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The Iowa Administrative Code Supplement is published biweekly pursuant to Iowa Code sections 2B.5A and 17A.6. The Supplement contains replacement chapters to be inserted in the loose-leaf Iowa Administrative Code (IAC) according to instructions included with each Supplement. The replacement chapters incorporate rule changes which have been adopted by the agencies and filed with the Administrative Rules Coordinator as provided in Iowa Code sections 7.17 and 17A.4 to 17A.6. To determine the specific changes in the rules, refer to the Iowa Administrative Bulletin bearing the same publication date.

In addition to the changes adopted by agencies, the replacement chapters may reflect objection to a rule or a portion of a rule filed by the Administrative Rules Review Committee (ARRC), the Governor, or the Attorney General pursuant to Iowa Code section 17A.4(6); an effective date delay or suspension imposed by the ARRC pursuant to section 17A.4(7) or 17A.8(9); rescission of a rule by the Governor pursuant to section 17A.4(8); or nullification of a rule by the General Assembly pursuant to Article III, section 40, of the Constitution of the State of Iowa.

The Supplement may also contain replacement pages for the IAC Index or the Uniform Rules on Agency Procedure.

INSTRUCTIONS

FOR UPDATING THE

IOWA ADMINISTRATIVE CODE

Agency names and numbers in bold below correspond to the divider tabs in the IAC binders. New and replacement chapters included in this Supplement are listed below. Carefully remove and insert chapters accordingly.

Editor's telephone (515)281-3355 or (515)242-6873

Economic Development Authority[261]

Replace Analysis
Replace Chapter 34
Replace Chapter 48
Replace Chapter 81

College Student Aid Commission[283]

Replace Chapters 24 to 26

Human Services Department[441]

Replace Analysis
Replace Chapter 86
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Public Health Department[641]

Replace Analysis
Replace Chapters 131 and 132
Remove Reserved Chapter 139 and Insert Chapter 139

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Replace Chapter 22

ECONOMIC DEVELOPMENT AUTHORITY[261]

[Created by 1986 Iowa Acts, chapter 1245]
[Prior to 1/14/87, see Iowa Development Commission[520] and Planning and Programming[630]]
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[Prior to 7/19/95, see 261—Ch 58]
[Prior to 9/6/00, see 261—Ch 63]
[Prior to 7/4/07, see 261—Ch 102]

261—34.1(15) Purpose. The primary goal of a statewide program for welcome centers is to provide travel-related services and tourism information to travelers. A program is established to maintain a variety of welcome centers at strategic locations to meet the needs of travelers in the state.
[**ARC 5138C**, IAB 8/12/20, effective 9/16/20]

261—34.2(15) Welcome center program. The economic development authority shall establish and administer a statewide welcome center program.

34.2(1) *Collaboration with state agencies.* The authority shall collaborate with other state agencies as necessary to coordinate the operation of such welcome centers and to provide information to travelers.

34.2(2) *Operation.* The authority shall operate, manage, and maintain all state-owned and state-operated welcome centers, including the provision of travel-related services and the collection and distribution of tourism information.
[**ARC 5138C**, IAB 8/12/20, effective 9/16/20]

These rules are intended to implement Iowa Code sections 15.271 and 15.272.

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[Filed 8/22/07, Notice 7/4/07—published 9/26/07, effective 10/31/07]
[Filed ARC 5138C (Notice ARC 4962C, IAB 3/11/20), IAB 8/12/20, effective 9/16/20]

CHAPTER 48
WORKFORCE HOUSING TAX INCENTIVES PROGRAM

261—48.1(15) Authority. The authority for adopting rules establishing a workforce housing tax incentives program is provided in Iowa Code sections 15.106A and 15.356.
[**ARC 1801C**, IAB 12/24/14, effective 1/28/15; **ARC 3581C**, IAB 1/17/18, effective 2/21/18]

261—48.2(15) Purpose. The purpose of the program is to assist the development of workforce housing in Iowa communities by providing incentives for housing projects that are targeted at middle-income households and that focus on the redevelopment or repurposing of existing structures.
[**ARC 1801C**, IAB 12/24/14, effective 1/28/15]

261—48.3(15) Definitions. As used in this chapter, unless the context otherwise requires:

"Authority" means the economic development authority created in Iowa Code section 15.105.

"Board" means the members of the economic development authority appointed by the governor and in whom the powers of the authority are vested pursuant to Iowa Code section 15.105.

"Brownfield site" means an abandoned, idled, or underutilized property where expansion or redevelopment is complicated by real or perceived environmental contamination. A brownfield site includes property contiguous with the site on which the property is located. A brownfield site does not include property which has been placed, or is proposed for placement, on the national priorities list established pursuant to the federal Comprehensive Environmental Response, Compensation, and Liability Act, 42 U.S.C. §9601 et seq. In order to administer similar programs in a similar manner, the authority will attempt to apply this definition in substantially the same way as similar definitions are applied by the brownfield advisory council established in Iowa Code section 15.294 and may consult members of the council or other staff as necessary.

"Community" means a city or county.

"Costs directly related" means expenditures that are incurred for construction of a housing project to the extent that they are attributable directly to the improvement of the property or its structures. "Costs directly related" includes expenditures for property acquisition, site preparation work, surveying, construction materials, construction labor, architectural services, engineering services, building permits, building inspection fees, and interest accrued on a construction loan during the time period allowed for project completion under an agreement entered into pursuant to the program. "Costs directly related" does not include expenditures for furnishings, appliances, accounting services, legal services, loan origination and other financing costs, syndication fees and related costs, developer fees, or the costs associated with selling or renting the dwelling units whether incurred before or after completion of the housing project.

"Disaster recovery housing project" means a qualified housing project located in a county that has been declared a major disaster by the President of the United States on or after March 12, 2019, and that is also a county in which individuals are eligible for federal individual assistance.

"Grayfield site" means a property meeting all of the following requirements:

(1) The property has been developed and has infrastructure in place but the property's current use is outdated or prevents a better or more efficient use of the property. Such property includes vacant, blighted, obsolete, or otherwise underutilized property.

(2) The property's improvements and infrastructure are at least 25 years old and one or more of the following conditions exists:

1. Thirty percent or more of a building located on the property that is available for occupancy has been vacant or unoccupied for a period of 12 months or more.
2. The assessed value of the improvements on the property has decreased by 25 percent or more.
3. The property is currently being used as a parking lot.
4. The improvements on the property no longer exist.

In administering the program, the authority will attempt to apply this definition in substantially the same manner as similar definitions are applied by the brownfield advisory council established in Iowa Code section 15.294.

"Greenfield site" means a site that does not meet the definition of a brownfield site or grayfield site. A project proposed at a site located on previously undeveloped or agricultural land shall be presumed to be a greenfield site.

"Housing business" means a business that is a housing developer, housing contractor, or nonprofit organization that completes a housing project in the state.

"Housing project" means a project located in this state meeting the requirements of rule 261—48.4(15).

"Laborshed area" means the same as defined in 261—Chapter 173.

"Laborshed wage" means the same as defined in 261—Chapter 173.

"Multi-use building" means a building whose street-level ground story is used for a purpose that is other than residential, and whose upper story or stories are currently used primarily for a residential purpose, or will be used primarily for a residential purpose after completion of the housing project associated with the building.

"New dwelling units" means dwelling units that are made available for occupancy in a community as a result of a housing project and that were not available for occupancy as residential housing in the community for a period of at least six months prior to the date on which application is made to the authority under the program. If a dwelling unit has served as residential housing and been occupied during the six months preceding the date on which application is made to the authority under the program, then the dwelling unit shall be presumed not to be a new dwelling unit.

"Program" means the workforce housing tax incentives program administered under this chapter.

"Qualifying new investment" means costs that are directly related to the acquisition, repair, rehabilitation, or redevelopment of a housing project in this state. For purposes of this rule, "costs directly related to acquisition" includes the costs associated with the purchase of real property or other structures.

(1) "Qualifying new investment" includes costs that are directly related to new construction of dwelling units if the new construction occurs in a distressed workforce housing community.

(2) The amount of costs that may be used to compute "qualifying new investment" shall not exceed the costs used for the first $150,000 of value for each dwelling unit that is part of a housing project.

(3) "Qualifying new investment" does not include the following:

1. The portion of the total cost of a housing project that is financed by federal, state, or local government tax credits, grants, forgivable loans, or other forms of financial assistance that do not require repayment, excluding the tax incentives provided under this program.

2. If a housing project includes the rehabilitation, repair, or redevelopment of an existing multi-use building, the portion of the total acquisition costs of the multi-use building, including a proportionate share of the total acquisition costs of the land upon which the multi-use building is situated, that are attributable to the street-level ground story that is used for a purpose that is other than residential.

3. Any costs, including acquisition costs, incurred before the housing project is approved by the authority.

"Rehabilitation, repair, or redevelopment" means construction or development activities associated with a housing project that are undertaken for the purpose of reusing or repurposing existing buildings or structures as new dwelling units. Rehabilitation, repair, or redevelopment does not include new construction of dwelling units at a greenfield site. Rehabilitation, repair, or redevelopment includes new structures at a qualified grayfield site.

"Small city" means any city or township located in this state, except those located wholly within one or more of the 11 most populous counties in the state, as determined by the most recent population estimates issued by the United States bureau of census.

[**ARC 1801C**, IAB 12/24/14, effective 1/28/15; **ARC 3581C**, IAB 1/17/18, effective 2/21/18; **ARC 4724C**, IAB 10/23/19, effective 10/3/19]

261—48.4(15) Housing project requirements.

48.4(1) *Minimum requirements.* To receive workforce housing tax incentives pursuant to the program, a proposed housing project shall meet all of the following requirements:

a. The project includes at least one of the following:

(1) Four or more single-family dwelling units, except for a project located in a small city, then two or more single-family dwelling units.

(2) One or more multiple dwelling unit buildings each containing three or more individual dwelling units.

(3) Two or more dwelling units located in the upper story of an existing multi-use building.

b. The project consists of any of the following:

(1) Rehabilitation, repair, or redevelopment at a brownfield site or grayfield site that results in new dwelling units.

(2) The rehabilitation, repair, or redevelopment of dilapidated dwelling units.

(3) The rehabilitation, repair, or redevelopment of dwelling units located in the upper story of an existing multi-use building.

(4) The new construction, rehabilitation, repair, or redevelopment of dwelling units in a distressed workforce housing community. The authority will determine whether a community is considered a distressed workforce housing community pursuant to subrule 48.4(2).

(5) For a project located in a small city that meets the minimum housing project requirements under this subrule, development at a greenfield site. A project located in a small city is not required to complete the distressed workforce housing community application pursuant to subrule 48.4(2).

c. (1) Except as provided in subparagraphs (2) and (3) below, the average dwelling unit cost does not exceed $200,000 per dwelling unit. For purposes of this rule, the average dwelling unit cost equals the costs directly related to the housing project divided by the total number of dwelling units in the housing project.

(2) The average dwelling unit cost does not exceed $250,000 per dwelling unit if the project involves the rehabilitation, repair, redevelopment, or preservation of eligible property, as that term is defined in Iowa Code section 404A.1(8)*"a."*

(3) The average dwelling unit cost does not exceed $215,000 per dwelling unit if the project is located in a small city.

d. The dwelling units, when completed and made available for occupancy, meet the U.S. Department of Housing and Urban Development's housing quality standards and all applicable local safety standards.

e. The project is not located in a 100-year floodplain.

48.4(2) *Distressed workforce housing community designations.*

a. The determination as to whether a community is considered a distressed workforce housing community is within the discretion of the authority. The authority will consider applications from communities for designation as a distressed workforce housing community for purposes of this subrule. A community must apply for and receive such a designation before the authority will approve any housing project application seeking to establish eligibility under subparagraph 48.4(1)*"b"*(4). A designation as a distressed workforce housing community will last one year, but communities may reapply each year. The authority will make a determination on the distressed workforce housing status of a community after considering all of the following factors:

(1) Whether or not the community has a severe housing shortage relative to demand, low vacancy rates, or rising housing costs combined with low unemployment as described in paragraph 48.4(2)*"b."*

(2) The relative merits of all applications for designation as a distressed workforce housing community. The relative merits will be assessed according to the process and criteria described in paragraph 48.4(2)*"b."*

(3) The demand for projects applying under this subrule compared to the demand for projects applying as rehabilitation, repair, or redevelopment projects.

b. In considering the factors described in paragraph 48.4(2)*"a,"* the authority will attempt to quantify the extent of housing distress in a community by evaluating and scoring each application from 1 to 100 according to the following criteria:

(1) The results of a housing needs assessment submitted to the authority and the extent to which the assessment indicates a distressed housing market in the community: 10 points.

The housing needs assessment shall be prepared by a third party and shall have been prepared no more than three years prior to the date on which a housing project application is submitted to the authority. Such an assessment shall address whether or not the community has a severe housing shortage relative to demand, low vacancy rates, or rising housing costs combined with low unemployment.

(2) The annual number of building permits issued in the community for the most recent three-year period and the extent to which a low volume of permits indicates that the local housing market is in need of additional incentives to increase development: 10 points.

For purposes of this criterion, the authority will consider a low annual permit volume to be either 100 permits or less or a number of issued permits that is 1 percent or less of the community's currently available housing stock.

(3) The homeowner vacancy rate in the community and the extent to which the rate indicates that additional incentives are needed to increase the available housing stock: 10 points.

For purposes of this criterion, the authority will consider a vacancy rate of 1 percent to be low and a vacancy rate of 2 percent to be a typically acceptable rate on a national basis.

(4) The annual volume of homeowner unit sales in the community for the most recent three-year period and the extent to which a low volume indicates a shortage of available housing: 10 points.

For purposes of this criterion, the authority will consider information indicating that the volume of sales in a community is materially lower than the volume of sales in substantially similar communities elsewhere in the state or nation.

(5) The annual average length of time it takes to sell homeowner units in the community for the most recent three-year period and the extent to which the average length of time indicates high demand for housing in the community: 10 points.

For purposes of this criterion, the authority will consider an average time of 90 days or less to indicate a high demand for available housing.

(6) The annual average rental vacancy rate in the community and the extent to which a low vacancy rate indicates high demand for housing in the community: 10 points.

For purposes of this criterion, the authority will consider a rental vacancy rate of 5 percent or less to be a low vacancy rate.

(7) The annual average length of time it takes to lease rental units in the community for the most recent three-year period and the extent to which the average length of time indicates high demand for rental housing in the community: 10 points.

For purposes of this criterion, the authority will consider an average time of 30 days or less to indicate a high demand for available housing.

(8) The average housing costs in the community and the extent to which those costs are considered affordable: 10 points.

For purposes of this criterion, the authority will only consider data from an industry standard housing affordability index.

(9) The average unemployment rate for the community and the extent to which a low unemployment rate contributes to increased demand for housing in the community: 10 points.

For purposes of this criterion, the authority will consider unemployment data from both the community and the applicable laborshed area.

(10) The laborshed wage applicable to the community and the extent to which low relative wages negatively impact the affordability of housing in the community: 10 points.

For purposes of this criterion, the authority will use laborshed wages as calculated by the Iowa department of workforce development for purposes of the high quality jobs program.

48.4(3) *Minimum score required for distressed community designations.* To be designated as a distressed workforce housing community under subrule 48.4(2), a community must receive a score of 70 points or more.

[**ARC 1801C**, IAB 12/24/14, effective 1/28/15; **ARC 3581C**, IAB 1/17/18, effective 2/21/18; **ARC 5139C**, IAB 8/12/20, effective 9/16/20]

261—48.5(15) Housing project application and agreement.

48.5(1) *Application.*

a. A housing business seeking workforce housing tax incentives provided in rule 261—48.6(15) shall make application to the authority in the manner prescribed in this rule.

b. The application required in paragraph 48.5(1)*"a"* shall include all of the following:

(1) The following information establishing local participation for the housing project:

1. A resolution in support of the housing project by the community where the housing project will be located.

2. Documentation of local matching funds pledged for the housing project in an amount equal to at least $1,000 per dwelling unit, including but not limited to a funding agreement between the housing business and the community where the housing project will be located. For purposes of this paragraph, local matching funds shall be in the form of cash or cash equivalents or in the form of a local property tax exemption, rebate, refund, or reimbursement.

(2) A report that meets the requirements and conditions of Iowa Code section 15.330(9) if required.

(3) Information showing the total costs and funding sources of the housing project sufficient to allow the authority to adequately determine the financing that will be utilized for the housing project, the actual cost of the dwelling units, and the amount of qualifying new investment.

(4) Any other information deemed necessary by the authority to evaluate the eligibility and financial need of the housing project under the program.

48.5(2) *Application review—tax incentive award.*

a. All completed applications shall be reviewed and scored on a competitive basis by the authority pursuant to these rules. Review criteria include but are not limited to project need, project readiness, financial capacity, and project impact.

b. Upon review and scoring of all applications received during an application period, the authority may make a tax incentive award to a housing project. The tax incentive award shall represent the maximum amount of tax incentives the housing project may qualify for under the program. In determining a tax incentive award, the authority shall not use an amount of project costs that exceeds the amount included in the application from the housing business. Tax incentive awards shall be approved by the director of the authority.

c. After making a tax incentive award, the authority shall notify the housing business of its tax incentive award. The notification shall include the amount of tax incentives under rule 261—48.6(15) for which the housing business has received an award and a statement that the housing business has no right to receive a tax incentive certificate or claim a tax incentive until all requirements of the program, including all requirements imposed by the agreement entered into pursuant to paragraph 48.5(3)*"a,"* are satisfied. The amount of tax credits included on a tax credit certificate issued pursuant to this chapter, or a claim for refund of sales and use taxes, shall be contingent upon completion of the requirements in subrule 48.5(3).

d. An applicant that does not receive a tax incentive award during an application period may make additional applications during subsequent application periods. Such applicant shall be required to submit a new application and shall be competitively reviewed and scored in the same manner as other applicants in that application period.

48.5(3) *Agreement and fees.*

a. Upon receiving a tax incentive award for a housing project, the housing business shall enter into an agreement with the authority for the successful completion of all requirements of the program. The agreement shall identify the tax incentive amount, the tax incentive award date, the project completion deadline and the total costs of the housing project.

b. The compliance cost fees imposed in Iowa Code section 15.330(12) shall apply to all agreements entered into under this program and shall be collected by the authority in the same manner and to the same extent as described in that provision.

c. Housing project completion deadline.

(1) Except as provided in subparagraph 48.5(3)*"c"*(2), a housing business shall complete its housing project within three years from the date the housing project is registered by the authority.

(2) The authority may for good cause within the discretion of the authority extend a housing project's completion deadline once by up to 12 months upon application by the housing business, which application shall be made prior to the expiration of the three-year completion deadline in subparagraph 48.5(3)*"c"*(1) in the manner and form prescribed by the authority.

d. Upon completion of a housing project, an examination of the project in accordance with the American Institute of Certified Public Accountants' statements on standards for attestation engagements, completed by a certified public accountant authorized to practice in this state, shall be submitted to the authority.

e. Upon review of the examination and verification of the amount of the qualifying new investment, the authority may notify the housing business of the amount that the housing business may claim as a refund of the sales and use taxes under subrule 48.6(2) and may issue a tax credit certificate to the housing business stating the amount of workforce housing investment tax credits under rule 261—48.6(15) that the eligible housing business may claim. The sum of the amount that the housing business may claim as a refund of the sales and use tax and the amount of the tax credit certificate shall not exceed the amount of the tax incentive award.

f. If, upon review of the examination in paragraph 48.5(3)*"d,"* the authority determines that a housing project has incurred project costs in excess of the amount submitted in the application and identified in the agreement, the authority shall do one of the following:

(1) If the project costs do not cause the housing project's average dwelling unit cost to exceed the applicable maximum amount authorized in subrule 48.4(1), the authority may consider the agreement fulfilled and may issue a tax credit certificate.

(2) If the project costs cause the housing project's average dwelling cost to exceed the applicable maximum amount authorized in paragraph 48.4(1)*"c"* but do not cause the average dwelling unit cost to exceed 110 percent of such applicable amount, the authority shall reduce the tax incentive award and the corresponding amount of tax incentives the eligible project may claim under rule 261—48.6(15) by the same percentage that the housing project's average dwelling cost exceeds the applicable maximum amount under paragraph 48.4(1)*"c,"* and such tax incentive reduction shall be reflected on the tax credit certificate. If the authority issues a certificate pursuant to this subrule, the department of revenue shall accept the certificate notwithstanding that the housing project's average dwelling unit cost exceeds the maximum amount specified in paragraph 48.4(1)*"c."*

(3) If the project costs cause the housing project's average dwelling unit cost to exceed 110 percent of the applicable maximum amount authorized in paragraph 48.4(1)*"c,"* the authority shall determine the eligible housing business to be in default under the agreement, shall revoke the tax incentive award and shall not issue a tax credit certificate. The housing business shall not be allowed a refund of sales and use tax under rule 261—48.6(15).

48.5(4) *Maximum incentives amount.*

a. The maximum aggregate amount of tax incentives that may be awarded under rule 261—48.6(15) to a housing business for a housing project shall not exceed $1 million.

b. If a housing business qualifies for a higher amount of tax incentives under rule 261—48.6(15) than is allowed by the limitation imposed in paragraph 48.5(4)*"a,"* the authority and the housing business may negotiate an apportionment of the reduction in tax incentives between the sales tax refund provided in subrule 48.6(2) and the workforce housing investment tax credits provided in subrule 48.6(3) provided the total aggregate amount of tax incentives after the apportioned reduction does not exceed the amount in paragraph 48.5(4)*"a."*

c. The authority shall issue tax incentives under the program on a first-come, first-served basis until the maximum amount of tax incentives allocated pursuant to Iowa Code section 15.119(2) is reached. The authority shall maintain a list of registered housing projects under the program so that if the maximum aggregate amount of tax incentives is reached in a given fiscal year, registered housing projects that were completed but for which tax incentives were not issued shall be placed on a wait list

in the order the registered housing projects were registered and shall be given priority for receiving tax incentives in succeeding fiscal years.

48.5(5) *Termination and repayment.* The failure by a housing business in completing a housing project to comply with any requirement of this program or any of the terms and obligations of an agreement entered into pursuant to this rule may result in the reduction, termination, or rescission of the approved tax incentives and may subject the housing business to the repayment or recapture of tax incentives claimed under rule 261—48.6(15). The repayment or recapture of tax incentives pursuant to this rule shall be accomplished in the same manner as provided in Iowa Code section 15.330(2).

[**ARC 1801C**, IAB 12/24/14, effective 1/28/15; **ARC 3581C**, IAB 1/17/18, effective 2/21/18; **ARC 4510C**, IAB 6/19/19, effective 7/24/19; **ARC 5139C**, IAB 8/12/20, effective 9/16/20]

261—48.6(15) Workforce housing tax incentives.

48.6(1) *Eligibility.* A housing business that has entered into an agreement pursuant to rule 261—48.5(15) is eligible to receive the tax incentives described in subrules 48.6(2) and 48.6(3).

48.6(2) *Sales tax refunds.* A housing business may claim a refund of the sales and use taxes paid under Iowa Code chapter 423 that are directly related to a housing project and specified in the agreement. The refund available pursuant to this subrule shall be as provided in Iowa Code section 15.331A to the extent applicable for purposes of this program.

48.6(3) *Income tax credits.*

a. A housing business may claim a tax credit in an amount not to exceed the following:

(1) For a housing project not located in a small city, 10 percent of the qualifying new investment of a housing project specified in the agreement.

(2) For a housing project located in a small city, 20 percent of the qualifying new investment of a housing project specified in the agreement.

b. The tax credit shall be allowed against the taxes imposed in Iowa Code chapter 422, divisions II, III, and V, and in Iowa Code chapter 432, and against the moneys and credits tax imposed in Iowa Code section 533.329.

c. An individual may claim a tax credit under this subrule of a partnership, limited liability company, S corporation, estate, or trust electing to have income taxed directly to the individual. The amount claimed by the individual shall be based upon the pro rata share of the individual's earnings from the partnership, limited liability company, S corporation, estate, or trust.

d. Any tax credit in excess of the taxpayer's liability for the tax year is not refundable but may be credited to the tax liability for the following five years or until depleted, whichever is earlier.

e. (1) To claim a tax credit under this subrule, a taxpayer shall include one or more tax credit certificates with the taxpayer's tax return.

(2) The tax credit certificate shall contain the taxpayer's name, address, tax identification number, the amount of the credit, the name of the eligible housing business, any other information required by the department of revenue, and a place for the name and tax identification number of a transferee and the amount of the tax credit being transferred.

(3) The tax credit certificate, unless rescinded by the authority, shall be accepted by the department of revenue as payment for taxes imposed pursuant to Iowa Code chapter 422, divisions II, III, and V, and in Iowa Code chapter 432, and for the moneys and credits tax imposed in Iowa Code section 533.329, subject to any conditions or restrictions placed by the authority upon the face of the tax credit certificate and subject to the limitations of this program.

(4) Tax credit certificates issued under an agreement entered into pursuant to subrule 48.5(3) may be transferred to any person. Within 90 days of transfer, the transferee shall submit the transferred tax credit certificate to the department of revenue along with a statement containing the transferee's name, tax identification number, and address, the denomination that each replacement tax credit certificate is to carry, and any other information required by the department of revenue. However, tax credit certificate amounts of less than $1,000 shall not be transferable.

(5) Within 30 days of receiving the transferred tax credit certificate and the transferee's statement, the department of revenue shall issue one or more replacement tax credit certificates to the transferee.

Each replacement tax credit certificate must contain the information required for the original tax credit certificate and must have the same expiration date that appeared on the transferred tax credit certificate.

(6) A tax credit shall not be claimed by a transferee under this rule until a replacement tax credit certificate identifying the transferee as the proper holder has been issued. The transferee may use the amount of the tax credit transferred against the taxes imposed in Iowa Code chapter 422, divisions II, III, and V, and in Iowa Code chapter 432, and against the moneys and credits tax imposed in Iowa Code section 533.329, for any tax year the original transferor could have claimed the tax credit. Any consideration received for the transfer of the tax credit shall not be included as income under Iowa Code chapter 422, divisions II, III, and V. Any consideration paid for the transfer of the tax credit shall not be deducted from income under Iowa Code chapter 422, divisions II, III, and V.

f. For purposes of the individual and corporate income taxes and the franchise tax, the increase in the basis of the property that would otherwise result from the qualifying new investment shall be reduced by the amount of the tax credit computed under this subrule.

[**ARC 1801C**, IAB 12/24/14, effective 1/28/15; **ARC 3581C**, IAB 1/17/18, effective 2/21/18; **ARC 5139C**, IAB 8/12/20, effective 9/16/20]

261—48.7(15) Annual program funding allocation, reallocation, and management of excess demand.

48.7(1) Each year the authority will allocate to the program a portion of the maximum aggregate tax credit cap described in Iowa Code section 15.119.

48.7(2) If, during a fiscal year, the authority determines that program demand is less than the amount initially allocated, the authority may reallocate unused amounts to other programs under Iowa Code section 15.119.

[**ARC 1801C**, IAB 12/24/14, effective 1/28/15; see Delay note at end of chapter; **ARC 5139C**, IAB 8/12/20, effective 9/16/20]

261—48.8(15) Application submittal and review process.

48.8(1) The authority will develop a standardized application and make the application available to eligible housing businesses and to communities. To apply for assistance under the program, an interested person shall submit an application to the authority. Applications must be submitted online at www.iowagrants.gov. Instructions for application submission may be obtained at www.iowagrants.gov or by contacting the Community Development Division, Economic Development Authority, 200 East Grand Avenue, Des Moines, Iowa 50309.

48.8(2) The authority has final decision-making authority on requests for financial assistance for this program. Applications will be reviewed and scored by the staff of the authority. The director or the director's designee will make final funding decisions after considering the recommendations of staff. The director may approve, defer or deny an application.

[**ARC 1801C**, IAB 12/24/14, effective 1/28/15]

DISASTER RECOVERY HOUSING PROGRAM

261—48.9(15) Housing project minimum requirements. To receive disaster recovery housing tax incentives pursuant to the program, a proposed disaster recovery housing project shall meet all of the following requirements:

48.9(1) The project includes at least one of the following:

a. Four or more single-family dwelling units, except for a project located in a small city, then two or more single-family dwelling units.

b. One or more multiple dwelling unit buildings each containing three or more individual dwelling units.

c. Two or more dwelling units located in the upper story of an existing multi-use building.

48.9(2) The project consists of any of the following:

a. Rehabilitation, repair, or redevelopment at a brownfield site or grayfield site that results in new dwelling units.

b. The rehabilitation, repair, or redevelopment of dilapidated dwelling units.

c. The rehabilitation, repair, or redevelopment of dwelling units located in the upper story of an existing multi-use building.

d. The new construction, rehabilitation, repair, or redevelopment of dwelling units in a distressed workforce housing community. The authority will determine whether a community is considered a distressed workforce housing community pursuant to subrule 48.4(2).

e. For a project located in a small city that meets the minimum housing project requirements under this subrule, development at a greenfield site. A project located in a small city is not required to complete the distressed workforce housing community application pursuant to subrule 48.4(2).

f. For a disaster recovery housing project, development at a greenfield site.

48.9(3) Except as provided in subrules 48.9(4) and 48.9(5) below, the average dwelling unit cost does not exceed $200,000 per dwelling unit. For purposes of this rule, the average dwelling unit cost equals the costs directly related to the housing project divided by the total number of dwelling units in the housing project.

48.9(4) The average dwelling unit cost does not exceed $250,000 per dwelling unit if the project involves the rehabilitation, repair, redevelopment, or preservation of eligible property, as that term is defined in Iowa Code section 404A.1(8)*"a."*

48.9(5) The average dwelling unit cost does not exceed $215,000 per dwelling unit if the project is located in a small city.

48.9(6) The dwelling units, when completed and made available for occupancy, meet the U.S. Department of Housing and Urban Development's housing quality standards and all applicable local safety standards.

48.9(7) The project is not located in a 100-year floodplain.

[**ARC 4724C**, IAB 10/23/19, effective 10/3/19]

261—48.10(15) Housing project application and agreement.

48.10(1) *Application.*

a. A housing business seeking disaster recovery housing tax incentives pursuant to rule 261—48.11(15) shall make application to the authority in the manner prescribed in this rule. The authority may accept applications on a continuous basis and will review applications in the order received. The authority will acknowledge receipt of the application and notify the applicant within 30 days as to whether the disaster recovery housing project will be awarded tax incentives pursuant to this rule.

b. The application for disaster recovery housing tax incentives described in paragraph 48.10(1)*"a"* shall include all of the following:

(1) The following information establishing local participation for the housing project:

1. A resolution in support of the housing project by the community where the housing project will be located.

2. Documentation of local matching funds pledged for the housing project in an amount equal to at least $1,000 per dwelling unit, including but not limited to a funding agreement between the housing business and the community where the housing project will be located. For purposes of this paragraph, local matching funds shall be in the form of cash or cash equivalents or in the form of a local property tax exemption, rebate, refund, or reimbursement.

(2) A report that meets the requirements and conditions of Iowa Code section 15.330(9).

(3) Information showing the total costs and funding sources of the housing project sufficient to allow the authority to adequately determine the financing that will be utilized for the housing project, the actual cost of the dwelling units, and the amount of qualifying new investment.

(4) A certification that the applicant's housing project is located in a county that has been declared a major disaster by the President of the United States on or after March 12, 2019, and is also located in a county in which individuals are eligible for federal individual assistance.

(5) Documentation that provides evidence that the housing project is needed due to impact of the disaster that is the subject of the presidential major disaster declaration.

(6) Information showing that the housing project is located outside of a 100-year floodplain.

(7) Any other information deemed necessary by the authority to evaluate the eligibility and financial need of the housing project under the disaster recovery housing program.

48.10(2) *Application review—tax incentive award.*

a. Upon review of the application, the authority may make a tax incentive award to a disaster recovery housing project under the disaster recovery housing program. The tax incentive award shall represent the maximum amount of tax incentives that the disaster recovery housing project may qualify for under the program. In determining a tax incentive award, the authority shall not use an amount of project costs that exceeds the amount included in the application of the housing business. Tax incentive awards shall be approved by the director of the authority.

b. After making a tax incentive award, the authority shall notify the housing business of its tax incentive award under the program. The notification shall include the amount of tax incentives under rule 261—48.11(15) for which the housing business has received an award and a statement that a housing business has no right to receive a tax incentive certificate or claim a tax incentive until all requirements of the program, including all requirements imposed by the agreement entered into pursuant to subrule 48.10(3), are satisfied. The amount of tax credits included on a tax credit certificate issued pursuant to this chapter, or a claim for refund of sales and use taxes, shall be contingent upon completion of all requirements in subrule 48.10(3).

48.10(3) *Agreement and fees.*

a. Upon receipt of a tax incentive award to the disaster recovery housing project, the housing business shall enter into an agreement with the authority for the successful completion of all requirements of the disaster recovery housing program. The agreement shall identify the tax incentive award amount, the tax incentive award date, the project completion deadline, and the total costs of the disaster recovery housing project.

b. The compliance cost fees imposed in Iowa Code section 15.330(12) shall apply to all agreements entered into under the program and shall be collected by the authority in the same manner and to the same extent as described in Iowa Code section 15.330(12).

c. A housing business shall complete its disaster recovery housing project within three years from the date incentives are awarded by the authority to the disaster recovery housing project.

d. Upon completion of a disaster recovery housing project, an examination of the project in accordance with the American Institute of Certified Public Accountants' statements on standards for attestation engagements, completed by a certified public accountant authorized to practice in this state, shall be submitted to the authority.

e. Upon review of the examination as described in paragraph 48.10(3)*"d"* and verification of the amount of the qualifying new investment, the authority may notify the housing business of the amount that the housing business may claim as a refund of the sales and use tax under Iowa Code section 15.355(2), and may issue a tax credit certificate to the housing business stating the amount of disaster recovery housing investment tax credits under rule 261—48.11(15) that the eligible housing business may claim. The sum of the amount that the housing business may claim as a refund of the sales and use tax and the amount of the tax credit certificate shall not exceed the amount of the tax incentive award.

48.10(4) *Maximum tax incentives amount.*

a. The maximum amount of tax incentives that may be awarded under rule 261—48.11(15) to a housing business for a disaster recovery housing project shall not exceed $1 million.

b. If a housing business qualifies for a higher amount of tax incentives under rule 261—48.11(15) than is allowed by the limitation imposed in paragraph 48.10(4)*"a,"* the authority and the housing business may negotiate an apportionment of the reduction in tax incentives between the sales and use tax refund provided in subrule 48.11(2) and the disaster recovery housing investment income tax credits provided in subrule 48.11(3) provided the total aggregate amount of tax incentives after the apportioned reduction does not exceed the amount in paragraph 48.10(4)*"a."*

48.10(5) *Termination and repayment.* The failure by a housing business in completing a disaster recovery housing project to comply with any requirement of the disaster recovery housing program or any of the terms and obligations of an agreement entered into pursuant to this rule may result in the revocation, reduction, termination, or rescission of the tax incentive award or the approved tax incentives

and may subject the housing business to the repayment or recapture of tax incentives claimed under rule 261—48.11(15). The repayment or recapture of tax incentives pursuant to this rule shall be accomplished in the same manner as provided in Iowa Code section 15.330(2).
[**ARC 4724C**, IAB 10/23/19, effective 10/3/19]

261—48.11(15) Disaster recovery housing tax incentives.

48.11(1) *Eligibility.* A housing business that has entered into an agreement with the authority for the successful completion of program requirements pursuant to rule 261—48.10(15) is eligible to receive the tax incentives described in subrules 48.11(2) and 48.11(3).

48.11(2) *Sales tax refunds.* A housing business may claim a refund of the sales and use taxes paid under Iowa Code chapter 423 that are directly related to a disaster recovery housing project. The refund available pursuant to this subrule shall be as provided in Iowa Code section 15.331A to the extent applicable for purposes of the disaster recovery housing program.

48.11(3) *Income tax credits.*

a. For a disaster recovery housing project, a housing business may claim a tax credit in an amount not to exceed 20 percent of the qualifying new investment of a disaster recovery housing project.

b. The tax credit shall be allowed against the taxes imposed in Iowa Code chapter 422, divisions II, III, and V, and in Iowa Code chapter 432, and against the moneys and credits tax imposed in Iowa Code section 533.329.

c. An individual may claim a tax credit under this subrule of a partnership, limited liability company, S corporation, estate, or trust electing to have income taxed directly to the individual. The amount claimed by the individual shall be based upon the pro rata share of the individual's earnings from the partnership, limited liability company, S corporation, estate, or trust.

d. Any tax credit in excess of the taxpayer's liability for the tax year is not refundable but may be credited to the tax liability for the following five years or until depleted, whichever is earlier.

e. (1) To claim a tax credit under this subrule, a taxpayer shall include one or more tax credit certificates with the taxpayer's tax return.

(2) The tax credit certificate shall contain the taxpayer's name, address, tax identification number, the amount of the credit, the name of the eligible housing business, any other information required by the department of revenue, and a place for the name and tax identification number of a transferee and the amount of the tax credit being transferred.

(3) The tax credit certificate, unless rescinded by the authority, shall be accepted by the department of revenue as payment for taxes imposed pursuant to Iowa Code chapter 422, divisions II, III, and V, and to Iowa Code chapter 432, and against the moneys and credits tax imposed pursuant to Iowa Code section 533.329, subject to any conditions or restrictions placed by the authority upon the face of the tax credit certificate and subject to the limitations of this program.

