.

*b.* Pharmacy personnel shall, except as specified in policies and procedures, prepare all sterile products in conformance with 657—Chapter 43 ~~20~~.

*c.* Pharmacy personnel shall compound or prepare drug formulations, strengths, dosage forms, and packages useful in the care of patients.

**7.8(2) Drug formulary.** ~~The pharmacist in charge shall maintain~~ Established policies and procedures shall include a current formulary of drug products approved for use in the institution and shall ~~be responsible for include~~ specifications for those drug products ~~and for selecting their source of supply.~~

**7.8(3) to 7.8(6)** No change.

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

**7.8(7) *Drugs brought into the institution.*** ~~The pharmacist-in-charge~~ Established policies and procedures shall determine those circumstances when patient-owned drugs brought into the institution may be administered to a hospital patient and shall ~~establish policies and identify~~ procedures governing the use and security of drugs brought into the institution. Procedures shall address identification of the drug and methods for ensuring the integrity of the product prior to permitting its use by the patient. The use of patient-owned drugs shall be minimized to the greatest extent possible.

**7.8(8) and 7.8(9)** No change.

**7.8(10) *Hazardous drugs and chemicals.*** ~~The pharmacist, in cooperation with other hospital staff, shall establish policies~~ Policies and procedures for handling drugs and chemicals that are known occupational hazards shall be established pursuant to rule 657—8.3(155A). The procedures shall maintain the integrity of the drug or chemical and protect hospital personnel.

**7.8(11) *Leave meds.*** Labeling of prescription drugs for a patient on leave from the facility for a period in excess of 24 hours shall comply with 657—subrule 6.10(1). The dispensing ~~pharmacy~~ pharmacist shall be responsible for packaging and labeling leave meds in compliance with this subrule.

**7.8(12) *Discharge meds.*** Drugs authorized for a patient being discharged from the facility shall be labeled in compliance with 657—subrule 6.10(1) before the patient removes those drugs from the facility premises. The dispensing ~~pharmacy~~ pharmacist shall be responsible for packaging and labeling discharge meds in compliance with this subrule.

**7.8(13) *Own-use outpatient prescriptions.*** If the hospital pharmacy dispenses own-use outpatient prescriptions, the ~~pharmacy~~ pharmacist shall comply with all requirements of 657—Chapter 6 except rule 657—6.1(155A).

**7.8(14)** No change.

ITEM 4. Amend rule 657—7.9(124,155A) as follows:

**657—7.9(124,155A) *Drug information.*** ~~The pharmacy is responsible for providing the institution's staff and patients with~~ Established policies and procedures shall include the provision to the institution's staff and patients of accurate, comprehensive information about drugs and their use ~~and shall serve as its center for drug information.~~ The pharmacy shall serve as the institution's center for drug information.

**7.9(1) and 7.9(2)** No change.

ITEM 5. Amend rule 657—7.10(124,155A) as follows:

**657—7.10(124,155A) *Ensuring rational drug therapy.*** An important aspect of pharmaceutical services is that of maximizing rational drug use. ~~The pharmacist, in concert with the medical staff, shall develop policies~~ Policies and procedures for ensuring the quality of drug therapy shall be established pursuant to rule 657—8.3(155A).

**7.10(1)** No change.

**7.10(2) *Adverse drug events.*** ~~The pharmacist, in cooperation with the appropriate patient care committee, shall develop~~ Established policies and procedures shall include a mechanism for the reporting and review, by the committee or other appropriate medical group, of adverse drug events. The pharmacist shall be informed of all reported adverse drug events occurring in the facility. Adverse drug events include but need not be limited to adverse drug reactions and medication errors.

ITEM 6. Amend rule 657—7.11(124,126,155A) as follows:

**657—7.11(124,126,155A) *Outpatient services.*** No prescription drugs shall be dispensed to patients in a hospital outpatient setting. If a need is established for the dispensing of a prescription drug to an outpatient, a prescription drug order shall be provided to the patient to be filled at a pharmacy of the patient's choice.

**7.11(1)** No change.

**7.11(2) *Administration in the outpatient setting.*** Drugs shall be administered only to outpatients who have been examined and evaluated by a prescriber who determined the patient's need for the drug therapy ordered.

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

*a. Accountability.* ~~A Established policies and procedures shall include a system of drug control and accountability shall be developed and supervised by the pharmacist in charge and the facility's outpatient services committee, or a similar group or person responsible for policy in the outpatient setting. The system shall ensure accountability of drugs incidental to outpatient nonemergency therapy or treatment. Drugs shall be administered only in accordance with the system.~~

*b. and c.* No change.

ITEM 7. Amend rule 657—7.12(124,126,155A) as follows:

**657—7.12(124,126,155A) Drugs in the emergency department.** Drugs maintained in the emergency department are kept for use by or at the direction of prescribers in the emergency department. Drugs shall be administered or dispensed only to emergency department patients. For the purposes of this rule, “emergency department patient” means an individual who is examined and evaluated in the emergency department.

**7.12(1) Accountability.** ~~A Established policies and procedures shall include a system of drug control and accountability shall be developed and supervised by the pharmacist in charge and the facility's emergency department committee, or a similar group or person responsible for policy in the emergency department. The system shall identify drugs of the nature and type to meet the immediate needs of emergency department patients. Drugs shall be administered or dispensed only in accordance with the system.~~

**7.12(2)** No change.

**7.12(3) Drug dispensing.** In those facilities with 24-hour pharmacy services, 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, the provisions of this rule shall apply.

*a. Pharmacist in charge responsibility Responsibility.* ~~The pharmacist in charge is responsible for maintaining 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 and for ensuring the accuracy of prepackaged drugs and the complete and accurate labeling of prepackaged drugs pursuant to this paragraph shall be maintained.~~

(1) and (2) No change.

*b.* No change.

**7.12(4)** No change.

ITEM 8. Amend rule 657—8.3(155A) as follows:

**657—8.3(155A) Responsibility Responsible parties.**

**8.3(1) Pharmacy operations.** ~~The pharmacy and the pharmacist in charge share responsibility for ensuring that all operations of the pharmacy are in compliance with federal and state laws, rules, and regulations relating to pharmacy operations and the practice of pharmacy.~~

**8.3(1) Pharmacist in charge.** One professionally competent, legally qualified pharmacist in charge in each pharmacy shall work cooperatively with the pharmacy, by and through its owner or license holder, and with all staff pharmacists to ensure the legal operation of the pharmacy, including meeting all inspection and other requirements of state and federal laws, rules, and regulations governing the practice of pharmacy. A part-time pharmacist in charge has the same obligations and responsibilities as a full-time pharmacist in charge.

**8.3(2) Pharmacy.** Each pharmacy, by and through its owner or license holder, shall work cooperatively with the pharmacist in charge and with all staff pharmacists to ensure the legal operation of the pharmacy, including meeting all inspection and other requirements of state and federal laws, rules, and regulations governing the practice of pharmacy. The pharmacy, by and through its owner or license holder, shall be responsible for employing a professionally competent, legally qualified pharmacist in charge.

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

**8.3(3) *Pharmacy and pharmacist in charge.*** The pharmacist in charge and the pharmacy, by and through its owner or license holder, shall share responsibility for, at a minimum, the following:

- a. Ensuring that the pharmacy employs an adequate number of qualified personnel commensurate with the size and scope of services provided by the pharmacy.
- b. Ensuring the availability of any equipment and references necessary for the particular practice of pharmacy.
- c. Ensuring that there is adequate space within the prescription department or a locked room not accessible to the public for the storage of prescription drugs, including controlled substances, devices, and pharmacy records, and to support the operations of the pharmacy.

**8.3(4) *Pharmacist in charge and staff pharmacists.*** The pharmacist in charge and staff pharmacists shall share responsibility for, at a minimum, the following:

- a. Ensuring that a pharmacist performs prospective drug use review as specified in rule 657—8.21(155A).
- b. Ensuring that a pharmacist provides patient counseling as specified in rule 657—6.14(155A).
- c. Dispensing drugs to patients, including the packaging, preparation, compounding, and labeling functions performed by pharmacy personnel.
- d. Delivering drugs to the patient or the patient's agent.
- e. Ensuring that patient medication records are maintained as specified in rule 657—6.13(155A).
- f. Training and supervising pharmacist-interns, pharmacy technicians, pharmacy support persons, and other pharmacy employees.
- g. Procuring and storing prescription drugs and devices and other products dispensed from the pharmacy.
- h. Distributing and disposing of drugs from the pharmacy.
- i. Maintaining records of all transactions of the pharmacy necessary to maintain accurate control over and accountability for all drugs as required by applicable state and federal laws, rules, and regulations.
- j. Ensuring the legal operation of the pharmacy, including meeting all inspection and other requirements of state and federal laws, rules, and regulations governing the practice of pharmacy.

**8.3(5) *Pharmacy, pharmacist in charge, and staff pharmacists.*** The pharmacy, by and through its owner or license holder, the pharmacist in charge, and all staff pharmacists shall share responsibility for, at a minimum, the following:

- a. Establishing and periodically reviewing (by the pharmacy and the pharmacist in charge), implementing (by the pharmacist in charge), and complying with (by the pharmacist in charge and staff pharmacists) policies and procedures for all operations of the pharmacy. The policies and procedures shall identify the frequency of review.
- b. Establishing and maintaining effective controls against the theft or diversion of prescription drugs, including controlled substances, and records for such drugs.
- c. Establishing (by the pharmacy and the pharmacist in charge), implementing (by the pharmacist in charge), and utilizing (by the pharmacist in charge and staff pharmacists) an ongoing, systematic program of continuous quality improvement for achieving performance enhancement and ensuring the quality of pharmaceutical services.

**8.3(2) 8.3(6) *Practice functions.*** The pharmacist is responsible for all functions performed in the practice of pharmacy. The pharmacist maintains responsibility for any and all delegated functions including functions delegated to pharmacist-interns, pharmacy technicians, and pharmacy support persons.

**8.3(3) 8.3(7) *Pharmacist-documented verification.*** The pharmacist shall provide, document, and retain a record of the final verification for the accuracy, validity, completeness, and appropriateness of the patient's prescription or medication order prior to the delivery of the medication to the patient or the patient's representative.



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

ITEM 9. Amend rule 657—8.5(155A) as follows:

**657—8.5(155A) Environment and equipment requirements.** There shall be adequate space, equipment, and supplies for the professional and administrative functions of the pharmacy pursuant to rule 657—8.3(155A). Space and equipment in an amount and type to provide secure, environmentally controlled storage of drugs shall be available.

**8.5(1) to 8.5(6)** No change.

**8.5(7) Other equipment.** The pharmacist in charge and the pharmacy, by and through its owner or license holder, shall ensure share the responsibility for ensuring the availability of any other equipment necessary for the particular practice of pharmacy and to meet the needs of the patients served by the pharmacy.

**8.5(8) Bulk counting machines.** Unless bar-code scanning is required and utilized to verify the identity of each stock container of drugs utilized to restock a counting machine cell or bin, a pharmacist shall verify the accuracy of the drugs to be restocked prior to filling the counting machine cell or bin. A record identifying the individual who verified the drugs to be restocked, the individual who restocked the counting machine cell or bin, and the date shall be maintained. The pharmacy Established policies and procedures shall have include a method to calibrate and verify the accuracy of the counting device, and The pharmacy shall, at least quarterly, verify the accuracy of the device and maintain a dated record identifying the individual who performed the quarterly verification.

ITEM 10. Amend rule 657—8.14(155A) as follows:

**657—8.14(155A) Training and utilization of pharmacy technicians or pharmacy support persons.** All Pursuant to rule 657—8.3(155A), all Iowa-licensed pharmacies utilizing pharmacy technicians or pharmacy support persons shall develop, implement, and periodically review have written policies and procedures for the training and utilization of pharmacy technicians and pharmacy support persons appropriate to the practice of pharmacy at that licensed location. Pharmacy policies shall specify the frequency of review. Pharmacy technician and pharmacy support person training shall be documented and maintained by the pharmacy for the duration of employment. Policies and procedures and documentation of pharmacy technician and pharmacy support person training shall be available for inspection by the board or an agent of the board.

ITEM 11. Amend subrule 8.15(2) as follows:

**8.15(2) Policies and procedures required.** Every Pursuant to rule 657—8.3(155A), every pharmacy shipping or otherwise delivering prescription drugs or devices to Iowa patients shall develop and implement have policies and procedures to ensure accountability, safe delivery, and compliance with temperature requirements as defined by subrule 8.7(4).

ITEM 12. Amend rule 657—8.26(155A) as follows:

**657—8.26(155A) Continuous quality improvement program.** Each Pursuant to rule 657—8.3(155A), each pharmacy licensed to provide pharmaceutical services to patients in Iowa shall implement or participate in a continuous quality improvement program or (CQI program). The CQI program is intended to be an ongoing, systematic program of standards and procedures to detect, identify, evaluate, and prevent medication errors, thereby improving medication therapy and the quality of patient care. A pharmacy that participates as an active member of a hospital or corporate CQI program that meets the objectives of this rule shall not be required to implement a new program pursuant to this rule.

**8.26(1)** No change.

**8.26(2) Responsibility.** The pharmacist in charge is responsible for ensuring that the pharmacy utilizes a CQI program consistent with the requirements of this rule. The pharmacist in charge may delegate program administration and monitoring, but the pharmacist in charge maintains ultimate responsibility for the validity and consistency of program activities.

**8.26(3) Policies and procedures.** Each Pursuant to rule 657—8.3(155A), each pharmacy shall develop, implement, and adhere to have written policies and procedures for the operation and

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

management of the pharmacy's CQI program. A copy of the pharmacy's CQI program description and policies and procedures shall be maintained and readily available to all pharmacy personnel. The policies and procedures shall address, at a minimum, a planned process to:

*a. to f.* No change.

**8.26(4) to 8.26(6)** No change.

ITEM 13. Amend rule 657—9.3(147,155A) as follows:

**657—9.3(147,155A) Pharmacist in charge responsibilities Responsibilities.**

**9.3(1) AMDS.** ~~The pharmacist in charge of~~ In any pharmacy utilizing an AMDS, the following responsibilities, which are in addition to the responsibilities required by all applicable federal and state laws, rules and regulations and the responsibilities described in rule 657—8.3(155A), shall be ~~responsible for the following in addition to other responsibilities assigned under federal and state laws and regulations as follows:~~

*a. Implementing* ~~The pharmacy and the pharmacist in charge shall share responsibility for establishing, the pharmacist in charge shall be responsible for implementing, and the pharmacist in charge and staff pharmacists shall share responsibility for utilizing an ongoing quality assurance program the purpose of which purpose is to monitor and improve performance of each AMDS as provided in rule 657—9.10(147,155A).~~

*b.* ~~Establishing and ensuring compliance with all policies and procedures relating to the AMDS.~~

~~*c. b.*~~ *Assigning* The pharmacist in charge shall be responsible for assigning, discontinuing, or changing drug and information access to the AMDS.

~~*d. c.*~~ The pharmacist in charge and staff pharmacists shall share responsibility for:

(1) Ensuring that drug access, including access to controlled substances, is in compliance with state and federal laws, rules and regulations.

(2) Ensuring that each AMDS component is filled or stocked accurately and in accordance with established, written policies and procedures.

(3) Ensuring that each AMDS component is in good working order and performs its designated tasks, including ensuring the correct strength, dosage form, and quantity of the prescribed drug.

(4) Ensuring that confidentiality of patient-specific information is maintained.

(5) Ensuring that all personnel utilizing or accessing the AMDS or any component of the AMDS have been appropriately trained.

~~*e.*~~ Ensuring that each AMDS component is filled or stocked accurately and in accordance with established, written policies and procedures.

~~*f.*~~ Ensuring that each AMDS component is in good working order and performs its designated tasks, including ensuring the correct strength, dosage form, and quantity of the prescribed drug.

~~*g. d.*~~ Ensuring The pharmacy, by and through its owner or license holder, pharmacist in charge, and staff pharmacists shall share responsibility for ensuring that the AMDS has adequate security safeguards regarding drug access and information access.

~~*h.*~~ Ensuring that confidentiality of patient-specific information is maintained.

~~*i.*~~ Ensuring that all personnel utilizing or accessing the AMDS or any component of the AMDS have been appropriately trained.

~~*j. e.*~~ Ensuring that the board is provided The pharmacy shall provide the board with written notice at least 30 days prior to an installation, removal, or upgrade that significantly changes the operation of an AMDS. The notice shall include:

(1) to (6) No change.

**9.3(2)** No change.

ITEM 14. Amend rule 657—9.10(147,155A) as follows:

**657—9.10(147,155A) Quality assurance and performance improvement.** The goal of any AMDS is the accurate dispensing of drugs. In all dispensing activities, the pharmacy shall strive for 100 percent accuracy. Quality assurance data shall be utilized to monitor and improve systems.

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

**9.10(1) AMDS.** Pharmacies utilizing an AMDS shall ~~develop~~ have a written quality assurance and monitoring plan pursuant to rule 657—9.3(147,155A) prior to implementation of the AMDS. The quality assurance plan shall target the preparation, delivery, and verification of AMDS unit contents during fill and refill processes and shall include, but not be limited to, the following:

*a. to d.* No change.

**9.10(2) to 9.10(4)** No change.

ITEM 15. Amend rule 657—9.11(147,155A) as follows:

**657—9.11(147,155A) Policies and procedures.** Notwithstanding rule 657—8.3(155A), policies and procedures for an AMDS shall be required pursuant to this chapter. All policies and procedures shall be in writing and shall be maintained in the pharmacy responsible for the AMDS or, if a telepharmacy practice, shall be maintained at both the managing pharmacy and the remote site. All policies and procedures shall be reviewed at least annually and revised as necessary, and the review shall be documented. Additions, deletions, amendments, and other changes to policies and procedures shall be signed or initialed by the pharmacist in charge, shall include the date on which the change was approved, and shall be maintained for a minimum of two years following the date of the change. The policy and procedure manual and retained changes shall be available for inspection and copying by the board or an agent of the board.

**9.11(1) AMDS.** ~~All pharmacies utilizing AMDS shall develop, implement, and adhere to policies and procedures that address~~ Pursuant to rule 657—8.3(155A) and this chapter, a pharmacy shall have policies and procedures for an AMDS that provide, at a minimum, the following:

*a. to k.* No change.

**9.11(2)** No change.

ITEM 16. Amend rule 657—15.3(155A) as follows:

**657—15.3(155A) Pharmacist in charge Responsibilities.** ~~One professionally competent, legally qualified pharmacist who is licensed to practice pharmacy in Iowa shall be the pharmacist in charge of the~~ In any correctional pharmacy and, the following responsibilities, which are in addition to the responsibilities required by all applicable federal and state laws, rules and regulations and the responsibilities as described in rule 657—8.3(155A), shall be responsible for, at a minimum, the following assigned as follows:

1. ~~Ensuring that the pharmacy utilizes an ongoing, systematic program for achieving performance improvement and ensuring the quality of pharmaceutical services;~~

2. ~~Ensuring that the pharmacy employs an adequate number of qualified personnel commensurate with the size and scope of services provided by the pharmacy;~~

3. ~~1.~~ Ensuring The pharmacist in charge or designee shall ensure that a quarterly inspection of all pharmaceuticals located at the correctional facility, including any emergency/first dose drug supply located outside the confines of the pharmacy, is completed and documented;

4. ~~Ensuring the availability of any equipment and references necessary for the particular practice of pharmacy;~~

5. ~~Preparing written policies and procedures governing pharmacy functions; periodically reviewing and revising those policies and procedures to reflect changes in processes, organization, and other pharmacy functions; ensuring that policies and procedures are consistent with board rules; and ensuring that all pharmacy personnel are familiar with the policies and procedures;~~

6. ~~Ensuring that a pharmacist performs prospective drug use reviews as specified in rule 657—8.21(155A);~~

7. ~~2.~~ Ensuring that The pharmacist in charge or a pharmacist provides shall provide drug information to other health professionals, to other caregivers, and to patients as required or requested;

8. ~~Dispensing drugs to patients, including the packaging, preparation, compounding, and labeling functions performed by pharmacy personnel;~~

9. ~~Delivering drugs to the patient or the patient's agent;~~

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

~~10. Ensuring that patient drug records are maintained as specified in rule 657—15.8(124,126,155A);~~

~~11. Training pharmacy technicians and pharmacy support persons;~~

~~12. Establishing policies and procedures for the procurement and storage of prescription drugs and devices and other products dispensed from the pharmacy;~~

~~13. Disposing of and distributing drugs from the pharmacy;~~

~~14. Maintaining records of all transactions of the pharmacy necessary to maintain accurate control over and accountability for all drugs as required by applicable state and federal laws, rules, and regulations;~~

~~15. Establishing and maintaining effective controls against the theft or diversion of prescription drugs and records for such drugs;~~

~~16. Ensuring the legal operation of the pharmacy, including meeting all inspection and other requirements of state and federal laws, rules, and regulations governing the practice of pharmacy.~~

ITEM 17. Amend subrule 15.5(2) as follows:

**15.5(2) Access when pharmacist absent.** ~~The pharmacist in charge, with the concurrence of the department, shall establish and implement~~ Pursuant to rule 657—8.3(155A), the pharmacy shall have policies and procedures for the security of the correctional pharmacy. Policies and procedures shall identify who will have access to the pharmacy, what areas may be accessed, and the procedures to be followed for obtaining drugs and chemicals when the pharmacist is absent from the pharmacy.

ITEM 18. Amend rule 657—15.7(124,126,155A) as follows:

**657—15.7(124,126,155A) Training and utilization of pharmacy technicians or pharmacy support persons.** ~~All correctional pharmacies utilizing pharmacy technicians or pharmacy support persons shall develop, implement, and periodically review written policies and procedures for the training and utilization of pharmacy technicians and pharmacy support persons appropriate to the practice of pharmacy at that licensed location. Pharmacy policies shall specify the frequency of the review. Pharmacy technician and pharmacy support person training shall be documented and maintained by the pharmacy for the duration of employment. Policies and procedures and documentation of pharmacy technician and pharmacy support person training shall be available for inspection by the board or an agent of the board.~~

ITEM 19. Amend rule 657—15.10(124,126,155A) as follows:

**657—15.10(124,126,155A) Policies and procedures.** ~~The pharmacist in charge shall develop and implement written policies and procedures for the pharmacy drug distribution system consistent with board rules and department policies and procedures pertaining to pharmaceutical services. Pharmacy policies and procedures, established, implemented, and complied with pursuant to rule 657—8.3(155A), shall address, but not be limited to, the following:~~

1. to 22. No change.

ITEM 20. Amend rule 657—18.10(155A) as follows:

**657—18.10(155A) Policy and procedures.**

**18.10(1) Manual maintained.** A Pursuant to rule 657—8.3(155A), a policy and procedure manual relating to centralized filling or centralized processing activities shall be maintained at all pharmacies involved in centralized filling or centralized processing and shall be available for inspection and copying by the board or an agent of the board.

**18.10(2)** No change.

ITEM 21. Amend rule 657—19.7(155A) as follows:

**657—19.7(155A) Confidential data.** ~~The pharmacist in charge shall be responsible for developing, implementing, and enforcing~~ Pursuant to rule 657—8.3(155A), each nonresident pharmacy shall have policies and procedures to ensure patient confidentiality and to protect patient identity and

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

patient-specific information from inappropriate or nonessential access, use, or distribution pursuant to the requirements of 657—8.16(124,155A).

ITEM 22. Amend rule 657—19.8(124,155A) as follows:

**657—19.8(124,155A) Storage and shipment of drugs and devices.** ~~The pharmacist in charge shall be responsible for developing, implementing, and enforcing~~ Pursuant to rule 657—8.3(155A), each nonresident pharmacy shall have policies and procedures to ensure compliance with rules 657—8.7(155A) and 657—8.15(155A) and USP standards for the storage and shipment of drugs and devices. Policies and procedures shall provide for the shipment of controlled substances via a secure and traceable method, and all records of such shipment and delivery to Iowa patients shall be maintained for a minimum of two years from date of delivery.

ITEM 23. Amend rule 657—19.9(155A) as follows:

**657—19.9(155A) Patient record system, prospective drug use review, and patient counseling.**

**19.9(1) and 19.9(2)** No change.

**19.9(3) Patient counseling.** ~~The pharmacist in charge shall be responsible for developing, implementing, and enforcing~~ Pursuant to rule 657—8.3(155A), each nonresident pharmacy shall have policies and procedures to ensure that Iowa patients receive appropriate counseling pursuant to the requirements of rule 657—6.14(155A).

ITEM 24. Amend subrule 22.7(6) as follows:

**22.7(6) Notifications.** Whenever an emergency/first dose drug supply is opened or has expired, the provider pharmacy shall be notified and the pharmacist shall be responsible for replacing the drug within 72 hours to prevent risk of harm to patients. ~~Policy must be developed by the provider pharmacist to~~ Pursuant to rule 657—8.3(155A), established policies and procedures shall address notification, record keeping, and documentation procedures for use of the supply.

ITEM 25. Amend subrule 22.7(7) as follows:

**22.7(7) Procedures.**

*a.* ~~The consultant or provider pharmacist~~ The pharmacy shall, in communication with the director of nursing of the facility and the medical director of the facility, or their respective designees, develop and implement and as provided in rule 657—8.3(155A), have written policies and procedures to ensure compliance with this rule.

*b. to d.* No change.

ITEM 26. Amend subrule 22.9(6) as follows:

**22.9(6) Policies and procedures.** ~~The pharmacist in charge of the provider pharmacy and~~ The pharmacy, pursuant to rule 657—8.3(155A) and in coordination with the home health agency or hospice, shall develop have policies and procedures to address storage conditions and security for drugs and kit maintenance. Outdated, expired drugs shall be properly disposed of by the pharmacy.

ITEM 27. Amend subrule 22.9(7) as follows:

**22.9(7) Responsibility for compliance.** ~~The provider pharmacy is responsible to ensure~~ The pharmacist in charge and staff pharmacists shall share responsibility for compliance with this rule, and any abuse or misuse of the intent of this rule shall be immediately reported to the board.

ITEM 28. Amend rule 657—23.4(124,155A) as follows:

**657—23.4(124,155A) Pharmacy responsibilities Responsibilities.** ~~The long-term care pharmacy pharmacist in charge and staff pharmacists in any pharmacy providing pharmaceutical services to long-term care facility patients shall be responsible~~ share responsibility for:

1. to 4. No change.

5. ~~Developing~~ Complying with a drug recall procedure, established pursuant to rule 657—8.3(155A), that protects the health and safety of residents including immediate discontinuation

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

of any recalled drug or device and subsequent notification of the prescriber and director of nursing of the facility.

6. Providing a 24-hour emergency service ~~procedure~~ either directly or by contract with another pharmacy.

7. to 9. No change.

ITEM 29. Amend rule 657—23.6(124,155A) as follows:

**657—23.6(124,155A) Space, equipment, and supplies.** ~~Each~~ Pursuant to rule 657—8.3(155A), each pharmacy serving a long-term care facility shall have adequate space, equipment, and supplies for the professional and administrative functions of the pharmacy and to meet the needs of the residents served. The pharmacy shall also comply with all reference, environment, and equipment requirements contained in rules 657—6.3(155A) and 657—8.5(155A).

ITEM 30. Amend rule 657—23.7(124,155A) as follows:

**657—23.7(124,155A) Policies and procedures.** ~~Policies and procedures shall be formulated to cover the provider~~ Pursuant to rule 657—8.3(155A), each pharmacy shall have policies and procedures related to all aspects of the pharmacy's packaging and dispensing responsibilities to the residents of the long-term care facility. The policies and procedures shall be maintained at the provider pharmacy and shall be available to the facility and the consultant pharmacist. Policies and procedures shall include, at a minimum:

1. to 4. No change.

ITEM 31. Amend rule 657—23.10(124,155A) as follows:

**657—23.10(124,155A) Stop orders.** ~~The consultant pharmacist, in consultation with the provider pharmacist, the medical director, and the appropriate committee or representative of the facility, shall develop and implement an automatic stop order policy.~~ To ensure that drug orders are not continued inappropriately, drugs the pharmacy's policies and procedures, established pursuant to rule 657—8.3(155A) and in consultation with the medical director and the appropriate committee or representative of the facility, shall include an automatic stop order policy. Drugs not specifically limited when ordered as to duration of therapy or number of doses shall be controlled by the automatic stop order policy in accordance with the status of the patient.

ITEM 32. Amend subrule 23.13(4) as follows:

**23.13(4) Leave meds.** Labeling of prescription drugs for residents on leave from the facility for a period in excess of 24 hours shall comply with 657—subrule 6.10(1). The dispensing ~~pharmacy~~ pharmacist shall be responsible for packaging and labeling leave meds in compliance with this subrule.

ITEM 33. Amend subrule 23.13(5) as follows:

**23.13(5) Discharge meds.** Drugs authorized for a resident being discharged from the facility shall be labeled in compliance with 657—subrule 6.10(1) before the resident removes those drugs from the facility premises. The dispensing ~~pharmacy~~ pharmacist shall be responsible for packaging and labeling discharge meds in compliance with this subrule.

ITEM 34. Amend rule 657—23.16(124,155A) as follows:

**657—23.16(124,155A) Destruction of outdated and improperly labeled drugs.** ~~The consultant pharmacist, in consultation with the provider pharmacist and a facility representative, shall develop and implement~~ The pharmacy shall, pursuant to rule 657—8.3(155A) and in consultation with a facility representative, have written policies and procedures to ensure that all discontinued, outdated, deteriorated, or improperly labeled drugs and all containers with worn, illegible or missing labels are destroyed or disposed of so as to render them unusable. Drugs shall be destroyed by means that will ensure protection against unauthorized possession or use.

## ARC 1792C

## 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 November 19, 2014, regular meeting of the Board of Pharmacy.

The proposed amendment requires the owner or the owner’s authorized representative and the temporary pharmacist in charge to provide written notification to the Board in the event that a pharmacist in charge has been identified to fill a temporary need. The amendment also removes the requirement for a signature of the owner or corporate officer on the notification.

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 January 15, 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 155A.13, 155A.13A, 155A.13B, 155A.15, and 155A.19.

The following amendment is proposed.

Amend subrule 8.35(6) as follows:

**8.35(6) *Pharmacy license changes.*** When a pharmacy changes its name, location, ownership, or pharmacist in charge, a new pharmacy license application with a license fee as provided in subrule 8.35(4) shall be submitted to the board office. Upon receipt of the fee and properly completed application, the board will issue a new pharmacy license certificate. The old license certificate shall be returned to the board office within ten days of the change of name, location, ownership, or pharmacist in charge.

*a. and b.* No change.

*c. Pharmacist in charge.* A change of pharmacist in charge shall require completion and submission of the application and fee for a new pharmacy license.

(1) If a permanent pharmacist in charge has not been identified by the time of the vacancy, a temporary pharmacist in charge shall be identified. Written notification identifying the temporary pharmacist in charge, ~~signed by the pharmacy owner or corporate officer and the temporary pharmacist in charge,~~ shall be submitted to the board by the pharmacy owner or the pharmacy owner’s authorized representative and by the temporary pharmacist in charge within 10 days following the vacancy.

(2) Within 90 days following the vacancy, a permanent pharmacist in charge shall be identified, and an application for pharmacy license, including the license fee as provided in subrule 8.35(4), shall be submitted to the board office.

## ARC 1790C

## 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 36, “Discipline,” Iowa Administrative Code.

This amendment was approved at the November 19, 2014, regular meeting of the Board of Pharmacy.

The proposed amendment provides clearer and more direct references to certain common violations by licensees or registrants for use by the Board when initiating and hearing disciplinary action. With respect to the addition of the submission of a false certification of continuing education as a ground for discipline, pharmacist licensees are now required to utilize the CPE Monitor for documenting the completion of continuing education requirements for licensure, and upon license renewal, pharmacists may now submit a certification of completion in lieu of reporting each educational program completed.

This rule does not provide for waiver or variance. The Board simply, by means of deciding not to initiate disciplinary action against a licensee or registrant based on any of the listed grounds for disciplinary action, implies a waiver or variance of the specific ground for disciplinary action.

Any interested person may present written comments, data, views, and arguments on the proposed amendment not later than 4:30 p.m. on January 15, 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).

A public hearing will be held on January 15, 2015, at 11 a.m. in the shared conference room at the Board of Pharmacy office, 400 S.W. Eighth Street, Suite E, Des Moines, Iowa, for the purpose of receiving oral and written comments. Interested 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 sections 147.55, 272C.3, 272C.5, 155A.15, 155A.23, 126.3, 124.304, and 124.401 to 124.407.

The following amendment is proposed.

Amend subrule 36.1(4) as follows:

**36.1(4) *Grounds for discipline.*** The board may impose any of the disciplinary sanctions set out in subrule 36.1(2) when the board determines that the licensee, registrant, or permittee is guilty of the following acts or offenses:

*a. to n.* No change.

*o.* Submission of a false report of continuing education, submission of a false certification of completion of continuing education, or failure to submit biennial reports of continuing education as directed by the board.

*p. to t.* No change.

*u.* Violating any of the grounds for revocation or suspension of a license or registration listed in Iowa Code sections ~~section~~ 147.55, ~~155A.12, and 155A.15~~ Iowa Code chapter 155A, or any of the rules of the board.

*v. to ah.* No change.

*ai.* Failure to notify the board of a criminal conviction within 30 days of the action, regardless of the jurisdiction where it occurred.

*aj.* Obtaining, possessing, or attempting to obtain or possess prescription drugs without lawful authority.



PHARMACY BOARD[657](cont'd)

- ak. Diverting prescription drugs from a pharmacy for personal use or for distribution.
- al. Practicing pharmacy, or assisting in the practice of pharmacy, while under the influence of alcohol or illicit substances.
- am. Practicing pharmacy, or assisting in the practice of pharmacy, while under the influence of prescription drugs or substances for which the licensee or registrant does not have a lawful prescription or while impaired by the use of legitimately prescribed pharmacological agents, drugs, or substances.
- an. Forging or altering a prescription.
- ao. Practicing outside the scope of the profession.
- ap. Dispensing, or contributing to the dispensing of, an incorrect prescription, which includes, but is not limited to, the incorrect drug, the incorrect strength, the incorrect patient or prescriber, or the incorrect or incomplete directions.
- aq. Failing to comply with a confidential order for evaluation.

**ARC 1745C****PUBLIC HEALTH DEPARTMENT[641]****Notice of Intended Action**

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

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

Pursuant to the authority of Iowa Code sections 125.7, 135.150, and 136.3, the Department of Public Health hereby gives Notice of Intended Action to rescind Chapter 155, “Licensure Standards for Substance Abuse and Problem Gambling Treatment Programs,” and to adopt a new Chapter 155, “Licensure Standards for Substance-Related Disorder and Problem Gambling Treatment Programs,” Iowa Administrative Code.

The rules in Chapter 155 describe procedures and programs related to licensure standards for substance-related disorder and problem gambling treatment programs. The rules in proposed new Chapter 155 implement changes that have been made to Iowa Code chapter 125. In these new rules, the standards conform to statutory changes, match revisions to national practice standards, align with national accreditation standards for similar programs, and are simplified compared to the current standards. The rules clarify and add detail to the program licensure application process, policies and procedures manual requirements, and corrective action plan requirements. The rules include updated references and Iowa Code citations, a reduction in the Department’s time frames for processing inspection reports from 80 business days to 60 business days and for complaints from 30 working days to 30 calendar days, an increase from \$75,000 to \$100,000 in the program budget threshold for requiring an annual financial audit, and an increase in a program’s time frame to comply with a corrective action plan from 60 days to 90 days. Language in the existing rules that allowed a “sole practitioner” to operate as a private practice without meeting the general program standards or being professionally licensed in accordance with state law has been removed from the proposed rules.

Any interested person may make written comments or suggestions on the proposed rules on or before December 30, 2014. Such written comments should be directed to Robert Kerksieck, Division of Behavioral Health, Department of Public Health, 321 East 12th Street, Des Moines, Iowa 50319. E-mail may be sent to [robert.kerksieck@idph.iowa.gov](mailto:robert.kerksieck@idph.iowa.gov).

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

These rules are intended to implement Iowa Code sections 125.13, 125.21 and 135.150.

The following amendment is proposed.

PUBLIC HEALTH DEPARTMENT[641](cont'd)

Rescind 641—Chapter 155 and adopt the following **new** chapter in lieu thereof:

CHAPTER 155  
LICENSURE STANDARDS FOR SUBSTANCE-RELATED DISORDER AND  
PROBLEM GAMBLING TREATMENT PROGRAMS

**641—155.1(125,135) Definitions.** Unless otherwise indicated, the following definitions shall apply to the specific terms used in these rules:

*“Addictive disorder”* means a substance-related disorder and problem gambling.

*“Addictive disorder professional”* means an individual who is qualified by virtue of certification or license and education, training and experience to provide program services.

*“Administration”* means the direct application of a prescription medication to a patient by a prescriber or the prescriber’s authorized agent.

*“Admission”* means the point at which an initial assessment has been completed sufficient to determine the patient’s need and eligibility for program services, and the patient has agreed to begin treatment.

*“Admission, continued service, and discharge criteria”* means the ASAM criteria dimensions to be considered in determining the level of care appropriate for the patient.

*“Applicant”* means a person, facility, or legal entity that has applied for an initial license, renewal of a license, or a license under deemed status pursuant to these rules.

*“Application”* means the process through which an applicant requests an initial license, renewal of a license, or a license under deemed status pursuant to these rules.

*“ASAM criteria”* means the most current version of the clinical guide for the treatment of addictive, substance-related and co-occurring conditions as published by the American Society of Addiction Medicine (ASAM).

*“Assessment”* means the ongoing process of evaluating a patient’s strengths, resources, preferences, limitations, problems, and needs; determining the licensed program services needed by the patient; determining the patient’s eligibility for program services; and identifying treatment plan priorities, in accordance with the ASAM criteria and accepted standards of practice.

*“Board”* means the state board of health created pursuant to Iowa Code chapter 136.

*“Care coordination”* or *“case management”* means the collaborative process which assesses, plans, implements, coordinates, monitors and evaluates the options and services, both internal and external to the program, to meet patient needs, using communication and available resources to promote quality care and effective outcomes.

*“Chemical substance”* means alcohol, wine, spirits and beer as defined in Iowa Code chapter 123 and controlled substances as defined in Iowa Code section 124.101.

*“Chemical substitutes and antagonists program”* means an opioid treatment program that provides opioid treatment services in accordance with Iowa Code section 125.21 and rule 641—155.35(125,135).

*“Clinically managed”* means that program services are directed by addictive disorder professionals.

*“Clinically managed high-intensity residential treatment”* means the ASAM criteria level of care totaling at least 50 hours of clinically managed inpatient treatment services per week.

*“Clinically managed low-intensity residential treatment”* means the ASAM criteria level of care totaling at least five hours of clinically managed inpatient treatment services per week.

*“Clinically managed medium-intensity residential treatment”* means the ASAM criteria level of care totaling at least 30 hours of clinically managed inpatient treatment services per week.

*“Clinical oversight”* means oversight provided by an individual who, by virtue of certification or license and education, training and experience is qualified to oversee treatment services in accordance with subrule 155.21(3).

*“Committee”* means the substance abuse and gambling treatment program committee appointed by the state board of health pursuant to Iowa Code section 136.3(13).

*“Concerned person”* means an individual who is seeking treatment services due to problems arising from a personal relationship with an individual with an addictive disorder.

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

*“Confidentiality”* means protection of patient information in compliance with state and federal law.

*“Crisis stabilization”* means medically monitored subacute inpatient services for individuals with urgent addictive disorder needs requiring immediate intervention, assessment, and mobilization of family, community and program resources.

*“Culturally and environmentally specific”* means integrating into assessment and treatment the customs and beliefs of a given population, as well as awareness and acceptance of diversity regarding conditions, circumstances and influences affecting an individual or group.

*“Data reporting”* means the required submission of certain patient demographic and program services information to the department by a program.

*“Department”* means the Iowa department of public health.

*“Detoxification”* means the safe management of intoxication states and withdrawal states in accordance with the ASAM criteria and accepted standards of practice.

*“Dimension”* means one of the six ASAM criteria patient biopsychosocial areas to be considered in the assessment process to identify patient needs and determine the appropriate level of care for admission and continued services.

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

*“Discharge”* means the point at which the patient ceases participation in licensed program services, marking the end of a specific encounter or episode of care. Discharge does not require termination of the relationship between the patient and the program.

*“Discharge planning”* means the process, begun at admission, of determining a patient’s continued need for licensed program services and of developing a plan to address ongoing patient needs following discharge.

*“Division”* means the department’s division of behavioral health, which acts as the single state authority for the federal substance abuse prevention and treatment block grant and associated state of Iowa addictive disorder appropriations and funding.

*“Early intervention”* means the ASAM criteria level of care which explores and addresses problems or risk factors that appear to be related to an addictive disorder and which helps the individual recognize potential harmful consequences.

*“Enhanced program”* means a licensee that provides enhanced treatment services in accordance with paragraph 155.2(2) “j” and rule 641—155.34(125,135).

*“Enhanced treatment services”* means licensed program services provided in accordance with paragraph 155.2(2) “j” and rule 641—155.34(125,135).

*“Facility”* means an institution, a detoxification center, or an installation providing care, maintenance or treatment for persons with substance-related disorders licensed by the department under Iowa Code section 125.13, hospitals licensed under Iowa Code chapter 135B, or the state mental health institutes designated by Iowa Code chapter 226. “Facility” also means the physical areas such as grounds, buildings, or portions thereof under administrative control of the program.

*“Governing body”* means the person, group, or legal entity that has ultimate authority and responsibility for the overall operation of the program.

*“Inpatient”* means 24-hour licensed program services.

*“Intensive outpatient treatment”* means the ASAM criteria level of care totaling a minimum of nine hours of clinically managed outpatient treatment services per week for adults or a minimum of six hours of clinically managed outpatient treatment services per week for juveniles.

*“Level of care”* or *“level of service”* means the different ASAM criteria service options. “Level of care” also means certain licensed program services under these rules.

*“Licensed program services”* means the services a licensee may be authorized to provide under these rules.

*“Licensee”* means a program licensed by the department pursuant to these rules.

*“Licensure”* means the issuance of a license by the department pursuant to these rules which validates the licensee’s compliance with these rules and authorizes the licensee to operate a program in the state of Iowa.

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

*“Licensure weighting report”* means the division’s report that is used to determine an applicant’s level of compliance with these rules and the length of time a license will be in effect.

*“Maintenance”* means the prolonged, scheduled administration of an opiate agonist medication such as buprenorphine or methadone by an opioid treatment program in accordance with federal and state laws, rules and regulations.

*“Management of care”* means the ongoing application of the ASAM criteria and the coordination of care to ensure the appropriate provision of licensed program services to a patient.

*“May”* means a term used in the interpretation of a standard to reflect an acceptable method that is recognized but not necessarily preferred.

*“Medically managed”* means that the inpatient program services that involve daily medical care in a hospital setting are directed by a prescriber.

*“Medically managed intensive inpatient treatment”* means the ASAM criteria level of care for medically managed inpatient treatment services.

*“Medically monitored”* means that the program services are directed by addictive disorder professionals with medical oversight by a prescriber.

*“Medically monitored intensive inpatient treatment”* means the ASAM criteria level of care for medically monitored subacute inpatient treatment services.

*“Medication-assisted treatment”* means the medically monitored use of certain substance-related disorder medications in combination with other treatment services.

*“Opioid treatment program”* means a substance-related disorder treatment program or a substance-related disorder and problem gambling treatment program licensed to provide opioid treatment services in accordance with Iowa Code section 125.21 and rules 641—155.2(125,135) and 641—155.35(125,135).

*“Opioid treatment services”* means medically monitored outpatient maintenance services provided in accordance with federal and state laws, rules and regulations.

*“Outpatient”* means non-24-hour licensed program services.

*“Outpatient treatment”* means the ASAM criteria level of care totaling less than nine hours of clinically managed outpatient treatment services per week for adults and less than six hours of clinically managed outpatient treatment services per week for juveniles.

*“OWI evaluation”* means an assessment completed solely for the purpose of compliance with the substance abuse evaluation requirements of Iowa Code chapter 321J.

*“Partial/day treatment”* means the ASAM criteria level of care totaling 20 or more hours of clinically managed outpatient treatment services per week.

*“Patient”* means an individual who participates in licensed program services.

*“Placement”* means selection of an appropriate licensed program service, based on ongoing assessment.

*“Prescriber”* means a licensed health care professional with the authority to prescribe medication in accordance with Iowa law.

*“Prevention”* means activities aimed at minimizing the use of potentially addictive substances, lowering risk in at-risk individuals, or minimizing potential adverse consequences of substance use or gambling.

*“Prime programming time”* means any period of the day, as determined by a program treating juveniles, when special attention or supervision is necessary.

*“Problem gambling”* means a gambling disorder that results in a functional impairment of sufficient impact and duration to meet diagnostic criteria specified within the most current Diagnostic and Statistical Manual of Mental Disorders published by the American Psychiatric Association.

*“Program”* means a person, facility, institution, building, agency or legal entity that provides one or more of the services stated in subrule 155.2(2) and is required to be licensed under these rules.

*“Quality improvement”* means the process of objectively and systematically monitoring and evaluating the quality and appropriateness of patient care and program services and operations to resolve identified problems and to make continued improvements.

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

*“Recovery”* means the process of addressing an addictive disorder and working toward personally defined health and well-being.

*“Recovery supports”* means the broad range of nontreatment services, such as transportation, that assists patients in their recovery efforts.

*“Region”* means the geographic grouping of counties for conducting the department’s responsibilities under Iowa Code chapter 125.

*“Rehabilitation”* means the restoration of an optimal state of health by medical, psychological, and social means, including peer group support.

*“Residential”* means clinically managed inpatient treatment services.

*“Resiliency- and recovery-oriented system of care”* means coordinated person-centered approaches to health promotion, prevention, early intervention, treatment and recovery support that build on the protective factors and strengths of individuals to sustain or achieve health and well-being.

*“Rule”* means each department statement of general applicability that implements, interprets, or prescribes law or policy, or that describes the procedure or practice requirements of the division. The term includes the amendment or repeal of existing rules as specified in the Iowa Code.

*“Screening”* means the brief review of a patient’s or potential patient’s current risk factors for an addictive disorder or medical or mental health condition to determine if they indicate a need for immediate admission or referral. Screening is not an assessment and is not sufficient to develop a treatment plan, rule out an addictive disorder, or determine that admission to treatment or referral to other services is not indicated.

*“Self-administration of medication”* means the process whereby a properly trained and qualified staff person observes a patient take medication prescribed by a prescriber.

*“Shall”* means the term used to indicate a mandatory statement, the only acceptable method under these rules.

*“Should”* means the term used in the interpretation of a standard to reflect the commonly accepted method, but allowing for the use of effective alternatives.

*“Staff”* means any individual who conducts an activity on behalf of a program as an employee, agent, consultant, contractor, volunteer or other status.

*“Standards category”* means the grouping of standards, such as clinical, administrative or programming, in the licensure weighting report.

*“Subacute”* means medically monitored inpatient services for individuals who require management, supervision and treatment to reduce immediate risk of danger to self or others or severe disability or complication of an addictive disorder or an addictive disorder and a medical or mental health condition.

*“Substance abuse treatment and rehabilitation facility”* or *“substance abuse treatment program”* means a program required to be licensed under these rules.

*“Substance-related disorder”* means a substance-related disorder that results in a functional impairment of sufficient impact and duration to meet diagnostic criteria specified within the most current Diagnostic and Statistical Manual of Mental Disorders published by the American Psychiatric Association.

*“Time frames”* means the periods of time specified throughout the standards.

*“Treatment”* means the broad range of planned services to identify and change patterns of behavior that are maladaptive, destructive or injurious to health; or to restore appropriate levels of physical, psychological or social functioning. Such services may include assessment; care coordination; crisis stabilization; detoxification; early intervention; health promotion; individual, group and family counseling; management of care; and medication administration, provided by addictive disorder professionals and a mix of medical, mental health and peer professionals as appropriate to the structure of the program.

*“Treatment planning”* means the process, based on ongoing assessment, by which a patient and qualified staff identify and rank problems, establish agreed-upon goals, and decide on the treatment services and resources to be utilized.

*“Variance”* or *“waiver”* means action by the committee or division that suspends the requirements of a standard on a case-by-case basis in accordance with 641—Chapter 178.

PUBLIC HEALTH DEPARTMENT[641](cont'd)

**641—155.2(125,135) Licensing.** In accordance with Iowa Code section 125.13, a person shall not maintain or conduct a substance-related disorder program without having first obtained a license for the program from the department, and in accordance with Iowa Code section 135.150, a person shall not maintain or conduct a problem gambling treatment program funded by the department unless the person has obtained a license for the program from the department. The provision of treatment to a patient through any electronic means, regardless of the location of the program or facility, shall constitute the practice of treatment in the state of Iowa and shall be subject to regulation in accordance with Iowa Code chapter 125, Iowa Code section 135.150, and these rules. An applicant shall apply for one license only. The department shall award one license only to an applicant or licensee.

**155.2(1) Program licenses.** The department shall offer the following program licenses:

- a. A substance-related disorder assessment and OWI evaluation only program license.
- b. A substance-related disorder treatment program license.
- c. A problem gambling treatment program license.
- d. A substance-related disorder and problem gambling treatment program license.

**155.2(2) Licensed program services.** The license will delineate the licensed program service(s) the program is authorized to provide and will specify that each licensed program service is licensed for adults, juveniles, or adults and juveniles. Licensed program services are:

- a. Substance-related disorder assessment and OWI evaluation only, provided by a substance-related disorder assessment and OWI evaluation only program;
- b. Outpatient treatment, provided by a substance-related disorder treatment program, a problem gambling treatment program, or a substance-related disorder and problem gambling treatment program;
- c. Intensive outpatient treatment, provided by a substance-related disorder treatment program, a problem gambling treatment program, or a substance-related disorder and problem gambling treatment program;
- d. Partial/day treatment, provided by a substance-related disorder treatment program, a problem gambling treatment program, or a substance-related disorder and problem gambling treatment program;
- e. Clinically managed low-intensity residential treatment, provided by a substance-related disorder treatment program, a problem gambling treatment program, or a substance-related disorder and problem gambling treatment program;
- f. Clinically managed medium-intensity residential treatment, provided by a substance-related disorder treatment program, a problem gambling treatment program, or a substance-related disorder and problem gambling treatment program;
- g. Clinically managed high-intensity residential treatment, provided by a substance-related disorder treatment program, a problem gambling treatment program, or a substance-related disorder and problem gambling treatment program;
- h. Medically monitored intensive inpatient treatment, provided by a substance-related disorder treatment program or a substance-related disorder and problem gambling treatment program;
- i. Medically managed intensive inpatient treatment, provided by a substance-related disorder treatment program or a substance-related disorder and problem gambling treatment program;
- j. Enhanced treatment services, provided by a substance-related disorder treatment program or a substance-related disorder and problem gambling treatment program;
- k. Opioid treatment services, provided by a substance-related disorder treatment program or a substance-related disorder and problem gambling treatment program.

**155.2(3) Licensing body.** The committee shall:

- a. Consider and approve or deny all license applications, suspensions and revocations;
- b. Advise the department on policies governing the performance of the department in the discharge of any duties imposed on the department by law;
- c. Advise or make recommendations to the board relative to addictive disorder programs in this state; and
- d. Perform other duties as assigned by the board.

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

**641—155.3(125,135) Types of licenses.**

**155.3(1)** The department may issue an initial license for 270 days to a new applicant scoring a minimum rating of 70 percent in each standards category on the licensure weighting report. An initial license shall expire in 270 days and shall not be extended or renewed.

**155.3(2)** The department may issue a license subsequent to an initial license for one, two, or three years based on the applicant's rating on the licensure weighting report.

*a.* An applicant achieving a rating of 95 percent or higher in each standards category may qualify for a three-year license.

*b.* An applicant achieving a rating of less than 95 percent but not less than 90 percent in each standards category may qualify for a two-year license.

*c.* An applicant achieving a rating of less than 90 percent but not less than 70 percent in each standards category may qualify for a one-year license.

*d.* A license for one, two, or three years shall expire on the date noted on the license and shall not be extended but may be renewed upon application.

**155.3(3)** The department may issue a license under deemed status to an applicant providing required documentation of accreditation by a recognized accreditation body. A deemed-status license shall be effective for the same time frame as that of the accreditation granted by the accreditation body, up to three years.

**641—155.4(125,135) Nonassignability.**

**155.4(1)** A license issued by the department for the operation of a program applies both to the licensee and the facility in which the program is operated. A license is not transferable.

**155.4(2)** A closing program is one which intends to cease providing licensed program services. The licensee shall notify the division 30 days before ceasing service provision. The licensee shall be responsible for the transition of patients to another program and for the preservation of all records. The licensee shall include in its notice to the division its plan to transition patients and locate records. When a program closes, the program's license is void on the date the program ceases providing licensed program services, and the license shall be returned to the department.

**155.4(3)** A closed program is one which has ceased providing licensed program services. The licensee shall notify the division immediately of ceased service provision. The licensee shall be responsible for the transition of patients to another program and for the preservation of all records. The licensee shall include in its notice to the division its plan to transition patients and locate records. When a program is closed, the program's license is void on the date the program ceased providing licensed program services, and the license shall be returned to the department.

**155.4(4)** A person, facility or legal entity acquiring a licensed, closing or closed program for the purpose of operating a program shall apply for a license.

**641—155.5(125,135) Application procedures.** The division shall provide license application forms on the department's Web site and at its office. An applicant shall submit application materials to the division. The division will proceed with inspection of the applicant upon receipt of a complete application. To be complete, an application must include all required materials and be responsive to all licensure standards, as described in these rules.

**155.5(1) Application information.** An applicant shall submit application materials on the forms provided and in the required format. Application materials shall include, but may not be limited to:

*a.* The name and address of the applicant and, if the applicant is part of a larger organization, the name and address of the larger organization.

*b.* The name and address of the applicant's executive director and, if the applicant is part of a larger organization, the name and address of the executive director of the larger organization.

*c.* The names, titles, dates of employment, education, and years of current job-related experience of the applicant's staff; and the table of organization. If the applicant is part of a larger organization or has multiple organizational components and physical facilities, the relationships between the

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

larger organization, organizational components and physical facilities must be shown on the table of organization, with the applicant and applicant's staff positions clearly delineated.

*d.* The names and addresses of members of the applicant's governing body, sponsors, and advisory boards; and the current articles of incorporation and bylaws.

*e.* The names and addresses of individuals, facilities, organizations, and legal entities with which the applicant has a contractual or affiliation agreement pertaining to licensed program services.

*f.* A description of the licensed program services to be provided by the applicant and a calendar showing program services each week.

*g.* For each physical facility, copies of reports substantiating compliance with federal, state and local laws, rules and regulations, to include appropriate Iowa department of inspections and appeals rules, state fire marshal rules and fire ordinances, and local health, fire, occupancy, and safety regulations.

*h.* Information required for programs admitting juveniles as described under Iowa Code section 125.14A.

*i.* Fiscal management information, to include a recent audit or opinion of auditor and program board minutes to reflect approval of the program's budget and insurance.

*j.* Insurance coverage related to professional and general liability, building, workers' compensation, and fidelity bond.

*k.* The address of each physical facility.

*l.* The written policies and procedures manual that covers all the requirements of these rules.

**155.5(2) *Application time frame.*** An applicant seeking to be licensed subsequent to a 270-day initial license or a licensee seeking to renew a one-, two-, or three-year license or to significantly change a currently licensed program shall submit an application at least 90 days before expiration of the current license or before the program change.

**155.5(3) *License under deemed status.*** An organization seeking to be licensed under deemed status shall submit an application.

**641—155.6(125,135) Technical assistance.** The division may provide technical assistance to an applicant or licensee.

**155.6(1)** An applicant may request technical assistance regarding these rules and the licensure process.

**155.6(2)** A licensee may request technical assistance regarding these rules and the licensure process or to bring areas of noncompliance with these rules into compliance.

**155.6(3)** The division may require a licensee to receive technical assistance to bring areas of noncompliance with these rules into compliance.

**641—155.7(125,135) Inspection of applicants.**

**155.7(1) *Inspection of applicants.*** The division shall inspect each applicant. Inspection shall include review of the complete application and may include, but may not be limited to, review of patient records, review of applicant data reporting, and interviews with staff and patients. Inspection shall include on-site inspection unless specifically waived as allowed under these rules. The division will send the applicant a report of inspection findings within 30 business days of the inspection.

**155.7(2) *On-site inspection.*** The division will schedule an on-site inspection of an applicant within 60 business days of receipt of the applicant's complete application.

*a.* The division may waive on-site inspection of an applicant that is:

(1) A licensee applying to renew a license when the applicant's licensed program services are limited to substance-related disorder assessment and OWI evaluation services only, outpatient treatment, or intensive outpatient treatment.

(2) An applicant applying for a license under deemed status.

*b.* The department shall not be required to provide advance notice of the on-site inspection to the applicant.

*c.* The on-site inspection team will consist of designated employees or agents of the division.



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d. The on-site inspection team will inspect the applicant to verify application information and determine compliance with all laws, rules and regulations.

**641—155.8(125,135) License—approval.** The department shall issue a license upon approval of an application for a license by the committee. The license shall become effective on the date approved by the committee.

**155.8(1) Committee meeting preparation.** The division shall prepare an inspection findings report with a license recommendation for presentation at a committee meeting held within 60 business days from the date of the inspection findings report.

a. The division will provide public notice of committee meetings in accordance with Iowa Code section 21.4.

b. The division shall provide committee members with the inspection findings report and license recommendation for each application to be acted upon at each committee meeting.

**155.8(2) Committee meeting format.**

a. The chairperson or chairperson's designee shall call the meeting to order at the designated time.

b. Division staff will review each application, inspection findings report, and license recommendation, as directed by the chairperson or the chairperson's designee.

c. The chairperson or the chairperson's designee may give the applicant and the public the opportunity to provide comment on each application.

d. After any applicant and public comments are heard, the committee will make a decision to approve or initially deny the application for a license.

**641—155.9(125,135) Written corrective action plan.** A program approved for a license shall submit a written corrective action plan to the division within 30 days following the committee meeting to bring any area of noncompliance with these rules into compliance.

**155.9(1)** The written corrective action plan shall include, but may not be limited to:

a. Any area of noncompliance specified in the inspection findings report;

b. The corrective measures to be taken by the program for each area of noncompliance; and

c. The completion date for each corrective measure.

**155.9(2)** The department may inspect the licensee, including on-site inspection, to review the implemented corrective measures and report to the committee.

**641—155.10(125,135) Grounds for denial of license.**

**155.10(1)** The committee may deny an application for a license for any of the following reasons:

a. The application is not complete, is not timely or otherwise does not meet the requirements of these rules.

b. The applicant fails to achieve the minimum licensure weighting report rating required for a 270-day initial license or a one-, two- or three-year license.

c. Lack of patients or patient records for review.

d. Violation of any of the following grounds for discipline:

(1) Submission of fraudulent or misleading information.

(2) Violation by a program or staff of any statute or rule pertaining to programs, including violation of any provision of these rules, or failure to adhere to program policies and procedures adopted pursuant to these rules.

(3) Failure to comply with licensure, inspection, health, fire, occupancy, safety, sanitation, zoning, or building codes or regulations required by federal, state or local law.

(4) Sanction, modification, termination, withdrawal, refused renewal, suspension, or revocation of accreditation by an accreditation body.

(5) Sanction, modification, termination, withdrawal, refused renewal, suspension, revocation, or refused issuance of a federal registration to distribute or dispense controlled substances.

(6) Commission of or permitting, aiding or abetting commission of an unlawful act.

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

- (7) Conviction of a member of the governing body, a director, administrator, chief executive officer, or other managing staff person of a felony or misdemeanor related to the management, operation or integrity of the program.
- (8) Use of untruthful or improbable statements in advertising.
- (9) Conduct or practices determined to be detrimental to the general health, safety, or welfare of a patient, potential patient, concerned person, visitor, staff or member of the public.
- (10) Violation of a patient's confidentiality or willful, substantial, or repeated violation of a patient's rights.
- (11) Defrauding a patient, potential patient, concerned person, visitor, staff or third-party payor.
- (12) Inappropriate conduct by staff, including sexual or other harassment or exploitation of a patient, potential patient, concerned person, visitor or staff.
- (13) Utilization of treatment techniques that endanger the health, safety, or welfare of a patient, potential patient, concerned person, visitor, staff or member of the public.
- (14) Discrimination or retaliation against a patient, potential patient, concerned person, visitor, staff, or member of the public who has submitted a complaint or information to the department.
- (15) Failure to allow an employee or agent of the department access to the program or facility for the purpose of inspection, investigation, or other activity necessary to the performance of the department's duties.
- (16) Failure to submit an acceptable written corrective action plan or failure to comply with a corrective action plan issued pursuant to rule 641—155.9(125,135) or 641—155.16(125,135).
- (17) Violation of an order of the committee or violating the terms or conditions of a consent agreement or informal settlement between a program and the committee.

**155.10(2)** Reserved.

**641—155.11(125,135) Denial, suspension or revocation of a license.** The committee may deny an application for a license. The committee may suspend or revoke a license for any of the grounds for discipline pursuant to paragraph 155.10(1)“d.”

**155.11(1) Initial notice from committee.** When the committee determines to deny, suspend or revoke a one-, two-, or three-year license or a license under deemed status, the division shall notify the applicant or licensee by certified mail, return receipt requested. Such notice shall provide the applicant or licensee the opportunity to submit a written corrective action plan or written objections to the division.

**155.11(2) Submission of corrective action plan or objections.** An applicant notified of denial of a one-, two-, or three-year license or a license under deemed status or a licensee notified of suspension or revocation of a license may submit a written corrective action plan or written objections to the division within 20 days after receipt of the notice.

*a. Written corrective action plan.* The written corrective action plan must meet the requirements of paragraphs 155.9(1)“a” to “c.” If the applicant or licensee submits a written corrective action plan, the applicant or licensee shall have 60 days from the date of submission within which to show compliance with the plan. The applicant or licensee shall submit any information to the committee that the committee requests or that the applicant or licensee deems pertinent to show compliance with the plan. The department may inspect the licensee, including on-site inspection, to review the implemented corrective measures and report to the committee.

*b. Objections.* If the applicant or licensee submits written objections, the applicant or licensee shall submit to the committee any information that the committee or the applicant or licensee deems pertinent to support the applicant's or licensee's defense.

**155.11(3) Decision of committee.** Following receipt of a written corrective action plan and expiration of the 90-day compliance period, or following receipt of written objections, or when a written corrective action plan or written objections have not been received within the 20-day time period, the committee may meet to determine whether to proceed with the denial, suspension or revocation. The division shall send notice of this meeting to the applicant or licensee by certified mail, return receipt requested, ten days prior to the committee meeting, notifying the program director and the program board chairperson of the time, place and date of the committee meeting.

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

**155.11(4)** *Notice of decision and opportunity for contested case hearing.*

a. When the committee determines to deny, suspend, or revoke a license, the applicant or licensee shall be given written notice by restricted certified mail.

b. The applicant or licensee may request a hearing on the determination. The request must be in writing and sent by certified mail, return receipt requested, to the department's address within 30 days of the notice issued by the division. Failure to request a hearing will result in final action by the committee.

**155.11(5)** *Summary suspension.* If the committee or department finds that the health, safety or welfare of the public is endangered by continued operation of a program, the committee or department may order summary suspension of a license, pursuant to Iowa Code sections 17A.18 and 125.15A, pending proceedings for revocation or other actions in accordance with Iowa Code sections 17A.18A and 125.15A. These proceedings shall be promptly instituted and determined.

**641—155.12(125,135)** **Contested case hearing.** An applicant or licensee may contest the denial, suspension or revocation of a license by requesting a hearing before an administrative law judge from the department of inspections and appeals. The applicant or licensee will be notified by certified mail, return receipt requested, of the date of the hearing, no less than 30 days before the hearing.

**155.12(1)** *Failure to appear.* If a party fails to appear in a contested case hearing proceeding after proper service of notice, the administrative law judge shall, in such a case, enter a default judgment against the party failing to appear.

**155.12(2)** *Conduct of hearing.* Opportunity shall be afforded all parties to respond and present evidence and argument on all issues involved and to be represented by counsel at their own expense.

a. The hearing shall be informal, and all relevant evidence shall be admissible. Effect will be given to the rules of privilege recognized by law. Objections to evidentiary offers may be made and shall be noted in the record. When the hearing will be expedited and the interests of the parties will not be prejudiced substantially, any part of the evidence may be required to be submitted in verified written form.

b. Documentary evidence may be received in the form of copies or excerpts if the original is not readily available. Upon request, parties shall be given an opportunity to compare the copy with the original, if available.

c. Witnesses present at the hearing shall be subject to cross-examination by any party as necessary for a full and true disclosure of the facts.

d. The record in a contested case shall include:

- (1) All pleadings, motions and intermediate rulings.
- (2) All evidence received or considered and all other submissions.
- (3) A statement of all matters officially noticed.
- (4) All questions and offers of proof, objections and rulings therein.
- (5) All proposed findings and exceptions.
- (6) Any decision, opinion or report by the administrative law judge presiding at the hearing.

e. Oral proceedings shall be open to the public and shall be recorded either by mechanized means or by certified shorthand reporters. Oral proceedings or any part thereof shall be transcribed at the request of any party with the expense of the transcription charged to the requesting party. The recording or stenographic notes of oral proceedings or the transcription thereof shall be filed with and maintained by the agency for at least five years from the date of decision.

f. Findings of fact shall be based solely on the evidence in the record and on matters officially noticed in the record.