(4) A tax credit certificate issued under an agreement entered into pursuant to subrule 48.10(3) may be transferred to any person. Within 90 days of transfer, the transferee shall submit the transferred tax credit certificate to the department of revenue along with a statement containing the transferee's name, tax identification number, and address; the denomination that each replacement tax credit certificate is to carry; and any other information required by the department of revenue. Tax credit certificate amounts of less than $1,000 shall not be transferable.

(5) Within 30 days of receiving the transferred tax credit certificate and the transferee's statement, the department of revenue shall issue one or more replacement tax credit certificates to the transferee. Each replacement tax credit certificate must contain the information required for the original tax credit certificate and must have the same expiration date that appeared on the transferred tax credit certificate.

(6) A tax credit shall not be claimed by a transferee under this rule until a replacement tax credit certificate identifying the transferee as the proper holder has been issued. The transferee may use the amount of the tax credit transferred against the taxes imposed pursuant to Iowa Code chapter 422, divisions II, III, and V, and in Iowa Code chapter 432, and against the moneys and credits tax imposed in Iowa Code section 533.329, for any tax year the original transferor could have claimed the tax credit. Any consideration received for the transfer of the tax credit shall not be included as income under Iowa

Code chapter 422, divisions II, III, and V. Any consideration paid for the transfer of the tax credit shall not be deducted from income under Iowa Code chapter 422, divisions II, III, and V.

f. For purposes of individual and corporate income taxes and the franchise tax, the increase in the basis of the property that would otherwise result from the qualifying new investment shall be reduced by the amount of the tax credit described under this subrule.

[**ARC 4724C**, IAB 10/23/19, effective 10/3/19]

261—48.12(15) Program funding allocation and management of excess demand.

48.12(1) The authority shall allocate $10 million to disaster recovery housing tax incentives pursuant to rules 261—48.9(15) to 261—48.13(15). In allocating tax credits pursuant to Iowa Code section 15.119(5), as enacted by 2019 Iowa Acts, House File 772, for the period beginning July 1, 2019, and ending June 30, 2024, the authority shall not allocate more than $10 million for purposes of Iowa Code section 15.119(5).

48.12(2) The authority shall issue tax incentives under the program for disaster recovery housing projects on a first-come, first-served basis until the maximum amount of tax incentives allocated under Iowa Code section 15.119(5) is reached.

48.12(3) The authority will administer a wait list for disaster recovery housing projects in accordance with Iowa Code section 15.354(6)*"d."*

[**ARC 4724C**, IAB 10/23/19, effective 10/3/19]

261—48.13(15) Application submittal and review process.

48.13(1) The authority will develop a standardized application and make the application available to eligible housing businesses and to communities. To apply for assistance under the disaster recovery housing program, an interested person shall submit an application to the authority. Applications must be submitted online at www.iowagrants.gov. Instructions for application submission may be obtained at www.iowagrants.gov or by contacting the Community Development Division, Economic Development Authority, 200 East Grand Avenue, Des Moines, Iowa 50309.

48.13(2) The authority has final decision-making authority on requests for financial assistance for the disaster recovery housing program. Applications will be reviewed and scored by the staff of the authority. The director or the director's designee will make final funding decisions after considering the recommendations of staff. The director may approve, defer or deny an application.

[**ARC 4724C**, IAB 10/23/19, effective 10/3/19]

These rules are intended to implement Iowa Code section 15.356.

[Filed ARC 1801C (Notice ARC 1628C, IAB 9/17/14), IAB 12/24/14, effective 1/28/15][1]

[Filed ARC 3581C (Notice ARC 3377C, IAB 10/11/17), IAB 1/17/18, effective 2/21/18]

[Filed ARC 4510C (Notice ARC 4353C, IAB 3/27/19), IAB 6/19/19, effective 7/24/19]

[Filed Emergency ARC 4724C, IAB 10/23/19, effective 10/3/19]

[Filed ARC 5139C (Notice ARC 4967C, IAB 3/11/20), IAB 8/12/20, effective 9/16/20]

[1] January 28, 2015, effective date of 48.7(2) [ARC 1801C] delayed until the adjournment of the 2015 General Assembly by the Administrative Rules Review Committee at its meeting held January 6, 2015.

CHAPTER 81
RENEWABLE CHEMICAL PRODUCTION TAX CREDIT PROGRAM

261—81.1(15) Purpose. The purpose of this chapter is to encourage development of the renewable chemicals industry and stimulate job growth using the renewable chemical production tax credit program to incentivize new and existing businesses to produce high-value renewable chemicals in Iowa from biomass feedstock.
[**ARC 3004C**, IAB 3/29/17, effective 5/3/17]

261—81.2(15) Definitions. As used in this chapter, the following definitions shall apply:

"Authority" means the economic development authority created in Iowa Code section 15.105.

"Authority's website" means the information and related content found at www.iowaeconomicdevelopment.com and may include integrated content at affiliate sites.

"Biobased content percentage" means, with respect to any renewable chemical, the amount, expressed as a percentage, of renewable organic material present as determined by testing representative samples using the American Society for Testing and Materials standard D6866.

"Biomass feedstock" means sugar, polysaccharide, crude glycerin, lignin, fat, grease, or oil derived from a plant or animal, or a protein capable of being converted to a building block chemical by means of a biological or chemical conversion process.

"Board" means the members of the economic development authority board appointed by the governor and in whom the powers of the authority are vested pursuant to Iowa Code section 15.105.

"Building block chemical" means a molecule converted from biomass feedstock as a first product or a secondarily derived product that can be further refined into a higher-value chemical, material, or consumer product. "Building block chemical" includes but is not limited to high-purity glycerol, oleic acid, lauric acid, methanoic or formic acid, arabonic acid, erythronic acid, glyceric acid, glycolic acid, lactic acid, 3-hydroxypropionate, propionic acid, malonic acid, serine, succinic acid, fumaric acid, malic acid, aspartic acid, 3-hydroxybutyrolactone, acetoin, threonine, itaconic acid, furfural, levulinic acid, glutamic acid, xylonic acid, xylaric acid, xylitol, arabitol, citric acid, aconitic acid, 5-hydroxymethylfurfural, lysine, gluconic acid, glucaric acid, sorbitol, gallic acid, ferulic acid, nonfuel butanol, nonfuel ethanol, benzene, toluene, xylene, ethylbenzene, butanoic acid, hexanoic acid, octanoic acid, pentanoic acid, heptanoic acid, ethylyne glycol, and 1,4 butanediol, or such additional molecules as may be included by the authority following the procedure in rule 261—81.8(15).

"Crude glycerin" means glycerin with a purity level below 95 percent.

"Director" means the director of the economic development authority or the director's designee.

"Eligible business" means a business meeting the requirements of rule 261—81.3(15).

"Food additive" means a building block chemical that is not primarily consumed as food but which, when combined with other components, improves the taste, appearance, odor, texture, or nutritional content of food. The authority, in its discretion, shall determine whether or not a building block chemical is primarily consumed as food.

"High-purity glycerol" means glycerol with a purity level of 95 percent or higher.

"Pre-eligibility production threshold" means, with respect to each eligible business, the number of pounds of renewable chemicals produced, if any, by an eligible business during the calendar year prior to the calendar year in which the business first qualified as an eligible business pursuant to rule 261—81.3(15).

"Production year" means any calendar year after the year in which the eligible business's pre-eligibility production threshold was established and in which the eligible business produces renewable chemicals.

"Program" means the renewable chemical production tax credit program administered pursuant to this chapter.

"Renewable chemical" means a building block chemical with a biobased content percentage of at least 50 percent. "Renewable chemical" does not include a chemical sold or used for the production of food, feed, or fuel. "Renewable chemical" includes cellulosic ethanol, starch ethanol, or other ethanol

derived from biomass feedstock, fatty acid methyl esters, or butanol, but only to the extent that such molecules are produced and sold for uses other than food, feed, or fuel. "Renewable chemical" also includes a building block chemical that can be a food additive as long as the building block chemical is not primarily consumed as food and is also sold for uses other than food. "Renewable chemical" also includes supplements, vitamins, nutraceuticals, and pharmaceuticals, but only to the extent that such molecules do not provide caloric value so as to be considered sustenance as food or feed.

"Sugar" means the organic compound glucose, fructose, xylose, arabinose, lactose, sucrose, starch, cellulose, or hemicellulose.

[**ARC 3004C**, IAB 3/29/17, effective 5/3/17; **ARC 4307C**, IAB 2/13/19, effective 3/20/19; **ARC 4971C**, IAB 3/11/20, effective 4/15/20; **ARC 5140C**, IAB 8/12/20, effective 9/16/20]

261—81.3(15) Eligibility requirements. To be eligible to receive the renewable chemical production tax credit pursuant to the program, a business shall meet all of the following requirements:

81.3(1) *Physical location.* The business must have a facility that produces renewable chemicals and is physically located in the state of Iowa. If a business has facilities located in more than one state, only those renewable chemicals produced at facilities physically located in the state of Iowa may be counted for the purpose of calculating the tax credit under subrule 81.6(1).

81.3(2) *Operated for profit and under single management.* The business must be operated for profit and under single management. For purposes of this rule, "single management" means that if the same eligible business has an ownership or equity interest in multiple facilities at which renewable chemicals are produced, the facilities under common ownership will be considered a single eligible business for purposes of calculating the maximum tax credit amount under rule 261—81.6(15). In calculating the maximum tax credit amount under rule 261—81.6(15), only the pro rata share of each eligible business's ownership in a facility will be attributed to that eligible business.

81.3(3) *Type of business.* The business may not be an entity providing professional services, health care services, or medical treatments or an entity engaged primarily in retail operations.

81.3(4) *Organization.* The business must have organized, expanded, or located in the state on or after April 6, 2016.

81.3(5) *Not reducing operations.* The business shall not be relocating or reducing operations as described in Iowa Code section 15.329(1)*"b"* and as determined under the discretion of the authority.

81.3(6) *Compliance.* The business must be in compliance with all agreements entered into under this program or other programs administered by the authority.

[**ARC 3004C**, IAB 3/29/17, effective 5/3/17]

261—81.4(15) Application process and review.

81.4(1) An eligible business that produces a renewable chemical in this state from biomass feedstock during a calendar year may apply to the authority for the renewable chemical production tax credit.

81.4(2) The application shall be made to the authority in the manner prescribed by the authority. Information about the program and a link to the online application and instructions may be obtained by contacting the authority or by visiting the authority's website:

Iowa Economic Development Authority
Business Development Division
200 East Grand Avenue
Des Moines, Iowa 50309
(515)725-3000
www.iowaeconomicdevelopment.com

81.4(3) The application shall be made to the authority during the calendar year following the calendar year in which the renewable chemicals were produced. For example, an eligible business may submit an application in calendar year 2018 to receive a tax credit based on renewable chemicals produced in calendar year 2017.

81.4(4) The application may be submitted to the authority electronically during the annual filing window. This filing window shall be from February 15 to March 15 of each calendar year. The authority

may adjust the annual filing window dates under extenuating circumstances and will notify affected parties of such circumstances.

81.4(5) The application shall include all of the following information:

a. The name of the qualifying building block chemical produced by the eligible business for which the business is claiming a tax credit.

b. The amount of renewable chemicals produced in the state from biomass feedstock by the eligible business during the calendar year, measured in pounds.

c. The amount of renewable chemicals produced in the state from biomass feedstock by the eligible business during the calendar year prior to the year in which the business first qualified as an eligible business under the program.

d. The city or county where the plant producing renewable chemicals is located.

e. The type of feedstock used to produce the renewable chemicals.

f. The date on which the eligible business organized, expanded or located in the state.

g. Any other information reasonably required by the authority in order to establish and verify eligibility under the program.

81.4(6) Applications will be reviewed by the authority on a first-come, first-served basis as described in subrule 81.6(5). Applications shall be date- and time-stamped by the authority in the order in which such applications are received. If the authority deems that additional information is needed before a determination of eligibility can be made, and the authority makes a written request for additional information from the applicant, the applicant must provide the requested information within 30 days of the date that the written request from the authority was made. If an applicant does not provide the requested information within 30 days, the applicant will be placed at the end of the queue of applications received. The authority shall review the queue of applications for eligibility and maintain a list of successful applicants as required by subrule 81.6(5).

81.4(7) The authority shall notify an applicant when the applicant has been placed on the list of successful applicants.

a. For applicants on the list for whom there are sufficient tax credits available in the aggregate cap for the fiscal year, the applicant must sign the agreement within 60 days of being notified of eligibility for the tax credit. Upon request by the applicant, the authority may extend the time period for signing the agreement by an additional 30 days.

b. For applicants on the wait list established in subrule 81.6(5), the authority shall notify the applicant of the applicant's status and position on the wait list.

[**ARC 3004C**, IAB 3/29/17, effective 5/3/17]

261—81.5(15) Agreement.

81.5(1) *Agreement.* Before being issued a tax credit pursuant to this chapter, an eligible business shall enter into an agreement with the authority for the successful completion of all requirements of the program. As part of the agreement, and as a condition of receiving the tax credit, the eligible business shall agree to collect and provide any information reasonably required by the authority in order to allow the board to fulfill the board's reporting obligation under Iowa Code section 15.320.

81.5(2) *Fees.* The compliance cost fees authorized in rule 261—187.6(15) shall apply to all agreements entered into under this program and shall be collected by the authority in the same manner and to the same extent as described in that rule.

81.5(3) *Requirements.* An eligible business shall fulfill all the requirements of the program and the agreement before receiving a tax credit or entering into a subsequent agreement under this rule. The authority may decline to enter into a subsequent agreement under this rule or to issue a tax credit if an agreement is not successfully fulfilled.

81.5(4) *Issuance of credit.* Upon establishing that all requirements of the program and the agreement have been fulfilled, the authority shall issue a tax credit and related tax credit certificate to the eligible business stating the amount of renewable chemical production tax credit the eligible business may claim. The amount of the tax credit shall not exceed the amount allowable under rule 261—81.6(15).

[**ARC 3004C**, IAB 3/29/17, effective 5/3/17]

261—81.6(15) Renewable chemical production tax credit.

81.6(1) *Calculation of tax credit amount.* An eligible business that has entered into an agreement pursuant to rule 261—81.5(15) may be issued a tax credit in an amount equal to the product of five cents multiplied by the number of pounds of renewable chemicals produced in this state from biomass feedstock by the eligible business during a given production year.

a. The maximum amount of tax credit that may be issued under the program to an eligible business for the production of renewable chemicals in a calendar year shall not exceed the following:

(1) In the case of an eligible business that has been in operation in the state for five years or less at the time of application, $1 million.

(2) In the case of an eligible business that has been in operation in the state for more than five years at the time of application, $500,000.

b. For purposes of this subrule, "operation" begins on the date the eligible business first began commercial production.

c. If an eligible business has been in operation in the state for five years or less at the time of application but is more than fifty percent owned by an eligible business that has been in operation in the state for more than five years, then that eligible business will be considered in operation in the state for more than five years pursuant to subparagraph 81.6(1)*"a"*(2).

81.6(2) *Eligible business only.* An eligible business shall not receive a tax credit for renewable chemicals produced before the date the business first qualified as an eligible business pursuant to rule 261—81.3(15).

81.6(3) *Production above pre-eligibility production threshold.* An eligible business shall only receive a tax credit for renewable chemicals produced in a calendar year to the extent such production exceeds the eligible business's pre-eligibility production threshold as defined in rule 261—81.2(15). For example, if an eligible business produces 3 million pounds of renewable chemicals during calendar year 2016 and first becomes an eligible business under this chapter in calendar year 2017, the pre-eligibility production threshold for the business is 3 million pounds. If the same eligible business produces 10 million pounds of renewable chemicals during calendar year 2017, the eligible business may only receive a tax credit for the amount produced over the pre-eligibility production threshold, which in this example equals 7 million pounds.

81.6(4) *Maximum number of credits.* An eligible business shall not receive more than five tax credits under the program. Each tax credit must be applied for separately, and each application will be reviewed independently of past tax credits. Receipt of a tax credit in one year does not guarantee receipt of a tax credit in a subsequent year.

81.6(5) *Tax credit wait list.*

a. The authority shall issue tax credits under the program on a first-come, first-served basis until the maximum amount of tax credits allocated pursuant to Iowa Code section 15.119(2)*"h"* is reached for any given fiscal year. The authority shall maintain a list of successful applicants under the program, so that if the maximum aggregate amount of tax credits is reached in a given fiscal year, eligible businesses that successfully applied but for which tax credits were not issued shall be placed on a wait list in the order the eligible businesses applied and shall be given priority for receiving tax credits in succeeding fiscal years.

b. Placement on a wait list pursuant to this subrule shall not constitute a promise binding the state. The availability of a tax credit and issuance of a tax credit certificate pursuant to this rule in a future fiscal year is contingent upon the availability of tax credits in that particular fiscal year.

81.6(6) *Termination and repayment.* The failure by an eligible business in fulfilling any requirement of the program or any of the terms and obligations of an agreement entered into pursuant to this chapter may result in the reduction, termination, or rescission of the tax credits under Iowa Code section 15.319 and may subject the eligible business to the repayment or recapture of tax credits claimed. The repayment or recapture of tax credits pursuant to Iowa Code section 15.319(4) shall be accomplished in the same manner as provided in Iowa Code section 15.330(2).

81.6(7) *Issuance of credit.* The authority shall not issue a tax credit certificate prior to July 1, 2018.

[**ARC 3004C**, IAB 3/29/17, effective 5/3/17]

261—81.7(15) Claiming the tax credit.

81.7(1) *Maximum tax credit claimed.* An eligible business that has entered into an agreement pursuant to rule 261—81.5(15) may claim a tax credit in an amount equal to the product of five cents multiplied by the number of pounds of renewable chemicals produced in this state from biomass feedstock by the eligible business during a given production year within the limits set forth in rule 261—81.6(15). An eligible business may claim a tax credit for the production of more than one qualifying renewable chemical under this chapter, provided that the total tax credit claimed by the eligible business does not exceed the limits set forth in subrule 81.6(1). However, an eligible business shall not receive a tax credit for the production of a secondarily derived building block chemical if that chemical is also the subject of a credit at the time of production as a first product. The renewable chemical production tax credit shall not be available for any renewable chemical produced before the 2017 calendar year or after the 2026 calendar year.

81.7(2) *Who may claim the credit.* The tax credit shall be allowed against taxes imposed under Iowa Code chapter 422, division II or III. The tax credit shall be claimed for the tax year during which the eligible business was issued the tax credit. An individual may claim a tax credit under this chapter of a partnership, limited liability company, S corporation, cooperative organized under Iowa Code chapter 501 and filing as a partnership for federal tax purposes, estate, or trust electing to have income taxed directly to the individual. The amount claimed by the individual shall be based upon the pro rata share of the individual's earnings from the partnership, limited liability company, S corporation, cooperative, estate, or trust.

a. To claim a tax credit under this rule, a taxpayer shall include one or more tax credit certificates with the taxpayer's tax return.

b. The tax credit certificate shall contain the taxpayer's name, address, and tax identification number, the amount of the credit, the name of the eligible business, and any other information required by the department of revenue.

c. The tax credit certificate, unless rescinded by the authority, shall be accepted by the department of revenue as payment for taxes imposed pursuant to Iowa Code chapter 422, divisions II and III, subject to any conditions or restrictions placed by the authority upon the face of the tax credit certificate and subject to the limitations of the program.

81.7(3) *Refundability.* Any tax credit in excess of the tax liability is refundable. In lieu of claiming a refund, the taxpayer may elect to have the overpayment shown on the taxpayer's final, completed return credited to the tax liability for the following tax year.

81.7(4) *Transferability.* Tax credit certificates issued pursuant to this chapter shall not be transferred to any other person.

[**ARC 3004C**, IAB 3/29/17, effective 5/3/17]

261—81.8(15) Process to add building block chemicals.

81.8(1) *General process.* The authority may add additional molecules to the definition of "building block chemical" in rule 261—81.2(15) pursuant to Iowa Code section 15.316. The authority may initiate the administrative rule-making process for the addition of such molecules to this chapter.

81.8(2) *Request to include additional molecules.* Any individual or business may request that an additional molecule be added to the definition of "building block chemical" by submitting a written request to the authority. Such requests shall be made in the form prescribed by the authority and shall be submitted to the authority during the filing windows prescribed by the authority. At a minimum, the authority shall accept requests between April 1 and May 1 of each calendar year and October 1 and November 1 of each calendar year. The authority may adjust these dates under extenuating circumstances and will notify affected parties of such circumstances.

81.8(3) *Consultation with experts.* Prior to initiating a rule making to add molecules to the definition of "building block chemical" in rule 261—81.2(15), the authority shall consult with appropriate experts from Iowa state university, including but not limited to the Iowa state university center for biorenewable chemicals. The authority shall conduct an initial staff review of any requests received by the authority pursuant to subrule 81.8(2). Following the initial staff review, the authority shall

consult with the experts at Iowa state university regarding the molecules that the authority believes are consistent with the definitions under this chapter. The experts at Iowa state university shall provide a written recommendation to the authority indicating which chemicals, in the experts' opinion, meet the definition of "building block chemical" consistent with this chapter.

81.8(4) *Initiation of rule-making proceedings.* Following the consultation and review process set forth in subrule 81.8(3), the authority may initiate the administrative rule-making process to amend the definition of "building block chemical" to add molecules which the authority, in the authority's sole discretion, finds to be consistent with the definitions in this chapter.

[**ARC 3004C**, IAB 3/29/17, effective 5/3/17]

261—81.9(15) Additional information—confidentiality—annual report.

81.9(1) *Additional information.* The authority may at any time request additional information and documentation from an eligible business regarding the operations, job creation, and economic impact of the eligible business, and the authority may use the information in preparing and publishing any reports to be provided to the governor and the general assembly.

81.9(2) *Confidential information.* Except as provided in subrule 81.9(3), any information or record in the possession of the authority with respect to the program shall be presumed by the authority to be a trade secret protected under Iowa Code chapter 550 or common law and shall be kept confidential by the authority unless otherwise ordered by a court.

81.9(3) *Public information.* The identity of a tax credit recipient and the amount of the tax credit shall be considered public information under Iowa Code chapter 22.

[**ARC 3004C**, IAB 3/29/17, effective 5/3/17]

These rules are intended to implement Iowa Code sections 15.315 to 15.322.

[Filed ARC 3004C (Notice ARC 2867C, IAB 12/21/16), IAB 3/29/17, effective 5/3/17]
[Filed ARC 4307C (Notice ARC 4043C, IAB 10/10/18), IAB 2/13/19, effective 3/20/19]
[Filed ARC 4971C (Notice ARC 4669C, IAB 9/25/19), IAB 3/11/20, effective 4/15/20]
[Filed ARC 5140C (Notice ARC 4966C, IAB 3/11/20), IAB 8/12/20, effective 9/16/20]

CHAPTER 24
RURAL IOWA PRIMARY CARE LOAN REPAYMENT PROGRAM

283—24.1(261) Rural Iowa primary care loan repayment program. The rural Iowa primary care loan repayment program is a state-supported and administered loan repayment program for students who agree to practice as physicians in service commitment areas for five consecutive years and meet the requirements of these rules.
[**ARC 1320C**, IAB 2/19/14, effective 3/26/14; **ARC 1685C**, IAB 10/29/14, effective 12/3/14]

283—24.2(261) Definitions. As used in this chapter:

"Eligible loan" means the physician's total subsidized, unsubsidized, and consolidated Federal Stafford Loan amount under the Federal Family Education Loan Program, Federal Direct Loan Program, federal Graduate PLUS Loan, or federal Perkins Loan, including principal and interest. Only the outstanding portion of a federal consolidation loan that was used to repay an eligible subsidized or unsubsidized Federal Stafford Loan qualifies for loan repayment.

"Eligible university" means either the State University of Iowa Carver College of Medicine or Des Moines University College of Osteopathic Medicine.

"Maximum award" means the maximum amount of loan repayments that the physician can receive after completing all obligations under the rural Iowa primary care loan repayment program, not to exceed a total of $200,000. The maximum award can be applied only to eligible loans; thus, payments cannot exceed the outstanding eligible loan balance at the time of payment.

"Physician" means an individual who holds a practitioner's license issued by an agency or board under the Iowa department of public health and is employed in the practice of medicine and surgery or osteopathic medicine and surgery, specializing in family medicine, pediatrics, psychiatry, internal medicine, or general surgery.

"Residency program" means an accredited medical residency program located in the state of Iowa in which the residency is physically performed in the state of Iowa.

"Service commitment area" means a medically underserved Iowa city with a population of less than 26,000 that is located more than 20 miles from a city with a population of 50,000 or more. Each physician participating in the program must contract with the service commitment area to ensure the service commitment area provides a nonrefundable $20,000 contribution for deposit in the rural Iowa primary care trust fund. Payment of the nonrefundable contribution to the trust fund can be made by, but is not limited to, the following organizations: community agencies, hospitals, medical groups, municipalities, community foundations, local government entities, or other community entities. Locations and distances between cities will be consistently measured and verified by calculating the shortest travel distance on paved roads.
[**ARC 1320C**, IAB 2/19/14, effective 3/26/14; **ARC 1685C**, IAB 10/29/14, effective 12/3/14; **ARC 5137C**, IAB 8/12/20, effective 9/16/20]

283—24.3(261) Eligibility requirements.

24.3(1) An eligible university will recommend up to ten applicants to the commission for loan repayment benefits. Priority will be given to students who are Iowa residents upon enrolling in the eligible university. "Iowa resident" means an individual who meets the residency requirements established in 283—Chapter 10. The percentage of the agreements to be entered into by students attending each eligible university shall be evenly divided.

a. The commission will annually determine and communicate the number of recommendations that can be funded at each eligible university.

b. If fewer than the recommendations in 24.3(1)*"a"* are fulfilled by students at one eligible university, the commission may obtain additional recommendations from the other eligible university to award the remaining agreements.

24.3(2) An applicant must enter into an agreement with the commission during the applicant's final year of study leading to a doctor of medicine or osteopathy degree.

24.3(3) An applicant must be enrolled on a full-time basis and graduate with a doctor of medicine or osteopathy degree from an eligible university. The commission may waive the full-time enrollment requirement for a temporary time frame only in the instance of a leave of absence approved by an eligible university. The applicant must request a waiver from the commission in writing.

24.3(4) An applicant must apply for, enter, and complete a residency program in Iowa.

24.3(5) Within nine months of graduating from the residency program, an applicant must receive a permanent license to practice medicine and surgery or osteopathic medicine and surgery in the state of Iowa and engage in full-time practice, as defined by the service commitment area, of medicine and surgery or osteopathic medicine and surgery specializing in family medicine, pediatrics, psychiatry, internal medicine, or general surgery for a period of five consecutive years in a service commitment area.

24.3(6) An applicant must annually complete and return to the commission an affidavit of acceptance into and completion of residency programs and acceptance of and completion of employment obligations in a service commitment area.

24.3(7) Prior to or upon engagement in full-time employment in a service commitment area, the physician must contract with a service commitment area to provide a nonrefundable $20,000 contribution for deposit in the rural Iowa primary care trust fund. Payment must be received by the commission from a service commitment area prior to payment of any loan repayment awards.

24.3(8) Failure by the applicant to meet all eligibility requirements under this rule and in the agreement will result in forfeiture of all remaining unpaid payments.

[**ARC 1320C**, IAB 2/19/14, effective 3/26/14; **ARC 1685C**, IAB 10/29/14, effective 12/3/14; **ARC 2205C**, IAB 10/28/15, effective 12/2/15]

283—24.4(261) Awarding of funds.

24.4(1) Prior to accepting an offer of employment, the physician must notify the commission of the service commitment area in which the physician will be employed, and the commission will verify the eligibility of the service commitment area.

24.4(2) The maximum award will be paid to the physician's eligible loan holder in five equal installments, upon successful completion of each of five 12-month employment obligations. Failure to complete all, or any portion, of the five-consecutive-year employment obligation will result in the forfeiture of all remaining unpaid payments. A physician who fails to meet the requirements of these rules may also be subject to repayment of moneys advanced by the service commitment area as provided in any contract between the physician and the service commitment area.

24.4(3) No loan repayment amounts will be paid until the service commitment area provides the nonrefundable $20,000 contribution for deposit into the rural Iowa primary care trust fund.

[**ARC 1320C**, IAB 2/19/14, effective 3/26/14; **ARC 1685C**, IAB 10/29/14, effective 12/3/14]

283—24.5(261) Waivers.

24.5(1) *Service commitment area.* The commission may waive the requirement that the physician practice in the same service commitment area for five years. The physician must request a waiver from the commission in writing.

24.5(2) *Full-time employment.* The commission may waive the requirement that the physician be employed full-time if the physician demonstrates exceptional circumstances. The physician must request a waiver from the commission in writing. If a waiver request is granted by the commission, the agreement will be amended to provide an allowance for part-time employment. The five-year employment obligation will be proportionally extended to ensure the physician is employed in a service commitment area for the equivalent of five full-time years.

24.5(3) *Postponement of physician employment.* The physician obligation to engage in practice in accordance with 24.3(5) may be postponed for no more than two years from the time full-time practice was to commence. The physician must request a waiver from the commission in writing for one of the following purposes:

a. Active duty service in the armed forces, the armed forces military reserve, or the national guard.

b. Service in Volunteers in Service to America or the federal Peace Corps.

c. A service commitment to the United States Public Health Service Commissioned Corps.

d. A period of religious missionary work conducted by an organization exempt from federal income taxation pursuant to Section 501(c)(3) of the Internal Revenue Code.

The physician obligation to engage in practice in accordance with 24.3(5) may be postponed for a period exceeding two years for any period of temporary medical incapacity, including leave approved under the Family and Medical Leave Act, during which the physician is unable to engage in full-time practice. The physician must request a waiver from the commission in writing.

24.5(4) *Satisfaction of physician employment.* All obligations under the rural Iowa primary care loan repayment program are considered to be satisfied when any of the following conditions are met:

a. All terms of the agreement are met.

b. The person who entered into the agreement dies.

c. The person who entered into the agreement, due to permanent disability, is unable to meet the requirements of these rules.

d. The person who entered into the agreement has no remaining eligible loan balance to repay.

[**ARC 1320C**, IAB 2/19/14, effective 3/26/14; **ARC 1685C**, IAB 10/29/14, effective 12/3/14]

283—24.6(261) Loan repayment cancellation.

24.6(1) Within 30 days following withdrawal from an eligible university, or termination of employment from a residency program or as a physician in a service commitment area, the applicant must notify the commission.

24.6(2) The applicant is responsible for notifying the commission immediately of a change in contact information including, but not limited to, name, telephone number, e-mail address, and place of employment.

[**ARC 1320C**, IAB 2/19/14, effective 3/26/14]

283—24.7(261) Restrictions. A physician who is in default on a Federal Stafford Loan, Grad PLUS Loan, SLS Loan, Perkins/National Direct/National Defense Student Loan, Health Professions Student Loan (HPSL), or Health Education Assistance Loan (HEAL) or who owes a repayment on any Title IV grant assistance or state award shall be ineligible for loan repayment. Eligibility may be reinstated upon payment in full of the delinquent obligation or by commission ruling on the basis of adequate extenuating evidence presented in appeal under the procedures set forth in 283—Chapters 4 and 5.

[**ARC 1320C**, IAB 2/19/14, effective 3/26/14]

These rules are intended to implement Iowa Code section 261.113 as amended by 2014 Iowa Acts, Senate File 2347.

[Filed ARC 1320C (Notice ARC 1121C, IAB 10/16/13), IAB 2/19/14, effective 3/26/14]
[Filed ARC 1685C (Notice ARC 1586C, IAB 8/20/14), IAB 10/29/14, effective 12/3/14]
[Filed ARC 2205C (Notice ARC 2037C, IAB 6/24/15), IAB 10/28/15, effective 12/2/15]
[Filed ARC 5137C (Notice ARC 5031C, IAB 5/6/20), IAB 8/12/20, effective 9/16/20]

CHAPTER 25
RURAL IOWA ADVANCED REGISTERED NURSE PRACTITIONER AND PHYSICIAN ASSISTANT LOAN REPAYMENT PROGRAM

283—25.1(261) Rural Iowa advanced registered nurse practitioner and physician assistant loan repayment program. The rural Iowa advanced registered nurse practitioner and physician assistant loan repayment program is a state-supported and administered loan repayment program for applicants who agree to practice as advanced registered nurse practitioners or physician assistants in service commitment areas for five consecutive years and meet the requirements of these rules.
[**ARC 1321C**, IAB 2/19/14, effective 3/26/14; **ARC 1686C**, IAB 10/29/14, effective 12/3/14]

283—25.2(261) Definitions. As used in this chapter:

"Advanced registered nurse practitioner" means an individual who graduated from a graduate-level credential program at an eligible university, holds a practitioner's license to practice as an advanced registered nurse practitioner pursuant to Iowa Code chapter 152, and is employed in the practice of nursing in an eligible service commitment area.

"Eligible loan" means the advanced registered nurse practitioner's or physician assistant's total subsidized, unsubsidized, and consolidated Federal Stafford Loan amount under the Federal Family Education Loan Program, Federal Direct Loan Program, federal Graduate PLUS Loan, or federal Perkins Loan, including principal and interest. Only the outstanding portion of a federal consolidation loan that was used to repay an eligible subsidized or unsubsidized Federal Stafford Loan qualifies for loan repayment.

"Eligible university" means a college or university that meets the requirements of Iowa Code section 261.2, subsection 11, and is an institution of higher learning under the control of the state board of regents or an accredited private institution as defined in Iowa Code section 261.9. An eligible university must complete and return the forms to the commission to participate in the program.

"Maximum award" means the maximum amount of loan repayments that the advanced registered nurse practitioner or physician assistant can receive after completing all obligations under the rural Iowa advanced registered nurse practitioner and physician assistant loan repayment program, not to exceed a total of $20,000. The maximum award can be applied only to eligible loans; thus, payments cannot exceed the outstanding eligible loan balance at the time of payment.

"Physician assistant" means an individual who graduated with a master's degree in a physician assistant studies program at an eligible university, holds a practitioner's license to practice as a physician assistant pursuant to Iowa Code chapter 148C, and is employed as a physician assistant in an eligible service commitment area.

"Service commitment area" means a medically underserved Iowa city with a population of less than 26,000 that is located more than 20 miles from a city with a population of 50,000 or more. Each applicant participating in the program must contract with the service commitment area to ensure the service commitment area provides a nonrefundable $2,000 contribution for deposit in the rural Iowa advanced registered nurse practitioner and physician assistant trust fund. Payment of the nonrefundable contribution to the trust fund can be made by, but is not limited to, the following organizations: community agencies, hospitals, medical groups, municipalities, community foundations, local government entities, or other community entities. Locations and distances between cities will be consistently measured and verified by calculating the shortest travel distance on paved roads.

"Surplus funds" means funding available after the maximum award has been obligated to all recommended applicants in accordance with rule 283—25.3(261).
[**ARC 1321C**, IAB 2/19/14, effective 3/26/14; **ARC 1686C**, IAB 10/29/14, effective 12/3/14; **ARC 5137C**, IAB 8/12/20, effective 9/16/20]

283—25.3(261) Eligibility requirements.

25.3(1) The commission will annually determine and communicate the number of physician assistant and advanced registered nurse practitioner recommendations that can be funded at each eligible university. The intent of this determination will be to ensure that an equal number of students

in each program at eligible universities are able to enter into an agreement. Priority will be given to applicants who are Iowa residents upon enrolling in the eligible university. "Iowa resident" means an individual who meets the residency requirements established in 283—Chapter 10. If fewer than the maximum number of physician assistants or advanced registered nurse practitioners are recommended at an eligible university, the commission may obtain additional recommendations from the other eligible universities to award the remaining agreements.

25.3(2) An applicant must enter into an agreement with the commission during the applicant's final year of study leading to eligibility for licensure as an advanced registered nurse practitioner or physician assistant.

25.3(3) An applicant must be enrolled on a full-time basis and graduate from an eligible university with a graduate-level credential that qualifies the applicant to work as a physician assistant or advanced registered nurse practitioner. The commission may waive the full-time enrollment requirement for a temporary time frame only in the instance of a leave of absence approved by an eligible university. The applicant must request a waiver from the commission in writing.

25.3(4) Within nine months of graduating from an eligible university, an applicant must receive a permanent license to practice nursing or to work as a physician assistant in the state of Iowa and engage in full-time practice, as defined by the service commitment area, as an advanced registered nurse practitioner or physician assistant for a period of five consecutive years in a service commitment area.

25.3(5) An applicant must annually complete and return to the commission an affidavit of completion of the employment obligation in a service commitment area.

25.3(6) Prior to or upon engagement in full-time employment in a service commitment area, the advanced registered nurse practitioner or physician assistant must contract with the service commitment area to provide a nonrefundable $2,000 contribution for deposit in the rural Iowa advanced registered nurse practitioner and physician assistant trust fund. Payment must be received by the commission from the service commitment area prior to payment of any loan repayment awards to the advanced registered nurse practitioner or physician assistant.

25.3(7) Failure by the applicant to meet all eligibility requirements under these rules and in the agreement will result in forfeiture of all remaining unpaid payments.

[**ARC 1321C**, IAB 2/19/14, effective 3/26/14; **ARC 1686C**, IAB 10/29/14, effective 12/3/14; **ARC 2205C**, IAB 10/28/15, effective 12/2/15]

283—25.4(261) Awarding of funds.