**155.12(3)** *Continuance.* For good cause, the administrative law judge may continue hearings beyond the time originally scheduled or recessed. Requests for continuance shall be made to the administrative law judge in writing at least three days prior to the scheduled hearing date. Continuances will not be granted less than three days before the hearing except in exigent circumstances.

**155.12(4)** *Decision.* Findings of fact shall be based solely on the evidence in the record and upon matters officially noticed in the record.

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*a.* The decision of the administrative law judge shall be the final decision unless there is an appeal to the board within 20 days of the receipt of the decision.

*b.* A proposed or final decision or order in a contested case hearing shall be in writing. A proposed or final decision shall include findings of fact and conclusions of law, separately stated. Parties will be promptly notified of each proposed or final decision or order by the delivery to them of a copy of such decision or order by certified mail, return receipt requested. In the case of a proposed decision, parties shall be notified of the right to appeal the decision to the board.

**155.12(5) *Appeal to the board.***

*a.* Either party may request that the board review the proposed decision. The request shall be in writing and mailed within 20 days of receipt of the proposed decision.

*b.* The parties shall have an opportunity to submit briefs to the board. The board will review the record and any briefs. No new evidence shall be admitted unless requested and allowed by the board.

*c.* Oral presentation will be made to the board at a time set by the board.

*d.* The board shall issue its decision in writing within 30 days after conclusion of the hearing.

**641—155.13(125,135) Rehearing application.** Any party may file an application for rehearing, stating the specific grounds therefor and the relief sought, within 20 days after the issuance of any final decision by the board in a contested case. A copy of such application for rehearing shall be timely mailed by the applicant to all parties of record not joining therein. Such an application for rehearing shall be deemed to have been denied unless the board grants the application within 20 days after its filing.

**641—155.14(125,135) Judicial review.** An applicant or licensee that is aggrieved or adversely affected by the board's final decision and that has exhausted all adequate administrative remedies may seek judicial review of the board's decision pursuant to and in accordance with Iowa Code section 17A.19.

**641—155.15(125,135) Issuance of a license after denial, suspension or revocation.** After denial, suspension, or revocation of a license, the former applicant or licensee shall not have a license issued within one year of the effective date of the denial, suspension or revocation. After one year, the former applicant or licensee may submit an application for a 270-day initial license. For purposes of this rule, "former applicant or licensee" shall include any director, officer, administrator, chief executive officer, or other managing staff of the former applicant or licensee.

**641—155.16(125,135) Complaints and investigations.**

**155.16(1) *Complaints.*** Any person may file a complaint with the department against any program licensed pursuant to this chapter. The complaint shall be made in writing and shall be e-mailed, mailed or delivered to the health facility officer at the Division of Behavioral Health, Iowa Department of Public Health, Lucas State Office Building, 321 East 12th Street, Des Moines, Iowa 50319-0075. The complaint shall include the name and address of the complainant, the name of the program, and a concise statement of the allegations against the program, including the specific alleged violations of Iowa Code chapter 125 or this chapter, if known. A complaint may also be initiated upon the committee's own motion or by the department when an emergency exists that is deemed to endanger the health, safety or welfare of a patient, potential patient, concerned person, visitor, staff or the public, pursuant to evidence received by the department. Timely filing of complaints is required to ensure the availability of witnesses and to avoid initiation of an investigation under conditions which may have been significantly altered during the period of delay.

**155.16(2) *Evaluation and investigation.*** Upon receipt of a complaint, the division shall make a preliminary review of the allegations contained in the complaint. The division may request that the complainant submit the complaint to the program's grievance process. Unless the division concludes that the complaint is intended solely to harass a program or lacks a reasonable basis, or is more reasonably addressed through the program's grievance process, the department shall conduct an investigation of the program that is the subject of the complaint as soon as is practicable. The program that is the subject of the complaint shall be given an opportunity to informally respond to the

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allegations contained in the complaint either in writing or through a personal interview or conference with department staff.

**155.16(3) *Investigative report.*** Within 30 days after completion of the investigation, the division shall prepare a written investigative report and shall submit the report to the executive director of the program, the chairperson of the governing body of the program, and the committee. This report shall include the nature of the complaint and shall indicate if the complaint allegations were substantiated, unsubstantiated, or undetermined; the basis for the finding; the specific statutes or rules at issue; a response from the program, if received; and a recommendation for action.

**155.16(4) *Review of investigations.*** The committee shall review the investigative report at its next regularly scheduled meeting and shall determine appropriate action.

*a. Closure.* If the committee determines that the allegations contained in the complaint are unsubstantiated, the committee shall close the case and the division shall promptly notify the complainant and the program by letter.

*b. Referral for further investigation.* If the committee determines that the complaint warrants further investigation, the committee shall refer the complaint to the department for further investigation.

*c. Written corrective action plan.* If the committee determines that the allegations contained in the complaint are substantiated and corrective action is warranted, the committee may require the program to submit and comply with a written corrective action plan. A program shall submit a written corrective action plan to the division within 20 business days after receiving a request for such plan. The written corrective action plan shall include a plan for correcting areas of noncompliance as required by the committee and a time frame within which such plan shall be implemented. The plan is subject to department approval. Requiring a written corrective action plan is not formal disciplinary action. Failure to submit or comply with a written corrective action plan may result in formal disciplinary action against the program.

*d. Disciplinary action.* If the committee determines that the allegations contained in the complaint are substantiated and disciplinary action is warranted, the committee may proceed with such action in accordance with rule 641—155.11(125,135).

**155.16(5) *Confidential information and public information.*** Information contained in a complaint may be confidential pursuant to Iowa Code section 22.7(2), 22.7(18), or 125.37 or any other provision of state or federal law. Investigative reports, written corrective action plans, and all notices and orders issued pursuant to rule 641—155.11(125,135) shall refer to patients by number and shall not include patient identifying information. Investigative reports, written corrective action plans, and all notices and orders issued pursuant to rule 641—155.11(125,135) shall be available to the public as open records pursuant to Iowa Code chapter 22.

**641—155.17(125,135) License revision.** A licensee shall submit a written request to the division to revise a license at least 30 days prior to any change of address, executive director, clinical oversight staff, facility, or licensed program service. The division will determine if the requested revision can be approved or if the change is significant enough to require the submission of an application for license renewal by the licensee.

**641—155.18(125,135) Deemed status.**

**155.18(1) *Accreditation.*** The committee shall approve a license under deemed status for an applicant accredited by a recognized national accreditation body when the committee determines that the accreditation is for the same licensed program services as those addressed by these rules and when such accreditation is consistent with these rules.

*a.* An applicant for a license under deemed status shall submit a copy of the entire accreditation body survey or inspection report, certificate of accreditation, accreditation conditions, and corrective action requirements and plans with the applicant's application.

*b.* The committee may accept the division's review of an accreditation body's survey or inspection report, certificate of accreditation, and conditions or corrective action plans as meeting the requirements for inspection for those licensed program services described in these rules.

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c. An applicant for a license under deemed status shall be licensed only for licensed program services that are described in these rules.

d. A program licensed under deemed status shall be licensed for the same period of time as that for which the program is accredited, up to three years.

**155.18(2) *National accreditation bodies.*** The national accreditation bodies recognized for the purposes of licensure under deemed status are:

a. The Joint Commission.

b. The Council on Accreditation of Rehabilitation Facilities (CARF).

c. The Council on Accreditation of Children and Family Services (COA).

d. The American Osteopathic Association (AOA).

**155.18(3) *Credentials and expectations of accreditation bodies.*** The accreditation credentials of an accreditation body shall specify the types of organizations, programs and services the body accredits.

**155.18(4) *Responsibilities of programs licensed under deemed status.***

a. A program licensed under deemed status shall meet all requirements of these rules and all applicable laws and regulations.

b. A program licensed under deemed status may submit an application for licensure of licensed program services covered by these rules that are not covered by the accreditation.

**155.18(5) *Rights and responsibilities of committee and department.*** The committee and the department shall retain the following responsibilities and rights for deemed status applicants and licensees:

a. The department may inspect the applicant or licensee.

b. The division shall investigate complaints in accordance with these rules and recommend and require corrective action or other sanctions. Complaints, findings, and required corrective action may be reported to the accreditation body.

c. The committee shall review and act upon a license under deemed status when complaints have been founded, when the national accreditation body identifies noncompliance with accreditation, when accreditation expires without renewal, or when accreditation is sanctioned, modified, terminated, withdrawn, suspended or revoked.

**641—155.19(125,135) *Funding.*** The issuance of a license shall not be construed as a commitment on the part of either the state or federal government to provide funds to such licensee.

**641—155.20(125,135) *Inspection.*** An applicant or licensee agrees as a condition of licensure:

**155.20(1)** To permit properly designated representatives of the department to enter into and inspect any and all programs and facilities for which a license has been applied or issued to verify information contained in the application or to ensure compliance with all laws, rules, and regulations relating thereto, during all hours of operation of said applicant or licensee and at any other reasonable hour.

**155.20(2)** To permit properly designated representatives of the department to audit and collect statistical data from all records maintained by the applicant or licensee. An applicant or licensee that does not permit inspection by the department or examination of all records, including financial records, records pertaining to methods of administration, general and special dietary programs, and the disbursement of medications and methods of supply, and any other records the committee deems relevant, shall not be licensed.

**641—155.21(125,135) *General standards for all programs.*** The following standards shall apply to all programs. For programs for which both the general standards and specific standards apply, both sets of standards shall be met.

**155.21(1) *Governing body.*** The program shall have a formally designated governing body that complies with Iowa Code chapter 504 and that is the ultimate authority for program operations.

a. The governing body shall develop and adopt written bylaws and policies that define the powers and duties of the governing body, its committees, its advisory groups, and the executive director. These bylaws and policies shall be reviewed and revised by the governing body as necessary.

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- b. The bylaws shall minimally specify the following:
    - (1) The type of membership;
    - (2) The term of appointment;
    - (3) The frequency of meetings;
    - (4) The attendance requirements; and
    - (5) The quorum necessary to transact business.
  - c. The governing body shall maintain minutes of all meetings, and the minutes shall be available for review by the department and shall include, but not necessarily be limited to:
    - (1) Date of the meeting;
    - (2) Names of members attending;
    - (3) Topics discussed; and
    - (4) Decisions reached and actions taken.
  - d. The duties of the governing body shall include, but may not be limited to:
    - (1) Appointment of a qualified executive director, who shall have the responsibility and authority for the management of the program in accordance with the governing body's established policies;
    - (2) Establishment of effective controls to ensure that quality services are provided;
    - (3) Review and approval of the program's annual budget; and
    - (4) Approval of all contracts.
  - e. The governing body shall approve policies and procedures for the effective operation of the program.
  - f. The governing body shall be responsible for all funds, equipment, and supplies and the facility in which the program operates. The governing body shall be responsible for the appropriateness and adequacy of services provided by the program.
  - g. The governing body shall at least annually prepare a report, which shall include, but may not be limited to:
    - (1) The name, address, occupation, and place of employment of each governing body member;
    - (2) Disclosure of any family relationship a member of the governing body has with a program staff member;
    - (3) The names and addresses of any owners or controlling parties whether they are individuals, partnerships, a corporation body, or a subdivision of other bodies;
    - (4) Disclosure of any potential conflict of interest a member of the governing body may have.
  - h. The governing body shall ensure that the program has malpractice, liability and workers' compensation insurance for all staff and a fidelity bond that covers all staff.
- 155.21(2) Executive director.** The executive director shall have primary responsibility for program operations. The duties of the executive director shall be clearly defined in accordance with the policies established by the governing body.
- 155.21(3) Clinical oversight.** The program shall designate a treatment supervisor to oversee provision of licensed program services.
- 155.21(4) Policies and procedures manual.** The program shall maintain and implement a written policies and procedures manual that documents the program's compliance with these rules. The manual shall describe the program's licensed program services and related activities, specify the policies and procedures to be followed, and govern all staff.
- a. The manual shall have a table of contents.
  - b. Revisions to the manual shall be entered with the date and with the name and title of the staff person making the revisions.
- 155.21(5) Staff development and training.** The program's policies and procedures shall establish a staff development and training plan that encompasses all staff and all licensed program services, considers the professional continuing education requirements of certified and licensed staff, and is available to all staff.
- a. The program shall designate a staff person responsible for the staff development and training plan.

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b. The staff person responsible for the staff development and training plan shall conduct an annual needs assessment.

c. The staff development and training plan shall describe orientation for new staff which includes an overview of the program and licensed program services, confidentiality, tuberculosis and blood-borne pathogens, including HIV/AIDS, and culturally and environmentally specific information. Orientation shall also address the specific responsibilities of each staff person and community resources specific to the staff person's responsibilities.

d. The staff development and training plan shall address training when program operations or licensed program services change.

e. The staff development and training plan may include on-site training activities. The program shall maintain minutes of on-site training that include the name and date of the training, the training topic, the name and title of the trainer, and the names of staff attending the training.

**155.21(6) Data reporting.** The program's policies and procedures shall describe how the program reports required data to the division in accordance with department requirements and processes.

**155.21(7) Fiscal management.** The program's policies and procedures shall ensure proper fiscal management, which shall include:

a. The preparation and maintenance of an annual written budget, which shall be reviewed and approved by the governing body prior to the beginning of the budget year.

b. A fiscal management system maintained in accordance with generally accepted accounting principles, including internal controls to reasonably protect program assets. This shall be verified by an annual independent fiscal audit of the program by the state auditor's office or a certified public accountant based on an agreement entered into by the governing body. A program with an annual budget of \$100,000 or less shall conduct a fiscal audit no less than every three years.

c. An insurance program that provides for the protection of the physical and financial resources of the program and provides coverage for all people, buildings, and equipment. The insurance program shall be reviewed annually by the governing body.

**155.21(8) Personnel.** The program shall have personnel policies and procedures.

a. Personnel policies and procedures shall address:

- (1) Recruitment and selection of staff;
- (2) Wage and salary administration;
- (3) Promotions;
- (4) Employee benefits;
- (5) Working hours;
- (6) Vacation and sick leave;
- (7) Lines of authority;
- (8) Rules of conduct;
- (9) Disciplinary actions and termination;
- (10) Methods for handling cases of inappropriate patient care;
- (11) Work performance appraisal;
- (12) Staff accidents and safety;
- (13) Staff grievances;
- (14) Prohibition of sexual harassment;
- (15) Implementation of the Americans with Disabilities Act;
- (16) Implementation of the Drug-Free Workplace Act;
- (17) Use of social media; and
- (18) Implementation of equal employment opportunity.

b. The program shall have for each position and each staff person a written job description that describes the duties of each position and staff and the qualifications required for each position.

(1) A staff person providing screening, OWI evaluation, assessment or treatment services in accordance with these rules shall be qualified as an addictive disorder professional by meeting at least one of the following conditions:



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1. Be certified or licensed as a substance-related disorder or problem gambling counselor by a national or state organization approved by the division.

2. Be licensed as a marital and family therapist or a mental health counselor under Iowa Code chapters 154D and 147, an independent social worker under Iowa Code chapters 154C and 147, or another independent professional authorized by the Iowa Code to diagnose and treat mental disorders as specified in the most current Diagnostic and Statistical Manual of Mental Disorders published by the American Psychiatric Society.

3. Be licensed as a master social worker under Iowa Code chapters 154C and 147.

4. Be licensed as a bachelor social worker under Iowa Code chapters 154C and 147.

5. Be temporarily or provisionally certified or licensed as allowed under a certification or license acceptable to the division. Such staff person must meet all requirements of the temporary or provisional certification or license, must be supervised by a staff person meeting one of the requirements of paragraphs "1" to "4" above, and must be fully certified or licensed within two years of the date on which the person began to provide licensed program services.

6. A staff person employed on and after July 1, 2010, who is not qualified as described in any of the paragraphs "1" to "5" above shall be deemed qualified while the person is in the process of being certified or licensed under a certification or license acceptable to the division. Such staff must meet the requirements of the certification or licensure process, must be supervised by a staff person meeting one of the requirements of paragraphs "1" to "4" above, and must be fully certified or licensed within one year of the date on which the person began to provide licensed program services. The two-year time frame is continuous from the person's date of first employment by the program, including if the person changes employment from one program to another.

7. A person employed before July 1, 2010, and continuously since that date at a program licensed pursuant to this chapter, who is not qualified as described in any of the paragraphs "1" to "5" above, shall be deemed qualified as long as such person remains employed by that program and that program remains licensed. Such staff shall maintain a minimum of 30 hours of training every two years, including a minimum of three hours of ethics training, and shall be supervised by a staff person meeting at least one of the conditions of paragraphs "1" to "4" above.

(2) The program shall review job descriptions annually and whenever there is a change in a position's duties or required qualifications.

(3) The program shall include job descriptions in the personnel section of the policies and procedures manual.

c. The program shall conduct a written evaluation of job performance with each staff person at least annually. The evaluation shall include the opportunity for the staff person to comment.

d. The program shall maintain a personnel record on each staff person. The record shall contain, as applicable:

(1) Verification of training, experience, qualifications, and professional credentials;

(2) Job performance evaluations;

(3) Incident reports;

(4) Disciplinary action taken; and

(5) Documentation of review of and agreement to adhere to confidentiality laws and regulations.

This review and agreement shall occur prior to the staff person's assumption of duties.

e. The personnel policies and procedures shall ensure confidentiality of personnel records and shall specify staff authorized to have access to personnel information.

f. The program shall notify the division in writing within ten days of being informed that a staff person has been sanctioned or disciplined by a certifying or licensing body. Such notice shall include the sanction or discipline order.

**155.21(9)** *Child abuse, dependent adult abuse and criminal history background checks.* The program's policies and procedures shall address child abuse, dependent adult abuse and criminal history background checks.

a. The program shall prohibit mistreatment, neglect, or abuse of children and dependent adults and shall specify reporting and enforcement procedures. Alleged violations shall be reported immediately to

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the program's executive director and appropriate department of human services personnel. Policies and procedures on reporting alleged violations shall be in compliance with subrule 155.21(10). A staff person found to be in violation of Iowa Code sections 232.67 through 232.70, as substantiated by a department of human services investigation, shall be subject to the program's policies concerning termination.

*b.* For each staff person working with juveniles as set forth in Iowa Code section 125.14A or with dependent adults as set forth in Iowa Code chapter 235B, the personnel record shall contain:

(1) Documentation of a criminal history background check with the Iowa division of criminal investigation on all new staff applicants. The background check shall include asking whether the applicant has been convicted of a crime.

(2) A written, signed and dated statement furnished by a new staff applicant which discloses any substantiated report of child abuse, neglect or sexual abuse or dependent adult abuse.

(3) Documentation of a check prior to permanent acceptance of a person as staff, with the Iowa central registry for any substantiated reports of child abuse, neglect or sexual abuse pursuant to Iowa Code section 125.14A or substantiated reports of dependent adult abuse for all staff hired or accepted on or after July 1, 1994, pursuant to Iowa Code chapter 235B.

*c.* A person who has a record of a criminal conviction or founded child abuse report or founded dependent adult abuse report shall not be hired or accepted as staff unless an evaluation of the crime or founded child abuse or founded dependent adult abuse has been made by the department of human services which concludes that the crime or founded child abuse or founded dependent adult abuse does not merit prohibition of employment. If a record of criminal conviction or founded child abuse or founded dependent adult abuse does exist, the person shall be offered the opportunity to complete and submit Form 470-2310, Record Check Evaluation. In its evaluation, the department of human services shall consider the nature and seriousness of the crime or founded abuse in relation to the position sought, the time elapsed since the commission of the crime or founded abuse, the circumstances under which the crime or founded abuse was committed, the degree of rehabilitation and the number of crimes or founded abuses committed by the person involved.

*d.* A staff person providing screening, OWI evaluation, assessment or treatment in accordance with this chapter shall complete two hours of training on identification and reporting of child abuse and dependent adult abuse within six months of initial employment and at least two hours of additional training every five years thereafter.

**155.21(10) Patient records.** The program's policies and procedures shall describe compilation, storage and dissemination of patient records and release or disclosure of information.

*a.* The policies and procedures shall ensure that:

(1) The program protects the patient record against loss, tampering or unauthorized disclosure of information;

(2) The content and format of patient records are uniform;

(3) All entries in the patient record are in chronological order, signed, dated and legible. When records are maintained electronically, a staff identification code number authorizing access shall be accepted in lieu of a signature;

(4) Each entry in the patient record is made in permanent ink, by typewriter, or by computer; and

(5) Entries in the patient record use language consistent with generally accepted standards of practice and do not include abstract terms, technical jargon or slang.

*b.* The program shall provide adequate physical facilities for the secure storage, processing and handling of patient records.

*c.* Appropriate patient records shall be readily accessible to staff as specifically authorized by program policy.

*d.* The program shall appropriately maintain and dispose of patient records. Patient records shall be maintained for not less than seven years from the date they are officially closed.

*e.* Each file cabinet or storage area containing patient records shall be locked.

*f.* The program shall release or disclose information on individuals seeking program services or on patients in strict accordance with the Health Insurance Portability and Accountability Act (HIPAA) and state and federal confidentiality laws, rules and regulations.

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(1) The confidentiality of substance-related disorder patient records and information is protected by HIPAA and the regulations on confidentiality of alcohol and drug abuse patient records, 42 CFR Part 2, which implement federal statutory provisions, 42 U.S.C. 290dd-3 applicable to alcohol abuse patient records, and 42 U.S.C. 290ee-3 applicable to drug abuse patient records.

(2) The confidentiality of problem gambling patient records and information is protected by HIPAA, Iowa Code chapter 228 and Iowa Code section 22.7(35).

g. A program that provides licensed program services via electronic means shall inform the patient of the limitations and risks associated with such services and shall document in the patient record that such notice has been provided.

h. Upon receipt of a properly executed written release of information or authorization to disclose signed by the patient, the program shall release patient records in a timely manner. A program shall not refuse to release patient records related to continuation of care solely because payment has not been received. A program may refuse to release patient records that are unrelated to continuation of care if payment has not been received. A program may refuse to file the reporting form required by 641—subrule 157.3(1), “Notice Iowa Code 321J—Confidential Medical Record,” reporting screening, evaluation, and treatment completion, if payment has not been received for such services.

**155.21(11) *Assessment and admission.*** The program’s policies and procedures shall address screening, assessment, referral and admission and documentation of such activities in the patient record.

a. The program shall conduct an assessment with each patient prior to admission unless the patient’s current risk factors indicate a need for immediate admission.

(1) If the program admits a patient based on a screening or initial assessment that indicates the patient requires immediate admission, that screening or initial assessment must be updated and expanded to a full assessment when the patient’s current risk factors are stabilized.

(2) The assessment shall be documented in the patient record and shall be organized in a manner that supports development of a treatment plan by the program or by any program to which the patient is referred.

b. The program shall implement a uniform assessment process that describes:

- (1) The information to be gathered;
- (2) Procedures for accepting a referral from another program, agency or organization;
- (3) Procedures for referring a patient to another program, agency or organization.

c. A substance-related disorder treatment program, problem gambling treatment program, or substance-related disorder and problem gambling treatment program shall update the assessment on an ongoing basis, when clinically indicated, and within the periods of time specified for each level of care in the management-of-care review process.

d. The results of each assessment shall be clearly explained to the patient, and to the patient’s family when appropriate, and such explanation shall be documented in the patient record.

e. At the time of admission, a substance-related disorder treatment program, problem gambling treatment program, or substance-related disorder and problem gambling treatment program shall document that the patient has been informed of:

- (1) The general nature and goals of the program;
- (2) Rules governing patient conduct and infractions that can lead to disciplinary action or discharge from the program;
- (3) The hours during which services are available;
- (4) The costs to be borne by the patient;
- (5) Patient rights and responsibilities;
- (6) Confidentiality laws, rules and regulations; and
- (7) Safety and emergency procedures.

**155.21(12) *Treatment plans.*** The policies and procedures for substance-related disorder treatment programs, problem gambling treatment programs, and substance-related disorder and problem gambling treatment programs shall describe the program’s uniform process for developing individualized treatment plans based on ongoing assessment and documentation of such plans in the patient record.

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a. Staff shall initiate development of the treatment plan as soon after the patient's admission as is clinically feasible and within the period of time between admission and the review date specified for that level of care in the management-of-care review process.

b. The treatment plan shall minimally contain:

- (1) A summary of assessment findings;
- (2) Patient short- and long-term goals;
- (3) The type and frequency of planned treatment activities;
- (4) The staff responsible for the patient's treatment; and
- (5) Culturally and environmentally specific considerations.

c. Staff shall develop each treatment plan in partnership with the patient, with patient participation documented in the patient record. The treatment plan shall be written in a manner clearly understandable to the patient. Staff shall give the patient a copy of each treatment plan. The patient and staff shall review and revise the treatment plan when clinically indicated and in accordance with the time frames specified in the management-of-care review process.

d. Treatment plan reviews shall be based on ongoing assessment and shall specify the indicated level of care and licensed program services and any revision of treatment plan goals. The date of the review and any revision of the treatment plan shall be documented in the patient record.

**155.21(13) Progress notes.** The policies and procedures for substance-related disorder treatment programs, problem gambling treatment programs, and substance-related disorder and problem gambling treatment programs shall describe the program's uniform process for reviewing a patient's current status and progress in meeting treatment plan goals and documenting such review in the patient record.

a. Progress notes shall include the date each service was provided or observation was made and the name and title of the staff person providing each service.

b. Staff shall enter a progress note following each individual counseling session.

c. Staff shall enter a summary progress note at least weekly for group counseling sessions.

d. Progress notes that involve subjective interpretations of a patient's status or progress should be supplemented with a description of the behavioral observations that were the basis for the interpretation.

**155.21(14) Patient record contents.** The program's policies and procedures shall require that a record be maintained for each patient and shall specify the contents of the patient record.

a. The patient record shall include:

- (1) Any screening;
- (2) Each assessment;
- (3) Results of any physical examination or laboratory test;
- (4) Admission information;
- (5) Any report from a referring source or outside resource;
- (6) Notes from any case conference, consultation, care coordination or case management;
- (7) Any correspondence related to the patient, including letters, electronic communications and telephone conversations;
- (8) Any treatment consent form;
- (9) Any release of information or authorization to disclose;
- (10) Notes on any service provided; and
- (11) Any incident report.

b. For substance-related disorder treatment programs, problem gambling treatment programs, and substance-related disorder and problem gambling treatment programs, the patient record shall also include:

- (1) Treatment plans;
- (2) Management-of-care reviews;
- (3) Medication records, which shall allow for the monitoring of all medications administered and self-administered and detection of adverse drug reactions;
- (4) Progress notes;

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(5) Discharge summaries completed within 30 days of discharge, which shall be sufficiently detailed to identify the types of services the patient received, action taken to address specific problems identified, and plans for services and referrals postdischarge.

c. For problem gambling treatment programs and substance-related disorder and problem gambling treatment programs, the patient record shall also include documentation of financial counseling services that assist problem gambling patients in preparing a budget and addressing financial debt options, including restitution and bankruptcy.

**155.21(15) *Drug screening.*** The program's policies and procedures shall address collection of drug-screening specimens and utilization of drug-screening results. Such policies may state that the program does not conduct drug screening.

a. A specimen obtained from a patient shall be collected under direct supervision and analyzed in accordance with program policies, or the program shall have a policy in place to reduce the patient's ability to alter the drug screening.

b. Any laboratory used by the program for drug screening and analysis shall comply with federal and state requirements.

c. A program conducting on-site drug screening shall comply with the Clinical Laboratory Improvement Act regulations.

d. The manner in which drug-screening results are utilized shall be documented in the patient record.

**155.21(16) *Medical and mental health services.*** The program's policies and procedures shall address patient medical and mental health conditions.

a. In addition to assessment of biomedical conditions and complications as described in the ASAM criteria, the program shall take a medical history and perform a physical examination and necessary laboratory tests as follows for patients admitted to the level of care specified:

(1) Medically managed intensive inpatient treatment and medically monitored intensive inpatient treatment: within 24 hours of admission.

(2) Clinically managed high-intensity residential treatment and clinically managed medium-intensity residential treatment: within seven days of admission.

(3) Clinically managed low-intensity residential treatment: within 21 days of admission.

(4) Crisis stabilization services and opioid treatment program services: within 24 hours of admission.

b. A program may accept a medical history or physical examination from a qualified source if the history or examination was completed no more than 90 days prior to the patient's current admission.

c. In addition to assessment of emotional, behavioral, and cognitive conditions and complications as described in the ASAM criteria, a program may accept a mental health history from a qualified source if the history was completed no more than three days prior to the patient's current admission.

**155.21(17) *Emergency services.*** The program's policies and procedures shall address the availability of emergency services for substance-related disorders and medical and mental health conditions.

a. Emergency services shall be available 24 hours a day, seven days a week.

b. Emergency services may be provided by the program or by any other qualified individual, institution, facility, or other legal entity.

c. The program shall communicate the availability of emergency services by posting notice at facilities, having a recorded message on the program's telephone system, posting notice on the program's Web site and through program materials.

**155.21(18) *Medication control.*** The program's policies and procedures shall describe how medications are administered or self-administered in accordance with federal, state and local laws, rules and regulations. Such policies may state that the program does not conduct medication administration or self-administration.

a. Staff authorized to administer medications shall be qualified, and a current list of such staff shall be maintained. The following health professionals are designated by rule 657—8.32(124,155A) as qualified individuals to whom a prescriber can delegate the administration of medications:

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(1) Persons who have successfully completed a medication administration course reviewed by the board of pharmacy.

(2) Advanced emergency medical technicians and paramedics.

(3) Licensed physician assistants.

(4) Licensed pharmacists.

(5) Nurses, interns or other qualified individuals delegated the responsibility to administer medications by a prescriber licensed by the appropriate state board to administer medications to patients, in accordance with Iowa Code section 155A.4(2) "c."

*b.* Medication shall be administered only in accordance with the instructions of the attending prescriber. The type and amount of the medication, the time and date, and the staff person administering the medication shall be documented in the patient record.

*c.* Self-administration of medication shall be observed by a staff person who has been oriented to the program's policies and procedures on self-administration. Self-administration of medication shall be permitted only when the patient's medication is clearly labeled. The policies and procedures on self-administration shall include:

(1) Medications are ordered or prescribed by a prescriber.

(2) The prescriber agrees that the patient can self-administer the medication.

(3) The medication taken and how and when the medication is taken are documented in the patient record.

*d.* Prescription medication shall not be administered to or self-administered by a patient without a written order signed by a prescriber. All prescribed medications shall be clearly labeled indicating the patient's full name, the prescriber's name, the prescription number, and the name and strength of the medication, the dosage, the directions for use, and the date of issue; and the name, address and telephone number of the pharmacy or prescriber issuing the medication. Medications shall be packaged and labeled according to state and federal guidelines.

*e.* If a medication the patient brings to the program is not used, it shall be packaged, sealed and stored. The sealed package of medication shall be returned to the patient, family or designee at the time of discharge.

*f.* Accountability and control of medications.

(1) There shall be a specific routine for medication administration, indicating dose schedules and standardization of abbreviations.

(2) There shall be specific methods for control and accountability of medication products throughout the program.

(3) The staff person in charge of medications shall provide for monthly inspection of all storage units.

(4) Prescription medication containers having soiled, damaged, illegible, or makeshift labels shall be returned to the issuing pharmacist, pharmacy, or prescriber for relabeling or disposal.

(5) Unused prescription medication prescribed for a patient who leaves a program without the patient's medication shall be destroyed by a staff person with a staff witness, and a notation shall be made in the patient record. When a patient is discharged or leaves the program, medication currently being administered shall be sent, in the original container, with the patient or with a responsible agent, as approved by a prescriber.

*g.* Medication storage shall be maintained in accordance with the security requirements of federal, state and local laws.

(1) All medication shall be maintained in locked storage. Controlled substances shall be maintained in a locked box within the locked cabinet.

(2) Medications requiring refrigeration shall be kept in a refrigerator and separated from food and other items.

(3) Disinfectants and medication for external use shall be stored separately from internal and injectable medications.

(4) The medication for each patient shall be stored in the original container.

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(5) All poisonous or caustic medication shall be plainly labeled, stored separately from other medication in a specific well-illuminated cabinet, closet, or storeroom and made accessible only to authorized staff.

*h.* Prescription medication provided to a patient shall be dispensed only from a licensed pharmacy in the state of Iowa in accordance with the pharmacy laws in the Iowa Code, or from a licensed pharmacy in another state according to the laws of that state, or by a licensed prescriber.

*i.* Prescription medication prescribed for one patient shall not be administered to or allowed to be in the possession of another patient.

*j.* Any unusual patient reaction to a medication shall be documented in the patient record and reported to the prescriber immediately.

*k.* Dilution or reconstitution and labeling of medication shall be done only by a licensed pharmacist.

**155.21(19) *Management of care and discharge planning.*** The program's policies and procedures shall use the ASAM criteria for assessment, admission, continued service and discharge decisions and shall describe management-of-care processes.

*a.* The program shall conduct care coordination to meet each patient's needs and promote effective outcomes.

*b.* The program shall conduct management-of-care activities at least minimally within the time frames specified for each level of care.

(1) Medically managed intensive inpatient treatment and medically monitored intensive inpatient treatment: daily.

(2) Clinically managed high-intensity residential treatment, clinically managed medium-intensity residential treatment, partial/day treatment, and intensive outpatient treatment: within seven days of the patient's admission.

(3) Clinically managed low-intensity residential treatment and outpatient treatment: within 30 days of the patient's admission.

*c.* The program shall coordinate patient care with other programs for any licensed program service for which the program is not licensed and with qualified individuals and organizations for any related services the program does not provide, such as crisis stabilization, medical services, mental health services, and social services.

*d.* At the time of the patient's admission, the program shall initiate discharge planning that includes a determination of the patient's continued need for licensed program services and development of a plan to address ongoing patient needs postdischarge.

**155.21(20) *Quality improvement.*** The program's policies and procedures shall describe a written quality improvement plan that encompasses all licensed program services and related program operations.

*a.* The program shall designate a staff person responsible for the quality improvement plan.

*b.* The quality improvement plan shall describe and document monitoring, problem-solving and evaluation activities designed to systematically identify and resolve problems and make continued improvements.

(1) The quality improvement plan shall include specific goals, objectives, and methods.

(2) The quality improvement plan shall include objective criteria to measure its effectiveness.

*c.* The program shall document whether the quality of patient care and program operations are improved and identified problems are resolved.

*d.* The program shall communicate quality improvement plan activities and findings to all staff.

*e.* Quality improvement plan findings are used to detect trends, patterns of performance, and potential problems that affect patient care and program operations.

*f.* The program shall evaluate the effectiveness of the quality improvement plan at least annually and revise the plan as necessary.

**155.21(21) *Facility safety and cleanliness.*** The program's policies and procedures shall ensure that program physical facilities are clean, well-ventilated, heated, free from vermin, and appropriately

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furnished and are designed, constructed, equipped, and maintained in a manner that provides for the physical safety of patients, concerned persons, visitors and staff.

- a. If required by local jurisdiction, the program shall maintain a certification of occupancy.
- b. During all phases of construction or alterations of buildings, the level of life safety shall not be diminished in any occupied area. The construction shall be in compliance with all applicable federal, state, and local codes. New construction shall comply with Iowa Code chapter 104A and all applicable federal and local codes and provide for safe and convenient use by disabled individuals.
- c. The program shall have specific policies and procedures for each of the following:
  - (1) Identification, development, implementation, maintenance and review of safety policies and procedures.
  - (2) Promotion and maintenance of an ongoing, facilitywide hazard surveillance program to detect and report all safety hazards.
  - (3) Safe and proper disposal of biohazardous waste.
  - (4) Stairways, halls, and aisles. Stairways, halls, and aisles shall be of substantial, nonslippery material, maintained in a good state of repair, adequately lighted and kept free from obstructions at all times. All stairways shall have handrails.
  - (5) Radiators, registers, and steam and hot water pipes, each of which shall have protective covering or insulation. Electrical outlets and switches shall have wall plates.
  - (6) For programs serving juveniles, fuse boxes that shall be under lock and key or six feet above the floor.
  - (7) Safe and proper handling and storage of hazardous materials.
  - (8) Prohibition against weapon possession; safe and proper removal of weapons.
  - (9) Swimming pools. Swimming pools shall conform to state and local health and safety rules and regulations. Adult supervision shall be provided at all times when juveniles are using the pool.
  - (10) Ponds, lakes, or any bodies of water located on or near the program and accessible to patients, concerned persons, visitors and staff.
  - (11) The written plan to be followed in the event of fire or tornado. The plan shall be conspicuously displayed at the facility.

**155.21(22) *Therapeutic environment.*** The program's policies and procedures shall provide for the establishment of an environment that preserves human dignity. Program facilities shall have adequate space for the program to provide licensed program services.

- a. The program's policies and procedures shall include a description of how all licensed program services are accessible to people with disabilities or how the program provides accommodations for people with disabilities. All programs shall comply with the Americans with Disabilities Act.
- b. The waiting or reception areas shall be of adequate size and be located so as to ensure patient confidentiality.
- c. Staff shall be available in waiting or reception areas to address the needs of the patients, potential patients, concerned persons, and visitors.
- d. The program's policies and procedures shall include:
  - (1) Possession and use of chemical substances in the facility.
  - (2) Prohibition of smoking.
  - (3) Prohibition of the sale or other provision of any tobacco product.
  - (4) Informing patients of their legal and human rights at the time of admission.
  - (5) Patient communication, opinions, or grievances, with a mechanism for redress.
  - (6) Prohibition of sexual harassment.
  - (7) Patient right to privacy.

**641—155.22(125,135) Inpatient and residential program facilities.** Specific standards apply for programs providing clinically managed low-intensity residential treatment, clinically managed medium-intensity residential treatment, clinically managed high-intensity residential treatment, medically monitored intensive inpatient treatment, and medically managed intensive inpatient treatment. The program's policies and procedures shall address each standard.



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**155.22(1) *Health and fire safety inspections.*** Inpatient and residential programs shall comply with applicable department of inspections and appeals rules; state fire marshal's rules and fire ordinances; and applicable local health, fire, occupancy, and safety regulations. The program shall maintain documentation of such compliance.

*a.* Inpatient and residential programs shall comply with standards for food service sanitation in accordance with rules promulgated by the department of inspections and appeals pursuant to 481—Chapter 32 and Iowa Code chapter 137B.

*b.* The use of door locks or closed sections shall be documented in written policies and procedures approved by the fire marshal and governing body.

**155.22(2) *Emergency preparedness.*** Inpatient and residential programs shall have a written emergency preparedness plan for continuation of licensed program services during an emergency or disaster.

**641—155.23(125,135) Specific standards for inpatient and residential programs.** The program's policies and procedures shall address each standard.

**155.23(1) *Hours of operation.*** Inpatient and residential programs shall operate seven days per week, 24 hours per day.

**155.23(2) *Meals.*** Inpatient and residential programs shall provide a minimum of three meals per day to each patient. A program where patients are not present during mealtime shall make provisions to make available the necessary meals. Menus shall be prepared in consultation with a dietitian. If patients are allowed to prepare meals, the program shall document conformity with all commonly accepted policies and procedures of state health rules and regulations and food hygiene.

**155.23(3) *Consultation with counsel.*** Patients shall have opportunity for and access to consultation with legal counsel at any reasonable time.

**155.23(4) *Visitation with family and friends.***

*a.* Each patient shall have opportunities for continuing contact with family and friends. If such contact is clinically contraindicated, it may be restricted. Any restriction shall be approved by the treatment supervisor and the executive director. Justification for the restriction shall be documented in the patient record. Any restriction shall be reviewed within three calendar days by the treatment supervisor, who may continue or end the restriction. Continuation of a restriction shall be documented in the patient record and shall be reviewed by the treatment supervisor every three calendar days.

*b.* The program shall establish visiting hours, which shall be conspicuously displayed at the facility and in such a manner to be visible to those entering the facility.

**155.23(5) *Telephone use.***

*a.* Each patient shall have opportunities to conduct private telephone conversations. If such conversations are clinically contraindicated, they may be restricted. Any restriction shall be approved by the treatment supervisor and the executive director. Justification for the restriction shall be documented in the patient record. Any restriction shall be reviewed within three calendar days by the treatment supervisor, who may continue or end the restriction. Continuation of a restriction shall be documented in the patient record and shall be reviewed by the treatment supervisor every three calendar days.

*b.* The program shall establish telephone hours. Emergency telephone conversations may be received at the time of the call or made when necessary.

**155.23(6) *Written communication.***

*a.* Each patient shall have opportunities to conduct private written communications. If such communications are clinically contraindicated, they may be restricted. Any restriction shall be approved by the treatment supervisor and the executive director. Justification for the restriction shall be documented in the patient record. Any restriction shall be reviewed within three calendar days by the treatment supervisor, who may continue or end the restriction. Continuation of a restriction shall be documented in the patient record and shall be reviewed by the treatment supervisor every three calendar days.

*b.* The program shall establish access to written communications. The program shall not intercept, read, or censor the U.S. mail.

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**155.23(7) Facility.** Inpatient and residential program facilities shall be appropriate for 24-hour occupancy.

*a.* Patient bedrooms shall include:

- (1) A sturdily constructed bed;
- (2) A clean mattress protected with a clean mattress pad;
- (3) A designated space for personal possessions and for hanging clothing in proximity to the sleeping area; and
- (4) Curtains or window blinds on any windows.

*b.* Sleeping areas.

- (1) Sleeping areas shall include doors for privacy.
- (2) Sleeping areas shall include partitioning or placement of furniture to provide privacy for all patients.

(3) The number of patients in a room shall be appropriate to the goals of the facility and to the ages, developmental levels, and clinical needs of the patients.

(4) Patients will be allowed to keep and display personal belongings and add personal touches to the decoration of their rooms in accordance with program policy.

(5) Staff shall respect the patient's right to privacy by knocking on the door of the patient's room before entering.

*c.* Clean linen, towels and washcloths shall be available minimally on a weekly basis and more often as needed.

*d.* Bathrooms.

(1) Bathrooms shall provide the facilities necessary for patients' personal hygiene and personal privacy, including:

1. A safe supply of hot and cold running potable water;
2. Clean towels, electric hand dryers or paper towel dispensers, toilet paper and soap;
3. Natural or mechanical ventilation capable of removing odors;
4. Tubs or showers that have slip-proof surfaces;
5. Partitions with doors which provide privacy if a bathroom has multiple toilet stools; and
6. Toilets, wash basins, and other plumbing or sanitary facilities that shall at all times be maintained in good operating condition.

(2) The ratio of bathroom facilities to inpatient and residential patients shall be one tub or shower head per 12 patients, one wash basin per 12 patients and one toilet per 8 patients.

(3) If the facility is coeducational, the program shall designate and so identify separate bathrooms for male and female patients.

*e.* The written plan to be followed in the event of fire or tornado shall be conspicuously displayed on each floor or in each area that patients, concerned persons, staff or visitors occupy at the facility and shall be explained to all inpatient and residential patients as a part of their orientation to the program. Fire drills shall be conducted at least monthly, and tornado drills shall be conducted monthly from April through October.

*f.* Written reports of annual inspections by state or local fire safety officials or private fire protection companies approved by the department shall be maintained with records of corrective action taken by the program based on recommendations articulated in such reports.

*g.* Every facility shall have an adequate water supply from an approved source. A municipal water system shall meet this requirement. Private water sources shall be tested annually.

*h.* The facility shall allow for the following:

- (1) Areas in which a patient may be alone when appropriate; and
- (2) Areas for private conversations with others.

*i.* Articles of grooming and personal hygiene that are appropriate to the patient's age, developmental level, and clinical state shall be readily available in a space reserved near the patient's sleeping area. If access to such articles is clinically contraindicated as approved by the treatment supervisor, a patient's personal articles may be kept under lock and key by staff. Staff shall explain to

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the patient the conditions under which the articles may be used. Justification for this restriction shall be documented in the patient record.

*j.* If patients maintain their own living quarters or perform day-to-day housekeeping activities, these responsibilities shall be clearly defined in writing and be a part of the patient orientation program. Staff assistance and equipment shall be provided as needed.

*k.* Patients shall be allowed to wear their own clothing in accordance with program rules. If clothing is provided by programs, it shall be suited to the climate and appropriate. A laundry room shall be accessible so patients may wash their clothing.

*l.* The program shall ensure that the use and location of noise-producing equipment and appliances, such as television sets, radios, computers, and CD players, do not interfere with clinical and therapeutic activities.

*m.* The program shall provide recreation and outdoor activities unless clinically contraindicated.

**155.23(8) Religion-culture.** Program policies and procedures shall include a written description of any religious orientation, religious practice, or religious restrictions. For juvenile patients, this description shall be provided to the patient, parent(s) or guardian, and placing agency at the time of admission in compliance with HIPAA and DHHS, 42 CFR Part 2, regulations on the confidentiality of alcohol and drug abuse patient records. For adult patients, this information shall be available during orientation. The patient shall have the opportunity to participate in religious activities and services in accordance with the patient's faith or that of a patient's parent(s) or guardian if the patient is a minor. The program shall, when necessary and reasonable, arrange transportation to religious activities.

**641—155.24(125,135) Specific standards for inpatient and residential programs licensed to provide services to juveniles.** Inpatient and residential programs that provide services to juveniles under the age of 18 shall also comply with the following standards. The program's policies and procedures shall address each standard.

**155.24(1) Personal possessions.** A program shall allow a patient to bring personal belongings. The program may limit or supervise the use of these items. The program shall ensure that each patient has adequate, clean, well-fitting, attractive, and seasonable clothing as required for health, comfort, and physical well-being. The clothes should be appropriate to the patient's individual needs, age, and sex.

**155.24(2) Family involvement.** The program shall encourage family involvement.

**155.24(3) Money.** Money earned or received as a gift or as an allowance by a patient shall be that patient's personal property. The program shall maintain a separate accounting system for patient money and shall address the patient's use of funds.

**155.24(4) Discipline.** The program's methods for control and discipline of juveniles shall be available to all staff and to the juvenile's family. Staff shall be in control of and responsible for discipline at all times. Discipline shall not include withholding basic necessities such as food, clothing, or sleep.

*a.* The program shall prohibit staff or patients from utilizing corporal punishment as a method of disciplining or correcting patients. This policy shall be communicated in writing to all staff.

*b.* The program's written policies on behavior expectations shall be made available to the patient and the patient's parent(s) or guardian, including:

(1) The general expectations of behavior, including the program's rules and practices.

(2) The range of reasonable consequences that may be used to deal with inappropriate behavior.

**155.24(5) Number of staff.** The program shall have staff coverage seven days per week, 24 hours per day. The number and qualifications of the staff will vary depending on the needs of the patients.

*a.* The program shall have a 24-hour supervisory consultation on-call system. During prime programming time, there shall be at least a one-to-eight staff-to-patient ratio.

*b.* Comprehensive residential facilities, as defined in 441—Chapter 115, shall have at least a one-to-five staff-to-patient ratio during prime programming time. A staff person shall be in each living unit at all times when juveniles are in residence, and there shall be a minimum of three nighttime checks between the hours of 12 midnight and 6 a.m. These checks shall be logged. The program's policies and procedures shall address nighttime checks.

*c.* The program shall define its prime programming time.

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**155.24(6)** *Illness, accident, death, or absence from the inpatient or residential program.* The program shall notify the patient's parent(s), guardian, and responsible agency of any serious illness, incident involving serious bodily injury, absence, or removal of the juvenile from the facility, in compliance with HIPAA and DHHS, 42 CFR Part 2, regulations on the confidentiality of alcohol and drug abuse patient records. In the event of the death of a patient, the program shall immediately notify the prescriber, the patient's parent(s) or guardian, the placing agency, and the appropriate state authority.

**155.24(7)** *Educational services.* The program's educational program shall meet the requirements of the department of education and shall be available for each patient in accordance with abilities and needs.

**641—155.25(125,135) Specific standards for substance-related assessment and OWI evaluation only programs.** Programs that provide substance-related assessment and OWI evaluation only services shall also comply with the following standards. The program's policies and procedures shall address each standard.

**155.25(1)** A program conducting OWI evaluations on persons convicted of operating a motor vehicle while intoxicated (OWI) pursuant to Iowa Code section 321J.2 and on persons whose driver's license or nonresident operating privileges are revoked under Iowa Code chapter 321J shall do so in accordance with 641—Chapter 157.

**155.25(2)** The program shall make its fees public and shall inform potential patients of the fee at the time the assessment or evaluation is scheduled.

**641—155.26 to 155.33** Reserved.

**641—155.34(125,135) Specific standards for enhanced treatment services.** Substance-related disorder and problem gambling treatment programs licensed to provide enhanced treatment services shall also comply with the following standards. The program's policies and procedures shall address each standard.

**155.34(1)** *Personnel.* The program shall meet the requirements in subrule 155.21(8). In addition:

*a.* The program's policies and procedures shall include job descriptions for positions that provide prevention services for substance-related disorders and problem gambling, treatment for substance-related disorders and problem gambling, services for medical conditions, and services for mental health conditions.

*b.* The program shall have staff on site who are qualified to provide prevention and early intervention services for substance-related disorders and problem gambling, treatment for substance-related disorders and problem gambling, services for medical conditions, and services for mental health conditions.

**155.34(2)** Reserved.

**641—155.35(125,135) Specific standards for opioid treatment programs.** All programs that use methadone or other medications approved by the Food and Drug Administration under Section 505 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355) and by the state of Iowa for use in the treatment of opioid addiction shall comply with this rule, HIPAA, and Part II, Department of Health and Human Services, Substance Abuse and Mental Health Services Administration, 42 CFR Part 8, Opioid Drugs in Maintenance and Detoxification Treatment of Opiate Addiction, effective May 18, 2001.

**155.35(1)** *Definitions.*

*"Accredited opioid treatment program"* means an opioid treatment program that is the subject of a current, valid accreditation from an accreditation body approved by the Substance Abuse and Mental Health Services Administration (SAMHSA).

*"Certification"* means the process by which SAMHSA determines that an opioid treatment program is qualified to provide opioid treatment under the federal opioid treatment standards.

*"Certification application"* means the application filed by an opioid treatment program for purposes of obtaining certification from SAMHSA.

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*“Certified opioid treatment program”* means an opioid treatment program that is the subject of a current, valid certification.

*“Comprehensive maintenance treatment”* means maintenance treatment provided in conjunction with a comprehensive range of appropriate medical and rehabilitative services.

*“Detoxification treatment”* means the dispensing of an opioid agonist treatment medication in decreasing doses to an individual to alleviate adverse physical or psychological effects incident to withdrawal from the continuous or sustained use of an opioid drug and as a method of bringing the individual to a drug-free state within such a period.

*“Interim maintenance treatment”* means detoxification treatment for a period of more than 30 days but not in excess of 180 days.

*“Maintenance treatment”* means the dispensing of an opioid agonist treatment medication at stable dosage levels for a period in excess of 21 days in the treatment of an individual for opioid addiction.

*“Medical and rehabilitative services”* means services such as medical evaluations, counseling, and rehabilitative and other social programs (e.g., vocational and educational guidance, employment placement) that are intended to help patients in opioid treatment programs become or remain productive members of society.

*“Medical director”* means a physician who is licensed to practice medicine in accordance with Iowa Code chapter 148, 150, or 150A and who assumes responsibility for administering all medical services performed by the program, either by performing them directly or by delegating specific responsibility to authorized program physicians and health care professionals functioning under the medical director’s direct supervision.

*“Medication unit”* means a facility established as part of, but geographically separate from, an opioid treatment program from which licensed private practitioners or community pharmacists dispense or administer opioid agonist treatment medications or collect samples for drug testing or analysis.

*“Opiate addiction”* means a cluster of cognitive, behavioral, and physiological symptoms in which the individual continues use of opiates despite significant opiate-induced problems. Opiate dependence is characterized by an individual’s repeated self-administration of opiates that usually results in opiate tolerance, withdrawal symptoms, and compulsive drug-taking. Dependency may occur with or without the physiological symptoms of tolerance and withdrawal.

*“Opioid agonist treatment medication”* means any opioid agonist drug that is approved by the Food and Drug Administration under Section 505 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355) for use in the treatment of opiate addiction.

*“Opioid drug”* means any drug having an addiction-forming or addiction-sustaining liability similar to morphine or being capable of conversion into a drug having such addiction-forming or addiction-sustaining liability.

*“Opioid treatment”* means the dispensing of an opioid agonist treatment medication, along with providing a comprehensive range of medical and rehabilitative services, when clinically necessary, to an individual to alleviate the adverse medical, psychological, or physical effects incident to opiate addiction. This term encompasses detoxification treatment, short-term detoxification treatment, long-term detoxification treatment, maintenance treatment, comprehensive maintenance treatment, and interim maintenance treatment.

*“Opioid treatment program”* or *“OTP”* means a program or practitioner engaged in opioid treatment or interim maintenance treatment.

*“Patient”* means any individual who undergoes treatment in an opioid treatment program.

*“Program sponsor”* means the person responsible for the operation of the opioid treatment program and who assumes responsibility for all its employees, including any practitioners, agents, or other persons providing medical, rehabilitative, or counseling services at the program or any of its medication units. The program sponsor need not be a licensed physician but shall employ a licensed physician for the position of medical director.

*“Short-term detoxification treatment”* means detoxification treatment for a period not in excess of 30 days.

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*“State authority”* means the Iowa department of public health, division of behavioral health, which regulates the treatment of opiate addiction with opioid drugs.

*“Treatment plan”* means a plan which outlines for each patient attainable short-term treatment goals that are mutually acceptable to the patient and the opioid treatment program and which specifies the services to be provided and the frequency and schedule for their provision.

**155.35(2) Required approvals.** All opioid treatment programs shall be licensed or approved by the committee and shall maintain all other approvals required by the Drug Enforcement Administration, Substance Abuse and Mental Health Services Administration and the Iowa board of pharmacy in order to provide services.

**155.35(3) Central registry system.** To prevent simultaneous enrollment of a patient in more than one program, all opioid treatment programs shall participate in a central registry as established by the division.

Prior to admission of an applicant to an opioid treatment program, the program shall submit to the registry the applicant’s name, birth date, and date of intended admission, and any other information required for the clearance procedure. No person shall be admitted to a program who is found by the registry to be participating in another such program. All opioid treatment programs shall report all admissions, discharges, and transfers to the registry immediately. All information reported to the registry from the programs and all information reported to the programs from the registry shall be treated as confidential in accordance with HIPAA and DHHS regulations on the confidentiality of alcohol and drug abuse patient records, 42 CFR Part 2.

*a. Definitions.* For purposes of this subrule:

*“Central registry”* means the system through which the Iowa department of public health, division of behavioral health, obtains patient identifying information about individuals applying for maintenance or detoxification treatment for the purpose of preventing an individual’s concurrent enrollment in more than one such program.

*“Opioid treatment program”* means a detoxification or maintenance treatment program which is required to report patient identifying information to the central registry and which is located in the state.

*b. Restrictions on disclosure.* A program may disclose patient identifying information to a central registry for the purpose of preventing the multiple enrollment of a patient only if:

(1) The disclosure is made when:

1. The patient is admitted for treatment; or
2. The treatment is interrupted, resumed or terminated.

(2) The disclosure is limited to:

1. Patient identifying information; and
2. Relevant dates of admission.

The program shall inform the patient of the required disclosure prior to admission.

*c. Use of information limited to prevention of multiple enrollments.* Any information disclosed to the central registry to prevent multiple enrollments shall not be redisclosed by the registry nor shall such information be used for any other purpose than the prevention of multiple enrollments unless so authorized by court order in accordance with HIPAA and 42 CFR Part 2.

*d. Permitted disclosure by the central registry to prevent a multiple enrollment.* If a program petitions the central registry and an identified patient is enrolled in another program, the registry may disclose:

(1) The name, address, and telephone number of the program in which the patient is currently enrolled to the inquiring program; and

(2) The name, address, and telephone number of the inquiring program to the program in which the patient is currently enrolled. The programs may communicate as necessary to verify that no error has been made and to prevent or eliminate any multiple enrollment.

**155.35(4) Admission requirements.**

*a.* Prior to or at the time of a patient’s admission to an opioid treatment program, the program shall conduct a comprehensive assessment so as to determine appropriateness for admission.

*b.* The program shall verify, to the extent possible, the patient’s name, address, and date of birth.

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c. The program physician shall determine and document in the patient's record that the patient is physiologically dependent on narcotic substances and has been physiologically dependent for at least one year prior to the patient's admission. A one-year history of addiction means that the patient was physiologically dependent on a narcotic at a time one year before the patient's admission to a program and was addicted for most of the year preceding admission.

(1) When physiological addiction cannot be clearly documented, the program physician or an appropriately trained staff member designated and supervised by the physician shall record in the patient's record the criteria used to determine the patient's current physiologic dependence and history of addiction. In the latter circumstance, the program physician shall review, date, and countersign the supervised staff member's evaluation to demonstrate the physician's agreement with the evaluation. The program physician shall make the final determination concerning a patient's physiologic dependence and history of addiction. The program physician shall also sign, date, and record a statement that the physician has reviewed all the documented evidence to support a one-year history of addiction and current physiologic dependence by the patient and that in the physician's reasonable clinical judgment the patient fulfills the requirements for admission to maintenance treatment. Before the program administers any medication to the patient, the program physician shall complete and record the statement documenting the patient's addiction and current physiologic dependence.

(2) When a patient has voluntarily left an opioid treatment program in good standing and seeks readmission within two years of discharge, the program shall document the following information about the patient:

1. Prior opioid treatment of six months or more; and
2. That in the physician's medical judgment, treatment of the patient is warranted. Such documentation shall be entered in the patient's record by the program physician.

d. The program shall collect a drug screening sample for analysis. Where dependence is substantially verified through other indicators, a negative drug screen will not necessarily preclude admission to the program.

e. Prior to a patient's admission, the program shall confirm with the central registry that the patient is not currently enrolled in another opioid treatment program.

f. If a potential patient has previously been enrolled in another program, the admitting program shall request from the previous program a copy of the patient's assessment data, treatment plan, and discharge summary including the type of or reason for discharge. All programs subject to these rules shall promptly respond to such a request upon receipt of a valid release of information.

g. A person under the age of 18 is required to have had two documented attempts at short-term detoxification or drug-free treatment to be eligible for maintenance treatment. A one-week waiting period is required after such a detoxification attempt, however, before an attempt is repeated. The program physician shall document in the patient's record that the patient continues to be, or is again, physiologically dependent on narcotic drugs.

h. Program staff shall ensure that a patient is voluntarily participating in the program, and the patient shall sign a Consent to Treatment Form.

i. Pregnant patients may be admitted to opioid treatment in accordance with the following provisions:

(1) Evidence of current physiological dependency is not needed if the program physician certifies the pregnancy and, in the physician's reasonable judgment, finds treatment to be justified. Documentation of all findings and justifications for admission shall be documented in the patient's record by the program physician prior to the administration of the initial dose of medication.

(2) Pregnant patients shall be offered comprehensive prenatal care. If the program cannot provide prenatal services, the program shall assist the patient in obtaining such services and shall coordinate ongoing care with the collateral provider.

(3) The program physician shall document that the patient has been informed of the possible risks to the unborn child from the use of medication and the risks of continued use of illicit substances.

(4) Should a program have a waiting list for admission to the program, pregnant patients shall be given priority.

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**155.35(5) *Placement, admission and assessment.*** The program shall have written criteria for considering an individual for placement and admission. In addition, the program shall maintain current procedures to ensure that patients are admitted to maintenance treatment by qualified staff who have determined by using accepted medical criteria, such as those outlined in the Diagnostic and Statistical Manual for Mental Disorders, that the person is currently addicted to an opioid drug.

*a.* The program physician or a designee who is a qualified medical professional shall complete a medical evaluation and a current psychological/mental status evaluation of the patient prior to the administration of the initial dose of medication. If the history and current psychological/mental status evaluation is completed by an individual other than the program physician, the program shall document in the patient's case record that this information was reviewed by the program physician prior to administration of the initial dose of medication.

*b.* The medical evaluation of the patient shall include, but not be limited to:

- (1) A complete medical history;
- (2) An assessment of the patient's current psychological and mental status;
- (3) A physical examination, including examination for:
  1. Pulmonary, liver, or cardiac abnormalities;
  2. Infectious disease; and
  3. Dermatologic sequela of addiction;
- (4) Laboratory tests, including:
  1. Serological test for syphilis; and
  2. Urine screening for drugs;
- (5) An intradermal PPD (tuberculosis skin test) and review of tetanus immunization status; and
- (6) When indicated, an EKG, chest X-ray, pap smear, pregnancy test, sickle cell screening, complete blood count and white cell differential, multiphasic chemistry profile, routine and microscopic urinalysis, or other tests indicated by the patient's condition.

**155.35(6) *Treatment plans.*** Based upon the initial assessment, an individualized written treatment plan shall be developed and recorded in the patient's case record.

*a.* A treatment plan shall be developed and shall delineate the patient's immediate needs and the actions required to meet these needs.

*b.* The treatment plan shall be developed as soon after the patient's admission as is clinically feasible, but no later than 30 days following the patient's admission to an outpatient opioid maintenance treatment program.

*c.* Treatment plans shall be developed in partnership with the patient. Comprehensive treatment plans shall be reviewed by the primary counselor and the patient as often as necessary, but no less than every 90 days during the first year and semiannually each subsequent year for opioid treatment modalities. Treatment plans shall be reviewed by the program physician on an annual basis.

**155.35(7) *Rehabilitative services.*** The program shall have policies and procedures on the minimum attendance for rehabilitative services relative to the patient's progress and length of involvement in treatment. The minimum frequency of rehabilitative services shall occur at the same frequency as that of on-site dosing for patients receiving more than two take-home dosages a week in the first year. The minimum frequency for rehabilitative services for patients receiving two or fewer take-home dosages shall be weekly. The program shall provide rehabilitative services that are appropriate for the patient based on needs identified during the assessment process. A patient who does not comply with the program's rehabilitative service requirements shall be placed on a period of probation as defined by the program or shall be required to immediately increase the frequency of clinic attendance for medication and rehabilitative services. If, during a period of probation, the patient continues to be in noncompliance with rehabilitation services, the program shall continue to increase the attendance requirement until daily attendance is obtained or until the patient complies with rehabilitative services. This requirement shall not preclude the program's ability to determine that discharge of a patient is warranted for therapeutic reasons or program needs.



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**155.35(8) Medication administration.**

a. The program physician shall determine the patient's initial and subsequent dose of medication and on-site dosing schedule and shall assume responsibility for the amount of the narcotic drug administered or dispensed and shall record, date, and sign in each patient's case record each change in the dosage schedule. The physician shall directly communicate orders to the pharmacy or registered or licensed personnel supervising medication administration. The program physician may communicate such orders verbally; however, orders shall be reduced to writing and countersigned within 72 hours by the program physician.

b. The initial dose of medication shall not exceed 30 milligrams, and the total dose for the first day shall not exceed 40 milligrams, unless the program physician documents in the patient's case record that 40 milligrams did not suppress opiate abstinence symptoms. A patient transferring into the program or on a guest-dosing status may receive an initial dosage of no more than the last daily dosage authorized by the former or primary program.

(1) Medication shall be administered by a professional authorized by law.

(2) No medication shall be administered until the patient has completed admission procedures unless the patient enters the program on a weekend and the central registry cannot be contacted. If, in the clinical judgment of the program physician, a patient is experiencing an emergency situation, the admission procedures may be completed on the following workday.

c. Administration.

(1) Take-home medication shall be labeled in accordance with state and federal law and have childproof caps.

(2) A medication administration log shall be kept in the dosing area and in the patient's case record. The amount of medication administered and the signature of the staff member authorized to administer the medication shall also be included in the patient's case record. No dose shall be administered until the patient has been positively identified and the dosage amount has been compared with the currently ordered and documented dosage level.

(3) Ingestion shall be observed and verified by the staff person authorized to administer the medication.

(4) The program physician shall record, date, and sign in each patient's case record each change in the dosage schedule. Daily dosages of medications in excess of 100 milligrams shall be dispensed only with the approval of the program physician and shall be documented and justified in the patient's case record.

**155.35(9) Take-home or unsupervised medication use.**

a. Take-home medication may be given to patients who demonstrate a need for a more flexible schedule in order to enhance and continue rehabilitative progress. For patients receiving take-home medication, the program shall document the following requirements:

(1) Absence of recent abuse of drugs (narcotic or nonnarcotic), including alcohol;

(2) Regular attendance at the clinic;

(3) Attendance at a licensed or approved treatment program for rehabilitative services (e.g., programs are considered approved when licensed or approved in accordance with Iowa Code chapter 125);

(4) Absence of recent criminal activity;

(5) Stable home environment and social relationships;

(6) Active employment or participation in school or similar responsible activities related to employment, education or vocation; and

(7) Assurance that medication can be safely transported and stored by the patient for the patient's own use.

b. Prior to granting take-home privileges, the program physician shall document in the patient's case record that all the above criteria have been considered and that, in the physician's professional judgment, the risk of diversion or abuse is outweighed by the rehabilitative benefits to be derived.

c. If the patient meets the above criteria, the patient may receive take-home medication according to the following guidelines:

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- (1) During the first 90 days of treatment, the take-home supply is limited to a single dose each week;
- (2) During the second 90 days of treatment, the take-home supply is limited to two doses per week;
- (3) During the third 90 days of treatment, the take-home supply is limited to three doses per week;
- (4) In the remaining months of the first year, a patient may be given a maximum six-day supply of take-home medication;
- (5) After one year of continuous treatment, a patient may be given a maximum two-week supply of take-home medication;
- (6) After two years of continuous treatment, a patient may be given a maximum one-month supply of take-home medication; and
- (7) Take-home medication shall not be dispensed to patients in interim maintenance treatment or detoxification.