25.4(1) Prior to accepting an offer of employment, the advanced registered nurse practitioner or physician assistant must notify the commission of the service commitment area in which the advanced registered nurse practitioner or physician assistant will be employed, and the commission will verify the eligibility of the service commitment area.

25.4(2) The maximum award will be paid to the advanced registered nurse practitioner's or physician assistant's eligible loan lender in five equal installments, upon successful completion of each of the five 12-month employment obligations. Failure to complete all, or any portion, of the five-consecutive-year employment obligation will result in the forfeiture of all remaining unpaid payments. An advanced registered nurse practitioner or physician assistant who fails to meet the requirements of these rules may also be subject to repayment of moneys advanced by the service commitment area as provided in any contract between the advanced registered nurse practitioner or physician assistant and the service commitment area.

25.4(3) No loan repayment amounts will be paid until the service commitment area provides the nonrefundable $2,000 contribution for deposit into the rural Iowa advanced registered nurse practitioner and physician assistant trust fund.

25.4(4) If surplus funds are available, the commission will accept applications from physician assistants and advanced registered nurse practitioners practicing full-time in service commitment areas. Recipient selections shall be evenly divided between physician assistants and advanced registered nurse practitioners, to the extent possible. If surplus funds are not sufficient to fund all applicants, physician assistant and advanced registered nurse practitioner applicants will be prioritized by Iowa residency

status, full-time employment status, individuals working in a federally designated Health Professional Shortage Area (HPSA) or a Governor's Designated Rural Health Clinic county, total eligible student loan debt (highest receiving priority), and application date (earliest submitted receiving priority). Recipients will enter into agreements with the commission, and payments will be made in accordance with subrules 25.4(2) and 25.4(3).
[**ARC 1321C**, IAB 2/19/14, effective 3/26/14; **ARC 1686C**, IAB 10/29/14, effective 12/3/14]

283—25.5(261) Waivers.

25.5(1) *Service commitment area.* The commission may waive the requirement that the advanced registered nurse practitioner or physician assistant practice in the same service commitment area for five years. The advanced registered nurse practitioner or physician assistant must request a waiver from the commission in writing.

25.5(2) *Satisfaction of advanced registered nurse practitioner or physician assistant employment.* All obligations under the rural Iowa advanced registered nurse practitioner and physician assistant loan repayment program are considered to be satisfied when any of the following conditions are met:

a. All terms of the agreement are met.

b. The person who entered into the agreement dies.

c. The person who entered into the agreement, due to permanent disability, is unable to meet the requirements of these rules.

d. The person who entered into the agreement has no remaining eligible loan balance to repay.
[**ARC 1321C**, IAB 2/19/14, effective 3/26/14; **ARC 1686C**, IAB 10/29/14, effective 12/3/14; **ARC 4185C**, IAB 12/19/18, effective 1/23/19]

283—25.6(261) Loan repayment cancellation.

25.6(1) Within 30 days following withdrawal from an eligible university, or termination of employment from a residency program or as an advanced registered nurse practitioner or physician assistant in a service commitment area, the applicant must notify the commission.

25.6(2) The applicant is responsible for notifying the commission immediately of a change in contact information including, but not limited to, name, telephone number, email address, and place of employment.
[**ARC 1321C**, IAB 2/19/14, effective 3/26/14]

283—25.7(261) Restrictions. An advanced registered nurse practitioner or physician assistant who is in default on a Federal Stafford Loan, Grad PLUS Loan, SLS Loan, Perkins/National Direct/National Defense Student Loan, Health Professions Student Loan (HPSL), or Health Education Assistance Loan (HEAL) or who owes a repayment on any Title IV grant assistance or state award shall be ineligible for loan repayment. Eligibility may be reinstated upon payment in full of the delinquent obligation or by commission ruling on the basis of adequate extenuating evidence presented in appeal under the procedures set forth in 283—Chapters 4 and 5.
[**ARC 1321C**, IAB 2/19/14, effective 3/26/14]

These rules are intended to implement Iowa Code section 261.114.

[Filed ARC 1321C (Notice ARC 1120C, IAB 10/16/13), IAB 2/19/14, effective 3/26/14]
[Filed ARC 1686C (Notice ARC 1587C, IAB 8/20/14), IAB 10/29/14, effective 12/3/14]
[Filed ARC 2205C (Notice ARC 2037C, IAB 6/24/15), IAB 10/28/15, effective 12/2/15]
[Filed ARC 4185C (Notice ARC 3941C, IAB 8/15/18), IAB 12/19/18, effective 1/23/19]
[Filed ARC 5137C (Notice ARC 5031C, IAB 5/6/20), IAB 8/12/20, effective 9/16/20]

CHAPTER 26
HEALTH CARE LOAN REPAYMENT PROGRAM

283—26.1(261) Health care loan repayment program. The health care loan repayment program is a state-supported and state-administered program established to repay the qualified student loans of nurse educators teaching at eligible Iowa colleges and universities, as well as applicants who agree to practice as registered nurses, advanced registered nurse practitioners, or physician assistants in service commitment areas for five consecutive years, and who meet the requirements of these rules.
[**ARC 4186C**, IAB 12/19/18, effective 1/23/19]

283—26.2(261) Definitions. As used in this chapter:

"Advanced registered nurse practitioner" means an individual who graduated from an accredited graduate or postgraduate advanced practice educational program, is licensed by the board of nursing as a registered nurse, is licensed by the board of nursing as an advanced registered nurse practitioner, and is employed as an advanced registered nurse practitioner in an eligible service commitment area.

"Nurse educator" means a registered nurse who holds a master's or doctorate degree and is employed by an Iowa community college, an accredited private institution defined in Iowa Code section 261.9, or an institution of higher learning governed by the state board of regents as a faculty member who teaches nursing as provided in 655—Chapter 2 at a nursing program approved by the board of nursing pursuant to Iowa Code section 152.5.

"Physician assistant" means an individual who graduated with a master's degree, holds a practitioner's license to practice as a physician assistant pursuant to Iowa Code chapter 148C, and is employed as a physician assistant in an eligible service commitment area.

"Qualified student loan" means a loan that was made, insured, or guaranteed under Title IV of the federal Higher Education Act of 1965, as amended, or under Title VII or VIII of the federal Public Health Service Act, as amended, directly to the borrower for attendance at an approved postsecondary institution. Only the outstanding portion of a federal consolidation loan that was used to repay a qualified student loan qualifies for loan repayment.

"Registered nurse" means a nurse who is licensed by the board of nursing as a registered nurse and is employed as a registered nurse in an eligible service commitment area.

"Service commitment area" means a city in Iowa with a population of less than 26,000 that is located more than 20 miles from a city with a population of 50,000 or more. Locations and distances between cities will be consistently measured and verified by calculating the shortest travel distance on paved roads.
[**ARC 4186C**, IAB 12/19/18, effective 1/23/19; **ARC 5137C**, IAB 8/12/20, effective 9/16/20]

283—26.3(261) Eligibility requirements.

26.3(1) An eligible applicant must be an advanced registered nurse practitioner, nurse educator, physician assistant, or registered nurse.

26.3(2) An eligible applicant must annually complete and file an application for the program by the deadline established by the commission. If funds remain available after the application deadline, the commission will continue to accept applications.

26.3(3) An eligible applicant must annually complete and return to the commission an affidavit of practice verifying full-time employment, as defined by the employer, in a service commitment area during the entire year as an advanced registered nurse practitioner, physician assistant, or registered nurse, or full-time employment, as defined by the employer, as a nurse educator.
[**ARC 4186C**, IAB 12/19/18, effective 1/23/19]

283—26.4(261) Awarding of funds.

26.4(1) *Selection criteria.* All completed applications received on or before the published deadline will be considered for funding. To the extent possible, an equal number of new advanced registered nurse practitioners, nurse educators, physician assistants, and registered nurses will be offered awards based on the availability of appropriated funds. In the event that funding is insufficient to award all

eligible applicants within an occupation category, criteria for selection of eligible applicants within each occupation category will be prioritized as follows:

a. Renewal status. Recipients of awards through the registered nurse and nurse educator loan forgiveness program during the 2018 state fiscal year will be eligible for funding under the health care loan repayment program if the eligible applicants meet the eligibility criteria of the health care loan repayment program. Under this provision, no recipient will receive more than five consecutive awards between the registered nurse and nurse educator loan forgiveness program and the health care loan repayment program;

b. Iowa residency status;

c. Members of the Iowa national guard, if requested by the adjutant general.

(1) Members of the Iowa national guard are exempt from the service commitment area requirement, and

(2) Members of the Iowa national guard must have satisfactorily completed required guard training and must maintain satisfactory performance of guard duty;

d. Date of application.

26.4(2) *Annual award.* The maximum annual award shall be the lesser of:

a. $6,000, or

b. Twenty percent of the eligible applicant's total outstanding qualified student loan.

26.4(3) *Extent of repayment.* Eligible applicants may receive loan repayment for no more than five consecutive years. Eligible applicants who fail to receive loan repayment awards in consecutive years will not be considered for subsequent years of loan repayment.

26.4(4) *Disbursement of loan repayment funds.*

a. Loan repayment awards will be disbursed upon completion of the year for which the award was approved and upon certification from the employer that the advanced registered nurse practitioner, nurse educator, physician assistant, or registered nurse was employed full-time, as defined by the employer, during the entire year and completed the year in good standing.

b. Loan repayment awards will be distributed to the eligible applicant's student loan holder and applied directly to qualified student loans.

[**ARC 4186C**, IAB 12/19/18, effective 1/23/19]

283—26.5(261) Loan repayment cancellation.

26.5(1) An eligible applicant who has been designated for a loan repayment award shall notify the commission within 30 days following termination or cessation of full-time practice in a service commitment area as an advanced registered nurse practitioner, physician assistant, or registered nurse, or termination or cessation of full-time employment as a nurse educator.

26.5(2) A recipient of an award is responsible for notifying the commission immediately of a change in name, place of employment, or home address.

[**ARC 4186C**, IAB 12/19/18, effective 1/23/19]

283—26.6(261) Restrictions. An advanced registered nurse practitioner, nurse educator, physician assistant, or registered nurse who is in default on a qualified student loan or who owes a repayment on any Title IV grant assistance or state award shall be ineligible for loan repayment benefits. Eligibility may be reinstated upon payment in full of the delinquent obligation or by commission ruling on the basis of adequate extenuating evidence presented in appeal under the procedures set forth in 283—Chapters 4 and 5.

[**ARC 4186C**, IAB 12/19/18, effective 1/23/19]

These rules are intended to implement Iowa Code section 261.116.

[Filed ARC 4186C (Notice ARC 3939C, IAB 8/15/18), IAB 12/19/18, effective 1/23/19]

[Filed ARC 5137C (Notice ARC 5031C, IAB 5/6/20), IAB 8/12/20, effective 9/16/20]

HUMAN SERVICES DEPARTMENT[441]

Rules transferred from Social Services Department[770] to Human Services Department[498], see 1983 Iowa Acts, Senate File 464, effective July 1, 1983.
Rules transferred from agency number [498] to [441] to conform with the reorganization numbering scheme in general, IAC Supp. 2/11/87.

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PREAMBLE

These rules define and structure the department of human services healthy and well kids in Iowa (hawki) program and establish requirements for the program administration and for the participating health and dental plans that will be delivering services to the enrollees. The purpose of this program is to provide transitional health and dental care coverage to children who are ineligible for Title XIX (Medicaid) assistance as set forth in this chapter. This chapter shall be construed to comply with all requirements for federal funding under Title XXI of the Social Security Act or under the terms of any applicable waiver of Title XXI requirements granted by the Secretary of the U.S. Department of Health and Human Services. To the extent this chapter is inconsistent with any applicable federal funding requirement under Title XXI or the terms of any applicable waiver, the requirements of Title XXI or the terms of the waiver shall prevail.

[**ARC 0837C**, IAB 7/24/13, effective 10/1/13; **ARC 1287C**, IAB 1/8/14, effective 1/1/14; **ARC 5141C**, IAB 8/12/20, effective 12/1/20]

441—86.1(514I) Definitions.

"Applicant" shall mean anyone in the household, including all adults and children under the age of 19 who are counted in the hawki family size according to the modified adjusted gross income methodology and who are listed on the application or renewal form.

"Benchmark benefit package for health care coverage" shall mean any of the following:

1. The standard Blue Cross Blue Shield preferred provider option service benefit plan, described in and offered under 5 U.S.C. Section 8903(1).
2. A health benefits coverage plan that is offered and generally available to state employees in this state.
3. The plan of a health maintenance organization, as defined in 42 U.S.C. Section 300e, with the largest insured commercial, nonmedical assistance enrollment of covered lives in the state.

"Capitation rate" shall mean the fee the department pays monthly to a participating health or dental plan for each enrollee for the provision of covered medical or dental services whether or not the enrollee received services during the month for which the fee is intended.

"Contract" shall mean the contract between the department and the participating health or dental plan for the provision of medical or dental services to hawki enrollees for whom the participating health or dental plans assume risk.

"Cost sharing" shall mean the payment of a premium or copayment as provided for by Title XXI of the federal Social Security Act and Iowa Code section 514I.10.

"Countable income" shall mean earned and unearned income of the family according to the modified adjusted gross income methodology.

"Covered services" shall mean all or a part of those medical and dental services set forth in rule 441—86.14(514I).

"Dentist" shall mean a person who is licensed to practice dentistry.

"Department" shall mean the Iowa department of human services.

"Director" shall mean the director of the Iowa department of human services.

"Eligible child" shall mean an individual who meets the criteria for participation in the hawki program as set forth in rule 441—86.2(514I).

"Emergency dental condition" shall mean an oral condition that occurs suddenly and creates an urgent need for professional consultation or treatment. Emergency conditions may include hemorrhage, infection, pain, broken teeth, knocked-out teeth, or other trauma.

"Emergency medical condition" shall mean a medical condition manifesting itself by acute symptoms of sufficient severity, including severe pain, such that a prudent layperson, who possesses an average knowledge of health and medicine, could reasonably expect the absence of immediate medical attention to result in one of the following:

1. Placing the health of the person or, with respect to a pregnant woman, the health of the woman and her unborn child, in serious jeopardy,
2. Serious impairment to bodily functions, or
3. Serious dysfunction of any bodily organ or part.

"Emergency services" shall mean, with respect to an individual enrolled with a plan, covered inpatient and outpatient services which are furnished by a provider qualified to furnish these services and which are needed to evaluate and stabilize an emergency medical or dental condition.

"Enrollee" shall mean a child who has been determined eligible for the program and who has been enrolled with a participating health plan.

"Enrollment broker" shall mean the entity the department uses to enroll eligible children with a managed care organization. The enrollment broker must be conflict-free and meet all applicable requirements of state and federal law.

"Family" shall mean anyone in the household, including all adults and children under the age of 19 who are counted in the hawki family size according to the modified adjusted gross income methodology.

"Federal poverty level" shall mean the poverty income guidelines revised annually and published in the Federal Register by the United States Department of Health and Human Services.

"Good cause" shall mean the family has demonstrated that one or more of the following conditions exist:

1. There was a serious illness or death of the enrollee or a member of the enrollee's family.
2. There was a family emergency or household disaster, such as a fire, flood, or tornado.
3. There was a reason beyond the enrollee's control.
4. There was a failure to receive the department's request for a reason not attributable to the enrollee. Lack of a forwarding address is attributable to the enrollee.

"Hawki board" or *"board"* shall mean the entity that adopts rules, establishes policy, and directs the department regarding the hawki program.

"Hawki program" or *"program"* shall mean the healthy and well kids in Iowa program implemented in this chapter to provide health and dental care coverage to eligible children.

"Health insurance coverage" shall mean health insurance coverage as defined in 45 CFR Section 144.103.

"Health Insurance Marketplace" or *"Exchange"* shall mean the entity authorized under 42 U.S.C. Section 18031(d)(4)(F) to evaluate and determine eligibility of applicants for Medicaid, the Children's Health Insurance Program (CHIP), and other health programs.

"Institution for mental diseases" shall mean a hospital, nursing facility, or other institution of more than 16 beds that is primarily engaged in providing diagnosis, treatment, or care of persons with mental diseases, including medical attention, nursing care and related services as defined at 42 CFR Section 435.1010.

"Modified adjusted gross income" shall mean the methodology prescribed in 42 U.S.C. Section 1396a(e)(14) and 42 CFR 435.603.

" Public institution" shall mean an institution that is the responsibility of a governmental unit or over which a governmental unit exercises administrative control as defined in 42 CFR Section 435.1010.

"Participating dental plan" shall mean any entity licensed by the division of insurance of the department of commerce to provide dental insurance in Iowa that has contracted with the department to provide dental insurance coverage to eligible children under this chapter.

"Participating health plan" shall mean any entity licensed by the division of insurance of the department of commerce to provide health insurance in Iowa or an organized delivery system licensed by the director of public health that has contracted with the department to provide health insurance coverage to eligible children under this chapter.

"Passive enrollment process" shall mean the process by which the department assigns a child to a participating health or dental plan and which seeks to preserve existing provider-enrollee relationships, if possible. In the absence of existing relationships, the process ensures that members are equally distributed among all available health or dental plans.

"Physician" shall be defined as provided in Iowa Code subsection 135.1(4).

"Provider" shall mean an individual, firm, corporation, association, or institution that is providing or has been approved to provide medical or dental care or services to an enrollee pursuant to the hawki program.

[**ARC 7770B**, IAB 5/20/09, effective 7/1/09; **ARC 8478B**, IAB 1/13/10, effective 3/1/10; **ARC 8580B**, IAB 3/10/10, effective 3/1/10; **ARC 0837C**, IAB 7/24/13, effective 10/1/13; **ARC 4779C**, IAB 11/20/19, effective 12/25/19; **ARC 5141C**, IAB 8/12/20, effective 12/1/20]

441—86.2(514I) Eligibility factors. The decision with respect to eligibility shall be based primarily on electronic data matches and information furnished by the applicant, the enrollee, or a person acting on behalf of the applicant or enrollee. A child must meet the following eligibility factors to participate in the hawki program.

86.2(1) *Age.* The child shall be under 19 years of age. Eligibility for the program ends the first day of the month following the month of the child's nineteenth birthday.

86.2(2) *Income.*

a. Countable income. In determining initial and ongoing eligibility for the hawki program, countable income shall not exceed 302 percent of the federal poverty level for a family of the same size. Countable income shall be determined using the modified adjusted gross income methodology.

b. Verification of income. Income shall be verified through electronic data matches when possible or otherwise verified using the best information available.

(1) Pay stubs, tip records, tax records and employers' statements are acceptable forms of verification of earned income.

(2) If self-employment income cannot be verified through electronic means, business records or income tax returns from the previous year can be used if they are representative of anticipated earnings. If business records or tax returns from the previous year are not representative of anticipated earnings, an average of the business records or tax returns from the previous two or three years may be used if that average is representative of anticipated earnings.

c. Changes in income. Once initial eligibility is established, changes in income during the 12-month enrollment period shall not affect the child's eligibility to participate in the hawki program. However, if income has decreased, the family may request a review of their income to establish whether they are required to continue paying a premium in accordance with rule 441—86.8(514I).

86.2(3) *Family size.* For purposes of establishing initial and ongoing eligibility under the hawki program, the family size shall be determined according to the modified adjusted gross income methodology.

86.2(4) *Uninsured status.* The child must be uninsured.

a. A child who is currently enrolled in an individual or group health plan is not eligible to participate in the hawki program. However, a child who is enrolled in a plan shall not be considered insured for purposes of the hawki program if:

(1) The plan provides coverage only for a specific disease or service (such as a vision, dental, or cancer policy), or

(2) The child does not have reasonable geographic access to care under that plan. "Reasonable geographic access" means that the plan or an option available under the plan does not have service area limitations or, if the plan has service area limitations, the child lives within 30 miles or 30 minutes of a network primary care provider, or

(3) The child lost Medicaid eligibility solely because of the loss of income disregards from the implementation of the modified adjusted gross income methodology. If a child loses eligibility because of such loss of income disregards, the child may be covered under the hawki program for up to 12 months following the loss of Medicaid eligibility regardless of the presence of other health insurance.

b. A child whose health insurance ends in the month of application shall be considered uninsured for purposes of hawki eligibility. However, a one-month waiting period may be imposed pursuant to subrule 86.5(1) for a child who is subject to a monthly premium pursuant to paragraph 86.8(2)*"c."*

c. American Indian and Alaska Native. American Indian and Alaska Native children are eligible for the hawki program on the same basis as other children in the state, regardless of whether or not they may be eligible for or served by Indian Health Services-funded care.

86.2(5) *Ineligibility for Medicaid.* The child shall not be receiving Medicaid or eligible to receive Medicaid except when the child would be required to meet a spenddown under the medically needy program in accordance with the provisions of 441—subrule 75.1(35).

86.2(6) *Iowa residency.* Residency in Iowa is a condition of eligibility for the hawki program. Residency shall be established in accordance with rule 441—75.10(249A).

86.2(7) *Citizenship and immigration status.* To be eligible for the hawki program, the child shall be a citizen or lawfully admitted immigrant. The criteria established under 441—subrule 75.11(2) shall be followed when determining whether a lawfully admitted immigrant child is eligible to participate in the hawki program.

a. The citizenship or immigration status of the parents or other responsible person shall not be considered when determining the eligibility of the child to participate in the program.

b. As a condition of eligibility for hawki:

(1) All applicants shall attest to their citizenship status by signing the application form, which contains a citizenship declaration.

(2) When a child under the age of 19 is not living independently, the child's parent or other responsible person with whom the child lives shall be responsible for attesting to the child's citizenship or immigration status and for providing any required proof of the status.

c. Except as provided in 441—paragraph 75.11(2)*"f,"* applicants or enrollees for whom an attestation of United States citizenship has been made pursuant to paragraph 86.2(7)*"b"* shall present satisfactory documentation of citizenship or nationality as defined in 441—paragraphs 75.11(2)*"d," "e," "g," "h,"* and *"i."*

d. An applicant or enrollee shall have a reasonable opportunity period to obtain and provide proof of citizenship and nationality in accordance with 441—paragraph 75.11(2)*"c."*

e. Failure to provide acceptable documentary evidence for a child shall not affect the eligibility of other children in the family for whom acceptable documentary evidence has been provided.

86.2(8) *Dependents of state of Iowa employees.* The child shall not be eligible for the hawki program if the child is eligible for health insurance coverage as a dependent of a state of Iowa employee unless the state contributes only a nominal amount toward the cost of dependent coverage. "Nominal amount" shall mean $10 or less per month.

86.2(9) *Inmates of public institutions.* The child shall not be an inmate of a public institution as defined at 42 CFR Section 435.1010.

86.2(10) *Inmates of institutions for mental disease.* At the time of application or annual review of eligibility, the child shall not be an inmate of an institution for mental disease as defined at 42 CFR Section 435.1010.

86.2(11) *Furnishing a social security number.* As a condition of eligibility and in accordance with rule 441—75.7(249A), a social security number or proof of application for the number if the number has not been issued or is not known must be furnished for a child for whom coverage under hawki is being requested or received.

[**ARC 7770B**, IAB 5/20/09, effective 7/1/09; **ARC 7881B**, IAB 7/1/09, effective 7/1/09; **ARC 8109B**, IAB 9/9/09, effective 10/14/09; **ARC 8127B**, IAB 9/9/09, effective 9/1/09; **ARC 8280B**, IAB 11/18/09, effective 1/1/10; **ARC 8281B**, IAB 11/18/09, effective 12/23/09; **ARC 8478B**, IAB 1/13/10, effective 3/1/10; **ARC 8838B**, IAB 6/16/10, effective 6/1/10; **ARC 9083B**, IAB 9/22/10, effective 9/1/10; **ARC 0837C**, IAB 7/24/13, effective 10/1/13; **ARC 1287C**, IAB 1/8/14, effective 1/1/14; **ARC 5141C**, IAB 8/12/20, effective 12/1/20]

441—86.3(514I) Application process.

86.3(1) *Who may apply.* Each person wishing to do so shall have the opportunity to apply for the hawki program in accordance with rule 441—76.1(249A).

86.3(2) *Applications.* An application for the hawki program shall be filed in accordance with rule 441—76.1(249A).

86.3(3) *Place of filing.* An application for the hawki program may be filed with the department through an Internet website, by telephone, through other electronic means, or through an exchange, disproportionate share hospital, federally qualified health center, or other facility in which outstationing activities are provided.

86.3(4) *Date and method of filing.* The application is considered filed when received in accordance with rule 441—76.1(249A).

86.3(5) *Right to withdraw application.* After an application has been filed, the applicant may withdraw the application at any time prior to the eligibility determination. Requests for voluntary withdrawal of the application shall be documented, and the applicant shall be sent a notice of decision confirming the request.

86.3(6) *Application not required.*

a. An application shall not be required when a child becomes ineligible for Medicaid.

b. A new application shall not be required when an eligible child is added to an existing hawki eligible group.

c. A new application shall not be required when a child moves between supplemental dental-only coverage as specified in rule 441—86.20(514I) and full medical and dental coverage.

86.3(7) *Information and verification procedure.* The decision with respect to eligibility shall be based primarily on information furnished by the applicant, enrollee, or person acting on behalf of the applicant or enrollee and verified through electronic data matches whenever possible.

a. The applicant, enrollee, or person acting on behalf of the applicant or enrollee shall be notified in writing of additional information or verification that is required to establish eligibility. The notice may be provided personally, by U.S. mail, by email, or by facsimile.

b. Failure to supply the information or verification or refusal to authorize the department to secure the information shall serve as a basis for rejection of the application or cancellation of coverage. If the requested information or authorization is received within 14 calendar days of the notice of decision on an application or within 14 calendar days of the effective date of cancellation for enrollees, the information or authorization shall be acted upon as though it had been provided timely. If the fourteenth calendar day falls on a weekend or state holiday, the applicant or enrollee shall have until the next business day to provide the information.

c. The applicant, enrollee, or person acting on behalf of the applicant or enrollee shall have 10 working days to supply the information or verification requested. The due date may be extended for a reasonable period when the applicant, enrollee, or person acting on behalf of the applicant or enrollee is making every effort but is unable to secure the required information or verification from a third party.

86.3(8) *Time limit for decision.* Decisions regarding the applicant's eligibility to participate in the hawki program shall be made within 45 working days from the date of receiving the completed application and all necessary information and verification unless the application cannot be processed for reasons beyond the control of the department. Day one of the 45-day period starts the first working day following the date of receipt of a completed application and all necessary information and verification.

86.3(9) *Applicant cooperation.* An applicant must cooperate with the department in the application process, which may include providing verification or signing documents. Failure to cooperate with the application process shall serve as basis for a denial of the application.

86.3(10) *Waiting lists.* When the department has established that all of the funds appropriated for this program are obligated, all subsequent applications for hawki coverage shall be denied unless Medicaid eligibility exists.

a. The department shall mail a notice of decision to the applicant that states:

(1) The applicant meets the eligibility requirements but that no funds are available and that the applicant will be placed on a waiting list, or

(2) The applicant does not meet eligibility requirements, in which case the applicant shall not be put on a waiting list.

b. Prior to an applicant's being denied or placed on the waiting list, it must be established that the child is not eligible for Medicaid.

c. Applicants shall be placed on the waiting list on the basis of the date an identifiable application form specified in rule 441—76.1(249A) is received.

(1) In the event that more than one application is received on the same day, applicants shall be placed on the waiting list on the basis of the day of the month of the oldest child's birthday, the lowest number being first on the list.

(2) Any subsequent ties shall be determined by the month of birth of the oldest child, January being month one and the lowest number.

d. If funds become available, applicants shall be selected from the waiting list based on the order in which their names appear on the list and shall be notified of their selection.

e. After being notified of the availability of funding, the applicant shall have 15 working days to confirm the applicant's continued interest in applying for the program and to provide any information necessary to establish eligibility. If the applicant does not confirm continued interest in applying for the program and does not provide any additional information necessary to establish eligibility within 15 working days, the applicant's name shall be deleted from the waiting list and the next applicant on the waiting list shall be contacted.

[**ARC 8580B**, IAB 3/10/10, effective 3/1/10; **ARC 9083B**, IAB 9/22/10, effective 9/1/10; **ARC 0552C**, IAB 1/9/13, effective 4/1/13; **ARC 0837C**, IAB 7/24/13, effective 10/1/13; **ARC 4779C**, IAB 11/20/19, effective 12/25/19; **ARC 5141C**, IAB 8/12/20, effective 12/1/20]

441—86.4(514I) Coordination with Medicaid.

86.4(1) *Hawki applicant eligible for Medicaid.* At the time of initial application, if it is determined the child is eligible for Medicaid in accordance with the provisions of rule 441—75.1(249A), with the exception of meeting a spenddown under the medically needy program at 441—subrule 75.1(35), the child shall be enrolled in the Medicaid program.

86.4(2) *Hawki enrollee eligible for Medicaid.* At the time of the annual review, if the child is determined eligible for Medicaid in accordance with the provisions of rule 441—75.1(249A), with the exception of meeting a spenddown under the medically needy program at 441—subrule 75.1(35), the child shall be enrolled in Medicaid effective the first day following the expiration of the 12-month hawki enrollment period.

86.4(3) *Medicaid member becomes ineligible.* If a child becomes ineligible for Medicaid under the provisions of rule 441—75.1(249A), with the exception of meeting a spenddown under the medically needy program at 441—subrule 75.1(35), the child shall be enrolled in the hawki program if otherwise eligible.

[**ARC 0837C**, IAB 7/24/13, effective 10/1/13]

441—86.5(514I) Effective date of coverage.

86.5(1) *Initial application.* Coverage for a child who is determined eligible for the hawki program on the basis of an initial application for either hawki or Medicaid shall be effective the first day of the month following the month in which the application is filed, regardless of the day of the month the application is filed. However, when the child does not meet the provisions of paragraph 86.2(4)*"a,"* coverage shall be effective the first day of the month following the month in which health insurance coverage is lost. Also, a one-month waiting period shall be imposed for a child who is subject to a monthly premium pursuant to paragraph 86.8(2)*"c"* when the child's health insurance coverage ended in the month of application. EXCEPTIONS: A waiting period shall not be imposed if any of the following conditions apply:

a. The child is moving from Medicaid to hawki.

b. The child has a medical condition that, without medical care, would cause serious disability, loss of function, or death.

c. The cost of health insurance coverage for the child exceeds 5 percent of the family's gross income. The cost of health insurance for the child shall be the difference between the premium for coverage with and without the child.

d. The health insurance was provided through an individual plan.

e. The child's health insurance coverage was lost due to:

(1) Domestic violence.

(2) Divorce or death of a parent.

(3) An involuntary loss of employment that qualified the parent for dependent coverage, including but not limited to layoff, business closure, reduction in hours, or termination.

(4) A job change to a new employer that does not offer the parent dependent coverage or that requires a waiting period before children can be enrolled in dependent coverage.

(5) Utilization of the maximum lifetime coverage amount.

(6) Expiration of coverage under COBRA.

(7) Discontinuation of dependent coverage by the parent's employer.

(8) A reason beyond the control of the parent, such as a serious illness of the parent, fire, flood, or natural disaster.

f. The child's parent is determined eligible for advance payment of the premium tax credit for enrollment in a qualified health plan through the Health Insurance Marketplace because the employer-sponsored insurance in which the family was enrolled is determined unaffordable in accordance with 26 CFR 1.36B-2(c)(3)(v).

g. The cost of family coverage that includes the child exceeds 9.5 percent of the annual household income.

86.5(2) *Referrals from Medicaid.*

a. Cancellation of Medicaid. Coverage for children who are determined eligible for the hawki program due to cancellation of Medicaid benefits shall be effective the first day of the month after Medicaid eligibility is lost in order to ensure that there is no break in coverage. However, when such a child does not meet the provisions of paragraph 86.2(4)*"a,"* coverage shall be effective the first day of the month following the month in which health insurance coverage is lost.

b. EXCEPTION: If the child lost Medicaid eligibility solely because of the loss of income disregards from the implementation of the modified adjusted gross income methodology, the child may be covered under the hawki program for up to 12 months following the loss of Medicaid eligibility, regardless of the presence of other health insurance coverage.

86.5(3) *Annual renewals.* Coverage for children who are determined eligible for the hawki program on the basis of an annual renewal shall be effective the first day of the month following the month in which the previous enrollment period ended.

86.5(4) *Children added to an existing hawki enrollment period.* Coverage for children who are determined eligible for the hawki program on the basis of a request from the family to add the child to an existing enrollment period shall be effective the first day of the month following the month in which the request was made. However, if the child does not meet the provisions of paragraph 86.2(4)*"a,"* coverage shall be effective the first day of the month following the month in which health insurance coverage is lost unless the child is subject to a one-month waiting period in accordance with paragraph 86.2(4)*"b."*

[**ARC 8281B**, IAB 11/18/09, effective 12/23/09; **ARC 9083B**, IAB 9/22/10, effective 9/1/10; **ARC 0837C**, IAB 7/24/13, effective 10/1/13; **ARC 4779C**, IAB 11/20/19, effective 12/25/19]

441—86.6(514I) Selection of a plan. Upon the child's eligibility effective date, the child shall be assigned to a health or dental plan using the department's passive enrollment process. The enrollee may change plans only at the time of the annual review unless the provisions of paragraph 86.6(1)*"a"* or subrule 86.6(2) apply.

86.6(1) *Period of enrollment.* Once enrolled in a health or dental plan, the child shall remain enrolled in the health or dental plan for a period of 12 months.

a. *Exceptions.* A child may be enrolled in a plan for less than 12 months if:

(1) The child is disenrolled in accordance with the provisions of rule 441—86.7(514I). If a child is disenrolled from the health or dental plan and subsequently reapplies before the end of the original 12-month enrollment period, the child shall be enrolled in the health or dental plan from which the child was originally disenrolled.

(2) The child is added to an existing enrollment. When a family requests to add an eligible child, the child shall be enrolled for the months remaining in the current enrollment period.

(3) A request to change plans is accepted in accordance with paragraph 86.6(1)*"b."*

b. *Request to change plan.* An enrollee may ask to change the health or dental plan either verbally or in writing to the enrollment broker:

(1) Within 90 days following the date of the enrollee's initial enrollment with the health or dental plan for any reason.

(2) At any time for cause. "Cause" as defined in 42 CFR 438.56(d)(2) as amended to May 6, 2016, includes, but is not limited to:

1. The enrollee moves out of the plan's service area.
2. Because of moral or religious objections, the plan does not cover the services the enrollee seeks.
3. The enrollee needs related services (for example, a cesarean section and a tubal ligation) to be performed at the same time, not all related services are available within the network, and the enrollee's primary care provider or another provider determines that receiving the services separately would subject the enrollee to unnecessary risk.
4. Other reasons including but not limited to poor quality of care, lack of access to services covered under the contract, or lack of access to providers experienced in dealing with the enrollee's health care needs.

All approved changes shall be made prospectively and shall be effective no later than the first day of the second month beginning after the date on which the change request is received.

86.6(2) *Child moves from the service area.* The child may be disenrolled from the health or dental plan when the child moves to an area of the state in which the health or dental plan does not have a provider network established. If the child is disenrolled, the child shall be enrolled in a participating health or dental plan in the new location. The period of enrollment shall be the number of months remaining in the original certification period.

86.6(3) *Change at annual review.* If more than one health or dental plan is available at the time of the annual review of eligibility, the family may designate another plan either verbally or in writing to the enrollment broker. The child shall remain enrolled in the current health or dental plan if the family does not notify the enrollment broker of a new health or dental plan choice by the end of the current 12-month enrollment period.

[**ARC 8478B**, IAB 1/13/10, effective 3/1/10; **ARC 9084B**, IAB 9/22/10, effective 9/1/10; **ARC 0837C**, IAB 7/24/13, effective 10/1/13; **ARC 4779C**, IAB 11/20/19, effective 12/25/19]

441—86.7(514I) Cancellation. The child's eligibility for the hawki program shall be canceled before the end of the 12-month enrollment period for any of the following:

86.7(1) *Child moves from the service area.* Rescinded IAB 1/13/10, effective 3/1/10.

86.7(2) *Age.* The child shall be canceled from the hawki program as of the first day of the month following the month in which the child attained the age of 19.

86.7(3) *Nonpayment of premiums.* The child shall be canceled from the program as of the first day of the month in which premiums are not paid in accordance with the provisions of subrules 86.8(3) and 86.8(5), unless premiums are subsequently received in accordance with the grace period provisions of subrule 86.8(4).

86.7(4) *Iowa residence abandoned.* The child shall be canceled from the program as of the first day of the month following the month in which the child relocated to another state. Eligibility shall not be canceled when the child is temporarily absent from the state in accordance with the provisions of 441—subrule 75.10(2).

86.7(5) *Eligible for Medicaid.* The child shall be canceled from the program as of the first day of the month following the month in which Medicaid eligibility is obtained. If there are months during which the child is covered by both the Medicaid and hawki programs, the hawki program shall be the primary payor and Medicaid shall be the payor of last resort.

86.7(6) *Enrolled in other health insurance coverage.* The child shall be canceled from the program as of the first day of the month following the month in which the department is notified that the child has other health insurance coverage. If there are months during which the child is covered by both another insurance plan and the hawki program, the other insurance plan shall be the primary payor and hawki shall be the payor of last resort.