*d.* If a patient is unable to conform to the applicable mandatory schedule, a revised schedule may be permitted provided that the program receives an exception to these rules from the division and SAMHSA, when applicable. A copy of the written exception shall be placed in the patient's case record. The division will consider exceptions only in unusual circumstances. When a program is applying for less frequent pickups for patients, approval will be based on considerations in addition to distance if another program exists within 25 miles of the patient's residence.

*e.* Should a patient receiving take-home medication provide a drug screen that is confirmed either positive for substances or negative for the prescribed medication, the program shall ensure that, when test results are used, presumptive laboratory results are distinguished from results that are definitive.

(1) The program physician shall place the patient on three months' probation, as defined by the program, or increase the patient's frequency of clinic dosing after considering the patient's overall progress and length of involvement in the program.

(2) Should the patient provide a drug screen that is positive for substances or negative for medication during a period of probation, the program physician shall increase the patient's frequency of clinic attendance for dosage pickup for at least three months. If after the three-month period the patient meets the eligibility criteria, the patient may return to the previous take-home schedule.

*f.* Take-home or unsupervised dosages of medication in excess of 100 milligrams may be dispensed by the program physician when the need for those dosages is carefully reviewed and considered and justified in the patient's case record based on the physician's clinical judgment.

**155.35(10) *Drug testing.*** Each program shall establish policies and procedures for the collection of drug-screening specimens and utilization of results.

*a.* The program shall ensure that an initial drug-screening test or analysis is completed for each prospective patient and that at least eight additional random tests or analyses are performed on each patient during the patient's first year in maintenance treatment and that at least quarterly random tests or analyses are performed on each patient in maintenance treatment for each subsequent year. When a sample is collected from each patient for such a test or analysis, it shall be done in a manner that minimizes opportunity for falsification. Each test or analysis shall be analyzed for opiates, methadone, amphetamines, cocaine, and barbiturates. In addition, if any other drug or drugs have been determined by a program to be abused in that program's locality, or as otherwise indicated, each test or analysis must be analyzed for any of those drugs as well. Any laboratory that performs the testing required under this rule shall be in compliance with all applicable federal proficiency testing and licensing standards and all applicable state standards.

*b.* The program shall ensure that test results are not used as the sole criterion to force a patient out of treatment but are used as a guide to change treatment approaches. The program shall also ensure that when test results are used, presumptive laboratory results are distinguished from results that are definitive.

**155.35(11) *Diversion prevention plan.***

*a.* The program shall develop a diversion identification and prevention plan that:

(1) Outlines the methods by which the program shall detect possible diversion of take-home medication; and

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(2) Describes the actions to be taken when diversion is identified or suspected.

b. The program shall establish and implement proactive procedures to reduce the likelihood or possibility of diversion.

**155.35(12) Interim maintenance treatment.**

a. An approved program may offer interim maintenance treatment when, due to capacity, the program cannot place the patient in a program offering comprehensive services within 14 days of the patient's application for admission.

b. An approved program may provide interim maintenance treatment only if the program also provides comprehensive maintenance treatment to which interim maintenance treatment patients may be transferred.

c. Interim maintenance treatment program approval.

(1) Before a public or nonprofit private narcotic treatment program may provide interim maintenance treatment:

1. The program must receive approval of both the U.S. Food and Drug Administration and the division of behavioral health; and

2. The program director must certify that the program seeking such authorization is unable to place patients in a public or private nonprofit program within a reasonable geographic area within 14 days of the patient's application for admission and that interim maintenance treatment will not reduce the capacity of the program's comprehensive maintenance treatment.

(2) Patients admitted to interim maintenance treatment shall be transferred to comprehensive maintenance treatment within 120 days of admission.

d. Minimum standards for interim maintenance treatment. The program may admit a patient who is eligible for comprehensive maintenance treatment to interim maintenance treatment if the patient cannot be placed in a public or private nonprofit comprehensive program within a reasonable geographic area and within 14 days of application for services. An initial drug screen and at least two other drug screens shall be taken from the patient during the maximum admission period of 120 days. A program shall establish and follow reasonable criteria for determining the transfer of patients to comprehensive maintenance treatment. These transfer criteria shall be in writing and available for inspection and shall include at a minimum a preference for the transfer of pregnant patients. Interim maintenance shall be conducted in accordance with all applicable federal regulations and state rules. The program shall notify the division when a patient begins interim treatment, when a patient leaves interim treatment, and when a patient transfers to comprehensive maintenance treatment. Such notifications shall be documented by the program in the patient's case record. All requirements for comprehensive maintenance treatment apply to interim maintenance treatment, with the following exceptions:

(1) The medication is required to be administered daily under observation;

(2) Take-home medication is not allowed;

(3) Initial and comprehensive treatment plans are not required;

(4) A primary counselor is not required to be assigned to the patient; and

(5) Interim maintenance treatment cannot be provided for longer than 120 days in any 12-month period.

**155.35(13) Accreditation.** All opioid treatment programs shall obtain and retain accreditation by a recognized national accreditation organization. The national accreditation bodies currently recognized as meeting committee criteria are:

a. The Joint Commission.

b. The Council on Accreditation of Rehabilitation Facilities (CARF).

c. The Council on Accreditation of Children and Family Services (COA).

d. The American Osteopathic Association (AOA).

TUBERCULOSIS (TB) SCREENING: HEALTH CARE WORKERS AND RESIDENTS

**641—155.36(125,135) Purpose.** The purpose of these rules is to outline procedures for conducting tuberculosis (TB) screening for health care workers and residents at substance-related disorder and

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problem gambling treatment program facilities. Facilities will need to conduct a risk assessment to determine the risk classification of the facility and to identify appropriate screening criteria. The screening criteria are consistent with those of the U.S. Centers for Disease Control and Prevention (CDC), TB Elimination Division, as outlined in the MMWR December 30, 2005/Vol. 54/No. RR-17, "Guidelines for Preventing the Transmission of *Mycobacterium tuberculosis* in Health-Care Settings, 2005."

**641—155.37(125,135) Definitions.** For the purpose of these rules, the following definitions shall apply:

"*Bacille Calmette-Guerin (BCG) vaccination*" means a vaccine for TB. BCG is used in many countries with a high prevalence of TB to prevent childhood tuberculosis meningitis and military disease. BCG is not generally recommended for use in the United States because of the low risk of infection with *Mycobacterium tuberculosis*, the variable effectiveness of the vaccine against adult pulmonary TB, and the vaccine's potential interference with tuberculin skin test reactivity.

"*Baseline TB screening*" means the screening of staff and residents for latent tuberculosis infection (LTBI) and TB disease at the beginning of employment or upon admission to a facility. Baseline TB screening includes a symptom screen for all staff and residents and tuberculin skin tests (TSTs) or interferon-gamma release assay (IGRA) for *Mycobacterium tuberculosis* for those staff and residents with previous negative test results for *M. tuberculosis* infection.

"*Baseline TST*" or "*baseline IGRA*" means the TST or IGRA, respectively, that is administered at the beginning of employment to newly hired staff or upon admission to residents of facilities.

"*Boosting*" means a phenomenon in which a person has a negative TST (i.e., false-negative) result years after infection with *M. tuberculosis* and then a positive subsequent TST result. The positive TST result is caused by a boosted immune response of previous sensitivity rather than by a new infection (false-positive TST conversion). Two-step testing reduces the likelihood of mistaking a boosted reaction for a new infection.

"*Extrapulmonary TB*" means TB disease in any part of the body other than the lungs (e.g., kidney, spine, or lymph nodes).

"*Interferon-gamma release assay*" or "*IGRA*" means a whole-blood test that can aid in diagnosing *Mycobacterium tuberculosis* infection.

"*Laryngeal TB*" means a form of TB disease that involves the larynx and may be highly infectious.

"*Latent TB infection*" or "*LTBI*" means infection with *M. tuberculosis* without symptoms or signs of disease having manifested.

"*Mantoux method*" means a skin test performed by intradermally injecting 0.1 mL of purified protein derivative (PPD) tuberculin solution into the volar or dorsal surface of the forearm.

"*Pulmonary TB*" means TB disease that occurs in the lung parenchyma, usually producing a cough that lasts three weeks or longer. Pulmonary TB is usually infectious.

"*Purified protein derivative (PPD) tuberculin*" means a material used in diagnostic tests for detecting infection with *M. tuberculosis*.

"*Risk classification*" means the category on which the infection control team, or designated other, determines the setting's TB risk classification is based, as a result of the TB risk assessment.

"*Serial screening*" refers to TB screening performed at regular intervals following baseline TB screening. Serial TB screening, also called annual or ongoing TB testing, consists of two components: (1) assessing for current symptoms of active TB disease, and (2) testing for the presence of infection with *M. tuberculosis* by administering either a TST or single IGRA.

"*Symptom screen*" means a procedure used during a clinical evaluation in which patients are asked if they have experienced any departure from normal in function, appearance, or sensation related to TB disease (e.g., cough).

"*TB patient*" means a person who had undiagnosed infectious pulmonary or laryngeal TB while in the facility during the preceding year. "TB patient" does not include persons with LTBI (treated or untreated), extrapulmonary TB disease, pulmonary, or laryngeal TB who have met criteria for noninfectiousness.

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“*TB risk assessment*” means an initial and ongoing evaluation of the risk for transmission of *M. tuberculosis* in a particular health care setting.

“*TB screening*” means an administrative control measure in which evaluation for LTBI and TB disease is performed through baseline and serial screening of staff and residents of facilities.

“*TB screening plan*” means a plan that facilities develop and implement that comprises four major components: (1) baseline testing for *M. tuberculosis* infection, (2) serial testing for *M. tuberculosis* infection, (3) serial screening for signs or symptoms of TB disease, and (4) TB training and education.

“*Treatment for LTBI*” means treatment that prevents the progression of *M. tuberculosis* infection into TB disease.

“*Tuberculin skin test*” or “*TST*” means a diagnostic aid for finding *M. tuberculosis* infection. The Mantoux method is the recommended method to be used for the TST.

“*Tuberculosis*” or “*TB*” means the namesake member organism of *M. tuberculosis* complex and the most common causative infectious agent of TB disease in humans. In certain instances, the species name refers to the entire *M. tuberculosis* complex, which includes *M. bovis* and *M. african*, *M. microti*, *M. canetti*, *M. caprae*, and *M. pinnipedii*.

“*Tuberculosis disease*” or “*TB disease*” means a condition caused by infection with a member of the *M. tuberculosis* complex that has progressed to causing clinical (manifesting symptoms or signs) or subclinical (early stage of disease in which signs or symptoms are not present, but other indications of disease activity are present) illness.

“*Two-step tuberculin skin test*” or “*two-step TST*” means the procedure used for the baseline skin testing of persons who will receive serial TSTs to reduce the likelihood of mistaking a boosted reaction for a new infection.

**641—155.38(125,135) Tuberculosis screening of staff and residents.**

**155.38(1) *TB risk assessment.*** Annually, each facility shall conduct a TB risk assessment to evaluate the risk for transmission of *M. tuberculosis*, regardless of whether a person with suspected or confirmed TB disease is expected to be encountered in the facility. The TB risk assessment shall be utilized to determine the types of administrative, environmental, and respiratory protection controls needed and serves as an ongoing evaluation tool of the quality of TB infection control and for the identification of needed improvements in infection control measures. The risk assessment shall include:

- a. The community rate of TB,
- b. The number of persons with infectious TB encountered in the facility, and
- c. The speed with which persons with infectious TB are suspected, isolated, and evaluated to determine if persons with infectious TB exposed staff or others in the facility. TB cases include persons who had undiagnosed infectious pulmonary or laryngeal TB while in the facility during the preceding year. This does not include persons with LTBI (treated or untreated), persons with extrapulmonary TB disease, or persons with pulmonary or laryngeal TB who have met criteria for noninfectiousness.

**155.38(2) *Facility risk classification.*** The infection control team or designated staff in a facility is responsible for determining the type of risk classification of the facility. The facility risk classification is used to determine the frequency of TB screening. The facility risk classification may change due to an increase or decrease in the number of TB cases during the preceding year.

- a. *Types of risk classifications.*
  - (1) “Low risk” means that a facility is one in which persons with active TB disease are not expected to be encountered and in which exposure to TB is unlikely.
  - (2) “Medium risk” means that a facility is one in which health care workers will or might be exposed to persons with active TB disease or to clinical specimens that might contain *M. tuberculosis*.
  - (3) “Potential ongoing transmission” means that a facility is one in which there is evidence of person-to-person transmission of *M. tuberculosis*. This classification is a temporary classification. If it is determined that this classification applies to a facility, the facility shall consult with the department’s TB control program.

- b. *Classification criteria—low risk.*

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(1) Inpatient settings with 200 or more beds: If a facility has fewer than six TB patients for the preceding year, the facility shall be classified as low risk.

(2) Inpatient settings with fewer than 200 beds: If a facility has fewer than three TB patients for the preceding year, the facility shall be classified as low risk.

(3) Outpatient, outreach, and home-based health care settings: If a facility has fewer than three TB patients for the preceding year, the facility shall be classified as low risk.

*c. Classification criteria—medium risk.*

(1) Inpatient settings with 200 or more beds: If a facility has six or more TB patients for the preceding year, the facility shall be classified as medium risk.

(2) Inpatient settings with fewer than 200 beds: If a facility has three or more TB patients for the preceding year, the facility shall be classified as medium risk.

(3) Outpatient, outreach, and home-based health care settings: If a facility has three or more TB patients for the preceding year, the facility shall be classified as medium risk.

*d. Classification criteria—potential ongoing transmission.* If evidence of ongoing *M. tuberculosis* transmission exists at a facility, the facility shall be classified as potential ongoing transmission, regardless of the facility's previous classification.

**155.38(3) Baseline TB screening procedures for facilities.**

*a.* All facility staff members shall receive baseline TB screening upon hire. Baseline TB screening consists of two components: (1) assessing for current symptoms of active TB disease and (2) using a two-step TST or a single IGRA to test for infection with *M. tuberculosis*.

*b.* A staff member may begin working with patients after a negative TB symptom screen (i.e., no symptoms of active TB disease) and a negative TST (i.e., first step) or a negative IGRA. The second TST may be performed after the staff member starts working with patients.

*c.* A staff member with a new positive test result for *M. tuberculosis* infection (i.e., TST or IGRA) shall receive one chest radiograph result to exclude TB disease. Repeat radiographs are not needed unless symptoms or signs of TB disease develop or unless recommended by a clinician. Treatment for LTBI should be considered in accordance with CDC guidelines.

*d.* A staff member with documentation of past positive test results (i.e., TST or IGRA) and documentation of the results of a chest radiograph indicating no active disease, dated after the date of the positive TST or IGRA test result, does not need another chest radiograph at the time of hire.

*e.* TB, TST or IGRA tests for *M. tuberculosis* infection do not need to be performed for staff with a documented history of TB disease, documented previously positive test result for *M. tuberculosis* infection, or documented completion of treatment for LTBI or TB disease. Documentation of a previously positive test result for *M. tuberculosis* infection can be substituted for a baseline test result if the documentation includes a recorded TST result in millimeters or IGRA result, including the concentration of cytokine measured (e.g., interferon-gamma (IFN-g)). All other staff should undergo baseline testing for *M. tuberculosis* infection to ensure that the test result on record in the setting has been performed and measured using the recommended diagnostic procedures.

*f.* A second TST is not needed if the staff member has a documented TST result from any time during the previous 12 months. If a newly employed staff member has had a documented negative TST result within the previous 12 months, a single TST can be administered in the new setting. This additional TST represents the second stage of two-step testing. The second test decreases the possibility that boosting on later testing will lead to incorrect suspicion of transmission of *M. tuberculosis* in the setting.

*g.* Previous BCG vaccination is not a contraindication to having an IGRA, a TST or two-step skin testing administered. Health care workers with previous BCG vaccination should receive baseline and serial testing in the same manner as those without BCG vaccination. Evaluation of TST reactions in persons vaccinated with BCG should be interpreted using the same criteria for those not BCG-vaccinated. A health care worker's history of BCG vaccination should be disregarded when administering and interpreting TST results. Previous BCG vaccination does not cause a false-positive IGRA test result.

**155.38(4) Serial TB screening procedures for facilities.**

*a. Facilities classified as low risk.* After baseline testing of staff for infection with *M. tuberculosis*, additional TB screening of staff is not necessary unless an exposure to *M. tuberculosis* occurs.

*b. Facilities classified as medium risk.*

(1) After undergoing baseline testing for infection with *M. tuberculosis*, staff should receive TB screening annually (i.e., symptom screen for all staff members and testing for infection with *M. tuberculosis* for staff members with baseline negative test results).

(2) Staff members with a baseline positive or new positive test result for *M. tuberculosis* infection or documentation of previous treatment for LTBI or TB disease shall receive one chest radiograph result to exclude TB disease. Instead of participating in serial testing, staff should receive a symptom screen annually. This screen should be accomplished by educating the staff about symptoms of TB disease and instructing the staff members to report any such symptoms immediately to the occupational health unit. Treatment for LTBI should be considered in accordance with CDC guidelines.

*c. Facilities classified as potential ongoing transmission.* Testing for infection with *M. tuberculosis* may need to be performed every eight to ten weeks until lapses in infection control have been corrected and no additional evidence of ongoing transmission is apparent. The potential ongoing transmission classification should be used only as a temporary classification. This classification warrants immediate investigation and corrective steps. After a determination that ongoing transmission has ceased, the setting shall be reclassified as medium risk for a minimum of one year.

**155.38(5) Screening of staff who transfer to other facilities.**

*a. Staff transferring from a low-risk facility to another low-risk facility.* After a baseline result for infection with *M. tuberculosis* is established and documented, serial testing for *M. tuberculosis* infection is not necessary for staff transferring from a low-risk facility to another low-risk facility.

*b. Staff transferring from a low-risk facility to a medium-risk facility.* After a baseline result for infection with *M. tuberculosis* is established and documented, annual TB screening, including a symptom screen and TST or IGRA for persons with previously negative test results, should be performed for staff transferring from a low-risk facility to a medium-risk facility.

**155.38(6) Baseline TB screening procedures for residents of residential, inpatient, and halfway house facilities.**

*a.* TB screening is a formal procedure to evaluate residents for LTBI and TB disease. Baseline TB screening consists of two components: (1) assessing for current symptoms of active TB disease and (2) using a two-step TST or a single IGRA to test for infection with *M. tuberculosis*.

*b.* All residents shall be assessed for current symptoms of active TB disease upon admission. Within 72 hours of a resident's admission, baseline TB testing for infection shall be initiated unless baseline TB testing occurred within three months prior to the resident's admission.

*c.* Residents with a new positive test result for *M. tuberculosis* infection (i.e., TST or IGRA) shall receive one chest radiograph result to exclude TB disease. Repeat radiographs are not needed unless symptoms or signs of TB disease develop or unless recommended by a clinician.

*d.* Residents with documentation of past positive test results (i.e., TST or IGRA) and documentation of the results of a chest radiograph indicating no active disease, dated after the date of the positive TST or IGRA test result, do not need another chest radiograph at the time of admission.

*e.* TB, TST or IGRA tests for *M. tuberculosis* infection do not need to be performed for residents with a documented history of TB disease, a documented previously positive test result for *M. tuberculosis* infection, or documented completion of treatment for LTBI or TB disease. Documentation of a previously positive test result for *M. tuberculosis* infection can be substituted for a baseline test result if the documentation includes a recorded TST result in millimeters or IGRA result, including the concentration of cytokine measured (e.g., IFN-g). All other residents should undergo baseline testing for *M. tuberculosis* infection to ensure that the test result on record in the setting has been performed and measured using the recommended diagnostic procedures.

*f.* A second TST is not needed if the resident has a documented TST result from any time during the previous 12 months. If a new resident has had a documented negative TST result within the previous 12 months, a single TST can be administered in the new setting. This additional TST represents the

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second stage of two-step testing. The second test decreases the possibility that boosting on later testing will lead to incorrect suspicion of transmission of *M. tuberculosis* in the setting.

g. After baseline TB screening is accomplished, serial TB screening of the residents is not recommended.

**155.38(7)** *Serial TB screening procedures for residents of residential, inpatient, and halfway house facilities.*

a. If a resident is discharged and readmitted to a facility and less than 12 months have passed since the last TB screening, residents should receive a symptom screen upon readmittance. This screen should be accomplished by educating the resident about symptoms of TB disease and instructing the resident to report any such symptoms immediately to the infection control team or designated other staff. If symptoms or signs of TB disease are documented, then a medical evaluation to include a chest X-ray to rule out TB disease is required.

b. If a resident is discharged and readmitted to a facility and more than 12 months have passed since the last TB screening, baseline TB screening should be repeated as outlined in subrule 155.38(6).

These rules are intended to implement Iowa Code sections 125.13, 125.21 and 135.150.

**ARC 1770C****RACING AND GAMING COMMISSION[491]****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 99D.7 and 99F.4, the Racing and Gaming Commission hereby proposes to amend Chapter 5, “Track and Excursion Boat Licensees’ Responsibilities,” Chapter 8, “Wagering and Simulcasting,” Chapter 10, “Thoroughbred and Quarter Horse Racing,” Chapter 11, “Gambling Games,” and Chapter 12, “Accounting and Cash Control,” Iowa Administrative Code.

Item 1 removes references to the gambler’s treatment fund since this fund no longer exists.

Item 2 clarifies requirements for peace officer presence at a licensed facility.

Item 3 clarifies that month-end reports are no longer required.

Item 4 adds a requirement for an independent network security assessment to be done biennially and submitted to the administrator of the Commission for review.

Item 5 changes the word “shall” to “may” with regard to utilizing trifecta wagering in certain circumstances.

Item 6 requires that a notice be included in the daily program to alert patrons of the additional weight of the safety equipment worn by the jockey.

Item 7 adds microchipping as an option for identification of horses.

Item 8 rescinds and adopts a new subparagraph 10.5(1)“a”(28) to conform to national model rule language regarding a trainer’s responsibility to provide to horse owners notification of license suspension, denial or revocation. The amendment does not change the substance of the requirement.

Item 9 adds a new paragraph 10.6(1)“c” pertaining to the size of the toe grabs on the front shoes of the racing animal.

Item 10 allows a licensed designee of the owner or trainer to make entries.

Item 11 clarifies limitations on coupling entries.

Item 12 reduces the number of betting interests from eight to seven for a horse to be permitted to be scratched from a race without reason or penalty.

Item 13 changes when the scratch time will be determined.



## RACING AND GAMING COMMISSION[491](cont'd)

Item 14 amends subparagraph 10.6(18)“k”(1) so that a horse’s last official start was a start in which the horse was eligible to be claimed.

Item 15 rescinds a provision relating to waived claiming rules to conform to industry standards.

Item 16 allows for multistate wide area progressive slot machine systems, subject to agreement between the participating states.

Item 17 removes references to using three copies for a credit slip since three copies are no longer utilized.

Any person may make written suggestions or comments on the proposed amendments on or before December 30, 2014. Written material should be directed to the Racing and Gaming Commission, 1300 Des Moines Street, Suite 100, Des Moines, Iowa 50309. Persons who wish to convey their views orally should contact the Commission office at (515)281-7352.

Also, there will be a public hearing on December 30, 2014, at 9 a.m. in the office of the Racing and Gaming Commission, 1300 Des Moines Street, Suite 100, Des Moines, Iowa. Persons may present their views at the public hearing either orally or in writing.

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

These amendments are intended to implement Iowa Code chapters 99D and 99F.

The following amendments are proposed.

ITEM 1. Amend subrules 5.2(1) and 5.2(2) as follows:

**5.2(1)** The annual audit report required by Iowa Code section 99D.20 shall include a schedule detailing the following information: number of performances; attendance; regulatory fee; total mutuel handle and taxes paid to the state, city, and county and gambler’s treatment fund; unclaimed winnings; purses paid indicating sources; total breakage and disbursements; and the disbursements of 1 percent of exotic wagers on three or more racing animals.

**5.2(2)** The annual audit report required by Iowa Code section 99F.13 shall include:

- a. A schedule detailing a weekly breakdown of adjusted gross revenue; taxes paid to the state, city, county, and county endowment fund, and gambler’s treatment fund; and regulatory fees.
- b. A report on whether material weaknesses in internal accounting control exist.
- c. A report on whether the licensee has followed the system of internal accounting control approved by the administrator.

ITEM 2. Amend paragraph **5.4(5)“a”** as follows:

a. *Peace officer.* Each licensee shall ensure that a person who is a certified peace officer is present during all gaming hours, unless permission is otherwise granted by the administrator as outlined in the facility’s security plan approved by the commission. A certified peace officer pursuant to this rule must be employed by a law enforcement agency and have police powers.

ITEM 3. Amend paragraph **5.4(10)“b”** as follows:

b. *Submission of taxes and fees.* All moneys collected for and owed to the commission or state of Iowa under Iowa Code chapter 99F shall be accounted for and itemized on a weekly basis in a format approved by the commission. Each day on the report shall be an accurate representation of the gaming activities. A week shall begin on Monday and end on Sunday. The reporting form must be received in the commission office by noon on Wednesday following the week’s end. The moneys owed, according to the reporting form, must be received in the treasurer’s office by 11 a.m. on the Thursday following the week’s end. ~~Additionally, each licensee shall file a monthly report indicating adjusted gross receipts received from gambling games, total number of admissions, and amount of regulatory fees paid. These reports shall be by calendar month and filed by noon on the first Wednesday following the end of the month unless the end of the month is a Monday or Tuesday, in which case the reports shall be filed by noon on the second Wednesday following the end of the month.~~

ITEM 4. Adopt the following new subrule 5.4(21):

**5.4(21)** *Network security.*

a. The licensee shall biennially submit the results of an independent network security risk assessment to the administrator for review, subject to the following requirements:

## RACING AND GAMING COMMISSION[491](cont'd)

(1) The testing organization must be independent of the licensee and shall be qualified by the administrator.

(2) The network security risk assessment shall be conducted no later than March 31 each year an assessment is required.

(3) In each year an assessment is required, results from the network security risk assessment shall be submitted to the administrator no later than 60 days after the assessment is conducted.

b. At the discretion of the administrator, additional network security risk assessments may be required.

ITEM 5. Amend paragraph **8.2(13)“g”** as follows:

g. ~~Shall~~ May prohibit trifecta wagering on any contest with five or fewer betting interests scheduled to start, or as provided in subparagraph 8.2(13)“g”(1) below:

(1) and (2) No change.

ITEM 6. Amend paragraph **10.4(5)“f”** as follows:

f. *Daily program.* The racing secretary shall publish the official daily program, ensuring the accuracy therein of the following information:

(1) to (5) No change.

(6) The identification of each horse by name, color, sex, age, sire and dam; ~~and~~

(7) A notice that all jockeys will carry approximately three pounds more than the published weight to account for safety equipment (vest and helmet) that is not included in required weighing-out procedures; and

~~(7) (8)~~ Such other information as may be requested by the association or the commission.

ITEM 7. Amend paragraph **10.4(7)“d”** as follows:

d. Supervise the tattooing, microchipping or branding for identification of any horse located on facility premises; and

ITEM 8. Rescind subparagraph **10.5(1)“a”**(28) and adopt the following new subparagraph in lieu thereof:

(28) Notifying horse owners upon the revocation or suspension of their trainer's license. A trainer whose license has been suspended for more than 30 days, whose license has expired or been revoked, or whose license application has been denied must inform the horse owners that, until the license is restored, the trainer can no longer be involved with the training, care, custody or control of their horses, nor receive any compensation from the owners for the training, care, custody or control of their horses. Upon application by the horse owner, the stewards may approve the transfer of such horse(s) to the care of another licensed trainer, and upon such approved transfer, such horse(s) may be entered to race. Upon transfer of such horse(s), the inactive trainer shall not be involved in any arrangements related to the care, custody or control of the horse(s) and shall not benefit financially or in any other way from the training of the horse(s).

ITEM 9. Adopt the following new paragraph **10.6(1)“c”**:

c. A horse is ineligible to start in a race when:

(1) A thoroughbred has shoes (racing plates) which have toe grabs with a height greater than two millimeters (0.07874 inches), bends, jars, caulks, stickers or any other traction device on the front hooves while racing or training on all racing surfaces.

(2) A quarter horse has front shoes which have toe grabs with a height greater than four millimeters (0.15748 inches), bends, jars, caulks, stickers or any other traction device worn on the front shoes.

ITEM 10. Amend paragraph **10.6(2)“a”** as follows:

a. The facility shall provide forms for making entries and declarations with the racing secretary. Entries and declarations shall be in writing, or by telephone or fax subsequently confirmed in writing by the owner, trainer, or ~~authorized agent~~ licensed designee. When any entrant or nominator claims failure or error in the receipt by a facility of any entry or declaration, the entrant or nominator may be required to submit evidence within a reasonable time of the filing of the entry or the declaration. Individuals who

## RACING AND GAMING COMMISSION[491](cont'd)

hold a jockey agent license, regardless of other licenses held, shall not be permitted to make entries after a time set by the stewards.

ITEM 11. Rescind paragraph **10.6(2)“c”** and adopt the following **new** paragraph in lieu thereof:

c. Coupling. There will be no coupled entries in any race. In races that overfill, trainers must declare preference of runners with identical ownership at time of entry. Same owner, second choice horses will be least preferred.

ITEM 12. Amend paragraph **10.6(8)“c”** as follows:

c. *Limitation on scratches.* No horse shall be permitted to be scratched from a race if the horses remaining in the race number fewer than ~~eight~~ seven betting interests, unless the stewards permit a lesser number. When the number of requests to scratch would, if granted, leave a field of fewer than ~~eight~~ seven, the stewards shall determine by lot which entrants may be scratched and permitted to withdraw from the race.

ITEM 13. Amend subparagraph **10.6(8)“d”(2)** as follows:

(2) Other races. Scratch time shall be ~~no later than 10 a.m. of the day of the race~~ set by the stewards prior to the start of the meet.

ITEM 14. Amend paragraph **10.6(18)“k”** as follows:

k. *Waived claiming rule.*

(1) At the time of entry into claiming races, the owner, trainer, or any authorized agent may opt to declare a horse ineligible to be claimed provided:

1. (1) The horse has not been an official starter at any racetrack for a minimum of 120 days since the horse's last race as an official starter (at time of race);

2. (2) The horse's last race as an official starter was ~~a claiming race~~ one in which the horse was eligible to be claimed;

3. (3) The horse is entered for a claiming price equal to or greater than the claiming price at which the horse last started as an official starter;

4. (4) Failure of declaration of ineligibility at time of entry may not be remedied; and

5. (5) Ineligibility to be claimed shall apply only to the horse's first start as an official starter following each such 120-day or longer layoff.

~~(2) Any win which occurs in a claiming race by a horse ineligible to be claimed under waived claiming rules of this, or any other, jurisdiction will be treated as an allowance win for the determination of the horse's eligibility and allowances for every race at the meet, unless the conditions of the race specify otherwise.~~

ITEM 15. Rescind subrule 11.12(8) and adopt the following **new** subrule in lieu thereof:

**11.12(8) Wide area progressive systems.** A wide area progressive system is a method of linking progressive slot machines or electronic gaming machines by secured data communication as part of a network that connects participating facilities. The purpose of a wide area progressive system is to offer a common progressive jackpot (system jackpot) at all participating locations within Iowa or in multiple states. The operation of a wide area progressive system (multilink) is permitted, subject to the following conditions:

a. The provider of a multilink (provider) shall be an entity licensed as a manufacturer, a distributor, or an operator of gambling games within the state of Iowa or be the qualified parent company of an operator of gambling games within the state of Iowa. No entity shall be licensed for the sole purpose of providing a multilink.

b. Prior to operation of a multilink, the provider shall submit to the administrator for review and approval information sufficient to determine the integrity and security of the multilink. The information must include, but is not limited to, the following:

(1) Central system site location, specifications, and operational procedures.

(2) Encryption and method of secured communication over the multilink and between facilities.

(3) Method and process for obtaining meter data from slot machines on the multilink.

## RACING AND GAMING COMMISSION[491](cont'd)

(4) Disbursement options for jackpot payoffs, including information for periodic payments. Periodic payment information, including number of payments and time between payments must be displayed as part of the slot machine pay table or prominently displayed on the face of the slot machine.

(5) Jackpot contribution rates, including information sufficient to determine contributions to the jackpot are consistent across all entities participating in the multilink. Any subsequent changes to the contribution rate of a multilink jackpot must be submitted to the administrator for review and approval.

(6) Jackpot verification procedures.

(7) Jackpot discontinuation procedures, including procedures for distribution of contributions to another jackpot or return of pro rata shares to participating facilities.

c. The provider of the multilink shall, upon request, supply reports and information to the administrator which detail the contributions and economic activity of the system, subject to the following requirements:

(1) Aggregate and detail reports that show both the economic activity of the entire multilink, as well as details of each machine on the multilink.

(2) Upon invoicing a facility, details regarding each machine at the facility and each machine's contribution to the multilink for the period of the invoice shall be supplied, as well as any other details required by the administrator.

d. Concurrent jackpots which occur before the multilink jackpot meters show reset and updated jackpot amounts will be deemed to have occurred simultaneously. Each winner shall receive the full amount shown on the system jackpot meter.

e. The provider must suspend play on the multilink if a communication failure of the system cannot be corrected within 24 consecutive hours.

f. A meter that shows the amount of the system jackpot must be conspicuously displayed at or near the machines to which the jackpot applies. Jackpot meters may show amounts that differ from the actual system jackpot, due to delays in communication between sites and the central system, but meters shall not display an incorrect amount for an awarded jackpot.

g. In calculating adjusted gross receipts, a facility may deduct its pro rata share of the present value of any system jackpots awarded. Such deduction shall be listed on the detailed accounting records supplied by the provider. A facility's pro rata share is based on the amount of coin-in from that facility's machines on the multilink, compared to the total amount of coin-in on the whole system for the time period between awarded jackpots.

h. In the event a facility ceases operations and a progressive jackpot is awarded subsequent to the last day of the final month of operation, the facility may not file an amended wagering tax submission or make a claim for a wagering tax refund based on its contributions to that particular progressive prize pool.

i. The payment of any system jackpot offered on a multilink shall be administered by the provider, and the provider shall have sole liability for payment of any system jackpot the provider administers.

j. The provider shall comply with the following:

(1) A reserve shall be established and maintained by the provider in an amount of not less than the sum of the following amounts:

1. The present value of the aggregate remaining balances owed on all jackpots previously won by patrons on the multilink.

2. The present value of the amount currently reflected on the jackpot meters of the multilink.

3. The present value of one additional reset (start amount) of the multilink.

(2) The reserve shall continue to be maintained until all payments owed to winners of the system jackpots have been made.

(3) For system jackpots disbursed in periodic payments, any qualified investment shall be purchased within 90 days following notice of the win of the system jackpot, and a copy of such qualified investment shall be provided to the administrator within 30 days of purchase. Any qualified investment shall have a surrender value at maturity, excluding any interest paid before the maturity date, equal to or greater than the value of the corresponding periodic jackpot payment and shall have a maturity date prior to the date the periodic jackpot payment is required to be made.

## RACING AND GAMING COMMISSION[491](cont'd)

(4) The provider shall not be permitted to sell, trade, or otherwise dispose of any qualified investments prior to their maturity unless approval to do so is first obtained from the administrator.

(5) Upon becoming aware of an event of noncompliance with the terms of the reserve requirement mandated by subparagraph 11.12(8) "j"(1) above, the provider must immediately notify the administrator of such event. An event of noncompliance includes a nonpayment of a jackpot periodic payment or a circumstance which may cause the provider to be unable to fulfill, or which may otherwise impair the provider's ability to satisfy, the provider's jackpot payment obligations.

(6) On a quarterly basis, the provider must deliver to the administrator a calculation of system reserves required under subparagraph 11.12(8) "j"(1) above. The calculation shall come with a certification of financial compliance signed by a duly authorized financial officer of the provider, on a form prescribed by the administrator, validating the calculation.

(7) The reserve required under subparagraph 11.12(8) "j"(1) must be examined by an independent certified public accountant according to procedures approved by the administrator. Two copies of the report must be submitted to the administrator within 90 days after the conclusion of the provider's fiscal year.

k. For system jackpots disbursed in periodic payments, subsequent to the date of the win, a winner may be offered the option to receive, in lieu of periodic payments, a discounted single cash payment in the form of a "qualified prize option," as that term is defined in Section 451(h) of the Internal Revenue Code. The provider shall calculate the single cash payment based on the discount rate. Until the new discount rate becomes effective, the discount rate selected by the provider shall be used to calculate the single cash payment for all qualified prizes that occur subsequent to the date of the selected discount rate.

l. Multilinks to be offered in conjunction with jurisdictions in other states within the United States are permitted. Multistate multilinks are subject to the requirements of this subrule; in addition, any multistate plans or controls are subject to administrator review and approval.

ITEM 16. Amend subrule 12.7(3) as follows:

**12.7(3) Removal of chips from a gaming table.** On receipt of a slip in the cashier's cage for removal of gaming chips from a table, the following procedures shall apply:

a. A security employee, or other employee authorized by the internal controls, shall transfer all copies of the slip to the gaming table.

b. The dealer or boxperson assigned to the gaming table and the casino supervisor assigned to the gaming table shall prepare the removal and sign all copies of the slip attesting to the accuracy.

c. The security employee, or other employee authorized by internal controls, shall compare the slip to the gaming chips prepared and sign all copies of the slip attesting to the accuracy.

d. ~~When using three copies, one~~ One copy of the slip shall be immediately placed in public view ~~on the container~~ of the gaming table from which the gaming chips were removed. ~~The copy shall not be removed until a slip is returned from the cashier.~~

e. The security employee, or other employee authorized by internal controls, shall transport the chips and the remaining ~~two copies~~ copy of the slip to the cashier's cage.

f. The cashier shall compare this copy of the slip to the gaming chips received and shall sign ~~both remaining copies~~ the copy attesting to the accuracy. ~~One~~ This copy of the slip shall be maintained and controlled by the cashier.

g. ~~The security employee, or other employee authorized by internal controls, shall transport the slip to the gaming table and shall observe as the dealer or boxperson places both this copy and the copy required by paragraph 12.7(3) "d" into the container of the gaming table.~~

## REVENUE DEPARTMENT

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

## REVENUE DEPARTMENT(cont'd)

Pursuant to the authority of Iowa Code sections 437A.4 and 437A.5, the Director of Revenue hereby gives notice of the electric delivery tax rate, the municipal electric transfer replacement tax rate, the natural gas delivery tax rate, and the municipal natural gas transfer replacement tax rate for each competitive service area in the state. These rates will be used in conjunction with the number of kilowatt hours of electricity and the number of therms of natural gas delivered to consumers in calendar year 2014 by each taxpayer to determine the tax due for each taxpayer in the 2015-2016 fiscal year.

**2014 ELECTRIC DELIVERY TAX RATES BY SERVICE AREA**

<b>CO. #</b>	<b>MUNICIPAL ELECTRICS</b>	<b>DELIVERY TAX RATE</b>
3226	Akron Municipal Utilities	0.00005587
3201	Algona Municipal Utilities	0.00025235
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	0.00011365
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	0.00009353
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

## REVENUE DEPARTMENT(cont'd)

<b>CO. #</b>	<b>MUNICIPAL ELECTRICS</b>	<b>DELIVERY TAX RATE</b>
3125	City of Renwick	0.00000000
3129	City of Sergeant Bluff	0.00000000
3139	City of Westfield	0.00000000
3143	City of Woolstock	0.00000000
3236	Coggon Municipal Light Plant	0.00004637
3237	Coon Rapids Municipal Utilities	0.00042603
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	0.00114964
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	0.00000195
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	0.00114896
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	0.00000714
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

## REVENUE DEPARTMENT(cont'd)

<b>CO. #</b>	<b>MUNICIPAL ELECTRICS</b>	<b>DELIVERY TAX RATE</b>
3110	Livermore Municipal Utilities	0.00000000
3111	Long Grove Mun. Elec./Water	0.00000000
3282	Manilla Municipal Elec. Utilities	0.00011564
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	0.00018240
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	0.00010954
3132	Stanhope Municipal Utilities	0.00000000
3360	Stanton Municipal Utilities	0.00000000
3326	State Center Municipal Light Plant	0.00031087
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	0.00020443



## REVENUE DEPARTMENT(cont'd)

<b>CO. #</b>	<b>MUNICIPAL ELECTRICS</b>	<b>DELIVERY TAX RATE</b>
3330	Tipton Municipal Utilities	0.00143611
3332	Traer Municipal Utilities	0.00066520
3337	Villisca Municipal Power Plant	0.00022186
3137	Vinton Municipal Utilities	0.00000000
3138	Wall Lake Municipal Utilities	0.00000000
3338	Waverly Light & Power	0.00072786
3342	Webster City Municipal Utilities	0.00043854
3345	West Bend Municipal Power Plant	0.00086892
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	0.00132523
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	0.00084943
4218	Butler County REC	0.00068865
4219	Calhoun County Electric Coop	0.00124147
4220	Cass Electric Coop	0.00004365
4224	Central Iowa Power Coop	0.00000000
4225	Chariton Valley Electric Coop	0.00102029
4235	Clarke Electric Coop	0.00253720
4287	Consumers Energy	0.00194792
4240	Corn Belt Power Coop	0.00000000

## REVENUE DEPARTMENT(cont'd)

<b>CO. #</b>	<b>REC's</b>	<b>DELIVERY TAX RATE</b>
4246	East-Central Iowa REC	0.00194547
4247	Eastern Iowa Light & Power	0.00068026
4250	Farmers Electric Coop - Greenfield	0.00237767
4249	Farmers Electric Coop - Kalona	0.00040105
4251	Federated Rural Electric	0.00033141
4253	Franklin Rural Electric Coop	0.00082787
4254	Freeborn-Mower Cooperative	0.00109255
4255	Glidden Rural Electric Coop	0.00055807
4259	Grundy County REC	0.00086958
4260	Grundy Electric Cooperative	0.00046960
4261	Guthrie County REC	0.00120010
4262	Hancock Co. REC	0.00101672
4265	Harrison County REC	0.00072127
4266	Hawkeye REC	0.00051539
4223	Heartland Power Coop	0.00036539
4268	Humboldt County REC	0.00093375
4273	Iowa Lakes Electric Coop	0.00061700
4279	Linn County REC	0.00142321
4280	Lyon Rural Electric Coop	0.00056786
4286	Maquoketa Valley Electric Coop	0.00221262
4290	Midland Power Cooperative	0.00116065
4299	Nishnabotna Valley REC	0.00059954
4300	North West Rural Electric Coop	0.00034671
4301	Northwest Iowa Power Coop	0.00000000
4308	Osceola Electric Coop	0.00034241
4310	Pella Cooperative Electric	0.00194961
4313	Pleasant Hill Community Line	0.00021908
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	0.00207423
4333	Tri County Electric Coop	0.00125083
4336	United Electric Coop	0.00112324
4348	Western Iowa Power Coop	0.00093220
4352	Woodbury County REC	0.00103686
4353	Wright County REC	0.00053840

## REVENUE DEPARTMENT(cont'd)

**2014 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	0.00822169
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	0.00002699
5241	Corning Municipal Gas	0.00000689
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	0.00077557
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	0.00003639
5043	Prescott Municipal Gas	0.00000000
5044	Preston Municipal Gas	0.00000000
5055	Remsen Municipal Gas	0.00000000
5317	Rock Rapids Municipal Gas	0.00010746
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(cont'd)

<b>CO. #</b>	<b>MUNICIPAL GAS</b>	<b>DELIVERY TAX RATE</b>
5340	Wayland Municipal Gas	0.00027918
5064	Wellman Municipal Gas	0.00000000
5344	West Bend Municipal Gas	0.00001834
5065	Whittemore Municipal Gas	0.00000000
5349	Winfield Municipal Gas	0.00054523
5066	Woodbine Gas	0.00000000

<b>CO. #</b>	<b>IOU's — GAS</b>	<b>DELIVERY TAX RATE</b>
5204	Allerton Gas	0.02530723
5270	IES Utilities	0.00600060
5272	Interstate Power	0.00252602
5289	MidAmerican Energy	0.00948820
5312	Peoples Natural Gas	0.00752829
5335	United Cities Gas	0.01177193

**2014 MUNICIPAL ELECTRIC TRANSFER REPLACEMENT TAX RATES**

<b>CO. #</b>	<b>COMPANY</b>	<b>REPLACEMENT TAX RATE</b>
3226	Akron Municipal Utilities	0.00626450
3201	Algona Municipal Utilities	0.00320938
3205	Alta Municipal Power Plant	0.00280136
3069	Alta Vista Municipal Utilities	*
3070	Alton Municipal Light & Power	0.00195349
3207	Ames Municipal Electric System	*
3071	Anita Municipal Utilities	0.00563284
3227	Anthon Municipal Electric Utility	0.00202558
3209	Atlantic Municipal Utilities	0.00337883
3073	Auburn Municipal Utility	0.00493522
3074	Aurelia Municipal Electric Utility	0.00122047
3211	Bancroft Municipal Utilities	*
3213	Bellevue Municipal Utilities	*
3229	Bloomfield Municipal Electric Utility	0.03045694
3075	Breda Municipal Electric System	0.00000000
3076	Brooklyn Municipal Utilities	0.00000000
3216	Buffalo Municipal Electric System	*
3217	Burt Municipal Electric Utility	0.00157636
3077	Callender Electric	*
3078	Carlisle Municipal Utilities	*
3079	Cascade Municipal Utilities	0.00000000
3221	Cedar Falls Mun. Electric Utility	0.00270525

## REVENUE DEPARTMENT(cont'd)

CO. #	COMPANY	REPLACEMENT TAX RATE
3068	City of Afton	0.00551580
3072	City of Aplington	0.00845578
3082	City of Dike	*
3088	City of Estherville	0.01775031
3089	City of Fairbank	0.01016780
3090	City of Farnhamville	0.00000000
3230	City of Fredericksburg	*
3106	City of Larchwood	0.00000000
3107	City of Lawler	0.00399814
3108	City of Lehigh	0.00000000
3113	City of Marathon	0.00000000
3311	City of Pella	0.00289259
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	0.00351814
3242	Corning Municipal Utilities	0.00000000
3080	Corwith Municipal Utilities	0.00000000
3243	Danville Municipal Electric Utility	0.00536433
3081	Dayton Light & Power	0.00220331
3244	Denison Municipal Utilities	0.00208074
3245	Denver Municipal Electric Utility	*
3083	Durant Municipal Electric Plant	0.00000000
3084	Dysart Municipal Utilities	*
3085	Earlville Municipal Utilities	*
3086	Eldridge Electric & Water Utility	*
3087	Ellsworth Municipal Utilities	0.00809702
3091	Fonda Municipal Electric	0.01491716
3252	Fontanelle Municipal Utilities	0.00000000
3092	Forest City Municipal Utilities	0.00412798
3231	Glidden Municipal Electric Utility	0.01090647
3093	Gowrie Municipal Utilities	0.00298359
3256	Graettinger Municipal Light Plant	*
3094	Grafton Municipal Utilities	0.01242645
3258	Grand Junction Municipal Utilities	0.00206899
3095	Greenfield Municipal Utilities	0.00270170
3096	Grundy Center Light & Power	0.00144147
3232	Guttenberg Municipal Electric	0.01054405
3263	Harlan Municipal Utilities	0.00253959
3097	Hartley Municipal Utilities	0.00238970
3098	Hawarden Municipal Utility	0.00962321
3099	Hinton Municipal Electric/Water	*

## REVENUE DEPARTMENT(cont'd)

<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	*
3271	Indianola Municipal Utilities	0.00372361
3102	Keosauqua Light & Power	0.00000000
3103	Kimballton Municipal Utilities	0.00000000
3104	Lake Mills Municipal Utilities	*
3105	Lake Park Municipal Utilities	0.00318683
3233	Lake View Municipal Utilities	0.00881836
3274	Lamoni Municipal Utilities	*
3276	LaPorte City Utilities	0.00324017
3277	Laurens Municipal Utilities	0.00375644
3109	Lenox Municipal Light & Power	0.00000000
3110	Livermore Municipal Utilities	*
3111	Long Grove Mun. Elec./Water	0.00000000
3282	Manilla Municipal Elec. Utilities	0.00719338
3112	Manning Municipal Electric	*
3284	Mapleton Municipal Utilities	0.00169798
3285	Maquoketa Municipal Electric	0.00248513
3288	McGregor Municipal Utilities	0.00202168
3291	Milford Municipal Utilities	0.00000000
3114	Montezuma Municipal Light & Power	0.00203199
3115	Mount Pleasant Municipal Utilities	0.00140893
3293	Muscatine Municipal Utilities	0.00000000
3116	Neola Light & Water System	0.00000000
3297	New Hampton Municipal Light Plant	0.00264788
3298	New London Municipal Utility	0.00445654
3304	Ogden Municipal Utilities	*
3234	Onawa Municipal Utilities	0.00318833
3117	Orange City Municipal Utilities	0.00328970
3118	Orient Municipal Utilities	*
3307	Osage Municipal Utilities	0.00204693
3309	Panora Municipal Electric Utility	*
3119	Paton Municipal Utilities	0.00000000
3120	Paullina Municipal Utilities	0.01037010
3121	Pocahontas Municipal Utilities	0.00731259
3122	Preston Municipal Utilities	0.00613720
3315	Primghar Municipal Light Plant	*
3123	Readlyn Municipal Utilities	0.00000000
3124	Remsen Municipal Utilities	*
3318	Rock Rapids Municipal Utilities	0.00412774
3126	Rockford Municipal Light Plant	0.00000000
3127	Sabula Municipal Utilities	0.02047837
3128	Sanborn Municipal Light & Plant	*

## REVENUE DEPARTMENT(cont'd)

<b>CO. #</b>	<b>COMPANY</b>	<b>REPLACEMENT TAX RATE</b>
3130	Shelby Municipal Utilities	*
3131	Sibley Municipal Utilities	0.00160592
3321	Sioux Center Municipal Utilities	0.00356115
3324	Spencer Municipal Utilities	0.00491006
3132	Stanhope Municipal Utilities	0.00886991
3360	Stanton Municipal Utilities	0.00379652
3326	State Center Municipal Light Plant	0.00849424
3327	Story City Municipal Electric Utility	*
3134	Stratford Municipal Utilities	0.01584360
3135	Strawberry Point Electric Utility	0.00000000
3136	Stuart Municipal Utilities	0.00499508
3328	Sumner Municipal Light Plant	0.00208951
3330	Tipton Municipal Utilities	*
3332	Traer Municipal Utilities	0.00741914
3337	Villisca Municipal Power Plant	*
3137	Vinton Municipal Utilities	0.00239739
3138	Wall Lake Municipal Utilities	0.00650380
3338	Waverly Light & Power	0.00677277
3342	Webster City Municipal Utilities	0.00646250
3345	West Bend Municipal Power Plant	0.00193358
3346	West Liberty Municipal Electric Util.	0.00432489
3347	West Point Municipal Utility System	*
3140	Whittemore Municipal Utilities	*
3141	Wilton Municipal Light & Power	0.00000000
3351	Winterset Municipal Utilities	*
3142	Woodbine Municipal Utilities	0.00270391
3143	Woolstock Municipal Utilities	0.00000000

\*No rate provided to the Department by the Municipal

**2014 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	0.08329818
5215	Brighton Gas	*
5023	Brooklyn Municipal Gas	0.00000000
5024	Cascade Municipal Gas	0.00000000
5025	Cedar Falls Municipal Gas	0.01271198
5022	City of Bloomfield	0.15957174
5026	City of Clearfield	*
5028	City of Everly	*
5029	City of Fairbank	0.01455441

## REVENUE DEPARTMENT(cont'd)

CO. #	COMPANY	REPLACEMENT TAX RATE
5238	Coon Rapids Municipal Gas	0.00387463
5241	Corning Municipal Gas	0.00000000
5027	Emmetsburg Municipal Gas	0.02790736
5030	Gilmore City Municipal Gas	*
5031	Graettinger Municipal Gas	*
5032	Guthrie Center Municipal Gas	0.00000000
5033	Harlan Municipal Gas	1.16943982
5034	Hartley Municipal Gas	0.03368382
5035	Hawarden Municipal Gas	0.69795281
5036	Lake Park Municipal Gas	0.00820786
5275	Lamoni Municipal Gas	*
5037	Lenox Municipal Gas	*
5038	Lineville City Natural Gas	0.00000000
5039	Lorimor Municipal Gas	*
5281	Manilla Municipal Gas	0.06853390
5283	Manning Municipal Gas	0.02573482
5402	Mapleton Municipal Gas	0.00000000
5040	Montezuma Natural Gas	0.00000000
5041	Morning Sun Municipal Gas	*
5042	Moulton Municipal Gas	0.02647674
5369	Orange City Municipal Gas	*
5306	Osage Municipal Gas	0.01896602
5043	Prescott Municipal Gas	*
5044	Preston Municipal Gas	1.08744903
5055	Remsen Municipal Gas	*
5317	Rock Rapids Municipal Gas	0.01398235
5056	Rolfe Municipal Gas	*
5057	Sabula Municipal Gas	0.10863890
5058	Sac City Municipal Gas	0.02383971
5059	Sanborn Municipal Gas	*
5060	Sioux Center Municipal Gas	0.01099280
5061	Tipton Municipal Gas	0.01655635
5067	Wall Lake Municipal Gas	0.01821424
5063	Waukee Municipal Gas	*
5340	Wayland Municipal Gas	0.02311833
5064	Wellman Municipal Gas	0.05149578
5344	West Bend Municipal Gas	0.02129600
5065	Whittemore Municipal Gas	*
5349	Winfield Municipal Gas	0.00000000
5066	Woodbine Gas	0.43736873

\*No rate provided to the Department by the Municipal



## 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, 2013 — December 31, 2013	4.50%
January 1, 2014 — January 31, 2014	4.75%
February 1, 2014 — February 28, 2014	5.00%
March 1, 2014 — March 31, 2014	4.75%
April 1, 2014 — April 30, 2014	4.75%
May 1, 2014 — May 31, 2014	4.75%
June 1, 2014 — June 30, 2014	4.75%
July 1, 2014 — July 31, 2014	4.50%
August 1, 2014 — August 31, 2014	4.50%
September 1, 2014 — September 30, 2014	4.50%
October 1, 2014 — October 31, 2014	4.50%
November 1, 2014 — November 30, 2014	4.50%
December 1, 2014 — December 31, 2014	4.25%

## ARC 1768C

### UTILITIES DIVISION[199]

#### Notice of Intended Action

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

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

Pursuant to Iowa Code sections 17A.4, 476.1, 476.1A, and 476.17, the Utilities Board (Board) gives notice that on November 7, 2014, the Board issued an order in Docket No. RMU-2014-0007, In re: Peak Alert Rules, “Order Commencing Rule Making.” The Board is seeking public comment on the proposed amendment to 199 IAC 20.11.

The Board’s peak alert rules became effective in 1983 and were last amended in 2003. Since 2004, the Board has granted MidAmerican Energy Company (MidAmerican) a series of one- and two-year waivers of the Board’s peak alert rules. In the order granting MidAmerican’s waiver request in Docket No. WRU-2013-0005-0156, the Board noted that it might be appropriate to consider modifying or eliminating the peak alert rules.

On January 23, 2014, the Board initiated a notice of inquiry (NOI) regarding the Board’s peak alert rules. The docket was identified as Docket No. NOI-2014-0002. Various comments were filed in response to that order and to another order issued on April 17, 2014, requesting additional comments. Participants that filed written comments included the Consumer Advocate Division of the Department of Justice (Consumer Advocate), the Environmental Law & Policy Center and the Iowa Environmental Council (ELPC and IEC), MidAmerican, Interstate Power and Light Company (IPL), the Iowa Association of Electric Cooperatives (IAEC), and the Iowa Association of Municipal Utilities (IAMU).

Inquiry participants generally agreed that the Board’s peak alert rules should be revised to reflect changes in the electric industry. IPL and MidAmerican, the state’s two investor-owned electric utilities, recommended that the rules be rescinded because utilities can measurably shed electric load through demand response programs in a reliable and consistent manner. IPL and MidAmerican stated that load

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

shed as a result of peak alert rules is not easily measured. The IAEC was supportive of rescinding the rules or, in the alternative, modifying the rules to allow utilities to voluntarily notify customers of the benefits of reducing demand during peak periods, thus allowing utilities to educate consumers in the manner they deem most appropriate.

Consumer Advocate and ELPC and IEC recommended that the Board retain the rules because they serve an important public purpose alongside energy efficiency programs and can potentially engage customers who do not participate in energy efficiency programs to reduce usage when a peak approaches. The IAMU noted that municipal utilities are not subject to the Board's peak alert rules pursuant to Iowa Code section 476.1B but filed general comments pertaining to the practices of municipal utilities.

While the load reductions resulting from peak alert notices may be difficult to measure, the Board does not find it appropriate to rescind rules that require utilities to issue energy conservation messages to their customers. The current peak alert rules include minimum notice requirements. Utilities have included the minimum requirements in notices and additional information, such as energy saving tips and assurances to customers that there will not be reliability issues. Peak alerts request that consumers change their actions temporarily, potentially engaging customers who do not participate in energy efficiency programs to make some changes in actions that may become habits. However, the Board is proposing changes to make the rules more flexible to meet the needs of individual utilities.

Subrule 20.11(1), which applies to investor-owned utilities and electric cooperatives, is currently fairly prescriptive in its notice requirements for a peak alert, requiring that the annual written customer notices explain "how growth in demand affects a utility's investment costs and why reduction of customer usage during periods of peak demand may help delay or reduce the amount of future rate increases." This language did not work well for MidAmerican during its extended revenue requirement freeze, thus necessitating multiple waivers. Also, the subrule's implicit message is that conservation may delay the need for new generation facilities, but MidAmerican was continuing to add emission-free wind generation during this period regardless of any energy efficiency or conservation taking place. The Board's proposed changes make the subrule less prescriptive, thus giving utilities an opportunity to tailor the message to fit their specific situations, and also recognize that there are both summer- and winter-peaking electric utilities in Iowa. Examples provided by IPL and MidAmerican in the NOI show that effective peak alert messages can be tailor-made to the utility's individual circumstances and that the prescriptive language in the current rules is not appropriate given changes in the electric industry.

In subrule 20.11(2), the Board proposes to remove the temperature requirements for issuing peak alerts and instead require each investor-owned utility to have on file with the Board a statement indicating the conditions that would prompt the utility to issue a peak alert. Temperature triggers do not always correspond to capacity shortfalls. Rather, peak alerts should be issued consistent with the procedures set by the Midcontinent Independent System Operator, Inc., or another regional transmission organization that a utility might join, or other conditions that the utility might identify as suggestive of an approaching peak demand.

Proposed changes to other subrules would apply only to investor-owned electric utilities. For example, the Board proposes to remove the requirement for each investor-owned utility to provide the projected costs of implementing its notification plan because actual costs are included in the annual peak alert reports. The Board also proposes to remove the requirement for kilowatt hour demand reporting in the annual peak alert reports because other factors impact demand during peak alerts, such as activation of a utility's appliance cycling program or other demand response programs. The proposed amendment also includes a requirement that an investor-owned utility file as part of its annual report the most recent customer notice, actual peak alert notice, and a statement indicating whether the utility will continue to use the same peak alert messages and the same conditions for triggering a peak alert.

Pursuant to Iowa Code section 17A.4(1)"a" and "b," any interested person may file a written statement of position pertaining to the proposed amendment. The statement must be filed on or before December 30, 2014. The statement should be filed electronically through the Board's Electronic Filing System (EFS). Instructions for making an electronic filing can be found on the EFS Web site at <http://efs.iowa.gov>. Any person who does not have access to the Internet may file comments on paper pursuant to 199 IAC 14.4(5). An original and ten copies of paper comments shall be filed.

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

Both electronic and written filings shall comply with the format requirements in 199 IAC 2.2(2) and clearly state the author's name and address and make specific reference to this docket. All paper communications should be directed to the Executive Secretary, Utilities Board, 1375 E. Court Avenue, Room 69, Des Moines, Iowa 50319-0069.

A public hearing to receive comments on the proposed amendment will be held at 10 a.m. on January 28, 2015, in the Board's hearing room at the address listed above. Persons with disabilities who require assistive services or devices to observe or participate should contact the Board at (515)725-7334 at least five days in advance of the scheduled date to request that appropriate arrangements be made.

The Board does not find it necessary to propose a separate waiver provision in this rule making. The Board has a general waiver provision in 199 IAC 1.3 that would be applicable to this amendment.

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

This amendment is intended to implement Iowa Code sections 476.1, 476.1A, and 476.17.

The following amendment is proposed.

Amend rule 199—20.11(476) as follows:

**199—20.11(476) Customer notification of peaks in electric energy demand.** Each electric utility shall inform its customers of the significance of reductions in consumption of electricity during hours of peak demand.

**20.11(1) *Annual notice.*** Each electric utility shall provide its customers, on an annual basis, with a written notice ~~explaining how growth in demand affects a utility's investment costs and why reduction of customer usage that informs customers of the significance of reductions in consumption of electricity during periods of peak demand may help delay or reduce the amount of future rate increases.~~ The notice shall include an explanation of the condition(s) under which peak alerts will be issued and the means by which the utility will inform customers that a peak alert is being issued. The notice shall be delivered to its customers ~~between May 1 and June 15 of each year if peak demand is likely to occur during the months of June through September. If peak demand usually occurs during the months of October through February, the notice shall be delivered to its customers between August 1 and September 15 prior to the start of the utility's historical seasonal peak demand.~~

**20.11(2) *Notification plan.*** Each investor-owned utility shall have on file with the board a plan to notify its customers of an approaching peak demand on the day when peak demand is likely to occur.

~~a.~~ The plan shall include, at a minimum, the following:

a. A description and explanation of the condition(s) that will prompt a peak alert.

~~(1) b.~~ A provision for a general notice to be given to customers prior to the time when peak demand is likely to occur ~~as prescribed in 20.11(2) "b."~~ and an explanation of when and how notice of an approaching peak in electric demand will be given to customers.

~~(2) A provision for direct notice to be given customers whose load reduction will have a significant impact on the utility's peak. The utility shall provide for such notice to be given prior to the time when peak demand is likely to occur, as prescribed in 20.11(2) "b," and shall explain the criteria used to identify customers to whom notice will be given and when and how notice will be given.~~

~~(3) A statement showing the total costs, with each component thereof itemized, projected to be associated with implementing the plan. Notice should be provided in the most efficient manner available. The board may reject a plan which includes excessive costs or which specifies an ineffective method of customer notification and may direct development of a new plan.~~

~~(4) c.~~ The text of the ~~general and direct message or messages~~ to be given in the general notice to customers. The message shall, at a minimum, include the name of the utility ~~or utilities~~ providing the notice, an explanation that conditions exist which indicate a peak in electric demand is approaching, and a statement that reduction in usage of electricity during the period of peak demand will ease the burden placed on the utility's system by growth in peak demand and may help delay or reduce the amount of future rate increases an explanation of the significance of reductions in electricity use during a period of peak demand.

~~(5) A designation of the U.S. weather station(s), situated within the utility's service territory, whose temperature readings and predictions will be used by the utility in applying the standard in 20.11(2) "b."~~

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

~~(6) A provision for joint delivery, by two or more utilities, of the general notice to customers in regions of the state where U.S. weather station(s) predict conditions specified in 20.11(2) "b" will exist on the same day.~~

~~b. For purposes of this rule, peak demand is likely to occur on a nonholiday weekday between June 15 and September 15 when the following conditions exist:~~

~~(1) The utility's designated weather station predicts the temperature will rise above 95° Fahrenheit (35° Celsius), and the designated weather station officially recorded a temperature above 95° Fahrenheit (35° Celsius) on the previous day, or~~

~~(2) The utility's designated weather station predicts the temperature will rise to above 90° Fahrenheit (33° Celsius) on a day following at least two consecutive days of temperatures above 95° Fahrenheit (35° Celsius), as officially recorded by the designated weather station, but~~

~~(3) If a utility can demonstrate it would have been required to provide between June 15 and September 15 a peak alert notice to customers, because of the existence of the conditions set forth in 20.11(2) "b"(1) or 20.11(2) "b"(2), on more than six days in any one of the preceding ten years, the utility may substitute a 97° Fahrenheit (36° Celsius) standard in lieu of the 95° Fahrenheit (35° Celsius) standard in the subrule.~~

~~20.11(3) Implementation of notification plan. The utility shall implement the approved its notification plan on each day of the year when peak demand is likely to occur, as prescribed by as needed to alleviate the conditions described in 20.11(2) "b a."~~

~~20.11(4) Permissive notices. The standard for implementing peak alert notification in subrule 20.11(2) is a minimum standard and does not prohibit a utility or association of utilities from issuing a notice requesting customers to reduce usage at any other time.~~

~~20.11(5) Annual report. Each electric utility required by subrule 20.11(2) to file a plan for customer notification shall file, on or before April 1 of each year, a report stating for the prior year providing the number text of the annual written notice and of the peak alert notices given its customers, the dates when the notices were issued, and the annual cost costs of providing both general and direct notice the annual written notice and the peak alert notices to customers and measures of kilowatt hour demand at the time when notice was given and at hourly intervals thereafter until kilowatt hour demand decreases to the level at which it was measured when the notice was issued. The annual report shall also include a statement of any problems experienced by the utility in providing customer notification of a peak demand and a proposal to modify modifications of the plan, if necessary, to make customer notification more effective. Modifications must be approved by the board before they are implemented.~~

**ARC 1756C**

## **VETERINARY MEDICINE BOARD[811]**

### **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 169.5, the Board of Veterinary Medicine hereby gives Notice of Intended Action to amend Chapter 1, "Description of Organization and Definitions," Chapter 6, "Application for Veterinary Licensure," Chapter 8, "Auxiliary Personnel," and Chapter 11, "Continuing Education," Iowa Administrative Code.