86.7(7) *Admission to a public institution.* The child shall be canceled from the program if the child is in a public institution at the time of the annual review.

86.7(8) *Admission to an institution for mental disease.* The child shall be canceled from the program if the child is a patient in an institution for mental disease at the time of annual review.

86.7(9) *Employment with the state of Iowa.* The child shall be canceled from the hawki program as of the first day of the month in which the child's parent became eligible to participate in a health or dental plan available to state of Iowa employees.

[**ARC 8478B**, IAB 1/13/10, effective 3/1/10; **ARC 9083B**, IAB 9/22/10, effective 9/1/10; **ARC 0837C**, IAB 7/24/13, effective 10/1/13; **ARC 4779C**, IAB 11/20/19, effective 12/25/19; **ARC 5141C**, IAB 8/12/20, effective 12/1/20]

441—86.8(514I) Premiums and copayments.

86.8(1) *Income considered.* The income considered in determining the premium amount shall be the family's countable income using the modified adjusted gross income methodology.

86.8(2) *Premium amount.* Except as specified for supplemental dental-only coverage in subrule 86.20(3), premiums under the hawki program shall be assessed as follows:

a. No premium is charged if:

(1) The eligible child is an American Indian or Alaska Native; or

(2) The family's countable income is less than 181 percent of the federal poverty level for a family of the same size.

b. If the family's countable income is equal to or exceeds 181 percent of the federal poverty level for a family of the same size but does not exceed 242 percent of the federal poverty level for a family of that size, the premium is $10 per child per month with a $20 monthly maximum per family.

c. If the family's countable income is equal to or exceeds 243 percent of the federal poverty level for a family of the same size, the premium is $20 per child per month with a $40 monthly maximum per family.

86.8(3) *Due date.*

a. *Payment upon initial application.* "Initial application" means the first program application or a subsequent application that is not a renewal. Upon approval of an initial application, the first month for which a premium is due is the third month following the month of decision. The due date of the first premium shall be the fifth day of the second month following the month of decision.

b. *Payment upon renewal.* "Renewal" means any application used to establish ongoing eligibility, without a break in coverage, for any enrollment period subsequent to an enrollment period established by an initial application.

(1) Upon approval of a renewal, the first month for which a premium is due is the first month of the enrollment period. The premium for the first month of the enrollment period shall be due by the fifth day of the month before the month of coverage or the tenth business day following the date of decision, whichever is later.

(2) All premiums due must be paid before the child will be enrolled for coverage. When the premium is received, the department shall notify the health and dental plans of the enrollment.

c. *Subsequent payments.* All subsequent premiums are due by the fifth day of each month for the next month's coverage. Premiums may be paid in advance (e.g., on a quarterly or semiannual basis) rather than a monthly basis.

d. *Holiday or weekend.* When the premium due date falls on a holiday or weekend, the premium shall be due on the first business day following the due date.

86.8(4) *Grace period.* A grace period shall be allowed on any monthly premium not received as prescribed in paragraph 86.8(3)*"c."* The grace period shall be the month immediately following the last month for which the premium has been paid.

a. Failure to submit a premium by the last calendar day of the grace period shall result in disenrollment.

b. If the premium for the grace period and the premium for the following month's coverage is subsequently received within 45 calendar days following the last calendar day of the grace period, coverage will be reinstated, effective the first day of the calendar month following the grace period, without the need to reapply for coverage.

86.8(5) *Method of premium payment.* Premiums may be submitted in the form of cash, personal checks, electronic funds transfers (EFT), or other methods established by the department.

86.8(6) *Failure to pay premium.* Failure to pay the premium in accordance with subrules 86.8(3) and 86.8(5) shall result in cancellation from the program unless the grace period provisions of subrule 86.8(4) apply. Once a child is canceled from the program due to nonpayment of premiums, the family must reapply for coverage.

86.8(7) *Copayment.* There shall be a $25 copayment for each emergency room visit if the child's medical condition does not meet the definition of emergency medical condition.

EXCEPTION: A copayment shall not be imposed when family income is less than 181 percent of the federal poverty level for a family of the same size or when the child is an eligible American Indian or Alaska Native.

[**ARC 7770B**, IAB 5/20/09, effective 7/1/09; **ARC 8478B**, IAB 1/13/10, effective 3/1/10; **ARC 9083B**, IAB 9/22/10, effective 9/1/10; **ARC 0837C**, IAB 7/24/13, effective 10/1/13; **ARC 1287C**, IAB 1/8/14, effective 1/1/14; **ARC 2912C**, IAB 1/18/17, effective 3/1/17; **ARC 4779C**, IAB 11/20/19, effective 12/25/19]

441—86.9(514I) Annual reviews of eligibility. All eligibility factors shall be reviewed at least every 12 months to establish ongoing eligibility for the program. "Month one" shall be the first month in which coverage is provided.

86.9(1) *Review form.* A prepopulated review form on which the answers, except for income, have been completed based on the information on file shall be sent to the family. The family shall review the completed information for accuracy and fill in the income section of the form. If family income cannot be verified through electronic data matches, the family shall be required to provide verification of current income. The family shall sign and date the form attesting to its accuracy as part of the review process.

86.9(2) *Failure to provide information.* The child shall not be enrolled for the next 12-month period if the family fails to provide information and verification of income or otherwise fails to cooperate in the annual review process. If the completed review form and any information necessary to establish continued eligibility are received within 14 calendar days of the end of an enrollment period, the review form and information shall be acted upon as though they had been received timely. If the fourteenth calendar day falls on a weekend or state holiday, the enrollee shall have until the next business day to provide the review form and any information necessary to establish continued eligibility.

86.9(3) *Change in plan.* Rescinded IAB 1/13/10, effective 3/1/10.

[**ARC 8478B**, IAB 1/13/10, effective 3/1/10; **ARC 8580B**, IAB 3/10/10, effective 3/1/10; **ARC 0837C**, IAB 7/24/13, effective 10/1/13]

441—86.10(514I) Reporting changes. Changes that may affect eligibility shall be reported timely to the department. "Timely" shall mean no later than ten working days after the change occurred. The ten working-day period begins the first working day following the date of the change. The parent, guardian, or other adult responsible for the child shall report the change unless the child is emancipated, married, or otherwise in an independent living situation, in which case the child shall be responsible for reporting the change.

86.10(1) *Iowa residence is abandoned.* The abandonment of Iowa residence shall be reported following the move from the state.

86.10(2) *Other insurance coverage.* Enrollment of the child in other health insurance coverage shall be reported.

86.10(3) *Decrease in income.* If the family reports a decrease in income, the department shall ascertain whether the change affects the premium obligation of the family. If the change is such that the family is no longer required to pay a premium in accordance with the provisions of rule 441—86.8(514I), premiums will no longer be charged beginning with the month following the month of the report of the change.

86.10(4) *Decrease in income.* If the family reports a decrease in income, the department shall ascertain whether the change affects the premium obligation of the family. If the change is such that the family is no longer required to pay a premium in accordance with the provisions of rule 441—86.8(514I), premiums will no longer be charged beginning with the month following the month of the report of the change.

86.10(5) *Information reported by a third party.* Information reported by a third party shall not be acted upon until the information is verified in accordance with subrule 86.3(7).

86.10(6) *Cooperation.* The provisions of subrule 86.3(7) shall apply when a request for information or verification is made due to a change. In addition, failure of the enrollee or of the person acting on behalf of the enrollee to provide requested information or verification that may affect eligibility for the program shall result in cancellation and recoupment of all payments made by the department on behalf of the enrollee during the period in question.

86.10(7) *Effective date of change in eligibility.*

a. When a change in circumstances has a positive effect on eligibility, the change in eligibility shall be effective no earlier than the month following the month in which the change in circumstances was reported, regardless of when the change was reported.

b. When a change in circumstances has an adverse effect on eligibility, the change in eligibility shall be effective no earlier than the month following the issuance of a timely notification, in accordance with the provisions of rule 441—86.11(514I). When the change in circumstances was not reported timely, as defined in this rule, benefits shall be recouped beginning with the month following the month in which the change occurred.

c. When an anticipated change in circumstances is reported before the change occurs, no action shall be taken until the change actually occurs and is verified in accordance with the provisions of subrule 86.3(7).

[**ARC 0837C**, IAB 7/24/13, effective 10/1/13; **ARC 5141C**, IAB 8/12/20, effective 12/1/20]

441—86.11(514I) Notice requirements. The applicant shall be provided an adequate written notice of the decision regarding the applicant's eligibility for the hawki program. The enrollee shall be notified in writing of any decision that adversely affects the enrollee's eligibility or the amount of benefits. The notice shall be timely and adequate as provided in rule 441—16.3(17A).

[**ARC 0837C**, IAB 7/24/13, effective 10/1/13; **ARC 4973C**, IAB 3/11/20, effective 4/15/20]

441—86.12(514I) Appeals and fair hearings. If the applicant or enrollee disputes a decision to reduce, cancel or deny participation in the hawki program, the applicant or enrollee may appeal the decision in accordance with 441—Chapter 7.

[**ARC 0837C**, IAB 7/24/13, effective 10/1/13]

441—86.13(514I) Third-party administrator. Rescinded **ARC 5141C**, IAB 8/12/20, effective 12/1/20.

441—86.14(514I) Covered services. The benefits provided under the hawki program shall meet a benchmark, benchmark equivalent, or benefit plan that complies with Title XXI of the federal Social Security Act.

86.14(1) *Required medical services.* The participating health plan shall cover at a minimum the following medically necessary services:

a. Inpatient hospital services (including medical, surgical, intensive care unit, mental health, and substance abuse services).

b. Physician services (including surgical and medical, and including office visits, newborn care, well-baby and well-child care, immunizations, urgent care, specialist care, allergy testing and treatment, mental health visits, and substance abuse visits).

c. Outpatient hospital services (including emergency room, surgery, lab, and x-ray services and other services).

d. Ambulance services.

e. Physical therapy.

f. Nursing care services (including skilled nursing facility services).

g. Speech therapy.

h. Durable medical equipment.

i. Home health care.

j. Hospice services.

k. Prescription drugs.

l. Rescinded IAB 1/13/10, effective 3/1/10.

m. Hearing services.

n. Vision services (including corrective lenses).

o. Translation and interpreter services as specified pursuant to 42 U.S.C. Section 1397ee(a)(1).

p. Chiropractic services.

q. Occupational therapy.

86.14(2) *Abortion.* Payment for abortion shall only be made under the following circumstances:

a. The physician certifies that the pregnant enrollee suffers from a physical disorder, physical injury, or physical illness, including a life-endangering physical condition caused by or arising from the pregnancy itself, that would place the enrollee in danger of death unless an abortion is performed.

b. The pregnancy was the result of an act of rape or incest.

86.14(3) *Required dental services.* Participating dental plans shall cover at a minimum the following necessary dental services:

a. Diagnostic and preventive services.

b. Routine and restorative services.

c. Endodontic services.

d. Periodontal services.

e. Cast restorations.

f. Prosthetics.

[**ARC 8478B**, IAB 1/13/10, effective 3/1/10; **ARC 2912C**, IAB 1/18/17, effective 3/1/17; **ARC 5141C**, IAB 8/12/20, effective 12/1/20]

441—86.15(514I) Participating health and dental plans.

86.15(1) *Licensure.* The participating health or dental plan must:

a. Be licensed by the division of insurance of the department of commerce to provide health or dental care coverage in Iowa; or

b. Be an organized delivery system licensed by the director of public health to provide health or dental care coverage.

86.15(2) *Services.* The participating health or dental plan shall provide coverage for the services specified in rule 441—86.14(514I) to all children determined eligible.

a. The participating health or dental plan shall make services it provides to hawki enrollees at least as accessible to the enrollees (in terms of timeliness, duration and scope) as those services are accessible to other commercial enrollees in the area served by the health or dental plan.

b. Participating health plans shall ensure that emergency services (inpatient and outpatient) are available for treatment of an emergency medical condition 24 hours a day, seven days a week, either through the health plan's own providers or through arrangements with other providers.

c. If a participating health or dental plan does not provide statewide coverage, the health or dental plan shall participate in every county in which it is licensed and in which a provider network has been established.

86.15(3) *Premium tax.* Premiums paid to participating health and dental plans by the department are exempt from premium tax.

86.15(4) *Provider network.* The participating health or dental plan shall establish a network of providers. Providers contracting with the participating health or dental plan shall comply with hawki requirements, which shall include collecting copayments, if applicable.

86.15(5) *Identification cards.* Identification cards shall be issued by the participating health or dental plan to the enrollees for use in securing covered services.

86.15(6) *Marketing.*

a. Participating health and dental plans may not distribute directly or through an agent or independent contractor any marketing materials.

b. All marketing materials require prior approval from the department.

c. At a minimum, participating health and dental plans must provide the following material in writing or electronically:

(1) A current member handbook that fully explains the services available, how and when to obtain them, and special factors applicable to the hawki enrollees. At a minimum the handbook shall include covered services, network providers, exclusions, emergency services procedures, 24-hour toll-free number for certification of services, daytime number to call for assistance, appeal procedures, enrollee rights and responsibilities, and definitions of terms.

(2) All health and dental plan literature and brochures shall be available in English and any other language when enrollment in the health or dental plan by enrollees who speak the same non-English language equals or exceeds 10 percent of all enrollees in the health or dental plan .

d. All health and dental plan literature and brochures shall be approved by the department.

e. The participating health and dental plans shall not, directly or indirectly, conduct door-to-door, telephonic, or other "cold-call" marketing.

f. The participating health or dental plan may make marketing presentations at the discretion of the department.

86.15(7) *Appeal process.* The participating health or dental plan shall have a written procedure by which enrollees may appeal issues concerning the health or dental care services provided through providers contracted with the health or dental plan and which:

a. Is approved by the department prior to use.

b. Acknowledges receipt of the appeal to the enrollee.

c. Establishes time frames which ensure that appeals be resolved within 45 days, except for appeals which involve emergency medical conditions, which shall be resolved within time frames appropriate to the situations.

d. Ensures the participation of persons with authority to take corrective action.

e. Ensures that the decision be made by a physician, dentist, or clinical peer not previously involved in the case.

f. Ensures the confidentiality of the enrollee.

g. Ensures issuance of a written decision to the enrollee for each appeal which shall contain an adequate explanation of the action taken and the reason for the decision.

h. Maintains a log of the appeals which is made available to the department at its request.

i. Ensures that the participating health or dental plan's written appeal procedures be provided to each newly covered enrollee.

j. Requires that the participating health or dental plan make quarterly reports to the department summarizing appeals and resolutions.

86.15(8) *Appeals to the department.* Rescinded IAB 1/13/99, effective 1/1/99.

86.15(9) *Records and reports.* The participating health and dental plans shall maintain records and reports as follows:

a. The health or dental plan shall comply with the provisions of rule 441—79.3(249A) regarding maintenance and retention of clinical and fiscal records and shall file a letter with the commissioner of insurance as described in Iowa Code section 228.7. In addition, the health or dental plan or subcontractor of the health or dental plan, as appropriate, must maintain a medical or dental records system that:

(1) Identifies each medical or dental record by hawki enrollee identification number.

(2) Maintains a complete medical or dental record for each enrollee.

(3) Provides a specific medical or dental record on demand.

(4) Meets state and federal reporting requirements applicable to the hawki program.

(5) Maintains the confidentiality of medical or dental records information and releases the information only in accordance with established policy below:

1. All medical and dental records of the enrollee shall be confidential and shall not be released without the written consent of the enrollee or responsible party.

2. Written consent is not required for the transmission of medical or dental records information to physicians, dentists, other practitioners, or facilities that are providing services to enrollees under a subcontract with the health or dental plan. This provision also applies to specialty providers who are retained by the health or dental plan to provide services which are infrequently used, which provide a support system service to the operation of the health or dental plan, or which are of an unusual nature.

This provision is also intended to waive the need for written consent for department staff assisting in the administration of the program, reviewers from the peer review organization (PRO), monitoring authorities from the Centers for Medicare and Medicaid Services (CMS), the health or dental plan itself, and other subcontractors which require information as described under numbered paragraph "5" below.

3. Written consent is not required for the transmission of medical or dental records information to physicians, dentists, or facilities providing emergency care pursuant to paragraph 86.15(2)*"b."*

4. Written consent is required for the transmission of the medical or dental records information of a former enrollee to any physician or dentist not connected with the health or dental plan.

5. The extent of medical or dental records information to be released in each instance shall be based upon a test of medical or dental necessity and a "need to know" on the part of the practitioner or a facility requesting the information.

6. Medical and dental records maintained by subcontractors shall meet the requirements of this rule.

EXCEPTION: Written consent is required for the transmission of medical records relating to substance abuse, HIV, or mental health treatment in accordance with state and federal laws.

b. Each health or dental plan shall provide at a minimum reports and plan information to the department as follows:

(1) A list of providers of services under the plan.

(2) Encounter data on a monthly basis as required by the department.

(3) Other information as directed by the department.

c. Each health or dental plan shall at a minimum provide reports and health or dental plan information to the department as follows:

(1) Information regarding the plan's appeal process.

(2) A plan for a health improvement program.

(3) Periodic financial, utilization and statistical reports as required by the department.

(4) Time-specific reports which define activity for child health care, appeals and other designated activities which may, at the department's discretion, vary among plans, depending on the services covered or other differences.

(5) Other information as directed by the department.

86.15(10) *System.* The participating health or dental plan shall maintain data files that are compatible with the department's system.

86.15(11) *Payment to the participating health or dental plan.*

a. In consideration for all services rendered by a health or dental plan, the health or dental plan shall receive a payment each month for each enrollee. This capitation rate represents the total obligation of the department with respect to the costs of medical or dental care and services provided to the enrollees.

b. The capitation rate shall be actuarially determined by the department July of 2000 and each fiscal year thereafter using statistics and data assumptions and relevant experience derived from similar populations.

c. The capitation rate does not include any amounts for the recoupment of losses suffered by the health or dental plan for risks assumed under the current or any previous contract. The health or dental plan accepts the rate as payment in full for the contracted services. Any savings realized by the health or dental plan due to lower utilization from a less frequent incidence of health or dental problems among the enrolled population shall be wholly retained by the health or dental plan.

d. If an enrollee has third-party coverage or a responsible party other than the hawki program available for purposes of payment for medical or dental expenses, it is the right and responsibility of the health or dental plan to investigate these third-party resources and attempt to obtain payment. The health or dental plan shall retain all funds collected through third-party sources. A complete record of all income from these sources must be maintained and made available to the department.

86.15(12) *Quality assurance.* The health or dental plan shall have in effect an internal quality assurance system.

[**ARC 8478B**, IAB 1/13/10, effective 3/1/10; **ARC 0837C**, IAB 7/24/13, effective 10/1/13; **ARC 5141C**, IAB 8/12/20, effective 12/1/20]

441—86.16(514I) Clinical advisory committee. Members of the clinical advisory committee established in accordance with the provisions of 441—paragraph 1.10(2)*"c"* shall be appointed to three-year terms. Members may be appointed for more than one term. No more than one-third of the membership of the committee shall rotate off the committee in any given calendar year.

441—86.17(514I) Use of donations to the hawki program. If an individual or other entity makes a monetary donation to the hawki program, the department shall deposit the donation into the hawki trust fund. The department shall track all donations separately and shall not commingle the donations with other moneys in the trust fund. The department shall report the receipt of all donations to the hawki board.

86.17(1) If the donor specifically identifies the purpose of the donation, regardless of the amount, the donation shall be used as specified by the donor as long as the identified purpose is permissible under state and federal law.

86.17(2) If the donation is less than $5,000 and the donor does not specifically identify how it is to be used, the department shall use the moneys in the following order:

a. For the direct benefit of enrollees (e.g., premium payments).

b. For outreach activities.

c. For other purposes as determined by the hawki board.

86.17(3) If the donation is more than $5,000 and the donor does not specify how the funds are to be used, the hawki board shall determine how the funds are to be used.

441—86.18(505) Health insurance data match program. All carriers, as defined in Iowa Code section 514C.13, shall enter into an agreement with the department to provide data necessary to allow the department to comply with the mandate of Iowa Code section 505.25. Each carrier shall either:

1. Enter into and maintain an agreement with the department on Form 470-4435, Hawki Data Use Agreement; or
2. Provide proof of an existing agreement with the department or the department's designee.

441—86.19(514I) Recovery.

86.19(1) *Definitions.*

"Administrative error" means an action of the department that results in incorrect payment of benefits, including premiums paid to a health or dental plan, due to one or more of the following circumstances:

1. Misfiled or lost form or document.
2. Error in typing or copying.
3. Computer input error.
4. Mathematical error.
5. Failure to determine eligibility correctly when all essential information was available to the department.
6. Failure to request essential verification necessary to make an accurate eligibility determination.
7. Failure to make timely revision in eligibility following a change in policy requiring application of the policy change as of a specific date.
8. Failure to issue timely notice to cancel benefits that results in benefits continuing in error.

"Client error" means any action or inaction of the enrollee or the enrollee's representative that results in incorrect payment of benefits, including premiums paid to a health or dental plan, because at least one of the following occurred:

1. The enrollee or the enrollee's representative failed to disclose information or gave a false or misleading statement, oral or written, regarding income or another eligibility factor; or
2. The enrollee or the enrollee's representative failed to timely report a change as defined in rule 441—86.10(514I).

86.19(2) *Amount subject to recovery from the enrollee or representative.* The department may recover from the enrollee or the enrollee's representative the amount of premiums incorrectly paid to a

health or dental plan on behalf of the enrollee due to client error, minus any premium payments made by the enrollee, in accordance with 441—Chapter 11.

a. Premiums incorrectly paid to a health or dental plan on behalf of an enrollee due to an administrative error are not subject to recovery from the enrollee.

b. Payments made by a health or dental plan to a provider of medical or dental services are not subject to recovery from the enrollee regardless of the cause of the error.

86.19(3) *Notification.* The enrollee shall be promptly notified when it is determined that funds were incorrectly paid due to a client error. Notification shall include:

a. The name of the person for whom funds were incorrectly paid;

b. The period during which the funds were incorrectly paid;

c. The amount subject to recovery; and

d. The reason for the incorrect payment.

86.19(4) *Recovery.*

a. Recovery shall be made:

(1) From the enrollee when the enrollee completed the application and had responsibility for reporting changes, or

(2) From the enrollee's representative (i.e., the parent, guardian, or other responsible person acting on behalf of an enrollee who is under the age of 19) when the representative completed the application and had responsibility for reporting changes.

b. The enrollee or representative shall repay to the department the funds incorrectly expended on behalf of the enrollee.

c. Recovery may come from income, income tax refunds, lottery winnings, or other resources of the enrollee or representative.

86.19(5) *Appeals.* The enrollee shall have the right to appeal a decision to recover benefits under the provisions of 441—Chapter 7.

[**ARC 8478B**, IAB 1/13/10, effective 3/1/10; **ARC 8839B**, IAB 6/16/10, effective 8/1/10; **ARC 0552C**, IAB 1/9/13, effective 4/1/13; **ARC 0837C**, IAB 7/24/13, effective 10/1/13; **ARC 5141C**, IAB 8/12/20, effective 12/1/20]

441—86.20(514I) Supplemental dental-only coverage.

86.20(1) *Definition.*

"Supplemental dental-only coverage" means dental care coverage provided to a child who meets the eligibility requirements for the hawki program except that the child is covered by health insurance through an individual or group health plan.

86.20(2) *Eligibility.* Unless otherwise specified, eligibility for supplemental dental-only coverage shall be determined in accordance with the provisions of rules 441—86.2(514I) through 441—86.12(514I) and 441—86.19(514I).

86.20(3) *Premiums.* Premiums for participation in the supplemental dental-only plan are assessed as follows:

a. No premium is charged to families whose countable income is less than or equal to 167 percent of the federal poverty level for a family of the same size using the modified adjusted gross income methodology or to an eligible child who is an American Indian or Alaska Native.

b. If the family's countable income is equal to or exceeds 168 percent of the federal poverty level but does not exceed 203 percent of the federal poverty level for a family of the same size, the premium is $5 per child per month with a $10 monthly maximum per family.

c. If the family's countable income exceeds 203 percent of the federal poverty level but does not exceed 254 percent of the federal poverty level for a family of the same size, the premium is $10 per child per month with a $15 monthly maximum per family.

d. If the family's countable income exceeds 254 percent of the federal poverty level for a family of the same size, the premium is $15 per child per month with a $20 monthly maximum per family.

e. If the family includes uninsured children who are eligible for both medical and dental coverage under hawki and insured children who are eligible only for dental coverage, the premium shall be assessed as follows:

(1) The total premium shall be no more than the amount that the family would pay if all the children were eligible for both medical and dental coverage.

(2) If the family has one child eligible for both medical and dental coverage and one child eligible for dental coverage only, the premium shall be the total of the health and dental premium for one child and the dental premium for one child.

(3) If the family has two or more children eligible for both medical and dental coverage, no additional premium shall be assessed for dental-only coverage for the children who do not qualify for medical coverage under hawki because they are covered by health insurance.

f. The provisions of subrules 86.8(3) to 86.8(6) apply to premiums specified in this subrule.

86.20(4) *Waiting lists.* Before the provisions of subrule 86.3(10) are implemented, all children enrolled in supplemental dental-only coverage shall be disenrolled from the program.

[**ARC 8478B**, IAB 1/13/10, effective 3/1/10; **ARC 9083B**, IAB 9/22/10, effective 9/1/10; **ARC 0837C**, IAB 7/24/13, effective 10/1/13; **ARC 1287C**, IAB 1/8/14, effective 1/1/14; **ARC 2912C**, IAB 1/18/17, effective 3/1/17; **ARC 4779C**, IAB 11/20/19, effective 12/25/19; **ARC 5141C**, IAB 8/12/20, effective 12/1/20]

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CHAPTER 176
DEPENDENT ADULT ABUSE

[Prior to 7/1/83, Social Services[770] Ch 156]
[Previously appeared as Ch 156—renumbered IAB 2/29/84]
[Prior to 2/11/87, Human Services[498]]

441—176.1(235B) Definitions.

"Adult abuse" means either:

1. Any of the following as a result of the willful or negligent acts or omissions of a caretaker:

- Physical injury to, or injury which is at variance with the history given of the injury, or unreasonable confinement, unreasonable punishment, or assault of a dependent adult.
- The commission of a sexual offense under Iowa Code chapter 709 or Iowa Code section 726.2 with or against a dependent adult.
- Exploitation of a dependent adult, which means the act or process of taking unfair advantage of a dependent adult or the adult's physical or financial resources, without the informed consent of the dependent adult, including theft, by the use of undue influence, harassment, duress, deception, false representation, or false pretenses.
- The deprivation of the minimum food, shelter, clothing, supervision, physical or mental health care, and other care necessary to maintain a dependent adult's life or health.
- Sexual exploitation of a dependent adult by a caretaker. "Sexual exploitation" means any consensual or nonconsensual sexual contact with a dependent adult which includes but is not limited to kissing; touching of the clothed or unclothed inner thigh, breast, groin, buttock, anus, pubes, or genitals; or a sex act, as defined in Iowa Code section 702.17. "Sexual exploitation" includes the transmission, display, taking of electronic images of the unclothed breast, groin, buttock, anus, pubes, or genitals of a dependent adult by a caretaker for a purpose not related to treatment or diagnosis or as part of an ongoing assessment, evaluation or investigation. "Sexual exploitation" does not include touching which is part of a necessary examination, treatment, or care by a caretaker acting within the scope of the practice or employment of the caretaker; the exchange of a brief touch between the dependent adult and a caretaker for the purpose of reassurance, comfort, or casual friendship; or touching between spouses.
- Personal degradation of a dependent adult, which means a willful act or statement by a caretaker intended to shame, degrade, humiliate, or otherwise harm the personal dignity of a dependent adult, or where the caretaker knew or reasonably should have known the act or statement would cause shame, degradation, humiliation, or harm to the personal dignity of a reasonable person.

2. The deprivation of the minimum food, shelter, clothing, supervision, physical or mental health care, and other care necessary to maintain a dependent adult's life or health as a result of the acts or omissions of the dependent adult.

"Appropriate evaluation or assessment" means that evaluation or assessment reasonably believed by the department to be warranted by the facts and circumstances of the case as reported.

"Assault" means "assault" as defined in Iowa Code section 708.1.

"At-risk adult" means an adult who, because of a significant impairment due to a physical or mental disability or both, is unable to meet essential daily needs without assistance and whose personal health or safety is at risk due to such impairments, the environment, substance abuse problems, a lack of services or social supports, a refusal to accept services, or other risk factors identified through an assessment.

"Caretaker" means a related or nonrelated person who has the responsibility for the protection, care, or custody of a dependent adult as a result of assuming the responsibility voluntarily, by contract, through employment, or by order of the court.

"Collateral sources" means any person or agency who is presently providing, either in a professional or paraprofessional capacity, service to the dependent adult, including, but not limited to, doctors, counselors, and public health nurses.

"Confidentiality" means the withholding of information from any manner of communication, public or private.

"Denial of critical care" exists when the dependent adult's basic needs are denied or ignored to such an extent that there is immediate or potential danger of the dependent adult suffering injury or death, or

is a denial of, or a failure to provide the mental health care necessary to adequately treat the dependent adult's serious social maladjustment, or is a gross failure of the caretaker to meet the emotional needs of the dependent adult necessary for normal functioning, or is a failure of the caretaker to provide for the proper supervision of the dependent adult.

"Department" means the department of human services and includes the county and central offices of the department, unless otherwise specified.

"Dependent adult" means a person 18 years of age or older who is unable to protect the person's own interests or unable to adequately perform or obtain services necessary to meet essential human needs, as a result of a physical or mental condition which requires assistance from another.

"Expungement" means the process of destroying dependent adult abuse information.

"Immediate danger to health or safety" means a situation in which death or severe bodily injury could reasonably be expected to occur without intervention.

"Immediately" means within 24 hours when referring to mandatory reporters reporting suspected abuse of a dependent adult.

"Individual employed as an outreach person" means a person who, in the course of employment, makes regular contacts with dependent adults regarding available community resources.

"Informed consent" (as used in Iowa Code section 235B.2(5)*"c"*) means a dependent adult's agreement to allow something to happen that is based on a full disclosure of known facts and circumstances needed to make the decision intelligently, i.e., knowledge of risks involved or alternatives.

"Minimum food, shelter, clothing, supervision, physical and mental health care, and other care" means that food, shelter, clothing, supervision, physical and mental health care, and other care which, if not provided, would constitute denial of critical care.

"Multidisciplinary team" shall mean a membership of individuals who possess knowledge and skills related to the diagnosis, assessment, and disposition of dependent adult abuse cases and who are professionals practicing in the disciplines of medicine, public health, social work, law, law enforcement and other disciplines relative to dependent adults. Members of the team shall include, but are not limited to, persons representing the area agencies on aging, county attorneys, health care providers, and others involved in advocating or providing services for dependent adults.

"Physical injury" means damage to any bodily tissue to the extent that the tissue must undergo a healing process in order to be restored to a sound and healthy condition, or damage to any bodily tissue to the extent that the tissue cannot be restored to a sound and healthy condition, or damage to any bodily tissue which results in the death of the person who has sustained the damage, or physical injury which is at variance with the history given of it.

"Preponderance of evidence" shall mean evidence which is of greater weight or more convincing than the evidence which is offered in opposition to it.

"Proper supervision" means that supervision which a reasonable and prudent person would exercise under similar facts and circumstances, but in no event shall a person place a dependent adult in a situation that may endanger the dependent adult's life or health or cruelly punish or unreasonably confine the dependent adult.

"Registry" means the central registry for dependent adult abuse information established in Iowa Code Supplement section 235B.5.

"Report" means a verbal or written statement, made to the department, which alleges that dependent adult abuse has occurred.

[**ARC 8099B**, IAB 9/9/09, effective 8/13/09; **ARC 9258B**, IAB 12/1/10, effective 2/1/11; **ARC 5142C**, IAB 8/12/20, effective 10/1/20]

441—176.2(235B) Denial of critical care. The failure on the part of the caretaker or dependent adult to provide for minimum food, shelter, clothing, supervision, physical or mental care, and other care necessary for the dependent adult's health and welfare when financially able to do so or when offered financial and other reasonable means to do so shall constitute denial of critical care to that dependent adult.

441—176.3(235B) Appropriate evaluation. Immediately upon receipt of a dependent adult abuse report the worker shall conduct an intake sufficient to determine whether the allegation constitutes a report of dependent adult abuse.

176.3(1) Dependent adult abuse reports shall be evaluated when all of the following criteria are alleged to be met:

a. The person is a dependent adult.

b. Dependent adult abuse exists as defined in Iowa Code section 235B.2.

c. A caretaker exists in reports of physical injury to or unreasonable confinement or cruel punishment of a dependent adult; commission of a sexual offense; exploitation; personal degradation; and deprivation by another person of food, shelter, clothing, supervision, physical and mental health care and other care necessary to maintain life or health.

176.3(2) Nondependent adult abuse situations. The following are not dependent adult abuse situations:

a. A report of domestic abuse under Iowa Code chapter 236, Domestic Abuse, does not in and of itself constitute a report of dependent adult abuse.

b. Circumstances in which the dependent adult declines medical treatment if the dependent adult holds a belief or is an adherent of a religion whose tenets and practices call for reliance on spiritual means in place of reliance on medical treatment.

c. Circumstances in which the dependent adult's caretaker, acting in accordance with the dependent adult's stated or implied consent, declines medical treatment if the dependent adult holds a belief or is an adherent of a religion whose tenets and practices call for reliance on spiritual means in place of reliance on medical treatment.

d. Withholding and withdrawing of health care from a dependent adult who is terminally ill in the opinion of a licensed physician when the withholding and withdrawing of health care is done at the request of the dependent adult or at the request of the dependent adult's next-of-kin or guardian pursuant to the applicable procedures under Iowa Code chapter 125, 144A, 222, 229, or 633.

e. All persons legally incarcerated in a penal setting, either in a local jail or confined to the custody of the director of the department of corrections.

176.3(3) Reports of dependent adult abuse which are the result of the acts or omissions of the dependent adult shall be collected and maintained in the files of the dependent adult as assessments only and shall not be included on the central registry. The central registry shall be notified as to the disposition of the assessment.

176.3(4) Confirmed, not registered. Reports of physical abuse, denial of critical care by a caretaker, or personal degradation that would otherwise be founded reports shall be considered confirmed, not registered reports if the abuse is determined to be minor, isolated, and unlikely to reoccur. These reports shall be assessments and shall not be included on the central abuse registry. The assessment shall be maintained in the local office as directed in subrule 176.13(4).

[**ARC 5142C**, IAB 8/12/20, effective 10/1/20]

441—176.4(235B) Reporters. The central registry and county office shall accept reports from mandatory reporters or any other person who believes dependent adult abuse has occurred.

176.4(1) Mandatory reporters shall:

a. Report suspected abuse of a dependent adult within 24 hours of becoming aware of an abusive incident.

b. Make a written report within 48 hours after an oral report.

176.4(2) The reporter may use a form prescribed by the department or may use a form developed by the reporter that meets the requirements of Iowa Code section 235B.3.

[**ARC 4393C**, IAB 4/10/19, effective 6/1/19]

441—176.5(235B) Reporting procedure.

176.5(1) Each report made by someone other than a mandatory reporter may be oral or written.

176.5(2) The report shall be made by telephone or otherwise to the department of human services. When the person making the report has reason to believe that immediate protection for the dependent adult is advisable, that person shall also make an oral report to an appropriate law enforcement agency.

176.5(3) The department of human services shall:

a. Immediately, upon receipt of a report, make an oral report to the registry;

b. Forward a copy of the report to the registry; and

c. Promptly notify the appropriate county attorney of the receipt of any report.

176.5(4) The report shall contain the following information, or as much thereof as the person making the report is able to furnish:

a. The names and home addresses of the dependent adult, appropriate relatives, caretakers, and other persons believed to be responsible for the care of the dependent adult.

b. The dependent adult's present whereabouts if not the same as the address given.

c. The reason the adult is believed to be dependent. Dependency is the first criterion to be considered before beginning an evaluation.

d. The dependent adult's age.

e. The nature and extent of the adult abuse, including evidence of previous adult abuse. The existence of alleged adult abuse is the second criterion to be considered before beginning an evaluation.

f. Information concerning the suspected adult abuse of other dependent adults in the same residence.

g. Other information which the person making the report believes might be helpful in establishing the cause of the abuse or the identity of the person or persons responsible for the abuse, or helpful in providing assistance to the dependent adult.

h. The name and address of the person making the report.

176.5(5) A report shall be accepted whether or not it contains all of the information requested in 176.5(4), and may be made to the department, county attorney, or law enforcement agency. When the report is made to any agency other than the department of human services, that agency shall promptly refer the report to the department.

441—176.6(235B) Duties of the department upon receipt of report.

176.6(1) When a report is received, the department shall promptly commence an appropriate evaluation or assessment, except that the department of inspections and appeals is responsible for the evaluation and disposition of a case of adult abuse in a health care facility, including hospitals as defined in Iowa Code section 135B.1 and facilities as defined in Iowa Code section 135C.1. The department shall forward all reports and other information concerning adult abuse in a health care facility to the department of inspections and appeals on the first working day following the submitting of the report. The department of inspections and appeals shall inform the registry of all actions taken or contemplated concerning the evaluation or disposition of a case of adult abuse in a health care facility. The primary purpose of the evaluation or assessment by the department shall be the protection of the dependent adult named in the report.