The proposed amendments would allow the Board of Veterinary Medicine to waive state fees and continuing education requirements upon request for an individual who has been on active military duty during the 12 months preceding the request. These amendments would also provide a waiver for the spouse of the person who has been on active military duty during the 12 months preceding the request.

## VETERINARY MEDICINE BOARD[811](cont'd)

Any interested persons may make written suggestions or comments on the proposed amendments on or before December 30, 2014. Written comments should be addressed to David Schmitt, Executive Secretary, Board of Veterinary Medicine, Wallace State Office Building, 502 East Ninth Street, Des Moines, Iowa 50319. Comments may be submitted by fax to (515)281-4282 or by e-mail to [David.Schmitt@IowaAgriculture.gov](mailto:David.Schmitt@IowaAgriculture.gov).

The proposed amendments are subject to the Board's general waiver provision.

After analysis and review of this rule making, these amendments may have a positive impact on jobs by helping recruit veterans to the state.

These amendments are intended to implement 2014 Iowa Acts, chapter 1116, section 34.

The following amendments are proposed.

ITEM 1. Adopt the following **new** definition in rule **811—1.4(17A,169)**:

*“Qualifying military service personnel”* means a person, or the spouse of that person, who is currently or who has been during the past 12 months on federal active duty, state active duty, or national guard duty and has provided sufficient documentation to the board concerning the service and, if applicable, marriage.

ITEM 2. Amend rule 811—6.2(169) as follows:

**811—6.2(169) Fee schedule for veterinarians.** The following fees shall be collected by the board and shall not be refunded except by board action in unusual instances such as documented illness of the applicant, death of the applicant, inability of the applicant to comply with the rules of the board, or withdrawal of an examination application provided withdrawal is received in writing 45 days prior to the examination date. However, the state fees may be waived for qualifying military service personnel upon request. Examination fees shall be nontransferable from one examination to another.

The fee for the NAVLE, which is utilized by the board as a part of the licensure process, shall be the fee charged that year by NBVME, plus an administrative fee payable to the board.

Based on the board's anticipated financial requirements, the following fees are hereby adopted:

License—application fee . . . . .	\$50
NBVME NAVLE examination fee . . . . .	set by NAVLE NBVME
Board administrative fee for NAVLE. . . . .	\$25
State veterinary examination fee . . . . .	set by board
State veterinary administration fee . . . . .	set by board
Triennial license . . . . .	\$60
Late renewal penalty . . . . .	\$100
License by endorsement—application fee . . . . .	\$50
Reactivation fee for lapsed or inactive license . . . . .	\$100
Reinstatement fee . . . . .	\$100
Duplicate license. . . . .	\$15
Temporary permit . . . . .	\$35
Temporary permit application fee . . . . .	\$15
Official licensure verification . . . . .	\$15
Charge for insufficient funds or returned checks. . . . .	\$25
Senior student certificate . . . . .	\$0

This rule is intended to implement Iowa Code ~~section~~ sections 169.5 and 169.12.

ITEM 3. Amend rule 811—8.3(169) as follows:

**811—8.3(169) Examination.** An application fee of \$25 shall accompany the application to take the examination; and both must be received by the board at least 60 days before the examination.

## VETERINARY MEDICINE BOARD[811](cont'd)

An additional fee shall be submitted for the national board written examination as provided by the professional examination service, when utilized by the board as part of their examination process, which shall be the fees charged for the examination by the professional examination service plus \$10 for the costs of administration. Examinations shall be given annually in June at a site to be designated by the board at least 30 days before the date of the examination. The fee may be waived for qualifying military service personnel upon request.

This rule is intended to implement Iowa Code sections 169.5(8), 169.9 and 169.12 and 2014 Iowa Acts, chapter 1116, section 34.

ITEM 4. Adopt the following new subrule 8.10(5):

**8.10(5)** The board may waive continuing education requirements for qualifying military service personnel upon request.

ITEM 5. Amend **811—Chapter 8**, implementation sentence, as follows:

These rules are intended to implement Iowa Code sections 17A.3, 169.4, 169.5, 169.9 and 169.20 and 2014 Iowa Acts, chapter 1116, section 34.

ITEM 6. Adopt the following new subrule 11.1(5):

**11.1(5)** The board may waive continuing education requirements for qualifying military service personnel upon request.

**ARC 1777C**

**VOTER REGISTRATION COMMISSION[821]****Amended Notice of Intended Action**

Pursuant to the authority of Iowa Code sections 47.8, 48A.13 and 17A.4, the Voter Registration Commission hereby gives notice that a public hearing will be held on Tuesday, December 30, 2014, at 10 a.m. in the Secretary of State's conference room, First Floor, Lucas State Office Building, 321 East 12th Street, Des Moines, Iowa, in order to receive oral comments on the proposed amendments to Chapter 2, "Voter Registration Forms, Acceptability, Registration Dates, and Effective Dates," Chapter 8, "Transmission of Registration Forms by Agencies," and Chapter 11, "Registration Procedure at the Office of Driver Services, Department of Transportation," Iowa Administrative Code. Notice of Intended Action for the proposed amendments was published in the Iowa Administrative Bulletin on October 15, 2014, as **ARC 1679C**. The proposed amendments permit electronic signatures on file with the Iowa Department of Transportation to be used on subsequent online voter registration transactions conducted via the Iowa Department of Transportation's Web site.

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

## ARC 1775C

## EDUCATION DEPARTMENT[281]

## Adopted and Filed

Pursuant to the authority of Iowa Code section 256.7(5), the State Board of Education hereby rescinds Chapter 23, “Adult Education,” and adopts new Chapter 23, “Adult Education and Literacy Programs,” Iowa Administrative Code.

New Chapter 23 provides for statewide standards and guidance for adult education and literacy programs and defines the requirements for the qualifications of staff, professional development, and performance and accountability.

Notice of Intended Action was published in the October 15, 2014, Iowa Administrative Bulletin as **ARC 1672C**. Public comments were allowed until 4:30 p.m. on November 4, 2014. A public hearing was held on that date. No one attended the public hearing. No written comments regarding these rules were received. These rules are identical to those published under Notice of Intended Action.

An agencywide waiver provision is provided in 281—Chapter 4.

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

These rules are intended to implement Iowa Code chapter 260C.

These rules will become effective January 14, 2015.

The following amendment is adopted.

Rescind 281—Chapter 23 and adopt the following new chapter in lieu thereof:

## CHAPTER 23

## ADULT EDUCATION AND LITERACY PROGRAMS

**281—23.1(260C) Definitions.** For purposes of this chapter, the indicated terms are defined as follows:

“*Adult education and literacy program*” means adult basic education, adult education leading to a high school equivalency diploma under Iowa Code chapter 259A, English as a second language instruction, workplace and family literacy instruction, integrated basic education and technical skills instruction, and other activities specified in the Adult Education and Family Literacy Act, 20 U.S.C. Ch. 73 and subsequent federal workforce training and adult education legislation.

“*Career pathways*” means a combination of rigorous and high-quality education, training, and other services that:

1. Aligns with the skill needs of industries in the state or regional economy;
2. Prepares an individual to be successful in any of a full range of secondary or postsecondary education options, including apprenticeships;
3. Includes counseling to support an individual in achieving the individual’s education and career goals;
4. Includes, as appropriate, education offered concurrently with and in the same context as workforce preparation activities and training for a specific occupation or occupational cluster;
5. Organizes education, training, and other services to meet the particular needs of an individual in a manner that accelerates the educational and career advancement of the individual to the extent practicable; and
6. Helps an individual enter or advance within a specific occupation or occupational cluster.

“*Coordinator*” means the person(s) responsible for making decisions for the adult education and literacy program at the local level.

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

“*English as a second language*” means a structured language acquisition program designed to teach English to students whose native language is other than English.

“*Intake*” means admittance and enrollment in an adult education and literacy program operated by an eligible provider.

## EDUCATION DEPARTMENT[281](cont'd)

*“Professional staff”* means all staff that are engaged in providing services, including instruction and data entry, for individuals who are eligible for adult education and literacy programs.

*“State assessment policy”* means a federally approved policy which stipulates the use of a standardized assessment, scoring and reporting protocols, certification requirements for test administrators, and the protocol for tracking test and attendance data.

*“Volunteer staff”* means all non-paid persons who perform services, including individualized instruction and data entry, for individuals who are eligible for adult education and literacy programs.

**281—23.2(260C) State planning.**

**23.2(1) Basis.** A state plan for adult education shall be developed as required by federal legislation. Current federal rules and regulations shall be followed in developing the state plan.

**23.2(2) State planning.** Statewide planning shall be conducted in accordance with applicable federal legislation. The state board is authorized to prepare, amend, and administer the state plan in accordance with state and federal law. The state plan shall establish appropriate statewide strategies and goals for adult education and literacy programs.

**23.2(3) Funding allocation.** The department shall be responsible for the allocation and distribution of state and federal funds for adult basic education programs in accordance with these rules and with the state plan. The state has the right under federal legislation to establish the funding formula and to issue a competitive bidding process.

**281—23.3(260C) Program administration.** The department, through the division of community colleges, is hereby designated as the agency for administration of state and federally funded adult basic education programs and for supervision of the administration of adult basic education programs. The division shall be responsible for the allocation and distribution of state and federal funds awarded to eligible institutions for adult basic education programs through a grant application in accordance with this chapter and with the state plan.

**23.3(1) Eligible institutions.** Adult education and literacy programs may be operated by:

- a. Entities accredited by the Higher Learning Commission and approved by the department; or
- b. Eligible entities as defined by the Adult Education and Family Literacy Act, 20 U.S.C. Ch. 73, and subsequent federal workforce training and adult education legislation, and approved by the department.

**23.3(2) Program components.**

a. The eligible institution shall maintain the ability to provide the following adult education and literacy services as deemed appropriate by the community or needs of the students:

- (1) Adult basic education;
- (2) Programs for adults of limited English proficiency;
- (3) Adult secondary education, including programs leading to the achievement of a high school equivalency certificate or high school diploma;
- (4) Instructional services provided by qualified instructors as defined in subrule 23.6(1) to improve student proficiencies necessary to function effectively in adult life, including accessing further education, employment-related training, or employment;
- (5) Assessment and guidance services adhering to the state’s assessment policy; and
- (6) Programs and services stipulated by current and subsequent federal and state adult education legislation.

b. Institutions shall effectively use technology, services, and delivery systems, including distance education, in a manner sufficient to increase the amount and quality of student learning and performance.

c. Institutions shall ensure a student acquires the skills needed to transition to and complete postsecondary education and training programs and obtain and advance in employment leading to economic self-sufficiency.

**23.3(3) Local planning.**

a. Adult education and literacy programs shall collaborate and enter into agreements with multiple partners in the community for the purpose of establishing a local plan. Such plans shall expand the



## EDUCATION DEPARTMENT[281](cont'd)

services available to adult learners, align with the strategies and goals established by the state plan, and prevent duplication of services.

*b.* An adult education and literacy program's agreement shall not be formalized until the local plan is approved by the department. A plan shall be approved provided the plan complies with the standards and criteria outlined in this chapter, federal adult education and family literacy legislation, and the strategies and goals of the state plan as defined in the local plan application.

*c.* Local plans may be approved by the state for single or multiple years.

**23.3(4) Federal funding.** Federal funds received by an adult education and literacy program must not be expended for any purpose other than authorized activities, in the manner prescribed by the authorizing federal legislation.

**23.3(5) State funding.** Moneys received from state funding sources for adult education and literacy programs shall be used in the manner described in this subrule. All funds shall be used to expand services and improve the quality of adult education and literacy programs.

*a. Use of funds.* State funding shall be expended on:

(1) Allowable uses pursuant to the Adult Education and Family Literacy Act, 20 U.S.C. Ch. 73, and subsequent federal workforce training and adult education legislation.

(2) High school equivalency testing and associated costs.

*b. Restrictions.* In expending state funding, adult education and literacy programs shall adhere to the allowable use restrictions of the Adult Education and Family Literacy Act, 20 U.S.C. Ch. 73, and subsequent federal workforce training and adult education legislation, except for administrative cost restrictions.

*c. Reporting.* All reporting for state funding shall adhere to a summary of financial transactions related to the adult education and literacy program's resources and expenses in a format prescribed by the department. Adult education and literacy programs shall submit quarterly reports to the department on dates to be set by the department. A year-end report shall be submitted to the department no later than October 1.

**23.3(6) English as a second language.** In addition to meeting the requirements of subrules 23.3(1) through 23.3(5), English as a second language programs shall adhere to the following provisions.

*a. Application process.* An English as a second language program shall annually submit an application to the department that identifies the need, sets benchmarks, and provides a plan for high-quality instruction.

*b. Distribution and allocation.* The department and the community colleges shall jointly prescribe the distribution and allocation of funding, which shall be based on need for instruction in English as a second language in the region served by each community college. Need shall be based on census, survey, and local outreach efforts and results.

*c. Midyear reporting.* English as a second language programs shall include a narrative describing the progress and attainment of the benchmarks specified in the application described in paragraph 23.3(6) "a." The report shall be provided to the department midway through the academic year.

**281—23.4(260C) Career pathways.** Adult education and literacy programs may use state adult education and literacy education funding for activities related to the development and implementation of the basic skills component of a career pathways system.

**23.4(1) Collaboration.** Adult education and literacy programs shall coordinate with other available education, training, and social service resources in the community for the development of career pathways, such as by establishing strong links with elementary schools and secondary schools, postsecondary educational institutions, institutions of higher education, local workforce investment boards, one-stop centers, job training programs, social service agencies, business and industry, labor organizations, community-based organizations, nonprofit organizations, and intermediaries.

**23.4(2) Use of state funds.** Only activities directly linked to adult education and literacy programs and instruction shall be funded with moneys received from state adult education and literacy funds. Consideration shall be given to providing adult education and literacy activities concurrently with

## EDUCATION DEPARTMENT[281](cont'd)

workforce preparation activities and workforce training for the purpose of educational and career advancement.

**281—23.5(260C) Student eligibility.** A person seeking to enroll in an adult education and literacy program shall be at least 16 years of age and not enrolled or required to be enrolled in a secondary school under Iowa Code section 299.1A and shall meet one of the following eligibility requirements:

1. Lacks sufficient mastery of basic educational skills to enable the person to function effectively in society, demonstrated by a score of Adult Secondary Education (Low) or lower in at least one modality;
2. Does not have a secondary school diploma or a recognized equivalent; or
3. Is unable to speak, read, or write the English language.

**281—23.6(260C) Qualification of staff.** Adult education and literacy programs shall be in compliance with the requirements established under this rule by July 1, 2015. The requirements of this rule apply to all staff hired after July 1, 2015. All staff hired prior to July 1, 2015, are exempt from this rule.

**23.6(1) Professional staff.** Professional staff providing instruction in an adult education and literacy program to students must possess at minimum a bachelor's degree.

**23.6(2) Volunteer staff.** Volunteer staff must possess at minimum a high school diploma or high school equivalency diploma.

**281—23.7(260C) High-quality professional development.**

**23.7(1) Responsibility of program.** Adult education and literacy programs shall be responsible for providing professional development opportunities for professional and volunteer staff, including:

- a. Proper procedures for the administration and reporting of data pursuant to rule 281—23.8(260C);
- b. The development and dissemination of instructional and programmatic practices based on the most rigorous and scientifically valid research available; and
- c. Appropriate reading, writing, speaking, mathematics, English language acquisition, distance education, and staff training practices aligned with content standards for adult education.

**23.7(2) Professional development requirements.** Professional development shall include formal and informal means of assisting professional and volunteer staff to:

- a. Acquire knowledge, skills, approaches, and dispositions;
- b. Explore new or advanced understandings of content, theory, and resources; and
- c. Develop new insights into theory and its application to improve the effectiveness of current practice and lead to professional growth.

**23.7(3) Professional development standards.** The department and entities providing adult education and literacy programs shall promote effective professional development and foster continuous instructional improvement. Professional development shall incorporate the following standards:

- a. Strengthens professional and volunteer staff knowledge and application of content areas, instructional strategies, and assessment strategies based on research;
- b. Prepares and supports professional and volunteer staff in creating supportive environments that help adult learners reach realistic goals;
- c. Uses data to drive professional development priorities, analyze effectiveness, and help sustain continuous improvement for adult education and literacy programs and learners;
- d. Uses a variety of strategies to guide adult education and literacy program improvement and initiatives;
- e. Enhances abilities of professional and volunteer staff to evaluate and apply current research, theory, evidence-based practices, and professional wisdom;
- f. Models or incorporates theories of adult learning and development; and
- g. Fosters adult education and literacy program, community, and state level collaboration.

**23.7(4) Provision of professional development.** Adult education and literacy program staff shall participate in professional development activities that are related to their job duties and improve the quality of the adult education and literacy program with which the staff is associated. All professional

## EDUCATION DEPARTMENT[281](cont'd)

development activities shall be in accordance with the published Iowa Adult Education Professional Development Standards.

*a.* All professional staff shall receive at least 12 clock hours of professional development annually. Professional staff who possess a valid Iowa teacher certificate are exempt from this requirement.

*b.* All professional staff new to adult education shall receive 6 clock hours of preservice professional development prior to, but no later than, one month after starting employment with an adult education program. Preservice professional development may apply toward the professional development requirements of paragraph 23.7(4) "a."

*c.* Volunteer staff shall receive 50 percent of the professional development required in paragraphs 23.7(4) "a" and 23.7(4) "b."

**23.7(5) *Individual professional development plan.*** Adult education and literacy programs shall develop and maintain a plan for hiring and developing quality professional staff that includes all of the following:

- a.* An implementation schedule for the plan.
- b.* Orientation for new professional staff.
- c.* Continuing professional development for professional staff.
- d.* Procedures for accurate record keeping and documentation for plan monitoring.
- e.* Specific activities to ensure that professional staff attain and demonstrate instructional competencies and knowledge in related adult education and literacy fields.
- f.* Procedures for collection and maintenance of records demonstrating that each staff member has attained or documented progress toward attaining minimal competencies.
- g.* Provision that all professional staff will be included in the plan. The plan requirements may be differentiated for each type of employee.

**23.7(6) *Waiver.*** The requirement for professional development may be reduced by local adult education and literacy programs in individual cases where exceptional circumstances prevent staff from completing the required hours of professional development. Documentation shall be kept which justifies the granting of a waiver. Requests for exemption from staff qualification requirements in individual cases shall be kept on record and made available to the department for review upon request.

**23.7(7) *Monitoring.*** Records of staff qualifications and professional development shall be maintained by each adult education and literacy program for five years and shall be made available to department staff for monitoring upon request.

**281—23.8(260C) Performance and accountability.**

**23.8(1) *Accountability system.*** Adult education and literacy programs shall adhere to the standards established by the Adult Education and Family Literacy Act, 20 U.S.C. Ch. 73, and subsequent federal workforce training and adult education legislation in the use and administration of the accountability system. The accountability system will be a statewide system to include, but not be limited to, enrollment reports, progress indicators and core measures.

**23.8(2) *Performance indicators.***

*a. Compliance.* Adult education and literacy programs shall adhere to the policies and procedures outlined in the state assessment policy. Data shall be submitted by the tenth day of each month or, should that day fall outside of standard business hours, the first Monday following the tenth day of the month. All adult education and literacy programs shall comply with data quality reviews and complete quality data checks as required to ensure federal compliance with reporting.

*b. Determination of progress.* Upon administration of a standardized assessment, within the first 12 hours of attendance, adult education and literacy programs shall place eligible students at an appropriate level of instruction. Progress assessments shall be administered after the recommended hours of instruction as published in the state assessment policy.

*c. Core measures.* Federal and state adult education and literacy legislation has established the data required for reporting core measures, including, but not limited to, percentage of participants in unsubsidized employment during the second and fourth quarter after exit from the program; median earnings; percentage of participants who obtain a postsecondary credential or diploma during

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participation or within one year after exit from the program; participants achieving measurable skill gains; and effectiveness in serving employers.

These rules are intended to implement Iowa Code chapter 260C.

[Filed 11/19/14, effective 1/14/15]

[Published 12/10/14]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 12/10/14.

**ARC 1779C**

## **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 36, "Extracurricular Interscholastic Competition," Iowa Administrative Code.

Subrule 36.15(6) sets out requirements for the operation of summer camps, clinics, and coaching contact for out-of-season sports activities. Specifically, this amendment changes the time period during which summertime coaching activities cannot be in conflict with sports in season by replacing "summertime" with the more specific language "between June 1 and the first day of fall sports practices." This change is to ensure that all schools are limiting these activities during the same specified time periods.

Notice of Intended Action was published in the October 15, 2014, Iowa Administrative Bulletin as **ARC 1673C**. Public comments were allowed until 4:30 p.m. on November 4, 2014. A public hearing was held on that date. No one attended the public hearing. No written comments were received regarding this amendment. This amendment is identical to that published under Notice of Intended Action.

An agencywide waiver provision is provided in 281—Chapter 4.

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

This amendment is intended to implement Iowa Code section 280.13.

This amendment will become effective January 14, 2015.

The following amendment is adopted.

Amend paragraph **36.15(6)“b”** as follows:

*b.* A summer team or individual camp or clinic held at a member or associate member school facility shall not conflict with sports in season. ~~Summertime coaching~~ Coaching activities between June 1 and the first day of fall sports practices shall not conflict with sports in season.

[Filed 11/19/14, effective 1/14/15]

[Published 12/10/14]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 12/10/14.

**ARC 1781C**

## **EDUCATION DEPARTMENT[281]**

### **Adopted and Filed**

Pursuant to the authority of Iowa Code section 256.7(5), the State Board of Education hereby adopts new Chapter 48, "Statewide Work-Based Learning Intermediary Network," Iowa Administrative Code.

This chapter establishes a statewide work-based learning intermediary network to prepare students for the workforce by connecting business and the education system and offering relevant work-based learning opportunities to students and teachers.

Notice of Intended Action was published in the September 3, 2014, Iowa Administrative Bulletin as **ARC 1598C**. Public comments were allowed until 4:30 p.m. on September 23, 2014. No one attended

EDUCATION DEPARTMENT[281](cont'd)

the public hearing. No written comments were received regarding these rules. These rules are identical to those published under Notice.

An agencywide waiver provision is provided in 281—Chapter 4.

The Department has determined that these rules will have no impact on small business within the meaning of Iowa Code section 17A.4A.

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

These rules are intended to implement Iowa Code section 256.40.

These rules will become effective January 14, 2015.

The following amendment is adopted.

Adopt the following new 281—Chapter 48:

## CHAPTER 48

### STATEWIDE WORK-BASED LEARNING INTERMEDIARY NETWORK

**281—48.1(256) Purpose.** The statewide work-based learning intermediary network is established to prepare students for the workforce by connecting business and the education system and offering relevant, work-based learning activities to students and teachers.

**281—48.2(256) Definitions.** For purposes of this chapter, the following definitions shall apply:

“*Core services*” means services related to work-based learning including, but not limited to, student job shadowing, student internships, and teacher or student tours.

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

“*Region*” means a community college region.

“*Regional work-based learning intermediary network*” means the entity responsible for providing the services defined in subrule 48.4(1) to students in a region.

“*Targeted industries*” means those industries identified pursuant to Iowa Code section 15.102, including advanced manufacturing, biosciences, and information technology.

“*Work-based learning*” means planned and supervised connections of classroom, laboratory and work experiences that prepare students for current and future careers.

“*Work-based learning plan*” means the regional work-based learning intermediary network’s annual grant application.

**281—48.3(256) Statewide work-based learning intermediary network.** The statewide work-based learning intermediary network program is established by the department and shall be administered by the department through the division of community colleges.

**48.3(1) *Statewide work-based learning intermediary network fund.*** A separate, statewide work-based learning intermediary network fund is created in the state treasury under the control of the department pursuant to Iowa Code section 256.40(1).

*a.* Moneys deposited in the statewide work-based learning intermediary network fund established under Iowa Code section 256.40(1) shall be distributed annually to each region for the implementation of the work-based learning plan pursuant to Iowa Code section 256.40(7).

*b.* If the balance in the statewide work-based learning intermediary network fund on July 1 of a fiscal year is \$1.5 million or less, the department shall distribute moneys in the fund to the regional work-based learning intermediary networks or consortium of regions on a competitive basis. If the balance in the statewide work-based learning intermediary network fund on July 1 of a fiscal year is greater than \$1.5 million, the department shall distribute \$100,000 to each region and distribute the remaining moneys pursuant to the state aid distribution formula established in Iowa Code section 260C.18C.

**48.3(2) *Steering committee.*** The department shall establish and facilitate a steering committee comprised of representatives from the department of workforce development, the economic development authority, community colleges, institutions under the control of the state board of regents, accredited

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private institutions, area education agencies, school districts, and business and industry including, but not limited to, construction trade industry professionals. The steering committee shall:

- a. Make recommendations to the department regarding the development and implementation of the statewide work-based learning intermediary network.
- b. Develop a design for a statewide network comprised of 15 regional work-based learning intermediary networks aligned with community college boundaries. The design shall include network specifications, strategic functions, and desired outcomes.
- c. Recommend program parameters and reporting requirements to the department.

**48.3(3) Providers.** No more than one entity from each region will be designated as the regional work-based learning intermediary network. A consortium of entities may collaborate to form a single work-based learning intermediary network in a region.

**281—48.4(256) Regional work-based learning intermediary network.**

**48.4(1)** A regional work-based learning intermediary network shall prepare students for the workforce by connecting businesses and the education system and shall offer relevant, work-based learning activities to students and teachers within the region. The network shall:

- a. Conduct a needs assessment in collaboration with school districts within the region to inform the development of core services. Evidence that a needs assessment was conducted shall be maintained and made available upon request by the department.
- b. Provide core services as defined in rule 281—48.2(256).
- c. Prepare students to make informed postsecondary education and career decisions. Services shall be integrated with other career exploration-related activities such as the student core curriculum plan and the career information and decision-making system developed and administered pursuant to Iowa Code section 279.61, where appropriate.
- d. Build and sustain relationships between employers and local youth, the education system, and the community through communication and coordination.
- e. Connect students to local career opportunities.
- f. Provide a one-stop contact point for information useful to both educators and employers, including information on internships, job shadowing experiences, and other core services for students, particularly related to science, technology, engineering, or mathematics occupations, occupations related to critical infrastructure and commercial and residential construction, or targeted industries.
- g. Facilitate the attainment of portable, industry-recognized credentials such as the National Career Readiness Certificate, where appropriate.

**48.4(2)** Work-based learning plan. Each network or consortium of networks shall annually submit a work-based learning plan to the department. Each plan shall detail how the intermediary network will provide core services to all school districts within the region and support the integration of job shadowing and other work-based learning activities into secondary career and technical education programs.

**48.4(3)** Funding. All funds are to be used to develop or expand work-based learning opportunities within the intermediary network region.

a. *Match.* Of the funds received pursuant to subrule 48.3(1), each regional work-based learning intermediary network shall contribute a match of resources equal to 25 percent pursuant to Iowa Code section 256.40(9). The financial resources used to provide the match may include private donations, in-kind contributions, or public moneys other than the moneys received pursuant to subrule 48.3(1).

b. *Staffing.* Funds may be used to support personnel responsible for the implementation of the intermediary network program components outlined under subrule 48.3(1).

**48.4(4)** Collaboration. Regional work-based learning intermediary networks shall work collaboratively with the statewide intermediary network and stakeholders. Evidence of collaboration shall be documented in each region's annual report.

**48.4(5)** Advisory council. Each regional work-based learning intermediary network shall establish an advisory council consisting of intermediary network stakeholders from business and industry representatives, including construction trade industry professionals, to provide guidance and assistance in developing the intermediary network's work-based learning plan. Advisory councils shall meet

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at least annually. Meeting minutes shall be maintained and be made available upon request by the department. The advisory council shall be subject to open meetings laws under Iowa Code chapter 21.

**48.4(6)** Annual report. Each regional work-based learning intermediary network shall submit an annual report to the department in a manner prescribed by the department. The report shall include, but not be limited to, performance metrics prescribed by the department and a summary of financial expenses.

These rules are intended to implement Iowa Code section 256.40.

[Filed 11/19/14, effective 1/14/15]

[Published 12/10/14]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 12/10/14.

**ARC 1778C**

**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 56, "Iowa Vocational Rehabilitation Services," Iowa Administrative Code.

Chapter 56 provides for the services leading to employment for eligible Iowans with disabilities in accordance with Iowa Code chapter 259 and relevant federal statutes and regulations.

Many of the amendments are nonsubstantive cleanup items that primarily reflect actual practice and will not alter the services provided to clients of the Division of Vocational Rehabilitation Services. The amendments of substance are as follows:

Item 1 clarifies the type of employment sought.

Item 2 adds protected classes to the nondiscrimination rule to comport with Iowa Code chapter 216, Iowa's Civil Rights Act.

Item 3 rescinds the definition of "client."

Item 5 adds definitions of "customized employment" and "job candidate." (The amendments in Items 8, 12 to 20, 22 to 28, 30, 31 and 35 to 37 reflect the change in terminology from "client" to "job candidate.")

Items 5 and 21 define "progressive employment."

Item 9 provides that a change in status must be in compliance with federal regulations.

Item 11 allows students in high school to work with a counselor to develop an employment plan.

Item 13 clarifies who can provide a medical diagnosis.

Item 16 creates a new category of training, "OJT," on-the-job training.

Item 18 clarifies when the division will pay for certain transportation.

Item 23 adds "community rehabilitation programs" to the list of facilities providing specialized training.

Item 29 provides that the supervisor review of an appeal will be conducted by the bureau chief, rather than the assistant bureau chief.

Items 34 and 36 make the application process easier for individuals seeking to be self-employed.

An agencywide waiver provision is provided in 281—Chapter 4.

Notice of intended Action was published in the October 15, 2014, Iowa Administrative Bulletin as **ARC 1676C**. Public comments were allowed until 4:30 p.m. on November 4, 2014. A public hearing was held on that date. No one attended the public hearing. No written comments regarding these amendments were received. These amendments are identical to those published under Notice of Intended Action.

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

These amendments are intended to implement Iowa Code chapter 259.

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These amendments will become effective on January 14, 2015.

EDITOR'S NOTE: Pursuant to recommendation of the Administrative Rules Review Committee published in the Iowa Administrative Bulletin, September 10, 1986, the text of these amendments [amendments to Ch 56] is being omitted. These amendments are identical to those published under Notice as **ARC 1676C**, IAB 10/15/14.

[Filed 11/19/14, effective 1/14/15]

[Published 12/10/14]

[For replacement pages for IAC, see IAC Supplement 12/10/14.]

**ARC 1776C****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 60, "Programs for Students of Limited English Proficiency," Iowa Administrative Code.

This chapter sets standards for the identification of students of limited English proficiency and for programming to serve the educational needs of such students by Iowa school districts. Items 1, 2, and 3 conform to 2014 Iowa Acts, chapter 1135, section 7, which requires that the State Board of Education adopt rules to establish standards for the identification, selection, and use of research-based educational and instructional models for students identified as limited English proficient and adopt rules to establish standards for the professional development of the instructional staff responsible for the implementation of those research-based educational and instructional models.

Notice of Intended Action was published in the October 15, 2014, Iowa Administrative Bulletin as **ARC 1675C**. A public hearing was held on November 4, 2014. No one attended the public hearing. One written comment was received regarding these amendments. An English Language Learner (ELL) consultant and speech-language pathologist from the Grant Wood Area Education Agency raised a concern that professional development might "not be best facilitated by ELL-endorsed teachers." Subparagraph 60.3(3)"b"(5) does not require ELL endorsement of professional development providers. The amendment merely indicates that such an endorsement "may be considered" as a factor if it is "relevant to the particular professional development to be provided."

These amendments are identical to those published under Notice.

An agencywide waiver provision is provided in 281—Chapter 4.

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

These amendments are intended to implement 2014 Iowa Acts, chapter 1135, section 7.

These amendments will become effective January 14, 2015.

The following amendments are adopted.

ITEM 1. Adopt the following **new** definitions in rule **281—60.2(280)**:

*"Educational and instructional model"* means an instructional model, strategy, method, or skill that provides a framework of instructional approaches to guide decision making about teaching and learning. Based on the needs of particular students, "educational and instructional model" may include but is not limited to a specific set of instructional services or a fully developed curriculum or other supplementary services.

*"Research-based"* means based on a body of research showing that the educational and instructional model, or other educational practice, has a high likelihood of improving teaching and learning. To determine whether research meets this standard for purposes of this chapter, research reports must be reviewed for the following:

1. The specific population studied;
2. Research that involves the application of rigorous, systematic, and objective procedures to obtain reliable results and provide a basis for valid inferences relevant to education activities and programs;



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3. Whether the research employs systematic, empirical methods that draw on observation or experiment;
4. Reliance on measurement or observational methods that provide reliable and valid data;
5. Inclusion of rigorous data analyses that are adequate to test the stated hypotheses and justify the general conclusions or inferences drawn;
6. Description of the magnitude of the impact on student learning results; and
7. Inclusion of the level of the review of the study.

ITEM 2. Rescind subparagraph **60.3(3)“b”(5)** and adopt the following new subparagraph in lieu thereof:

(5) Professional development. All district instructional staff and area education agency staff responsible for implementing the educational and instructional models defined in rule 281—60.2(280) shall receive such professional development as may be necessary to implement those educational and instructional models. Such professional development may be part of a district or area education agency professional development plan, an attendance center professional development plan, an individual professional development plan, or some combination thereof. The necessity for such professional development shall be determined based on the framework in rule 281—83.6(284). Providers of professional development required by this subrule shall meet the standards in 281—subrule 83.6(3). In determining whether providers meet the standards in 281—subrule 83.6(3), the following nonexhaustive factors may be considered, as they are relevant to the particular professional development to be provided:

1. English as a second language endorsement or equivalent;
2. Five years of English as a second language teaching experience; or
3. A graduate degree in teaching English to speakers of other languages or in a related field.

ITEM 3. Adopt the following new subrule 60.3(5):

**60.3(5) *Research-based educational and instructional models.*** Districts shall utilize research-based educational and instructional models as defined in rule 281—60.2(280) with limited English proficient students so that such students may acquire English proficiency and meet high academic standards.

ITEM 4. Amend **281—Chapter 60**, implementation sentence, as follows:

These rules are intended to implement Iowa Code sections 256.7(31)“c,” 257.31(5)“j” and 280.4.

[Filed 11/19/14, effective 1/14/15]

[Published 12/10/14]

EDITOR’S NOTE: For replacement pages for IAC, see IAC Supplement 12/10/14.

**ARC 1780C**

**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 79, “Standards for Practitioner and Administrator Preparation Programs,” Iowa Administrative Code.

Chapter 79 outlines the standards and program requirements that all educator preparation programs must meet in order to be accredited to prepare educators in Iowa. Compliance with these standards is required and evaluated during each educator preparation program’s accreditation review. The standards are also applied in an annual reporting system.

The current standards are in need of updating to remain current with research-based best practices in educator preparation, accountability, and continuous program improvement. The State Board of Education has adopted this rule making to update the current standards pursuant to its authority under Iowa Code section 256.7(3).

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A team of 19 Iowa educators, Department of Education staff, and Board of Educational Examiners staff developed the changes. These changes were subsequently vetted by educators and policy experts in Iowa and across the United States.

Notice of Intended Action was published in the October 15, 2014, Iowa Administrative Bulletin as **ARC 1674C**. Public comments were allowed until 4:30 p.m. on November 4, 2014. A public hearing was held on that date. No one attended the public hearing.

Written comments regarding these amendments were received via two e-mails from five individuals employed by the University of Northern Iowa. The comments expressed concerns with proposed paragraph 79.12(5)“c,” which requires that “[f]aculty members engage in professional education [and] maintain ongoing involvement in activities in preschool and elementary, middle, or secondary schools. For faculty members engaged in teacher preparation, activities shall include at least 40 hours of teaching at the appropriate grade level(s) during a period not exceeding five years in duration.” The language in that paragraph is drawn from Iowa Code section 272.25(2), which requires that the State Board of Education adopt rules that include that 40-hour requirement. The only change from the Notice is the addition of “and” after “professional education” in the first sentence of paragraph 79.12(5)“c.”

An agencywide waiver provision is provided in 281—Chapter 4.

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

These amendments are intended to implement Iowa Code section 256.7(3).

These amendments will become effective January 14, 2015.

The following amendments are adopted.

ITEM 1. Amend the following definitions in rule **281—79.2(256)**:

“*Clinical experiences*” means a candidate’s direct experiences in PK-12 schools. “Clinical experiences” includes field experiences ~~prior to student teaching or internship; internships for preparation programs other than teacher preparation; and student teaching, a full-time clinical practice experience in which the teacher preparation program culminates or internships.~~

“*Diverse groups*” means one or more groups of individuals possessing certain traits or characteristics, including but not limited to age, color, creed, national origin, race, religion, marital status, sex, sexual orientation, gender identity, ~~disability, or physical attributes, physical or mental ability or disability, ancestry, political party preference, political belief, socioeconomic status, or familial status.~~

“~~EPS~~ ELPS” means Educational Leadership Policy Standards, national standards for educational administration.

“*Iowa core curriculum*” means a legislatively mandated state initiative that provides local school districts and nonpublic schools a guide to delivering instruction to students based on consistent, challenging and meaningful content.

ITEM 2. Rescind the definition of “INTASC” in rule **281—79.2(256)**.

ITEM 3. Adopt the following **new** definitions in rule **281—79.2(256)**:

“*Educator preparation program*” means practitioner preparation program.

“*Faculty*” means the teaching staff of a university or college responsible for delivering instruction.

“*InTASC*” means Interstate Teacher Assessment and Support Consortium, the source of national standards for teachers.

“*Leadership preparation program*” means administrator preparation program.

“*National professional standards*” means standards developed by nationally recognized organizations that establish best practices for education.

ITEM 4. Rescind rule 281—79.10(256) and adopt the following **new** rule in lieu thereof:

**281—79.10(256) Governance and resources standard.** Governance and resources adequately support the preparation of practitioner candidates to meet professional, state and institutional standards in accordance with the following provisions.

**79.10(1)** A clearly understood governance structure provides guidance and support for all educator preparation programs in the unit.

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**79.10(2)** The professional education unit has primary responsibility for all educator preparation programs offered by the institution through any delivery model.

**79.10(3)** The unit's conceptual framework establishes the shared vision for the unit and provides the foundation for all components of the educator preparation programs.

**79.10(4)** The unit demonstrates alignment of unit standards with current national professional standards for educator preparation. Teacher preparation must align with InTASC standards. Leadership preparation programs must align with ISSL standards.

**79.10(5)** The unit provides evidence of ongoing collaboration with appropriate stakeholders. There is an active advisory committee that is involved semiannually in providing input for program evaluation and continuous improvement.

**79.10(6)** When a unit is a part of a college or university, there is ongoing collaboration with the appropriate departments of the institution, especially regarding content knowledge.

**79.10(7)** The institution provides resources and support necessary for the delivery of quality preparation program(s). The resources and support include the following:

*a.* Financial resources; facilities; appropriate educational materials, equipment and library services; and commitment to a work climate, policies, and faculty/staff assignments which promote/support best practices in teaching, scholarship and service;

*b.* Resources to support professional development opportunities;

*c.* Resources to support technological and instructional needs to enhance candidate learning;

*d.* Resources to support quality clinical experiences for all educator candidates; and

*e.* Commitment of sufficient administrative, clerical, and technical staff.

**79.10(8)** The unit has a clearly articulated appeals process, aligned with the institutional policy, for decisions impacting candidates. This process is communicated to all candidates and faculty.

**79.10(9)** The use of part-time faculty and graduate students in teaching roles is purposeful and is managed to ensure integrity, quality, and continuity of all programs.

**79.10(10)** Resources are equitable for all program components, regardless of delivery model or location.

ITEM 5. Rescind rule 281—79.11(256) and adopt the following **new** rule in lieu thereof:

**281—79.11(256) Diversity standard.** The environment and experiences provided for practitioner candidates support candidate growth in knowledge, skills, and dispositions to help all students learn in accordance with the following provisions.

**79.11(1)** The institution and unit work to establish a climate that promotes and supports diversity.

**79.11(2)** The institution's and unit's plans, policies, and practices document their efforts in establishing and maintaining a diverse faculty and student body.

ITEM 6. Rescind rule 281—79.12(256) and adopt the following **new** rule in lieu thereof:

**281—79.12(256) Faculty standard.** Faculty qualifications and performance shall facilitate the professional development of practitioner candidates in accordance with the following provisions.

**79.12(1)** The unit defines the roles and requirements for faculty members by position. The unit describes how roles and requirements are determined.

**79.12(2)** The unit documents the alignment of teaching duties for each faculty member with that member's preparation, knowledge, experiences and skills.

**79.12(3)** The unit holds faculty members accountable for teaching prowess. This accountability includes evaluation and indicators for continuous improvement.

**79.12(4)** The unit holds faculty members accountable for professional growth to meet the academic needs of the unit.

**79.12(5)** Faculty members collaborate with:

*a.* Colleagues in the unit;

*b.* Colleagues across the institution;

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c. Colleagues in PK-12 schools/agencies/learning settings. Faculty members engage in professional education and maintain ongoing involvement in activities in preschool and elementary, middle, or secondary schools. For faculty members engaged in teacher preparation, activities shall include at least 40 hours of teaching at the appropriate grade level(s) during a period not exceeding five years in duration.

ITEM 7. Rescind rule 281—79.13(256) and adopt the following **new** rule in lieu thereof:

**281—79.13(256) Assessment system and unit evaluation standard.** The unit's assessment system shall appropriately monitor individual candidate performance and use that data in concert with other information to evaluate and improve the unit and its programs in accordance with the following provisions.

**79.13(1)** The unit has a clearly defined, cohesive assessment system.

**79.13(2)** The assessment system is based on unit standards.

**79.13(3)** The assessment system includes both individual candidate assessment and comprehensive unit assessment.

**79.13(4)** Candidate assessment includes clear criteria for:

a. Entrance into the program (for teacher education, this includes testing described in Iowa Code section 256.16).

b. Continuation in the program with clearly defined checkpoints/gates.

c. Admission to clinical experiences (for teacher education, this includes specific criteria for admission to student teaching).

d. Program completion (for teacher education, this includes testing described in Iowa Code section 256.16; see subrule 79.15(5) for required teacher candidate assessment).

**79.13(5)** Individual candidate assessment includes all of the following:

a. Measures used for candidate assessment are fair, reliable, and valid.

b. Candidates are assessed on their demonstration/attainment of unit standards.

c. Multiple measures are used for assessment of the candidate on each unit standard.

d. Candidates are assessed on unit standards at different developmental stages.

e. Candidates are provided with formative feedback on their progress toward attainment of unit standards.

f. Candidates use the provided formative assessment data to reflect upon and guide their development/growth toward attainment of unit standards.

g. Candidates are assessed at the same level of performance across programs, regardless of the place or manner in which the program is delivered.

**79.13(6)** Comprehensive unit assessment includes all of the following:

a. Individual candidate assessment data on unit standards, as described in subrule 79.13(5), are analyzed.

b. The aggregated assessment data are analyzed to evaluate programs.

c. Findings from the evaluation of aggregated assessment data are used to make program improvements.

d. Evaluation data are shared with stakeholders.

e. The collection, aggregation, analysis, and evaluation of assessment data described in this subrule take place on a regular cycle.

**79.13(7)** The unit shall conduct a survey of graduates and their employers to ensure that the graduates are well-prepared, and the data shall be used for program improvement.

**79.13(8)** The unit regularly reviews, evaluates, and revises the assessment system.

**79.13(9)** The unit annually reports to the department such data as is required by the state and federal governments.

ITEM 8. Rescind rule 281—79.14(256) and adopt the following new rule in lieu thereof:

**281—79.14(256) Teacher preparation clinical practice standard.** The unit and its school partners shall provide field experiences and student teaching opportunities that assist candidates in becoming successful teachers in accordance with the following provisions.

**79.14(1)** The unit ensures that clinical experiences occurring in all locations are well-sequenced, supervised by appropriately qualified personnel, monitored by the unit, and integrated into the unit standards. These expectations are shared with teacher candidates, college/university supervisors, and cooperating teachers.

**79.14(2)** PK-12 school partners and the unit share responsibility for selecting, preparing, evaluating, supporting, and retaining both:

- a. High-quality college/university supervisors, and
- b. High-quality cooperating teachers.

**79.14(3)** Cooperating teachers and college/university supervisors share responsibility for evaluating the teacher candidates' achievement of unit standards. Clinical experiences are structured to have multiple performance-based assessments at key points within the program to demonstrate candidates' attainment of unit standards.

**79.14(4)** Teacher candidates experience clinical practices in multiple settings that include diverse groups and diverse learning needs.

**79.14(5)** Teacher candidates admitted to a teacher preparation program must complete a minimum of 80 hours of pre-student teaching field experiences, with at least 10 hours occurring prior to acceptance into the program.

**79.14(6)** Pre-student teaching field experiences support learning in context and include all of the following:

- a. High-quality instructional programs for PK-12 students in a state-approved school or educational facility.
- b. Opportunities for teacher candidates to observe and be observed by others and to engage in discussion and reflection on clinical practice.
- c. The active engagement of teacher candidates in planning, instruction, and assessment.

**79.14(7)** The unit is responsible for ensuring that the student teaching experience for initial licensure:

- a. Includes a full-time experience for a minimum of 14 consecutive weeks in duration during the teacher candidate's final year of the teacher preparation program.
- b. Takes place in the classroom of a cooperating teacher who is appropriately licensed in the subject area and grade level endorsement for which the teacher candidate is being prepared.
- c. Includes prescribed minimum expectations and responsibilities, including ethical behavior, for the teacher candidate.
- d. Involves the teacher candidate in communication and interaction with parents or guardians of students in the teacher candidate's classroom.
- e. Requires the teacher candidate to become knowledgeable about the Iowa teaching standards and to experience a mock evaluation, which shall not be used as an assessment tool by the unit, performed by the cooperating teacher or a person who holds an Iowa evaluator license.
- f. Requires collaborative involvement of the teacher candidate, cooperating teacher, and college/university supervisor in candidate growth. This collaborative involvement includes biweekly supervisor observations with feedback.
- g. Requires the teacher candidate to bear primary responsibility for planning, instruction, and assessment within the classroom for a minimum of two weeks (ten school days).
- h. Includes a written evaluation procedure, after which the completed evaluation form is included in the teacher candidate's permanent record.

**79.14(8)** The unit annually offers one or more workshops for cooperating teachers to define the objectives of the student teaching experience, review the responsibilities of the cooperating teacher, and provide the cooperating teacher other information and assistance the unit deems necessary. The duration of the workshop shall be equivalent to one day.

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**79.14(9)** The institution enters into a written contract with the cooperating school or district providing clinical experiences, including field experiences and student teaching.

ITEM 9. Rescind rule 281—79.15(256) and adopt the following **new** rule in lieu thereof:

**281—79.15(256) Teacher candidate knowledge, skills and dispositions standard.** Teacher candidates demonstrate the content, pedagogical, and professional knowledge, skills and dispositions necessary to help all students learn in accordance with the following provisions.

**79.15(1)** Each teacher candidate demonstrates the acquisition of a core of liberal arts knowledge including but not limited to English composition, mathematics, natural sciences, social sciences, and humanities.

**79.15(2)** Each teacher candidate receives dedicated coursework related to the study of human relations, cultural competency, and diverse learners, such that the candidate is prepared to work with students from diverse groups, as defined in rule 281—79.2(256). The unit shall provide evidence that teacher candidates develop the ability to meet the needs of all learners, including:

- a. Students from diverse ethnic, racial and socioeconomic backgrounds.
- b. Students with disabilities.
- c. Students who are gifted and talented.
- d. English language learners.
- e. Students who may be at risk of not succeeding in school.

**79.15(3)** Each teacher candidate demonstrates knowledge about literacy and receives preparation in literacy. Each candidate also develops and demonstrates the ability to integrate reading strategies into content area coursework. Each teacher candidate in elementary education demonstrates knowledge related to the acquisition of literacy skills and receives preparation in a variety of instructional approaches to reading programs, including but not limited to reading recovery.

**79.15(4)** Each unit defines unit standards (aligned with InTASC standards) and embeds them in courses and field experiences.

**79.15(5)** Each teacher candidate exhibits competency in all of the following professional core curricula:

a. *Content/subject matter specialization.* The teacher candidate demonstrates an understanding of the central concepts, tools of inquiry, and structure of the discipline(s) the candidate teaches and creates learning experiences that make these aspects of the subject matter meaningful for students. This specialization is evidenced by a completion of a 30-semester-hour teaching major which must minimally include the requirements for at least one of the basic endorsement areas, special education teaching endorsements, or secondary level occupational endorsements. The teacher candidate must either meet or exceed a score above the 25th percentile nationally on subject assessments designed by a nationally recognized testing service that measure pedagogy and knowledge of at least one subject area as approved by the director of the department of education, or the teacher candidate must meet or exceed the equivalent of a score above the 25th percentile nationally on an alternate assessment also approved by the director. The alternate assessment must be a valid and reliable subject-area-specific, performance-based assessment for preservice teacher candidates that is centered on student learning. Additionally, each elementary teacher candidate must also complete a field of specialization in a single discipline or a formal interdisciplinary program of at least 12 semester hours.

b. *Student learning.* The teacher candidate demonstrates an understanding of human growth and development and of how students learn and participates in learning opportunities that support intellectual, career, social and personal development.

c. *Diverse learners.* The teacher candidate demonstrates an understanding of how students differ in their approaches to learning and creates instructional opportunities that are equitable and adaptable to diverse learners.

d. *Instructional planning.* The teacher candidate plans instruction based upon knowledge of subject matter, students, the community, curriculum goals, and state curriculum models.

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*e. Instructional strategies.* The teacher candidate demonstrates an understanding of and an ability to use a variety of instructional strategies to encourage student development of critical and creative thinking, problem-solving, and performance skills.

*f. Learning environment/classroom management.* The teacher candidate uses an understanding of individual and group motivation and behavior; creates a learning environment that encourages positive social interaction, active engagement in learning, and self-motivation; maintains effective classroom management; and is prepared to address behaviors related to substance abuse and other high-risk behaviors.

*g. Communication.* The teacher candidate uses knowledge of effective verbal, nonverbal, and media communication techniques, and other forms of symbolic representation, to foster active inquiry and collaboration and to support interaction in the classroom.

*h. Assessment.* The teacher candidate understands and uses formal and informal assessment strategies to evaluate the continuous intellectual, social, and physical development of the student, and effectively uses both formative and summative assessment of students, including student achievement data, to determine appropriate instruction.

*i. Foundations, reflective practice and professional development.* The teacher candidate develops knowledge of the social, historical, and philosophical foundations of education. The teacher candidate continually evaluates the effects of the candidate's choices and actions on students, parents, and other professionals in the learning community; actively seeks out opportunities to grow professionally; and demonstrates an understanding of teachers as consumers of research and as researchers in the classroom.

*j. Collaboration, ethics and relationships.* The teacher candidate fosters relationships with parents, school colleagues, and organizations in the larger community to support student learning and development; demonstrates an understanding of educational law and policy, ethics, and the profession of teaching, including the role of boards of education and education agencies; and demonstrates knowledge of and dispositions for cooperation with other educators, especially in collaborative/co-teaching as well as in other educational team situations.

*k. Technology.* The teacher candidate effectively integrates technology into instruction to support student learning.

*l. Methods of teaching.* Methods of teaching have an emphasis on the subject and grade-level endorsement desired.

**79.15(6)** Teacher candidates demonstrate competency in content coursework directly related to the Iowa core.

**79.15(7)** Each teacher candidate meets all requirements established by the board of educational examiners for any endorsement for which the candidate is recommended.

**79.15(8)** Programs shall submit curriculum exhibit sheets for approval by the board of educational examiners and the department.

ITEM 10. Rescind rule 281—79.16(256) and adopt the following **new** rule in lieu thereof:

**281—79.16(256) Administrator preparation clinical practice standard.** The unit and its school partners shall provide clinical experiences that assist candidates in becoming successful school administrators in accordance with the following provisions.

**79.16(1)** The unit ensures that clinical experiences occurring in all locations are well-sequenced, purposeful, supervised by appropriately qualified personnel, monitored by the unit, and integrated into unit standards. These expectations are shared with candidates, supervisors and cooperating administrators.

**79.16(2)** The PK-12 school and the unit share responsibility for selecting, preparing, evaluating, supporting, and retaining both:

- a.* High-quality college/university supervisors, and
- b.* High-quality cooperating administrators.

**79.16(3)** Cooperating administrators and college/university supervisors share responsibility for evaluating the candidate's achievement of unit standards. Clinical experiences are structured to have

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multiple performance-based assessments at key points within the program to demonstrate candidates' attainment of unit standards.

**79.16(4)** Clinical experiences include all of the following criteria:

- a.* A minimum of 400 hours during the candidate's preparation program.
- b.* Take place with appropriately licensed cooperating administrators in state-approved schools or educational facilities.
- c.* Take place in multiple high-quality educational settings that include diverse populations and students of different age groups.
- d.* Include minimum expectations and responsibilities for cooperating administrators, school districts, accredited nonpublic schools, or AEAs and for higher education supervising faculty members.
- e.* Include prescribed minimum expectations and responsibilities of the candidate for ethical performance of both leadership and management tasks.
- f.* The involvement of the administrator candidate in relevant responsibilities to include demonstration of the capacity to facilitate the use of assessment data in affecting student learning.
- g.* Involve the candidate in professional meetings and other school-based activities directed toward the improvement of teaching and learning.
- h.* Involve the candidate in communication and interaction with parents or guardians, community members, faculty and staff, and cooperating administrators in the school.

**79.16(5)** The institution annually delivers one or more professional development opportunities for cooperating administrators to define the objectives of the field experience, review the responsibilities of the cooperating administrator, build skills in coaching and mentoring, and provide the cooperating administrator other information and assistance the institution deems necessary. The professional development opportunities incorporate feedback from participants and utilize appropriate delivery strategies.

**79.16(6)** The institution shall enter into a written contract with the cooperating school districts that provide field experiences for administrator candidates.

ITEM 11. Rescind rule 281—79.17(256) and adopt the following new rule in lieu thereof:

**281—79.17(256) Administrator knowledge, skills, and dispositions standard.** Administrator candidates shall demonstrate the content, pedagogical, and professional knowledge, skills and dispositions necessary to help all students learn in accordance with the following provisions.

**79.17(1)** Each educational administrator program shall define program standards (aligned with current ISSL standards) and embed them in coursework and clinical experiences at a level appropriate for a novice administrator.

**79.17(2)** Each new administrator candidate successfully completes the appropriate evaluator training provided by a state-approved evaluator trainer.

**79.17(3)** Each administrator candidate demonstrates the knowledge, skills, and dispositions necessary to support the implementation of the Iowa core.

**79.17(4)** Each administrator candidate demonstrates, within specific coursework and clinical experiences related to the study of human relations, cultural competency, and diverse learners, that the candidate is prepared to work with students from diverse groups, as defined in rule 281—79.2(256). The unit shall provide evidence that administrator candidates develop the ability to meet the needs of all learners, including:

- a.* Students from diverse ethnic, racial and socioeconomic backgrounds.
- b.* Students with disabilities.
- c.* Students who are gifted and talented.
- d.* English language learners.
- e.* Students who may be at risk of not succeeding in school.

**79.17(5)** Each administrator candidate meets all requirements established by the board of educational examiners for any endorsement for which the candidate is recommended. Programs shall submit curriculum exhibit sheets for approval by the board of educational examiners and the department.



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ITEM 12. Rescind rule 281—79.20(256) and adopt the following **new** rule in lieu thereof:

**281—79.20(256) Clinical practice standard.** The unit and its school, AEA, and facility partners shall provide clinical experiences that assist candidates in becoming successful practitioners in accordance with the following provisions.

**79.20(1)** The unit ensures that clinical experiences occurring in all locations are well-sequenced, purposeful, supervised by appropriately qualified personnel, monitored by the unit, and integrated into unit standards. These expectations are shared with candidates, supervisors and cooperating professional educators.

**79.20(2)** The PK-12 school, AEA, and facility partners and the unit share responsibility for selecting, preparing, evaluating, supporting, and retaining both:

- a. High-quality college/university supervisors, and
- b. High-quality cooperating professional educators.

**79.20(3)** Cooperating professional educators and college/university supervisors share responsibility for evaluating the candidate's achievement of unit standards. Clinical experiences are structured to have multiple performance-based assessments at key points within the program to demonstrate the candidate's attainment of unit standards.

**79.20(4)** Clinical experiences include all of the following criteria:

- a. Learning that takes place in the context of providing high-quality instructional programs for students in a state-approved school, agency, or educational facility;
- b. Take place in educational settings that include diverse populations and students of different age groups;
- c. Provide opportunities for candidates to observe and be observed by others and to engage in discussion and reflection on clinical practice;
- d. Include minimum expectations and responsibilities for cooperating professional educators, school districts, accredited nonpublic schools, or AEAs and for higher education supervising faculty members;
- e. Include prescribed minimum expectations for involvement of candidates in relevant responsibilities directed toward the work for which they are preparing;
- f. Involve candidates in professional meetings and other activities directed toward the improvement of teaching and learning; and
- g. Involve candidates in communication and interaction with parents or guardians, community members, faculty and staff, and cooperating professional educators in the school.

**79.20(5)** The institution annually delivers one or more professional development opportunities for cooperating professional educators to define the objectives of the field experience, review the responsibilities of the cooperating professional educators, build skills in coaching and mentoring, and provide the cooperating professional educators other information and assistance the institution deems necessary. The professional development opportunities incorporate feedback from participants and utilize appropriate delivery strategies.

**79.20(6)** The institution shall enter into a written contract with the cooperating school districts that provide field experiences for candidates.

ITEM 13. Rescind rule 281—79.21(256) and adopt the following **new** rule in lieu thereof:

**281—79.21(256) Candidate knowledge, skills and dispositions standard.** Candidates shall demonstrate the content knowledge and the pedagogical and professional knowledge, skills and dispositions necessary to help all students learn in accordance with the following provisions.

**79.21(1)** Each professional educator program shall define program standards (aligned with current national standards) and embed them in coursework and clinical experiences at a level appropriate for a novice professional educator.

**79.21(2)** Each candidate demonstrates, within specific coursework and clinical experiences related to the study of human relations, cultural competency, and diverse learners, that the candidate is prepared

## EDUCATION DEPARTMENT[281](cont'd)

to work with students from diverse groups, as defined in rule 281—79.2(256). The unit shall provide evidence that candidates develop the ability to meet the needs of all learners, including:

- a. Students from diverse ethnic, racial and socioeconomic backgrounds.
- b. Students with disabilities.
- c. Students who are gifted and talented.
- d. English language learners.
- e. Students who may be at risk of not succeeding in school.

**79.21(3)** Each candidate meets all requirements established by the board of educational examiners for any endorsement for which the candidate is recommended. Programs shall submit curriculum exhibit sheets for approval by the board of educational examiners and the department.

[Filed 11/19/14, effective 1/14/15]

[Published 12/10/14]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 12/10/14.

**ARC 1754C**

**HUMAN SERVICES DEPARTMENT[441]**

**Adopted and Filed**

Pursuant to the authority of Iowa Code section 234.6 and 2014 Iowa Acts, Senate File 2276, the Department of Human Services amends Chapter 107, "Certification of Adoption Investigators," Chapter 108, "Licensing and Regulation of Child-Placing Agencies," and Chapter 200, "Adoption Services," Iowa Administrative Code.

These amendments are necessary to implement 2014 Iowa Acts, Senate File 2276.

These amendments require additional record checks to be completed for prospective adoptive applicants working with licensed child-placing adoption agencies or certified adoption investigators. Families who apply to adopt through the Department are already subject to these checks. Child-placing adoption agencies will be required to assess and address during postplacement visits any unique needs a child has and how the family is meeting those needs before the agency recommends finalization of the adoption. These amendments lengthen the approved time for adoption from one year to two years.

These amendments require national criminal history checks on all adoptive applicants; require child abuse record checks in states where the applicants lived five years prior to requesting application for adoption; clarify record checks for international adoptions; address the unique needs of the child in postplacement reports; lengthen the time of an approved home study from one year to two years; and make technical changes to update Chapters 107, 108 and 200.

Notice of Intended Action was published in the Iowa Administrative Bulletin as **ARC 1657C** on October 1, 2014. The Department received no comments during the comment period. These amendments are identical to those published under Notice of Intended Action.

The Council on Human Services adopted these amendments on November 12, 2014.

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

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

These amendments are intended to implement Iowa Code section 234.6 and 2014 Iowa Acts, Senate File 2276.

HUMAN SERVICES DEPARTMENT[441](cont'd)

These amendments will become effective February 1, 2015.

EDITOR'S NOTE: Pursuant to recommendation of the Administrative Rules Review Committee published in the Iowa Administrative Bulletin, September 10, 1986, the text of these amendments [amendments to Chs 107, 108, 200] is being omitted. These amendments are identical to those published under Notice as **ARC 1657C**, IAB 10/1/14.

[Filed 11/13/14, effective 2/1/15]

[Published 12/10/14]

[For replacement pages for IAC, see IAC Supplement 12/10/14.]

## **ARC 1751C**

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

#### **Adopted and Filed**

Pursuant to the authority of Iowa Code sections 10A.104(5) and 135B.7, the Department of Inspections and Appeals hereby amends Chapter 51, "Hospitals," Iowa Administrative Code.

Items 1 and 2 amend rule 481—51.18(135B). The current rule conflicts with federal requirements for laboratory services and is stricter than the federal requirements. The amendments to requirements for laboratory services make those requirements consistent with federal law.

Items 3 to 5 amend rule 481—51.41(135B) to implement legislative changes to Iowa Code section 135B.34 made in 2014 Iowa Acts, House File 2365. The legislation provides employers with additional time to verify the conviction or entry of a record of founded abuse of current employees. The change from 48 hours to seven calendar days was recommended by the Background Check Study Committee that met in 2013 pursuant to 2013 Iowa Acts, Senate File 347. The Committee recommended the change because the information necessary for employers to verify a conviction or founded abuse may take up to seven calendar days to be available on the system used by employers for verification.

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

Notice of Intended Action was published in the Iowa Administrative Bulletin on October 1, 2014, as **ARC 1650C**. The Department received no comments during the public comment period. No changes were made to the amendments published under Notice of Intended Action.

The Hospital Licensing Board approved the proposed amendments at its August 28, 2014, meeting. The State Board of Health initially reviewed the proposed amendments at its September 10, 2014, meeting, and subsequently approved the rule making at its November 12, 2014, meeting.

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 and 2014 Iowa Acts, House File 2365.

These amendments shall become effective January 14, 2015.

The following amendments are adopted.

ITEM 1. Amend subrule 51.18(3) as follows:

**51.18(3)** The hospital must ensure that all laboratory services provided to its patients are performed in a laboratory certified and operating in accordance with the Code of Federal Regulations in 42 CFR Part 493, ~~October 1, 2004~~.

ITEM 2. Rescind subrule **51.18(4)**.

ITEM 3. Amend subparagraph **51.41(2)"e"(3)** as follows:

(3) The person has been convicted of a crime that is a simple misdemeanor offense under Iowa Code section 123.47 ~~or Iowa Code chapter 321~~ or a first offense of operating a motor vehicle while intoxicated under Iowa Code section 321J.2, subsection 1; and

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

ITEM 4. Amend paragraph **51.41(7)“a”** as follows:

a. The employer shall act to verify the information within ~~48 hours~~ seven calendar days of notification. “Verify,” for purposes of this subrule, means to access the single contact repository (SING) to perform a background check, to request a criminal background check from the department of public safety, to request an abuse record check from the department of human services, to conduct an online search through the Iowa Courts Online Web site, or to contact the county clerk of court office and obtain a copy of relevant court documents.

ITEM 5. Amend paragraph **51.41(8)“a”** as follows:

a. The hospital shall act to verify credible information within ~~48 hours~~ seven calendar days of receipt. “Verify,” for purposes of this subrule, means to access the single contact repository (SING) to perform a background check, to request a criminal background check from the department of public safety, to request an abuse record check from the department of human services, to conduct an online search through the Iowa Courts Online Web site, or to contact the county clerk of court office and obtain a copy of relevant court documents.

[Filed 11/13/14, effective 1/14/15]

[Published 12/10/14]

EDITOR’S NOTE: For replacement pages for IAC, see IAC Supplement 12/10/14.

**ARC 1753C****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 rescinds Chapter 57, “Residential Care Facilities,” Iowa Administrative Code, and adopts a new Chapter 57 with the same title.

The amendment rescinds the current Chapter 57 and replaces it with a new Chapter 57. A full review of the chapter was conducted, with input from various stakeholder groups during the review process. Outdated provisions in the current chapter were omitted or updated in the new chapter, and the rules were reordered.

Notice of Intended Action was published in the Iowa Administrative Bulletin on October 1, 2014, as **ARC 1649C**. A public hearing on the proposed rules was held on October 21, 2014, at which time comments were received from several individuals and organizations.

Comments were received from the Iowa Veteran’s Home, the Iowa Health Care Association, the Iowa Physician Assistant Society, the Iowa Nurses Association, and a physician assistant. Based on the comments received, the following changes were made to the rules:

- The phrase “power of attorney” was added in the definition of “legal representative.”
- The definition of “physician extender” was not adopted, and the definition of “primary care provider” was added in lieu thereof. “Physician or physician extender” was replaced with “primary care provider” throughout the chapter.
- The definition of “qualified intellectual disabilities professional” was not adopted because that term is not used in the rules.
- The definition of “renovation” was not adopted.
- The definition of “self-administration of medications” was not adopted and language was added in rule 481—57.19(135C) to clarify that residents may participate in the administration of their own medications to the extent that participation is certified in writing by a resident’s primary care provider.
- The word “any” was changed to “the” in subrule 57.9(2).
- The phrase “as defined by facility policy” was added at the end of paragraph 57.11(5)“d” to explain that general supervision is determined by facility policy.

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

- Paragraph 57.14(9)“d” was changed to refer to “licensed mental health professional as defined in Iowa Code section 228.1(6),” rather than a listing of qualifications for those who provide counseling to residents transferring from the facility.

- The word “printed” was removed from the description of the incident report form in paragraph 57.17(3)“b.”

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

- One commenter asked whether a certain number of residents with cognitive impairment would trigger a requirement for memory care designation in rule 481—57.6(135C). Memory care designation is voluntary, as noted in the rule. Pursuant to subrule 57.6(1), “a residential care facility may choose to care for residents who require memory care in a distinct part of the facility.”

- Paragraph 57.10(2)“b” requires only the heads of nursing, social services, dietary and activities in the residential care facility (RCF) to attend a minimum of ten contact hours of educational programs per year. The requirement does not go beyond RCFs.

- The facility may determine how to document the supervision of residents who require more than general supervision, as required in paragraph 57.11(5)“d.” Examples include, but are not limited to, a flow sheet or a check sheet.

- Subrule 57.12(4) relating to resident care techniques was not removed, as suggested by one commenter. Although use of the treatment or devices listed in the subrule may be rare, it is important for the facility to have procedures in place if a resident needs the treatment or devices listed.

- Evening group activities required in subrule 57.23(1) may begin in the late afternoon and last into the evening. If the RCF is on a campus with other types of licensed facilities, a campuswide weekend activity meets the requirements of the subrule.

- Subrule 57.35(2) requires each resident room to be cleaned on a routine schedule; it does not specify who must clean the room.

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

The State Board of Health reviewed the proposed amendment at its September 10, 2014, meeting and subsequently approved the rules at its November 12, 2014, meeting.

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

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

These rules shall become effective January 14, 2015.

The following amendment is adopted.

Rescind 481—Chapter 57 and adopt the following new chapter in lieu thereof:

## CHAPTER 57 RESIDENTIAL CARE FACILITIES

**481—57.1(135C) Definitions.** For the purposes of these rules, the following terms shall have the meanings indicated in this rule. The definitions set out in Iowa Code section 135C.1 shall be considered to be incorporated verbatim in these rules.

“*Accommodation*” means the provision of lodging, including sleeping, dining, and living areas.

“*Activities of daily living*” means the following self-care tasks: bathing, dressing, grooming, eating, transferring, toileting and ambulation.

“*Administrator*” means a person approved by the department who administers, manages, supervises, and is in general administrative charge of a residential care facility, whether or not such person has an ownership interest in the facility, and whether or not the functions and duties are shared with one or more other persons.

“*Ambulatory*” means the condition of a person who immediately and without the aid of another person is physically and mentally capable of traveling a normal path to safety, including the ascent and descent of stairs.

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

*“Basement”* means that part of a building where the finish floor is more than 30 inches below the finish grade of the building.

*“Board”* means the regular provision of meals.

*“Change of ownership”* means the purchase, transfer, assignment, or lease of a licensed residential care facility.

*“Communicable disease”* means a disease caused by the presence within a person’s body of a virus or microbial agent which may be transmitted either directly or indirectly to other persons.

*“Department”* means the department of inspections and appeals.

*“Distinct part”* means a clearly identifiable area or section containing contiguous rooms within a health care facility.

*“Interdisciplinary team”* means the group of persons who develop a single, integrated, individual program plan to meet a resident’s needs for services. The interdisciplinary team consists of, at a minimum, the resident, the resident’s legal guardian if applicable, the resident’s advocate if desired by the resident, a referral agency representative, other appropriate staff members, other providers of services, and other persons relevant to the resident’s needs.

*“Legal representative”* means the resident’s guardian or conservator if one has been appointed or the resident’s power of attorney.

*“Medication”* means any drug, including over-the-counter substances, ordered and administered under the direction of the primary care provider.

*“Nonambulatory”* means the condition of a person who immediately and without the aid of another person is not physically or mentally capable of traveling a normal path to safety, including the ascent and descent of stairs.

*“Personal care”* means assistance with the activities of daily living which the recipient can perform only with difficulty. Examples are help in getting in and out of bed, assistance with personal hygiene and bathing, help with dressing and eating, and supervision over medications which can be self-administered.

*“Primary care provider”* means any of the following who provide primary care and meet licensure standards:

1. A physician who is a family or general practitioner or an internist.
2. An advanced registered nurse practitioner.
3. A physician assistant.

*“Program of care”* means all services being provided for a resident in a health care facility.

*“Rate”* means the daily fee that is charged for all residents equally and that includes the cost of all minimum services required in these rules and regulations.

*“Records”* includes electronic records.

*“Responsible party”* means the person who signs or cosigns the residency agreement required in rule 481—57.15(135C) or the resident’s legal representative. In the event that a resident has neither a legal representative nor a person who signed or cosigned the resident’s residency agreement, the term “responsible party” shall include the resident’s sponsoring agency, e.g., the department of human services, the U.S. Department of Veterans Affairs, a religious group, fraternal organization, or foundation that assumes responsibility and advocates for its client patients and pays for their health care.

*“Restraints”* means the measures taken to control a resident’s physical activity for the resident’s own protection or for the protection of others.

**481—57.2(135C,17A) Waiver or variance.** A waiver or variance from these rules may be granted by the director of the department in accordance with 481—Chapter 6. A request for waiver or variance will be granted or denied by the director within 120 calendar days of receipt.

**481—57.3(135C) Application for licensure.**

**57.3(1) Application and licensing—new facility or change of ownership.** In order to obtain an initial residential care facility license for a facility not currently licensed as a residential care facility or for a residential care facility when a change of ownership is contemplated, the applicant must:

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

- a. Make application at least 30 days prior to the proposed opening date of the facility. Application shall be made on forms provided by the department.
- b. Meet all of the rules, regulations, and standards contained in 481—Chapters 50, 57 and 60. Exceptions noted in 481—subrule 60.3(2) shall not apply.
- c. Submit a letter of intent and a written résumé of care. The résumé of care shall meet the requirements of subrule 57.3(2).
- d. Submit a floor plan of each floor of the residential care facility. The floor plan of each floor shall be drawn on 8½" × 11" paper, show room areas in proportion, room dimensions, window and door locations, designation of the use of each room, and the room numbers for all rooms, including bathrooms.
- e. Submit a photograph of the front and side of the residential care facility.
- f. Submit the statutory fee for a residential care facility license.
- g. Comply with all other local statutes and ordinances in existence at the time of licensure.
- h. Submit a certificate signed by the state or local fire inspection authority as to compliance with fire safety rules and regulations.

**57.3(2) *Résumé of care.*** The résumé of care shall describe the following:

- a. Purpose of the facility;
- b. Criteria for admission to the facility;
- c. Ownership of the facility;
- d. Composition and responsibilities of the governing board;
- e. Qualifications and responsibilities of the administrator;
- f. Medical services provided to residents, to include the availability of emergency medical services in the area and the designation of a primary care provider to be responsible for residents in an emergency;
- g. Dental services provided to residents and available in the area;
- h. Nursing services provided to residents, if applicable;
- i. Personal services provided to residents, including supervision of or assistance with activities of daily living;
- j. Activity program;
- k. Dietary services, including qualifications of the person in charge, consultation service (if applicable) and meal service;
- l. Other services available as applicable, including social services, physical therapy, occupational therapy, and recreational therapy;
- m. Housekeeping;
- n. Laundry;
- o. Physical plant; and
- p. Staffing provided to meet residents' needs.

**57.3(3) *Renewal application.*** In order to obtain a renewal of the residential care facility license, the applicant must submit the following:

- a. The completed application form 30 days prior to the annual license renewal date of the residential care facility license;
- b. The statutory license fee for a residential care facility;
- c. An approved current certificate signed by the state or local fire inspection authority as to compliance with fire safety rules and regulations;
- d. Changes to the résumé of care, if any; and
- e. Changes to the current residency agreement, if any.

**481—57.4(135C) Issuance of license.** Licenses are issued to the person, entity or governmental unit with responsibility for the operation of the facility and for compliance with all applicable statutes, rules and regulations.

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

**481—57.5(135C) Licenses for distinct parts.**

**57.5(1)** Separate licenses may be issued for distinct parts of a health care facility which are clearly identifiable, contain contiguous rooms, and provide separate categories of care and services.

**57.5(2)** The following requirements shall be met for separate licensing of a distinct part:

*a.* The distinct part shall serve only residents who require the category of care and services immediately available to them within that part. (III)

*b.* The distinct part shall meet all the standards, rules, and regulations pertaining to the category for which a license is being sought.

*c.* The distinct part must be operationally and financially feasible.

*d.* Personal care staff with qualifications appropriate to the care and services being rendered must be regularly assigned and working in the distinct part under responsible management. (III)

*e.* Separately licensed distinct parts may have certain services such as management, building maintenance, laundry and dietary in common with each other.

This rule is intended to implement Iowa Code sections 135C.6(2) and 135C.14.

**481—57.6(135C) Special classification—memory care.**

**57.6(1)** *Designation and application.* A residential care facility may choose to care for residents who require memory care in a distinct part of the facility or designate the entire residential care facility as one that provides memory care. Residents in the memory care unit or facility shall meet the level of care requirements for a residential care facility. “Memory care” in a residential care facility means the care of persons with early Alzheimer’s-type dementia or other disorders causing dementia. (I, II, III)

*a.* Application for approval to provide this category of care shall be submitted by the licensee on a form provided by the department. (III)

*b.* Plans to modify the physical environment shall be submitted to the department for review based on the requirements of 481—Chapter 60. (III)

*c.* If the unit or facility is to be a locked unit or facility, all locking devices shall meet the Life Safety Code and any requirements of the state fire marshal. If the unit or facility is to be unlocked, a system of security monitoring is required. (I, II, III)

**57.6(2)** *Résumé of care.* A résumé of care shall be submitted to the department for approval at least 30 days before a separate memory care unit or facility is opened. For facilities with a memory care unit, this résumé of care is in addition to the résumé of care required by subrule 57.3(2). A new résumé of care shall be submitted when services are substantially changed. The résumé of care shall:

*a.* Describe the population to be served;

*b.* State the philosophy and objectives;

*c.* List criteria for transfer to and from the memory care unit or facility;

*d.* Include a copy of the floor plan;

*e.* List the titles of policies and procedures developed for the unit or facility;

*f.* Propose a staffing pattern;

*g.* Set out a plan for specialized staff training;

*h.* State visitor, volunteer, and safety policies;

*i.* Describe programs for activities, social services and families; and

*j.* Describe the interdisciplinary team and the role of each team member.

**57.6(3)** *Policies and procedures.* Separate written policies and procedures shall be implemented in the memory care unit or facility and shall address the following:

*a.* Criteria for admission and the preadmission evaluation process. The policy shall require a statement from the primary care provider approving the placement before a resident may be moved into a memory care unit or facility. (II, III)

*b.* Safety, including a description of the actions required of staff in the event of a fire, natural disaster, or emergency medical event or catastrophic event. Safety procedures shall also explain steps to be taken when a resident is discovered to be missing from the unit or facility, when hazardous cleaning materials or potentially dangerous mechanical equipment is being used in the unit or facility, and the manner in which the effectiveness of the security system will be monitored. (II, III)



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

c. Staffing requirements, including the minimum number, types and qualifications of staff in the unit or facility in accordance with resident needs. (II, III)

d. Visitation policies, including suggested times for visitation and ensuring the residents' rights to free access to visitors unless visits are contraindicated by the interdisciplinary team. (II, III)

e. The process and criteria which will be used to monitor and to respond to risks specific to the residents, including but not limited to drug use, restraint use, infections, incidents and acute behavioral events. (II, III)

**57.6(4) *Assessment prior to transfer or admission.*** Prior to the transfer or admission of a resident applicant to the memory care unit or facility, a complete assessment of the resident applicant's physical, mental, social and behavioral status shall be completed to determine whether the applicant meets admission criteria. This assessment shall be completed by facility staff and shall become part of the resident's permanent record upon admission. (II, III)

**57.6(5) *Staff training.*** All staff working in a memory care unit or facility shall have training appropriate to the needs of the residents. (I, II, III)

a. Upon assignment to the unit or facility, all staff working in the unit or facility shall be oriented to the needs of residents requiring memory care. Staff members shall have at least six hours of special training appropriate to their job descriptions within 30 days of assignment to the unit or facility. (I, II, III)

b. Training shall include the following topics: (II, III)

(1) An explanation of Alzheimer's disease and related disorders, including symptoms, behavior and disease progression;

(2) Skills for communicating with persons with dementia;

(3) Skills for communicating with family and friends of persons with dementia;

(4) An explanation of family issues such as role reversal, grief and loss, guilt, relinquishing the caregiving role, and family dynamics;

(5) The importance of planned and spontaneous activities;

(6) Skills in providing assistance with activities of daily living;

(7) Skills in working with challenging residents;

(8) Techniques for cueing, simplifying, and redirecting;

(9) Staff support and stress reduction;

(10) Medication management and nonpharmacological interventions.

c. Nursing staff, certified medication aides, medication managers, social services personnel, housekeeping and activity personnel shall have a minimum of six hours of in-service training annually. This training shall be related to the needs of memory care residents. The six-hour initial training required in paragraph 57.6(5) "a" shall count toward the required annual in-service training. (II, III)

**57.6(6) *Staffing.*** There shall be at least one staff person on a memory care unit at all times. (I, II, III)

**57.6(7) *Others living in the memory care unit.*** A resident not requiring memory care services may live in the memory care unit if the resident's spouse requiring memory care services lives in the unit or if no other beds are available in the facility and the resident or the resident's legal representative consents in writing to the placement. (II, III)

**57.6(8) *Revocation, suspension or denial.*** The memory care unit license or facility license may be revoked, suspended or denied pursuant to Iowa Code chapter 135C and 481—Chapter 50.

This rule is intended to implement Iowa Code sections 135C.2(3) "b" and 135C.14.

**481—57.7(135C) General requirements.**

**57.7(1)** The license shall be displayed in the facility in a conspicuous place which is accessible to the public. (III)

**57.7(2)** The license shall be valid only in the possession of the licensee to whom it is issued.

**57.7(3)** The posted license shall accurately reflect the current status of the residential care facility. (III)

**57.7(4)** The license shall expire one year after the date of issuance or as indicated on the license.

**57.7(5)** The licensee shall:

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

- a.* Assume the responsibility for the overall operation of the residential care facility. (I, II, III)
- b.* Be responsible for compliance with all applicable laws and with the rules of the department. (I, II, III)
- c.* Provide an organized continuous 24-hour program of care commensurate with the needs of the residents. (I, II, III)

**57.7(6)** Each citation or a copy of each citation issued by the department for a class I or class II violation shall be prominently posted by the facility in plain view of the residents, visitors, and persons inquiring about placement in the facility. The citation or copy of the citation shall remain posted until the violation is corrected to the satisfaction of the department. (I, II, III)

**481—57.8(135C) Certified volunteer long-term care ombudsman program.** A certified volunteer long-term care ombudsman appointed in accordance with Iowa Code section 231.45 shall operate within the scope of the rules for volunteer ombudsmen promulgated by the office of the long-term care ombudsman and the Iowa department on aging.

**481—57.9(135C) Required notifications to the department.** The department shall be notified:

**57.9(1)** Thirty days before any proposed change in the residential care facility's functional operation or addition or deletion of required services; (III)

**57.9(2)** Thirty days before the beginning of the renovation, addition, functional alteration, change of space utilization, or conversion in the residential care facility or on the premises; (III)

**57.9(3)** Thirty days before closure of the residential care facility; (III)

**57.9(4)** Within two weeks of any change in administrator; (III)

**57.9(5)** Ninety days before a change in the category of license; (III)

**57.9(6)** Thirty days before a change of ownership, the licensee shall:

- a.* Inform the department of the pending change of ownership; (III)
- b.* Inform the department of the name and address of the prospective purchaser, transferee, assignee, or lessee; (III)
- c.* Submit a written authorization to the department permitting the department to release all information of whatever kind from the department's files concerning the licensee's residential care facility to the named prospective purchaser, transferee, assignee, or lessee. (III)

**481—57.10(135C) Administrator.** Each residential care facility shall have one person in charge, duly approved by the department or acting in a provisional capacity in accordance with these rules. (III)

**57.10(1) *Qualifications of an administrator.***

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

(1) Have a two-year degree in human services, psychology, sociology, nursing, health care administration, public administration, or a related field and have a minimum of two years' experience in the field; or (III)

(2) Have a four-year degree in human services, psychology, sociology, nursing, health care administration, public administration, or a related field and have a minimum of one year experience in the field; or (III)

(3) Have a master's degree in human services, psychology, sociology, nursing, health care administration, public administration, or a related field and have a minimum of one year experience in the field; or (III)

(4) Be a licensed nursing home administrator; or (III)

(5) Have completed a one-year educational training program approved by the department for residential care facility administrators; or (III)

(6) Have passed the National Association of Long Term Care Administrator Boards (NAB) RC/AL administrator licensure examination; or

(7) Have two years of direct care experience and at least six months of administrative experience in a residential care facility. (III)

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b. An individual employed as an administrator on January 14, 2015, will be deemed to meet the requirements of this subrule.

**57.10(2) Duties of an administrator.** The administrator shall:

a. Select and direct competent personnel who provide services for the residential care program. (III)

b. Arrange for the heads of nursing, social services, dietary and activities to attend a minimum of ten contact hours of educational programs per year to increase skills and knowledge needed for their positions. The ten hours is in addition to the in-service requirements in paragraph 57.10(2) "c." (III)

c. Provide in-service educational programming for all employees with direct resident contact and maintain records of programs and participants. (III) In-service educational programming offered during each calendar year shall include, at minimum, the following topics: (I, II, III)

- (1) Infection control.
- (2) Emergency preparedness (fire, tornado, flood, 911, etc.).
- (3) Meal time procedures/dietary.
- (4) Resident activities.
- (5) Mental illness/behavior modification/crisis intervention.
- (6) Resident safety/supervision.
- (7) Resident rights.
- (8) Medication education, to include administration, storage and drug interactions.
- (9) Resident service plans/programming/goals.

**57.10(3) Administrator serving at more than one residential care facility.** The administrator may be responsible for no more than 150 beds in total if the administrator is an administrator of more than one facility. (II)

a. An administrator of more than one facility shall designate in writing an administrative staff person in each facility who shall be responsible for directing programs in the facility.

b. The administrative staff person designated by the administrator shall:

- (1) Have at least one year of experience in a supervisory or direct care position in a residential care facility or in a facility for the intellectually disabled, mentally ill or developmentally disabled; (II, III)
- (2) Be knowledgeable of the operation of the facility; (II, III)
- (3) Have access to records concerned with the operation of the facility; (II, III)
- (4) Be capable of carrying out administrative duties and of assuming administrative responsibilities; (II, III)
- (5) Be at least 21 years of age; (III)
- (6) Be empowered to act on behalf of the licensee concerning the health, safety and welfare of the residents; and (II, III)
- (7) Have training in emergency response, including how to respond to residents' sudden illnesses. (II, III)

c. If an administrator serves more than one facility, the administrator must designate in writing regular and specific times during which the administrator will be available to consult with staff and residents to provide direction and supervision of resident care and services. (II, III)

**57.10(4) Provisional administrator.** A provisional administrator may be appointed on a temporary basis by the residential care facility licensee to assume the administrative responsibilities for a residential care facility for a period not to exceed one year when the facility has lost its administrator and has not been able to replace the administrator, provided that the department has been notified and approved the provisional administrator prior to the date of the provisional administrator's appointment. (III) The provisional administrator must meet the requirements of paragraph 57.10(3) "b."

**57.10(5) Temporary absence of administrator.**

a. In the temporary absence of the administrator, a responsible person shall be designated in writing to the department to be in charge of the facility. (III) The person designated shall:

- (1) Be knowledgeable of the operation of the facility; (III)
- (2) Have access to records concerned with the operation of the facility; (III)

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(3) Be capable of carrying out administrative duties and of assuming administrative responsibilities; (III)

(4) Be at least 21 years of age; (III)

(5) Be empowered to act on behalf of the licensee during the administrator's absence concerning the health, safety, and welfare of the residents; (III)

(6) Have training in emergency response, including how to respond to residents' sudden illnesses. (II, III)

b. If the administrator is absent for more than six weeks, a provisional administrator must be appointed pursuant to subrule 57.10(4).

**481—57.11(135C) Personnel.**

**57.11(1) *Alcohol and drug use prohibited.*** No person under the influence of intoxicating drugs or alcoholic beverages shall be permitted to provide services in a residential care facility. (I, II)

**57.11(2) *Job description.*** There shall be a written job description developed for each category of worker. The job description shall include the job title, responsibilities and qualifications. (III)

**57.11(3) *Employee criminal record checks, child abuse checks and dependent adult abuse checks and employment of individuals who have committed a crime or have a founded abuse.*** The facility shall comply with the requirements found in Iowa Code section 135C.33 as amended by 2014 Iowa Acts, chapter 1040, and rule 481—50.9(135C) related to completion of criminal record checks, child abuse checks, and dependent adult abuse checks and to employment of individuals who have committed a crime or have a founded abuse. (I, II, III)

**57.11(4) *Personnel record.*** A personnel record shall be kept for each employee and shall include but not be limited to the following information about the employee: name and address, social security number, date of birth, date of employment, position, experience and education, references, results of criminal record checks, child abuse checks and dependent adult abuse checks, and date of discharge or resignation. (III)

**57.11(5) *Supervision and staffing.***

a. The facility shall provide sufficient staff to meet the needs of the residents served. (I, II, III)

b. Personnel in a residential care facility shall provide 24-hour coverage for residential care services. Personnel shall be awake at all times while on duty. (I, II, III)

c. Direct care staff shall be present in the facility unless all residents are involved in activities away from the facility. (I, II, III)

d. Staff shall be aware of and provide supervision levels based on the present needs of the residents in the staff's care. The facility shall document the supervision of residents who require more than general supervision, as defined by facility policy. (I, II, III)

e. The facility shall maintain an accurate record of actual hours worked by employees. (III)

**57.11(6) *Physical examination and screening.*** Employees shall have a physical examination no longer than 12 months prior to beginning employment and every four years thereafter. Screening and testing for tuberculosis shall be conducted pursuant to 481—Chapter 59. (I, II, III)

**481—57.12(135C) General policies.** The licensee shall establish and implement written policies and procedures as set forth in this rule. The policies and procedures shall be available for review by the department, other agencies designated by Iowa Code section 135C.16(3), staff, residents, residents' families or legal representatives, and the public and shall be reviewed by the licensee annually. (II)

**57.12(1) *Facility operation.*** The licensee shall establish written policies for the operation of the facility, including, but not limited to the following: (III)

a. Personnel; (III)

b. Admission; (III)

c. Evaluation services; (II, III)

d. Programming and individual program plans; (II, III)

e. Registered sex offender management; (II, III)

f. Crisis intervention; (II, III)

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- g. Discharge or transfer; (III)
- h. Medication management, including self-administration of medications and chemical restraints;
- (III)
  - i. Resident property; (II, III)
  - j. Resident finances; (II, III)
  - k. Records; (III)
  - l. Health and safety; (II, III)
  - m. Nutrition; (III)
  - n. Physical facilities and maintenance; (III)
  - o. Resident rights; (II, III)
  - p. Investigation and reporting of alleged dependent adult abuse; (II, III)
  - q. Investigation and reporting of accidents or incidents; (II, III)
  - r. Transportation of residents; (II, III)
  - s. Resident supervision; (II, III)
  - t. Smoking; (III)
  - u. Visitors; (III)
  - v. Disaster/emergency planning; (III) and
  - w. Infection control. (III)

**57.12(2) *Personnel policies.*** Written personnel policies shall include the hours of work and attendance at educational programs. (III)

**57.12(3) *Infection control.*** The facility shall have a written and implemented infection control program, which shall include policies and procedures based on guidelines issued by the Centers for Disease Control and Prevention, U.S. Department of Health and Human Services. The infection control program shall address the following:

- a. Techniques for hand washing; (I, II, III)
- b. Techniques for handling of blood, body fluids, and body wastes; (I, II, III)
- c. Dressings, soaks or packs; (I, II, III)
- d. Infection identification; (I, II, III)
- e. Resident care procedures to be used when there is an infection present; (I, II, III)
- f. Sanitation techniques for resident care equipment; (I, II, III)
- g. Techniques for sanitary use and reuse of feeding syringes and single-resident use and reuse of urine collection bags; (I, II, III) and
- h. Techniques for use and disposal of needles, syringes, and other sharp instruments. (I, II, III)

**57.12(4) *Resident care techniques.*** The facility shall have written and implemented procedures to be followed if a resident needs any of the following treatment or devices:

- a. Intravenous or central line catheter; (I, II, III)
- b. Urinary catheter; (I, II, III)
- c. Respiratory suction, oxygen or humidification; (I, II, III)
- d. Decubitus care; (I, II, III)
- e. Tracheostomy; (I, II, III)
- f. Nasogastric or gastrostomy tubes; (I, II, III)
- g. Sanitary use and reuse of feeding syringes and single-resident use and reuse of urine collection bags. (I, II, III)

**57.12(5) *Emergency care.*** The facility shall establish written policies for the provision of emergency medical care to residents and employees in case of sudden illness or accident. The policies shall include a list of those individuals to be contacted in case of an emergency. (I, II, III)

**481—57.13(135C) Admission, transfer and discharge.**

**57.13(1) *General admission policies.***

- a. Residents shall be admitted to a residential care facility only on a written order signed by a primary care provider, specifying the level of care, and certifying that the individual being admitted requires no more than personal care and supervision and does not require routine nursing care. (II, III)

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b. No residential care facility shall admit or retain a resident who is in need of greater services than the facility can provide. (I, II, III)

c. No residential care facility shall admit more residents than the number of beds for which the facility is licensed. (II, III)

d. A residential care facility is not required to admit an individual through court order, referral or other means without the express prior approval of the administrator. (III)

e. The admission of a resident shall not grant the residential care facility the authority or responsibility to manage the personal affairs of the resident except as may be necessary for the safety of the resident and the safe and orderly management of the residential care facility as required by these rules. (III)

f. Individuals under the age of 18 shall not be admitted to a residential care facility without prior written approval by the department. A distinct part of a residential care facility, segregated from the adult section, may be established based on a résumé of care that is submitted by the licensee or applicant and is commensurate with the needs of the residents of the residential care facility and that has received the department's review and approval. (III)

g. No health care facility and no owner, administrator, employee or representative thereof shall act as guardian, trustee, or conservator for any resident's property unless such resident is related within the third degree of consanguinity to the person acting as guardian. (III)

**57.13(2) Discharge or transfer.**

a. Notification shall be made to the legal representative, primary care provider, and sponsoring agency, if any, prior to the transfer or discharge of any resident. (III)

b. The licensee shall not refuse to discharge or transfer a resident when the primary care provider, family, resident, or legal representative requests such transfer or discharge. (II, III)

c. Advance notification will be made to the receiving facility prior to the transfer of any resident. (III)

d. When a resident is transferred or discharged, the appropriate record will accompany the resident to ensure continuity of care. "Appropriate record" includes the resident's face sheet, service plan, most recent orders of the primary care provider and any notifications of upcoming scheduled appointments. (II, III)

e. When a resident is transferred or discharged, the resident's unused prescriptions shall be sent with the resident or with a legal representative only upon the written order of a primary care provider. (II, III)

**481—57.14(135C) Involuntary discharge or transfer.**

**57.14(1) Involuntary discharge or transfer permitted.** A facility may involuntarily discharge or transfer a resident for only one of the following reasons:

a. Medical reasons;

b. The resident's welfare or that of other residents;

c. Repeated refusal by the resident to participate in the resident's service plan;

d. Due to action pursuant to Iowa Code chapter 229; or

e. Nonpayment for the resident's stay, as described in the residency agreement for the resident's stay.

**57.14(2) Medical reasons.** Medical reasons for transfer or discharge shall be based on the resident's needs and shall be determined and documented in the resident's record by the primary care provider. Transfer or discharge may be required in order to provide a different level of care to the resident. (II)

**57.14(3) Welfare of a resident.** Welfare of a resident or that of other residents refers to a resident's social, emotional, or physical well-being. A resident may be transferred or discharged because the resident's behavior poses a continuing threat to the resident (e.g., suicidal) or to the well-being of other residents or staff (e.g., the resident's behavior is incompatible with other residents' needs and rights). Written documentation that the resident's continued presence in the facility would adversely affect the resident's own welfare or that of other residents shall be made by the administrator or designee and shall include specific information to support this determination. (II)

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**57.14(4) Notice.** Involuntary transfer or discharge of a resident from a facility shall be preceded by a written notice to the resident and the responsible party. (II, III)

*a.* The notice shall contain all of the following information:

- (1) The stated reason for the proposed transfer or discharge. (II)
- (2) The effective date of the proposed transfer or discharge. (II)
- (3) A statement, in not less than 12-point type, that reads as follows:

You have a right to appeal the facility's decision to transfer or discharge you. If you think you should not have to leave this facility, you may request a hearing, in writing or verbally, with the Iowa department of inspections and appeals (hereinafter referred to as "department") within seven days after receiving this notice. You have a right to be represented at the hearing by an attorney or any other individual of your choice. If you request a hearing, it will be held no later than 14 days after receipt of your request by the department and you will not be transferred prior to a final decision. In emergency circumstances, extension of the 14-day requirement may be permitted upon request to the department's designee. If you lose the hearing, you will not be transferred before the expiration of (1) 30 days following receipt of the original notice of the discharge or transfer, or (2) 5 days following final decision of such hearing, including exhaustion of all appeals, whichever occurs later. To request a hearing or receive further information, call the department at (515)281-4115, or write to the department to the attention of: Administrator, Division of Health Facilities, Department of Inspections and Appeals, Lucas State Office Building, Des Moines, Iowa 50319-0083. (II)

*b.* The notice shall be personally delivered to the resident and a copy placed in the resident's record. A copy shall also be transmitted to the department; the resident's responsible party; the resident's primary care provider; the person or agency responsible for the resident's placement, maintenance, and care in the facility; and the department on aging's long-term care ombudsman. The notice shall indicate that a copy has been transmitted to the required parties by using the abbreviation "cc:" and listing the names of all parties to whom copies were sent. (II)

*c.* The notice required by paragraph 57.14(4) "a" shall be provided at least 30 days in advance of the proposed transfer or discharge unless one of the following occurs: (II)

(1) An emergency transfer or discharge is mandated by the resident's health care needs and is in accordance with the written orders and medical justification of the primary care provider. Emergency transfers or discharges may also be mandated in order to protect the health, safety, or well-being of other residents and staff from the resident being transferred. (II)

(2) The transfer or discharge is subsequently agreed to by the resident or the resident's responsible party, and notification is given to the responsible party, the resident's primary care provider, and the person or agency responsible for the resident's placement, maintenance, and care in the facility.

*d.* A hearing requested pursuant to this subrule shall be held in accordance with subrule 57.14(6).

**57.14(5) Emergency transfer or discharge.** In the case of an emergency transfer or discharge, the resident must be given a written notice prior to or within 48 hours following transfer or discharge. (II, III)

*a.* A copy of this notice must be placed in the resident's file. The notice must contain all of the following information:

- (1) The stated reason for the transfer or discharge. (II)
- (2) The effective date of the transfer or discharge. (II)
- (3) A statement, in not less than 12-point type, that reads:

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You have a right to appeal the facility's decision to transfer or discharge you on an emergency basis. If you think you should not have to leave this facility, you may request a hearing, in writing or verbally, with the Iowa department of inspections and appeals within 7 days after receiving this notice. You have the right to be represented at the hearing by an attorney or any other individual of your choice. If you request a hearing, it will be held no later than 14 days after receipt of your request by the department. You may be transferred or discharged before the hearing is held or before a final decision is rendered. If you win the hearing, you have the right to be transferred back into the facility. To request a hearing or receive further information, call the department at (515)281-4115, or write to the department to the attention of: Administrator, Division of Health Facilities, Department of Inspections and Appeals, Lucas State Office Building, Des Moines, Iowa 50319-0083. (II)

b. The notice shall be personally delivered to the resident and a copy placed in the resident's record. A copy shall also be transmitted to the department; the resident's responsible party; the resident's primary care provider; the person or agency responsible for the resident's placement, maintenance, and care in the facility; and the department on aging's long-term care ombudsman. The notice shall indicate that a copy has been transmitted to the required parties by using the abbreviation "cc:" and listing the names of all parties to whom copies were sent. (II)

c. A hearing requested pursuant to this subrule shall be held in accordance with subrule 57.14(6). **57.14(6) Hearing.**

a. Request for hearing.

(1) The resident must request a hearing within 7 days of receiving the written notice.

(2) The request must be made to the department, either in writing or verbally.

b. The hearing shall be held no later than 14 days after receipt of the request by the department unless the resident requests an extension due to emergency circumstances.

c. Except in the case of an emergency discharge or transfer, a request for a hearing shall stay a transfer or discharge pending a final decision, including the exhaustion of all appeals. (II)

d. The hearing shall be heard by a department of inspections and appeals administrative law judge pursuant to Iowa Code chapter 17A and 481—Chapter 10. The hearing shall be public unless the resident or the resident's legal representative requests in writing that the hearing be closed. In a determination as to whether a transfer or discharge is authorized, the burden of proof by a preponderance of evidence rests on the party requesting the transfer or discharge.

e. Notice of the date, time, and place of the hearing shall be sent by certified mail or delivered in person to the facility, the resident, the responsible party, and the office of the long-term care ombudsman not later than 5 full business days after receipt of the request. The notice shall also inform the facility and the resident or the responsible party that they have a right to appear at the hearing in person or be represented by an attorney or other individual. The appeal shall be dismissed if neither party is present or represented at the hearing. If only one party appears or is represented, the hearing shall proceed with one party present. A representative of the office of the long-term care ombudsman shall have the right to appear at the hearing.

f. The administrative law judge's written decision shall be mailed by certified mail to the licensee, resident, responsible party, and the office of the long-term care ombudsman within 10 working days after the hearing has been concluded.

**57.14(7) Nonpayment.** If nonpayment is the basis for involuntary transfer or discharge, the resident shall have the right to make full payment up to the date that the discharge or transfer is to be made and then shall have the right to remain in the facility. (II)

**57.14(8) Discussion of involuntary transfer or discharge.** Within 48 hours after notice of involuntary transfer or discharge has been received by the resident, the facility shall discuss the involuntary transfer or discharge with the resident, the resident's responsible party, and the person or agency responsible for the resident's placement, maintenance, and care in the facility. (II)



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a. The facility administrator or other appropriate facility representative serving as the administrator's designee shall provide an explanation and discussion of the reasons for the resident's involuntary transfer or discharge. (II)

b. The content of the explanation and discussion shall be summarized in writing, shall include the names of the individuals involved in the discussion, and shall be made part of the resident's record. (II)

c. The provisions of this subrule do not apply if the involuntary transfer or discharge has already occurred pursuant to subrule 57.14(5) and emergency notice is provided within 48 hours.

**57.14(9) *Transfer or discharge planning.***

a. The facility shall develop a plan to provide for the orderly and safe transfer or discharge of each resident to be transferred or discharged. (II)

b. To minimize the possible adverse effects of the involuntary transfer, the resident shall receive counseling services by the sending facility before the involuntary transfer and by the receiving facility after the involuntary transfer. Counseling shall be documented in the resident's record. (II)

c. The counseling requirement in paragraph 57.14(9) "b" does not apply if the discharge has already occurred pursuant to subrule 57.14(5) and emergency notice is provided within 48 hours.

d. Counseling, if required, shall be provided by a licensed mental health professional as defined in Iowa Code section 228.1(6).

e. The receiving health care facility of a resident involuntarily transferred shall immediately formulate and implement a plan of care which takes into account possible adverse effects the transfer may cause. (II)

**57.14(10) *Transfer upon revocation of license or voluntary closure.*** Residents shall not have the right to a hearing to contest an involuntary discharge or transfer resulting from the revocation of the facility's license by the department of inspections and appeals. In the case of the voluntary closure of a facility, a period of 30 days must be allowed for an orderly transfer of residents to other facilities.

**57.14(11) *Intrafacility transfer.***

a. Residents shall not be arbitrarily relocated from room to room within a licensed health care facility. (I, II) Involuntary relocation may occur only in the following situations, which shall be documented in the resident's record: (II)

(1) Incompatibility with or disturbing to other roommates.

(2) For the welfare of the resident or other residents of the facility.

(3) To allow a new admission to the facility that would otherwise not be possible due to separation of roommates by sex.

(4) In the case of a resident whose source of payment was previously private, but who now is eligible for Title XIX (Medicaid) assistance, the resident may be transferred from a private room to a semiprivate room or from one semiprivate room to another.

(5) Reasonable and necessary administrative decisions regarding the use and functioning of the building.

b. Unreasonable and unjustified reasons for changing a resident's room without the concurrence of the resident or responsible party include:

(1) Change from private pay status to Title XIX, except as outlined in subparagraph 57.14(11) "a"(4). (II)

(2) As punishment or behavior modification, except as specified in subparagraph 57.14(11) "a"(1). (II)

(3) Discrimination on the basis of race or religion. (II)

c. If intrafacility relocation is necessary for reasons outlined in paragraph 57.14(11) "a," the resident shall be notified at least 48 hours prior to the transfer and the reason therefor shall be explained. The responsible party shall be notified as soon as possible. The notification shall be documented in the resident's record and signed by the resident or responsible party. (II, III)

d. If emergency relocation is required in order to protect the safety or health of the resident or other residents, the notification requirements may be waived. The conditions of the emergency shall be documented. The family or responsible party shall be notified immediately or as soon as possible of the condition that necessitates emergency relocation, and such notification shall be documented. (II, III)

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*e.* A transfer to a part of a facility that has a different license must be handled the same way as a transfer to another facility, and not as an intrafacility transfer. (II, III)

**481—57.15(135C) Residency agreement.**

**57.15(1)** Each residency agreement shall:

*a.* State the base rate or scale per day or per month, the services included, and the method of payment. (III)

*b.* Contain a complete schedule of all offered services for which a fee may be charged in addition to the base rate. (III) Furthermore, the agreement shall:

(1) Stipulate that no further additional fees shall be charged for items not contained in the complete schedule of services; (III)

(2) State the method of payment for additional charges; (III)

(3) Contain an explanation of the method of assessment of such additional charges and an explanation of the method of periodic reassessment, if any, resulting in changing such additional charges; (III)

(4) State that additional fees may be charged to the resident for nonprescription drugs, other personal supplies, and services provided by a barber, beautician, and such. (III)

*c.* Contain an itemized list of services to be provided to the resident based on an assessment at the time of the resident's admission and in consultation with the administrator and including the specific fee the resident will be charged for each service and the method of payment. (III)

*d.* Include the total fee to be charged initially to the resident. (III)

*e.* State the conditions whereby the facility may make adjustments to its overall fees for resident care as a result of changing costs. (II, III) Furthermore, the agreement shall provide that the facility shall give:

(1) Written notification to the resident, or the responsible party when appropriate, of changes in the overall rates of both base and additional charges at least 30 days prior to the effective date of such changes; (II, III)

(2) Notification to the resident, or the responsible party when appropriate, of changes in additional charges, based on a change in the resident's condition. Notification must occur prior to the date such revised additional charges begin. If notification is given orally, subsequent written notification must also be given within a reasonable time, not to exceed one week, listing specifically the adjustments made. (II, III)

*f.* State the terms of agreement in regard to a refund of all advance payments in the event of the transfer, death, or voluntary or involuntary discharge of the resident. (II, III)

*g.* State the terms of agreement concerning the holding of and charging for a bed when a resident is hospitalized or leaves the facility temporarily for recreational or therapeutic reasons. The terms shall contain a provision that the bed will be held at the request of the resident or the resident's responsible party. (II, III)

(1) The facility shall ask the resident or responsible party whether the resident's bed should be held. This request shall be made before the resident leaves or within 48 hours after the resident leaves. The inquiry and the response shall be documented. (II, III)

(2) The facility shall inform the resident or responsible party that, when requested, the bed may be held beyond the number of days designated by the funding source, as long as payments are made in accordance with the agreement. (II, III)

*h.* State the conditions under which the involuntary discharge or transfer of a resident would be effected. (II, III)

*i.* Set forth any other matters deemed appropriate by the parties to the agreement. No agreement or any provision thereof shall be drawn or construed so as to relieve any health care facility of any requirement or obligation imposed upon it by this chapter or any standards or rules in force pursuant to this chapter. (II, III)

**57.15(2)** Each party to the residency agreement shall receive a copy of the signed agreement. (II, III)

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**481—57.16(135C) Medical examinations.**

**57.16(1)** Each resident in a residential care facility shall have a designated primary care provider who may be contacted when needed. (II, III)

**57.16(2)** Each resident admitted to a residential care facility shall have a physical examination prior to admission. (II, III)

*a.* If the resident is admitted directly from a hospital, a copy of the hospital admission physical and discharge summary may be a part of the record in lieu of an additional physical examination. A record of the examination, signed by the primary care provider, shall be a part of the resident's record. (II, III)

*b.* The record of the admission physical examination and medical history shall portray the current medical status of the resident and shall include the resident's name, sex, age, medical history, physical examination, diagnosis, statement of medical concerns, diet, and results of any diagnostic procedures. (II, III)

*c.* Screening and testing for tuberculosis shall be conducted pursuant to 481—Chapter 59. (I, II, III)

**57.16(3)** The person in charge shall immediately notify the primary care provider of any accident, injury or adverse change in the resident's condition that has the potential for requiring physician intervention. (I, II, III)

**57.16(4)** Each resident shall be visited by or shall visit the resident's primary care provider at least once each year. The one-year period shall be measured from the date of admission and does not include the resident's preadmission physical. (III)

**481—57.17(135C) Records.**

**57.17(1)** *Resident record.* The licensee shall keep a permanent record on every resident admitted to the residential care facility, and all entries in the permanent record shall be current, dated, and signed. (III) The record shall include:

- a.* Name and previous address of resident; (III)
- b.* Birth date, sex, and marital status of resident; (III)
- c.* Church affiliation, if designated; (III)
- d.* Primary care provider's name, telephone number, and address; (III)
- e.* Dentist's name, telephone number, and address; (III)
- f.* Name, address, and telephone number of next of kin or legal representative; (III)
- g.* Name, address, and telephone number of person to be notified in case of emergency; (III)
- h.* Pharmacy name, telephone number, and address; (III)
- i.* Mortuary name, telephone number, and address, if designated; (III)
- j.* Physical examination and medical history; (III)
- k.* Primary care provider's orders for the resident's level of care, medication, treatments, and diet. The orders shall be in writing and signed by the primary care provider quarterly; (III)
- l.* A notation of visits to primary care provider and other professional services; (III)
- m.* Documentation regarding services provided by other providers, including but not limited to home health agencies, hospice, day treatment and those providing medical, mental health and Medicaid waiver services; (III)
- n.* Documentation of any adverse change in the resident's condition; (II, III)
- o.* A notation describing the resident's condition on admission, transfer and discharge; (III)
- p.* A copy of instructions given to the resident, legal representative or facility in the event of discharge or transfer; (III)
- q.* In the event of a resident's death, notations of the date and time of the resident's death, the circumstances of the resident's death, the disposition of the resident's body, and the date and time the resident's family and primary care provider were notified of the resident's death; and (III)
- r.* A notation of disposition of personal property and medications upon the resident's transfer, discharge or death. (III)

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**57.17(2) Confidentiality of resident records.** Each resident shall be ensured confidential treatment of all information contained in the resident's records. The resident's written consent shall be required for the release of information to persons not otherwise authorized under law to receive the information. (II)

*a.* The facility shall limit access to any medical records to staff and professionals providing services to the resident. (II)

*b.* The facility shall limit access to the resident's personal records, e.g., financial records and social services records, to staff and professionals providing the service to the resident. Only those personnel concerned with the financial affairs of the resident may have access to the financial records. (II)

*c.* The resident, or the resident's responsible party, shall be entitled to examine all information contained in the resident's record and shall have the right to secure full copies of the record at reasonable cost upon request, unless the primary care provider determines that the disclosure of the record or section thereof is contraindicated, in which case this information will be deleted prior to making the record available to the resident or responsible party. This determination and the reasons for it must be documented in the resident's record. (II)

*d.* This subrule is not meant to preclude access to resident records by representatives of state and federal regulatory agencies.

**57.17(3) Incident record.**

*a.* Each residential care facility shall maintain an incident record report and shall have available incident report forms. (II, III)

*b.* Report of incidents shall be in detail on an incident report form. (III)

*c.* The person in charge at the time of the incident shall oversee the preparation of and sign the incident report. The administrator or designee shall review, sign and date the incident report within 72 hours of the accident, incident or unusual occurrence. (II, III)

*d.* An incident report shall be completed for every accident or incident where there is apparent injury or where an injury of unknown origin may have occurred. (II)

*e.* An incident report shall be completed for every accident, incident or unusual occurrence within the facility or on the premises that affects a resident, visitor, or employee. (II, III)

*f.* A copy of the incident report shall be kept on file in the facility. (II, III)

**57.17(4) Retention of records.**

*a.* Records shall be retained in the facility for five years following the termination of services to a resident. (III)

*b.* Records shall be retained within the facility upon change of ownership. (III)

*c.* When the facility ceases to operate, a copy of the resident's record shall be released to the facility to which the resident is transferred. (III)

*d.* When the facility ceases to operate, records shall be maintained for five years in a clean, dry secured storage area. (III)

**57.17(5) 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 residents of the facility. (II, III)

*a.* If access to an electronic record is requested by the authorized representative of the department, the facility may provide a tutorial on how to use its particular electronic system or may designate an individual who will, when requested, access the system, respond to any questions or assist the authorized representative as needed in accessing electronic information in a timely fashion. (II, III)

*b.* The facility shall provide a terminal where the authorized representative may access records. (II, III)

*c.* If the facility is unable to provide direct print capability to the authorized representative, the facility shall make available a printout of any record or part of a record on request in a time frame that does not intentionally prevent or interfere with the department's survey or investigation. (II, III)

**481—57.18(135C) Resident care and personal services.**

**57.18(1)** A complete change of bed linen shall be provided at least once a week and more often if necessary. (III)

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**57.18(2)** Residents shall receive sufficient supervision to promote personal cleanliness. (II, III)

**57.18(3)** Residents shall have clean clothing as needed. Clothing shall be appropriate to residents' activities and to the weather. (III)

**57.18(4)** Residents shall be encouraged to bathe at least twice a week. (II, III)

**57.18(5)** All nonambulatory residents shall be housed on the grade level floor unless the facility has a suitably sized elevator. (II)

**481—57.19(135C) Drugs.**

**57.19(1) *Drug storage.***

*a.* Residents who have been certified in writing by their primary care provider as capable of taking their own medications may retain these medications in their bedroom, but locked storage must be provided, with staff and the resident having access. Monitoring of the storage, administration and documentation by the resident shall be carried out by a person who meets the requirements of subrule 57.19(3) and is responsible for administering medications. (II, III)

*b.* Drug storage for residents who are unable to take their own medications and require supervision shall meet the following requirements:

(1) Locked storage for drugs, solutions, and prescriptions shall be provided. (III)

(2) A bathroom shall not be used for drug storage. (III)

(3) The drug storage shall be kept locked when not in use. (III)

(4) The drug storage key shall be secured and available only to those employees charged with the responsibility of administering medications. (II, III)

(5) Schedule II drugs, as defined by Iowa Code chapter 124, shall be kept in a locked box within the locked drug storage. (II, III)

(6) Medications requiring refrigeration shall be kept locked in a refrigerator and separated from food and other items. (II, III)

(7) Drugs for external use shall be stored separately from drugs for internal use. (II, III)

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

(9) Inspection of drug storage shall be made by the administrator or designee and a registered pharmacist not less than once every three months. The inspection shall be verified by a report signed by the administrator and the pharmacist and filed with the administrator. The report shall include, but not be limited to, certification of the absence of the following: expired drugs, deteriorated drugs, improper labeling, drugs for which there is no current primary care provider's order, and drugs improperly stored. (III)

(10) Bulk supplies of prescription drugs for multiresident use shall not be kept in a residential care facility. (III)

**57.19(2) *Drug safeguards.***

*a.* All prescribed medications shall be clearly labeled indicating the resident's full name, primary care provider's name, prescription number, name and strength of drug, dosage, directions for use, date of issue, and name and address and telephone number of pharmacy or primary care provider issuing the drug. Where unit dose is used, prescribed medications shall, at a minimum, indicate the resident's full name, primary care provider's name, name and strength of drug, and directions for use. Standard containers shall be utilized for dispensing drugs. (III)

*b.* Sample medications provided by the resident's primary care provider shall clearly identify to whom the medications belong. (III)

*c.* Medication containers having soiled, damaged, illegible, or makeshift labels shall be returned to the issuing pharmacist, pharmacy, or primary care provider for relabeling or disposal. (III)

*d.* The medication for each resident shall be kept or stored in the original containers unless the resident is participating in an individualized medication program. (II, III)

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*e.* Unused prescription drugs shall be destroyed by the person in charge, in the presence of a witness, and with a notation made on the resident's record or shall be returned to the supplying pharmacist. (III)

*f.* Prescriptions shall be refilled only with the permission of the resident's primary care provider. (II, III)

*g.* No medications prescribed for one resident may be administered to or allowed in the possession of another resident. (I, II)

*h.* Instructions shall be requested from the Iowa board of pharmacy concerning disposal of unused Schedule II drugs prescribed for a resident who has died or for whom the Schedule II drug was discontinued. (III)

*i.* Discontinued medications shall be destroyed within a specified time by a responsible person, in the presence of a witness, and with a notation made to that effect or shall be returned to the pharmacist for destruction. Drugs listed under the Schedule II drugs shall be destroyed in accordance with the requirements established by the Iowa board of pharmacy. (II, III)

*j.* All medication orders which do not specifically indicate the number of doses to be administered or the length of time the drug is to be administered shall be stopped automatically after a given time period. The automatic-stop order may vary for different types of drugs. The resident's primary care provider, in conjunction with the pharmacist, shall institute these policies and provide procedures for review and endorsement. (II, III)

*k.* No resident shall be allowed to possess any medications unless the primary care provider has certified in writing on the resident's medical record that the resident is mentally and physically capable of doing so. (II)

*l.* No medications or prescription drugs shall be administered to a resident without a written order signed by the primary care provider. (II)

*m.* The facility shall establish a policy to govern the distribution of prescribed medications to residents who are on leave from the facility. (II, III)

(1) Medications may be issued to residents who will be on leave from a facility for less than 24 hours. Only those medications needed for the time period the resident will be on leave from the facility may be issued. Non-child-resistant containers may be used. Instructions shall be provided and include the date, the resident's name, the name of the facility, and the name of the medication, its strength, dose and time of administration. (II, III)

(2) Medication for residents on leave from a facility for longer than 24 hours shall be obtained in accordance with requirements established by the Iowa board of pharmacy. (II, III)

(3) Medication for residents on leave from a facility may be issued only by facility personnel responsible for administering medication. (II, III)

**57.19(3) *Drug administration—authorized personnel.***

*a.* A properly trained person shall be charged with the responsibility of administering medications as ordered by a primary care provider. (II, III)

*b.* The person shall have knowledge of the purpose of the drugs and their dangers and contraindications. (II, III)

*c.* The person shall be a licensed nurse or primary care provider or shall have successfully completed a department-approved medication aide course and passed a department-approved medication aide challenge examination administered by an area community college. (II, III)

*d.* Prior to taking a department-approved medication aide course, the person shall:

(1) Successfully complete an approved residential aide course, nurse aide course, nurse aide training and testing program or nurse aide competency examination; (III)

(2) Have a letter of recommendation for admission to the medication aide course from the employing facility. (III)

*e.* A person who is a nursing student or a graduate nurse may take the challenge examination in place of taking a medication aide course. The person shall do all of the following before taking the medication aide challenge examination:

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(1) Complete a clinical or nursing theory course within six months before taking the challenge examination; (III)

(2) Successfully complete a nursing program pharmacology course within one year before taking the challenge examination; (III)

(3) Provide to the community college a written statement from the nursing program's pharmacology or clinical instructor indicating that the person is competent in medication administration. (III)

*f.* A person who has written documentation of certification as a medication aide in another state may become a medication aide in Iowa by successfully completing a department-approved nurse aide competency examination and a medication aide challenge examination. The requirements of paragraph 57.19(3) "d" do not apply to this person. (III)

*g.* In a freestanding residential care facility licensed for 15 or fewer beds, a person who has successfully completed a state-approved medication manager course may administer medications.

**57.19(4) Drug administration.**

*a.* Unless the unit dose system is used, the person assigned the responsibility of medication administration must complete the procedure by personally preparing the dose, observing the actual act of swallowing the oral medication, and charting the medication. In facilities where the unit dose system is used, the person assigned the responsibility of medication administration must complete the procedure by observing the actual act of swallowing the oral medication and by charting the medication. Medications shall be prepared on the same shift of the same day that they are administered unless the unit dose system is used. (II)

*b.* Injectable medications shall be administered as permitted by Iowa law by a registered nurse, licensed practical nurse, primary care provider or pharmacist. For purposes of this subrule, "injectable medications" does not include an epinephrine autoinjector, e.g., an EpiPen. (II, III)

*c.* A resident certified by the resident's primary care provider as capable of injecting the resident's own insulin may do so. Insulin may be administered pursuant to paragraph 57.19(4) "b" or as otherwise authorized by the resident's primary care provider. (II, III) Authorization shall:

- (1) Be in writing,
- (2) Be maintained in the resident's record,
- (3) Be renewed quarterly,
- (4) Include the name of the person authorized to administer the insulin,
- (5) Include documentation by the primary care provider that the authorized person is qualified to administer insulin to that resident. (II, III)

*d.* A resident may participate in the administration of the resident's own medication if the primary care provider has certified in writing in the resident's medical record that the resident is mentally and physically capable of participating and has explained in writing in the resident's medical record what the resident's participation may include.

*e.* An individual inventory record shall be maintained for each Schedule II drug prescribed for each resident, with an accurate count and authorized signatures at every shift. (II)

*f.* The facility may use a unit dose system.

*g.* Medication aides and medication managers may administer PRN medications without contacting a licensed nurse or primary care provider if all of the following apply: (I, II, III)

(1) A written order from the resident's primary care provider specifies the purpose of the PRN medication and the frequency, dosage and strength of the PRN medication.

(2) The resident's primary care provider provides in writing specific criteria for administering PRN medications.

(3) The pharmacist assesses the resident's use of PRN medications when conducting the inspection of drug storage as required by subparagraph 57.19(1) "b"(9).

*h.* The pharmacist shall assess the use of PRN medications when conducting the inspection of drug storage as required by subparagraph 57.19(1) "b"(9). (II, III)

*i.* Medications administered by an employee of the facility shall be recorded on a medication record by the individual who administers the medication. (I, II, III)

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**481—57.20(135C) Dental services.**

**57.20(1)** The residential care facility personnel shall assist residents in obtaining annual and emergency dental services and shall arrange transportation for such services. (III)

**57.20(2)** Dental services shall be performed only on the request of the resident, responsible party, legal representative, or primary care provider. The resident's primary care provider shall be advised of the resident's dental problems. (III)

**57.20(3)** All dental reports or progress notes shall be included in the resident record as available. The facility shall make reasonable efforts to obtain the records following the provision of services. (III)

**57.20(4)** Personal care staff shall assist the resident in carrying out the dentist's recommendations. (III)

**481—57.21(135C) Dietary.****57.21(1) Dietary staffing.**

*a.* A minimum of one person directly responsible for food preparation shall successfully complete a course meeting the requirements for a food protection program included in the Food Code adopted pursuant to Iowa Code chapter 137F. Another course may be substituted if the course's curriculum includes substantially similar competencies to a course that meets the requirements of the Food Code and the provider of the course files with the department a statement indicating that the course provides substantially similar instruction as it relates to sanitation and safe food handling. (III)

*b.* If the person is in the process of completing the food protection program in paragraph 57.21(1) "a," the requirement relating to the completion of a state-approved food protection program shall be considered to have been met.

*c.* In addition to the requirement of paragraph 57.21(1) "a," personnel who are responsible for food preparation or service, or both food preparation and service, shall have an orientation on sanitation and safe food handling prior to handling food and shall have annual in-service training on food protection. (III)

**57.21(2) Nutrition and menu planning.**

*a.* Menus shall be planned and followed to meet the nutritional needs of residents in accordance with the primary care provider's orders. Diet orders should be reviewed as necessary, but at least quarterly, by the primary care provider. (II, III)

*b.* Menus shall be planned and served to include foods and amounts necessary to meet federal dietary guidelines. (II, III)

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

(1) There shall be no more than a 14-hour span between offering a substantial evening meal and breakfast. (II, III)

(2) Unless contraindicated, evening snacks shall be offered routinely to all residents. Special nourishments shall be available when ordered by the primary care provider. (II, III)

*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 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 departmental personnel. When substitutions are necessary or requested, they shall be of similar nutritive value and recorded on the menu or in a notebook. (III)

*g.* The facility shall provide an alternative choice at scheduled meal times. (III)

**57.21(3) Dietary storage, food preparation, and service.**

*a.* All food shall be handled, prepared, served and stored in compliance with the Food Code adopted pursuant to Iowa Code section 137F.2. (I, II, III)

*b.* Supplies of staple foods for a minimum of a one-week period and of perishable foods for a minimum of a two-day period shall be maintained on the premises. Minimum food portion requirements for a low-cost plan shall conform to information supplied by the bureau of nutrition and health promotion of the department of public health. (II, III)

*c.* Dishes shall be free of cracks, chips, and stains. (III)



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d. If family-style service is used, all leftover prepared food that has been on the table shall be properly handled. (III)

**57.21(4) Sanitation in food preparation area.**

a. In facilities licensed for more than 15 beds, the kitchen shall not be used for serving meals to residents, food service personnel, or other staff. (III)

b. There shall be written procedures established for cleaning all work and serving areas in facilities with more than 15 beds. (III)

c. A schedule for duties to be performed daily shall be posted in each food area. (III)

d. All cooking equipment in facilities of 15 or more beds shall be provided with a properly sized exhaust system and hood to eliminate excess heat, moisture, and odors from the kitchen. (II, III)

e. 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)

f. There shall be no washing, ironing, sorting or folding of laundry in the food service area. Dirty linen shall not be carried through the food service area unless the linen is in sealed, leakproof containers. (III)

g. In facilities with more than 15 beds, a mechanical dishwasher is required. (III)

h. A three-compartment pot and pan sink with 110°F (43°C) to 115°F (46°C) water for washing, a compartment for rinsing with water at 170°F (76°C) to 180°F (82°C) for sanitizing with space for air drying, or a two-compartment sink with access to a mechanical dishwasher for sanitizing all utensils shall be provided. (III)

**481—57.22(135C) Orientation and service plan.**

**57.22(1) Orientation.** Within 24 hours of admission, each resident shall receive orientation to the facility. The orientation program shall be documented in the resident's file and shall include, but shall not be limited to, a review of the resident's rights, the daily schedule, house rules and the facility's evacuation plan. (II, III)

**57.22(2) Initial service plan.** Within 48 hours of admission, the administrator or the administrator's designee shall develop an initial service plan to address any immediate health and safety needs. The plan shall be based on information gathered from the resident, family, referring party, primary care provider, and other significant persons. The plan shall be followed until the service plan required in subrule 57.22(3) is complete. (I, II, III)

**57.22(3) Service plan.** Within 30 days of admission, the administrator or the administrator's designee, in conjunction with the resident, the resident's responsible party, the interdisciplinary team, and any organization that works with or serves the resident, shall develop a written, individualized, and integrated service plan for the resident. The service plan shall be developed and implemented to address the resident's priorities and assessed needs, such as activities of daily living, rehabilitation, activity, and social, behavioral, emotional, physical and mental health. (I, II, III)

a. The service plan shall include measurable goals and objectives and the specific service(s) to be provided to achieve the goals. Each goal shall include the date of initiation and anticipated duration of service(s). Any restriction of rights shall be included in the service plan. (I, II, III)

b. The service plan shall include the documentation procedure for each goal and objective. (II, III)

c. The service plan should be modified to add or delete goals and objectives as the resident's needs change. Communications related to service plan changes or changes in the resident's condition shall occur within five working days of the change and shall be conveyed to all individuals inside and outside the residential care facility who work with the resident, as well as to the resident's responsible party. (I, II, III)

d. The service plan shall be reviewed at least quarterly by relevant staff, the resident and appropriate others, such as the resident's family, case manager and responsible party. The review shall include a written report which addresses a summary of the resident's progress toward goals and objectives and the need for continued services. (I, II, III)

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**481—57.23(135C) Resident activities program.**

**57.23(1) *Activities program.*** Each residential care facility shall provide an organized resident activities program for the group and for the individual resident which shall include suitable activities. The facility shall offer at least two organized evening group activities per week and two organized weekend group activities per month. (III)

*a.* The activities program shall be designed to meet the needs and interests of each resident and to assist residents in continuing normal activities within limitations set by the resident's primary care provider. This shall include helping residents continue in their individual interests or hobbies. (III)

*b.* The activities program shall include measureable goals for each resident. (III)

*c.* The activities program shall include both group and individual activities. (III)

*d.* Residents shall be encouraged, but not required, to participate in activities. (III)

**57.23(2) *Coordination of activities program.***

*a.* Each residential care facility with 15 or fewer beds shall designate a person to oversee the activities program, develop goals and monitor progress. (III)

*b.* Each residential care facility with more than 15 beds shall employ a person to direct the activities program. (III)

*c.* Staffing for the activities program shall be provided on the minimum basis of 45 minutes per resident per week. (II, III)

*d.* The activities coordinator shall have completed the activities coordinator orientation course approved by the department within six months of employment or have comparable training and experience as approved by the department. (III)

*e.* There shall be a written plan for personnel coverage when the activities coordinator is absent during scheduled working hours. (III)

**57.23(3) *Duties of activities coordinator.*** The activities coordinator shall:

*a.* Have access to all residents' records. (III)

*b.* Coordinate all activities, including volunteer or auxiliary activities and religious services. (III)

*c.* Keep all necessary records including:

(1) Attendance records; (III)

(2) Individual resident progress notes, recorded at least every three months; (III)

(3) Monthly calendars, prepared in advance, updated as necessary and maintained for one year.