176.6(2) The evaluation or assessment shall include all of the following:

a. Identification of the nature, extent, and cause of the adult abuse, if any, to the dependent adult named in the report.

b. The identification of the person or persons responsible for the adult abuse.

c. A determination of whether other dependent adults in the same residence have been subjected to adult abuse.

d. A critical examination of the residential environment of the dependent adult named in the report, and the dependent adult's relationship with caretakers and other adults in the same residence.

e. A critical explanation of all other pertinent matters.

176.6(3) The evaluation or assessment, with the consent of the dependent adult or caretaker, when appropriate, may include a visit to the residence of the dependent adult named in the report and an examination of the dependent adult. If permission to enter the residence and to examine the dependent adult is refused, the district court, upon a showing of probable cause that a dependent adult has been

abused, may authorize a person, authorized by the department, to make an evaluation or assessment, to enter the residence of, and to examine the dependent adult.

Upon a showing of probable cause that a dependent adult has been financially exploited, a court may authorize a person, also authorized by the department, to gain access to the financial records of the dependent adult.

176.6(4) County attorneys, law enforcement agencies, multidisciplinary teams as defined in Iowa Code section 235B.1, subsection 1, and social services agencies in the state shall cooperate and assist in the evaluation or assessment upon the request of the department. County attorneys and appropriate law enforcement agencies shall also take any other lawful action necessary or advisable for the protection of the dependent adult.

176.6(5) Completion of evaluation or assessment report. Upon completion of its evaluation or assessment, the department shall complete a report that describes its findings and includes all actions taken or contemplated.

a. The department shall complete its report within 20 working days of the receipt of the abuse allegations, unless the worker's supervisor grants an extension of time for good cause shown. The worker's supervisor may grant an extension for a maximum of 30 working days. No more than three extensions shall be granted.

b. Upon completion of an evaluation, the department shall enter its report into the dependent adult reporting and evaluation system (DARES).

c. Upon completion of an assessment when the alleged abuse is the result of the acts or omissions of the dependent adult, the department shall place the report in the case file of the dependent adult and enter the information into DARES.

176.6(6) Report to county attorney. The department shall transmit a copy of the report of its evaluation or assessment to the appropriate county attorney. The county attorney shall notify the local office of the department of any actions or contemplated actions with respect to a suspected case of adult abuse.

176.6(7) Based on the evaluation, the department shall complete an assessment of services needed by a dependent adult believed to be the victim of abuse, the dependent adult's family, or a caretaker. The department shall explain that the department does not have independent legal authority to compel the acceptance of protective services. Upon voluntary acceptance of the offer of services, the department shall make referrals or may provide necessary protective services to eligible dependent adults, their family members, and caretakers.

176.6(8) Court action. When, upon completion of the evaluation or assessment or upon referral from the state department of inspections and appeals, the department determines that the best interests of the dependent adult require court action, the department shall initiate action for the appointment of a guardian or conservator, or for admission or commitment to an appropriate institution or facility, pursuant to the applicable procedures under Iowa Code chapter 125, 222, 229, or 633. The department may pursue other remedies provided by law pursuant to the applicable procedures under Iowa Code sections 235B.17, 235B.18, 235B.19, and 235B.20 or any other legal remedy which provides protection to a dependent adult. The appropriate county attorney shall assist the department in the preparation of the necessary papers to initiate the action, and shall appear and represent the department at all district court proceedings.

176.6(9) The department shall assist the district court during all stages of court proceedings involving a suspected case of adult abuse.

176.6(10) In every case involving adult abuse which is substantiated by the department and which results in a judicial proceeding on behalf of the dependent adult, legal counsel shall be appointed by the court to represent the dependent adult in the proceedings. The court may also appoint a guardian ad litem to represent the dependent adult when necessary to protect the dependent adult's best interests. The same attorney may be appointed to serve both as legal counsel and as guardian ad litem. Before legal counsel or a guardian ad litem is appointed pursuant to Iowa Code section 235B.3, subsection 7, paragraph *"c,"* the court shall require the dependent adult and any person legally responsible for the support of the dependent adult to complete under oath a detailed financial statement. If, on the basis of

that financial statement, the court deems that the dependent adult or the legally responsible person is able to bear all or a portion of the cost of the legal counsel or guardian ad litem, the court shall so order. In cases where the dependent adult or the legally responsible person is unable to bear the cost of the legal counsel or guardian ad litem, the expense shall be paid by the county.

176.6(11) Notification of licensing authority. Based on information discovered during an evaluation of dependent adult abuse in a program providing care to a dependent adult, the department shall notify the licensing or accrediting authority for the program, the governing body of the program, and the administrator in charge of the program of any of the following:

a. A violation of program policy noted in the evaluation.

b. An instance in which program policy or lack of program policy may have contributed to the dependent adult abuse.

c. An instance in which general practice in the program appears to differ from the program's policy.

The licensing or accrediting authority, the governing body, and the administrator in charge of the program shall take any lawful action which may be necessary or advisable to protect dependent adults receiving care in the program.

176.6(12) Assessments by other agencies. The department may approve agencies considered capable and appropriate to complete assessments of dependent adults who are suspected of being abused.

a. The department may make a referral to an approved agency to complete an assessment of a dependent adult who is suspected of being abused, in conjunction with a department abuse evaluation or assessment on the dependent adult.

b. The department may use information obtained from the assessment completed by the approved agency in the abuse evaluation or assessment. The department has complete authority in determining the conclusions of the abuse evaluation or assessment.

176.6(13) Referrals to other agencies. During an assessment or evaluation of suspected abuse of a dependent adult, the department shall:

a. Make a referral to the division of labor services of the department of workforce development if an issue is discovered that concerns wages, workplace safety, or labor and employment matters under the jurisdiction of that agency.

b. Make a referral to the civil rights commission if an issue is discovered that involves discrimination under the jurisdiction of that agency.

176.6(14) Assessment of dependency and risk. After the first visit to a dependent adult who is alleged to be abused, the department shall complete an assessment of the adult using a form prescribed by the department. The department shall assess:

a. The adult's dependency,

b. The risk to the adult's health or safety, and

c. The areas in which the adult is either dependent or independent.

176.6(15) Follow-up for at-risk adults. When it has not been possible or necessary to obtain a court order for services to an at-risk adult, the department shall attempt to empower the at-risk adult to agree to accept services and to participate in preparing a safety plan. If the adult refuses to sign a safety plan for an at-risk adult and to accept recommended services, the department shall provide periodic visits.

a. *Purpose.* The purpose of the visits shall be to:

(1) Assess the adult for increased risk or impairment,

(2) Monitor the adult's situation to determine the feasibility of intervening with protective services, and

(3) Empower the adult to accept recommended services and to engage in safety planning.

b. *Exemption.* If it has been determined there is a physical threat to the safety of the department employee who is attempting to visit an at-risk adult, the department shall not attempt a periodic visit unless the physical threat to safety has been removed.

c. *Criteria to continue visits.* Periodic visits shall continue if:

(1) The adult's health or safety has deteriorated somewhat but not to the point that a court order is necessary; or

(2) The adult's health or safety has remained the same and there is a possibility the adult may in the future agree to services and to participating in preparing a safety plan.

d. *Criteria to end visits.* Periodic visits shall be terminated when:

(1) The adult agrees to services and services are arranged; or

(2) The adult's health or safety has deteriorated to the point that the department has requested court action pursuant to subrule 176.6(8); or

(3) The adult's health or safety has not changed six months after the initial report of alleged abuse; there appears no possibility the adult will ever agree to services; and the adult is competent to make decisions.

[**ARC 9258B**, IAB 12/1/10, effective 2/1/11; **ARC 4393C**, IAB 4/10/19, effective 6/1/19]

441—176.7(235B) Appropriate evaluation or assessment.

176.7(1) After receipt of the report alleging dependent adult abuse, the field worker shall make an evaluation or assessment to determine whether the information as reported, other known information, and any information gathered as a result of the worker's contact with collateral sources would tend to corroborate the alleged abuse.

176.7(2) When the information gathered in the evaluation or assessment tends to corroborate, or the worker is uncertain as to whether it repudiates the allegations of the report, the worker shall immediately continue the evaluation or assessment by making a reasonable effort to ensure the safety of the adult. The worker and the worker's supervisor shall determine whether an immediate threat to the physical safety of the adult is believed to exist.

a. If an immediate threat to the physical safety of the adult is believed to exist, the field worker shall make every reasonable effort to examine the adult, as authorized by 176.6(3), within one hour after receipt of the report and shall take any lawful action necessary or advisable for the protection of the adult.

b. When physical safety of the adult is not endangered, the worker shall make every reasonable effort to examine the adult within 24 hours after receipt of the report.

176.7(3) In the event the information gathered in the evaluation or assessment fails to corroborate the allegation of adult abuse, the worker, with approval of the supervisor, may terminate the evaluation or assessment and submit the report required by subrule 176.6(5).

441—176.8(235B) Immunity from liability for reporters. A person participating in good faith in making a report or cooperating or assisting the department in evaluating or assessing a case of dependent adult abuse has immunity from liability, civil or criminal, which might otherwise be incurred or imposed based upon the act of making the report or giving the assistance. The person has the same immunity with respect to participation in good faith in a judicial proceeding resulting from the report or assistance or relating to the subject matter of the report or assistance.

441—176.9(235B) Registry records. Central registry records shall be kept in the name of the dependent adult and cross-referenced in the name of the caretaker.

441—176.10(235B) Adult abuse information disseminated.

176.10(1) *Requests for information.* Written requests for adult abuse information by the subject of a report as defined in subrule 176.10(3), paragraph *"a,"* may be submitted to the county office of the department on the department-prescribed form entitled Request for Child and Dependent Adult Abuse Information.

Oral requests for dependent adult abuse information may be made to the county office or the central registry when the person making the request believes that the information is needed immediately and the person is authorized to access the information, pursuant to the requirements of Iowa Code section 235B.7, subsection 2. If a request is made orally by telephone, a written request shall be filed within 72 hours of the oral request on the department-prescribed form entitled Request for Child and Dependent Adult Abuse Information. When an oral request to the county office to obtain dependent adult abuse

information is granted by the central registry, the county shall document the approval to the central registry on the department-prescribed form entitled Request for Child and Dependent Adult Abuse Information.

All other requests for information shall be made to the central registry by mail or fax pursuant to the requirements of Iowa Code section 235B.7.

176.10(2) *Verification of identity.* The county office shall verify the identity of the person making the request on the department-prescribed form entitled Request for Child and Dependent Adult Abuse Information. Upon verification of the identity of the person making the request, the county office shall transmit the request to the central registry. The central registry shall verify the identity of persons making requests for information directly to the central registry by telephone, mail, fax, or in person, on the department-prescribed form entitled Request for Child and Dependent Adult Abuse Information.

176.10(3) *Approval of requests.* The department shall grant access to dependent adult abuse information as authorized by Iowa Code section 235B.6. Upon approval of any request for dependent adult abuse information authorized by this rule, the department may withhold the name of the person who made the report of dependent adult abuse when the department finds that the disclosure of the person's identity would be detrimental to the person's interest.

176.10(4) *Requests concerning applicants for employment and employees of health care programs.* A health care program making a request for dependent adult abuse information for the purpose of determining employability, as authorized by Iowa Code section 235B.6, subsection 2, paragraph *"e,"* subparagraphs (6) and (7), and section 135C.33, subsection 6, shall request the information directly from the central registry or obtain the information from the Internet electronic information system maintained by the health facilities division of the department of inspections and appeals.

Requests made directly to the central registry shall be made on the department-prescribed form entitled Request for Child and Dependent Adult Abuse Information.

Health care programs requesting dependent adult abuse background checks on employee applicants and employees by use of the Internet electronic information system shall complete the department-prescribed form entitled Access to Confidential Abuse Information and Non-Redissemination Agreement. The form shall be signed by the administrator of the health care program and be sent to the central registry before receipt of the information from the department. The administrator shall agree not to redisseminate dependent adult abuse information obtained through the Internet electronic information system, except as authorized in Iowa Code sections 235B.6 and 235B.8.

176.10(5) *Dissemination of undetermined reports.* Rescinded IAB 8/6/03, effective 7/10/03.

176.10(6) *Access to unfounded dependent adult abuse information.* Access to unfounded dependent adult abuse information is authorized only to:

a. Persons identified as subjects of a report, including the dependent adult named in a report as a victim, a guardian of a dependent adult named in a report as a victim, a person named in a report as having abused a dependent adult, or an attorney representing any of the above;

b. An employee or agency of the department of human services responsible for the evaluation or assessment of a dependent adult abuse report;

c. Registry or department personnel, when necessary to the performance of their official duties, or a person or agency under contract with the department to carry out official duties and functions of the registry;

d. The mandatory reporter who reported dependent adult abuse in an individual case;

e. The long-term care resident advocate, if the victim resides in a long-term care facility or the alleged perpetrator is an employee of a long-term care facility; and

f. A multidisciplinary team, if the department approves the composition of the team and determines that access to the team is necessary to assist in the evaluation, diagnosis, assessment, and disposition of a dependent adult abuse case.

176.10(7) *Requests concerning employees of department facilities.* When a request is made by the hiring authority of a department operated facility which provides direct client care and the request is made for the purpose of determining continued employability of a person employed, with or without

compensation, by the facility, the information shall be requested directly from the central registry. The information requested shall be disseminated to the personnel office of the department. The personnel office shall redisseminate the information to the hiring authority for the person involved only upon a finding that the information has a direct bearing on employability of the person involved.

When the personnel office determines that the information has no direct bearing on employability, the hiring authority shall be notified that no job-related dependent adult abuse information is available. If the central registry and local office files contain no information, the hiring authority shall be so informed.

176.10(8) *Dependent adult abuse information disseminated and redisseminated.* Notwithstanding subrule 176.10(1), written requests and oral requests are not required for dependent adult abuse information that is disseminated to an employee of the department of human services, a district court, or the attorney representing the department as authorized by Iowa Code section 235B.6.

176.10(9) *Required notification.* The department shall notify orally the subject of a report of the results of the evaluation or assessment. The department shall subsequently transmit a written notice to the subject which will include information regarding the results, the confidentiality provisions of Iowa Code sections 235B.6 and 235B.12, and the procedures for correction or expungement and appeal of dependent adult abuse information as provided in Iowa Code section 235B.10.

176.10(10) *Mandatory reporter notification.* The department shall attempt to notify orally the mandatory reporter who made the report in a dependent adult abuse case of the results of the evaluation or assessment and of the confidentiality provisions of Iowa Code sections 235B.6 and 235B.12. The department shall subsequently transmit a written adult protective notification on a form prescribed by the department to each mandatory reporter who made the report. The form shall include information regarding the results of the evaluation or assessment and confidentiality provisions. A copy of the written notice shall be transmitted to the registry and shall be maintained by the registry as provided in Iowa Code section 235B.8.

176.10(11) *Subjects informed of abuse history.* The department may inform a subject of a dependent adult abuse report of a person's abuse history if the department determines at any time that disclosure is necessary for the protection of the dependent adult. A subject may be informed that a person is listed on the child or dependent adult abuse registry as having a founded abuse report or is listed on the sex offender registry.

[**ARC 2427C**, IAB 3/2/16, effective 5/1/16; **ARC 4393C**, IAB 4/10/19, effective 6/1/19]

441—176.11(235B) Person conducting research. The person in charge of the central registry shall be responsible for determining whether a person requesting dependent adult abuse information is conducting bona fide research. To make this determination, the central registry may require these persons to submit credentials and the research design. If the registry determines that identified information is essential to the research design, the registry shall also determine the method by which written permission is to be secured from the dependent adult or guardians of the dependent adult who could be identified by the information to be researched. Any costs incurred in the dissemination of the information shall be assumed by the researcher. The department will keep a public record of persons conducting research.

441—176.12(235B) Examination of information. Examination of information contained in the central registry can be made at the site of the central registry between the hours of 8 a.m. and 12 p.m. or 1 p.m. and 4 p.m., Monday through Friday, except state authorized holidays.

The person, or that person's attorney, requesting to examine the information in the registry which refers to that person, shall be allowed to inspect the information after providing appropriate identification.

441—176.13(235B) Dependent adult abuse information registry. The department shall create a central abuse registry for dependent adult abuse information. The registry shall collect, maintain, and disseminate dependent adult abuse information as follows:

176.13(1) *Founded reports.* A report of dependent adult abuse determined to be founded shall be retained and sealed by the registry in accordance with Iowa Code section 235B.9.

176.13(2) *Unfounded reports.* A report of dependent adult abuse determined to be unfounded shall be expunged five years from the date it is determined to be unfounded, in accordance with Iowa Code section 235B.9, subsection 2, as amended by 2009 Iowa Acts, Senate File 484.

176.13(3) *Rejected intakes.* Reports that are found not to meet the criteria to be accepted for evaluation or assessment of abuse shall be kept in the local office for three years from the date the report of abuse was determined to be rejected.

176.13(4) *Assessments.* Reports classified as assessments shall not be included in the central registry but shall be maintained in the local office. The central registry shall be notified of the disposition of the assessment report.

a. *Self-denial of critical care.* Reports involving abuse as a result of the acts or omissions of the dependent adult will be assessments. These reports shall be retained in the dependent adult's case file in the local office for five years and then destroyed.

b. *Confirmed, not registered.* Reports of dependent adult abuse where physical abuse or denial of critical care committed by a caretaker is confirmed but is determined to be minor, isolated, and unlikely to reoccur shall be assessments. These reports shall be maintained in the local office for five years and then destroyed unless a subsequent report of dependent adult abuse on the same caretaker is founded. If a subsequent report on the same caretaker is founded within the five-year period, the confirmed, not registered report shall be maintained in the local office for ten years from the date of the subsequent report and then sealed.

[**ARC 8099B**, IAB 9/9/09, effective 8/13/09]

441—176.14(235B) Central registry. Rescinded IAB 10/30/91, effective 1/1/92.

441—176.15(235B) Multidisciplinary teams.

176.15(1) *Purpose of multidisciplinary teams.* The service area shall establish multidisciplinary teams for the purpose of assisting the department in assessment, diagnosis, and disposition of reported dependent adult abuse cases. The disposition of a case may include the provision for treatment recommendations and services.

176.15(2) *Execution of team agreement.* When the team is established, the service area manager or designee and all team members shall execute an agreement on a form prescribed by the department. The multidisciplinary team agreement shall specify:

a. That the team shall be consulted solely for the purpose of assisting the department in the assessment, diagnosis and treatment of dependent adult abuse cases.

b. That any team member may cause a dependent adult abuse case to be reviewed if approved by the department through use of the process of requesting adult abuse information specified in rule 441—176.10(235B).

c. That no team members shall redisseminate adult abuse information obtained solely through the multidisciplinary team. This shall not preclude redissemination of information as authorized by Iowa Code section 235B.6 when an individual team member has received information as a result of another authorized access provision of the Code.

d. That the department may consider the recommendation of the team in a specific dependent adult abuse case but shall not, in any way, be bound by the recommendations.

e. That any written report or document produced by the team pertaining to an individual case shall be made a part of the file for the case and shall be subject to all confidentiality provisions of Iowa Code sections 235B.6 and 235B.8 and of 441—Chapter 176.

f. That any written records maintained by the team which identify an individual dependent adult abuse case shall be destroyed when the agreement lapses.

g. That consultation team members shall serve without compensation.

h. That any party to the contract may withdraw with or without cause upon the giving of 30 days' notice.

i. The date on which the agreement will expire.

176.15(3) *Filing of agreement.* Whenever a team is created, a copy of the executed contract shall be filed with the central registry in addition to any other requirement placed upon execution of agreements by the department.

[**ARC 4393C**, IAB 4/10/19, effective 6/1/19]

441—176.16(235B) Medical and mental health examinations. In any year in which the legislature appropriates funds, the department shall administer a payment program for mental health or medical health examinations for subjects of dependent adult abuse reports.

176.16(1) *Conditions for payment.* The following conditions must be met before payment can be made:

a. Local resources to pay these costs must be exhausted.

b. The examination must be scheduled during the evaluation or assessment process.

c. Department staff must be involved in the decision to request the examination.

176.16(2) *Payment limits.* Payment for mental health examinations shall not exceed $250. Payment for a complete medical examination shall not exceed $160.

176.16(3) *Billing procedures.* Claims for payment shall be submitted to the division of behavioral, developmental, and protective services on Form GAX, General Accounting Expenditure, accompanied by a letter from department staff certifying that the necessary conditions for payment have been met.

441—176.17(235B) Request for correction or expungement. The department of human services is responsible for correction or expungement of reports prepared by department staff. The department of inspections and appeals is responsible for correction or expungement of reports prepared by that department's staff and that determination shall be binding on the registry.

176.17(1) Within six months of the date of the notice of evaluation results, a person may file with the registry a written statement to the effect that the dependent adult abuse information referring to the person is partially or entirely erroneous. The person may also request a correction of that information or of the findings of the report. The registry will record all requests and immediately forward the requests to the division of health facilities, department of inspections and appeals, when the reports were prepared by the department of inspections and appeals. The registry will notify the person requesting a correction that the report has been sent to the department of inspections and appeals.

176.17(2) Unless the designated department corrects the information or findings as requested, the designated department shall provide the person with an opportunity for a hearing as provided by 441—Chapter 7 to correct the information or the findings. The department may defer the hearing until the conclusion of a pending district court case relating to the information or findings.

These rules are intended to implement Iowa Code chapter 235B.

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CHAPTER 131
EMERGENCY MEDICAL SERVICES—PROVIDERS—INITIAL CERTIFICATION—RENEWAL AND REACTIVATION—AUTHORITY—COMPLAINTS AND INVESTIGATIONS

641—131.1(147A) Purpose. This chapter establishes the regulations and requirements for emergency medical provider initial certification for individuals who have been trained to provide emergency and nonemergency medical care at the EMR, EMT, AEMT, paramedic or other certification level recognized by the department before 2011; describes the authority, permission to practice and scope of practice for certified emergency medical care providers in the state of Iowa; and establishes the regulations and requirements for renewal, extension and reactivation of an emergency medical care provider certification in the state of Iowa.
[**ARC 5143C**, IAB 8/12/20, effective 9/16/20]

641—131.2(147A,147D) Definitions. For the purpose of these rules, the following definitions shall apply:

"Advanced emergency medical technician" or *"AEMT"* means an individual who has successfully completed a course of study based on the United States Department of Transportation's Advanced Emergency Medical Technician Instructional Guidelines (January 2009), has passed the psychomotor and cognitive examinations for the AEMT, and is currently certified by the department as an AEMT.

"Bureau" or *"BETS"* means the bureau of emergency and trauma services, the bureau designated by the department as the lead agency for coordinating and implementing the provision of emergency medical services in this state.

"CAPCE" means the Commission on Accreditation for Prehospital Continuing Education. CAPCE is an accrediting body charged with the review and accreditation of EMS continuing education.

"CEH" means continuing education hour, which is based upon a minimum of 50 minutes of training per hour.

"Certification" or *"certificate"* means a document issued by the department authorizing a person to practice as an emergency medical care provider in Iowa.

"Certification period" means the length of time an emergency medical care provider certificate is valid. The certification period shall be for two years from initial issuance or from renewal, unless otherwise specified on the certificate or unless sooner suspended or revoked.

"Certification status" means the status of an individual EMS certificate holder.

1. "Active" means the holder of the certification has the authority to function as an emergency medical care provider at the level certified in accordance with subrule 131.5(1).
2. "Probation," which is an active certification, means the holder of the certification has the authority to function as an emergency medical care provider at the level certified in accordance with subrule 131.5(1) and under the conditions of probation.
3. "Denied" means the certificate is inactive and the holder of the certification has no authority to function as an emergency medical care provider.
4. "Inactive" means the certificate is inactive and the holder of the certification has no authority to function as an emergency medical care provider.
5. "Revoked" means the certification is inactive and the holder of the certification has no authority to function as an emergency medical care provider.
6. "Surrendered" means the certification is inactive and the holder of the certification has no authority to function as an emergency medical care provider.
7. "Suspended" means the certification is inactive and the holder of the certification has no authority to function as an emergency medical care provider.

"Certified" means being officially recognized as meeting department-approved testing and training standards and being issued a certificate by the department in accordance with Iowa Code chapters 272C and 147A to practice as an emergency medical care provider in the state of Iowa.

"Cognitive examination" or *"written examination"* means the portion of the NREMT certification examination process evaluating the candidate's level of EMS knowledge.

"Compact" means the emergency medical services personnel licensure interstate compact according to Iowa Code chapter 147D. The compact facilitates the day-to-day movement of emergency medical services personnel across state boundaries in the performance of emergency medical services duties and authorizes the department to afford immediate permission to practice to emergency medical services personnel licensed in a member state.

"Core continuing education" means education obtained during a certification period to renew certification. Core continuing education shall have an assigned sponsor number from CAPCE, an authorized EMS training program, the board of nursing, the board of medicine or the department.

"Critical care paramedic" or *"CCP"* means a currently certified paramedic who has successfully completed a critical care course of instruction approved by the department and has received endorsement from the department as a critical care paramedic.

"Department" means the Iowa department of public health.

"Director" means the director of the Iowa department of public health.

"Emergency medical care" means any medical procedure authorized by Iowa Code chapter 147A and these rules.

"Emergency medical care provider" means an individual who has been trained to provide emergency and nonemergency medical care at the EMR, EMT, AEMT, paramedic, or other certification level recognized by the department before 2011 and has been issued a certificate by the department, or a person practicing in accordance with Iowa Code chapter 147D.

"Emergency medical care student" means an individual registered with the department and enrolled in an EMS training program with an active EMS student registration.

"Emergency medical responder" or *"EMR"* means an individual who has successfully completed a course of study based on the United States Department of Transportation's Emergency Medical Responder Instructional Guidelines (January 2009), has passed the psychomotor and cognitive examinations for the EMR, and is currently certified by the department as an EMR.

"Emergency medical services" or *"EMS"* means an integrated medical care delivery system to provide emergency and nonemergency medical care at the scene or during out-of-hospital patient transportation in an ambulance.

"Emergency medical technician" or *"EMT"* means an individual who has successfully completed a course of study based on the United States Department of Transportation's Emergency Medical Technician Instructional Guidelines (January 2009), has passed the psychomotor and cognitive examinations for the EMT, and is currently certified by the department as an EMT.

"Emergency medical technician-defibrillation" or *"EMT-D"* means an individual who has successfully completed an approved program and is currently certified by the department as an EMT-D.

"EMS clinical guidelines" or *"minimum EMS clinical guidelines"* means a minimum clinical standard approved by the department upon which a service program's medical director shall base service program protocols.

"EMS instructor" or *"EMS-I"* means an individual who has successfully completed an EMS instructor curriculum approved by the department and is currently endorsed by the department as an EMS-I.

"Endorsement" or *"endorsed"* means an approval granted by the department authorizing an individual to serve as an EMS-I or CCP.

"Fees" means those fees received pursuant to Iowa Code chapters 147A and 147D.

"First responder" or *"FR"* means an individual who has successfully completed an approved program and is currently certified by the department as an FR.

"First responder-defibrillation" or *"FR-G"* means an individual who has successfully completed an approved program and is currently certified by the department as a FR-G.

"NREMT" means the National Registry of Emergency Medical Technicians. The NREMT provides a valid, uniform process to assess the knowledge and skills required for competent practice by EMS professionals.

"Paramedic" or *"PM"* means an individual who has successfully completed a course of study based on the United States Department of Transportation's Paramedic Instructional Guidelines (January 2009),

has passed the psychomotor and cognitive examinations for the paramedic, and is currently certified by the department as a paramedic.

"Patient" means an individual who is sick, injured, or otherwise incapacitated and has been evaluated or provided treatment by an emergency medical care provider.

"Patient abandonment" means a termination of the provider/patient relationship at a time when a continuous level of care is needed. Patient abandonment does not occur when a scene is unsecured, deteriorates or becomes too dangerous for the emergency medical care provider to safely function. Patient abandonment does not occur when patient care is transferred to another emergency medical care provider following assessment or triage.

"Physician" means an individual licensed under Iowa Code chapter 148.

"Physician assistant" or *"PA"* means an individual licensed pursuant to Iowa Code chapter 148C.

"Protocols" means written directions and orders approved by a service program's medical director utilizing the EMS clinical guidelines.

"Psychomotor examination" or *"practical examination"* means the portion of the department-approved or NREMT certification examination process that evaluates the skill and procedure capabilities of the candidate.

"Registered nurse" or *"RN"* means an individual licensed pursuant to Iowa Code chapter 152.

"Service program" or *"service"* means any transport service or nontransport service, inclusive of associated satellites and service program affiliates, that has received full or conditional authorization from the department.

[**ARC 5143C**, IAB 8/12/20, effective 9/16/20]

641—131.3(147A) Initial certification.

131.3(1) An individual who has successfully completed the training program requirements at the EMR, EMT, AEMT or paramedic level and has a valid certification with NREMT shall submit the following to the department for initial Iowa emergency medical care provider certification:

a. A completed EMS certification application.

b. An NREMT active certification number.

c. Payment of the initial application fee.

d. Two completed fingerprint cards for background checks.

e. Payment of the background check fee.

131.3(2) Once the above items are received and approved, the department may issue an initial emergency medical care provider certification.

131.3(3) Initial Iowa certification dates shall be consistent with the NREMT certification dates.

131.3(4) The individual seeking an Iowa emergency medical provider care certification shall submit all application materials within two years from the Iowa training program course completion date.

131.3(5) If the individual is unable to complete the requirements within two years due to medical reasons or military obligation, an extension may be granted upon submission of a signed statement from an appropriate medical or military authority and approval by the department.

[**ARC 5143C**, IAB 8/12/20, effective 9/16/20]

641—131.4(147A) Background check results.

131.4(1) Negative information on the criminal history will not necessarily preclude an individual from certification. The department will directly communicate with the individual to carefully consider the results of the background check. The following will be taken into consideration during the evaluation and analysis:

a. The nature and gravity of the conviction.

b. The length of time between the conviction and the application for certification.

c. Frequency and severity of the criminal activity and child or dependent adult abuse activity included in the background check results.

d. Mitigating factors at the time the activity occurred.

e. Cooperation with federal or state officials in the investigation and treatment/rehabilitation plan.

f. The maturity of the individual at the time of any criminal activity or child or dependent adult abuse activity.

131.4(2) The department will take reasonable steps to ensure the accuracy of the information contained in the background checks. An individual who believes the background checks contain inaccurate information will be informed of the steps the individual may wish to pursue to correct the information.

131.4(3) All criminal history records are confidential and will only be used in accordance with this policy to determine eligibility. All background check records will be stored in a secure location. Background check records shall not be redisseminated by the department.

[**ARC 5143C**, IAB 8/12/20, effective 9/16/20]

641—131.5(147A) Authority.

131.5(1) *Authority of emergency medical care provider.* An emergency medical care provider who holds an active Iowa certification issued by the department or has permission to practice in Iowa pursuant to Iowa Code chapter 147D may:

a. As a member of a responding authorized service program, render emergency medical care and perform emergency medical care without contacting medical direction if written protocols have been approved by the service program medical director.

b. Function in any hospital or any other entity in which health care is ordinarily provided only when:

(1) Employed by or assigned to a hospital or other entity in which health care is ordinarily provided when under the direct supervision of a physician as a member of an authorized service program, or in an individual capacity, by rendering lifesaving services in the facility in which employed or assigned pursuant to the emergency medical care provider's certification and under direct supervision of a physician, physician assistant, or registered nurse. An emergency medical care provider shall not routinely function without the direct supervision of a physician, physician assistant, or registered nurse. However, when the physician, physician assistant, or registered nurse cannot directly assume emergency care of the patient, the emergency medical care provider may perform, without direct supervision, emergency medical care procedures for which certified, if the life of the patient is in immediate danger and such care is required to preserve the patient's life;

(2) Employed by or assigned to a hospital or other entity in which health care is ordinarily provided when under the direct supervision of a physician, as a member of an authorized service program, or in an individual capacity, to perform nonlifesaving procedures for which certified and designated in a written job description. Such procedures may be performed after the patient is observed by and when the emergency medical care provider is under the supervision of the physician, physician assistant, or registered nurse and where the procedure may be immediately abandoned without risk to the patient.

131.5(2) *Scope of practice.*

a. Emergency medical care providers shall perform only those skills and procedures that are authorized within the scope of practice for which certified.

b. The Iowa Emergency Medical Care Provider Scope of Practice (September 2019) is hereby incorporated and adopted by reference for emergency medical care providers. For any differences that may occur between the scope of practice adopted by reference and these rules, the rules shall prevail.

c. The Iowa Emergency Medical Care Provider Scope of Practice (September 2019) is available on the BETS website (idph.iowa.gov/BETS/EMS).

d. The department may grant a variance for changes to the scope of practice that have not yet been adopted by reference in these rules pursuant to 641—Chapter 178.

[**ARC 5143C**, IAB 8/12/20, effective 9/16/20]

641—131.6(147A) Renewal standards, reactivation procedures, fees, and continuing education.

131.6(1) *Renewal of certification.*

a. An emergency medical care provider shall submit an application for renewal of an active Iowa EMS certification within 90 days prior to the certification expiration date.

b. The renewal application and process are completed online via an individual Iowa EMS provider account. The electronic portal to access individual accounts is located at: dphregprograms.iowa.gov/PublicPortal/Iowa/IDPH/common/index.jsp.

c. Renewal notifications will be sent to Iowa emergency medical care providers who have an active certification set to expire in 90 days. The notification will be sent by email to the address on file in the emergency medical care provider's electronic profile.

d. It is the emergency medical care provider's responsibility to ensure the electronic profile information, including the email address, is updated and correct within 30 days of any change.

e. A renewal certificate shall be valid for two years from the current expiration date unless sooner surrendered, suspended or revoked.

f. A lower-level certificate may be renewed if the individual voluntarily chooses to move from a higher level to a lower level by completing all applicable continuing education requirements for the lower level during the certification period and submitting a change of status request, available on the BETS website (idph.iowa.gov/BETS/EMS).

g. A certification status shall become inactive if the certificate has not been renewed by the certification expiration date unless the emergency medical care provider is granted an extension as described in subrule 131.6(3).

h. An emergency medical care provider may request an inactive status. The request must be made by submitting a change of status request, available on the BETS website (idph.iowa.gov/BETS/EMS). A request for inactive status, when accepted in connection with a disciplinary investigation or proceeding, has the same effect as an order of revocation.

131.6(2) *Late renewal of certification.*

a. An emergency medical care provider who has completed the required continuing education during the certification period but fails to submit the EMS renewal of certification application and applicable fees prior to the certification expiration date is eligible for late renewal of the inactive certification.

b. The emergency medical care provider shall complete the EMS renewal of certification application, submit a late fee in addition to the applicable renewal fee and submit an audit report form provided by the department. The fee and audit report form shall be submitted before the last day of the month following the certification expiration date. If the late renewal submission is not completed by the last day of the month following the certification expiration date, the certification remains inactive.

c. An emergency medical care provider who has not completed the required continuing education during the certification period is not eligible for late renewal. The certification is inactive.

131.6(3) *Extension of certification.*

a. An emergency medical care provider who is unable to attain all continuing education requirements within the certification period may request a 45-day extension. To complete the extension process, the provider shall:

(1) Submit a request for extension application, available on the BETS website (idph.iowa.gov/BETS/EMS), at least 7 days prior to the certification expiration date, but no more than 90 days prior to the certification expiration date, and payment of the extension fee.

(2) Complete the continuing education requirements.

(3) Complete and submit the EMS affirmative renewal of certification application, with all applicable renewal fees, to the department prior to the extended expiration date.

(4) Submit an audit report form provided by the department.

b. If an emergency medical care provider fails to submit any of the items required in subparagraphs 131.6(3)*"a"*(2) and (3) by the forty-fifth day of the extended certification period, the certification will be inactive.

c. The emergency medical care provider may not use continuing education completed during the extension period in the subsequent renewal period.

131.6(4) *Reactivation of an inactive certification.*

a. *Certification inactive up to 24 months.* An emergency medical care provider may apply to reactivate an inactive certification up to 24 months after the certification became inactive.

(1) An individual will submit to the department an EMS certification reactivation application, which is available on the BETS website (idph.iowa.gov/BETS/EMS).

(2) If the department approves the application, the individual must submit an audit report form with 36 core continuing education hours prorated per lapsed year by core topic area and the reactivation fee.

(3) Upon receipt and approval of the items required in subparagraphs 131.6(4)*"a"*(1) and (2), the department may issue a new certification.

(4) An emergency medical care provider who fails to complete the reactivation process within 12 months from the date of application approval must reapply for reactivation of the inactive certification.

b. Certification inactive from 25 months to 48 months. An emergency medical care provider may apply to reactivate an inactive certification that has been inactive for 25 months but no more than 48 months.

(1) An individual will submit to the department an EMS certification reactivation application, which is available on the BETS website (idph.iowa.gov/BETS/EMS).

(2) If the department approves the application, the individual must submit documentation of successful completion of an approved EMS refresher course that includes successful completion of psychomotor and cognitive certification examinations. In addition, the individual must:

1. Submit two fingerprint cards.
2. Submit reactivation and background check fees.
3. Upon receipt and approval of the items required in subparagraphs 131.6(4)*"b"*(1) and (2), the department may issue a new certification.
4. An emergency medical care provider who fails to complete the reactivation process within 12 months from the date of application approval must reapply for reactivation of the inactive certification.

c. Certification inactive for more than 48 months. An emergency medical care provider may not apply to reactivate a certification that has been inactive for more than 48 months.