(III)

*d.* Coordinate the activities program with all other services in the facility. (III)

**57.23(4) *Supplies, equipment, and storage.***

*a.* Each facility shall provide a variety of supplies and equipment of a nature calculated to fit the needs and interests of the residents. (III)

*b.* Storage shall be provided for recreational equipment and supplies. (III)

**481—57.24(135C) Residents' rights.**

**57.24(1)** Each facility shall ensure that policies and procedures are written and implemented which include, at a minimum, the provisions of this rule and which govern all areas of service provided by the facility. These policies and procedures shall be available to staff, residents, residents' families or legal representatives and the public and shall be reviewed annually. (II, III)

**57.24(2)** Policies and procedures shall include a method for submitting complaints and recommendations by residents or their responsible parties and for ensuring a response and disposition by the facility. (II, III) The written procedures shall:

*a.* Ensure the provision of assistance to residents as necessary to complete and submit complaints and recommendations; (II, III)

*b.* Ensure protection of the resident from any form of reprisal or intimidation; (II, III)

*c.* Include designation of an employee responsible for handling grievances and recommendations; (II, III)

*d.* Include a method of investigating and assessing the validity of a grievance or recommendation; (II, III) and

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*e.* Include methods of recording grievances and actions taken. (II, III)

**57.24(3)** Policies and procedures shall include provisions governing access to, duplication of, and dissemination of information from the residents' records. (II, III)

**57.24(4)** Policies and procedures shall include a provision that each resident shall be fully informed of the resident's rights and responsibilities as a resident and of all rules governing resident conduct and responsibilities. This information must be provided upon the resident's admission, or in the case of residents already in the facility, upon the facility's adoption or amendment of residents' rights policies. (II, III)

*a.* The facility shall communicate to residents prior to or within five days after admission what residents may expect from the facility and its staff, and what is expected from residents. The communication shall be in writing, e.g., in a separate handout or brochure describing the facility, and interpreted verbally, e.g., as part of a preadmission interview, resident counseling, or in individual or group orientation sessions following the resident's admission. (II, III)

*b.* Residents' rights and responsibilities shall be presented in language understandable to the resident. If the facility serves residents who are non-English-speaking or deaf, steps shall be taken to translate the information into a foreign or sign language. In the case of blind residents, either Braille or a recording shall be provided. Residents shall be encouraged to ask questions about their rights and responsibilities and these questions shall be answered. (II, III)

*c.* A statement shall be signed by the resident, or the resident's responsible party, if applicable, indicating an understanding of these rights and responsibilities and shall be maintained in the resident's record. The statement shall be signed no later than five days after admission, and a copy of the signed statement shall be given to the resident or responsible party. (II, III)

*d.* In order to ensure that residents continue to be aware of these rights and responsibilities during their stay, a written copy shall be prominently posted in a location that is available to all residents. (II, III)

*e.* All residents shall be advised within 30 days following changes made in the statement of residents' rights and responsibilities. Appropriate means shall be utilized to inform non-English-speaking, deaf or blind residents of changes. (II, III)

**57.24(5)** Choice of primary care provider. Each resident shall be permitted free choice of a primary care provider, and pharmacy, if accessible. The facility may require the selected pharmacy to utilize a drug distribution system compatible with the system currently used by the facility. (II)

**57.24(6)** Each resident shall be afforded the opportunity to participate in the planning of the resident's total care and treatment, which may include, but shall not be limited to, medical care, nutritional needs, activities, and social work services. Each resident has the right to refuse treatment except as provided by Iowa Code chapter 229. In the case of a resident with impaired decision-making skills, the responsible party shall be afforded the opportunity to participate in the planning of the resident's total care and medical treatment and to be informed of the resident's medical condition. (II, III)

**57.24(7)** Each resident shall be encouraged and assisted throughout the resident's period of stay to exercise the resident's rights as a resident and as a citizen and may voice grievances and recommend changes in policies and services to administrative staff or to outside representatives of the resident's choice, free from interference, coercion, discrimination, or reprisal. (II)

**57.24(8)** The facility shall provide ongoing opportunities for residents to be aware of and to exercise their rights as residents. Residents shall be kept informed of changes in policies and services that are more restrictive, and their views shall be solicited prior to action. (II)

**57.24(9)** The facility shall post in a prominent area the text of Iowa Code section 135C.46 (Retaliation Prohibited) and the name, telephone number, and address of the long-term care ombudsman, the department, and the local law enforcement agency to provide residents a further course of redress. (II)

**57.24(10)** All rights and responsibilities of the resident devolve to the resident's responsible party or any legal surrogate designated in accordance with state law, to the extent permitted by state law. This

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subrule is not intended to limit the authority of any individual acting pursuant to Iowa Code chapter 144A. (II, III)

**481—57.25(135C) Dignity preserved.** The resident shall be treated with consideration, respect, and full recognition of dignity and individuality, including privacy in treatment and in care for personal needs. (I, II)

**57.25(1)** Staff shall display respect for residents when speaking with, caring for, or talking about them, as constant affirmation of their individuality and dignity as human beings. (I, II)

**57.25(2)** Schedules of daily activities shall allow maximum flexibility for residents to exercise choice about what they will do and when they will do it. Residents' individual preferences regarding such things as menus, clothing, religious activities, friendships, activity programs, entertainment, sleeping and eating, also times to retire at night and arise in the morning shall be elicited and considered by the facility. (II)

**57.25(3)** Residents shall be examined and treated in a manner that maintains the privacy of their bodies. A closed door or a drawn curtain shall shield the resident from passersby. People not involved in the care of the residents shall not be present without the resident's consent while the resident is being examined or treated. (II)

**57.25(4)** Privacy of a resident's body also shall be maintained during toileting, bathing, and other activities of personal hygiene, except as needed for resident safety or assistance. (II)

**57.25(5)** Staff shall knock and be acknowledged before entering a resident's room unless the resident is not capable of a response. This shall not apply under emergency conditions. (II)

**481—57.26(135C) Communications.** Each resident may communicate, associate, and meet privately with persons of the resident's choice, unless to do so would infringe upon the rights of other residents, and may send and receive personal mail unopened. (II)

**57.26(1)** Subject to reasonable scheduling restrictions, visiting policies and procedures shall permit residents to receive visits from anyone they wish. Visiting hours shall be posted. (II)

**57.26(2)** Reasonable, regular visiting hours shall not be less than 12 hours per day and shall take into consideration the special circumstances of each visitor. A particular visitor(s) may be restricted by the facility for one of the following reasons:

- a. The resident refuses to see the visitor(s). (II)
- b. The resident's primary care provider documents specific reasons why such a visit would be harmful to the resident's health. (II)
- c. The visitor's behavior is unreasonably disruptive to the functioning of the facility. This judgment must be made by the administrator, and the reasons shall be documented and kept on file. (II)

**57.26(3)** Decisions to restrict a visitor are reviewed and reevaluated:

- a. Each time the medical orders are reviewed by the primary care provider;
- b. At least quarterly by the facility's staff; or
- c. At the resident's request. (II)

**57.26(4)** Space shall be provided for residents to receive visitors in reasonable comfort and privacy. (II)

**57.26(5)** Telephones shall be available and accessible for residents to make and receive calls with privacy. Residents who need help shall be assisted in using the telephone. (II)

**57.26(6)** Arrangements shall be made to provide assistance to residents who require help in reading or sending mail. (II)

**57.26(7)** Residents, including residents court-ordered to the facility, shall be permitted to leave the facility at reasonable times unless there are justifiable reasons established in writing by court order, the primary care provider, the interdisciplinary team, or facility administrator for refusing permission. (II)

**57.26(8)** Residents shall not have their personal lives regulated beyond reasonable adherence to meal schedules, bedtime hours, and other written policies which may be necessary for the orderly management of the facility and as required by these rules. However, residents shall be encouraged to participate in recreational programs. (II)

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

**481—57.27(135C) Resident activities.**

**57.27(1)** Each resident may participate in activities of social, religious, and community groups at the resident's discretion unless contraindicated for reasons documented by the primary care provider or interdisciplinary team as appropriate in the resident's record. (II)

**57.27(2)** Residents who wish to meet with or participate in activities of social, religious, or other community groups in or outside of the facility shall be informed, encouraged, and assisted to do so. (II)

**481—57.28(135C) Resident property.**

**57.28(1)** Residents shall be permitted to keep reasonable amounts of personal clothing and possessions for their use while in the facility. The facility shall offer the resident the opportunity to have personal property itemized and documented on an inventory sheet upon the resident's admission. The inventory sheet shall be kept in a safe location which is convenient to the resident and shall be updated at least annually. At discharge, residents may sign off on a list of the personal property they are taking with them. (II, III)

**57.28(2)** The facility shall provide for the safekeeping of personal effects, funds and other property of its residents. The facility may require that items of exceptional value or that would convey unreasonable responsibilities to the licensee be removed from the premises of the facility for safekeeping. (III)

**57.28(3)** Funds or properties received by the facility, belonging or due a resident, expendable for the resident's account, shall be trust funds. (III)

**481—57.29(135C) Financial affairs—management.** Each resident who has not been assigned a guardian or conservator by the court may manage the resident's own personal financial affairs. To the extent the facility assists in management, under written authorization by the resident, the management shall be carried out in accordance with Iowa Code section 135C.24. (II)

**57.29(1)** The facility shall maintain a written account of all residents' funds received by or deposited with the facility. (II)

**57.29(2)** An employee shall be designated in writing to be responsible for resident accounts. (II)

**57.29(3)** The facility shall keep on deposit personal funds over which the resident has control in accordance with Iowa Code section 135C.24. Should the resident request these funds, they shall be given to the resident on request with receipts maintained by the facility and a copy to the resident. In the case of a resident with impaired decision-making skills, the resident's legal representative shall designate a method of disbursing the resident's funds. (II)

**57.29(4)** If the facility makes financial transactions on a resident's behalf, the facility must document that it has prepared and sent an itemized accounting of disbursements and current balances at least quarterly. A copy of this statement shall be maintained in the resident's financial or business record. (II)

**57.29(5)** A resident's personal funds shall not be used without the written consent of the resident or the resident's legal representative. (I, II)

**57.29(6)** A resident's personal funds shall be returned to the resident when the funds have been used without the written consent of the resident or the resident's legal representative. The department may report findings that resident funds have been used without written consent to the department's investigations division or the local law enforcement agency, as appropriate. (II)

**481—57.30(135C) Resident work.** No resident may be required to perform services for the facility, except as provided by Iowa Code section 347B.5. (II)

**57.30(1)** Residents may not be used to provide a source of labor for the facility against their will. Approval by the primary care provider is required for all work programs. (I, II)

**57.30(2)** Residents who perform work for the facility must receive compensation unless the work is part of their approved training program. Persons on the resident census who perform work shall not be used to replace paid employees in fulfilling staffing requirements. (II)

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

**481—57.31(135C) Family—shared rooms.** Family members or spouses shall be permitted to share a room, if available, if requested by both parties, unless the primary care provider of one of the parties documents in the medical record specific reasons why such an agreement would have an adverse effect on the health of the resident. (II)

**481—57.32(135C) Resident abuse prohibited.** Each resident shall receive kind and considerate care at all times and shall be free from mental, physical, sexual, and verbal abuse, exploitation, neglect, and physical injury. (I, II)

**57.32(1)** Mental abuse includes, but is not limited to, humiliation, harassment, and threats of punishment or deprivation. (I, II)

**57.32(2)** Physical abuse includes, but is not limited to, corporal punishment and the use of restraints as punishment. (I, II)

**57.32(3)** Drugs such as tranquilizers shall only be used in accordance with orders of the primary care provider. (I, II)

**57.32(4)** Allegations of dependent adult abuse. Allegations of dependent adult abuse shall be reported and investigated pursuant to Iowa Code chapter 235E and 481—Chapter 52. (I, II, III)

**481—57.33(135C) Crisis intervention.** If a facility utilizes physical restraints, there shall be written policies that define the uses of physical restraints, designate the administrator or designee as the person who may authorize their use, and establish a mechanism for monitoring and controlling their use. (I, II)

**57.33(1)** Temporary physical restraint of residents shall be used only under the following conditions: (I, II)

*a.* An emergency to prevent injury to the resident or to others; or (I, II)

*b.* For crisis intervention, but shall not be used for punishment, for the convenience of staff or as a substitution for supervision or programming; (I, II) and

*c.* No staff person shall use any restraint that obstructs the airway of the resident. (I, II)

**57.33(2)** Authorization for the use of physical restraints must be prior to or immediately after application of the restraint. (I, II)

**57.33(3)** Prone restraint is prohibited. Staff persons who find themselves involved in the use of a prone restraint when responding to an emergency must take immediate steps to end the prone restraint. (I, II)

**57.33(4)** The rationale and authorization for the use of physical restraint and staff action and procedures carried out to protect the resident's rights and to ensure safety shall be clearly set forth in the resident's record by the responsible staff persons. (I, II)

**57.33(5)** The primary care provider, the interdisciplinary team and the resident's responsible party shall be notified of any restraints administered. (I, II, III)

**57.33(6)** The facility shall provide to the staff a department-approved training program by qualified professionals on physical restraint techniques. (I, II)

*a.* The facility shall keep a record of training for review by the department and shall include attendance. (II, III)

*b.* Only staff with documented training in physical restraint and techniques shall be authorized to assist with physical restraint of a resident. (I, II)

*c.* Under no circumstances shall a resident be allowed to actively or passively assist in the restraint of another resident. (I, II)

**57.33(7)** Residents shall not be kept behind locked doors. (I, II)

**481—57.34(135C) Safety.** The licensee of a residential care facility shall be responsible for the provision and maintenance of a safe environment for residents and personnel. (I, II, III)

**57.34(1) Fire safety.**

*a.* All residential care facilities shall meet the fire safety rules and regulations as promulgated by the state fire marshal. (I, II)

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

b. The size of the facility and needs of the residents shall be taken into consideration in evaluating safety precautions and practices.

**57.34(2) *Safety duties of administrator.*** The administrator shall have a written emergency plan to be followed in the event of fire, tornado, explosion, or other emergency. (III)

a. The plan shall be prominently posted in a common area of the building. (III)

b. In-service shall be provided to ensure that all employees are knowledgeable of the emergency plan. (II, III)

**57.34(3) *Resident safety.***

a. Smoking shall be prohibited, except as allowed by Iowa Code chapter 142D, the smokefree air Act. (II, III)

b. Whenever full or empty tanks of oxygen are being used or stored, they shall be securely supported in an upright position. (II, III)

c. Residents shall receive adequate supervision to ensure against hazard from themselves, others, or elements in the environment. (I, II, III)

d. Storage areas for cleaning agents, bleaches, insecticides, or any other poisonous, dangerous, or flammable materials shall be locked. Residents permitted to access these materials shall be supervised by staff as identified in the resident's service plan. (I, II, III)

e. Sufficient numbers of noncombustible trash containers with covers shall be available. (III)

f. Residents' personal possessions that may constitute a hazard to residents or others shall be removed and stored. (III)

**57.34(4) *First-aid kit.*** A first-aid emergency kit shall be available on each floor in every facility. (II, III)

**481—57.35(135C) Housekeeping.**

**57.35(1)** Written procedures shall be established and implemented for daily and weekly cleaning schedules. (III)

**57.35(2)** Each resident room shall be cleaned on a routine schedule. (III)

**57.35(3)** All rooms, corridors, storage areas, linen closets, attics, and basements shall be kept in a clean, orderly condition, free of unserviceable furniture and equipment and accumulations of refuse. (II, III)

**57.35(4)** A hallway or corridor shall not be used for storage of equipment. (II, III)

**57.35(5)** All odors shall be kept under control by cleanliness and proper ventilation. (III)

**57.35(6)** Clothing worn by personnel shall be clean and washable. (III)

**57.35(7)** Housekeeping and maintenance personnel shall be provided with well-constructed and properly maintained equipment appropriate to the function for which it is to be used. (III)

**57.35(8)** All furniture, bedding, linens, and equipment shall be cleaned periodically and before use by another resident. (II, III)

**57.35(9)** Polishes used on floors shall provide a nonslip finish. (II, III)

**57.35(10)** Throw or scatter rugs shall have nonskid backing. (II, III)

**57.35(11)** Entrances, exits, steps, and outside walkways shall be kept free from ice, snow, and other hazards. (II, III)

**481—57.36(135C) Maintenance.**

**57.36(1)** Each facility shall establish a maintenance program to ensure the continued maintenance of the facility, to promote good housekeeping procedures, and to ensure sanitary practices throughout the facility. In facilities with more than 15 beds, the maintenance program shall be established in writing and available for review by the department. (II, III)

**57.36(2)** The building, grounds, and other buildings shall be maintained in a clean, orderly condition and in good repair. (II, III)

**57.36(3)** Window treatments and furniture shall be clean and in good repair. (II, III)

**57.36(4)** Cracks in plaster, peeling wallpaper or paint, and tears or splits in floor coverings shall be promptly repaired or replaced in a professional manner. (II, III)

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

**57.36(5)** The electrical systems, including appliances, cords, and switches, shall be maintained to guarantee safe functioning and comply with the National Electric Code. (II, III)

**57.36(6)** All plumbing fixtures shall function properly and comply with the state plumbing code. (II, III)

**57.36(7)** Yearly inspections of the heating and cooling systems shall be made to guarantee safe operation. (II, III)

**57.36(8)** The building, grounds, and other buildings shall be kept free of breeding areas for flies, other insects, and rodents. (II, III)

**57.36(9)** The facility shall be kept free of flies, other insects, and rodents. (II, III)

**57.36(10)** Janitor's closet.

*a.* Facilities shall be provided with storage for cleaning equipment and supplies. (III)

*b.* Mops, scrub pails, and other cleaning equipment used in the resident areas shall not be stored or used in the dietary area. (III)

*c.* In facilities licensed for more than 15 beds, a janitor's closet shall be provided. It shall be equipped with water for filling scrub pails and a janitor's sink for emptying scrub pails. (III)

**481—57.37(135C) Laundry.**

**57.37(1)** All soiled linens shall be collected and transported to the laundry room in closed, leakproof laundry bags or covered, impermeable containers. (III)

**57.37(2)** Except for related activities, the laundry room shall not be used for other purposes. (III)

**57.37(3)** Procedures shall be written for the proper handling of wet, soiled, and contaminated linens. (III)

**57.37(4)** Residents' personal laundry shall be marked with an identification if comingled with other residents' personal laundry. (III)

**57.37(5)** Bed linens, towels, and washcloths shall be clean and stain-free. (III)

**57.37(6)** If laundry is done in the facility, the following shall be provided:

*a.* A clean, dry, well-lit area to accommodate a washer and dryer of adequate size to serve the needs of the facility. (III)

*b.* In facilities with more than 15 beds, the laundry room shall be divided into separate areas, one for sorting soiled linen and one for sorting and folding clean linen. (III)

**481—57.38(135C) Garbage and waste disposal.**

**57.38(1)** All garbage shall be gathered, stored, and disposed of in a manner that will not permit transmission of disease, create a nuisance, or provide a breeding or feeding place for vermin or insects. (III)

**57.38(2)** All containers for refuse shall be watertight and rodent-proof and have tight-fitting covers. (III)

**57.38(3)** All unlined containers shall be thoroughly cleaned each time the containers are emptied. (III)

**57.38(4)** All waste shall be properly disposed of in compliance with local ordinances and state codes. (III)

**481—57.39(135C) Supplies.**

**57.39(1)** *Linen supplies.*

*a.* There shall be an adequate supply of linen so that each resident shall have at least three washcloths, hand towels, and bath towels per week. (III)

*b.* A complete change of bed linens shall be available in the linen storage area for each bed. (III)

*c.* Sufficient lightweight, clean, serviceable blankets shall be available. All blankets shall be laundered as often as necessary for cleanliness and freedom from odors. (III)

*d.* Each bed shall be provided with clean, washable bedspreads. There shall be a supply available when changes are necessary. (III)

*e.* Adequate storage shall be provided for linens, pillows, and bedding. (III)



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

**57.39(2) *Supplies, equipment and storage.***

- a. All equipment shall be properly cleaned and sanitized before use by another resident. (III)
- b. Clean and sanitary storage shall be provided for equipment and supplies. (III)
- c. Each facility shall provide a variety of supplies and equipment of a nature calculated to fit the needs and interests of the residents. (III)
- d. Locked storage should be available for potentially dangerous items such as scissors, knives, and toxic materials. (III)

**481—57.40(135C) Buildings, furnishings, and equipment.****57.40(1) *Buildings—general requirements.***

- a. All windows shall be supplied with window treatments that are kept clean and in good repair. (III)
- b. Whenever glass sliding doors or transparent panels are used, they shall be marked conspicuously. (III)
- c. The facility shall meet the equivalent requirements of the appropriate group occupancy of the state building code. (III)

**57.40(2) *Furnishings and equipment.***

- a. All furnishings and equipment shall be durable, cleanable, and appropriate to their function. (III)
- b. All resident areas shall be decorated, painted, and furnished to provide a homelike atmosphere. (III)
- c. Upholstery materials shall be moisture- and soil-resistant as needed, except on furniture provided by the resident and the property of the resident. (III)

**57.40(3) *Dining and living rooms.***

- a. Every facility shall have a dining room and a living room easily accessible to all residents. (III)
- b. Living rooms shall be maintained for the use of residents and their visitors and may be used for recreational activities. Living rooms shall be suitably furnished. (III)
- c. Dining rooms shall be furnished with dining tables and chairs appropriate to the size and function of the facility. Dining rooms and furnishings shall be kept clean and sanitary. (III)

**57.40(4) *Bedrooms.***

- a. Each resident shall be provided with a standard, single, or twin bed, substantially constructed and in good repair. Rollaway beds, metal cots, or folding beds are not acceptable. (III)
- b. Each bed shall be equipped with the following: casters or glides; clean springs in good repair; a clean, comfortable, well-constructed mattress approximately five inches thick and standard in size for the bed; and clean, comfortable pillows of average bed size. (III)
- c. Each resident shall have a bedside table with a drawer to accommodate personal possessions. (III)
- d. There shall be a comfortable chair, either a rocking chair or armchair, per resident bed. The resident's personal wishes shall be considered. (III)
- e. There shall be drawer space for each resident's clothing. In a bedroom in which more than one resident resides, drawer space shall be assigned to each resident. (III)
- f. Beds and other furnishings shall not obstruct free passage to and through doorways. (III)
- g. Beds shall not be placed in such a manner that the side of the bed is against the radiator or in close proximity to it unless the radiator is covered so as to protect the resident from contact with it or from excessive heat. (III)
- h. There shall be no more than four residents per room. (III)

**57.40(5) *Bath and toilet facilities.***

- a. All sinks shall have paper towel dispensers and an available supply of soap. (III)
- b. Toilet paper shall be readily available to residents. (III)

**57.40(6) *Heating.*** A centralized heating system shall be maintained in good working order and capable of maintaining a comfortable temperature for residents of the facility. Portable units or space heaters are prohibited from being used in the facility except in an emergency. (II, III)

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

**57.40(7) Water supply.**

- a. Private sources of water supply shall be tested annually and the report made available for review by the department upon request. (III)
- b. A bacterially unsafe source of water supply shall be grounds for denial, suspension, or revocation of license. (III)
- c. The department may require testing of private sources of water supply at its discretion in addition to the annual test. The facility shall supply reports of such tests as directed by the department. (III)
- d. Hot and cold running water under pressure shall be available in the facility. (II, III)
- e. Prior to construction of a new facility or new water source, private sources of water supply shall be surveyed and shall comply with the requirements of the department. (III)

**481—57.41(135C) Family and employee accommodations.**

**57.41(1)** In facilities where the total occupancy of family, employees, and residents is more than five, separate bathing and toilet facilities shall be required for the family or employees distinct from such areas provided for the residents. (III)

**57.41(2)** In all facilities, if the family or employees live within the facility, separate living quarters and recreation facilities shall be required for the family or employees distinct from such areas provided for the residents. (III)

**481—57.42(135C) Animals.** No animals shall be allowed to reside in the facility except with written approval of the department and under controlled conditions. (II, III)

**481—57.43(135C) Another business or activity in a facility.** A facility is allowed to have another business or activity in a health care facility or in the same physical structure of the facility, if the other business or activity is under the control of and is directly related to and incidental to the operation of the health care facility, or the business or activity is approved by the department and the state fire marshal. (I, II, III)

**57.43(1)** To obtain the approval of the department and the state fire marshal, the facility must submit to the department a written request for approval which identifies the service(s) to be offered by the business and addresses the factors outlined in paragraphs 57.43(2) “a” through “j.” (I, II, III)

**57.43(2)** The following factors will be considered by the department in determining whether a business or activity will interfere with the use of the facility by residents, interfere with services provided to residents, or be disturbing to residents:

- a. Health and safety risks for residents;
- b. Compatibility of the proposed business or activity with the facility program;
- c. Noise created by the proposed business or activity;
- d. Odors created by the proposed business or activity;
- e. Use of entrances and exits for the business or activity in regard to safety and disturbance of residents and interference with delivery of services;
- f. Use of the facility’s corridors or rooms as thoroughfares to the business or activity in regard to safety and disturbance of residents and interference with delivery of services;
- g. Proposed staffing for the business or activity;
- h. Sharing of services and staff between the proposed business or activity and the facility;
- i. Facility layout and design; and
- j. Parking area utilized by the business or activity.

**57.43(3)** Approval of the state fire marshal shall be obtained before approval of the department will be considered.

**57.43(4)** A business or activity conducted in a health care facility or in the same physical structure as a health care facility shall not reduce space, services or staff available to residents below minimums required in these rules and 481—Chapter 60. (I, II, III)

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

**481—57.44(135C) Respite care services.** “Respite care services” means an organized program of temporary supportive care provided for 24 hours or more to a person in order to relieve the usual caregiver of the person from providing continual care to the person. “Respite care services” does not include crisis stabilization services provided pursuant to 2014 Iowa Acts, chapter 1044 (to be codified at Iowa Code section 225C.19A). “Respite care individual” means a person receiving respite care services. A residential care facility which chooses to provide respite care services must meet the following requirements related to respite services and must be licensed as a residential care facility. (II, III)

**57.44(1) Length of stay.** Respite care may be provided for no more than 30 consecutive days and for a total of no more than 60 days in a consecutive 12-month period. The 12-month period begins on the first day of the respite care individual’s stay at the facility. (II, III)

**57.44(2) No separate license.** A residential care facility which chooses to provide respite care services is not required to obtain a separate license or pay a license fee.

**57.44(3) Involuntary termination of respite services.** The facility may terminate the respite services for a respite care individual. Rule 481—57.14(135C) shall not apply. The facility shall make proper arrangements for the welfare of the respite care individual prior to involuntary termination of respite services, including notification of the respite care individual’s family or legal representative. (II, III)

**57.44(4) Contract.** Pursuant to rule 481—57.15(135C), the facility shall have a contract with each resident in the facility. When an individual is there for respite care services, the contract shall specify the time period during which the individual will be considered to be receiving respite care services. At the end of that period, the contract may be amended to extend that period of time. The contract shall specifically state that respite care services may be involuntarily terminated. The contract shall meet other requirements under rule 481—57.15(135C), except the requirements under subrule 57.15(7). (II, III)

**57.44(5) Admission as a resident.**

*a.* An individual being cared for under a respite care contract shall not be considered an admission to the facility.

*b.* A respite care individual shall be included in the facility’s census.

*c.* The facility shall not enter into multiple 30-day contracts with an individual being cared for under a respite care contract in order to lengthen the individual’s stay at the facility. (II, III)

*d.* If an individual being cared for under a respite care contract remains in the facility beyond 30 consecutive days and is eligible for admission, the department shall consider the individual a resident in the facility. The facility shall follow all requirements for the individual’s admission to the facility. (II, III)

**57.44(6) Level of care.** Respite care services shall not be provided by a health care facility to persons requiring a level of care which is higher than the level of care the facility is licensed to provide. (I, II, III)

**57.44(7) Reporting requirements.** The reporting requirements of rule 481—50.7(135C) shall apply to residents being cared for under a respite care contract. (I, II, III)

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

[Filed 11/13/14, effective 1/14/15]

[Published 12/10/14]

EDITOR’S NOTE: For replacement pages for IAC, see IAC Supplement 12/10/14.

**ARC 1752C**

**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 58, “Nursing Facilities,” Chapter 62, “Residential Care Facilities for Persons With Mental Illness (RCF/PMI),” Chapter 63, “Residential Care Facilities for the Intellectually Disabled,” Chapter 64, “Intermediate Care Facilities for the Intellectually Disabled,”

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

and Chapter 65, “Intermediate Care Facilities for Persons With Mental Illness (ICF/PMI),” Iowa Administrative Code.

These technical amendments update and clarify provisions related to involuntary discharge or transfer of residents in facilities licensed pursuant to Iowa Code chapter 135C.

Notice of Intended Action was published in the Iowa Administrative Bulletin on October 1, 2014, as **ARC 1648C**. Comments were received on the proposed amendments and resulted in the changes described below.

Comments were received from the Iowa Nurses Association and the Iowa Health Care Association. Based on those comments, the following changes from the Notice have been made:

- References to “physician” or “attending physician” were changed to “primary care provider,” and a definition of “primary care provider” was added.
- The list of individuals permitted to provide counseling was removed from paragraphs 58.40(10)“d,” 62.14(9)“d,” 63.34(10)“d,” 64.36(10)“d” and 65.16(9)“d” and replaced with “licensed mental health care professional as defined in Iowa Code section 228.1(6).”
- References to “legal guardian” were changed to “legal representative” throughout.
- Proposed paragraphs 58.40(7)“b,” 62.14(6)“b,” 63.34(7)“b,” 64.36(7)“b” and 65.16(6)“b” were changed to allow either party to request an extension of the hearing due to emergency circumstances.

In addition, the subrule numbers before each definition in rule 481—63.1(135C) have been removed for consistency with the format of the definitions in other chapters.

Because of the changes described above, item statements have been added and others have been renumbered since the amendments were published under Notice of Intended Action.

The State Board of Health initially reviewed the amendments at its September 10, 2014, meeting and subsequently approved them at the Board’s November 12, 2014, meeting.

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

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

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

These amendments shall become effective January 14, 2015.

The following amendments are adopted.

ITEM 1. Adopt the following **new** definition of “Primary care provider” in rule **481—58.1(135C)**: “*Primary care provider*” means any of the following who provide primary care and meet certification standards:

1. A physician who is a family or general practitioner or an internist.
2. An advanced registered nurse practitioner.
3. A physician assistant.

ITEM 2. Rescind rule 481—58.40(135C) and adopt the following **new** rule in lieu thereof:

**481—58.40(135C) Involuntary discharge or transfer.**

**58.40(1) Involuntary discharge or transfer permitted.** A facility may involuntarily discharge or transfer a resident for only one of the following reasons:

- a. Medical reasons;
- b. The resident’s welfare or that of other residents;
- c. Nonpayment for the resident’s stay, as described in the contract for the resident’s stay;
- d. Due to action pursuant to Iowa Code chapter 229;
- e. By reason of negative action by the Iowa department of human services; or
- f. By reason of negative action by the quality improvement organization (QIO). (I, II, III)

**58.40(2) Medical reasons.** Medical reasons for transfer or discharge shall be based on the resident’s needs and shall be determined and documented in the resident’s record by the primary care provider. Transfer or discharge may be required in order to provide a different level of care to the resident. (II)

**58.40(3) Welfare of a resident.** Welfare of a resident or that of other residents refers to a resident’s social, emotional, or physical well-being. A resident may be transferred or discharged because the

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

resident's behavior poses a continuing threat to the resident (e.g., suicidal) or to the well-being of other residents or staff (e.g., the resident's behavior is incompatible with other residents' needs and rights). Written documentation that the resident's continued presence in the facility would adversely affect the resident's own welfare or that of other residents shall be made by the administrator or designee and shall include specific information to support this determination. (II)

**58.40(4) *Involuntary discharge or transfer prohibited—payment source.*** A resident shall not be transferred or discharged solely because the cost of the resident's care is being paid under Iowa Code chapter 249A or because the resident's source of payment is changing from private support to payment under Iowa Code chapter 249A. (I, II)

**58.40(5) *Notice.*** Involuntary transfer or discharge of a resident from a facility shall be preceded by a written notice to the resident and the responsible party. (II, III)

*a.* The notice shall contain all of the following information:

- (1) The stated reason for the proposed transfer or discharge. (II)
- (2) The effective date of the proposed transfer or discharge. (II)
- (3) A statement, in not less than 12-point type, that reads as follows:

You have a right to appeal the facility's decision to transfer or discharge you. If you think you should not have to leave this facility, you may request a hearing, in writing or verbally, with the Iowa department of inspections and appeals (hereinafter referred to as "department") within 7 days after receiving this notice. You have a right to be represented at the hearing by an attorney or any other individual of your choice. If you request a hearing, it will be held no later than 14 days after the department's receipt of your request and you will not be transferred before a final decision is rendered. Extension of the 14-day requirement may be permitted in emergency circumstances upon request to the department's designee. If you lose the hearing, you will not be transferred before the expiration of either (1) 30 days following your receipt of the original notice of the discharge or transfer, or (2) 5 days following final decision of such hearing, including the exhaustion of all appeals, whichever occurs later. To request a hearing or receive further information, call the department at (515)281-4115, or write to the department to the attention of: Administrator, Division of Health Facilities, Department of Inspections and Appeals, Lucas State Office Building, Des Moines, Iowa 50319-0083. (II)

*b.* The notice shall be personally delivered to the resident and a copy placed in the resident's record. A copy shall also be transmitted to the department; the resident's responsible party; the resident's primary care provider; the person or agency responsible for the resident's placement, maintenance, and care in the facility; and the department on aging's office of the long-term care ombudsman. The notice shall indicate that copies have been transmitted to the required parties by using the abbreviation "cc:" and listing the names of all parties to whom copies were sent.

*c.* The notice required by paragraph 58.40(5) "*a*" shall be provided at least 30 days in advance of the proposed transfer or discharge unless one of the following occurs:

(1) An emergency transfer or discharge is mandated by the resident's health care needs and is in accordance with the written orders and medical justification of the primary care provider. Emergency transfers or discharges may also be mandated in order to protect the health, safety, or well-being of other residents and staff from the resident being transferred. (II)

(2) The transfer or discharge is subsequently agreed to by the resident or the resident's responsible party, and notification is given to the responsible party, the resident's primary care provider, and the person or agency responsible for the resident's placement, maintenance, and care in the facility.

(3) The discharge or transfer is the result of a final, nonappealable decision by the department of human services or the QIO.

*d.* A hearing requested pursuant to this subrule shall be held in accordance with subrule 58.40(7).

**58.40(6) *Emergency transfer or discharge.*** In the case of an emergency transfer or discharge, the resident must be given a written notice prior to or within 48 hours following the transfer or discharge. (II, III)

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*a.* A copy of this notice shall be placed in the resident's file. The notice shall contain all of the following information:

- (1) The stated reason for the transfer or discharge. (II)
- (2) The effective date of the transfer or discharge. (II)
- (3) A statement, in not less than 12-point type, that reads as follows:

You have a right to appeal the facility's decision to transfer or discharge you on an emergency basis. If you think you should not have to leave this facility, you may request a hearing, in writing or verbally, with the Iowa department of inspections and appeals (hereinafter referred to as "department") within 7 days after receiving this notice. You have a right to be represented at the hearing by an attorney or any other individual of your choice. If you request a hearing, it will be held no later than 14 days after the department's receipt of your request. You may be transferred or discharged before the hearing is held or before a final decision is rendered. If you win the hearing, you have the right to be transferred back into the facility. To request a hearing or receive further information, call the department at (515)281-4115, or write to the department to the attention of: Administrator, Division of Health Facilities, Department of Inspections and Appeals, Lucas State Office Building, Des Moines, Iowa 50319-0083. (II)

*b.* The notice shall be personally delivered to the resident and a copy placed in the resident's record. A copy shall also be transmitted to the department; the resident's responsible party; the resident's primary care provider; the person or agency responsible for the resident's placement, maintenance, and care in the facility; and the department on aging's office of the long-term care ombudsman. The notice shall indicate that copies have been transmitted to the required parties by using the abbreviation "cc:" and listing the names of all parties to whom copies were sent.

*c.* A hearing requested pursuant to this subrule shall be held in accordance with subrule 58.40(7). **58.40(7) Hearing.**

*a.* Request for hearing.

- (1) The resident must request a hearing within 7 days of receipt of the written notice.
- (2) The request must be made to the department, either in writing or verbally.

*b.* The hearing shall be held no later than 14 days after the department's receipt of the request unless either party requests an extension due to emergency circumstances.

*c.* Except in the case of an emergency discharge or transfer, a request for a hearing shall stay a transfer or discharge pending a final decision, including the exhaustion of all appeals. (II)

*d.* The hearing shall be heard by a department of inspections and appeals administrative law judge pursuant to Iowa Code chapter 17A and 481—Chapter 10. The hearing shall be public unless the resident or resident's legal representative requests in writing that the hearing be closed. In a determination as to whether a transfer or discharge is authorized, the burden of proof by a preponderance of the evidence rests on the party requesting the transfer or discharge.

*e.* Notice of the date, time, and place of the hearing shall be sent by certified mail or delivered in person to the facility, the resident, the responsible party, and the office of the long-term care ombudsman not later than 5 full business days after the department's receipt of the request. The notice shall also inform the facility and the resident or the responsible party that they have a right to appear at the hearing in person or be represented by an attorney or other individual. The appeal shall be dismissed if neither party is present or represented at the hearing. If only one party appears or is represented, the hearing shall proceed with one party present. The office of the long-term care ombudsman shall have the right to appear at the hearing.

*f.* The administrative law judge's written decision shall be mailed by certified mail to the facility, resident, responsible party, and the office of the long-term care ombudsman within 10 working days after the hearing has been concluded.

*g.* If the basis for an involuntary transfer or discharge is the result of a negative action by the Iowa department of human services or the QIO, an appeal shall be filed with those agencies as appropriate. Continued payment shall be consistent with rules of those agencies.

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

**58.40(8) *Nonpayment.*** If nonpayment is the basis for involuntary transfer or discharge, the resident shall have the right to make full payment up to the date that the discharge or transfer is to be made and then shall have the right to remain in the facility. (II)

**58.40(9) *Discussion of involuntary transfer or discharge.*** Within 48 hours after notice of involuntary transfer or discharge has been received by the resident, the facility shall discuss the involuntary transfer or discharge with the resident, the resident's responsible party, and the person or agency responsible for the resident's placement, maintenance, and care in the facility. (II)

*a.* The facility administrator or other appropriate facility representative serving as the administrator's designee shall provide an explanation and discussion of the reasons for the resident's involuntary transfer or discharge. (II)

*b.* The content of the explanation and discussion shall be summarized in writing, shall include the names of the individuals involved in the discussion, and shall be made part of the resident's record. (II)

*c.* The provisions of this subrule do not apply if the involuntary transfer or discharge has already occurred pursuant to subrule 58.40(6) and emergency notice is provided within 48 hours.

**58.40(10) *Transfer or discharge planning.***

*a.* The facility shall develop a plan to provide for the orderly and safe transfer or discharge of each resident to be transferred or discharged. (II)

*b.* To minimize the possible adverse effects of the involuntary transfer, the resident shall receive counseling services by the sending facility before the involuntary transfer and by the receiving facility after the involuntary transfer. Counseling shall be documented in the resident's record. (II)

*c.* The counseling requirement in paragraph 58.40(10) "*b*" does not apply if the discharge has already occurred pursuant to subrule 58.40(6) and emergency notice is provided within 48 hours.

*d.* Counseling, if required, shall be provided by a licensed mental health professional as defined in Iowa Code section 228.1(6). (II)

*e.* The health care facility that receives a resident who has been involuntarily transferred shall immediately formulate and implement a plan of care which takes into account possible adverse effects the transfer may cause. (II)

**58.40(11) *Transfer upon revocation of license or voluntary closure.*** Residents shall not have the right to a hearing to contest an involuntary discharge or transfer resulting from the revocation of the facility's license by the department of inspections and appeals. In the case of the voluntary closure of a facility, a period of 30 days must be allowed for an orderly transfer of residents to other facilities.

**58.40(12) *Intrafacility transfer.***

*a.* Residents shall not be arbitrarily relocated from room to room within a licensed health care facility. (I, II) Involuntary relocation may occur only in the following situations, which shall be documented in the resident's record: (II)

(1) Resident's incompatibility with or disturbance to other roommates.

(2) For the welfare of the resident or other residents of the facility.

(3) For medical, nursing or psychosocial reasons, as judged by the primary care provider, nurse or social worker in the case of a facility which groups residents by medical, nursing or psychosocial needs.

(4) To allow a new admission to the facility that would otherwise not be possible due to separation of roommates by sex.

(5) In the case of a resident whose source of payment was previously private, but who now is eligible for Title XIX (Medicaid) assistance, the resident may be transferred from a private room to a semiprivate room or from one semiprivate room to another.

(6) Reasonable and necessary administrative decisions regarding the use and functioning of the building.

*b.* Unreasonable and unjustified reasons for changing a resident's room without the concurrence of the resident or responsible party include:

(1) Change from private pay status to Title XIX, except as outlined in subparagraph 58.40(12) "*a*"(5). (II)

(2) As punishment or behavior modification, except as specified in subparagraph 58.40(12) "*a*"(1). (II)

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(3) Discrimination on the basis of race or religion. (II)

c. If intrafacility relocation is necessary for reasons outlined in paragraph 58.40(12)“a,” the resident shall be notified at least 48 hours prior to the transfer and the reason therefor shall be explained. The responsible party shall be notified as soon as possible. The notification shall be documented in the resident’s record and signed by the resident or responsible party. (II)

d. If emergency relocation is required in order to protect the safety or health of the resident or other residents, the notification requirements may be waived. The conditions of the emergency shall be documented. The family or responsible party shall be notified immediately or as soon as possible of the condition that necessitates emergency relocation, and such notification shall be documented. (II)

e. A transfer to a part of a facility that has a different license must be handled the same way as a transfer to another facility and not as an intrafacility transfer. (II, III)

ITEM 3. Adopt the following new definition of “Primary care provider” in rule **481—62.1(135C)**: “*Primary care provider*” means any of the following who provide primary care and meet certification standards:

1. A physician who is a family or general practitioner or an internist.
2. An advanced registered nurse practitioner.
3. A physician assistant.

ITEM 4. Amend subrule 62.14(1), introductory paragraph, as follows:

**62.14(1) *Discharge plan.*** The decision to discharge a person and the plan for doing so shall be established through the participation of the resident, members of the interdisciplinary team and other resource personnel as appropriate for the welfare of the individual. (II, III)

ITEM 5. Amend paragraph **62.14(1)“c”** as follows:

c. Notification shall be made to the ~~next of kin~~ resident’s family, the resident’s legal representative, ~~attending physician~~ primary care provider, and sponsoring agency, if any, prior to transfer or discharge of any resident. (III)

ITEM 6. Amend paragraph **62.14(1)“d”** as follows:

d. Proper arrangements shall be made for the welfare of the resident prior to the transfer or discharge in the event of an emergency or inability to reach the ~~next of kin~~ resident’s family or the resident’s legal representative. (III)

ITEM 7. Amend paragraph **62.14(1)“e”** as follows:

e. The licensee shall not refuse to discharge or transfer a resident when directed by the ~~physician~~ primary care provider, resident, legal representative, or court. (II, III)

ITEM 8. Adopt the following new paragraph **62.14(2)“e”**:

e. A transfer to a part of a facility that has a different license must be handled in the same way as a transfer to another facility and not as an intrafacility transfer. (II, III)

ITEM 9. Rescind subrule 62.14(3) and adopt the following new subrule in lieu thereof:

**62.14(3) *Involuntary discharge or transfer permitted.*** A facility may involuntarily discharge or transfer a resident for only one of the following reasons:

- a. Medical reasons, based on the resident’s needs and determined and documented in the resident’s record by the primary care provider;
- b. The resident’s social, emotional or physical well-being or that of other residents, as documented by the administrator or designee with specific information to support the determination that the resident’s continued presence in the facility would adversely affect the resident’s own well-being or that of other residents;
- c. Due to action pursuant to Iowa Code chapter 229; or
- d. Nonpayment for the resident’s stay, as described in the admission agreement for the resident’s stay. (I, II, III)



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

ITEM 10. Rescind subrule 62.14(4) and adopt the following **new** subrule in lieu thereof:

**62.14(4) *Involuntary transfer or discharge—written notice.*** Involuntary transfer or discharge of a resident from a facility shall be preceded by a written notice to the resident or the resident's family or resident's legal representative. (II, III)

*a.* The notice shall contain all of the following information:

- (1) The stated reason for the proposed transfer or discharge. (II)
- (2) The effective date of the proposed transfer or discharge. (II)
- (3) A statement, in not less than 12-point type, that reads as follows:

You have a right to appeal the facility's decision to transfer or discharge you. If you think you should not have to leave this facility, you may request a hearing, in writing or verbally, with the Iowa department of inspections and appeals (hereinafter referred to as "department") within 7 days after receiving this notice. You have a right to be represented at the hearing by an attorney or any other individual of your choice. If you request a hearing, it will be held no later than 14 days after the department's receipt of your request and you will not be transferred before a final decision is rendered. In emergency circumstances, provision may be made for extension of the 14-day requirement upon request to the department designee. If you lose the hearing, you will not be transferred before the expiration date of either (1) 30 days following your receipt of the original notice of the discharge or transfer, or (2) no sooner than 5 days following final decision of such hearing, including the exhaustion of all appeals, whichever occurs later. To request a hearing or receive further information, call the department at (515)281-4115, or you may write to the department to the attention of: Administrator, Division of Health Facilities, Iowa Department of Inspections and Appeals, Lucas State Office Building, Des Moines, Iowa 50319. (II)

*b.* The notice shall be personally delivered to the resident and a copy placed in the resident's record. A copy shall also be transmitted to the department, the resident's legal representative, primary care provider, and the person or agency responsible for the resident's placement, maintenance, and care in the facility. The notice shall indicate that copies have been transmitted to the required parties by using the abbreviation "cc:" and listing the names of all parties to whom copies were sent. (II)

*c.* The notice required by paragraph 62.14(4) "*a*" shall be provided at least 30 days in advance of the proposed transfer or discharge unless one of the following occurs:

(1) An emergency transfer or discharge is mandated by the resident's health care needs and is in accordance with the written orders and medical justification of the primary care provider. Emergency transfers or discharges may also be mandated in order to protect the health, safety, or well-being of other residents and staff. (II)

(2) The transfer or discharge is subsequently agreed to by the resident or the resident's legal representative, and notification is given to the legal representative, the resident's primary care provider, and the person or agency responsible for the resident's placement, maintenance, and care in the facility. (II)

*d.* A hearing requested pursuant to this subrule shall be held in accordance with subrule 62.14(6).

ITEM 11. Adopt the following **new** subrules 62.14(5) to 62.14(10):

**62.14(5) *Involuntary transfer or discharge—emergency transfer or discharge.*** In the case of an emergency transfer or discharge, the resident must be given a written notice prior to or within 48 hours following the transfer or discharge. (II, III)

*a.* A copy of this notice must be placed in the resident's file. The notice must contain all of the following information:

- (1) The stated reason for the transfer or discharge. (II)
- (2) The effective date of the transfer or discharge. (II)
- (3) A statement, in not less than 12-point type, that reads:

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You have a right to appeal the facility's decision to transfer or discharge you on an emergency basis. If you think you should not have to leave this facility, you may request a hearing, in writing or verbally, with the Iowa department of inspections and appeals within 7 days after receiving this notice. You have the right to be represented at the hearing by an attorney or any other individual of your choice. If you request a hearing, it will be held no later than 14 days after the department's receipt of your request. You may be transferred or discharged before the hearing is held or before a final decision is rendered. If you win the hearing, you have the right to be transferred back into the facility. To request a hearing or receive further information, call the department at (515)281-4115, or write to the department to the attention of: Administrator, Division of Health Facilities, Department of Inspections and Appeals, Lucas State Office Building, Des Moines, Iowa 50319-0083. (II)

b. The notice shall be personally delivered to the resident, and a copy shall be placed in the resident's record. A copy shall also be transmitted to the department, the resident's legal representative, the resident's primary care provider, and the person or agency responsible for the resident's placement, maintenance, and care in the facility. The notice shall indicate that copies have been transmitted to the required parties by using the abbreviation "cc:" and listing the names of all parties to whom copies were sent.

c. A hearing requested pursuant to this subrule shall be held in accordance with subrule 62.14(6). **62.14(6) *Involuntary transfer or discharge—hearing.***

a. Request for hearing.

(1) The resident must request a hearing within 7 days of receiving written notice.

(2) The request must be made to the department, either in writing or verbally.

b. The hearing shall be held no later than 14 days after the department's receipt of the request unless either party requests an extension due to emergency circumstances.

c. Except in the case of an emergency discharge or transfer, a request for a hearing shall stay a transfer or discharge pending a final decision, including the exhaustion of all appeals. (II)

d. The hearing shall be heard by a department of inspections and appeals administrative law judge pursuant to Iowa Code chapter 17A and 481—Chapter 10. The hearing shall be public unless the resident or representative requests in writing that the hearing be closed. In a determination as to whether a transfer or discharge is authorized, the burden of proof by a preponderance of evidence rests on the party requesting the transfer or discharge.

e. Notice of the date, time, and place of the hearing shall be sent by certified mail or delivered in person to the facility, the resident and the resident's legal representative not later than 5 full business days after the department's receipt of the request. The notice shall also inform the facility and the resident or the resident's legal representative that they have a right to appear at the hearing in person or be represented by an attorney or other individual. The appeal shall be dismissed if neither party is present or represented at the hearing. If only one party appears or is represented, the hearing shall proceed with one party present.

f. The administrative law judge's written decision shall be sent by certified mail to the facility, resident, and resident's legal representative within 10 working days after the hearing has been concluded.

**62.14(7) *Nonpayment.*** If nonpayment is the basis for involuntary transfer or discharge, the resident shall have the right to make full payment up to the date that the discharge or transfer is to be made and then shall have the right to remain in the facility. (II)

**62.14(8) *Discussion of involuntary transfer or discharge.*** Within 48 hours after notice of involuntary transfer or discharge has been received by the resident, the facility shall discuss the involuntary transfer or discharge with the resident, the resident's legal representative, and the person or agency responsible for the resident's placement, maintenance, and care in the facility. (II)

a. The facility administrator or other appropriate facility representative serving as the administrator's designee shall provide an explanation and discussion of the reasons for the resident's involuntary transfer or discharge. (II)

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b. The content of the explanation and discussion shall be summarized in writing, shall include the names of the individuals involved in the discussion, and shall be made part of the resident's record. (II)

c. The provisions of this subrule do not apply if the involuntary transfer or discharge has already occurred pursuant to subrule 62.14(5) and emergency notice is provided within 48 hours.

**62.14(9) *Involuntary discharge or transfer—transfer or discharge planning.***

a. The facility shall develop a plan to provide for the orderly and safe transfer or discharge of each resident to be transferred or discharged. (II)

b. To minimize the possible adverse effects of the involuntary transfer, the resident shall receive counseling services by the sending facility before the involuntary transfer and by the receiving facility after the involuntary transfer. Counseling shall be documented in the resident's record. (II)

c. The counseling requirement in paragraph 62.14(9) "b" does not apply if the discharge has already occurred pursuant to subrule 62.14(5) and emergency notice is provided within 48 hours.

d. Counseling, if required, shall be provided by a licensed mental health professional as defined in Iowa Code section 228.1(6). (II)

e. The health care facility that receives a resident who has been involuntarily transferred shall immediately formulate and implement a plan of care which takes into account possible adverse effects the transfer may cause. (II)

**62.14(10) *Transfer upon revocation of license or voluntary closure.*** Residents shall not have the right to a hearing to contest an involuntary discharge or transfer resulting from the revocation of the facility's license by the department of inspections and appeals. In the case of the voluntary closure of a facility, a period of 30 days must be allowed for an orderly transfer of residents to other facilities.

ITEM 12. Amend rule **481—62.14(135C)**, implementation sentence, as follows:

This rule is intended to implement Iowa Code ~~sections~~ section 135C.14(8), ~~135C.31, 135C.43, and 135C.46.~~

ITEM 13. Amend subrules **63.1(1) to 63.1(19)** by striking the subrule numbers preceding each definition.

ITEM 14. Adopt the following new definition of "Primary care provider" in rule **481—63.1(135C)**:  
"Primary care provider" means any of the following who provide primary care and meet certification standards:

1. A physician who is a family or general practitioner or an internist.
2. An advanced registered nurse practitioner.
3. A physician assistant.

ITEM 15. Rescind rule **481—63.34(135C)** and adopt the following new rule in lieu thereof:

**481—63.34(135C) *Involuntary discharge or transfer.***

**63.34(1) *Involuntary discharge or transfer permitted.*** A facility may involuntarily discharge or transfer a resident for only one of the following reasons:

- a. Medical reasons;
- b. The resident's welfare or that of other residents;
- c. Nonpayment for the resident's stay, as described in the contract for the resident's stay; or
- d. Due to action pursuant to Iowa Code chapter 229. (I, II, III)

**63.34(2) *Medical reasons.*** Medical reasons for transfer or discharge shall be based on the resident's needs and shall be determined and documented in the resident's record by the primary care provider. Transfer or discharge may be required in order to provide a different level of care to the resident. (II)

**63.34(3) *Welfare of a resident.*** Welfare of a resident or that of other residents refers to a resident's social, emotional, or physical well-being. A resident may be transferred or discharged because the resident's behavior poses a continuing threat to the resident (e.g., suicidal) or to the well-being of other residents or staff (e.g., the resident's behavior is incompatible with other residents' needs and rights). Written documentation that the resident's continued presence in the facility would adversely affect the resident's own welfare or that of other residents shall be made by the administrator or designee and shall include specific information to support this determination. (II)

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**63.34(4) *Involuntary discharge or transfer prohibited—payment source.*** A resident shall not be transferred or discharged solely because the cost of the resident's care is being paid under Iowa Code chapter 249A or because the resident's source of payment is changing from private support to payment under Iowa Code chapter 249A. (I, II)

**63.34(5) *Notice.*** Involuntary transfer or discharge of a resident from a facility shall be preceded by a written notice to the resident and the responsible party. (II, III)

*a.* The notice shall contain all of the following information:

- (1) The stated reason for the proposed transfer or discharge. (II)
- (2) The effective date of the proposed transfer or discharge. (II)
- (3) A statement, in not less than 12-point type, that reads as follows:

You have a right to appeal the facility's decision to transfer or discharge you. If you think you should not have to leave this facility, you may request a hearing, in writing or verbally, with the Iowa department of inspections and appeals (hereinafter referred to as "department") within 7 days after receiving this notice. You have a right to be represented at the hearing by an attorney or any other individual of your choice. If you request a hearing, it will be held no later than 14 days after the department's receipt of your request and you will not be transferred before a final decision is rendered. Extension of the 14-day requirement may be permitted in emergency circumstances upon request to the department's designee. If you lose the hearing, you will not be transferred before the expiration of either (1) 30 days following your receipt of the original notice of the discharge or transfer, or (2) no sooner than 5 days following final decision of such hearing, including the exhaustion of all appeals, whichever occurs later. To request a hearing or receive further information, call the department at (515)281-4115, or write to the department to the attention of: Administrator, Division of Health Facilities, Department of Inspections and Appeals, Lucas State Office Building, Des Moines, Iowa 50319-0083. (II)

*b.* The notice shall be personally delivered to the resident, and a copy shall be placed in the resident's record. A copy shall also be transmitted to the department, the resident's responsible party, the resident's primary care provider, and the person or agency responsible for the resident's placement, maintenance, and care in the facility. The notice shall indicate that copies have been transmitted to the required parties by using the abbreviation "cc:" and listing the names of all parties to whom copies were sent.

*c.* The notice required by paragraph 63.34(5) "*a*" shall be provided at least 30 days in advance of the proposed transfer or discharge unless one of the following occurs:

(1) An emergency transfer or discharge is mandated by the resident's health care needs and is in accordance with the written orders and medical justification of the primary care provider. Emergency transfers or discharges may also be mandated in order to protect the health, safety, or well-being of other residents and staff from the resident being transferred. (II)

(2) The transfer or discharge is subsequently agreed to by the resident or the resident's responsible party, and notification is given to the responsible party, the resident's primary care provider, and the person or agency responsible for the resident's placement, maintenance, and care in the facility.

*d.* A hearing requested pursuant to this subrule shall be held in accordance with subrule 63.34(7).

**63.34(6) *Emergency transfer or discharge.*** In the case of an emergency transfer or discharge, the resident must be given a written notice prior to or within 48 hours following the transfer or discharge. (II, III)

*a.* A copy of this notice shall be placed in the resident's file. The notice shall contain all of the following information:

- (1) The stated reason for the transfer or discharge. (II)
- (2) The effective date of the transfer or discharge. (II)
- (3) A statement, in not less than 12-point type, that reads as follows:

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

You have a right to appeal the facility's decision to transfer or discharge you on an emergency basis. If you think you should not have to leave this facility, you may request a hearing, in writing or verbally, with the Iowa department of inspections and appeals (hereinafter referred to as "department") within 7 days after receiving this notice. You have a right to be represented at the hearing by an attorney or any other individual of your choice. If you request a hearing, it will be held no later than 14 days after the department's receipt of your request. You may be transferred or discharged before the hearing is held or before a final decision is rendered. If you win the hearing, you have the right to be transferred back into the facility. To request a hearing or receive further information, call the department at (515)281-4115, or write to the department to the attention of: Administrator, Division of Health Facilities, Department of Inspections and Appeals, Lucas State Office Building, Des Moines, Iowa 50319-0083. (II)

b. The notice shall be personally delivered to the resident, and a copy shall be placed in the resident's record. A copy shall also be transmitted to the department; the resident's responsible party; the resident's primary care provider; and the person or agency responsible for the resident's placement, maintenance, and care in the facility. The notice shall indicate that copies have been transmitted to the required parties by using the abbreviation "cc:" and listing the names of all parties to whom copies were sent.

c. A hearing requested pursuant to this subrule shall be held in accordance with subrule 63.34(7). **63.34(7) Hearing.**

a. Request for hearing.

(1) The resident must request a hearing within 7 days of receipt of written notice.

(2) The request must be made to the department, either in writing or verbally.

b. The hearing shall be held no later than 14 days after the department's receipt of the request unless either party requests an extension due to emergency circumstances.

c. Except in the case of an emergency discharge or transfer, a request for a hearing shall stay a transfer or discharge pending a final decision, including the exhaustion of all appeals. (II)

d. The hearing shall be heard by a department of inspections and appeals administrative law judge pursuant to Iowa Code chapter 17A and 481—Chapter 10. The hearing shall be public unless the resident or representative requests in writing that the hearing be closed. In a determination as to whether a transfer or discharge is authorized, the burden of proof by a preponderance of the evidence rests on the party requesting the transfer or discharge.

e. Notice of the date, time, and place of the hearing shall be sent by certified mail or delivered in person to the facility, the resident, and the responsible party not later than 5 full business days after the department's receipt of the request. The notice shall also inform the facility and the resident or the responsible party that they have a right to appear at the hearing in person or be represented by an attorney or other individual. The appeal shall be dismissed if neither party is present or represented at the hearing. If only one party appears or is represented, the hearing shall proceed with one party present.

f. The administrative law judge's written decision shall be sent by certified mail to the facility, resident, and responsible party within 10 working days after the hearing has been concluded.

**63.34(8) Nonpayment.** If nonpayment is the basis for involuntary transfer or discharge, the resident shall have the right to make full payment up to the date that the discharge or transfer is to be made and then shall have the right to remain in the facility. (II)

**63.34(9) Discussion of involuntary transfer or discharge.** Within 48 hours after notice of involuntary transfer or discharge has been received by the resident, the facility shall discuss the involuntary transfer or discharge with the resident, the resident's responsible party, and the person or agency responsible for the resident's placement, maintenance, and care in the facility. (II)

a. The facility administrator or other appropriate facility representative serving as the administrator's designee shall provide an explanation and discussion of the reasons for the resident's involuntary transfer or discharge. (II)

b. The content of the explanation and discussion shall be summarized in writing, shall include the names of the individuals involved in the discussion, and shall be made part of the resident's record. (II)

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

c. The provisions of this subrule do not apply if the involuntary transfer or discharge has already occurred pursuant to subrule 63.34(6) and emergency notice is provided within 48 hours.

**63.34(10) *Transfer or discharge planning.***

a. The facility shall develop a plan to provide for the orderly and safe transfer or discharge of each resident to be transferred or discharged. (II)

b. To minimize the possible adverse effects of the involuntary transfer, the resident shall receive counseling services by the sending facility before the involuntary transfer and by the receiving facility after the involuntary transfer. Counseling shall be documented in the resident's record. (II)

c. The counseling requirement in paragraph 63.34(10) "b" does not apply if the discharge has already occurred pursuant to subrule 63.34(6) and emergency notice is provided within 48 hours.

d. Counseling, if required, shall be provided by a licensed mental health professional as defined in Iowa Code section 228.1(6). (II)

e. The health care facility that receives a resident who has been involuntarily transferred shall immediately formulate and implement a plan of care which takes into account possible adverse effects the transfer may cause. (II)

**63.34(11) *Transfer upon revocation of license or voluntary closure.*** Residents shall not have the right to a hearing to contest an involuntary discharge or transfer resulting from the revocation of the facility's license by the department of inspections and appeals. In the case of the voluntary closure of a facility, a period of 30 days must be allowed for an orderly transfer of residents to other facilities.

**63.34(12) *Intrafacility transfer.***

a. Residents shall not be arbitrarily relocated from room to room within a licensed health care facility. (I, II) Involuntary relocation may occur only in the following situations, which shall be documented in the resident's record: (II)

(1) A resident's incompatibility with or disturbance to other roommates.

(2) For the welfare of the resident or other residents of the facility.

(3) For medical, nursing or psychosocial reasons, as judged by the primary care provider, nurse or social worker in the case of a facility which groups residents by medical, nursing or psychosocial needs.

(4) To allow a new admission to the facility that would otherwise not be possible due to separation of roommates by sex.

(5) In the case of a resident whose source of payment was previously private but who now is eligible for Title XIX (Medicaid) assistance, the resident may be transferred from a private room to a semiprivate room or from one semiprivate room to another.

(6) Reasonable and necessary administrative decisions regarding the use and functioning of the building.

b. Unreasonable and unjustified reasons for changing a resident's room without the concurrence of the resident or responsible party include:

(1) Change from private pay status to Title XIX, except as outlined in subparagraph 63.34(12) "a"(5). (II)

(2) As punishment or behavior modification, except as specified in subparagraph 63.34(12) "a"(1). (II)

(3) Discrimination on the basis of race or religion. (II)

c. If intrafacility relocation is necessary for reasons outlined in paragraph 63.34(12) "a," the resident shall be notified at least 48 hours prior to the transfer and the reason therefor shall be explained. The responsible party shall be notified as soon as possible. The notification shall be documented in the resident's record and signed by the resident or responsible party. (II)

d. If emergency relocation is required in order to protect the safety or health of the resident or other residents, the notification requirements may be waived. The conditions of the emergency shall be documented. The family or responsible party shall be notified immediately or as soon as possible of the condition that necessitates emergency relocation and such notification shall be documented. (II)

e. A transfer to a part of a facility that has a different license must be handled the same way as a transfer to another facility and not as an intrafacility transfer. (II, III)

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

ITEM 16. Rescind rule 481—64.36(135C) and adopt the following new rule in lieu thereof:

**481—64.36(135C) Involuntary discharge or transfer.**

**64.36(1) *Involuntary discharge or transfer permitted.*** A facility may involuntarily discharge or transfer a resident for only one of the following reasons:

- a. Medical reasons;
- b. The resident's welfare or that of other residents;
- c. Nonpayment for the resident's stay, as described in the contract for the resident's stay;
- d. Due to action pursuant to Iowa Code chapter 229;
- e. By reason of negative action by the Iowa department of human services; or
- f. By reason of negative action by the quality improvement organization (QIO). (I, II, III)

**64.36(2) *Medical reasons.*** Medical reasons for transfer or discharge shall be based on the resident's needs and shall be determined and documented in the resident's record by the primary care provider. Transfer or discharge may be required in order to provide a different level of care to the resident. (II)

**64.36(3) *Welfare of a resident.*** Welfare of a resident or that of other residents refers to a resident's social, emotional, or physical well-being. A resident may be transferred or discharged because the resident's behavior poses a continuing threat to the resident (e.g., suicidal) or to the well-being of other residents or staff (e.g., the resident's behavior is incompatible with other residents' needs and rights). Written documentation that the resident's continued presence in the facility would adversely affect the resident's own welfare or that of other residents shall be made by the administrator or designee and shall include specific information to support this determination. (II)

**64.36(4) *Involuntary discharge or transfer prohibited—payment source.*** A resident shall not be transferred or discharged solely because the cost of the resident's care is being paid under Iowa Code chapter 249A or because the resident's source of payment is changing from private support to payment under Iowa Code chapter 249A. (I, II)

**64.36(5) *Notice.*** Involuntary transfer or discharge of a resident from a facility shall be preceded by a written notice to the resident and the responsible party. (II, III)

- a. The notice shall contain all of the following information:
  - (1) The stated reason for the proposed transfer or discharge. (II)
  - (2) The effective date of the proposed transfer or discharge. (II)
  - (3) A statement, in not less than 12-point type, that reads as follows:

You have a right to appeal the facility's decision to transfer or discharge you. If you think you should not have to leave this facility, you may request a hearing, in writing or verbally, with the Iowa department of inspections and appeals (hereinafter referred to as "department") within 7 days after receiving this notice. You have a right to be represented at the hearing by an attorney or any other individual of your choice. If you request a hearing, it will be held no later than 14 days after the department's receipt of your request and you will not be transferred before a final decision is rendered. Extension of the 14-day requirement may be permitted in emergency circumstances upon request to the department's designee. If you lose the hearing, you will not be transferred before the expiration of either (1) 30 days following your receipt of the original notice of the discharge or transfer, or (2) no sooner than 5 days following final decision of such hearing, including the exhaustion of all appeals, whichever occurs later. To request a hearing or receive further information, call the department at (515)281-4115, or write to the department to the attention of: Administrator, Division of Health Facilities, Department of Inspections and Appeals, Lucas State Office Building, Des Moines, Iowa 50319-0083. (II)

- b. The notice shall be personally delivered to the resident, and a copy shall be placed in the resident's record. A copy shall also be transmitted to the department, the resident's responsible party, the resident's primary care provider, and the person or agency responsible for the resident's placement, maintenance, and care in the facility. The notice shall indicate that copies have been transmitted to the required parties by using the abbreviation "cc:" and listing the names of all parties to whom copies were sent.

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

c. The notice required by paragraph 64.36(5) “a” shall be provided at least 30 days in advance of the proposed transfer or discharge unless one of the following occurs:

(1) An emergency transfer or discharge is mandated by the resident’s health care needs and is in accordance with the written orders and medical justification of the primary care provider. Emergency transfers or discharges may also be mandated in order to protect the health, safety, or well-being of other residents and staff from the resident being transferred. (II)

(2) The transfer or discharge is subsequently agreed to by the resident or the resident’s responsible party, and notification is given to the responsible party, the resident’s primary care provider, and the person or agency responsible for the resident’s placement, maintenance, and care in the facility.

(3) The discharge or transfer is the result of a final, nonappealable decision by the department of human services or the QIO.

d. A hearing requested pursuant to this subrule shall be held in accordance with subrule 64.36(7).

**64.36(6) *Emergency transfer or discharge.*** In the case of an emergency transfer or discharge, the resident must be given a written notice prior to or within 48 hours following the transfer or discharge. (II, III)

a. A copy of this notice shall be placed in the resident’s file. The notice shall contain all of the following information:

(1) The stated reason for the transfer or discharge. (II)

(2) The effective date of the transfer or discharge. (II)

(3) A statement, in not less than 12-point type, that reads as follows:

You have a right to appeal the facility’s decision to transfer or discharge you on an emergency basis. If you think you should not have to leave this facility, you may request a hearing, in writing or verbally, with the Iowa department of inspections and appeals (hereinafter referred to as “department”) within 7 days after receiving this notice. You have a right to be represented at the hearing by an attorney or any other individual of your choice. If you request a hearing, it will be held no later than 14 days after the department’s receipt of your request. You may be transferred or discharged before the hearing is held or before a final decision is rendered. If you win the hearing, you have the right to be transferred back into the facility. To request a hearing or receive further information, call the department at (515)281-4115, or write to the department to the attention of: Administrator, Division of Health Facilities, Department of Inspections and Appeals, Lucas State Office Building, Des Moines, Iowa 50319-0083. (II)

b. The notice shall be personally delivered to the resident, and a copy shall be placed in the resident’s record. A copy shall also be transmitted to the department, the resident’s responsible party, the resident’s primary care provider, and the person or agency responsible for the resident’s placement, maintenance, and care in the facility. The notice shall indicate that copies have been transmitted to the required parties by using the abbreviation “cc:” and listing the names of all parties to whom copies were sent.

c. A hearing requested pursuant to this subrule shall be held in accordance with subrule 64.36(7). **64.36(7) *Hearing.***

a. Request for hearing.

(1) The resident must request a hearing within 7 days of receipt of written notice.

(2) The request must be made to the department, either in writing or verbally.

b. The hearing shall be held no later than 14 days after the department’s receipt of the request unless either party requests an extension due to emergency circumstances.

c. Except in the case of an emergency discharge or transfer, a request for a hearing shall stay a transfer or discharge pending a final decision, including the exhaustion of all appeals. (II)

d. The hearing shall be heard by a department of inspections and appeals administrative law judge pursuant to Iowa Code chapter 17A and 481—Chapter 10. The hearing shall be public unless the resident or representative requests in writing that the hearing be closed. In a determination as to whether a transfer or discharge is authorized, the burden of proof by a preponderance of the evidence rests on the party requesting the transfer or discharge.



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

*e.* Notice of the date, time, and place of the hearing shall be sent by certified mail or delivered in person to the facility, the resident, and the responsible party not later than five full business days after the department's receipt of the request. The notice shall also inform the facility and the resident or the responsible party that they have a right to appear at the hearing in person or be represented by an attorney or other individual. The appeal shall be dismissed if neither party is present or represented at the hearing. If only one party appears or is represented, the hearing shall proceed with one party present.

*f.* The administrative law judge's written decision shall be sent by certified mail to the facility, resident, and responsible party within 10 working days after the hearing has been concluded.

*g.* If the basis for an involuntary transfer or discharge is the result of a negative action by the Iowa department of human services or the QIO, an appeal shall be filed with those entities as appropriate. Continued payment shall be consistent with rules of those entities.

**64.36(8) *Nonpayment.*** If nonpayment is the basis for involuntary transfer or discharge, the resident shall have the right to make full payment up to the date that the discharge or transfer is to be made and then shall have the right to remain in the facility. (II)

**64.36(9) *Discussion of involuntary transfer or discharge.*** Within 48 hours after notice of involuntary transfer or discharge has been received by the resident, the facility shall discuss the involuntary transfer or discharge with the resident, the resident's responsible party, and the person or agency responsible for the resident's placement, maintenance, and care in the facility. (II)

*a.* The facility administrator or other appropriate facility representative serving as the administrator's designee shall provide an explanation and discussion of the reasons for the resident's involuntary transfer or discharge. (II)

*b.* The content of the explanation and discussion shall be summarized in writing, shall include the names of the individuals involved in the discussion, and shall be made part of the resident's record. (II)

*c.* The provisions of this subrule do not apply if the involuntary transfer or discharge has already occurred pursuant to subrule 64.36(6) and emergency notice is provided within 48 hours.

**64.36(10) *Transfer or discharge planning.***

*a.* The facility shall develop a plan to provide for the orderly and safe transfer or discharge of each resident to be transferred or discharged. (II)

*b.* To minimize the possible adverse effects of the involuntary transfer, the resident shall receive counseling services by the sending facility before the involuntary transfer and by the receiving facility after the involuntary transfer. Counseling shall be documented in the resident's record. (II)

*c.* The counseling requirement in paragraph 64.36(10) "b" does not apply if the discharge has already occurred pursuant to subrule 64.36(6) and emergency notice is provided within 48 hours.

*d.* Counseling, if required, shall be provided by a licensed mental health professional as defined in Iowa Code section 228.1(6). (II)

*e.* The health care facility that receives a resident who has been involuntarily transferred shall immediately formulate and implement a plan of care which takes into account possible adverse effects the transfer may cause. (II)

**64.36(11) *Transfer upon revocation of license or voluntary closure.*** Residents shall not have the right to a hearing to contest an involuntary discharge or transfer resulting from the revocation of the facility's license by the department of inspections and appeals. In the case of the voluntary closure of a facility, a period of 30 days must be allowed for an orderly transfer of residents to other facilities.

**64.36(12) *Intrafacility transfer.***

*a.* Residents shall not be arbitrarily relocated from room to room within a licensed health care facility. (I, II) Involuntary relocation may occur only in the following situations, which shall be documented in the resident's record: (II)

(1) A resident's incompatibility with or disturbance to other roommates.

(2) For the welfare of the resident or other residents of the facility.

(3) For medical, nursing or psychosocial reasons, as judged by the primary care provider, nurse or social worker in the case of a facility which groups residents by medical, nursing or psychosocial needs.

(4) To allow a new admission to the facility that would otherwise not be possible due to separation of roommates by sex.

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(5) In the case of a resident whose source of payment was previously private, but who now is eligible for Title XIX (Medicaid) assistance, the resident may be transferred from a private room to a semiprivate room or from one semiprivate room to another.

(6) Reasonable and necessary administrative decisions regarding the use and functioning of the building.

*b.* Unreasonable and unjustified reasons for changing a resident's room without the concurrence of the resident or responsible party include:

(1) Change from private pay status to Title XIX, except as outlined in subparagraph 64.36(12)“a”(5). (II)

(2) As punishment or behavior modification, except as specified in subparagraph 64.36(12)“a”(1). (II)

(3) Discrimination on the basis of race or religion. (II)

*c.* If intrafacility relocation is necessary for reasons outlined in paragraph 64.36(12)“a,” the resident shall be notified at least 48 hours prior to the transfer and the reason therefor shall be explained. The responsible party shall be notified as soon as possible. The notification shall be documented in the resident's record and signed by the resident or responsible party. (II)

*d.* If emergency relocation is required in order to protect the safety or health of the resident or other residents, the notification requirements may be waived. The conditions of the emergency shall be documented. The family or responsible party shall be notified immediately or as soon as possible of the condition that necessitates emergency relocation, and such notification shall be documented. (II)

*e.* A transfer to a part of a facility that has a different license must be handled the same way as a transfer to another facility and not as an intrafacility transfer. (II, III)

ITEM 17. Adopt the following new definition of “Primary care provider” in rule **481—65.1(135C)**:  
“Primary care provider” means any of the following who provide primary care and meet certification standards:

1. A physician who is a family or general practitioner or an internist.
2. An advanced registered nurse practitioner.
3. A physician assistant.

ITEM 18. Adopt the following new paragraph **65.16(2)“e”**:

*e.* A transfer to a part of a facility that has a different license must be handled the same way as a transfer to another facility and not as an intrafacility transfer. (II, III)

ITEM 19. Rescind subrule 65.16(3) and adopt the following new subrule in lieu thereof:

**65.16(3) Involuntary discharge or transfer permitted.** A facility may involuntarily discharge or transfer a resident for only one of the following reasons:

*a.* Medical reasons, based on the resident's needs and determined and documented in the resident's record by the primary care provider;

*b.* The resident's social, emotional or physical well-being or that of other residents, as documented by the administrator or designee with specific information to support the determination that the resident's continued presence in the facility would adversely affect the resident's own well-being or that of other residents;

*c.* Due to action pursuant to Iowa Code chapter 229; or

*d.* Nonpayment for the resident's stay, as described in the admission agreement for the resident's stay. (I, II, III)

ITEM 20. Rescind subrule 65.16(4) and adopt the following new subrule in lieu thereof:

**65.16(4) Involuntary transfer or discharge—written notice.** Involuntary transfer or discharge of a resident from a facility shall be preceded by a written notice to the resident or the resident's legal representative. (II, III)

*a.* The notice shall contain all of the following information:

- (1) The stated reason for the proposed transfer or discharge. (II)
- (2) The effective date of the proposed transfer or discharge. (II)

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

- (3) A statement, in not less than 12-point type, that reads as follows:

You have a right to appeal the facility's decision to transfer or discharge you. If you think you should not have to leave this facility, you may request a hearing, in writing or verbally, with the Iowa department of inspections and appeals (hereinafter referred to as "department") within 7 days after receiving this notice. You have a right to be represented at the hearing by an attorney or any other individual of your choice. If you request a hearing, it will be held no later than 14 days after the department's receipt of your request and you will not be transferred before a final decision is rendered. In emergency circumstances, provision may be made for extension of the 14-day requirement upon request to the department designee. If you lose the hearing, you will not be transferred before the expiration date of either (1) 30 days following your receipt of the original notice of the discharge or transfer, or (2) no sooner than 5 days following final decision of such hearing, including the exhaustion of all appeals, whichever occurs later. To request a hearing or receive further information, call the department at (515)281-4115 or you may write to the department to the attention of: Administrator, Division of Health Facilities, Iowa Department of Inspections and Appeals, Lucas State Office Building, Des Moines, Iowa 50319. (II)

b. The notice shall be personally delivered to the resident, and a copy shall be placed in the resident's record. A copy shall also be transmitted to the department, the resident's legal representative, primary care provider, and the person or agency responsible for the resident's placement, maintenance, and care in the facility. The notice shall indicate that copies have been transmitted to the required parties by using the abbreviation "cc:" and listing the names of all parties to whom copies were sent. (II)

c. The notice required by paragraph 65.16(4) "a" shall be provided at least 30 days in advance of the proposed transfer or discharge unless one of the following occurs:

(1) An emergency transfer or discharge is mandated by the resident's health care needs and is in accordance with the written orders and medical justification of the primary care provider. Emergency transfers or discharges may also be mandated in order to protect the health, safety, or well-being of other residents and staff. (II)

(2) The transfer or discharge is subsequently agreed to by the resident or the resident's legal representative, and notification is given to the legal representative, the resident's primary care provider, and the person or agency responsible for the resident's placement, maintenance, and care in the facility. (II)

d. A hearing requested pursuant to this subrule shall be held in accordance with subrule 65.16(6).

ITEM 21. Rescind subrule 65.16(5) and adopt the following **new** subrule in lieu thereof:

**65.16(5) *Involuntary transfer or discharge—emergency transfer or discharge.*** In the case of an emergency transfer or discharge, the resident must be given a written notice prior to or within 48 hours following the transfer or discharge. (II, III)

a. A copy of this notice must be placed in the resident's file. The notice must contain all of the following information:

- (1) The stated reason for the transfer or discharge. (II)
- (2) The effective date of the transfer or discharge. (II)
- (3) A statement, in not less than 12-point type, that reads:

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

You have a right to appeal the facility's decision to transfer or discharge you on an emergency basis. If you think you should not have to leave this facility, you may request a hearing, in writing or verbally, with the Iowa department of inspections and appeals (hereinafter referred to as "department") within 7 days after receiving this notice. You have a right to be represented at the hearing by an attorney or any other individual of your choice. If you request a hearing, it will be held no later than 14 days after the department's receipt of your request. You may be transferred or discharged before the hearing is held or before a final decision is rendered. If you win the hearing, you have the right to be transferred back into the facility. To request a hearing or receive further information, call the department at (515)281-4115, or write to the department to the attention of: Administrator, Division of Health Facilities, Department of Inspections and Appeals, Lucas State Office Building, Des Moines, Iowa 50319-0083. (II)

b. The notice shall be personally delivered to the resident, and a copy shall be placed in the resident's record. A copy shall also be transmitted to the department, the resident's legal representative, the resident's primary care provider, and the person or agency responsible for the resident's placement, maintenance, and care in the facility. The notice shall indicate that copies have been transmitted to the required parties by using the abbreviation "cc:" and listing the names of all parties to whom copies were sent.

c. A hearing requested pursuant to this subrule shall be held in accordance with subrule 65.16(6).

ITEM 22. Rescind subrule 65.16(6) and adopt the following new subrule in lieu thereof:

**65.16(6) *Involuntary transfer or discharge—hearing.***

a. Request for hearing.

(1) The resident must request a hearing within 7 days of receiving written notice.

(2) The request must be made to the department, either in writing or verbally.

b. The hearing shall be held no later than 14 days after the department's receipt of the request unless either party requests an extension due to emergency circumstances.

c. Except in the case of an emergency discharge or transfer, a request for a hearing shall stay a transfer or discharge pending a final decision, including the exhaustion of all appeals. (II)

d. The hearing shall be heard by a department of inspections and appeals administrative law judge pursuant to Iowa Code chapter 17A and 481—Chapter 10. The hearing shall be public unless the resident or representative requests in writing that the hearing be closed. In a determination as to whether a transfer or discharge is authorized, the burden of proof by a preponderance of evidence rests on the party requesting the transfer or discharge.

e. Notice of the date, time, and place of the hearing shall be sent by certified mail or delivered in person to the facility, the resident and the resident's legal representative not later than five full business days after the department's receipt of the request. The notice shall also inform the facility and the resident or the resident's legal representative that they have a right to appear at the hearing in person or be represented by an attorney or other individual. The appeal shall be dismissed if neither party is present or represented at the hearing. If only one party appears or is represented, the hearing shall proceed with one party present.

f. The administrative law judge's written decision shall be sent by certified mail to the facility, resident, and resident's legal representative within 10 working days after the hearing has been concluded.

ITEM 23. Adopt the following new subrules 65.16(7) to 65.16(10):

**65.16(7) *Nonpayment.*** If nonpayment is the basis for involuntary transfer or discharge, the resident shall have the right to make full payment up to the date that the discharge or transfer is to be made and then shall have the right to remain in the facility. (II)

**65.16(8) *Discussion of involuntary transfer or discharge.*** Within 48 hours after notice of involuntary transfer or discharge has been received by the resident, the facility shall discuss the involuntary transfer or discharge with the resident, the resident's legal representative, and the person or agency responsible for the resident's placement, maintenance, and care in the facility. (II)

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

a. The facility administrator or other appropriate facility representative serving as the administrator's designee shall provide an explanation and discussion of the reasons for the resident's involuntary transfer or discharge. (II)

b. The content of the explanation and discussion shall be summarized in writing, shall include the names of the individuals involved in the discussion, and shall be made part of the resident's record. (II)

c. The provisions of this subrule do not apply if the involuntary transfer or discharge has already occurred pursuant to subrule 65.16(6) and emergency notice is provided within 48 hours.

**65.16(9) *Involuntary discharge or transfer—transfer or discharge planning.***

a. The facility shall develop a plan to provide for the orderly and safe transfer or discharge of each resident to be transferred or discharged. (II)

b. To minimize the possible adverse effects of the involuntary transfer, the resident shall receive counseling services by the sending facility before the involuntary transfer and by the receiving facility after the involuntary transfer. Counseling shall be documented in the resident's record. (II)

c. The counseling requirement in paragraph 65.16(9) "b" does not apply if the discharge has already occurred pursuant to subrule 65.16(5) and emergency notice is provided within 48 hours.

d. Counseling, if required, shall be provided by a licensed mental health professional as defined in Iowa Code section 228.1(6). (II)

e. The health care facility that receives a resident who has been involuntarily transferred shall immediately formulate and implement a plan of care which takes into account possible adverse effects the transfer may cause. (II)

**65.16(10) *Transfer upon revocation of license or voluntary closure.*** Residents shall not have the right to a hearing to contest an involuntary discharge or transfer resulting from the revocation of the facility's license by the department of inspections and appeals. In the case of the voluntary closure of a facility, a period of 30 days must be allowed for an orderly transfer of residents to other facilities.

ITEM 24. Amend rule **481—65.16(135C)**, implementation sentence, as follows:

This rule is intended to implement Iowa Code ~~sections~~ section 135C.14(8), ~~135C.31, 135C.43, and 135C.46.~~

[Filed 11/13/14, effective 1/14/15]

[Published 12/10/14]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 12/10/14.

**ARC 1782C**

**LABOR SERVICES DIVISION[875]**

**Adopted and Filed**

Pursuant to the authority of Iowa Code section 88.5, the Labor Commissioner hereby amends Chapter 4, "Recording and Reporting Occupational Injuries and Illnesses," Iowa Administrative Code.

The amendments adopt by reference changes to federal occupational safety and health regulations governing record keeping and reporting. The federal changes update the list of industries that are exempt from record-keeping requirements due to low occupational injury and illness rates. The new federal regulation also expands the circumstances for which an employer must report work-related illnesses and injuries. The amendment in Item 2 changes the instructions for reporting incidents to the Iowa Division of Labor Services, and a conforming amendment is made in Item 1.

The principal reasons for adoption of these amendments are to implement legislative intent, protect the safety and health of Iowa workers, improve reporting options, and make Iowa's regulations current and consistent with federal regulations. Pursuant to 29 CFR 1904.37 and 1952.4, Iowa must adopt changes to the federal occupational safety and health record-keeping and reporting regulations.

Notice of Intended Action was published in the October 15, 2014, Iowa Administrative Bulletin as **ARC 1677C**. No public comment was received.

## LABOR SERVICES DIVISION[875](cont'd)

Since publication of the Notice of Intended Action, a new item containing a conforming amendment to rule 875—4.2(88) has been added. Also, the option to make a report by e-mail and a reference to a form available on the Internet have been added to rule 875—4.3(88).

No variance procedures are included in this rule. Variance procedures are set forth in 875—Chapter 5.

After analysis and review of this rule making, no impact on jobs will occur.

These amendments are intended to implement Iowa Code section 88.5 and 29 CFR 1904.37 and 1952.4.

These amendments shall become effective on January 14, 2015.

The following amendments are adopted.

ITEM 1. Amend rule 875—4.2(88) as follows:

**875—4.2(88) First reports of injury.** All employers shall report to the Iowa division of workers' compensation any occupational injury or illness which temporarily disables an employee for more than three days or which results in permanent total disability, permanent partial disability or death. This report shall be made within four days from such event when such injury or illness is alleged by the employee to have been sustained in the course of the employee's employment. First reports of injury are to be filed in the form and manner required by the division of workers' compensation. A report to the division of workers' compensation is considered to be a report to the division of labor services. The division of workers' compensation shall forward all reports to the division of labor services. This rule does not excuse employers from ~~notifying the division of labor services of fatalities or multiple hospitalization incidents~~ making reports required by rule 875—4.3(88).

ITEM 2. Rescind rule 875—4.3(88) and adopt the following **new** rule in lieu thereof:

**875—4.3(88) Recording and reporting regulations.** Except as noted in this rule, the Federal Occupational Safety and Health Administration regulations at 29 CFR 1904.0 through 1904.46 as published at 66 Fed. Reg. 6122 to 6135 (January 19, 2001) are adopted.

**4.3(1)** The following amendments to 29 CFR 1904.0 through 1904.46 are adopted:

- a. 66 Fed. Reg. 52031-52034 (October 12, 2001)
- b. 67 Fed. Reg. 44047 (July 1, 2002)
- c. 67 Fed. Reg. 77170 (December 17, 2002)
- d. 68 Fed. Reg. 38606 (June 30, 2003)
- e. 79 Fed. Reg. 56186 (September 18, 2014)

**4.3(2)** In addition to the reporting methods set forth in 29 CFR 1904.39(a), employers may make reports required by 29 CFR 1904.39 using at least one of the following methods:

- a. Completing the incident report form available at [www.iowaosha.gov](http://www.iowaosha.gov) and faxing the completed form to (515)242-5076 or sending the completed form to [osha@iwd.iowa.gov](mailto:osha@iwd.iowa.gov);
- b. Calling (877)242-6742; or
- c. Visiting 1000 E. Grand Avenue, Des Moines, Iowa.

[Filed 11/19/14, effective 1/14/15]

[Published 12/10/14]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 12/10/14.

**ARC 1766C**

**LABOR SERVICES DIVISION[875]**

**Adopted and Filed**

Pursuant to the authority of Iowa Code section 89A.3, the Elevator Safety Board hereby amends Chapter 71, "Administration of the Conveyance Safety Program," Chapter 72, "Conveyances Installed On or After January 1, 1975," and Chapter 73, "Conveyances Installed Prior to January 1, 1975," Iowa Administrative Code.

## LABOR SERVICES DIVISION[875](cont'd)

These amendments adopt by reference the most recent National Electrical Code, NFPA 70 (2011), and significant portions of the 2013 American Society of Mechanical Engineers (ASME) A17.1, Safety Code for Elevators and Escalators. The 2013 edition of ASME A17.1 contains provisions specific to wind turbine tower elevators (WTTE) for the first time; sets forth enhanced safety provisions to protect mechanics and inspectors working around limited-use, limited-application elevators; and requires that emergency recall connecting relays be placed outside an elevator machine room.

Iowa adopted previous editions of ASME A17.1 that included a full-load safety test at least once every five years and prohibited automatic reset of safety devices on escalators and moving walks. The 2013 edition of ASME A17.1 changes these provisions. To promote public safety, the Elevator Safety Board (Board) has chosen to maintain the status quo as it relates to these two provisions.

Iowa has not enforced the ASME A17.1 (2010) code requirements concerning daily telephone testing and witnessing of safety tests on periodic inspections. These amendments continue to differ from ASME A17.1 concerning periodic inspections but adopt the daily telephone testing requirement.

The purposes of these amendments are to protect the health and safety of the public, facilitate the installation of new technologies in Iowa, and implement legislative intent.

Notice of Intended Action was published in the July 23, 2014, Iowa Administrative Bulletin as **ARC 1560C**. Two comments relating to WTTE were received. Although the WTTE industry was well represented on the ASME committee that developed the WTTE standards, the comments concerned deviating from the ASME WTTE standards. The Board considered the comments and opted to make no changes in response to them.

These amendments are not identical to the amendments published under Notice of Intended Action. A more accurate citation to the ASME code was substituted in Item 2, the dates in Items 4 and 6 were changed to coincide with the effective date of the amendments, and the incorrect year specified in the parenthetical reference in paragraph 72.1(10)“c” in Item 6 was changed to 2011.

No variance procedures are included in this rule making. Applicable variance procedures are set forth in 875—Chapter 66.

After analysis and review of this rule making, no impact on jobs will occur.

These amendments are intended to implement Iowa Code chapter 89A.

These amendments shall become effective on January 14, 2015.

The following amendments are adopted.

ITEM 1. Amend rule 875—71.14(89A), introductory paragraph, as follows:

**875—71.14(89A) Safety tests.** Only safety test reports submitted on approved forms from elevator mechanics who are employed by authorized companies shall be considered to meet the requirements of this rule. The alternative test methods set forth at ASME A17.1, Rule 8.6.11.10, shall not be allowed as a substitute for a full-load safety test.

ITEM 2. Rescind subparagraph **71.14(1)“b”(3)** and adopt the following **new** subparagraph in lieu thereof:

(3) The columns pertaining to “periodic tests” in Table N-1 in the edition of ASME A17.1 currently adopted for new conveyances at rule 875—72.1(89A);

ITEM 3. Amend paragraph **72.1(8)“b”** as follows:

b. ASME A17.7 shall mean ASME A17.7-2007/CSA B44-10 07;

ITEM 4. Amend subrule 72.1(9), introductory paragraph, as follows:

**72.1(9)** For installations ~~on or after~~ between January 31, 2014, and January 14, 2015:

ITEM 5. Amend paragraph **72.1(9)“b”** as follows:

b. ASME A17.7 shall mean ASME A17.7-2007/CSA B44-10 07;

ITEM 6. Adopt the following **new** subrule 72.1(10):

**72.1(10)** For installations on or after January 14, 2015:

a. ASME A17.1 shall mean ASME A17.1-2013/CSA B44-13;

b. ASME A17.7 shall mean ASME A17.7-2007/CSA B44-07;

## LABOR SERVICES DIVISION[875](cont'd)

- c. ASME A18.1 shall mean ASME A18.1 (2011), except Chapters 4, 5, 6, and 7;
- d. ANSI A117.1 shall mean ANSI A117.1 (2003), except for Rule 407.4.6.2.2; and
- e. ANSI/NFPA 70 shall mean ANSI/NFPA 70 (2011).

ITEM 7. Amend rule 875—72.9(89A) as follows:

**875—72.9(89A) Escalators and moving walks.** The provisions contained in ASME A17.1, part 6, are adopted by reference, except for those portions that allow an operating or safety device to reset automatically.

ITEM 8. Amend subrule 72.13(1) as follows:

**72.13(1) General.** ~~All~~ Except as set forth in this rule, all maintenance, repairs, replacements, and alterations shall comply with the edition of ASME A17.1-2007/CSA B44-07 currently adopted for new conveyances at rule 875—72.1(89A) or ASME A17.7-2007/CSA B44-07, as applicable, ~~except as noted in 875—subrules 73.8(3) and 73.8(4).~~ Rule 875—71.10(89A) describes alterations which require that the entire conveyance be brought into compliance with the most current codes.

ITEM 9. Amend subrule 72.13(3), introductory paragraph, as follows:

**72.13(3) Sump pump exemption.** The provisions of ASME A17.1-2007/CSA B44-07 and ASME A17.1S-2005, Rule 2.2.2, that require a pit sump or drain shall not apply to an elevator alteration when all of the following criteria are met:

ITEM 10. Amend subrule 72.13(4), introductory paragraph, as follows:

**72.13(4) Pit excavation exemption.** The full length of the platform guard set forth in ASME A17.1-2007/CSA B44-07 and ASME A17.1S-2005, Rule 2.15.9.2(a), shall not be required if all of the following criteria are met:

ITEM 11. Amend subrule 73.8(1) as follows:

**73.8(1) General.** ~~All~~ Except as set forth in this rule, all maintenance, repairs and alterations shall comply with the edition of ASME A17.1-2007/CSA B44-07 currently adopted for new conveyances at rule 875—72.1(89A) or ASME A17.7-2007/CSA B44-07, as applicable, ~~except as noted in subrules 73.8(3) and 73.8(4).~~ Rule 875—71.10(89A) describes alterations which require that the entire conveyance be brought into compliance with the most current code.

ITEM 12. Amend subrule 73.8(3), introductory paragraph, as follows:

**73.8(3) Sump pump exemption.** The provisions of ASME A17.1-2007/CSA B44-07 and ASME A17.1S-2005, Rule 2.2.2, that require a pit sump or drain shall not apply to an elevator alteration when all of the following criteria are met:

ITEM 13. Amend subrule 73.8(4), introductory paragraph, as follows:

**73.8(4) Pit excavation exemption.** The full length of the platform guard set forth in ASME A17.1-2007/CSA B44-07 and ASME A17.1S-2005, Rule 2.15.9.2(a), shall not be required if all of the following criteria are met:

ITEM 14. Rescind subrule 73.8(6) and adopt the following **new** subrule in lieu thereof:

**73.8(6) Safety bulkheads.** Documentation from the manufacturer establishing that a safety bulkhead was installed shall establish compliance with ASME A17.1, Rule 8.6.5.8.

[Filed 11/18/14, effective 1/14/15]

[Published 12/10/14]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 12/10/14.



**ARC 1755C****NATURAL RESOURCE COMMISSION[571]****Adopted and Filed**

Pursuant to the authority of Iowa Code section 455A.5(6)“a,” the Natural Resource Commission (Commission) hereby rescinds Chapter 9, “State Migratory Waterfowl, Trout and Habitat Stamp Design Contests,” and Chapter 53, “Controlled Hunting Areas,” Iowa Administrative Code.

The rescission of Chapters 9 and 53 eliminates unused and inapplicable rules. This effort is a part of the regulatory review mandated by Iowa Code section 17A.7(2), which requires that an agency conduct an ongoing and comprehensive review of all of the agency’s rules. The goal of the review is the identification and elimination of all rules of the agency that are outdated, redundant, or inconsistent or incompatible with statute or with the agency’s own rules or those of other agencies. Chapters 9 and 53 are outdated and are no longer used.

Notice of Intended Action was published in the Iowa Administrative Bulletin on September 3, 2014, as **ARC 1622C**. A public hearing was held on September 25, 2014, and public comments were accepted through that date. No public comments were received. No changes from the Notice have been made.

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

These amendments are intended to implement Iowa Code section 17A.7.

These amendments shall become effective January 14, 2015.

The following amendments are adopted.

ITEM 1. Rescind and reserve **571—Chapter 9**.

ITEM 2. Rescind and reserve **571—Chapter 53**.

[Filed 11/13/14, effective 1/14/15]

[Published 12/10/14]

EDITOR’S NOTE: For replacement pages for IAC, see IAC Supplement 12/10/14.

**ARC 1785C****PHARMACY BOARD[657]****Adopted and Filed**

Pursuant to the authority of Iowa Code section 147.76, the Board of Pharmacy hereby amends Chapter 3, “Pharmacy Technicians,” Iowa Administrative Code.

The amendments provide updated language to remove all references to uncertified pharmacy technicians. Current rules require all pharmacy technicians to obtain national certification, but the rules provide an extended deadline for compliance under certain conditions. As of December 31, 2013, the provision for extension of the deadline to attain national certification has expired. These amendments eliminate all references to the extended deadline for national certification and all references to uncertified pharmacy technicians because national certification is required of all pharmacy technicians following one-year registration as a technician trainee.

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

Notice of Intended Action was published in the October 1, 2014, Iowa Administrative Bulletin as **ARC 1653C**. The Board received no written comments regarding the proposed amendments. The adopted amendments are identical to those published under Notice.

The amendments were approved during the November 19, 2014, meeting of the Board of Pharmacy.

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

These amendments are intended to implement Iowa Code sections 147.72, 147.107, 155A.6A, 155A.23, 155A.33, and 155A.39.

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

These amendments will become effective on January 14, 2015.

EDITOR'S NOTE: Pursuant to recommendation of the Administrative Rules Review Committee published in the Iowa Administrative Bulletin, September 10, 1986, the text of these amendments [amendments to Ch 3] is being omitted. These amendments are identical to those published under Notice as **ARC 1653C**, IAB 10/1/14.

[Filed 11/19/14, effective 1/14/15]

[Published 12/10/14]

[For replacement pages for IAC, see IAC Supplement 12/10/14.]

**ARC 1786C****PHARMACY BOARD[657]****Adopted and Filed**

Pursuant to the authority of Iowa Code sections 147.76 and 155A.6, the Board of Pharmacy hereby amends Chapter 4, "Pharmacist Interns," and Chapter 8, "Universal Practice Standards," Iowa Administrative Code.

The amendments provide for the delegation of immunization administration by an authorized pharmacist to an authorized pharmacist-intern under the direct supervision of the authorized pharmacist. This provision was inadvertently omitted when the immunization rule was amended in September 2013. The amendments also define "authorized pharmacist-intern" and require continued cardiac life support certification and documentation of such certification beyond initial qualification of the authorized pharmacist or authorized pharmacist-intern. The amendments also require that the prescriber authorizing the administration of immunizations via protocol must identify, by name or classification, any pharmacists or other qualified health professionals that may administer immunizations pursuant to the specific protocol.

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

Notice of Intended Action was published in the October 1, 2014, Iowa Administrative Bulletin as **ARC 1652C**. The Board received one written comment regarding the proposed amendments. The commenter expressed concern that the amendments would effectively limit immunization activities by pharmacist-interns if the protocol required the identification by name of each pharmacist-intern. The Board's intent of the rule making is to alleviate that burden by allowing in a signed protocol the identification of immunizers by category. The Board reviewed the language of the proposed amendments and determined that the intent is provided. The adopted amendments are identical to those published under Notice.

The amendments were approved during the November 19, 2014, meeting of the Board of Pharmacy.

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

These amendments are intended to implement Iowa Code sections 155A.6 and 155A.13.

These amendments will become effective on January 14, 2015.

The following amendments are adopted.

ITEM 1. Amend subrule 4.6(2) as follows:

**4.6(2) *Supervision and authorized functions.*** A licensed pharmacist shall be on duty in the pharmacy and shall be responsible for the actions of a pharmacist-intern during all periods of internship training. At the discretion of the supervising pharmacist, the following judgmental functions, usually restricted to a pharmacist, may be delegated to pharmacist-interns registered by the board:

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

*c.* Patient counseling;

*d.* Administration of vaccines pursuant to rule 657—8.33(155A).

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

ITEM 2. Amend rule 657—8.33(155A) as follows:

**657—8.33(155A) Vaccine administration by pharmacists.** An authorized pharmacist may administer vaccines pursuant to protocols established by the CDC in compliance with the requirements of this rule. An authorized pharmacist may only delegate the administration of a vaccine to an authorized pharmacist-intern under the direct supervision of the authorized pharmacist.

**8.33(1) Definitions.** For the purposes of this rule, the following definitions shall apply:

“ACIP” means the CDC Advisory Committee on Immunization Practices.

“ACPE” means the Accreditation Council for Pharmacy Education.

“Authorized pharmacist” means an Iowa-licensed pharmacist who has met the requirements identified in subrule 8.33(2).

“Authorized pharmacist-intern” means an Iowa-registered pharmacist-intern who has met the requirements for an authorized pharmacist identified in paragraphs 8.33(2) “a” and “c.”

“CDC” means the United States Centers for Disease Control and Prevention.

“Immunization” shall have the same meaning as, and shall be interchangeable with, the term “vaccine.”

“Protocol” means a standing order for a vaccine to be administered by an authorized pharmacist.

“Vaccine” means a specially prepared antigen administered to a person for the purpose of providing immunity.

**8.33(2) Authorized pharmacist training and continuing education.** An authorized pharmacist shall document successful completion of the requirements in paragraph 8.33(2) “a” and shall maintain competency by completing and maintaining documentation of the continuing education requirements in paragraph 8.33(2) “b.”

a. and b. No change.

c. Certification maintained. During any period within which the pharmacist may engage in the administration of vaccines, the pharmacist shall maintain current certification in the American Heart Association or the Red Cross basic cardiac life support protocol for health care providers.

**8.33(3) Protocol requirements.** A pharmacist may administer vaccines pursuant to CDC protocols. A protocol shall be unique to a pharmacy ~~and~~. The prescriber who signs a protocol shall identify all within the protocol, by name or category, those pharmacists authorized or other qualified health professionals that the prescriber is authorizing to administer vaccines pursuant to the protocol. Links to CDC protocols shall be provided on the board’s Web site at [www.iowa.gov/ibpe](http://www.iowa.gov/ibpe). A protocol:

a. to d. No change.

e. Shall specifically indicate whether the authorizing prescriber agrees that the administration of vaccines may be delegated by the authorized pharmacist to an authorized pharmacist-intern under the direct supervision of the authorized pharmacist.

**8.33(4) to 8.33(7)** No change.

[Filed 11/19/14, effective 1/14/15]

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**ARC 1787C**

**PHARMACY BOARD[657]**

**Adopted and Filed**

Pursuant to the authority of Iowa Code section 124.301, the Board of Pharmacy hereby amends Chapter 10, “Controlled Substances,” Iowa Administrative Code.

The amendments temporarily classify as Schedule IV controlled substances products containing tramadol, alfaxalone, and suvorexant and temporarily remove the classification of hydrocodone combination products from Schedule III, effectively classifying all hydrocodone-containing products

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

in Schedule II of the Controlled Substances Act in conformance with recent control of these same substances by the U.S. Department of Justice, Drug Enforcement Administration (DEA).

The amendments also provide clearer direction for the notification process when a registrant has experienced a theft or loss of controlled substances. The amendment regarding the reporting of a theft or loss of controlled substances requires immediate notification to the DEA and, in certain circumstances, to the Board, upon discovery of a theft or loss of a significant quantity of controlled substances, followed by submission to the Board and to the DEA of a formal report within 14 days of discovery of the theft or loss.

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

Notice of Intended Action was published in the October 1, 2014, Iowa Administrative Bulletin as **ARC 1647C**. The Board received written comments objecting to the proposed temporary scheduling of tramadol and hydrocodone-containing products and requesting that the Board terminate the rule making. Regardless of whether the Board proceeded with the rule making, the drugs identified in the comments have been scheduled under federal law, and where federal and state laws differ regarding controlled substances schedules, the more stringent scheduling action prevails. The Board also received a request for clarification of the 14-day time period specified in subrule 10.16(3), questioning whether that period refers to calendar days or business days. In response to that question, the adopted amendment has been changed to require reporting within 14 calendar days of discovery of the theft or loss.

Although the Notice of Intended Action proposed to rescind current rule 657—10.38(124), the temporary scheduling provisions of the rule are still necessary. Therefore, the proposed rescission of rule 657—10.38(124) was not adopted, and the new temporary scheduling provisions have been included in the rule as new subrules 10.38(4) through 10.38(6).

The amendments were approved during the November 19, 2014, meeting of the Board of Pharmacy. After analysis and review of this rule making, no impact on jobs has been found.

These amendments are intended to implement Iowa Code sections 124.201(4) and 124.301.

These amendments will become effective on January 14, 2015.

The following amendments are adopted.

ITEM 1. Rescind rule 657—10.16(124) and adopt the following **new** rule in lieu thereof:

**657—10.16(124) Report of theft or loss.** A registrant shall report to the board and the DEA any theft or significant loss of controlled substances when the loss is attributable to other than inadvertent error. Thefts or other losses of controlled substances shall be reported whether or not the controlled substances are subsequently recovered or the responsible parties are identified and action taken against them.

**10.16(1) Immediate notice to board.** If the theft was committed by a registrant or licensee of the board, or if there is reason to believe that the theft was committed by a registrant or licensee of the board, the registrant from whom the controlled substances were stolen shall notify the board immediately upon discovery of the theft and shall identify to the board the registrant or licensee suspected of the theft.

**10.16(2) Immediate notice to DEA.** A registrant shall deliver notice, immediately upon discovery of a reportable theft or loss of controlled substances, to the Des Moines DEA field office via telephone, facsimile, or a brief written message explaining the circumstances of the theft or loss.

**10.16(3) Timely report submission.** Within 14 calendar days of discovery of the theft or loss, a registrant shall submit directly to the DEA a Form 106 or alternate required form via the DEA Web site at <http://www.dea diversion.usdoj.gov/>. A copy of the report that was completed and submitted to the DEA shall be immediately submitted to the board via facsimile, e-mail attachment, or personal or commercial delivery.

**10.16(4) Record maintained.** A copy of the report shall be maintained in the registrant's files for a minimum of two years following the date the report was completed.

ITEM 2. Adopt the following **new** subrules 10.38(4) to 10.38(6):

**10.38(4)** Amend Iowa Code subsection 124.208(5), paragraph "a," by rescinding subparagraphs (3) and (4) and by renumbering remaining subparagraphs (5) through (8) as subparagraphs (3) through (6).

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

**10.38(5)** Amend Iowa Code subsection 124.210(2) by adding the following new paragraph:

c. 2-[(dimethylamino)methyl]-1-(3-methoxyphenyl)cyclohexanol, its salts, optical and geometric isomers and salts of these isomers (including tramadol).

**10.38(6)** Amend Iowa Code subsection 124.210(3) by adding the following new paragraphs:

bb. Alfaxalone.

bc. Suvorexant.

[Filed 11/19/14, effective 1/14/15]

[Published 12/10/14]

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**ARC 1788C**

**PHARMACY BOARD[657]**

**Adopted and Filed**

Pursuant to the authority of Iowa Code section 147.76, the Board of Pharmacy hereby amends Chapter 19, "Nonresident Pharmacy Practice," Iowa Administrative Code.

The amendment reorganizes the provisions of rule 657—19.2(155A) into subrules, requires notification to Iowa patients when a nonresident pharmacy intends to cease business in Iowa, and provides that a nonresident pharmacy may not cancel its license as a means of avoiding disciplinary action.

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

Notice of Intended Action was published in the October 1, 2014, Iowa Administrative Bulletin as **ARC 1651C**. The Board received no written comments regarding the proposed amendments. The Board, however, removed from the initially proposed amendments the requirement that a nonresident pharmacy comply with the rules in Chapter 13 for sterile compounding. The Board is proposing in **ARC 1791C** herein a Notice of Intended Action that would rescind Chapter 13, effectively negating the need for the amendment proposed in Item 2 of **ARC 1651C**. The amendment to rule 657—19.2(155A) adopted in this rule making is identical to that published under Notice of Intended Action.

The amendment was approved during the November 19, 2014, meeting of the Board of Pharmacy.

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

This amendment is intended to implement Iowa Code sections 155A.13A and 155A.19.

This amendment will become effective on January 14, 2015.

The following amendment is adopted.

Amend rule 657—19.2(155A) as follows:

**657—19.2(155A) Application and license requirements.** A nonresident pharmacy shall apply for and obtain, pursuant to provisions of 657—8.35(155A), a nonresident pharmacy license from the board prior to providing prescription drugs, devices, or pharmacy services to an ultimate user in this state.

**19.2(1) Pharmacy license changes.** Change of pharmacy name, ownership, location, or pharmacist in charge shall require a new completed application and license fee pursuant to 657—subrule 8.35(6).

**19.2(2) Pharmacy discontinuing Iowa operations.** A nonresident pharmacy intending to close or discontinue provision of prescription drugs, devices, and pharmacy services to Iowa patients shall notify the board and Iowa patients as provided in 657—subrule 8.35(7). The license of a nonresident pharmacy that provides such notice of intent to close or discontinue provision of services to patients in Iowa and that has returned to the board the nonresident pharmacy's Iowa pharmacy license certificate shall be administratively canceled within 30 days of the board's receipt of the notice and license certificate. A

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

nonresident pharmacy licensee that is under investigation or pending administrative charges shall not be permitted to cancel the nonresident pharmacy license in lieu of discipline.

[Filed 11/19/14, effective 1/14/15]

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EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 12/10/14.

**ARC 1789C**

**PHARMACY BOARD[657]**

**Adopted and Filed**

Pursuant to the authority of Iowa Code section 147.76, the Board of Pharmacy hereby adopts new Chapter 33, "Military Service and Veteran Reciprocity," Iowa Administrative Code.

The new chapter fulfills the directive of the 85th General Assembly in 2014 Iowa Acts, chapter 1116, division VI, by enacting rules that provide for priority application status for veterans and the opportunity to receive credit, as appropriate, towards licensing and registration qualifications for education, training, and service obtained by those who have served honorably in the military.

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

Notice of Intended Action was published in the October 1, 2014, Iowa Administrative Bulletin as **ARC 1641C**. The Board received no written comments regarding these rules. The adopted rules are identical to those published under Notice.

These rules were approved during the November 19, 2014, meeting of the Board of Pharmacy.

After analysis and review of this rule making, there may be a minimal impact on jobs as a result of adoption of these rules. The provisions of these rules include prioritizing an application for license or registration submitted by a veteran or other military service applicant which may result in an applicant's earlier entry into the Iowa workforce.

These rules are intended to implement 2014 Iowa Acts, chapter 1116, section 34.

These rules will become effective on January 14, 2015.

The following amendment is adopted.

Adopt the following new 657—Chapter 33:

**CHAPTER 33**

**MILITARY SERVICE AND VETERAN RECIPROCITY**

**657—33.1(85GA,ch1116) Definitions.** For the purposes of this chapter, the following definitions shall apply:

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

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

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

**657—33.2(85GA,ch1116) Military education, training, and service credit.** A military service applicant may apply for credit for verified military education, training, or service toward any experiential or educational requirement for pharmacist licensure, pharmacist-intern registration, or technician registration by submitting a military service credit application form to the board office. The board shall make available an application for military service credit.

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

**33.2(1) *Military service credit application.*** A military service credit application may be submitted with an application for licensure, examination, or registration or may be submitted prior to the submission of an application for licensure, examination, or registration. No fee is required with submission of a military service credit application.

**33.2(2) *Credit identified.*** The applicant shall identify the experiential or educational licensure or registration requirement to which the credit would be applied if granted. Credit shall not be applied to an examination requirement.

**33.2(3) *Submission of verification documentation.*** The applicant shall provide documents, military transcripts, a certified affidavit, or forms that verify completion of the relevant military education, training, or service, which may include, when applicable, the applicant's Certificate of Release or Discharge from Active Duty (DD Form 214) or Verification of Military Experience and Training (VMET) (DD Form 2586).

**33.2(4) *Credit determination.*** Upon receipt of a completed military service credit application, the board shall promptly determine whether the verified military education, training, or service will satisfy all or any part of the identified experiential or educational qualifications for licensure or registration.

**33.2(5) *Granting of credit.*** The board shall grant credit requested in the application in whole or in part if the board determines that the verified military education, training, or service satisfies all or part of the experiential or educational qualifications for licensure or registration.

**33.2(6) *Notification of credit determination.*** The board shall inform the military service applicant in writing of the credit, if any, given toward an experiential or educational qualification for licensure or registration or explain why no credit was granted. The applicant may request reconsideration of the board's determination upon submission of additional documentation or information.

**33.2(7) *Consideration of applications.*** The board shall grant or deny the military service credit application prior to ruling on the application for licensure, examination, or registration. The applicant shall not be required to submit any fees in connection with the license or registration application until the board issues a determination on the military service credit application. If the board does not grant the military service credit application, the applicant may withdraw any license or registration application and application fee, if submitted, or the applicant may request that the application be placed in pending status. The withdrawal of a license or registration application and fee shall not preclude subsequent applications supported by additional documentation or information.

**657—33.3(85GA,ch1116) *Veteran licensure or registration.*** A veteran with an unrestricted pharmacist license in another jurisdiction may apply for pharmacist licensure in Iowa by license transfer/reciprocity pursuant to rule 657—2.9(147,155A) and this chapter. A veteran must pass any required examinations to be eligible for pharmacist licensure by license transfer/reciprocity. A veteran may submit an application for pharmacist-intern registration pursuant to 657—Chapter 4 and this chapter. A veteran may submit an application for technician registration pursuant to 657—Chapter 3 and this chapter. A veteran may submit an application for pharmacy support person registration pursuant to 657—Chapter 5 and this chapter.

**33.3(1) *Priority application status.*** A fully completed application for licensure or registration submitted by a veteran under this chapter shall be given priority status and shall be expedited.

**33.3(2) *Application requirements.*** Such an application shall contain all of the information required of all applicants for licensure or registration who hold unrestricted licenses or registrations in other jurisdictions and who are applying for licensure or registration, including, but not limited to, completion of all required forms, payment of applicable fees, disclosure of criminal or disciplinary history, and, if applicable, a criminal history background check. In addition, the applicant shall provide such documentation as is reasonably needed to verify the applicant's status as a veteran under Iowa Code section 35.1(2).

**33.3(3) *Equivalency determination.*** Upon receipt of a fully completed application for licensure or registration, the board shall promptly determine if the requirements for licensure or registration of the jurisdiction where the veteran is licensed or registered are substantially equivalent to the requirements for licensure or registration in Iowa. The board may consider the following factors in determining

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

substantial equivalence: scope of practice, education and coursework, degree requirements, and post-graduate experiences.

**33.3(4) *Licensure or registration approval.*** The board shall promptly grant a license or registration, as appropriate, to the veteran if the veteran is licensed or registered in another jurisdiction whose licensure or registration requirements are substantially equivalent to those required in Iowa, unless the applicant is ineligible for licensure or registration based on other grounds, for example, the applicant's disciplinary or criminal background.

**33.3(5) *Notification of additional requirements and provisional licensure or registration.*** If the board determines that the veteran is licensed or registered in another jurisdiction whose licensure or registration requirements are not substantially equivalent to those required in Iowa, the board shall promptly inform the veteran of the additional experience, education, or examinations required for licensure or registration in Iowa. Unless the applicant is ineligible for licensure or registration based on other grounds, such as disciplinary or criminal background, the following shall apply:

*a.* If a veteran has not passed the required examination(s) for licensure or registration, the applicant may request that the application be placed in pending status.

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

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

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

**657—33.4(85GA,ch1116) Request for contested case.** A military service applicant or a veteran who is aggrieved by the board's decision to deny all or part of the military service credit application, a request for a license transfer/reciprocal license, a request for a registration, or a request for provisional license or registration, or is aggrieved by the terms under which a provisional license or registration will be granted, may request a contested case (administrative hearing) and may participate in a contested case by telephone. A request for a contested case shall be made within 30 days of issuance of the board's decision pursuant to 657—subrule 35.26(1). There shall be no fees or costs assessed against the veteran in connection with a contested case conducted pursuant to this chapter.

These rules are intended to implement 2014 Iowa Acts, chapter 1116, section 34.

[Filed 11/19/14, effective 1/14/15]

[Published 12/10/14]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 12/10/14.

**ARC 1758C**

**PROFESSIONAL LICENSURE DIVISION[645]**

**Adopted and Filed**

Pursuant to the authority of Iowa Code section 147.76, the Board of Behavioral Science hereby amends Chapter 31, "Licensure of Marital and Family Therapists and Mental Health Counselors," Iowa Administrative Code.



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

These amendments revise the examination requirements for temporary licensure to make them consistent with the Iowa Code, define the requirements for the counseling theories content area and the supervised counseling practicum content area for applicants who entered a program of study prior to July 1, 2012, and define requirements for licensure by endorsement for an applicant who has been licensed at the independent level in another state for at least five years.

Notice of Intended Action was published in the Iowa Administrative Bulletin on July 23, 2014, as **ARC 1558C**. A public hearing was held August 12, 2014, from 8 to 8:30 a.m. in the Fifth Floor Board Conference Room 526, Lucas State Office Building, Des Moines, Iowa. Public comment was received from several individuals about the requirement that the examination be completed before a temporary license is issued. The comments addressed the fact that the Association of Marital and Family Therapy Regulatory Board (AMFTRB) Examination in Marital and Family Therapy (MFT examination) is offered only four times per year. No change was made in response to the comments because, beginning January 1, 2015, the MFT examination will be given every month and, therefore, will not cause a delay in licensure.

These amendments are identical to those published under Notice.

These amendments were adopted by the Board of Behavioral Science on November 6, 2014.

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

These amendments are intended to implement Iowa Code sections 147.3, 147.10, 147.55, 154D.2, and 154D.7.

These amendments will become effective on January 14, 2015.

The following amendments are adopted.

ITEM 1. Amend subrule 31.2(5) as follows:

**31.2(5)** The candidate for permanent licensure shall have the examination score sent directly from the testing service to the board. ~~If the~~ The candidate for temporary licensure ~~has not completed the examination prior to issuance of a temporary license, the candidate~~ must successfully complete the examination before the temporary license ~~expires~~ is issued.

ITEM 2. Amend subparagraph **31.6(2)“a”(1)** as follows:

(1) Counseling theories. Studies that provide an understanding of counseling theories, utilize personal and environmental data in the mental health counseling process, and investigate procedures that are appropriate to various counseling theories and specific settings.

ITEM 3. Amend subparagraph **31.6(2)“a”(2)** as follows:

(2) Supervised counseling practicum. A graduate-level clinical supervised counseling practicum in a mental health setting in which students must complete supervised practicum experiences that total a minimum of 100 clock hours over a minimum ten-week academic term. The practicum provides for the development of counseling skills under supervision. The student's practicum includes all of the following:

1. At least 40 hours of direct service with actual clients that contributes to the development of counseling skills;

2. Weekly interaction with an average of 1 hour per week of individual or triadic supervision throughout the practicum by a program faculty member, a student supervisor, or a site supervisor who is working in biweekly consultation with a program faculty member in accordance with the supervision contract;

3. An average of 1½ hours per week of group supervision that is provided on a regular schedule throughout the practicum by a program faculty member or a student supervisor; and

4. Evaluation of the student's counseling performance throughout the practicum, including documentation of a formal evaluation after the student completes the practicum.

ITEM 4. Amend rule 645—31.8(154D) as follows:

**645—31.8(154D) Licensure by endorsement.** An applicant who has been a licensed marriage and family therapist or mental health counselor under the laws of another jurisdiction may file an application for licensure by endorsement with the board office.

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

**31.8(1)** The board may receive by endorsement any applicant from the District of Columbia or another state, territory, province or foreign country who:

1. a. Submits to the board a completed application;  
 2. b. Pays the licensure fee;  
 3. c. Shows evidence of licensure requirements that are similar to those required in Iowa;  
 4. d. Provides official transcripts sent directly from the school to the board verifying completion of a master's degree of 45 hours or equivalent if the applicant entered a program of study prior to July 1, 2010, or verifying completion of a master's degree of 60 hours or equivalent if the applicant entered a program of study on or after July 1, 2010, or the appropriate doctoral degree. After March 31, 2009, graduates from a non-CACREP-accredited mental health counselor program or a non-COAMFTE-accredited marital and family therapy program shall provide an equivalency evaluation of their educational credentials by the Center for Credentialing and Education, Inc. (CCE), Web site <http://cce-global.org>. The professional curriculum must be equivalent to that stated in these rules. Applicants shall bear the expense of the curriculum evaluation;

5. e. Supplies satisfactory evidence of the candidate's qualifications in writing on the prescribed forms by the candidate's supervisors. If verification of clinical experience is not available, the board may consider submission of documentation from the state in which the applicant is currently licensed or equivalent documentation of supervision; and

6. f. Provides verification(s) of license(s) from every jurisdiction in which the applicant has been licensed, sent directly from the jurisdiction(s) to the board office. Web-based verification may be substituted for verification direct from the jurisdiction's board office if the verification provides:

- (1) Licensee's name;
- (2) Date of initial licensure;
- (3) Current licensure status; and
- (4) Any disciplinary action taken against the licensee; and

g. Has the examination score sent directly from the testing service to the board.

**31.8(2)** In lieu of meeting the requirements of paragraphs 31.8(1) "d" and "e," applicants who meet the qualifications below may instead submit documentation demonstrating how each of the qualifications below is satisfied:

a. The applicant has been licensed as a mental health counselor or a marital and family therapist in another state for at least five years at the independent level (independent level means the highest level of licensure in the field offered by the particular state);

b. The applicant has been practicing under the independent license in a clinical mental health or marital and family therapy counseling setting for at least five years;

c. The applicant possesses a master's degree or higher in mental health counseling or marital and family therapy; and

d. The applicant does not have any past or pending disciplinary action from any state licensing boards related to any mental health counseling or marital and family therapy license currently or previously held by the applicant.

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**ARC 1773C**

**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 2, "General Practice and Hearing Procedures," and Chapter 3, "Prohibited Practice Complaints," Iowa Administrative Code.

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

Items 1 and 2 reflect changes to existing rules identified in the Board's ongoing rules review project and the Board's transfer of those rules to a more appropriate and intuitive location in Chapter 2 as new rules 621—2.23(20) and 621—2.24(20).

Items 3 through 11 amend existing rules concerning proceedings on prohibited practice complaints which have also been identified in the Board's ongoing rules review.

Item 12 rescinds rules 621—3.10(20) and 621—3.11(20), the content of which is revised and incorporated into Chapter 2 in Items 1 and 2.

Item 13 adopts new rule 621—3.12(20), which implements the Iowa Code section 20.11(3) requirements that the Board appoint a certified shorthand reporter to report prohibited practice proceedings and that the Board tax the reasonable amount of compensation for such reporting, and for any transcript requested by the Board, as costs.

Notice of Intended Action was published in the Iowa Administrative Bulletin as **ARC 1670C** on October 15, 2014. Written and oral comments and requests for a public hearing were accepted through November 4, 2014. No request for a public hearing was received, and no written or oral questions, comments or suggestions were submitted. 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 Board'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 14, 2015.

The following amendments are adopted.

ITEM 1. Adopt the following new rule 621—2.23(20):

**621—2.23(20) Informal disposition.** The board may assign an administrative law judge to assist the parties in reaching a settlement of any dispute which is the subject of an adjudicatory proceeding. However, no party shall be required to participate in mediation or settle the dispute pursuant to this rule. An administrative law judge assisting the parties under this rule shall not serve as a presiding officer in any proceeding related to the dispute. Adjudicatory proceedings may be voluntarily dismissed without consent of the board except as provided in rule 621—3.6(20) and 621—subrule 4.1(3).

ITEM 2. Adopt the following new rule 621—2.24(20):

**621—2.24(20) Evidence of settlement negotiations.** Evidence of proposed offers of settlement of a contested case or a proceeding that may culminate in a contested case shall be inadmissible at the hearing thereon.

ITEM 3. Amend **621—Chapter 3**, title, as follows:

**PROHIBITED PRACTICE COMPLAINTS PROCEEDINGS**

ITEM 4. Amend rule 621—3.1(20) as follows:

**621—3.1(20) Filing of complaint.** A complaint that any ~~person, employee, organization or public employer, public employee or employee organization~~ has ~~engaged in or is engaging in~~ committed a prohibited practice ~~under the Act~~ within the meaning of Iowa Code section 20.10(1), that any public employer or the employer's designated representative has committed a prohibited practice within the meaning of Iowa Code section 20.10(2), or that any public employee, employee organization, person, union or organization or its agents have committed a prohibited practice within the meaning of Iowa Code section 20.10(3) may be filed with the agency by any person, employee organization or public employer. ~~A complaint shall be in writing and signed according to these rules, and may be on a form provided by the board. The complaint shall be filed with the board with standing within 90 days following the alleged violation~~ commission of the prohibited practice.

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

ITEM 5. Amend rule 621—3.2(20) as follows:

**621—3.2(20) Contents of complaint.** The complaint, which may utilize the form available from the board's Web site, shall be in writing, shall be signed by the complainant or its designated representative, and shall include the following:

**3.2(1)** The name, address and organizational affiliation, if any, telephone number and e-mail address of the complainant, and, if filed by the complainant's designated representative, the name, title, telephone number and e-mail address of any that representative filing the complaint.

**3.2(2)** The name and address of the respondent(s) and any other party named therein alleged to have committed the prohibited practice.

**3.2(3)** A clear and concise statement of the facts constituting the alleged prohibited practice, including the names of the individuals involved in the alleged act act(s), the dates date(s) and places place(s) of the alleged occurrence act(s), and the specific section(s) subsection(s) and paragraph(s) of the Act Iowa Code section 20.10 alleged to have been violated.

ITEM 6. Amend rule 621—3.3(20) as follows:

**621—3.3(20) Clarification of complaint.** ~~The board~~ Although compliance with technical rules of pleading is not required, the agency may, on either its own motion or motion of the respondent, require the complainant to make the complaint more specific.

ITEM 7. Amend rule 621—3.4(20) as follows:

**621—3.4(20) Service of complaint.** The complainant shall, within a reasonable time following the filing of a complaint, serve the respondent(s) all named respondents with a copy of the complaint in the manner of an original notice or by certified mail, return receipt requested, together with an agency-approved information sheet regarding mandatory electronic filing. Such service shall be upon the person person(s) designated for service by 621—subrule 2.15(1), and the complainant shall file proof thereof with the agency in accordance with 621—subrules subrule 2.15(3) and 621—subrule 16.10(1).

ITEM 8. Amend rule 621—3.5(20) as follows:

**621—3.5(20) Answer to complaint.**

**3.5(1) Filing and service.** Within ten days of service of a complaint, the respondent(s) shall file with the board a written agency an answer to the complaint, and cause a copy to be delivered to the complainant by ordinary mail to the address set forth in the complaint. The answer shall be signed by the respondent(s) or the its designated representative of the respondent(s). The answer shall be served through the electronic document management system unless the respondent is exempted from electronic filing in the proceeding, in which case service shall be in accordance with 621—subrules 2.15(2) and 2.15(3), and upon the person who signed the complaint being answered.

**3.5(2) Extension of time to answer.** ~~Upon~~ The parties may agree to an extension of the time to answer and shall inform the agency of their agreement, or the board may, upon application and good cause shown, the board may extend the time to answer to a time and date certain.

**3.5(3) Contents of answer.** The answer shall include a specific admission or denial of specifically admit or deny each allegation of the complaint or, if and may set forth additional facts deemed to constitute a defense. If the respondent is without knowledge thereof sufficient to make an admission or denial concerning an allegation, the respondent answer shall so state and such statement shall operate as a denial. Admissions or denials may be made to all or part of an allegation, but shall fairly meet the circumstances substance of the allegations allegation. The answer shall include a specific statement of any affirmative defense. Matters contained Additional facts set forth in the answer shall be deemed denied by the complainant.

**3.5(4) Admission by failure to answer.** If the respondent fails to file a timely answer, such failure may be deemed by the board to constitute an admission of the material facts alleged in the complaint and a waiver by the respondent of a hearing.

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

ITEM 9. Amend rule 621—3.6(20) as follows:

**621—3.6(20) ~~Withdrawal~~ Voluntary dismissal or withdrawal of complaint.** ~~A~~ At any time prior to the issuance of a proposed decision (or final decision if heard originally by the board), a complaint or any part thereof may be ~~withdrawn with the consent of the board, and upon conditions the board may deem proper~~ voluntarily dismissed by the complainant. ~~Withdrawal shall constitute a bar to refile the same complaint or part thereof by the complainant.~~ Following the issuance of a proposed decision, but before the proposed decision becomes the agency's final decision, complaints may be withdrawn only with the consent of the board and upon conditions the board deems proper.

ITEM 10. Rescind and reserve rule **621—3.7(20)**.

ITEM 11. Amend rule 621—3.8(20) as follows:

**621—3.8(20) Investigation of complaint.** The board or its designee may conduct a preliminary investigation of the allegations of any complaint. In conducting such investigation, the board may require the complainant and respondent to furnish evidence, including affidavits and other documents if appropriate. If a review of the evidence shows that the complaint has no basis in fact, the complaint may be dismissed with prejudice by the board and the parties notified. ~~Board employees~~ Administrative law judges involved in investigations under this rule shall not act as ~~administrative law judges~~ presiding officers in any proceeding related to the ~~investigation~~ prohibited practice complaint.

ITEM 12. Rescind and reserve rules **621—3.10(20)** and **621—3.11(20)**.

ITEM 13. Adopt the following new rule 621—3.12(20):

**621—3.12(20) Costs of certified shorthand reporters and transcripts.**

**3.12(1) Initial payment.** The agency will arrange for a certified shorthand reporter to report the contested case hearing and request that an original transcript of the hearing be prepared by the reporter for the agency's use. The agency initially shall pay the reporter's reasonable compensation for reporting the hearing and producing the agency-requested transcript.

**3.12(2) Taxation as costs.** The cost of reporting and of the agency-requested transcript shall be taxed as costs against the nonprevailing party or parties although the presiding officer, or the board on appeal or review of a proposed decision and order, may apportion such costs in another manner if appropriate under the circumstances.

**3.12(3) Payment of taxed costs.** Following final agency action in a case, the agency will prepare and serve a bill of costs upon the party or parties against whom the costs have been taxed. Those parties shall, within 30 days of such service, remit to the agency the amount specified in the bill of costs. Sums remitted to the agency shall be considered repayment receipts as defined in Iowa Code section 8.2.

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**ARC 1747C**

**PUBLIC HEALTH DEPARTMENT[641]**

**Adopted and Filed**

Pursuant to the authority of Iowa Code section 136A.8, the Department of Public Health hereby amends Chapter 4, "Center for Congenital and Inherited Disorders," Iowa Administrative Code.

These amendments add the newborn hearing screening program, Iowa Early Hearing Detection and Intervention, to the purview of the Center for Congenital and Inherited Disorders; describe the authority of the Department to collect, test, and store newborn screening specimens and conduct follow-up and quality assurance activities; include a new rule that describes newborn screening for critical congenital

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

heart disease; define the time frame for retention of newborn screening data; and amend a paragraph to require informed consent of the parent or guardian prior to the release of specimens for research use and to provide an effective date for the informed consent process. Paragraph 4.6(3)“a” requiring the use of a sliding fee scale by the neuromuscular and related disorders program is rescinded.

The Department has provided an effective date of January 1, 2016, for the informed consent procedure to allow for policy development prior to implementation. A procedure is also described to enable parents or guardians to indicate refusal to allow the newborn’s specimen to be used for research for newborns with specimens collected prior to the effective date of the informed consent procedure.

The initial Notice of Intended Action for this rule making was published in the May 28, 2014, Iowa Administrative Bulletin as **ARC 1471C**. The Department received public comment and made changes based on public comment. A request was received from the American Heart Association along with 54 interested Iowa citizens to have the opportunity to make oral presentations on the changes made to the original Notice of Intended Action. An Amended Notice of Intended Action was published in the August 6, 2014, Iowa Administrative Bulletin as **ARC 1567C**. A public hearing was held on August 26, 2014.

Public comments addressed the informed consent for the release of residual newborn screening specimens for research purposes and suggested a later effective date for the process of obtaining informed consent. As a result of this comment, the date in paragraph 4.3(2)“e” was changed from July 1, 2015, to January 1, 2016, to provide a later effective date upon and after which informed consent for the release of residual newborn screening specimens for research purposes shall be obtained.

Other public comments requested further clarification of “other means” of newborn screening for critical congenital heart disease (CCHD) and supported the Department’s efforts to ensure that all newborns are screened for CCHD. Changes were made to new subparagraph 4.3(9)“b”(3) (Item 19) to define allowable newborn screening for CCHD methodology as those methods approved by the most recently published guidelines, algorithms, and protocols as outlined by the American Academy of Pediatrics, the American College of Cardiology Foundation and the American Heart Association or subsequent guidance by those organizations.

A comment was received recommending that, due to the unknown nature of the reporting system and the burden it may place on birthing facilities, the requirement in paragraph 4.3(9)“e” regarding reporting results of newborn CCHD screening not be implemented until such time as the CCHD reporting system is developed. No change was made to paragraph 4.3(9)“e,” as it is language taken directly from statute and does not affect birthing facilities until such time as a reporting system is in place.