131.6(5) *Reactivation of revoked or suspended certification.*

a. Any person whose certification to practice has been revoked or suspended may apply to the department for reactivation in accordance with the terms and conditions of the order of revocation or suspension, unless the order of revocation provides that the certification is permanently revoked.

b. If the order of revocation or suspension did not establish terms and conditions upon which reactivation might occur or if the certification was voluntarily surrendered, an initial application for reactivation may not be made until one year has elapsed from the date of the order or the date of the voluntary surrender.

c. All proceedings for reactivation shall be initiated by the person whose certification has been revoked or suspended in accordance with subrule 131.6(4). An application for reactivation shall allege facts which, if established, will be sufficient to enable the department to determine that the basis for the revocation or suspension of the person's certification no longer exists and that it will be in the public interest for the certification to be reinstated. The burden of proof to establish such facts shall be on the person whose certification has been suspended or revoked.

d. An order denying or granting reactivation shall be based upon a decision which incorporates findings of facts and conclusions of law.

131.6(6) *Fees.* The nonrefundable fees are as follows:

a. Application for initial Iowa certification at all certification levels: $30.

b. Reactivation of a certification to practice: $30.

c. Renewal of a certification to practice as a first responder, EMR: no fee.

d. Renewal of a certification to practice as an emergency medical technician: no fee.

e. Renewal of a certification to practice as an advance emergency medical technician: $10.

f. Renewal of a certification to practice as a paramedic: $25.

g. Late renewal of a certification to practice: $30.

h. Returned payment due to insufficient funds: $15.

i. Extension of certification: $50.

j. Criminal history background checks by the Iowa division of criminal investigation (DCI) and the Federal Bureau of Investigation (FBI) and fingerprint card evaluation: $50.

131.6(7) *Continuing education renewal.*

a. The table below illustrates the minimum number of core CEHs by topic area for each level of emergency medical care provider to renew an Iowa EMS certification.

Core Topics	EMR/FR	EMT/EMT-D	AEMT	PM
Airway, Respirations, Ventilations	1	1	2	3
Cardiology	2	6	7	9
Trauma	1	2	3	3
Medical	3	6	8	9
Operations	1	5	5	6
Totals	**8**	**20**	**25**	**30**

b. All core continuing education hours used to renew an Iowa EMS certification must have a sponsor number by an authorized Iowa training program, the department, the board of nursing, the board of medicine, or CAPCE before the emergency medical care provider attends the offering.

c. An emergency medical care provider who is registered with the NREMT may renew the provider's Iowa EMS certification by meeting the NREMT's requirements. The emergency medical care provider must submit the Iowa affirmative renewal of certification application and all appropriate fees.

d. An emergency medical care provider shall be deemed to have complied with the continuing education requirements during periods in which the provider serves honorably on active duty in the military services or for periods in which the provider is a government employee working as an emergency medical care provider and assigned to duty outside the United States. The emergency medical care provider must submit the Iowa affirmative renewal of certification application, all appropriate fees and documentation of assignment.

e. The emergency medical care provider shall maintain a file containing documentation of CEHs accrued during each certification period for four years from the end of each certification period.

f. A group of emergency medical care providers will be audited for each certification period. Emergency medical care providers to be audited will be chosen in a random manner or at the discretion of BETS. Falsifying reports or failure to comply with the audit request may result in formal disciplinary action. Those audited will be required to submit a department-provided audit report form within 45 days of the request. If audited, the emergency medical care provider must provide the following information:

(1) Date of program.

(2) Program sponsor number.

(3) Title of program.

(4) Number of approved hours.

131.6(8) *Continuing education approval.* The following standards shall be applied for approval of continuing education:

a. CEHs shall have an assigned sponsor number from CAPCE, an authorized EMS training program, the board of nursing, the board of medicine or the department.

b. Human health-related college courses may be approved in advance by BETS at one quarter credit equal to 10 CEHs, one semester credit equal to 15 CEHs.

131.6(9) *Out-of-state continuing education.* Out-of-state continuing education courses shall be accepted for CEHs if all criteria in subrule 131.6(7) are met and if the courses have been approved for emergency medical care personnel in the state in which the courses were held. A copy of course completion certificates (or other verifying documentation) shall, upon request, be submitted to the department.

[**ARC 5143C**, IAB 8/12/20, effective 9/16/20]

641—131.7(147A,272C) Discipline—denial, citation and warning, probation, suspension, or revocation of certificates or renewal.

131.7(1) This rule is not subject to waiver or variance pursuant to 641—Chapter 178 or any other provision of law.

131.7(2) Prohibited grounds for discipline. The department shall not suspend or revoke the certification of a person who is in default or is delinquent on repayment or a service obligation under federal or state postsecondary educational loans or public or private services-conditional postsecondary tuition assistance solely on the basis of such default or delinquency.

131.7(3) Methods of discipline.

a. The department has the authority to impose the following disciplinary sanctions against an emergency medical care provider:

(1) Issue a citation and warning.

(2) Impose a civil penalty not to exceed $1,000.

(3) Require reexamination.

(4) Require additional education or training.

(5) Impose a period of probation under specific conditions.

(6) Prohibit permanently, until further order of the department, or for a specific period, a provider's ability to engage in specific procedures, methods, acts or activities incident to the practice of the profession.

(7) Suspend a certificate until further order of the department or for a specific period.

(8) Deny an application for certification.

(9) Revoke a certification.

(10) Impose such other sanctions as allowed by law and as may be appropriate.

b. A request for inactive status in connection with a disciplinary investigation or proceeding has the same effect as an order of revocation.

c. A citation and warning, denial, probation, restriction, suspension revocation, or civil penalty imposed upon an individual certificate holder by the department shall be considered applicable to all certificates and endorsements issued to that individual by the department.

d. An emergency medical care provider who has knowledge of an emergency medical care provider, service program or training program that has violated Iowa Code chapter 147A or these rules shall report such information to the department within 30 days.

131.7(4) The department may deny an application for issuance or renewal of an emergency medical care provider certificate, including endorsement, or may impose any of the disciplinary sanctions provided in subrule 131.7(3) when it finds that the individual or certificate holder has committed any of the following acts or offenses:

a. Negligence in performing emergency medical care.

b. Failure to follow the directions of supervising physicians or their designees.

c. Rendering treatment not authorized under Iowa Code chapter 147A.

d. Patient abandonment.

e. Fraud in procuring certification or renewal including, but not limited to:

(1) An intentional perversion of the truth in making application for a certification to practice in this state;

(2) False representations of a material fact, whether by word or by conduct, by false or misleading allegations, or by concealment of that which should have been disclosed when making application for a certification in this state; or

(3) Attempting to file or filing with the department or training program any false or forged diploma or certificate or affidavit or identification or qualification in making an application for a certification in this state.

f. Professional incompetency. Professional incompetency includes, but is not limited to:

(1) A substantial lack of knowledge or ability to discharge professional obligations within the scope of practice.

(2) A substantial deviation from the standards of learning or skill ordinarily possessed and applied by other emergency medical care providers in the state of Iowa acting in the same or similar circumstances.

(3) A failure to exercise the degree of care which is ordinarily exercised by the average emergency medical care provider acting in the same or similar circumstances.

(4) Failure to conform to the minimal standard of acceptable and prevailing practice of certified emergency medical care providers in this state.

(5) A substantial lack of knowledge or ability to discharge professional obligations within the minimum clinical standards approved by the department.

g. Knowingly making misleading, deceptive, untrue or fraudulent representations in the practice of the profession or engaging in unethical conduct or practice harmful or detrimental to the public. Proof of actual injury need not be established. Acts which may constitute unethical conduct include, but are not limited to:

(1) Verbally or physically abusing a patient, coworker or any other individual encountered while a certified emergency medical care provider.

(2) Improper sexual contact with or making suggestive, lewd, lascivious or improper remarks or advances to a patient, coworker or any other individual encountered while certified as an emergency medical care provider in the state of Iowa.

(3) Betrayal of a professional confidence.

(4) Engaging in a professional conflict of interest.

(5) Falsification of medical records, official documents or other writings or records.

h. Engaging in any conduct that subverts or attempts to subvert a department investigation.

i. Failure to comply with a subpoena issued by the department or failure to cooperate with an investigation of the department.

j. Failure to comply with the terms of a department order or the terms of a settlement agreement or consent order.

k. Failure to report another emergency medical care provider to the department for any violations listed in these rules, pursuant to Iowa Code chapter 147A.

l. Knowingly aiding, assisting or advising a person to unlawfully practice EMS.

m. Representing oneself as an emergency medical care provider when one's certification has been suspended or revoked or when one's certification is lapsed or has been placed on inactive status.

n. Permitting the use of a certification by a noncertified person for any purpose.

o. Mental or physical inability reasonably related to and adversely affecting the emergency medical care provider's ability to practice in a safe and competent manner as determined by an evaluation from a licensed evaluator of the provider's mental or physical status.

p. Being adjudged mentally incompetent by a court of competent jurisdiction.

q. Sexual harassment of a patient, student, coworker or any other individual encountered while certified as an emergency medical care provider in the state of Iowa. Sexual harassment includes sexual advances, sexual solicitation, requests for sexual favors, and other verbal or physical conduct of a sexual nature communicated in person, in writing, via a third person or through electronic communication.

r. Habitual intoxication or addiction to drugs.

(1) The inability of an emergency medical care provider to practice with reasonable skill and safety by reason of the excessive use of alcohol on a continuing basis.

(2) The excessive use of drugs which may impair an emergency medical care provider's ability to practice with reasonable skill or safety.

(3) Obtaining, possessing, attempting to obtain or possess, or administering controlled substances without lawful authority.

s. Fraud in representation as to skill, ability or certification.

t. Willful or repeated violations of Iowa Code chapter 147A or these rules.

u. Violating a statute of this state, another state, or the United States, without regard to its designation as either a felony or misdemeanor, which relates to the provision of emergency medical care, including but not limited to a crime involving dishonesty, fraud, theft, embezzlement, controlled

substances, substance abuse, assault, sexual abuse, sexual misconduct, or homicide. A copy of the record of conviction or plea of guilty is conclusive evidence of the violation.

v. Having certification to practice emergency medical care suspended or revoked or having other disciplinary action taken by a licensing or certifying authority of this state or another state, territory or country. A copy of the record or order of suspension, revocation or disciplinary action is conclusive or prima facie evidence.

w. Falsifying certification renewal reports or failure to comply with the renewal audit request.

x. Acceptance of any fee by fraud or misrepresentation.

y. Repeated failure to comply with standard precautions for preventing transmission of infectious diseases as issued by the Centers for Disease Control and Prevention of the United States Department of Health and Human Services.

z. Violating privacy and confidentiality. An emergency medical care provider shall not disclose or be compelled to disclose patient information unless disclosure is required or authorized by law.

aa. Discrimination. An emergency medical care provider shall not practice, condone, or facilitate discrimination against a patient, student, or any other individual encountered while acting as certified as an emergency medical care provider in the state of Iowa on the basis of race, ethnicity, national origin, color, sex, sexual orientation, age, marital status, political belief, religion, mental or physical disability, diagnosis, or social or economic status.

ab. Practicing emergency medical services or using a designation of certification or otherwise holding oneself out as practicing emergency medical services at a certain level of certification when the emergency medical care provider is not certified at such level.

ac. Failure to respond within 30 days of receipt, unless otherwise specified, to communication from the department which was sent by registered or certified mail.

[**ARC 5143C**, IAB 8/12/20, effective 9/16/20]

641—131.8(147A) Certification denial.

131.8(1) An individual who has been denied certification by the department may appeal the denial and request a hearing on the issues related to the licensure denial by serving a notice of appeal and request for hearing upon the department not more than 20 days following the date of mailing of the notification of certification denial to the individual. The request for hearing shall specifically delineate the facts to be contested at hearing.

131.8(2) All hearings held pursuant to this rule shall be held pursuant to the process outlined in this chapter.

[**ARC 5143C**, IAB 8/12/20, effective 9/16/20]

641—131.9(147A) Emergency adjudicative proceedings. To the extent necessary to prevent or avoid immediate danger to the public health, safety or welfare and consistent with the Constitution and other provisions of law, the department may issue a written order in compliance with Iowa Code section 17A.18 to suspend a certificate in whole or in part, order the cessation of any continuing activity, order affirmative action, or take other action within the jurisdiction of the department by emergency adjudicative order.

131.9(1) Before issuing an emergency adjudicative order, the department shall consider factors including, but not limited to, the following:

a. Whether there has been a sufficient factual investigation to ensure that the department is proceeding on the basis of reliable information;

b. Whether the specific circumstances which pose immediate danger to the public health, safety or welfare have been identified and determined to be continuing;

c. Whether the individual required to comply with the emergency adjudicative order may continue to engage in other activities without posing immediate danger to the public health, safety or welfare;

d. Whether imposition of monitoring requirements or other interim safeguards would be sufficient to protect the public health, safety or welfare; and

e. Whether the specific action contemplated by the department is necessary to avoid the immediate danger.

131.9(2) Issuance of order.

a. An emergency adjudicative order shall contain findings of fact, conclusions of law, and policy reasons to justify the determination of an immediate danger in the department's decision to take immediate action. The order is a public record.

b. The written emergency adjudicative order shall be immediately delivered to the individual who is required to comply with the order. Delivery shall be made by one or more of the following procedures:

(1) Personal delivery.

(2) Certified mail, return receipt requested, to the last address on file with the department.

(3) Fax. Fax may be used as the sole method of delivery if the individual required to comply with the order has filed a written request that agency orders be sent by fax and has provided a fax number for that purpose.

c. To the degree practicable, the department shall select the procedure for providing written notice that best ensures prompt, reliable delivery.

d. Unless the written emergency adjudicative order is provided by personal delivery on the same day that the order issues, the department shall make reasonable immediate efforts to contact by telephone the individual who is required to comply with the order.

e. After the issuance of an emergency adjudicative order, the department shall proceed as quickly as feasible to complete any proceedings that would be required if the matter did not involve an immediate danger.

f. Issuance of a written emergency adjudicative order shall include notification of the date on which department proceedings are scheduled for completion. After issuance of an emergency adjudicative order, continuance of further department proceedings to a later date will be granted only in compelling circumstances upon application in writing unless the individual who is required to comply with the order is the party requesting the continuance.

[**ARC 5143C**, IAB 8/12/20, effective 9/16/20]

641—131.10(147A) Complaints, investigations and appeals.

131.10(1) This rule is not subject to waiver or variance pursuant to 641—Chapter 178 or any other provision of law.

131.10(2) All complaints regarding emergency medical care personnel, training programs or continuing education providers, or those purporting to be or operating as the same, shall be reported to the department in writing. The address is Iowa Department of Public Health, Bureau of Emergency and Trauma Services, Lucas State Office Building, Des Moines, Iowa 50319-0075.

131.10(3) An emergency medical care provider who has knowledge of an emergency medical care provider or service program that has violated Iowa Code chapter 147A, 641—Chapter 132 or these rules shall report such information to the department.

131.10(4) Complaint investigations may result in the department's issuance of a notice of denial, citation and warning, probation, suspension or revocation.

131.10(5) A determination of mental incompetence by a court of competent jurisdiction automatically suspends a certificate for the duration of the certificate unless the department orders otherwise.

131.10(6) Notice of denial, issuance of a citation and warning, probation, suspension or revocation shall be affected in accordance with the requirements of Iowa Code section 17A.12. Notice to the alleged violator of denial, probation, suspension or revocation shall be served by certified mail, return receipt requested, or by personal service.

131.10(7) Any request for a hearing concerning the denial, citation and warning, probation, suspension or revocation shall be submitted by the aggrieved party in writing to the department by certified mail, return receipt requested, within 20 days of the receipt of the department's notice to take action. The address is Iowa Department of Public Health, Bureau of Emergency and Trauma Services, Lucas State Office Building, Des Moines, Iowa 50319-0075. If the request is made within the 20-day time period, the notice to take action shall be deemed to be suspended pending the hearing. Prior to or at the hearing, the department may rescind the notice upon satisfaction that the reason for the denial, citation and warning, probation, suspension or revocation has been or will be removed. If no request

for a hearing is received within the 20-day time period, the department's notice of denial, citation and warning, probation, suspension or revocation shall become the department's final agency action.

131.10(8) Upon receipt of a request for hearing, the department shall forward the request within five working days to the department of inspections and appeals pursuant to the rules adopted by that agency regarding the transmission of contested cases. The information upon which the adverse action is based and any additional information which may be provided by the aggrieved party shall also be provided to the department of inspections and appeals.

131.10(9) The hearing shall be conducted according to the procedural rules of the department of inspections and appeals found in 481—Chapter 10.

131.10(10) When the administrative law judge makes a proposed decision and order, it shall be served by certified mail, return receipt requested, or delivered by personal service. That proposed decision and order then becomes the department's final agency action without further proceedings ten days after it is received by the aggrieved party unless an appeal to the director is taken as provided in subrule 131.10(11).

131.10(11) Any appeal to the director for review of the proposed decision and order of the administrative law judge shall be filed in writing and mailed to the director by certified mail, return receipt requested, 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. Any request for an appeal shall state the reason for appeal.

131.10(12) Upon receipt of an appeal request, the administrative law judge shall prepare the record of the hearing for submission to the director. The record shall include the following:

a. All pleadings, motions, and rules.

b. All evidence received or considered and all other submissions by recording or transcript.

c. A statement of all matters officially noticed.

d. All questions and offers of proof, objections and rulings on them.

e. All proposed findings and exceptions.

f. The proposed decision and order of the administrative law judge.

131.10(13) The decision and order of the director becomes the department's final agency action upon receipt by the aggrieved party and shall be delivered by certified mail, return receipt requested, or by personal service.

131.10(14) It is not necessary to file an application for a rehearing to exhaust administrative remedies when appealing to the director or the district court as provided in Iowa Code section 17A.19. The aggrieved party to the final agency action of the department who has exhausted all administrative remedies may petition for judicial review of that action pursuant to Iowa Code chapter 17A.

131.10(15) Any petition for judicial review of a decision and order shall be filed in the district court within 30 days after the decision and order becomes final. A copy of the notice of appeal shall be sent to the department by certified mail, return receipt requested, or by personal service. The address is Iowa Department of Public Health, Bureau of Emergency and Trauma Services, Lucas State Office Building, Des Moines, Iowa 50319-0075.

131.10(16) The party who appeals a final agency action to the district court shall pay the cost of the preparation of a transcript of the contested case hearing for the district court.

131.10(17) Final decisions of the department relating to disciplinary proceedings may be transmitted to the appropriate professional associations, the news media or employer.

[**ARC 5143C**, IAB 8/12/20, effective 9/16/20]

These rules are intended to implement Iowa Code chapters 147A and 147D and section 272C.4.

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CHAPTER 132
EMERGENCY MEDICAL SERVICES—SERVICE PROGRAM AUTHORIZATION

[Joint Rules pursuant to 147A.4]
[Prior to 7/29/87, Health Department[470] Ch 132]

641—132.1(147A) Definitions. For the purpose of these rules, the following definitions shall apply:

"Advanced emergency medical technician level service" or *"AEMT level service"* means a service program that provides emergency medical care that does not exceed the scope of practice of a certified AEMT provider as outlined in 641—subrule 131.5(2).

"Advanced registered nurse practitioner" or *"ARNP"* means a nurse licensed pursuant to 655—7.1(152) with current licensure as a registered nurse in Iowa who is registered in Iowa to practice in an advanced role.

"Ambulance" means any privately or publicly owned ground vehicle equipped with life-support systems and specifically designed to transport the sick or injured who require emergency medical care.

"Applicant" means an owner of a transport or nontransport program or service program that is applying to the department for authorization as a service program or renewal of current authorization as a service program.

"Biohazardous sharp" means any object that has the potential to puncture the skin and may be contaminated with a biological material that is an infectious disease transmission risk.

"Biomedical hazardous waste" means waste product such as a biohazardous sharp or other material that may be contaminated with a biological material that is an infectious disease transmission risk.

"Bureau" or *"BETS"* means the bureau of emergency and trauma services, the bureau designated by the department as the lead agency for coordinating and implementing the provision of emergency medical services in this state.

"Communication system" means but is not limited to a telecommunication system, radio communication system, or mobile data communication system.

"Conditional service level authorization" means an enhanced service program authorization under which a service program may provide an advanced level of service from that routinely provided under the service program's full authorization level, on an intermittent basis with department and medical director approval.

"Continuous quality improvement" or *"CQI"* means a program that is an ongoing process to monitor standards at all EMS operational levels.

"Credentialing" means a clinical determination that is the responsibility of a physician medical director. It is the employer or affiliating organization's responsibility to act on the clinical credentialing status of EMS personnel in making employment or deployment decisions.

"Critical care transport" or *"CCT"* means a paramedic level service program that has received an endorsement from the department to provide specialty care patient transportation and that is staffed by one or more paramedics with a critical care paramedic endorsement from the department or that is staffed by other health care professionals in an appropriate specialty area.

"Deficiency" means noncompliance with Iowa Code chapter 147A or these administrative rules.

"Department" means the Iowa department of public health.

"Director" means the director of the Iowa department of public health.

"Emergency medical care" means any medical procedure authorized by Iowa Code chapter 147A and 641—Chapter 131.

"Emergency medical care provider" means an individual who has been trained to provide emergency and nonemergency medical care at the EMR, EMT, AEMT, paramedic, or other certification level recognized by the department before 2011 and has been issued a certificate by the department, or a person practicing in accordance with Iowa Code chapter 147D.

"Emergency medical responder level service" or *"EMR level service"* means a nontransport service program that provides emergency medical care that does not exceed the scope of practice of a certified EMR provider as outlined in 641—subrule 131.5(2).

"Emergency medical services" or *"EMS"* means an integrated medical care delivery system to provide emergency and nonemergency medical care at the scene or out-of-hospital during patient transportation in an ambulance.

"Emergency medical technician level service" or *"EMT level service"* means a service program that provides emergency medical care that does not exceed the scope of practice of a certified EMT provider as outlined in 641—subrule 131.5(2).

"Emergency medical transportation" means transportation of a patient by an ambulance.

"EMS clinical guidelines" or *"minimum EMS clinical guidelines"* means a minimum clinical standard approved by the department upon which a service program's medical director shall base service program protocols.

"Emergency vehicle driver" or *"driver"* means a currently licensed driver rostered with the service program or other emergency response personnel with emergency vehicle driving training.

"Endorsement" means an approval granted by the department authorizing a paramedic level service program to provide critical care transport (CCT).

"First response vehicle" means any privately or publicly owned vehicle that is not an ambulance and that is used solely for the transportation of personnel and equipment to and from the scene of an emergency.

"Full authorization" means a service program authorization under which a service is authorized to provide and routinely provides a specific level of emergency medical care for initial 911 or emergency calls 24 hours per day, seven days per week.

"Hospital" means any hospital licensed under the provisions of Iowa Code chapter 135B.

"Iowa EMS Registry Data Dictionary" means reportable EMS data elements and definitions determined by the department and adopted by reference.

"Medical direction" means direction, advice, or orders provided by a medical director, supervising physician, PA, or ARNP to emergency medical care personnel.

"Medical director" means a physician designated by the service program and responsible for providing medical direction and overall supervision of the medical aspects of the service program.

"Nontransport service" means any privately or publicly owned service program which does not provide patient transportation and provides emergency medical care at the scene of an emergency.

"Paramedic level service" or *"PM level service"* means a service program that provides emergency medical care that does not exceed the scope of practice of a certified paramedic provider as outlined in 641—subrule 131.5(2).

"Patient care report" or *"PCR"* means a report that documents the assessment and management of the patient by the emergency care provider.

"Physician" means an individual licensed under Iowa Code chapter 148.

"Physician assistant" or *"PA"* means an individual licensed pursuant to Iowa Code chapter 148C.

"Primary response ambulance" means any ambulance utilized by a service program and dispatched as the initial ambulance response to a 911 or emergency call.

"Protocols" means written directions and orders approved by a service program's medical director utilizing the EMS clinical guidelines.

"Registered nurse" or *"RN"* means an individual licensed pursuant to Iowa Code chapter 152.

"Service director" means an individual designated by the service program who is responsible for the operation and administration of a service program.

"Service program" or *"service"* means any transport service or nontransport service, inclusive of associated satellites, that has received full or conditional authorization from the department.

"Service program affiliate" or *"affiliate"* means an independently owned service program affiliated with one or more service programs or a separate management entity.

"Service program affiliate agreement" or *"affiliate agreement"* means a written agreement executed between one or more service programs or one or more management entities and filed with the department that clearly defines the responsibilities of each service program to ensure compliance with these rules.

"Service program base of operation" means the physical location from which a service program responds and at which the service program houses emergency medical care personnel and equipment.

"Service program ownership" means the legal owner of the service program responsible for providing emergency medical care and compliance with Iowa Code chapter 147A and these rules.

"Service program satellite" or *"satellite"* means one or more additional service program locations owned by the same service program.

"Tiered response" means a rendezvous between service programs to allow the transfer, continuation, or enhancement of patient care.

"Transport agreement" means a written agreement executed between two or more service programs and filed with the department that ensures response and transportation for initial 911 or emergency calls. A transport agreement may be a component of an affiliate agreement.

"Transport service" means any privately or publicly owned service program which utilizes ambulances in order to provide patient transportation.

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641—132.2(147A) Service program—authorization and renewal procedures and inspections.

132.2(1) *Requirements for initial service program authorization.*

a. An entity that desires to provide emergency medical care services in the out-of-hospital setting in this state shall apply to the department for service program full authorization and may apply for a conditional service level authorization if the entity can demonstrate advanced emergency medical care provider availability and medical director approval for conditional authorization at such level.

b. Information for initial authorization can be found on the BETS website (www.idph.iowa.gov/BETS).

c. Transport service—full authorization. An entity seeking authorization as a transport service program shall apply for full authorization at a minimum of the EMT level or the level of care which will be provided by the service program or through a transport agreement for initial 911 or emergency calls 24 hours per day, seven days per week at the following EMS service levels:

(1) EMT.

(2) AEMT.

(3) Paramedic.

d. Transport service—conditional service level authorization. An entity seeking authorization as a transport service which is capable of providing emergency medical care beyond the full authorization level on an intermittent basis may apply for conditional service level authorization at one or more of the following conditional service levels:

(1) AEMT.

(2) Paramedic.

e. Nontransport service—full authorization. An entity seeking authorization as a nontransport service program shall apply for full authorization at a minimum of the EMR level or at the level of care which will be provided for initial 911 or emergency calls 24 hours per day, seven days per week. The nontransport service program shall have an executed written transport agreement ensuring simultaneous dispatch with an authorized transport service program for all 911 or emergency calls. The nontransport service shall apply for full authorization at the following EMS service levels:

(1) EMR.

(2) EMT.

(3) AEMT.

(4) Paramedic.

f. Nontransport service—conditional service level authorization. An entity seeking authorization as a nontransport service program that has an executed written transport agreement ensuring simultaneous dispatch with an authorized transport service program for all 911 or emergency calls and is capable of providing emergency medical care beyond the full authorization level on an intermittent basis may apply for conditional service level authorization at one or more of the following conditional service levels:

(1) EMT.

(2) AEMT.

(3) Paramedic.

g. Conditional service level authorization restrictions and requirements.

(1) A service program which has been granted conditional service level authorization shall only advertise or otherwise hold itself out to the public as an authorized service program at the level of full authorization.

(2) A service program authorized to operate at a conditional service level shall operate at such level only when an emergency medical care provider certified at the advanced certification level is listed on the service roster, physically present and directly responsible for patient care.

h. An applicant should expect a minimum of a 30-day time period for review of the application, completion of an inspection, and response by the department regarding authorization status.

i. Deficiencies that are identified during the application review and inspection process by the department shall be corrected prior to service program authorization.

j. An applicant may be authorized as a service program when the department is satisfied that the program proposed by the applicant and associated satellites or affiliates will be operated in compliance with Iowa Code chapter 147A and these rules.

k. An applicant for authorization as a service program shall be fully operational upon the effective date specified on the certificate of authorization and shall ensure compliance with Iowa Code chapter 147A and these rules.

l. Initial service program authorization shall be valid for a period of one year from its effective date unless otherwise specified on the certificate of authorization or unless sooner suspended or revoked or surrendered.

m. An applicant shall provide evidence of liability insurance coverage for the service program and emergency medical care provider staff. Any change in insurance status must be reported to the department no later than 30 days from the change.

n. An applicant seeking endorsement as a CCT must provide verification that the service program will be staffed by one or more paramedics with a critical care paramedic endorsement from the department or by other health care professionals when providing specialty care and transport.

132.2(2) *Requirements for renewal of service program authorization.*

a. A service program seeking renewal of current authorization shall complete a process initiated by the department for renewal of the service program that includes the service program base of operations and all associated satellites and affiliates.

b. A service program seeking renewal of current authorization shall submit all required documentation to the department at least 90 days prior to the current authorization expiration date.

c. Transport service—full authorization. An entity seeking renewal authorization as a transport service program shall apply for full authorization at a minimum of the EMT level or the level of care which will be provided by the service program or through a transport agreement for initial 911 or emergency calls 24 hours per day, seven days per week at the following EMS service levels:

(1) EMT.

(2) AEMT.

(3) Paramedic.

d. Transport service—conditional service level authorization. An entity seeking renewal authorization as a transport service which is capable of providing emergency medical care beyond the full authorization level on an intermittent basis may apply for conditional service level authorization at one or more of the following conditional service levels:

(1) AEMT.

(2) Paramedic.

e. Nontransport service—full authorization. An entity seeking renewal authorization as a nontransport service program shall apply for full authorization at a minimum of the EMR level or at the level of care which will be provided for initial 911 or emergency calls 24 hours per day, seven days per week at the following EMS service levels:

(1) EMR.

(2) EMT.

(3) AEMT.

(4) Paramedic.

f. Nontransport service—conditional service level authorization. An entity seeking renewal authorization as a nontransport service program which is capable of providing emergency medical care beyond the full authorization level on an intermittent basis may apply for conditional service level authorization at one or more of the following conditional service levels:

(1) EMT.

(2) AEMT.

(3) Paramedic.

g. Conditional service level authorization restrictions and requirements.

(1) A service program which has been granted conditional service level authorization shall only advertise or otherwise hold itself out to the public as an authorized service program at the level of full authorization.

(2) A service program authorized to operate at a conditional service level shall operate at such level only when an emergency medical care provider certified at the advanced certification level is listed on the service roster, physically present and directly responsible for patient care.

h. Effective January 1, 2022, a service program which has submitted to the department fewer than 100 data reports per year for each of the previous two consecutive calendar years shall only be eligible for renewal of current authorization as an affiliate. The department will provide technical assistance in developing affiliations.

i. The department shall review the application and complete an inspection of the service program base of operations and all associated satellites and affiliates prior to renewal of current authorization.

j. A service program shall receive a renewal of authorization only when the department is satisfied that the service program and all associated satellites and affiliates will be operated in compliance with Iowa Code chapter 147A and these rules.

k. A service program shall be fully operational upon the effective date specified on the certificate of authorization and shall ensure compliance with Iowa Code chapter 147A and these rules.

l. A service program renewal authorization shall be valid for a period not to exceed three years from its effective date unless otherwise specified on the certificate of authorization or unless sooner revoked or suspended or surrendered.

m. A certificate of authorization shall be issued to the service program owner listed on the application.

n. A service program shall provide evidence of liability insurance coverage for the service program and emergency medical care provider staff. Any change in insurance status must be reported to the department no later than 30 days after the change.

o. An applicant seeking endorsement as a CCT must provide verification that the service program will be staffed by one or more paramedics with critical care paramedic endorsement by the department or other health care professionals when providing specialty care and transport.

132.2(3) *Reinstatement of service program authorization.*

a. A service program whose full authorization or conditional service level authorization has been revoked or suspended or surrendered may apply to the department for reinstatement in accordance with the terms and conditions of the order of revocation or suspension, unless the order of revocation provides that the authorization is permanently revoked.

b. If the order of revocation or suspension did not establish terms and conditions upon which reinstatement might occur or if the authorization was voluntarily surrendered, an initial application for reinstatement may not be made until one year has elapsed from the date of the order or the date of the voluntary surrender.

c. All proceedings for reinstatement shall be initiated by the service program, which shall file with the department an application for reinstatement of the authorization. Such application shall be docketed in the original case in which the authorization was revoked, suspended, or relinquished. All proceedings upon the application for reinstatement shall be subject to the same rules of procedure as other cases before the department.

d. An application for reinstatement shall be made in accordance with 132.2(1) and shall contain facts that will be sufficient to enable the department to determine that the basis for the revocation or suspension of the service program's authorization no longer exists and that it will be in the public interest for the authorization to be reinstated. The burden of proof to establish such facts shall be on the service program.

e. An order denying or granting reinstatement shall be based upon a decision which incorporates findings of facts and conclusions of law. The order shall be published as provided for in this chapter.

132.2(4) *Out-of-state service programs.*

a. An emergency medical service program authorized and based in another state shall provide the department with verification of current state authorization upon request and may provide emergency medical care to patients in Iowa to:

(1) Transport from locations outside of Iowa to destinations within Iowa;

(2) Transport to or from locations outside of Iowa that require travel through Iowa;

(3) Transport from locations in Iowa to destinations outside of Iowa;

(4) Respond to a request for mutual aid.

b. A service program authorized and based in another state shall meet all requirements of Iowa Code chapter 147A and these rules and must be authorized by the department to respond to 911 requests in Iowa to transport patients in Iowa to locations within Iowa.

132.2(5) *Service program inspections.*

a. The department at a minimum shall complete an inspection of each base of operations, all associated satellites, and all affiliate locations prior to initial authorization or renewal of current full authorization or conditional service level to ensure compliance with Iowa Code chapter 147A and these rules.

b. The department without prior notification may make additional inspections at times, at places and under such circumstances as it deems necessary to ensure compliance with Iowa Code chapter 147A and these rules.

c. Service program inspection forms are available on the BETS website (www.idph.iowa.gov/BETS).

d. Following a service program inspection, the department shall provide a copy of the completed inspection form and report to the service program.

e. A service program shall correct deficiencies identified during a service program inspection within the time period specified by the department on the inspection form. Failure to correct identified deficiencies within the specified time period may result in disciplinary action.

f. The department may request additional information from or may inspect the records of any service program or associated satellite or associated affiliate which is currently authorized or which is seeking authorization to ensure continued compliance or to verify the validity of any information presented on the application for initial service program authorization or renewal of current authorization.

g. The department may inspect the patient care records of a service program to verify compliance with Iowa Code chapter 147A and these rules.

h. No person shall interfere with the inspection activities of the department or its agents pursuant to Iowa Code section 135.36.

i. Interference with or failure to allow an inspection by the department or its agents may be cause for disciplinary action.

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641—132.3(147A) Service program operations.

132.3(1) *Ownership.*

a. Each service program will have a unique authorization number assigned by the department.

b. A service program with satellites will have a single authorization number assigned by the department for all locations.

c. A service program owner shall ensure compliance with Iowa Code chapter 147A and these rules.

d. A service program shall report any change in ownership to the department at least seven days prior to the change.

e. A service program changing ownership shall apply to the department at least seven days prior to the change in ownership for initial authorization in accordance with 132.2(1).

132.3(2) *Medical director.*

a. Each service program shall have a designated medical director at all times.

b. A medical director shall:

(1) Be accessible for medical direction 24 hours per day, seven days per week or ensure accessibility to alternate medical direction.

(2) Ensure that all duties and responsibilities of the medical director are not relinquished before a new or temporary replacement is functioning in that capacity.

(3) Complete a department-sponsored medical director training within one year of assuming duties as a medical director and at a minimum once every three years thereafter.

(4) Develop, approve, and update service program protocols that meet or exceed the minimum EMS clinical guidelines approved by the department.

(5) Ensure that the emergency medical care providers rostered with the service program are credentialed in the emergency medical skills to be provided and the duties of the emergency medical care provider do not exceed the provider's scope of practice as referenced in 641—subrule 131.5(2) and the service program's EMS service level of authorization.

(6) Be available for individual evaluation and consultation with service program personnel.

(7) Have authority to restrict a service program's authorized functional EMS service level.

(8) Have the authority to permanently or temporarily restrict a service program member to function within a lower level scope of practice or prohibit a service program member from providing patient care.

(9) Approve the service program's CQI program.

(10) Perform or complete, or appoint a designee to perform or complete, the medical audits in the service program's established CQI policy.

(11) Randomly audit (on at least a quarterly basis) documentation of calls where emergency medical care was provided.

(12) Randomly review audits performed by the qualified appointee.

c. A medical director may:

(1) Make additions to the department-approved EMS clinical guidelines when developing service protocols provided the additions are within the service program's level of authorization, the EMS provider's scope of practice, and acceptable medical practice.

(2) Request that service program providers provide additional emergency medical care skills on a limited pilot project basis. The pilot project applications are available on the BETS website (www.idph.iowa.gov/BETS). The department will issue written notice of an approved or rejected pilot project.

(3) Approve the PA and RN exception form identifying the level of EMS provider equivalency not to exceed the service program's EMS service level authorization for each PA and RN who will be providing emergency medical care as part of the service program.

d. A medical director who receives no compensation for the performance of the director's volunteer duties under this chapter shall be considered a state volunteer as provided in Iowa Code section 669.24 while performing volunteer duties as an emergency medical services medical director. Compensation does not include payments for reimbursement of expenses.

e. A medical director, supervising physician, PA, or ARNP who gives orders to an emergency medical care provider is not subject to criminal liability by reason of having issued the orders and is not liable for civil damages for acts or omissions relating to the issuance of the orders unless the acts or omissions constitute recklessness.

f. Nothing in these rules requires or obligates a medical director, supervising physician, PA, or ARNP to approve requests for orders received from an emergency medical care provider.

g. A service program medical director who fails to comply with Iowa Code chapter 147A or these rules may be referred to the Iowa board of medicine.

132.3(3) *Service director.*

a. Each service program shall have a designated service director at all times.

b. A service director shall:

(1) Be accessible 24 hours per day, seven days per week or ensure accessibility to a service director designee.

(2) Be responsible for providing direction and overall supervision of the administrative and operational aspects of the service program.

(3) Ensure that all duties and responsibilities of the service director are not relinquished before a new or temporary replacement is functioning in that capacity.

(4) Complete a department-sponsored training within one year of assuming duties as a service director and at a minimum once every three years thereafter.

(5) Ensure the service program is in compliance with service program policy, Iowa Code chapter 147A and these rules.

(6) Ensure that duties of the service program's emergency medical care providers do not exceed the providers' scope of practice as referenced in 641—subrule 131.5(2) or the service program's EMS service level of authorization.

132.3(4) *Service program requirements.*

a. A service program shall:

(1) Not advertise or otherwise imply or hold itself out to the public as a service program unless currently authorized by the department.

(2) Only advertise at or otherwise hold itself out as having the level of full authorization.

(3) Select a new or temporary medical director if the current medical director cannot or no longer wishes to serve in that capacity. Selection shall be made before the current medical director relinquishes the duties and responsibilities of that position.

(4) Notify the department in writing within seven days prior to any change in medical director or any reduction or discontinuance of operations.

(5) Select a new or temporary service director if the current service director cannot or no longer wishes to serve in that capacity. Selection shall be made before the current service director relinquishes the duties and responsibilities of that position.

(6) Notify the department in writing within seven days prior to any change in service director or any reduction or discontinuance of operations.

(7) Notify the department within seven days prior to any change in location of a service program base of operations, administrative office, satellite, or affiliate.

(8) Notify the department within seven days when entering into agreements with one or more service programs or a management entity to form multiservice systems for shared service program management, administration, data submission, or other services to ensure compliance with these rules.

(9) Report the termination or resignation in lieu of termination of an emergency medical care provider due to negligence, professional incompetency, unethical conduct, substance use, or violation of any of these rules to the department in writing within ten days.

(10) Report theft of drugs to the department in writing within 48 hours following the occurrence of the incident.

(11) Develop a notification process for service members in the event of a motor vehicle collision involving a first response vehicle, ambulance, rescue vehicle or personal vehicle when used by a service program member responding as a member of the service program.

(12) Notify the department in writing within 48 hours of a motor vehicle collision resulting in personal injury or death.

(13) Ensure a response to an initial 911 or emergency call request to the service program, 24 hours per day, seven days per week.

(14) Utilize protocols developed and approved by the service program medical director that meet or exceed the minimum EMS clinical guidelines approved by the department.

(15) Ensure alterations to the minimum EMS clinical guidelines by the service program's medical director are approved by and filed with the department.

(16) Maintain a communication system at a minimum between medical direction, receiving facility, and other emergency responders.

(17) Maintain a current personnel roster utilizing a department-approved registry system. Ensure all rostered personnel are currently certified as active EMS providers in the state of Iowa.

(18) Maintain files with medical director and department-approved PA and RN exception forms for appropriate personnel. PA and RN forms are available on the BETS website (www.idph.iowa.gov/BETS).

(19) Ensure all service program members who operate motorized emergency response vehicles, ambulances, and rescue vehicles when used by a service member responding as a member of the service have a valid driver's license and attend driver training prior to driving an emergency vehicle.

(20) Develop, maintain and follow a written driver training policy that includes a review of Iowa laws regarding emergency vehicle operations (Iowa Code section 321.231), frequency of service required driver training, a review of service program policies and criteria for response with lights or sirens or both, speed limits, procedure for approaching intersections, and use of the service program communications equipment.

(21) Ensure the emergency medical care provider with the highest level of certification attends the patient unless otherwise indicated by patient assessment and approved by the service program's protocols.

b. A transport service program shall:

(1) Provide as a minimum, on initial 911 or emergency calls, the following staff on each primary response ambulance:

1. One currently certified emergency medical care provider certified at the service program full level of authorization.

2. One driver.

(2) Provide as a minimum on each subsequent call or nonemergency call, when responding, the following staff:

1. One currently certified EMT.

2. One driver.

(3) Establish a transport decision policy that requires a complete assessment of a patient in order to determine transport needs. The service transport decision policy shall include:

1. The Out-of-Hospital Trauma and Triage Destination Decision Protocol as described in 641—Chapter 135.

2. Time critical condition considerations for transport to facilities that specialize in conditions such as cardiac conditions or stroke.

3. A process for a service program provider to determine transportation to a hospital, medical clinic, extended care facility, or other facilities where health care is routinely provided.

4. A process for patient refusal or nontransport if emergency transport is not warranted. The service program provider will obtain a signed transport/treatment refusal document or liability release if transport is not required.

5. A process by which a service program provider may make arrangements for alternate transport if emergency transport is not needed and remain with the patient until alternate transport arrives unless the provider is called to respond to another emergency.

c. Nontransport service programs.

(1) Nontransporting service programs, when responding to 911 or emergency calls, shall provide as a minimum one currently certified emergency medical care provider certified at the service program full level of authorization.

(2) Nontransport service programs shall have an executed written transport agreement ensuring simultaneous dispatch with an authorized transport service program for all 911 or emergency calls.

(3) Nontransport service programs may transport patients in an ambulance only in an emergency situation when lack of transporting resources would cause an unnecessary delay in patient care.

132.3(5) *Data reporting.*

a. "The Iowa Emergency Medical Services Data Dictionary" (September 2019) is incorporated by reference for data to be reported to the EMS data registry. For any differences which may occur between the adopted reference and the rules in this chapter, the rules shall prevail.

b. "The Iowa Emergency Medical Services Data Dictionary" is available through the Iowa Department of Public Health, Bureau of Emergency and Trauma Services, Lucas State Office Building, Des Moines, Iowa 50319-0075, or the BETS website (www.idph.iowa.gov/BETS).

c. A service program shall report data electronically to the department.

d. A service program shall submit data in a format approved by the department.

e. A service program shall submit reportable data to the department no later than the last day of the month following the month services were provided.

f. The department shall prepare compilations for release or dissemination on reportable data entered into the EMS data registry during the reporting period. The compilations shall include, but not be limited to, trends and clinical outcomes for local, regional and statewide evaluations. The compilations shall be made available to all providers submitting reportable patient data to the registry.

g. The data collected by the EMS data registry and furnished to the department pursuant to this rule are confidential records of the condition, diagnosis, care, or treatment of patients or former patients including outpatients, pursuant to Iowa Code section 22.7. The compilations prepared for release or dissemination from the data collected are not confidential under Iowa Code section 22.7(2). However, information which individually identifies patients shall not be disclosed, and state and federal law regarding patient confidentiality shall apply.

h. The department may approve requests for reportable patient data for special studies and analysis provided:

(1) The request has been reviewed and approved by the department with respect to the scientific merit and confidentiality safeguards.

(2) The department has given administrative approval for the proposal.

(3) The confidentiality of patients and service programs is protected pursuant to Iowa Code section 22.7 and chapter 147A.

(4) The department may require those requesting the data to pay any or all of the reasonable costs associated with furnishing the reportable data.

i. For the purpose of ensuring the completeness and quality of reportable data, the department or authorized representative may examine all or part of the data record as necessary to verify or clarify all reportable data submitted by a service program.

j. To the extent possible, activities under this subrule shall be coordinated with other health data collection methods.

k. A service program will develop, maintain and follow a written data submission policy.

132.3(6) *Patient care reporting.*

a. Each service program, satellite, and affiliate shall complete and maintain a patient care report documenting the care provided to each patient.

b. The patient care report is a confidential document and shall be exempt from disclosure pursuant to Iowa Code section 22.7(2) and shall not be accessible to the general public. Information contained in these reports, however, may be utilized by any of the indicated distribution recipients and may appear in any document or public health record in a manner which prevents the identification of any patient or person named in these reports.

c. To facilitate the continuum of care, transport service programs shall provide at a minimum, upon delivery of a patient to a receiving facility, a verbal patient care report that contains details of the assessment and care provided.

d. Transport service programs shall provide a final patient care report within 24 hours to the receiving facility. Transport services and receiving facilities must work together to initiate reasonable and realistic mechanisms (including but not limited to paper, secure email, secure links, secure electronic system retrieval, and access to printers at the receiving facility) to ensure the delivery of the patient care report.

e. A service program will develop, maintain, and follow a written patient care report policy.

132.3(7) *Continuous quality improvement (CQI).*

a. A service program shall develop, maintain, and follow a CQI program that follows a written CQI policy.

b. The CQI program shall include medical audits that review patient care provided.

c. The CQI program shall be utilized to identify deficiencies or potential deficiencies regarding medical knowledge or skill or procedure performance.

d. The CQI program shall review at a minimum 911 response and scene times.

e. The CQI program shall develop a written plan that monitors, identifies and documents at a minimum continuing education, credentialing of skills and procedures, and personnel performance for the service program's emergency medical care providers, drivers, PA and RN exceptions.

f. The CQI program shall establish measurable outcomes that reflect the goals and standards of the service program.

g. The CQI program shall ensure completion of loop closure/resolution of identified areas of concern.

132.3(8) *Medications in service programs.*

a. A service program shall have written pharmacy agreements in accordance with the Iowa board of pharmacy's 657—Chapter 11.

b. A service program shall maintain all medications in accordance with the rules of the Iowa board of pharmacy's 657—Chapters 10 and 11.

c. A service program shall develop, maintain, and follow a written pharmacy policy.

132.3(9) *Vehicle standards, supplies, equipment and maintenance.*

a. Effective January 1, 2022, all service programs, regardless of their designation as governmentally owned, not-for-profit, or privately operated, shall annually systematically inspect, repair, and maintain, or cause to be systematically inspected, repaired, and maintained, all ambulances operated by the service program.

b. A service program shall utilize a vehicle inspection report approved by the department to record the results of an annual ambulance safety inspection. Annual safety inspection forms which comply with the requirements of 49 CFR 396 shall be approved by the department. A sample annual vehicle inspection form which complies with the reporting requirements of 49 CFR 396 can be found on the BETS website (www.idph.iowa.gov/BETS/EMS).

c. A service program shall ensure individuals performing annual safety inspections are qualified and capable of performing an inspection by reason of experience, training, or both.

d. A service program shall not use an ambulance that fails to meet or maintain the requirements of this subrule to transport patients.

e. A service program shall house primary response ambulances in a garage or other enclosed facility that is maintained in a clean, safe condition, free of debris or other hazards; is temperature controlled; and has an unobstructed exit to the street.

f. A service program shall secure all equipment stored in the ambulance patient compartment so the patient and service program personnel are not injured by moving equipment.

g. Effective January 1, 2022, new ambulances manufactured and placed into service shall meet at a minimum either the Commission on Accreditation of Ambulance Services (CAAS) Ground Vehicle Standard for Ambulances or the National Fire Protection Association (NFPA) Standard for Automotive Ambulances (NFPA 1917).

h. A service program shall maintain first response and rescue vehicles in safe operating condition and provide regular maintenance. Vehicles shall have the exterior clean and the interior clean and disinfected.

i. A service program shall ensure medical and patient care supplies are monitored for expiration dates, cleaned, laundered or disinfected. All medical supplies shall be stored in clean environments.

j. A service program shall ensure personal protection equipment and supplies are available to ensure emergency medical care responder safety during every response.

k. A service program shall ensure supplies to properly dispose of biomedical hazardous waste are available in all response vehicles, and all waste shall be disposed of according to accepted biomedical waste practices.

l. A service program shall ensure medical equipment is maintained per manufacturer requirements for safe emergency medical care provider and patient use.

m. A service program shall develop, maintain, and follow vehicle standards, supplies, and equipment maintenance policies.

[**ARC 5144C**, IAB 8/12/20, effective 9/16/20]

641—132.4(147A) Variances. If during a period of authorization, a service program is unable to maintain compliance with Iowa Code chapter 147A and these rules, the department may grant a variance.

132.4(1) Variances to these rules may be granted by the department to a currently authorized service program.

132.4(2) Requests for variances shall apply only to the service program requesting the variance and shall apply only to those requirements and standards for which the department is responsible.

132.4(3) A service program shall apply for a variance in accordance with 641—Chapter 178.

[**ARC 5144C**, IAB 8/12/20, effective 9/16/20]

641—132.5(147A) Complaints and investigations—denial, citation and warning, probation, suspension or revocation of service program authorization or renewal.

132.5(1) All complaints regarding the operation of authorized emergency medical care service programs, or those purporting to be or operating as the same, shall be reported to the department. The address is: Iowa Department of Public Health, Bureau of Emergency and Trauma Services, Lucas State Office Building, Des Moines, Iowa 50319-0075.

132.5(2) Complaints and the investigative process will be treated as confidential in accordance with Iowa Code section 22.7 and chapter 272C. An emergency medical care provider who has knowledge of an emergency medical care provider, service program or training program that has violated Iowa Code chapter 147A or these rules shall report such information to the department within 30 days following knowledge of the violation.

132.5(3) Service program authorization may be denied, issued a civil penalty not to exceed $1,000, issued a citation and warning, placed on probation, suspended, revoked, or otherwise disciplined by the department in accordance with Iowa Code section 147A.5(3) for any of the following reasons:

a. Knowingly allowing the falsifying of a patient care report (PCR).

b. Failure to submit required reports and documents.

c. Delegating professional responsibility to a person when the service program knows that the person is not qualified by training, education, experience or certification to perform the required duties.

d. Practicing, condoning, or facilitating discrimination against a patient, student or employee based on race, ethnicity, national origin, color, sex, sexual orientation, age, marital status, political belief, religion, mental or physical disability diagnosis, or social or economic status.

e. Knowingly allowing sexual harassment of a patient, student or employee. Sexual harassment includes sexual advances, sexual solicitations, requests for sexual favors, and other verbal or physical conduct of a sexual nature.

f. Failure or repeated failure of the applicant or alleged violator to meet the requirements or standards established pursuant to Iowa Code chapter 147A or the rules adopted pursuant to that chapter.

g. Obtaining or attempting to obtain or renew or retain service program authorization by fraudulent means or misrepresentation or by submitting false information.

h. Engaging in conduct detrimental to the well-being or safety of the patients receiving or who may be receiving emergency medical care.

i. Failure to correct a deficiency within the time frame required by the department.

j. Engaging in any conduct that subverts or attempts to subvert a department investigation.

k. Failure to comply with a subpoena issued by the department or failure to cooperate with an investigation of the department.

l. Failure to comply with the terms of a department order or the terms of a settlement agreement or consent order.

m. Knowingly aiding, assisting or advising a person to unlawfully practice EMS.

n. Acceptance of any fee by fraud or misrepresentation.

o. Repeated failure to comply with standard precautions for preventing transmission of infectious diseases as issued by the Centers for Disease Control and Prevention of the United States Department of Health and Human Services.

p. Violating privacy and confidentiality. A service program shall not disclose or be compelled to disclose patient information unless disclosure is required or authorized by law.

q. Practicing emergency medical services or using a designation of certification or otherwise holding itself out as practicing emergency medical services at a certain level of authorization when the service program is not authorized at such level.

r. Failure to respond within 30 days of receipt, unless otherwise specified, of communication from the department which was sent by registered or certified mail.

132.5(4) The department shall notify the applicant of the granting or denial of authorization or renewal, or shall notify the alleged violator of action to issue a citation and warning, place on probation or suspend or revoke authorization or renewal pursuant to Iowa Code sections 17A.12 and 17A.18. Notice of issuance of a denial, citation and warning, probation, suspension or revocation shall be served by restricted certified mail, return receipt requested, or by personal service.

132.5(5) Any requests for appeal concerning the denial, citation and warning, probation, suspension or revocation of service program authorization or renewal shall be submitted by the aggrieved party in writing to the department by certified mail, return receipt requested, within 20 days of the receipt of the department's notice. The address is: Iowa Department of Public Health, Bureau of Emergency and Trauma Services, Lucas State Office Building, Des Moines, Iowa 50319-0075. If such a request is made within the 20-day time period, the notice shall be deemed to be suspended. Prior to or at the hearing, the department may rescind the notice upon satisfaction that the reason for the denial, citation and warning, probation, suspension or revocation has been or will be removed. After the hearing, or upon default of the applicant or alleged violator, the administrative law judge shall affirm, modify or set aside the denial, citation and warning, probation, suspension or revocation. If no request for appeal is received within the 20-day time period, the department's notice of denial, citation and warning, probation, suspension or revocation shall become the department's final agency action.

132.5(6) Upon receipt of an appeal that meets contested case status, the appeal shall be forwarded within five working days to the department of inspections and appeals pursuant to the rules adopted by that agency regarding the transmission of contested cases. The information upon which the adverse action is based and any additional information which may be provided by the aggrieved party shall also be provided to the department of inspections and appeals.

132.5(7) The hearing shall be conducted according to the procedural rules of the department of inspections and appeals found in 481—Chapter 10.

132.5(8) When the administrative law judge makes a proposed decision and order, it shall be served by restricted certified mail, return receipt requested, or delivered by personal service. That proposed decision and order then becomes the department's final agency action without further proceedings ten days after it is received by the aggrieved party unless an appeal to the director is taken as provided in 132.5(9).

132.5(9) Any appeal to the director for review of the proposed decision and order of the administrative law judge shall be filed in writing and mailed to the director by certified mail, return receipt requested, 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. Any request for an appeal shall state the reason for appeal.

132.5(10) Upon receipt of an appeal request, the administrative law judge shall prepare the record of the hearing for submission to the director. The record shall include the following:

a. All pleadings, motions, and rules.

b. All evidence received or considered and all other submissions by recording or transcript.

c. A statement of all matters officially noticed.

d. All questions and offers of proof, objections, and rulings thereon.

e. All proposed findings and exceptions.

f. The proposed decision and order of the administrative law judge.

132.5(11) The decision and order of the director becomes the department's final agency action upon receipt by the aggrieved party and shall be delivered by restricted certified mail, return receipt requested, or by personal service.

132.5(12) It is not necessary to file an application for a rehearing to exhaust administrative remedies when appealing to the director or the district court as provided in Iowa Code section 17A.19. The aggrieved party to the final agency action of the department who has exhausted all administrative remedies may petition for judicial review of that action pursuant to Iowa Code chapter 17A.

132.5(13) Any petition for judicial review of a decision and order shall be filed in the district court within 30 days after the decision and order becomes final. A copy of the notice of appeal shall be sent to the department by certified mail, return receipt requested, or by personal service. The address is: Bureau of Emergency and Trauma Services, Iowa Department of Public Health, Lucas State Office Building, Des Moines, Iowa 50319-0075.

132.5(14) The party who appeals a final agency action to the district court shall pay the cost of the preparation of a transcript of the contested case hearing for the district court.

132.5(15) Final decisions of the department relating to disciplinary proceedings may be transmitted to the appropriate professional associations, the news media or employer.

132.5(16) This rule is not subject to waiver or variance pursuant to 641—Chapter 178 or any other provision of law.

132.5(17) Emergency adjudicative proceedings.

a. Necessary emergency action. To the extent necessary to prevent or avoid immediate danger to the public health, safety, or welfare, and consistent with the Constitution and other provisions of law, the department may issue a written order in compliance with Iowa Code section 17A.18 to suspend an authorization in whole or in part, order the cessation of any continuing activity, order affirmative action, or take other action within the jurisdiction of the department by emergency adjudicative order.

b. Before issuing an emergency adjudicative order, the department shall consider factors including, but not limited to, the following:

(1) Whether there has been a sufficient factual investigation to ensure that the department is proceeding on the basis of reliable information;

(2) Whether the specific circumstances which pose immediate danger to the public health, safety or welfare have been identified and determined to be continuing;

(3) Whether the program required to comply with the emergency adjudicative order may continue to engage in other activities without posing immediate danger to the public health, safety or welfare;

(4) Whether imposition of monitoring requirements or other interim safeguards would be sufficient to protect the public health, safety or welfare; and

(5) Whether the specific action contemplated by the department is necessary to avoid the immediate danger.

c. Issuance of order.

(1) An emergency adjudicative order shall contain findings of fact, conclusions of law, and policy reasons to justify the determination of an immediate danger in the department's decision to take immediate action. The order is a public record.

(2) The written emergency adjudicative order shall be immediately delivered to the service program that is required to comply with the order by utilizing one or more of the following procedures:

1. Personal delivery.

2. Certified mail, return receipt requested, to the last address on file with the department.

3. Fax. Fax may be used as the sole method of delivery if the service program required to comply with the order has filed a written request that agency orders be sent by fax and has provided a fax number for that purpose.

(3) To the degree practicable, the department shall select the procedure for providing written notice that best ensures prompt, reliable delivery.

(4) Unless the written emergency adjudicative order is provided by personal delivery on the same day that the order issues, the department shall make reasonable immediate efforts to contact by telephone the service program that is required to comply with the order.

(5) After the issuance of an emergency adjudicative order, the department shall proceed as quickly as feasible to complete any proceedings that would be required if the matter did not involve an immediate danger.

(6) Issuance of a written emergency adjudicative order shall include notification of the date on which department proceedings are scheduled for completion. After issuance of an emergency adjudicative order, continuance of further department proceedings to a later date will be granted only in compelling circumstances upon application in writing unless the service program that is required to comply with the order is the party requesting the continuance.

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1 See IAB, Inspections and Appeals Department.

2 Rescission of paragraph 132.14(2)*"f"* inadvertently omitted from 2/2/05 Supplement.

CHAPTER 139
EMERGENCY MEDICAL SERVICES—TRAINING PROGRAMS—STUDENTS—COMPLAINTS AND INVESTIGATIONS

641—139.1(147A) Purpose. This chapter establishes the standards and requirements for authorization of emergency medical care training programs in the state of Iowa; establishes the requirements of the training program related to preparing students for emergency medical provider certification in the state of Iowa; and describes the authority of the department to impose disciplinary sanctions against a training program.
[**ARC 5143C**, IAB 8/12/20, effective 9/16/20]

641—139.2(147A) Definitions.

"Advanced emergency medical technician" or *"AEMT"* means an individual who has successfully completed a course of study based on the United States Department of Transportation's Advanced Emergency Medical Technician Instructional Guidelines (January 2009), has passed the psychomotor and cognitive examinations for the AEMT, and is currently certified by the department as an AEMT.

"Bureau" or *"BETS"* means the bureau of emergency and trauma services, the bureau designated by the department as the lead agency for coordinating and implementing the provision of emergency medical services in this state.

"CAAHEP" means the Commission on Accreditation of Allied Health Education Programs.

"CAPCE" means the Commission on Accreditation for Prehospital Continuing Education. CAPCE is an accrediting body charged with the review and accreditation of EMS continuing education.

"CEH" means continuing education hour, which is based upon a minimum of 50 minutes of training per hour.

"Certification" or *"certificate"* means a document issued by the department authorizing a person to practice as an emergency medical care provider in Iowa.

"Certified" means being officially recognized as meeting department-approved training and testing standards and being issued a certificate by the department in accordance with Iowa Code chapters 272C and 147A.

"Cognitive examination" or *"written examination"* means the portion of the NREMT certification examination process evaluating the candidate's level of EMS knowledge.

"Core continuing education" means education obtained during a certification period to renew certification. Core continuing education shall have an assigned sponsor number from CAPCE, an authorized EMS training program, the board of nursing, the board of medicine or the department.

"Course completion date" means the date of the final classroom session of an emergency medical care provider course.

"Course coordinator" means an individual who has been assigned by the training program to coordinate the activities of an emergency medical care provider course.

"Critical care paramedic" or *"CCP"* means a currently certified paramedic who has successfully completed a critical care course of instruction approved by the department and has received endorsement from the department as a critical care paramedic.

"Department" means the Iowa department of public health.

"Director" means the director of the Iowa department of public health.

"Emergency medical care" means any medical procedure authorized by Iowa Code chapter 147A and 641—Chapter 131.

"Emergency medical care provider" means an individual who has been trained to provide emergency and nonemergency medical care at the EMR, EMT, AEMT, paramedic, or other certification level recognized by the department before 2011 and has been issued a certificate by the department, or a person practicing in accordance with Iowa Code chapter 147D.

"Emergency medical care student" or *"student"* means any individual registered with the department and enrolled in an EMS training program with an active EMS student registration.

"Emergency medical responder" or *"EMR"* means an individual who has successfully completed a course of study based on the United States Department of Transportation's Emergency Medical Responder Instructional Guidelines (January 2009), has passed the psychomotor and cognitive examinations for the EMR, and is currently certified by the department as an EMR.

"Emergency medical services" or *"EMS"* means an integrated medical care delivery system to provide emergency and nonemergency medical care.

"Emergency medical technician" or *"EMT"* means an individual who has successfully completed a course of study based on the United States Department of Transportation's Emergency Medical Technician Instructional Guidelines (January 2009), has passed the psychomotor and cognitive examinations for the EMT, and is currently certified by the department as an EMT.

"EMS evaluator" or *"EMS-E"* means an individual who has successfully completed an EMS evaluator curriculum approved by the department and is currently endorsed by the department as an EMS-E.

"EMS instructor" or *"EMS-I"* means an individual who has successfully completed an EMS instructor curriculum approved by the department and is currently endorsed by the department as an EMS-I.

"EMS training program" or *"training program"* means an Iowa college approved by the Higher Learning Commission or an Iowa hospital authorized by the department to conduct emergency medical care training.

"Endorsement" or *"endorsed"* means an approval granted by the department authorizing an individual to serve as an EMS-I, EMS-E or CCP.

"Higher Learning Commission" means the independent corporation which accredits degree-granting postsecondary institutions in the north central region of the United States.

"NREMT" means the National Registry of Emergency Medical Technicians. The NREMT provides a valid, uniform process to assess the knowledge and skills required for competent entrance-level practice by EMS professionals.

"Out-of-state student" means any individual participating in clinical or field experience as a student in an approved out-of-state training program.

"Out-of-state training program" means an EMS training program located outside the state of Iowa that is approved by the authorizing agency of the program's home state to conduct initial EMS training for EMR, EMT, AEMT, paramedic or other level certified by the department.

"Outreach course coordinator" means an individual assigned by the training program to coordinate the activities of an emergency medical care provider course held outside the training program facilities.

"Paramedic" or *"PM"* means an individual who has successfully completed a course of study based on the United States Department of Transportation's Paramedic Instructional Guidelines (January 2009), has passed the psychomotor and cognitive examinations for the paramedic, and is currently certified by the department as a paramedic.

"Physician" means an individual licensed under Iowa Code chapter 148.

"Physician assistant" or *"PA"* means an individual licensed pursuant to Iowa Code chapter 148C.

"Preceptor" means an individual assigned by the training program, clinical facility or service program to supervise EMS students while the students are completing their classroom, clinical or field experience. A preceptor shall be an emergency medical care provider certified at the level at which the preceptor is providing supervision or at a higher level or be licensed as a physician, physician assistant or registered nurse.

"Primary instructor" means an individual who is responsible for teaching the majority of an emergency medical care provider course.

"Psychomotor examination" or *"practical examination"* means the portion of the department-approved or NREMT certification examination process that evaluates the skill and procedure capabilities of the candidate.

"Registered nurse" or *"RN"* means an individual licensed pursuant to Iowa Code chapter 152.

"Service program" or *"service"* means any transport service or nontransport service, inclusive of associated satellites and service program affiliates, that has received full or conditional authorization from the department.

"Training program director" means a health care professional (full-time educator or practitioner of emergency or critical care) assigned by the training program to direct the operation of the training program.

"Training program medical director" means a physician licensed under Iowa Code chapter 148 who is responsible for providing medical oversight to an EMS training program.

[**ARC 5143C**, IAB 8/12/20, effective 9/16/20]

641—139.3(147A) Initial application, renewal application, inspection and approval.

139.3(1) *Initial application, inspection and approval.*

a. An applicant seeking initial authorization as an EMS training program shall complete and submit to the department an Iowa EMS training program self-assessment application. The application can be downloaded from the BETS website at idph.iowa.gov/BETS/EMS.

b. An applicant seeking initial authorization shall submit, along with the Iowa EMS training program self-assessment application, a needs assessment that justifies the need for the training program.

c. The department shall perform an on-site inspection of the applicant's facilities and clinical resources. The purpose of the inspection is to examine educational objectives, patient care practices, facilities and administrative practices.

d. Following the on-site inspection, the department will provide the applicant an application report detailing the status of the application.

e. The department will approve the application and authorize the training program, determine timelines for the correction of deficiencies in the application, or deny the application. If the deficiencies are not corrected within the time period established by the department, the application will be denied.

f. A training program's initial authorization shall not exceed one year.

g. No person shall interfere with the inspection activities of the department or its agents. Interference with or failure to allow an inspection may be cause for denial of authorization.

139.3(2) *Renewal application, inspection and approval.*

a. A training program seeking renewal as an EMS training program shall complete and submit to the department the Iowa EMS training program self-assessment renewal application. The application can be downloaded from the BETS website at idph.iowa.gov/BETS/EMS.

b. EMS training program renewal applications will be submitted at least 90 days before the end of the current authorization period.

c. The department will complete an on-site inspection and review the self-assessment prior to the end of the current authorization period.

d. Following the on-site inspection, the department will provide the training program a renewal application report detailing the status of the application.

e. The department will authorize the training program or determine timelines for the correction of deficiencies in the renewal application.

f. If the deficiencies are not corrected within the time period established by the department, the training program is subject to disciplinary action as described in rule 641—139.9(147A).

g. A training program's approved renewal authorization shall not exceed four years.

h. No person shall interfere with the inspection activities of the department or its agents. Interference with or failure to allow an inspection may be cause for denial of authorization.

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641—139.4(147A) Training program standards, student requirements and variances.

139.4(1) *Education standards.* A training program shall:

a. Have a sponsoring institution that is accredited by the Higher Learning Commission or its equivalent, that is recognized by the United States Department of Education as an approved Iowa college, or that is an Iowa licensed hospital that is approved by the department.

b. Use the United States Department of Transportation's Instructional Guidelines (January 2009) for any courses leading to Iowa certification.

c. Use the Iowa CCP curriculum (January 2016) for courses leading to the CCP endorsement.

d. Be accredited by, or have submitted a self-study application to, the CAAHEP if graduating students at the paramedic certification level.

e. Document equivalent training and what portions of any course have been waived for equivalency. A training program may waive portions of the required emergency medical care provider training for students currently certified as emergency medical care providers or licensed in other health care professions, including but not limited to nursing, physician assistant, respiratory therapist, dentistry, and military.

139.4(2) *Clinical or field experience resources.* Training programs shall:

a. Have a mechanism to clearly identify students in the clinical or field setting, or both.

b. Have sufficient equipment and supplies to be used in the provision of instruction. The equipment and supplies shall be available and consistent with the needs of the curriculum and adequate for the number of students enrolled.

c. Ensure that clinical experiences available are consistent with the needs of the curriculum and adequate for the number of students enrolled.

d. Ensure that clinical affiliations that are outside of the sponsoring training program are established and confirmed in written agreements with institutions or agencies that provide clinical experience under appropriate medical direction and clinical supervision.

e. Only allow students to perform skills and procedures in the classroom, clinical or field setting for which the students have received training with direct supervision by a preceptor designated and approved by the training program.

f. Have sufficient classrooms, laboratories, and administrative offices and facility design to accommodate the number of students in the program and the supporting faculty.

g. Have current approved curriculum and library resources related to the curriculum readily accessible to all enrolled students (on campus and off campus) and shall include current EMS and medical periodicals, scientific texts, audiovisual and self-instructional resources, and other appropriate references.

139.4(3) *Staff.* Training programs shall:

a. Have a training program director who is a health care professional (full-time educator or practitioner of emergency or critical care) assigned by the training program to direct the operation of the training program.

b. Have a training program medical director who shall, at a minimum, review the educational content of each training program curriculum, evaluate the quality of medical instruction, and supervise delivery of the curriculum by the faculty members.

c. Have qualified faculty through academic preparation, training, and experience to teach and evaluate the courses or topics to which they are assigned. At a minimum, each course coordinator, outreach course coordinator, and primary instructor utilized by the training program shall be endorsed as an Iowa EMS instructor.

d. Be allowed to conduct the NREMT psychomotor examination according to the policies and procedures of the department and the NREMT.

139.4(4) *Student eligibility.* Training programs shall ensure that emergency medical care students meet the following requirements.

a. Be at least 17 years of age on the date of enrollment.

b. Have a high school diploma or its equivalent if enrolling in an AEMT or paramedic course.

c. Be able to speak, write and read English.

d. Be able to meet the minimum requirements for the cognitive and psychomotor components of the examination with reasonable and appropriate accommodations for those persons with documented disabilities, as required by the Americans with Disabilities Act (ADA).

e. Be currently certified, at a minimum, as an EMT if enrolling in an AEMT or paramedic course.

f. Be a current emergency medical care provider, RN, PA, or physician and submit a recommendation in writing from an approved EMS training program if enrolling in an EMS instructor course.

139.4(5) *Students.* Training programs shall:

a. Ensure that each student submits a completed EMS student registration no later than 14 days from the beginning of an emergency medical training program course. The student registration link can be found on the BETS website at idph.iowa.gov/BETS/EMS.

b. Have defined processes for review of academic history, criminal history, and health-related issues for the admission of students.

c. Have a process to evaluate students on a recurring basis and with sufficient frequency to provide both the student and training program faculty with valid and timely indicators of the student's progress and achievement of the competencies and objectives stated within the program's curriculum.

d. Have student guidance procedures that include documentation of regular and timely discussions with qualified faculty or counselors.

e. Maintain student records for each student enrolled in each program.

f. Notify the NREMT of each student's successful completion of a training course to ensure NREMT cognitive examination eligibility.

g. Verify that a student completes all training program requirements before being eligible to attempt the cognitive and psychomotor certification examinations.

h. Report to the NREMT successful completion of psychomotor examination of each EMR and EMT student to ensure NREMT registration eligibility.

i. Verify that a student completes all training program coursework, completes the cognitive and psychomotor testing and possesses a current certification with the NREMT before making application to the department for an initial Iowa emergency medical care provider certification.

j. Notify the department of the successful or unsuccessful status of each student at the completion of each training course.

k. Ensure that students function and only perform skills or procedures learned in the training program until an Iowa emergency medical care provider certification is obtained.

l. Ensure that a student is not substituted for the regular personnel of any affiliated medical facility or service program but may be employed while enrolled in the training program.

139.4(6) *Financing and administration.* Training programs shall:

a. Have adequate financial resources to ensure the continued operation of the educational program(s) in which students are enrolled.

b. Have a program evaluation process to gather and analyze data on the effectiveness of the program.

c. Notify the department, in writing, of any change in ownership or control of the training program.

d. Have liability insurance and offer liability insurance to students while they are enrolled in the training program.

[**ARC 5143C**, IAB 8/12/20, effective 9/16/20]

641—139.5(147A) Out-of-state training programs.

139.5(1) *Application, inspection and approval.*

a. An out-of-state training program shall complete and submit to the department for review and approval the out-of-state training program self-assessment application. The application can be downloaded from the BETS website at idph.iowa.gov/BETS/EMS.

b. An out-of-state training program's approval by the department shall not exceed four years.

c. An out-of-state training program seeking initial or renewal approval and graduating students at the paramedic level must also be accredited by, or must have submitted a self-study application to, the CAAHEP.

d. An out-of-state training program shall be limited to utilization of clinical sites or field sites, or both, within Iowa.

e. An authorized out-of-state training program shall provide the department with a current roster of students who will be participating in the clinical or field experience within the state of Iowa and, for each program, the sites where the students will be participating. This roster will be provided prior to commencement of any clinical or field experience.

f. An out-of-state training program shall provide documentation of liability insurance for each student participating in the clinical or field setting within the state of Iowa.

g. Failure to comply with these requirements may lead to disciplinary action or denial of utilization of clinical or field sites in Iowa.

h. The department may perform an on-site inspection of the out-of-state training program's facilities and clinical and field resources as part of the initial or renewal review process.

i. The department without prior notification may make inspections at times, places and under such circumstances as it deems necessary to ensure compliance with Iowa Code chapter 147A and these rules.

j. No person shall interfere with the inspection activities of the department or its agents.

k. Interference with or failure to allow an inspection may be cause for disciplinary action regarding training program approval.

l. Representatives of the training program may be required to meet with the department at the time the application and inspection report are discussed.

m. A written report of department action and the department inspection report shall be sent to the training program.

n. A training program shall notify the department, in writing, of any change in ownership or control within 30 days.