The State Board of Health adopted these amendments on November 12, 2014.

After analysis and review of this rule making, the impact on jobs is anticipated to be minimal.

These amendments are intended to implement Iowa Code chapter 136A and Iowa Code section 135.131.

These amendments will become effective on January 14, 2015.

The following amendments are adopted.

ITEM 1. Amend rule 641—4.1(136A), introductory paragraph, as follows:

**641—4.1(136A) Program overview.** The center for congenital and inherited disorders within the department of public health provides administrative oversight to the following: Iowa newborn screening program, ~~expanded maternal serum alpha-fetoprotein screening~~ Iowa maternal prenatal screening program, regional genetic consultation service, neuromuscular and related genetic disease program, ~~and~~ Iowa registry for congenital and inherited disorders, and Iowa early hearing detection and intervention program.

ITEM 2. Adopt the following new definitions in rule **641—4.2(136A)**:

“*Critical congenital heart disease*” or “*CCHD*” means the presence of one or more specific heart lesions: hypoplastic left heart syndrome, pulmonary atresia, tetralogy of Fallot, total anomalous pulmonary venous return, transposition of the great arteries, tricuspid atresia, and truncus arteriosus.

“*Early hearing detection and intervention program*” means Iowa’s newborn hearing screening and follow-up program which ensures that all newborns and toddlers with hearing loss are identified as early

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

as possible and provided with timely and appropriate audiological, educational and medical intervention and family support.

*“Newborn critical congenital heart disease (CCHD) screening”* means the screening of newborns for seven targeted heart conditions (hypoplastic left heart syndrome, pulmonary atresia, tetralogy of Fallot, total anomalous pulmonary venous return, transposition of the great arteries, tricuspid atresia, and truncus arteriosus) using pulse oximetry or other means to detect blood oxygen saturation levels.

ITEM 3. Amend rule **641—4.2(136A)**, definitions of “Committee,” “Primary health care provider” and “Residual newborn screening specimen,” as follows:

*“Committee”* means the ~~center for~~ congenital and inherited disorders advisory committee (CIDAC).

*“Primary health care provider”* means a licensed physician, physician assistant, nurse practitioner, or certified nurse midwife providing ongoing primary medical care to a patient.

*“Residual newborn screening specimen”* means the portion of the dried blood spot specimen that may be left over after all activities necessary for the Iowa newborn screening program are completed.

ITEM 4. Adopt the following new paragraph **4.3(1)“d”**:

*d.* For purposes of newborn screening, the department shall collect newborn screening specimens and data, test the specimens for disorders on the universal screening panel, conduct follow-up on abnormal screening results, conduct quality improvement and quality assurance activities, and store specimens for a time period determined by policies established by the CIDAC and the department.

ITEM 5. Amend subrule 4.3(2), catchwords, as follows:

**4.3(2)** ~~Neonatal metabolic~~ *Newborn blood spot screening procedure for facilities and providers.*

ITEM 6. Amend paragraph **4.3(2)“b”** as follows:

*b.* ~~Waiver~~ *Refusal of screening.* Should a parent or guardian refuse the screening, said refusal shall be documented in the infant’s medical record, and the parent or guardian shall sign the refusal of screening waiver form. The birthing facility or attending health care provider shall submit the signed refusal of screening waiver form to the central laboratory within six days of the refusal. The birthing facility or attending health care provider may submit refusal forms via the courier service established for the transportation of newborn screening specimen collection forms.

ITEM 7. Amend paragraph **4.3(2)“e”** as follows:

*e.* ~~Waiver~~ *Informed consent for the release of residual specimens for research use.* The department shall establish policies and procedures, including ~~a refusal for research waiver form~~ an informed consent for release of specimens for research, to allow a parent or guardian the ability to ~~refuse~~ 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 signed refusal for research waiver informed consent form to the central laboratory pursuant to established policy and procedure. The informed consent procedure shall apply to all specimens collected on or after January 1, 2016. For specimens collected prior to January 1, 2016, 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.

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

*b.* Procedures for specimen collection for newborn blood spot screening shall be followed in accordance with 4.3(2).

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

*e.* Notification. The birthing facility shall report the newborn screening results to the health care provider who has undertaken ongoing primary pediatric care of the infant.

ITEM 10. Amend paragraph **4.3(6)“b”** as follows:

*b.* The follow-up programs shall submit a written annual report of the previous calendar year by July 1 of each year. The report shall include:

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

- (1) No change.
- (2) ~~Method and timing of referrals made to the follow-up programs~~ Number of confirmed cases receiving follow-up,
- ~~(3) Each individual's age at confirmation of disorder,~~
- ~~(4) Each individual's age when treatment began,~~
- ~~(5) Type of treatment for each individual with a disorder, and~~
- (6) (3) A written summary of educational and follow-up activities.

ITEM 11. Amend subrule 4.3(7), introductory paragraph, as follows:

**4.3(7) *Sharing of information and confidentiality.*** Reports, records, and other information collected by or provided to the Iowa newborn screening program relating to an infant's newborn screening results and follow-up information are confidential records pursuant to Iowa Code ~~section~~ sections 22.7 and 136A.7. INSP data may be retained indefinitely.

ITEM 12. Amend subparagraph **4.3(7)“b”(1)** as follows:

- (1) The parent or guardian of an infant or child or the adult individual for whom the report is made.

ITEM 13. Amend paragraph **4.3(8)“a,”** introductory paragraph, as follows:

a. A newborn screening specimen collection form consists of a filter paper containing the dried blood spots (DBS) specimen and the attached requisition that contains information about the infant and birthing facility or drawing laboratory. The DBS specimen can be separated from the information contained in the requisition form. The INSP is the custodian of the specimens and related data for purposes of newborn screening, quality improvement and quality assurance activities.

ITEM 14. Reletter paragraph **4.3(8)“b”** as **4.3(8)“c.”**

ITEM 15. Adopt the following new paragraph **4.3(8)“b”**:

b. The program shall not release a residual newborn screening specimen except to the following persons and entities:

- (1) The parent or guardian of the infant or the individual adult upon whom the screening was performed.
- (2) A health care provider acting on behalf of the patient.
- (3) A medical examiner authorized to conduct an autopsy on a child or an investigation into the death of a child.
- (4) A researcher for research purposes, under the terms and conditions provided in this rule.
- (5) The newborn screening program, for operations as provided in this rule.

ITEM 16. Amend relettered paragraph **4.3(8)“c”** as follows:

c. Research use. A residual newborn screening specimen may be released for research purposes only if written 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) Investigators shall submit proposals to use residual ~~DBS~~ newborn screening specimens to the center. Any intent to utilize information associated with intended use of the requested specimens as part of the research study must be clearly delineated in the proposal.

- (2) Before research can commence, proposals shall be approved by the researcher's institutional review board, the congenital and inherited disorders advisory committee, and the department.

- ~~(3) Personally identifiable residual specimens or records shall not be disclosed without documentation of informed parental consent obtained by the researcher.~~

- (4) (3) Research on anonymized or identifiable residual newborn screening specimens shall be allowed only in instances where research would further: newborn screening activities; the health of an infant or child for whom no other specimens are available or readily attainable; ~~or~~ general medical knowledge for existing public health surveillance activities; public health purposes; or medical knowledge to advance the public health.



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

ITEM 17. Adopt the following new paragraphs **4.3(8)“d”** and **“e”**:

*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.

*e.* Prohibited uses. A residual newborn screening specimen shall not be released to any person or entity for commercial purposes or law enforcement purposes or to establish a database for forensic identification.

ITEM 18. Renumber subrules **4.3(9)** and **4.3(10)** as **4.3(10)** and **4.3(11)**.

ITEM 19. Adopt the following new subrule 4.3(9):

**4.3(9)** *Newborn screening for critical congenital heart disease.* All newborns and infants born in Iowa shall receive newborn screening for CCHD, by pulse oximetry or other means in accordance with subparagraph 4.3(9)“b”(3). The purpose of newborn screening for CCHD is to identify newborns with structural heart defects usually associated with hypoxia in the newborn period which could have significant morbidity or mortality early in life with the closing of the ductus arteriosus or other physiological changes early in life.

*a.* *Newborn CCHD screening procedure for providers and facilities.*

(1) Educating parent or guardian. Before newborn screening for CCHD on an infant is conducted, a parent or guardian shall be informed of the type of screening, how it is performed, the nature of the disorders for which the infant is being screened, and the follow-up procedure for an abnormal screen result.

(2) Refusal. Should a parent or guardian refuse the screening, said refusal shall be documented in the infant's medical record, and the parent or guardian shall sign the refusal of screening form. The birthing facility or attending health care provider shall submit the signed refusal form to the central laboratory within six days of the refusal. The birthing facility or attending health care provider may submit refusal forms via the courier service established for the transportation of newborn screening specimen collection forms.

*b.* *Newborn CCHD screening for newborns in low-risk or intermediate nurseries or out-of-hospital births.*

(1) Screening should not begin until the newborn is at least 24 hours of age, or as late as possible if earlier discharge is planned, and should be completed on the second day of life.

(2) Screening shall be conducted using pulse oximeters or other means in accordance with subparagraph 4.3(9)“b”(3). Pulse oximeters shall:

1. Be motion tolerant;
2. Report functional oxygen saturation;
3. Be validated in low-perfusion conditions;
4. Be cleared by the Food and Drug Administration (FDA) for use on newborns; and
5. Have a 2 percent root-mean-square accuracy.

Disposable or reusable probes may be used. Reusable probes must be appropriately cleaned between uses according to manufacturer's instructions.

(3) Newborn CCHD screening shall be conducted by pulse oximetry or other means in accordance with the most recently published guidelines, algorithms, and protocols as outlined by the American Academy of Pediatrics, the American College of Cardiology Foundation and the American Heart Association, or subsequent guidance by the organizations listed in this subparagraph. Materials are available on the CCID Web page at [http://idph.state.ia.us/genetics/newborn\\_screening.asp](http://idph.state.ia.us/genetics/newborn_screening.asp).

*c.* *Newborn CCHD screening for high-risk newborns in neonatal intensive care settings (NICU).* Until such time that an evidence-based protocol for CCHD screening in infants discharged from

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the NICU is available, the attending health care provider shall conduct a comprehensive examination of the newborn to screen the infant for CCHD prior to discharge.

*d. Primary health care provider responsibility.* The health care provider shall ensure that infants under the provider's care are screened.

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

ITEM 20. Amend renumbered subrule 4.3(10) as follows:

**4.3(10) ~~INSP fee determination and IMPSP fees.~~**

*a.* The department shall annually review and determine the fee to be charged for all activities associated with the INSP and the IMPSP. The review and fee determination shall be completed at least one month prior to the beginning of the fiscal year. The newborn screening fee is \$122.

*b.* The department shall include as part of ~~this~~ the INSP fee an amount determined by the committee and department to fund the provision of special medical formula and foods for eligible individuals with inherited diseases of amino acids and organic acids who are identified through the program programs.

*c.* Funds collected through newborn screening fees shall be used for newborn screening program activities only.

*d.* Funds collected through maternal prenatal screening fees shall be used for maternal prenatal screening activities only.

*e.* In order to support newborn and maternal prenatal screening activities, the department shall authorize the expenditure and exchange of newborn screening and maternal prenatal screening funds between the SHL (as designated fiscal agent) and the department.

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

ITEM 21. Amend subrule 4.6(3) as follows:

**4.6(3) ~~Patient fees.~~**

*a.* ~~A sliding fee scale for specialty genetic provider services shall be established for patients attending the outreach clinics. The parameters for the sliding fee scale shall be based on federally established percent of poverty guidelines and updated annually.~~

*b.* ~~Families/clients seen in neuromuscular outreach clinics shall have bills submitted to third-party payers where applicable. Families/clients shall be billed on a sliding fee scale after third-party payment is received. Payments received from receipts of service based on the sliding fee scale or from the third-party payers shall be used only to support the neuromuscular outreach clinics.~~

*c.* The University of Iowa Hospitals and Clinics under the control of the state board of regents shall not receive indirect costs from state funds appropriated for this program.

ITEM 22. Adopt the following new rule 641—4.8(135):

**641—4.8(135) Iowa's early hearing detection and intervention program.** The goal of universal hearing screening of all newborns and infants in Iowa is the early detection of hearing loss to allow children and their families the earliest possible opportunity to obtain appropriate early intervention services. All newborns and infants born in Iowa, except those born with a condition that is incompatible with life, shall be screened for hearing loss. Early hearing detection and intervention programming and services will be provided pursuant to 641—Chapter 3.

[Filed 11/12/14, effective 1/14/15]

[Published 12/10/14]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 12/10/14.

## ARC 1750C

## PUBLIC HEALTH DEPARTMENT[641]

## Adopted and Filed

Pursuant to the authority of Iowa Code section 135.11(12), the Department of Public Health hereby amends Chapter 176, "Criteria for Awards or Grants," Iowa Administrative Code.

The rules in Chapter 176 describe the Department's process for the issuance of awards and grants, for review of competitive selection applications, and for appeals. These amendments provide for a second review, which shall be conducted by two management employees and one nonmanagement employee, of applications for the service delivery area when the applications receive an equal number of points; provide for public notice of available funds in the IowaGrants system Web site; and designate the time period for decision and order of the Director, which shall be issued within 90 days of the date of the receipt of an appeal.

Notice of Intended Action was published in the Iowa Administrative Bulletin on October 1, 2014, as **ARC 1656C**. 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, 2014.

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, 17A.3(1) and 17A.15.

These amendments will become effective on January 14, 2015.

The following amendments are adopted.

ITEM 1. Amend rule 641—176.5(135,17A) as follows:

**641—176.5(135,17A) Review process (competitive applications only).** The review process to be followed in determining the amount of funds to be approved for award of a contract shall be described in the competitive selection application. The review criteria and the point allocation for each criterion shall also be described in the competitive selection application.

The review committee membership shall be determined by the bureau chief, with oversight from the respective division director. The review committee members shall allocate points per review criteria criterion in conducting the review.

In the event applications for the service delivery area receive an equal number of points, a second review may be conducted by two ~~division directors and the respective bureau chief administering the program~~ management employees and one nonmanagement employee as designated by the respective division director.

ITEM 2. Amend rule 641—176.7(135,17A) as follows:

**641—176.7(135,17A) Public notice of available funds.** ~~The program making funds available through a competitive selection application process~~ department shall post all competitive selection documents on the department of public health's Web site at <http://www.idph.state.ia.us> management's IowaGrants Web site at [www.IowaGrants.gov](http://www.IowaGrants.gov) for the duration of the application period.

ITEM 3. Amend subrule 176.8(1) as follows:

**176.8(1) Appeal.** Letters of intent and applications received by the department after the due date and time stated in the competitive selection application will be rejected, ~~returned to the applicant,~~ and will not be reviewed by the department, and a notice will be sent to the applicant. An applicant may appeal the denial of a timely submitted application. The appeal shall be submitted in writing within ten business days of receipt of notification of the adverse decision. The appeal shall be addressed to the contract administrator cited in the competitive selection application guidance, Department of Public Health, Lucas State Office Building, Des Moines, Iowa 50319-0075. In the event of an appeal, the department will continue working with the applicant awarded funding pending the outcome of the appeal.

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ITEM 4. Amend subrule 176.8(5) as follows:

**176.8(5) *Appeal to director.*** Any appeal to the director for review of a proposed decision shall be mailed in writing and submitted to the director by electronic mail; delivered by certified mail, return receipt requested;<sup>2</sup> or delivered by personal service within ten days after the receipt of the administrative law judge's proposed decision and order by the aggrieved party. A copy of the appeal shall also be mailed to the administrative law judge and the other parties. A request for appeal shall include the specific grounds for appeal.

ITEM 5. Amend subrule 176.8(7) as follows:

**176.8(7) *Decision of director.*** Upon receipt of a properly filed appeal, the director shall establish a briefing schedule and, at the discretion of the director, an opportunity for oral argument. An appeal to the director shall be based on the record made at the hearing. The director may reverse or modify any finding of fact if a preponderance of the evidence will support a determination to reverse or modify such a finding, or may reverse or modify any conclusion of law the director finds to be in error. The decision and order of the director shall be issued within 90 days of the date of the receipt of the appeal and delivered by certified mail, return receipt requested, or by personal service, and becomes the department's final decision upon receipt by the aggrieved party.

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EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 12/10/14.

**ARC 1749C**

**PUBLIC HEALTH DEPARTMENT[641]**

**Adopted and Filed**

Pursuant to the authority of 2014 Iowa Acts, chapter 1116, section 34, the Department of Public Health hereby adopts new Chapter 196, "Military Service and Veteran Reciprocity," Iowa Administrative Code.

These rules implement the Home Base Iowa Act, 2014 Iowa Acts, chapter 1116, section 34, which requires all professional and occupational licensing boards, commissions, and other authorities which are subject to Iowa Code chapter 272C to adopt by January 1, 2015, rules on military service and veteran licensure. The rules address the process under which the Department will provide credit toward licensure qualifications for military service, education, and training and the procedures for expediting reciprocal and provisional licensure for veterans who are licensed in other states. The rules establish the same procedure for all licensing authorities within the Department.

Notice of Intended Action was published in the Iowa Administrative Bulletin on October 1, 2014, as **ARC 1646C**. No comments were received. These rules are identical to those published under Notice.

The State Board of Health adopted these rules on November 12, 2014.

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

These rules are intended to implement 2014 Iowa Acts, chapter 1116, section 34.

These rules will become effective on January 14, 2015.

The following amendment is adopted.

Adopt the following new 641—Chapter 196:

**CHAPTER 196**

**MILITARY SERVICE AND VETERAN RECIPROCITY**

**641—196.1(85GA,ch1116) Definitions.**

"*Department*" means the department of public health.

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*“License”* means a license, certification, registration, permit, approval, renewal, or other similar authorization issued to a person by a licensing authority which evidences the granting of authority to engage in a profession, occupation, or business.

*“Licensing authority”* means a board, commission, or any other entity of the department which has authority within this state to suspend or revoke a license or deny the renewal or issuance of a license authorizing a person to engage in a business, occupation, or profession.

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

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

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

**641—196.2(85GA,ch1116) Military education, training, and service credit.** A military service applicant may apply for credit for verified military education, training, or service toward any experience or educational requirement for licensure by submitting a military service application form to the licensing authority.

**196.2(1)** The application may be submitted with an application for licensure or examination, or prior to applying for licensure or to take an examination. No fee is required with submission of an application for military service credit.

**196.2(2)** The applicant shall identify the experience or educational licensure requirement to which the credit would be applied if granted. Credit shall not be applied to an examination requirement.

**196.2(3)** The applicant shall provide documents, military transcripts, a certified affidavit, or forms that verify completion of the relevant military education, training, or service, which may include, when applicable, the applicant’s Certificate of Release or Discharge from Active Duty (DD Form 214) or Verification of Military Experience and Training (VMET) (DD Form 2586).

**196.2(4)** Upon receipt of a completed military service application, the licensing authority shall promptly determine whether the verified military education, training, or service will satisfy all or any part of the identified experience or educational qualifications for licensure.

**196.2(5)** The licensing authority shall grant credit requested in the application in whole or in part if the licensing authority determines that the verified military education, training, or service satisfies all or part of the experience or educational qualifications for licensure.

**196.2(6)** The licensing authority shall inform the military service applicant in writing of the credit, if any, given toward an experience or educational qualification for licensure or explain why no credit was granted. The applicant may request reconsideration upon submission of additional documentation or information.

**196.2(7)** A military service applicant who is aggrieved by the licensing authority’s decision may request a contested case (administrative hearing) and may participate in a contested case by telephone. A request for a contested case shall be made within 30 days of issuance of the licensing authority’s decision. The provisions of 641—Chapter 173 shall apply, except that no fees or costs shall be assessed against the military service applicant in connection with a contested case conducted pursuant to this subrule.

**196.2(8)** The licensing authority shall grant or deny the military service application prior to ruling on the application for licensure. The applicant shall not be required to submit any fees in connection with the licensure application unless the licensing authority grants the military service application. If the licensing authority does not grant the military service application, the applicant may withdraw the licensure application or request that the licensure application be placed in pending status for up to one year or as mutually agreed. The withdrawal of a licensure application shall not preclude subsequent applications supported by additional documentation or information.

**641—196.3(85GA,ch1116) Veteran reciprocity.**

**196.3(1)** A veteran with an unrestricted license in another jurisdiction may apply for licensure in Iowa through reciprocity. A veteran must pass any examinations required for licensure to be eligible for licensure through reciprocity and will be given credit for examinations previously passed when consistent with the licensing authority's laws and rules on examination requirements. A fully completed application for licensure submitted by a veteran under this subrule shall be given priority and shall be expedited.

**196.3(2)** Such an application shall contain all of the information required of all applicants for licensure who hold unrestricted licenses in other jurisdictions and who are applying for licensure by reciprocity, including, but not limited to, completion of all required forms, payment of applicable fees, disclosure of criminal or disciplinary history, and, if applicable, a criminal history background check. The applicant shall use the same forms as any other applicant for licensure by reciprocity and shall additionally provide such documentation as is reasonably needed to verify the applicant's status as a veteran under Iowa Code section 35.1(2).

**196.3(3)** Upon receipt of a fully completed licensure application, the licensing authority shall promptly determine if the professional or occupational licensing requirements of the jurisdiction where the veteran is licensed are substantially equivalent to the licensing requirements in Iowa. The licensing authority shall make this determination based on information supplied by the applicant and such additional information as the licensing authority may acquire from the applicable jurisdiction. As relevant to the license at issue, the licensing authority may consider the following factors in determining substantial equivalence: scope of practice, education and coursework, degree requirements, experience, and examinations required for licensure.

**196.3(4)** The licensing authority shall promptly grant a license to the veteran if the veteran is licensed in the same or similar profession in another jurisdiction whose licensure requirements are substantially equivalent to those required in Iowa, unless the applicant is ineligible for licensure based on other grounds, for example, the applicant's disciplinary or criminal background.

**196.3(5)** If the licensing authority determines that the licensure requirements in the jurisdiction in which the veteran is licensed are not substantially equivalent to those required in Iowa, the licensing authority shall promptly inform the veteran of the additional experience, education, or examinations required for licensure in Iowa. Unless the applicant is ineligible for licensure based on other grounds, such as disciplinary or criminal background, or the issuance of a provisional license is inconsistent with the licensing authority's enabling statute, the following shall apply:

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

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

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

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

**196.3(6)** A veteran who is aggrieved by the licensing authority's decision to deny an application for a reciprocal license or a provisional license or is aggrieved by the terms under which a provisional

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license will be granted may request a contested case (administrative hearing) and may participate in a contested case by telephone. A request for a contested case shall be made within 30 days of issuance of the licensing authority's decision. The provisions of 641—Chapter 173 shall apply, except that no fees or costs shall be assessed against the veteran in connection with a contested case conducted pursuant to this subrule.

These rules are intended to implement 2014 Iowa Acts, chapter 1116, section 34.

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**ARC 1748C**

**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 202, "Certificate of Need Program," and rescinds Chapter 204, "Uniform Reporting Requirements," Iowa Administrative Code.

These amendments update and clarify the rules for the Certificate of Need (CON) Program. Item 1 rescinds and replaces rule 641—202.1(135), the definition portion of Chapter 202, so that definitions will be listed alphabetically. The following new definitions are included in the new rule: "acute care category of bed usage," "cardiac catheterization service," "open heart surgical service," "physical facility," and "radiation therapy service applying ionizing radiation for the treatment of malignant disease using megavoltage external beam equipment." The definitions of "appropriate geographic service area," "bed capacity" and "organ transplantation service," which are in the current rule, are included and updated in the new rule. In addition, the definition of "consumer" in the existing rule is omitted from the new rule. Item 4 describes the process for requesting a determination of whether a proposal requires a CON Program review. Item 18 relates to reporting requirements, some of which are currently addressed in outdated Chapter 204, which is rescinded in Item 20. The remaining items amend terminology, encourage electronic submission of material and indicate that forms and notifications are posted on the CON Program Web page.

Notice of Intended Action was published in the Iowa Administrative Bulletin on October 1, 2014, as **ARC 1655C**. No comments were received. The adopted amendments are identical to those published under Notice.

These amendments were approved by the State Health Facilities Council on November 3, 2014.

The State Board of Health adopted these amendments on November 12, 2014.

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 135.79.

These amendments will become effective on January 14, 2015.

The following amendments are adopted.

ITEM 1. Rescind rule 641—202.1(135) and adopt the following **new** rule in lieu thereof:

**641—202.1(135) Definitions.** For purposes of this chapter, the following definitions apply:

"*Acute care category of bed usage*," as the term applies in Iowa Code section 135.63(2) "*k*," shall be the same as the acute care categories listed in the state survey section of the American Hospital Association Annual Survey of Hospitals.

"*Any expenditure in excess of five hundred thousand dollars*," as defined in Iowa Code section 135.61(18) "*e*," means new capital expenditures and new personnel necessary to operate the service for a year.

"*Any mobile health service with a value in excess of one million five hundred thousand dollars*," as defined in Iowa Code section 135.61(18) "*l*," means the value of all equipment used to provide the

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service, including the trailer. The party providing the equipment shall be the applicant regardless of the location of that party.

*"Appropriate geographic service area,"* as the term applies to defining affected persons in Iowa Code section 135.61(1)"c," shall be defined as follows:

1. For applications regarding hospitals, hospitals located in the same county and in Iowa counties contiguous to the county wherein the applicant hospital's proposed project will be located.

2. For applications regarding health care facilities, other health care facilities located in the same county and in Iowa counties contiguous to the county wherein the applicant's proposed health care facility will be located.

3. For applications sponsored by other than the hospitals or health care facilities specified in paragraphs "1" and "2," those providers within the same county who offer similar service or might logically be viewed as potential providers of such service.

*"Bed capacity"* shall be defined as follows:

1. For hospitals, bed capacity is defined as the total facility licensed beds as reported on the state survey section of the American Hospital Association Annual Survey of Hospitals.

2. For health care facilities, bed capacity is defined as a facility's licensed bed capacity according to the department of inspections and appeals.

*"Cardiac catheterization service,"* as the term applies to a new or changed institutional health service in Iowa Code section 135.61(18)"m"(1), means the initiation or expansion of this service.

*"Consumers served by a new institutional health service"* means those consumers residing in the service area as determined by the department.

*"Long-term (acute) care hospital,"* for purposes of these rules, means a hospital that has been approved to participate in the Title XVIII (Medicare) program as a long-term care hospital-prospective payment system hospital (LTCH-PPS) in accordance with 42 CFR Part 412.

*"Open heart surgical service,"* as the term applies to new or changed institutional health service in Iowa Code section 135.61(18)"m"(2), means the initiation or expansion of this service.

*"Organized outpatient health facility,"* as defined in Iowa Code section 135.61(20), shall include, but not be limited to, the following types of facilities:

1. Community mental health centers; and
2. Comprehensive outpatient rehabilitation facilities (CORFs) certified by Medicare.

*"Organ transplantation service,"* as the term applies to a new or changed institutional health service in Iowa Code section 135.61(18)"m"(3), means the initiation or expansion of this service. Each type of organ transplant shall be considered separately.

*"Permanent change in bed capacity of an institutional health facility"* means a change which is intended to be effective for one year or more.

1. A conversion of a long-term acute care hospital or a rehabilitation hospital as defined by federal regulations to a general acute care hospital or to a different type of specialty hospital is a permanent change in bed capacity and requires a certificate of need.

2. A hospital which has deleted beds pursuant to Iowa Code section 135.63(2)"g" for the purpose of receiving designation as a critical access hospital may reestablish the deleted beds at a later time without obtaining a certificate of need, provided that the number of beds reestablished does not exceed the number of beds maintained prior to the deletion as reported on the bed reduction form.

*"Physical facility,"* as the term applies in Iowa Code section 135.61(18)"f," means a separately licensed facility.

*"Private offices and private clinics of an individual physician, dentist, or other practitioner or group of health care providers."* The meaning of this term as used in Iowa Code section 135.63(2)"a" shall be determined by looking at factors which include, but are not limited to:

1. The type of health care service delivered;
2. The control and supervision of medical judgment in the care of and treatment of patients;
3. The control and supervision of professional assistants, including nurses, physician assistants, and technicians; and
4. The ownership and maintenance of medical records of patients.



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*“Radiation therapy service applying ionizing radiation for the treatment of malignant disease using megavoltage external beam equipment,”* as the term applies to new or changed institutional health service in Iowa Code section 135.61(18) “m”(4), means the initiation or expansion of this service.

*“Rehabilitation hospital,”* for the purposes of these rules, means a hospital that has been approved to participate in the Title XVIII (Medicare) program as an inpatient rehabilitation facility-prospective payment system hospital (IRF-PPS) in accordance with 42 CFR Part 412.23(b), 412.25 or 412.29.

*“Relocation of an institutional health facility,”* as the term applies to new or changed institutional health service in Iowa Code section 135.61(18) “b,” means the replacement of a facility located in one county with a facility located in another county.

*“Value in excess of one million five hundred thousand dollars,”* as used in Iowa Code section 135.61(18) “g,” “h,” “i” and “j,” means the value of the equipment including any applicable sales tax, delivery charge and installation charge.

ITEM 2. Amend subrule 202.2(1) as follows:

**202.2(1)** Before applying for a certificate of need, the sponsor of a proposed new institutional health service or changed institutional health service shall submit a letter of intent to the department. The letter of intent shall contain the following:

- 1- a. A brief description of the ~~proposal~~ proposed project;
- 2- b. ~~Project’s~~ The project’s location;
- 3- c. ~~Its~~ The project’s estimated cost (site costs, land improvements, facility costs, movable equipment and financing costs); and
- 4- d. An explanation of how the project will be financed.

ITEM 3. Amend subrule 202.2(3) as follows:

**202.2(3)** The department shall make available ~~to each applicant any and on the certificate of need~~ Web page located on the department’s Web site, [www.idph.state.ia.us](http://www.idph.state.ia.us), all criteria and standards which are pertinent to a particular an application. This shall be done within 15 calendar days of receipt of a letter of intent or upon request.

ITEM 4. Rescind rule 641—202.3(135) and adopt the following new rule in lieu thereof:

**641—202.3(135) Determination of reviewability.** A sponsor of a proposed project may submit a written request for a determination of reviewability as to whether the project requires a certificate of need.

**202.3(1)** The request should include sufficient details of the proposed project and cite the sections of the Iowa Code that the sponsor relies upon to assert the project is not reviewable.

**202.3(2)** Upon receipt of a written request from the sponsor of a project, the department shall determine if a proposed project requires a certificate of need under Iowa Code sections 135.61 to 135.83. The department may request additional information about the project to make the determination.

*a.* If it is determined that a certificate of need is required, the sponsor shall be notified by the department and the request for nonreviewability shall be considered the letter of intent for purposes of subrule 202.2(2).

*b.* If it is determined that a certificate of need is not required, the sponsor shall be notified by the department and the determination of nonreviewability shall be placed on the next agenda of the state health facilities council for consideration.

*c.* The notification to the sponsor of the results of the department’s review of the request shall include specific Iowa Code citations relied upon to support the determination.

ITEM 5. Amend subrule 202.4(1) as follows:

**202.4(1)** Application form.

*a.* ~~The statement of information required by the department for purposes of review shall be the information requested on the department’s application form.~~ A sponsor of a proposed project for a new or changed institutional health service shall submit to the department an application for certificate of need by using the appropriate application form found on the certificate of need Web page located on the

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

department's Web site, [www.idph.state.ia.us](http://www.idph.state.ia.us). All information requested in the application form will be required in the absence of a ~~written~~ waiver by the department.

b. An original application and six copies thereof shall be sent to the Certificate of Need Program, Iowa Department of Public Health, Lucas State Office Building, Des Moines, Iowa 50319-0075. An electronic copy of the application and all attachments shall also be submitted.

c. No change.

ITEM 6. Amend subrule 202.4(2) as follows:

**202.4(2)** Application fee.

~~a.~~ The application shall be accompanied by a fee equivalent to three-tenths of 1 percent of the anticipated cost of the project. There shall be a minimum fee of \$600 and a maximum fee of \$21,000.

~~b.~~ a. The fee shall be based on the total cost of the project, which shall include site costs, land improvements, facility costs, movable equipment and financing costs.

~~b.~~ Fee ~~The fee~~ for leased or donated new institutional health services ~~would~~ shall be calculated in the same manner as if the new institutional health services were purchased.

(1) The leased equipment fee shall be based on total value of the lease, plus sales tax, delivery and installation.

(2) The lease of space includes the cost of a one-year-lease payment for the space in addition to other costs associated with the project.

(3) Financing costs shall not be applicable on leases or cash purchases.

c. The fee shall be remitted by check ~~or money order~~ made payable to the Treasurer, State of Iowa, and addressed to Iowa Department of Public Health—Certificate of Need, Lucas State Office Building, Des Moines, Iowa 50319-0075.

d. and e. No change.

f. An applicant for a new or changed institutional health service offered or developed by an intermediate care facility for ~~the mentally retarded or the mentally ill~~ persons with an intellectual disability or for persons with a mental illness is exempt from payment of the application fee.

g. No change.

ITEM 7. Amend subrule 202.4(4) as follows:

**202.4(4)** Promptly after an application is accepted, the department shall provide written notification to all affected persons defined in Iowa Code section 135.61(1) "*c*" and "*d*" which are identified ~~in the department's data banks~~ on the department of inspections and appeals Web site or by the applicant, as provided in Iowa Code section 135.66(2). The department shall notify other affected persons by ~~distribution of pertinent information to the news media~~ posting such notification to the certificate of need Web page located on the department's Web site, [www.idph.state.ia.us](http://www.idph.state.ia.us). The notice and the Web page shall identify deadlines for the submission of written materials as provided in 202.6(2).

ITEM 8. Amend paragraph **202.4(5)"b"** as follows:

b. All reports shall be ~~mailed~~ provided to council members and to the applicant ~~at least ten calendar days~~ prior to the health facilities' council meeting at which the application is to be heard.

ITEM 9. Amend subrule 202.5(4) as follows:

**202.5(4)** The council shall, at the ~~July~~ first meeting after July 1 of each odd-numbered year, elect a vice-chairperson, who shall perform the duties of the chairperson in the absence of the chairperson, when the chairperson has a conflict of interest or when the chairperson so directs.

ITEM 10. Renumber subrule **202.5(5)** as **202.5(6)**.

ITEM 11. Adopt the following new subrule 202.5(5):

**202.5(5)** The department shall notify the public and affected parties of the council meeting agenda utilizing the certificate of need Web page located on the department's Web site, [www.idph.state.ia.us](http://www.idph.state.ia.us).

ITEM 12. Amend subrule 202.6(2) as follows:

**202.6(2)** The notice of an accepted application issued pursuant to Iowa Code section 135.66(2) shall inform the applicant and affected persons of the deadlines for the submission to the department of written

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

statements or other materials. These deadlines will also be posted on the certificate of need Web page on the department's Web site, [www.idph.state.ia.us](http://www.idph.state.ia.us).

a. Written submissions received by the department after the deadlines established in this notice shall not be considered by the department or the council unless submitted at the public hearing solely to support oral testimony or upon a showing of good cause.

b. Applicants and affected persons shall submit ~~six copies of~~ all written materials electronically. If electronic submission is not possible, then an original and six copies must be submitted.

ITEM 13. Amend subrules 202.7(1) and 202.7(2) as follows:

**202.7(1)** If an applicant desires to request a summary review of its application for a certificate of need, it shall submit a written request for summary review, an original application and six copies thereof to the Certificate of Need Program, Iowa Department of Public Health, Lucas State Office Building, Des Moines, Iowa 50319-0075. An electronic copy of the application and all attachments shall also be submitted. The applicant is not required to submit a letter of intent pursuant to Iowa Code section 135.65 prior to submitting a written request for a summary review.

**202.7(2)** The eligibility of an application for summary review pursuant to Iowa Code section 135.67 shall not mandate or require such review. The department will make the decision as to whether an application will be reviewed in the summary review process is the department's.

ITEM 14. Rescind paragraph **202.11(1)"a"** and adopt the following **new** paragraph in lieu thereof:

a. A decision by the department pursuant to 641—202.3(135) that a proposed project does not require a certificate of need;

ITEM 15. Amend subrule 202.11(2) as follows:

**202.11(2)** The following stages of the process are final decisions subject to judicial review as final agency action under Iowa Code section 17A.19:

a. A decision by the department to disallow summary review;

b. A decision by the council that a proposed project does not require a certificate of need;

~~b. c.~~ A decision by the council to approve or deny an application; and

~~c. d.~~ The council's final ruling on an application for rehearing; and

e. A decision by the council to revoke a certificate of need pursuant to 641—202.13(135).

ITEM 16. Amend subrule 202.12(1) as follows:

**202.12(1)** ~~Progress reports of all approved projects shall be submitted~~ The sponsor of an approved application shall submit a progress report using the form available on the certificate of need Web page on the department's Web site, [www.idph.state.ia.us](http://www.idph.state.ia.us), to the department six months after approval at hearing.

ITEM 17. Amend subrules 202.13(1) to 202.13(3) as follows:

**202.13(1)** ~~Requests for extension of a certificate of need must be filed in letter form to the department from the applicant no later than 45 days prior to the expiration of the certification. A request by the applicant for an extension of a certificate of need must be filed with the department using the form available on the certificate of need Web page on the department's Web site, [www.idph.state.ia.us](http://www.idph.state.ia.us), no later than 30 days prior to the expiration of the certificate of need.~~

**202.13(2)** ~~Request~~ A request for extension shall fully identify the project and indicate the current status of the project in descriptive terms.

**202.13(3)** ~~The department shall use the news media to notify the public and affected parties of the council meeting agenda, including extension requests. The news media shall be notified at least ten days before the council meeting.~~

Any affected persons shall have the right to submit to the department in writing, or orally at the council meeting at which the extension request is considered, information which may be relevant to the question of granting an extension.

ITEM 18. Adopt the following **new** rule 641—202.16(135):

**641—202.16(135) Reporting requirements.** For the purposes of the annual reports and data compilation required in Iowa Code sections 135.75 and 135.78, the department will utilize the AHA

PUBLIC HEALTH DEPARTMENT[641](cont'd)

Annual Survey of Hospitals with the state survey addendum for hospitals and the cost reports for health care facilities submitted to the Medicaid enterprise of the department of human services.

ITEM 19. Amend **641—Chapter 202**, implementation sentence, as follows:

These rules are intended to implement Iowa Code ~~chapter 135~~ sections 135.61 to 135.79 and 135.83.

ITEM 20. Rescind and reserve **641—Chapter 204**.

[Filed 11/12/14, effective 1/14/15]

[Published 12/10/14]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 12/10/14.

**ARC 1767C**

## **REVENUE DEPARTMENT[701]**

### **Adopted and Filed**

Pursuant to the authority of Iowa Code sections 421.14 and 422.68, the Department of Revenue hereby adopts an amendment to Chapter 10, "Interest, Penalty, Exceptions to Penalty, and Jeopardy Assessments," Iowa Administrative Code.

Notice of Intended Action was published in IAB Vol. XXXVII, No. 8, p. 654, on October 15, 2014, as **ARC 1682C**.

Iowa Code section 421.7 requires the Director of Revenue to determine and publish the interest rate for each calendar year. The Director has determined that the rate of interest on interest-bearing taxes shall be 5 percent for the calendar year 2015 (0.4% per month). The Department shall also pay interest at the 5 percent rate on refunds. The interest rate for calendar years 2010 to 2014 was also 5 percent (0.4% per month).

This amendment is identical to that published under Notice of Intended Action.

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

This amendment is intended to implement Iowa Code section 421.7.

The amendment will become effective January 14, 2015, after filing with the Administrative Rules Coordinator and publication in the Iowa Administrative Bulletin.

The following amendment is adopted.

Adopt the following **new** subrule 10.2(34):

**10.2(34) Calendar year 2015.** The interest rate upon all unpaid taxes which are due as of January 1, 2015, will be 5 percent per annum (0.4% per month). This interest rate will accrue on taxes which are due and unpaid as of, or after, January 1, 2015. In addition, this interest will accrue on tax refunds which by law accrue interest, regardless of whether the tax to be refunded is due before or after January 1, 2015. This interest rate of 5 percent per annum, whether for unpaid taxes or tax refunds, will commence to accrue in 2015.

[Filed 11/19/14, effective 1/14/15]

[Published 12/10/14]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 12/10/14.

**ARC 1765C**

## **REVENUE DEPARTMENT[701]**

### **Adopted and Filed**

Pursuant to the authority of Iowa Code section 421.14, the Department of Revenue hereby amends Chapter 71, "Assessment Practices and Equalizations," Iowa Administrative Code.

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

The amendments to Chapter 71 implement new Iowa Code subsection 441.21(13), which was enacted by 2013 Iowa Acts, Senate File 295, and which takes effect January 1, 2015. The Act created a new classification of property for property taxation purposes called “multiresidential.” The subject matter of new subrule 71.1(5) is the multiresidential property tax classification. The subject matter of new subrule 71.12(3) is the determination of aggregate actual values of multiresidential real estate. The subject matter of new rule 701—71.23(421,428,441) is the valuation and assessment of property classified as multiresidential. The subject matter of new rule 701—71.24(421,428,441) is the valuation and assessment of property with a dual classification.

Notice of Intended Action was published in the Iowa Administrative Bulletin as **ARC 1593C** on August 20, 2014. An Amended Notice of Intended Action was published in the Iowa Administrative Bulletin as **ARC 1635C** on October 1, 2014. A public hearing was held on October 27, 2014, at the Wallace State Office Building, Des Moines, Iowa.

The Department received public comments regarding the application of the dual classification.

The amendments adopted by the Department are identical to the amendments published under Notice of Intended Action.

Any person who believes that the application of the discretionary provisions of these amendments would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any.

The Department of Revenue adopted these amendments on November 19, 2014.

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

These amendments are intended to implement 2013 Iowa Acts, Senate File 295, division III.

These amendments will become effective January 14, 2015.

The following amendments are adopted.

ITEM 1. Amend subrule 71.1(1) as follows:

**71.1(1) *Responsibility of assessors.*** All real estate subject to assessment by city and county assessors shall be classified as provided in this rule. It shall be the responsibility of city and county assessors to determine the proper classification of real estate. There can be only one classification per property; under this rule, except as provided for in paragraph 71.1(5) “b.” An assessor shall not assign one classification to the land and a different classification to the building or separate classifications to the land or separate classifications to the building (~~dual classification~~). A building or structure on leased land is considered a separate property and may be classified differently than the land upon which it is located. The determination shall be based upon the best judgment of the assessor following the guidelines set forth in this rule and the status of the real estate as of January 1 of the year in which the assessment is made. The assessor shall classify property according to its present use and not according to its highest and best use. See subrule ~~71.1(8)~~ 71.1(9) for an exception to the general rule that property is to be classified according to its use. The classification shall be utilized on the abstract of assessment submitted to the department of revenue pursuant to Iowa Code section 441.45. See rule 701—71.8(428,441).

ITEM 2. Amend subrule 71.1(4) as follows:

**71.1(4) *Residential real estate.*** Residential real estate shall include all lands and buildings which are primarily used or intended for human habitation containing fewer than three dwelling units, as that term is defined in subparagraph 71.1(5) “a”(5), including those buildings located on agricultural land. Buildings used primarily or intended for human habitation shall include the dwelling as well as structures and improvements used primarily as a part of, or in conjunction with, the dwelling. This includes but is not limited to garages, whether attached or detached, tennis courts, swimming pools, guest cottages, and storage sheds for household goods. “Used in conjunction with” means that the structure or improvement is located on the same parcel, on contiguous parcels, or on a parcel directly across a street or alley as the building or structure containing the dwelling and when marketed for sale would be sold as a unit. Residential real estate located on agricultural land shall include only buildings as defined in this subrule. Buildings for human habitation that are used as commercial ventures, including but not limited to hotels, motels, rest homes, and structures containing three or more separate

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

living quarters shall not be considered residential real estate. However, regardless of the number of separate living quarters, multiple housing cooperatives organized under Iowa Code chapter 499A and land and buildings owned and operated by organizations that have received tax-exempt status under Section 501(c)(3) of the Internal Revenue Code, if the rental income from the property is not taxed as unrelated business income under Iowa Code section 422.33(1A), shall be considered residential real estate.

An apartment in a horizontal property regime (condominium) referred to in Iowa Code chapter 499B which is used or intended for use for human habitation shall be classified as residential real estate regardless of who occupies the apartment. Existing structures shall not be converted to a horizontal property regime unless building code requirements have been met.

ITEM 3. Renumber subrules **71.1(5)** to **71.1(9)** as **71.1(6)** to **71.1(10)**.

ITEM 4. Adopt the following new subrule 71.1(5):

**71.1(5) *Multiresidential real estate.*** Multiresidential real estate shall include all lands and buildings which are primarily used or intended for human habitation containing three or more separate dwelling units as well as structures and improvements used primarily as a part of, or in conjunction with, the dwelling units. For purposes of this rule, “used in conjunction with” means that the structure or improvement is located on the same parcel, on contiguous parcels, or on a parcel directly across a street or alley as the building or structure containing the dwelling units and when marketed for sale would be sold as a unit. Multiresidential real estate shall include that portion of a building that is used for human habitation and a proportionate share of the land upon which the building is situated, regardless of the number of dwelling units located in the building, if the use for human habitation is not the primary use of the building and such building is not otherwise classified as residential property. Multiresidential real estate shall include mobile home parks, manufactured home communities, land-leased communities, and assisted living facilities. Multiresidential real estate shall exclude properties referred to in Iowa Code section 427A.1(8) or properties subject to valuation under Iowa Code section 441.21(2).

a. *Definitions.* For purposes of this subrule, the following definitions apply:

(1) “Mobile home park” means any land upon which three or more mobile homes, as defined in Iowa Code section 435.1, or manufactured homes, as defined in Iowa Code section 435.1, or a combination of such homes, are placed on developed spaces and operated as a for-profit enterprise with water, sewer, or septic, and electrical services available. “Mobile home park” does not include homes where the owner of the land is providing temporary housing for the owner’s employees or students.

(2) “Manufactured home community” means any site, lot, field, or tract of land under common ownership upon which ten or more occupied manufactured homes, as defined in Iowa Code section 435.1, are harbored, either free of charge or for revenue purposes, and shall include any building, structure, or enclosure used or intended for use as part of the equipment of the community. “Manufactured home community” shall not be construed to include homes, buildings, or other structures temporarily maintained by any individual, educational institution, or company on their own premises and used exclusively to house their own labor or students. “Manufactured home community” means the same as “land-leased community” as defined in Iowa Code sections 335.30A and 414.28A.

(3) “Land-leased community” means any site, lot, field, or tract of land under common ownership upon which ten or more occupied manufactured homes are harbored, either free of charge or for revenue purposes, and shall include any building, structure, or enclosure used or intended for use as part of the equipment of the land-leased community. “Land-leased community” shall not be construed to include homes, buildings, or other structures temporarily maintained by any individual, educational institution, or company on their own premises and used exclusively to house their own labor or students.

(4) “Assisted living facility” means real estate that provides housing with services which may include but are not limited to health-related care, personal care, and assistance with instrumental activities of daily living to three or more tenants in a physical structure which provides a homelike environment. “Assisted living facility” also includes a health care facility, as defined in Iowa Code section 135C.1, an elder group home, as defined in Iowa Code section 231B.1, a child foster care facility under Iowa Code chapter 237, or property used for a hospice program as defined in Iowa Code section 135J.1.

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

(5) "Dwelling unit" means an apartment, group of rooms, or single room which is occupied as separate living quarters or, if vacant, is intended for occupancy as separate living quarters, in which a tenant can live and sleep separately from any other persons in the building. A vacant dwelling unit that does not have active utility services is not considered to be intended for occupancy.

b. *Dual classification.* Assessors shall use dual classification on properties where the primary use of the property is commercial or industrial and a portion or portions of the property meet the requirements of the multiresidential classification. Properties where the primary use is multiresidential shall not receive a dual classification but instead shall be classified multiresidential for the entire parcel. There are only two permissible dual classifications: commercial/multiresidential and industrial/multiresidential. The assessor shall assign to that portion of the parcel that satisfies the requirements the classification of multiresidential property and to such other portions of the parcel the property classification for which such other portions qualify. The assessor shall maintain the valuation and assessment of property with a dual classification on one parcel record.

c. *Section 42 housing.* Property that has elected special valuation procedures under Iowa Code section 441.21(2) and is rented or leased to low-income individuals and families as authorized by Section 42 of the Internal Revenue Code shall not be classified as multiresidential property as required by 2014 Iowa Acts, House File 2466, section 3.

d. *Short-term leases.* A hotel, motel, inn or other building where rooms or dwelling units are usually rented for less than one month shall not be classified as multiresidential property.

ITEM 5. Amend renumbered subrule 71.1(6) as follows:

**71.1(6) Commercial real estate.** Commercial real estate shall include all lands and improvements and structures located thereon which are primarily used or intended as a place of business where goods, wares, services, or merchandise is stored or offered for sale at wholesale or retail. Commercial realty shall also include hotels, motels, ~~rest homes, structures consisting of three or more separate living quarters and any other buildings for human habitation that are used as a commercial venture and property that is rented or leased to low-income individuals and families as authorized by Section 42 of the Internal Revenue Code and has not been withdrawn from Section 42 assessment procedures under Iowa Code section 441.21(2).~~ Commercial real estate shall also include data processing equipment as defined in Iowa Code section 427A.1(1)"j," except data processing equipment used in the manufacturing process. However, regardless of the number of separate living quarters or any commercial use of the property, single- and two-family dwellings, multiple housing cooperatives organized under Iowa Code chapter 499A, and land and buildings used primarily for human habitation and owned and operated by organizations that have received tax-exempt status under Section 501(c)(3) of the Internal Revenue Code, if the rental income from the property is not taxed as unrelated business income under Iowa Code section 422.33(1A), shall be classified as residential real estate.

An apartment in a horizontal property regime (condominium) referred to in Iowa Code chapter 499B which is used or intended for use as a commercial venture, other than leased for human habitation, shall be classified as commercial real estate. Existing structures shall not be converted to a horizontal property regime unless building code requirements have been met.

ITEM 6. Amend renumbered subparagraph **71.1(7)"a"(2)**, introductory paragraph, as follows:

(2) Whether property is used primarily as a manufacturing establishment and, therefore, assessed as industrial real estate depends upon the extent to which the property is used for the activities enumerated in subparagraph ~~71.1(6)"a"(1)~~ 71.1(7)"a"(1). Property in which the performance of these activities is only incidental to the property's primary use for another purpose is not a manufacturing establishment. For example, a grocery store in which bakery goods are prepared would be assessed as commercial real estate since the primary use of the grocery store premises is for the sale of goods not manufactured by the grocery and the industrial activity, i.e., baking, is only incidental to the store premises' primary use. However, property which is used primarily as a bakery would be assessed as industrial real estate even if baked goods are sold at retail on the premises since the bakery premises' primary use would be for an industrial activity to which the retail sale of baked goods is merely incidental. See *Lichty v. Board of Review of Waterloo*, 230 Iowa 750, 298 N.W. 654 (1941).

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

ITEM 7. Amend renumbered subparagraph **71.1(9)“a”(5)** as follows:

(5) Definition of “subdivide.” As used in both paragraphs ~~71.1(8)“a”~~ 71.1(9)“a” and “b,” “subdivide” means to divide a tract of land into three or more lots.

ITEM 8. Renumber subrules **71.12(3)** and **71.12(4)** as **71.12(4)** and **71.12(5)**.

ITEM 9. Adopt the following new subrule 71.12(3):

**71.12(3) Multiresidential real estate.**

a. *Use of assessment/sales ratio study.* Basic data shall be that set forth in rule 701—71.11(421), refined by eliminating any sales determined to be abnormal or by adjusting same to eliminate the effects of factors which resulted in the sales having been determined to be abnormal. The basic data used shall be the assessment/sales ratio study conducted for sales taking place during the calendar year immediately preceding the year in which the equalization order is issued. The director may also supplement the assessment/sales ratio study with appraisals made by department of revenue appraisal personnel for the year immediately preceding the year in which the equalization order is issued. The assessment/sales ratio study including relevant appraisals, if any, shall be used to determine the aggregate actual valuation of multiresidential real estate in each assessing jurisdiction. The director of revenue may consider sales and appraisal data for prior years if it is determined the use of sales and appraisal data for the year immediately preceding the year in which the equalization order is issued is insufficient to determine market value. If such sales and appraisal data for prior years is used, consideration shall be given for any subsequent changes in either assessed value or market value.

b. *Use of other relevant data.* The director may also consider other relevant data, including field investigations conducted by representatives of the department of revenue, to determine the level of assessment of multiresidential real estate.

Assessors shall provide any known facts or circumstances regarding reported sales transactions and department appraisals which would indicate abnormal or unusual conditions or reporting discrepancies which would necessitate exclusion or adjustment of sales or appraisals from the determination of aggregate actual values. Assessors shall provide those facts within 45 days of receipt from the department of information concerning sales and appraisal data proposed for assessment/sales ratio and equalization purposes.

c. *Equalization appraisal selection procedures for multiresidential real estate.* To the extent possible, multiresidential properties to be appraised by department of revenue personnel for use in supplementing the assessment/sales ratio study shall be selected for each jurisdiction in the manner outlined in paragraph 71.12(4)“c.”

The following restrictions shall render a property ineligible for the appraisal selection for multiresidential property:

Vacant building

Current-year sale

Partial assessment

Tax-exempt

Only one portion of a total property unit (example—a parking lot of a grocery store)

Value established by court action

Value is not more than \$10,000

Building on leased land

ITEM 10. Amend renumbered subrule 71.12(4) as follows:

**71.12(4) Commercial real estate.**

a. *Use of assessment/sales ratio study.* Basic data shall be that set forth in rule 701—71.10(421), refined by eliminating any sales determined to be abnormal or by adjusting same to eliminate the effects of factors which resulted in the sales having been determined to be abnormal. The basic data used shall be the assessment/sales ratio study conducted for sales taking place during the calendar year immediately preceding the year in which the equalization order is issued. The director may also supplement the assessment/sales ratio study with appraisals made by department of revenue appraisal personnel for the year immediately preceding the year in which the equalization order is issued. The assessment/sales



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

ratio study including relevant appraisals, if any, shall be used to determine the aggregate actual valuation of commercial real estate in each assessing jurisdiction. The director of revenue may consider sales and appraisal data for prior years if it is determined the use of sales and appraisal data for the year immediately preceding the year in which the equalization order is issued is insufficient to determine market value. If such sales and appraisal data for prior years is used, consideration shall be given for any subsequent changes in either assessed value or market value. Properties receiving a dual classification with the primary use being commercial shall be included.

*b. Use of other relevant data.* The director may also consider other relevant data, including field investigations conducted by representatives of the department of revenue, to determine the level of assessment of commercial real estate. The diverse nature of commercial real estate precludes the use of a countywide or citywide income capitalization study.

Assessors shall provide any known facts or circumstances regarding reported sales transactions and department appraisals which would indicate abnormal or unusual conditions or reporting discrepancies which would necessitate exclusion or adjustment of sales or appraisals from the determination of aggregate actual values. Assessors shall provide those facts within 45 days of receipt from the department of information concerning sales and appraisal data proposed for assessment/sales ratio and equalization purposes.

*c. Equalization appraisal selection procedures for commercial real estate.* Commercial properties to be appraised by department of revenue personnel for use in supplementing the assessment/sales ratio study shall be selected for each jurisdiction in the following manner: outlined below. Properties receiving a dual classification with the primary use being commercial shall be included.

(1) The department appraiser assigned to the jurisdiction shall determine a systematic random sequence of numbers equal to the number of appraisals required and document the following steps.

1. The department appraiser shall compute the interval number by dividing the total number of improved properties in the classification to be sampled by the number of appraisals to be performed.

EXAMPLE: In this example, ten appraisals are needed with a total of 397 improved commercial units. Dividing 397 by 10, 39.7 is arrived at, which is rounded down to 39. This is the interval number.

2. The selection of the first sequence number shall be accomplished by having an available disinterested person randomly select a number from one through the interval number.

EXAMPLE: In this example a number from 1 to 39 is to be selected. The person randomly selected number 2.

3. The department appraiser shall develop a systematic sequence of numbers equal to the number of appraisals required. Starting with the randomly selected number previously picked by the disinterested person, add the interval number to this number and to each resulting number until a systematic sequence of numbers is obtained.

EXAMPLE: In this example ten appraisals are needed, so a sequence of ten numbers must be developed. Starting with number 2 and adding the interval number of 39 to it, each resulting number provides the following systematic sequence: 2, 41, 80, 119, 158, 197, 236, 275, 314, 353.

(2) Number of improved properties.

1. City jurisdictions—Utilizing the assessment book or a computer printout which follows the same order as the assessment book, consecutively number all the improved units and document the procedure.

2. County jurisdictions—Put the name of each city or township having improved units in the classification to be sampled into a hat. Draw each one out of the hat and record its name in the order of its draw. Likewise, record the respective number of improved units for each. Then consecutively number all the improved units and document the procedure.

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

EXAMPLE:

City or Township	Number of Improved Commercial Units	Code Numbers
Franklin Twp.	4	1-4
Pleasant View	60	5-64
Jackson Twp.	9	65-73
Johnston	100	74-173
Polk Twp.	10	174-183
Washington Twp.	14	184-197
Maryville	106	198-303
Camden Twp.	10	304-313
Salem	84	314-397
Total	<u>397</u>	

(3) The department appraiser shall determine the location of the improved properties selected for appraisal and document the procedure.

EXAMPLE:

City or Township	Number of Improved Commercial Units	Code Numbers	Sequence Number	Entry on Rolls
Franklin Twp.	4	1-4	2	2
Pleasant View	60	5-64	41	37
Jackson Twp.	9	65-73		
Johnston	100	74-173	80,119,158	7,46,85
Polk Twp.	10	174-183		
Washington Twp.	14	184-197	197	14
Maryville	106	198-303	236,275	39,78
Camden Twp.	10	304-313		
Salem	84	314-397	314,353	1,40
Total	<u>397</u>			

1. The department appraiser shall locate the property to be appraised by finding the relationship between the sequence numbers and the code numbers and identify the property.

EXAMPLE: The first sequence number is 2. Since the improved commercial properties in Franklin Township have been assigned code numbers 1 to 4, sequence number 2 is in that location.

To identify this property, examine the Franklin Township assessment roll book and stop at the second improved commercial entry.

The department appraiser shall document the parcel number, owner's name, and legal description of this property.

2. The department appraiser shall appraise the property selected unless it is ineligible because of any of the following restrictions:

Vacant building

Current-year sale

Partial assessment

Prior equalization appraisal

Tax-exempt

Only one portion of a total property unit (example—a parking lot of a grocery store)

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

Value established by court action

Value is not more than ~~\$5,000~~ \$10,000

Building on leased land

3. The department appraiser shall determine a substitute property if the originally selected one is ineligible. In ascending order, select code numbers until an eligible property is found.

EXAMPLE: If code number 2 is ineligible, use code number 3 as a substitute. If code number 3 is ineligible, use code number 4, etc., until an eligible property is found.

If the procedure described in ~~71.12(3)“e”(3)“3”~~ 71.12(4)“c”(3)“3” moves the substitute property to a city or township, select substitute code numbers in descending order until an eligible property is found.

If the procedure described in the previous paragraph moves the substitute property to a preceding city or township, go back to the procedure of ~~71.12(3)“e”(3)“3”~~ 71.12(4)“c”(3)“3” even if it moves the substitute property to a subsequent city or township.

4. Select an alternate property for the originally selected property which also would be eligible. This is necessary because at the time of appraisal the property may be found to be ineligible due to one of the restrictions in ~~71.12(3)“e”(3)“2.”~~ 71.12(4)“c”(3)“2.” Alternate properties are selected by using the same procedure described in ~~71.12(3)“e”(3)“3.”~~ 71.12(4)“c”(3)“3.”

5. Follow procedures ~~71.12(3)“e”(3)~~ 71.12(4)“c”(3), items “1” to “4,” for each of the other originally selected sequence numbers.

ITEM 11. Amend renumbered subrule 71.12(5) as follows:

**71.12(5) Industrial real estate.** It is not possible to determine the level of assessment of industrial real estate by using accepted equalization methods. The lack of sales data precludes the use of an assessment/sales ratio study, the diverse nature of industrial real estate precludes the use of a countywide or citywide income capitalization study, and the limited number of industrial properties precludes the use of sample appraisals. The level of assessment of industrial real estate can only be determined by the valuation of individual parcels of industrial real estate. Any attempt to equalize industrial valuations by using accepted equalization methods would create an arbitrary result. However, under the circumstances set forth in Iowa Code subsection 421.17(10), the director may correct any errors in such assessments which are brought to the director’s attention, including errors related to property with a dual classification if the primary use of the property is from the industrial portions.

ITEM 12. Adopt the following new rule 701—71.23(421,428,441):

**701—71.23(421,428,441) Valuation of multiresidential real estate.** Multiresidential real estate shall be assessed at a percent of its actual value as defined in Iowa Code section 441.21. In determining the actual value of multiresidential real estate, city and county assessors shall use the appraisal manual issued by the department of revenue pursuant to Iowa Code section 421.17(18) as well as a locally conducted assessment/sales ratio study, an analysis of sales of comparable properties, and any other relevant data.

This rule is intended to implement Iowa Code sections 421.17, 428.4 and 441.21 as amended by 2013 Iowa Acts, Senate File 295.

ITEM 13. Adopt the following new rule 701—71.24(421,428,441):

**701—71.24(421,428,441) Valuation of dual classification property.** Real estate with a dual classification of commercial/multiresidential or industrial/multiresidential shall be assessed at its actual value as defined in Iowa Code section 441.21.

**71.24(1) Allocation of dual classification values.** The assessor shall value as a whole properties that have portions classified as multiresidential and portions classified as commercial or industrial using the methodology found in rule 701—71.23(421,428,441). After the assessor has assigned a value to the property, the value shall be allocated between the two classes of property based on the appropriate appraisal methodology. The assessor shall allocate land value proportionately by class.

**71.24(2) Notice of valuation.** The valuation notice issued pursuant to Iowa Code section 441.23 shall include a breakdown of the valuation by class for the current year and the prior year.

REVENUE DEPARTMENT[701](cont'd)

**71.24(3) *Protest of assessment.*** The valuation and assessment of property with a dual classification shall be considered one assessment, and any protest of assessment brought under Iowa Code section 441.37 or subsequent appeal must be made on the entire assessment. Protests of assessments on the valuation of only one class of property are not permitted. The board of review shall review the valuation in total as both classifications are subject to the board's adjustment in any review proceeding. Likewise, any tribunal or court reviewing the board's decision shall base its review on the entire assessment.

This rule is intended to implement Iowa Code sections 421.17, 428.4 and 441.21 as amended by 2013 Iowa Acts, Senate File 295.

[Filed 11/18/14, effective 1/14/15]

[Published 12/10/14]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 12/10/14.

**ARC 1746C**

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

### **Adopted and Filed**

Pursuant to the authority of Iowa Code sections 47.1 and 17A.4, the Secretary of State hereby amends Chapter 22, "Voting Systems," Iowa Administrative Code.

These amendments are necessary to revise the configuration settings for the Unisyn OpenElect voting system which is currently certified for use in the state of Iowa. These amendments update the configuration settings based on the newest version of the certified Unisyn election management software. In addition, this rule making authorizes county commissioners who have purchased the Unisyn OpenElect voting system to use ballot alerts if the commissioners so choose and adds references to newly certified Election Systems & Software and Dominion voting systems to an existing rule.

These amendments were published under Notice of Intended Action in the Iowa Administrative Bulletin on October 1, 2014, as **ARC 1643C**. No public comments or request for public hearing was received, and no change has been made to the language published in the Notice of Intended Action.

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

These amendments are intended to implement Iowa Code section 52.5.

These amendments will become effective on January 14, 2015.

The following amendments are adopted.

ITEM 1. Amend paragraph **22.50(2)"c"** as follows:

c. Hardened operating system. For security purposes, users of Election Systems & Software, Unity 3.4.0.1 and, Election Systems & Software EVS 5.3.0.0, Democracy Suite 4.6 and Democracy Suite 4.14B shall harden the operating system on the computer on which the election management system is housed according to the specifications of the vendor and the recommendations of the county information technology department (if any).

ITEM 2. Amend subrule 22.264(2) as follows:

**22.264(2) *Configuration choices.*** The following selections are mandatory for all elections:

a. *Access, messaging and tabulating selections.* In the Election Manager, "Election Options" menu, the following selections shall be made:

(1) "Allow Add Precinct" shall be checked.

(2) "Full Voter Ballot Review" shall not be checked. The commissioner may select either "Alert Print Only" or "Alert on-screen."

(3) ~~"Consolidate Splits"~~ "Show Precinct Split Totals" shall not be checked.

(4) ~~"Overvote by Voter"~~ "Overvote by Vote For" shall ~~not~~ be checked.

(5) "No Undervote Check" shall be selected in the Undervote Checking dropdown menu.

b. *Printing selections.* In the Election Manager, "Printing Options" menu, the following ~~selection~~ selections shall be made:

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- (1) "Auto Print Alerts" ~~shall not~~ may be checked.
  - (2) "Voter Receipts" shall not be checked.
  - (3) ~~"Display Contest Results on Summary"~~ "Show Contest Results on Election Day" shall be checked.
- c. and d. No change.

[Filed 11/12/14, effective 1/14/15]

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EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 12/10/14.