139.5(2) *Out-of-state students.*

a. An out-of-state student shall be registered in good standing in an approved out-of-state training program.

b. An out-of-state student may perform any procedures and skills for which the student is receiving training provided that the procedure or skill is within the Iowa scope of practice of a comparable Iowa emergency medical care provider. The student shall be under the direct supervision of a physician or physician designee or under the remote supervision of a physician or physician designee with direct supervision by a preceptor designated and approved by the training program.

c. An out-of-state student shall not be substituted for personnel of any affiliated medical facility or service program.

d. An out-of-state student is not eligible to continue functioning as a student of the approved out-of-state training program in the clinical or field setting (1) if the student is not in good standing with the approved out-of-state training program, (2) once the student has met the training program's requirements, or (3) once the student has been approved for certification testing.

e. Once all training requirements are met and the out-of-state student acquires a valid NREMT certification, the student may apply for initial Iowa EMS certification as described in rule 641—131.3(147A).

[**ARC 5143C**, IAB 8/12/20, effective 9/16/20]

641—139.6(147A) Failure to comply with rules. Failure of a training program to comply with these rules may result in disciplinary action according to rule 641—139.9(147A).

[**ARC 5143C**, IAB 8/12/20, effective 9/16/20]

641—139.7(147A) Temporary variances. If during a period of authorization there is some occurrence that temporarily causes a training program to be in noncompliance with these rules, the department may grant a temporary variance.

139.7(1) Variances to these rules may be granted by the department to a currently authorized training program.

139.7(2) Requests for variances shall apply only to the training program requesting the variance and shall apply only to those requirements and standards for which the department is responsible.

139.7(3) A training program shall apply for a variance in accordance with 641—Chapter 178.

[**ARC 5143C**, IAB 8/12/20, effective 9/16/20]

641—139.8(147A) Continuing education providers—approval, record keeping and inspection.

139.8(1) A training program may conduct continuing education courses utilizing training program instructors.

139.8(2) Each training program shall assign a sponsor number to each core continuing education course using an assignment system approved by the department.

139.8(3) Course approval shall be completed prior to the course's being offered.

139.8(4) Each training program shall maintain a participant record that includes, as a minimum:

a. Name.

b. Address.

c. Certification number.

d. Course sponsor number.

e. Course instructor.

f. Date of course.

g. CEHs awarded.

139.8(5) The department may request additional information or inspect the records of any continuing education provider who is currently approved or who is seeking approval.

[**ARC 5143C**, IAB 8/12/20, effective 9/16/20]

641—139.9(147A) Discipline—denial, citation and warning, probation, suspension, or revocation of training program approval or renewal.

139.9(1) This rule is not subject to waiver or variance pursuant to 641—Chapter 178 or any other provision of law.

139.9(2) Method of discipline. The department has the authority to impose the following disciplinary sanctions against a training program:

a. Issue a citation and warning.

b. Impose a period of probation under specific conditions.

c. Prohibit permanently, until further order of the department, or for a specific period, a program's ability to engage in specific procedures, methods, acts or activities incident to the practice of the profession.

d. Suspend an authorization until further order of the department or for a specific period.

e. Deny an application for authorization.

f. Revoke an authorization.

g. Impose such other sanctions as allowed by law and as may be appropriate.

139.9(3) The department may impose any of the disciplinary sanctions provided in subrule 139.9(2) when it finds that the training program or applicant has failed to meet the applicable provisions of these rules or has committed any of the following acts or offenses:

a. Fraud in procuring approval or renewal.

b. Falsification or failure to document training or continuing education records.

c. Suspension or revocation of approval to provide emergency medical care training or other disciplinary action taken pursuant to Iowa Code chapter 147A. A certified copy of the record or order of suspension, revocation or disciplinary action is conclusive or prima facie evidence.

d. Engaging in any conduct that subverts or attempts to subvert a department investigation.

e. Failure to respond within 30 days of receipt of communication from the department which was sent by registered or certified mail.

f. Failure to comply with a subpoena issued by the department or failure to cooperate with an investigation of the department.

g. Failure to comply with the terms of a department order or the terms of a settlement agreement or consent order.

h. Submission of a false report of continuing education or failure to submit the quarterly report of continuing education.

i. Knowingly aiding, assisting or advising a person to unlawfully practice EMS.

j. Representing itself as an approved training program or continuing education provider when approval has been suspended or revoked or when approval has lapsed or has been placed on inactive status.

k. Using an unqualified individual as an instructor or evaluator.

l. Allowing verbal or physical abuse of a student or staff.

m. Failing to verify registration of a student with the department within the timeline established by the department or allowing an unregistered student to function in a clinical environment.

n. A training program provider or continuing education provider shall not sexually harass a patient, student, or coworker. Sexual harassment includes sexual advances, sexual solicitation, requests for sexual favors, and other verbal or physical conduct of a sexual nature communicated in person, in writing, via a third person or through electronic communication.

o. Betrayal of a professional confidence.

p. Engaging in a professional conflict of interest.

q. Discrimination. A training program or continuing education provider shall not practice, condone, or facilitate discrimination against a patient, student, or supervisee on the basis of race, ethnicity, national origin, color, sex, sexual orientation, age, marital status, political belief, religion, mental or physical disability, diagnosis, or social or economic status.

r. Failure to comply with the 2015 Standards and Guidelines for the Accreditation of Educational Programs in the Emergency Medical Services Professions published by the Commission on Accreditation of Allied Health Education Programs.

[**ARC 5143C**, IAB 8/12/20, effective 9/16/20]

641—139.10(147A) Complaints, investigations and appeals.

139.10(1) All complaints regarding an emergency medical care student, training programs or continuing education providers or those purporting to be or operating as the same shall be reported to the department in writing. The address is Iowa Department of Public Health, Bureau of Emergency and Trauma Service, Lucas State Office Building, Des Moines, Iowa 50319-0075.

139.10(2) Any emergency medical care provider, emergency medical care student, training program or continuing education provider who has knowledge of an emergency medical care provider or service program that has violated Iowa Code chapter 147A, 641—Chapter 132 or these rules shall report such information to the department.

139.10(3) Complaint investigations may result in the department's issuance of a notice of denial, citation and warning, probation, suspension or revocation.

139.10(4) A determination of mental incompetence by a court of competent jurisdiction automatically suspends a certificate for the duration of the certificate unless the department orders otherwise.

139.10(5) Notice of denial, issuance of a citation and warning, probation, suspension or revocation shall be effected in accordance with the requirements of Iowa Code section 17A.12. Notice to the alleged violator of denial, probation, suspension or revocation shall be served by certified mail, return receipt requested, or by personal service.

139.10(6) Any request for a hearing concerning the denial, citation and warning, probation, suspension or revocation shall be submitted by the aggrieved party in writing to the department by certified mail, return receipt requested, within 20 days of the receipt of the department's notice to take action. The address is Iowa Department of Public Health, Bureau of Emergency and Trauma Services, Lucas State Office Building, Des Moines, Iowa 50319-0075. If the request is made within the 20-day time period, the notice to take action shall be deemed to be suspended pending the hearing. Prior to or at the hearing, the department may rescind the notice upon satisfaction that the reason for the denial, citation and warning, probation, suspension or revocation has been or will be removed. If no request for a hearing is received within the 20-day time period, the department's notice of denial, citation and warning, probation, suspension or revocation shall become the department's final agency action.

139.10(7) Upon receipt of a request for hearing, the department shall forward the request within five working days to the department of inspections and appeals pursuant to the rules adopted by that agency

regarding the transmission of contested cases. The information upon which the adverse action is based and any additional information which may be provided by the aggrieved party shall also be provided to the department of inspections and appeals.

139.10(8) The hearing shall be conducted according to the procedural rules of the department of inspections and appeals found in 481—Chapter 10.

139.10(9) When the administrative law judge makes a proposed decision and order, it shall be served by certified mail, return receipt requested, or delivered by personal service. That proposed decision and order then becomes the department's final agency action without further proceedings ten days after it is received by the aggrieved party unless an appeal to the director is taken as provided in subrule 139.10(10).

139.10(10) Any appeal to the director for review of the proposed decision and order of the administrative law judge shall be filed in writing and mailed to the director by certified mail, return receipt requested, 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. Any request for an appeal shall state the reason for appeal.

139.10(11) Upon receipt of an appeal request, the administrative law judge shall prepare the record of the hearing for submission to the director. The record shall include the following:

a. All pleadings, motions, and rules.

b. All evidence received or considered and all other submissions by recording or transcript.

c. A statement of all matters officially noticed.

d. All questions and offers of proof, objections and rulings on them.

e. All proposed findings and exceptions.

f. The proposed decision and order of the administrative law judge.

139.10(12) The decision and order of the director becomes the department's final agency action upon receipt by the aggrieved party and shall be delivered by certified mail, return receipt requested, or by personal service.

139.10(13) It is not necessary to file an application for a rehearing to exhaust administrative remedies when appealing to the director or the district court as provided in Iowa Code section 17A.19. The aggrieved party to the final agency action of the department who has exhausted all administrative remedies may petition for judicial review of that action pursuant to Iowa Code chapter 17A.

139.10(14) Any petition for judicial review of a decision and order shall be filed in the district court within 30 days after the decision and order becomes final. A copy of the notice of appeal shall be sent to the department by certified mail, return receipt requested, or by personal service. The address is Iowa Department of Public Health, Bureau of Emergency and Trauma Services, Lucas State Office Building, Des Moines, Iowa 50319-0075.

139.10(15) The party who appeals a final agency action to the district court shall pay the cost of the preparation of a transcript of the contested case hearing for the district court.

139.10(16) Final decisions of the department relating to disciplinary proceedings may be transmitted to the appropriate professional associations, the news media or employer.

[**ARC 5143C**, IAB 8/12/20, effective 9/16/20]

These rules are intended to implement Iowa Code chapter 147A.

[Filed ARC 5143C (Notice ARC 4857C, IAB 1/15/20), IAB 8/12/20, effective 9/16/20]

WORKFORCE DEVELOPMENT DEPARTMENT[871]

[Prior to 9/24/86, see Employment Security[370], renamed Job Service Division[345]
under the "umbrella" of Department of Employment Services by 1986 Iowa Acts, chapter 1245]
[Prior to 3/12/97, see Job Service Division[345],
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CHAPTER 22
EMPLOYER RECORDS AND REPORTS

[Prior to 9/24/86, Employment Security [370] Ch 2]
[Prior to 3/12/97, Job Service Division [345] Ch 2]

871—22.1(96) Records to be kept by the employer.

22.1(1) Each employing unit having employment performed for it shall maintain records to show the information hereinafter indicated. Such records shall be kept in such form and manner that it will be possible from an inspection thereof to obtain the facts necessary to determine what remuneration was made by the employing unit and what remuneration is reportable to the department. Such records shall be open to inspection and be subject to be copied by the department and its authorized representatives at any reasonable time. Such records shall be kept for a period of five years after the calendar year in which the remuneration to which they relate was paid or, if not paid, was due.

22.1(2) Such records shall show with respect to each employee, unless the department has ruled that the particular service does not constitute employment:

a. Name of worker.

b. Social security account number.

c. Date on which employee was hired, rehired, or returned to work after a temporary layoff, and the date separated from work and the reason therefor.

d. Scheduled hours except for workers without a fixed schedule of hours, such as those working outside of the employer's establishment in such a manner that the employer has no definite knowledge of their working hours.

e. Total wages paid for employment in each period and the date of payment. For all pay periods ending in each quarter show separately: money wages, the cash value of other remuneration such as any special payment for services such as wages in lieu of notice, bonuses, gifts, prizes, and the nature of payments such as accounts paid to employees as allowance or reimbursement for traveling and other business expenses, and the amounts of such expenditures actually incurred and accounted for by the employees.

f. The state or states in which the services are performed; and if any of such services are performed outside of this state and are not incidental to the service within the state, the base of operations (or if there is no base of operations then the place from which such services are directed or controlled) and the residence (by state), and the name of the county in Iowa in which services were performed.

g. When the pay period covers services performed both in covered employment and in excluded work, show the hours and wages for covered employment under the Iowa employment security law, hereinafter referred to as the "Act," and also show hours and wages for excluded work.

h. The physical work site at which each employee worked during each pay period which includes the twelfth of each month. If an employee worked at more than one work site, the work site at which the majority of the work was performed should be the one of record.

22.1(3) Such payroll records may be preserved by the employer in an electronic format, provided the employer is willing to provide access to such records as may be required by the department.

22.1(4) Maintenance of records by out-of-state employing units. Any employing unit having its principal place of business outside of Iowa shall maintain payroll records in this state with respect to wages paid to employees who perform some service in this state; provided, however, that an out-of-state employing unit may, with the approval of the department, maintain such payroll records outside the state upon its understanding that it will, when requested so to do, furnish the department with a true and correct copy of such payroll records. Failure to maintain said records in Iowa as required may result in estimated reports and payroll listings being made by the department. See 871—subrule 23.59(2).

This rule is intended to implement Iowa Code section 96.11(6)*"a."*

[**ARC 3116C**, IAB 6/7/17, effective 7/12/17]

871—22.2(96) Reports. Each employing unit shall make such reports at such times as the department may require and shall comply with the instructions issued by the department pertaining to the preparation and return of such report.

This rule is intended to implement Iowa Code section 96.11(1).

[**ARC 3248C**, IAB 8/2/17, effective 9/6/17]

871—22.3(96) Filing of Employer's Contribution and Payroll, 65-5300, and Employer's Payroll Continuation Sheet, 60-0103.

22.3(1) Each employer shall, by the due date, electronically submit contribution and payroll for each quarter listing wages paid with respect to all the employer's business maintained within this state computed in accordance with the Iowa Code and these rules.

22.3(2) Rescinded IAB 8/2/17, effective 9/6/17.

22.3(3) A copy of each such report shall be preserved by each such employer for a period of at least five years from the end of the calendar year in which the report was due.

22.3(4) Employer to file report even when no payroll. Every qualified or subject employer is required to file contribution and payroll each quarter. Even though an employer finds that for some particular quarter no contributions are due or the employer has no employees during the period covered, a report must be filed with the department.

22.3(5) Combined reports, leased employees, and concurrently employed individuals.

a. Consolidated or combined reports of parent and subsidiary corporations or other employing units, whether or not the employing units are related, shall not be allowed.

b. Employees of parent and subsidiary corporations or other employing units, whether or not they are related, shall be reported on the quarterly reports of the employing unit for which the services are performed regardless of which employing unit actually issues the employees' paychecks.

c. Leased employees:

(1) Except as described in subparagraphs (2), (3), (4), and (5) below, individuals leased from an employee leasing company, by the client of the employee leasing company, shall be considered to be employed by the client and shall be reported on the quarterly reports of the client, at the contribution rate of the client, unless and until it is shown to the satisfaction of the department that the individuals are and will continue to be under the exclusive direction and control of the employee leasing company, both under a written contract and in fact.

In order for a contract to be considered evidence that individuals are the employees of the employee leasing company it shall:

1. Specify the service to be performed by the individuals, on behalf of the employee leasing company, for the client.

2. Specify the fee the client must pay for this service. The fee must be large enough to cover the actual cost of the individuals' wages and fringe benefits plus provide a reasonable profit on the service performed for the client.

3. Specify that the employee leasing company has the exclusive right to determine the number of individuals needed to provide the service for the client and to direct and control the individuals in the performance of the service.

4. Specify that the employee leasing company has the exclusive right to hire, fire, discipline, and reassign any of the individuals to another position or to another client without the consent of the client.

(2) If an individual is leased to fill a temporary need from a company whose business is primarily to provide workers to fill temporary needs, the individual shall be considered to be the employee of the leasing company as long as a written contract is in place.

(3) If an individual is a truck driver leased from a company that leases truck tractors with drivers to trucking companies, the individual shall be considered to be the employee of the leasing company unless and until it is shown to the satisfaction of the department that the trucking company has the exclusive right to hire, fire, discipline, reassign, and direct and control the services performed by the individual, both under a written contract and in fact.

(4) If an individual leased from an employee leasing company is a corporate officer of the client, the individual shall always be considered the employee of the client and not the employee of the leasing company.

(5) If an individual leased from an employee leasing company holds an exempt relationship, as defined in Iowa Code section 96.19(18)*"g"*(5), with the client, the individual shall not be considered to be an employee of either the client or the leasing company unless an election to cover the individual has been filed and approved in accordance with Iowa Code section 96.8(3)*"b."*

d. Concurrently employed individuals.

(1) Except as described in subparagraph (2) below, individuals who perform services concurrently for more than one employing unit, whether or not the employing units are related, shall be considered as working for each of the employing units and shall be reported on the quarterly reports of each of the employing units. Each of the employing units shall be required to pay contributions on the wages attributable to that employing unit up to the taxable wage base limit for each calendar year.

(2) An individual who concurrently performs services as a corporate officer for two or more related corporations and who is paid through a common paymaster that is one of the related corporations may be treated as working for only the common paymaster at the discretion of the related corporations.

22.3(6) Form 65-5300, Employer's Contribution and Payroll, shall include:

a. The social security number, name (last name first), and total wages paid to each employee during the calendar quarter. All corrections to previous reports must be submitted electronically. All employees' wages will be reported by the reporting unit under which the work was performed. See rules 871—23.3(96) through 871—23.6(96).

b. The sum of the total and taxable wages paid to all employees during the calendar quarter. The sum of the total and taxable wages will be computed for the employer. The electronic system will compute the taxable wages for each employee. If the employer is claiming taxable wages reported to another state, the amount claimed and the state that the wages were reported to will be listed.

c. The amount of contribution due for the calendar quarter. The system will compute and enter the contribution due.

d. The amount of interest due, if any, for the calendar quarter. The system will compute and enter the interest due.

e. The amount of penalty due, if any, for the calendar quarter. The system will compute and enter any penalty due.

f. The total amount of contribution, interest and penalty due for the calendar quarter. The system will compute and enter the total amount due.

g. Rescinded IAB 5/5/10, effective 6/9/10.

h. The amount of net remittance due for the calendar quarter; however, if the amount of net remittance due is less than $1, the employer need not submit payment. The system will compute and enter the net remittance due.

i. The total number of employees listed on the report. The system will compute and enter the total number of employees on the report.

j. The amount of extraordinary pay which was paid to the employees during the calendar quarter for each reporting unit.

k. The total number of employees paid wages during the pay periods which include the twelfth day of each month of the calendar quarter for each reporting unit.

l. The number of the county in which the reporting unit is located if only one business activity is conducted at only one worksite during the calendar quarter; however, if the same business activity is conducted at more than one worksite or if different business activities are conducted at one or more worksites, the employer shall include for each worksite the total number of employees paid wages during the pay periods which include the twelfth day of each month of the calendar quarter and the total wages paid during the calendar quarter. The system will compute and enter taxable wages.

(1) The total number of employees paid wages during the pay periods which include the twelfth day of each month of the calendar quarter for all worksites should equal the total number of employees reported for that month.

(2) The total wages paid to all employees at all worksites should equal the total wages reported.

(3) It could be possible for wages to be reported for a worksite without corresponding employment being reported in any of the months during the quarter because wages paid are reportable for the full 13-week period in the calendar quarter. Employment is reportable when such employment occurs during the pay periods which include the twelfth day of any month in the calendar quarter.

m. The reason (seasonal change, labor dispute, layoff, recall, worksite opening, or worksite closing) for the increase or decrease in total employment during the calendar quarter.

n. Rescinded IAB 3/5/03, effective 4/9/03.

o. The electronic signature of the owner, responsible officer, or authorized agent of the employer certifying that the information given is true and correct to the best of the signer's knowledge and belief, the date the report was submitted and the telephone number of the signer.

p. Such other schedules or reports as may be required, duly completed in all substantial respects on such forms and in accordance with such instructions as the department may provide or approve.

This rule is intended to implement Iowa Code sections 96.7, 96.11(6), 96.11(11) and 96.19(17).

[**ARC 8711B**, IAB 5/5/10, effective 6/9/10; **ARC 3248C**, IAB 8/2/17, effective 9/6/17; **ARC 3265C**, IAB 8/16/17, effective 9/20/17]

871—22.4(96) Reporting of earnings data by secure file transfer.

22.4(1) The employer may submit an electronic file. Authorization for this reporting method will be given if the employer meets the specification requirements to be compatible with the department's computer capabilities. Such specifications will be furnished upon request.

22.4(2) The electronic file submitted must contain, for each reporting unit, all of the required employer information, wage information, and labor market information. All corrections to previous reports submitted to the department must be submitted electronically.

22.4(3) The director shall annually designate the number of wage lines per report that will require the report be filed electronically.

This rule is intended to implement Iowa Code section 96.11(6)*"a."*

[**ARC 8711B**, IAB 5/5/10, effective 6/9/10; **ARC 3401C**, IAB 10/11/17, effective 11/15/17]

871—22.5(96) Filing of quarterly contribution and payroll by newly subject or covered employers. Any employing unit which becomes an employer subject to this chapter within any calendar quarter other than by a voluntary election of the employing unit shall file contribution and payroll for each calendar quarter. Payroll shall include all wages paid during the current quarter as well as separate quarterly reports for wages paid in prior quarters of the same calendar year. The first quarterly reports of that employer shall be due on the last day of the calendar month following the close of the calendar quarter in which the employing unit becomes subject to the Iowa Code and shall be considered delinquent if not submitted and paid by that date. Any employer filing a voluntary election for coverage must begin filing reports in the quarter the employer's election is effective.

This rule is intended to implement Iowa Code sections 96.7(1), 96.14(1), 96.14(2) and 96.8(3).

[**ARC 3401C**, IAB 10/11/17, effective 11/15/17]

871—22.6(96) Employer changing status, address or name required to file report. Any employer who terminates business for any reason whatsoever, or transfers or sells all or a substantial part of the assets of the organization, trade or business to another, or changes the trade name of such business or address thereof shall, within ten days after such termination, transfer, or change of name or address, give notice to the department of that fact. The employer shall set forth in such notice the former name and address of the business, the new name, telephone number and address, the name of any new owner, and the employer's own name, telephone number and present address. Such notification shall be submitted electronically.

This rule is intended to implement Iowa Code sections 96.11 and 96.8(4).

[**ARC 3247C**, IAB 8/2/17, effective 9/6/17]

871—22.7(96) Exempt employing units and exempt employment.

22.7(1) Any employing unit having workers performing services for it which it considers exempt from this Act shall file a Form 68-0192, Questionnaire for Determining Status of Workers, along with supporting exhibits and documents (i.e., contract, statements from employer and claimant) so that a decision can be made as to whether or not such service is in fact exempt from the provisions of this Act.

22.7(2) Any employing unit which has established its status as an organization exempt under this Act or that certain employment performed for it is not subject to contributions shall immediately notify the department of any changes in the character of its organization, the purposes and manner of its operation or the changed manner in which employment theretofore determined to be exempt by the department is performed.

22.7(3) Whenever an employing unit claims that any employment is not employment under this Act, the burden shall be on the employer to prove the exemption claimed.

This rule is intended to implement Iowa Code section 96.19(18)*"f."*

871—22.8(96) Subject employers.

22.8(1) Requesting determination of status. Whenever an employing unit is in doubt as to whether or not an individual is an employee, or is engaged in employment subject to the Act, the employing unit shall submit a statement of all relevant facts to the department for a determination as to the status under the Act of such individual or employment on Form 68-0192, Questionnaire for Determining Status of Workers, information for use in obtaining a ruling from the department as to whether or not a worker is an employee for the purposes of the Act.

22.8(2) Notification of status. The department shall maintain a separate account for each employer and shall notify the employer of any status change. This notice will advise the employer of:

a. The effective subjectivity date.

b. The date of the determination (last day of quarter in which subjectivity occurred). See rule 871—22.5(96).

c. The assigned industry code.

d. The section of the law under which the employer was found liable.

e. The federal identification number (if available).

f. The workforce development unemployment insurance account number.

g. The contribution rate for that year and preceding four years, if applicable.

h. Whether the account was established new, reestablished or placed on an inactive status.

22.8(3) For the specific procedure and requirements for perfecting an appeal of an employer liability determination see rules 871—23.52(96) to 871—23.56(96).

This rule is intended to implement Iowa Code section 96.7(4).

[**ARC 3303C**, IAB 8/30/17, effective 10/4/17]

871—22.9(96) Employing units required to file report to determine liability.

22.9(1) Each employing unit engaged in doing business in the state of Iowa January 1, 1936, or after, shall complete a registration with the department setting forth the names and addresses of the owners of the business, or if a corporation, association, or joint stock company or limited liability company, the names and addresses of its officers or members. Each employing unit must show its principal place of business, the nature of its business, the number of individuals whom it customarily hires to perform services for it, the place or places where such services are performed, the time when such business was begun, the number of weeks in the year for which it is customary to operate such business and such other information as may be required.

22.9(2) Each employing unit which shall hereafter begin business in the state of Iowa in any manner whatsoever whether by succession to a business already being operated, by starting a new business, or otherwise, shall, within 30 days after beginning such business, inform the department of that fact, complete a registration and file contribution and payroll for all reporting units.

22.9(3) Rescinded IAB 4/25/18, effective 5/30/18.

This rule is intended to implement Iowa Code section 96.11(1).

[**ARC 3303C**, IAB 8/30/17, effective 10/4/17; **ARC 3401C**, IAB 10/11/17, effective 11/15/17; **ARC 3529C**, IAB 12/20/17, effective 1/24/18; see Delay note at end of chapter; **ARC 3772C**, IAB 4/25/18, effective 5/30/18]

871—22.10(96) Report of a Partnership on Change in Partners.

22.10(1) *Change in partnership.* In any case in which a partnership consisting of two or more partners adds to or deletes a partner or partners and is not required by the Internal Revenue Service to obtain a new federal identification number after such addition or deletion of partner or partners, the partnership shall notify the department of such change within ten days from the date the change occurred. The department will subsequently correct the partnership account to reflect this change.

22.10(2) *Reporting requirement.* If, after the change in partners, the partnership is required to obtain a new federal identification number by the Internal Revenue Service, or if there has been a change of ownership as described in Iowa Code section 96.19(18)*"b"* or a change of ownership as described in rule 871—23.28(96), then the old partnership shall notify the department by filing Form 60-0111, Employer's Notice of Change, within ten days from the date the change occurred. The new partnership shall complete a registration within ten days from the date the change occurred.

This rule is intended to implement Iowa Code section 96.11(6).

[**ARC 3303C**, IAB 8/30/17, effective 10/4/17; **ARC 3401C**, IAB 10/11/17, effective 11/15/17]

871—22.11(96) Employer account.

22.11(1) The department shall maintain one account for each employer (or single legal entity). An employer who has more than one establishment or business shall be considered to be one employing unit entitled to one account and a single experience rate. If an establishment or business owned by an employer is a separate legal entity in its own right (i.e., a subsidiary corporation), it will be considered to be a separate employer and must have an experience rate based on its own experience. When an already covered employer acquires another establishment or business, the employer will have a separate account number with a separate experience rate for the acquired business only if that business retains its character as a separate legal entity. If the acquired business is merged with that of the employer so that they become a single legal entity under the law, the successor is not entitled to separate rates for each establishment or business.

22.11(2) Each employer shall report all wages paid and pay all contributions into the unemployment account maintained by the department. The title of the employer's account shall be the name of the individual, partnership, corporation, association or other organization constituting the employing unit, and may contain the trade name used by the employing unit. Where the employing unit is a fiduciary agent or legal representative, the title of the account shall be the name of the fiduciary or legal representative and the official title.

22.11(3) Each employer's account shall be assigned a number and, unless the system of numbering accounts is changed, the number identifying an employer's account shall not be changed.

22.11(4) Establishment defined. As used in this rule, "establishment" means an economic unit, generally at a single physical location, where business is conducted, or where services or industrial operations are performed, or from which employees are dispatched.

This rule is intended to implement Iowa Code sections 96.7(2)*"a"*(1) and 96.19(17).

[**ARC 8711B**, IAB 5/5/10, effective 6/9/10]

871—22.12(96) Reporting units. Any employer having two or more separate establishments will file those establishments as separate reporting units. Additionally at the employer's discretion, the employer may establish reporting units to report according to function within the business. When filing employer's contribution and payroll, all reporting units will be submitted together. The individual reporting units may be filed separately by the reporting units when authorized, but the complete account report is not submitted until all reporting units are completed. Maintaining current status for the reporting units will be the employer's responsibility. If any reporting units are deleted or added, the department shall be notified within ten working days from the date of change.

This rule is intended to implement Iowa Code sections 96.7(2)*"a"* and 96.19(6).

[**ARC 8711B**, IAB 5/5/10, effective 6/9/10; **ARC 3303C**, IAB 8/30/17, effective 10/4/17]

871—22.13(96) Procedure to be followed by an employer wishing to have an active reporting unit coded for notice of claim for unemployment benefit mailing.

22.13(1) Any employing unit reporting under an assigned account and having one or more reporting units in the state of Iowa may request the assignment of a reporting unit number which will be assigned for the specific purpose of mailing Form 65-5317, Notice of Claim Filing, to the reporting unit so that responsible personnel at that location can make a timely protest on Form 65-5317 if the employment separation was for a disqualifiable reason. Those accounts so wishing may request that all unemployment insurance material other than Form 65-5317, Notice of Claim Filing, be sent to the home office or regional accounting office. All such requests must be from a responsible financial or operating officer of the firm and shall indicate:

a. Full trade name and address of each location to be coded.

b. The full employer name and address of the home office or financial office where all unemployment insurance material other than Form 65-5317 is to be sent.

22.13(2) It will be permissible to accept this information over the telephone by qualified personnel of the tax bureau provided that the employer makes known all of the above requested information and the person receiving this information notes the date it was received, the time it was received, who telephoned the information to the department, and the name and telephone number of a responsible party that can be contacted if further verification is needed with respect to the location coding procedure. Tax bureau personnel receiving this classified information by telephone will accordingly note this and make it a matter of permanent record.

This rule is intended to implement Iowa Code section 96.6(2).

[**ARC 8711B**, IAB 5/5/10, effective 6/9/10; **ARC 3303C**, IAB 8/30/17, effective 10/4/17; **ARC 3401C**, IAB 10/11/17, effective 11/15/17]

871—22.14(96) Notification by employer of employee's rights. Each employer shall post and maintain in places readily accessible to individuals in its employ printed notices or posters, Form 60-0160, informing employees of their potential rights to benefits under the employment security law and providing general instructions as to what the employees shall do and where the employees shall go to obtain these benefits. Copies of these printed notices or posters may be obtained from the department, upon request, without cost to the employer.

This rule is intended to implement Iowa Code section 96.11(2).

871—22.15(96) 940 certification.

22.15(1) Upon request, the department shall furnish to the Internal Revenue Service a certification of an employer's account for a particular year. Certification requests may be on an individual basis or may be part of a bulk yearly certification. Such certification will include the employer's state account number, yearly taxable payroll, contribution rate, contributions paid prior to January 31 of the next succeeding year, and the date and amount of contributions after January 31 of the next succeeding year.

22.15(2) In addition to the information certified in subrule 22.15(1), yearly certification shall include:

a. Employers who filed a federal unemployment tax return (Form 940) that did not file with the department.

b. Employers who filed returns with the department but not with the Internal Revenue Service except governmental employers and employers that department records indicate to be 501(c)(3) nonprofit organizations.

This rule is intended to implement Iowa Code sections 96.11(1) and 96.11(6)*"c"*(2).

871—22.16(96) Electronic transmittal of contribution payments.

22.16(1) An employing unit or person acting on behalf of one or more employing units must transmit payment of contributions to the department electronically.

22.16(2) Once an employing unit transmits payment of contributions to the department electronically, the employing unit must submit all subsequent payments of contributions to the department electronically.

This rule is intended to implement Iowa Code sections 96.7(1) and 96.14(2).

[**ARC 3247C**, IAB 8/2/17, effective 9/6/17]

871—22.17(96) Procedures of field auditors.

22.17(1) Field auditors are to provide a cost-effective method of promoting employers' understanding of employer rights and responsibilities under Iowa unemployment insurance laws.

22.17(2) The department, through duly appointed field auditors, may examine an employer's records at any time, subject to the limitations of 871—22.1(96), to determine compliance with Iowa Code chapter 96.

22.17(3) The department has enforcement authority. An employer, when requested to produce records by an auditor, must make the records available within and at a reasonable time to the auditor. If an employer does not comply with the auditor's request to produce records, a subpoena duces tecum may be served on the employer to appear before the auditor with the records in accordance with Iowa Code section 96.11, subsections 8 and 9.

22.17(4) The department, through duly appointed field auditors, may perform a systematic audit of an employer's records as authorized by Iowa Code section 96.11, subsection 7, and as mandated by the United States Department of Labor. In addition to the provisions of subrules 22.17(1) to 22.17(3), the following provisions apply to systematic audits:

a. The employer is to be given reasonable notice of the intent to audit, and a preaudit interview is to be conducted with the employer or a designated representative.

b. The records required, if maintained, may include individual pay records, Internal Revenue Service Forms W-2 and 1099, cash disbursement journal, check register, chart of accounts, general ledger, balance sheet, profit and loss statement, federal and state tax returns and other records to the extent they relate to possible hidden or misclassified wages.

c. To verify the existence of the business, the auditor may require a visit to the business premises or to see other evidence of legitimate business activity.

d. To verify the correct business entity is listed on department files, the auditor may examine various employer business licenses, legal documents or other tax returns.

e. To verify the reporting of all workers reportable to the department under Iowa Code chapter 96, questionable entries will be investigated and documented. Under rule 871—22.7(96), if the employer disagrees with the audit decision on coverage of a worker, the auditor may require the employer to complete Form 68-0192, Questionnaire for Determining Status of Workers. In any disputed case, the auditor is to be granted access to records as necessary to determine the remuneration paid for any given calendar quarter.

f. To verify proper employer posting to department reports, a detailed audit of check stubs, weekly time cards, or other maintained source documents will be made and documented for at least one worker for at least one quarter. The detailed audit may be more comprehensive at the discretion of the auditor or if discrepancies are found.

g. Employer records will be compared and reconciled to amounts reported to the department on contribution and payroll reports and audit findings documented.

h. Discrepancies will be resolved or explained, and report adjustments prepared as necessary.

i. The audit will cover four calendar quarters; however, if material errors are found, the audit may be expanded to cover prior or subsequent years subject to limitations of subrule 22.1(1). The auditor will review and correct similar errors in a minimum of a year prior to and after the audited year.

j. Additional amounts due will be calculated and collected, including applicable interest and penalties, or an explanation will be given. The employer may be required to submit a payment plan.

k. When the audit is completed, the audit will be discussed with the employer or a representative designated by the employer. The employer will be furnished copies of any wage adjustments, supplemental reports or delinquent reports prepared by the auditor. An audit report with all worksheets, adjustments and reports will be retained by Iowa workforce development.

22.17(5) There are several other reasons department representatives may make employer contacts and demands under authority of this rule. Any of these activities may be expanded into a systematic compliance audit as described in subrule 22.17(4) upon approval of the duly authorized representative of the department.

a. An auditor may request to examine business records to determine the date employment began and the date the employing unit became subject to Iowa Code chapter 96.

(1) To determine if an employing unit is to be a covered employer and if an individual, or class of individuals, are employees whose remuneration would be subject to contributions, the auditor will examine employment contracts and related documents.

(2) If it is determined that the employing unit is to be a covered employer, the auditor will examine legal documents such as leases, purchase contracts, partnership agreements, articles of incorporation, limited liability operating agreements and stock records to determine ownership of the business, to establish responsibility for filing reports and paying contributions, and to assist in the determination of the unemployment insurance tax rate.

(3) If liability is determined, the payroll/remuneration records may be examined to establish the correct amount of covered wages and the period to which they belong. Reports will be completed and the correct amount of contribution, penalty and interest due will be computed and collection action will be initiated.

b. When an unemployment insurance claim is filed, an auditor may request to examine the records of an employer to establish the claimant's rights to benefits under Iowa Code chapter 96. Form 68-0192, Questionnaire for Determining Status of Workers, and supporting documents may be required in contested cases. If the department determines that the claimant is an employee, the records will be examined to determine the correct amount of wages paid to the claimant and the period to which the wages apply.

c. When an employer fails or refuses to file contribution and payroll, the auditor may examine the records to determine the correct amount of wages that should be reported and may compute and collect contributions, penalty, and interest due. Should records not be made available, the auditor may estimate the wages paid and amounts due pursuant to 871—subrule 23.59(2).

d. When an employer is delinquent in paying contributions due, the auditor may examine records including cash accounts, accounts receivable, real and personal property accounts, accounts payable, notes payable, installment contracts and mortgages payable to determine the employer's equity in the assets on which a lien may be filed and judgment obtained.

22.17(6) When a temporary writ of injunction has been filed by the department, pursuant to Iowa Code section 96.16, against an employer because of the employer's failure or refusal to file a required report or to pay assessed contributions, penalty, and interest, a field auditor shall have the right to inspect the enjoined business premises during reasonable hours and interview any interested parties having knowledge of or being involved with the enjoined employer to ensure that such enjoined employer and all of the employer's agents, servants, employees, and assigns are observing the conditions of the temporary writ of injunction.

This rule is intended to implement Iowa Code sections 96.7(1), 96.7(3), 96.8(1), 96.11(1), 96.11(6)*"a,"*96.11(7), 96.14, 96.16 and 96.20(3).

[**ARC 8711B**, IAB 5/5/10, effective 6/9/10; **ARC 3401C**, IAB 10/11/17, effective 11/15/17]

871—22.18(96) Agents and other practitioners or firms representing employers in unemployment insurance matters.

22.18(1) An agent, tax practitioner, accounting firm, attorney or any other firm or individual that represents or intervenes on behalf of an employer in any unemployment insurance matter shall have on file with the department:

a. A power of attorney, or

b. A letter of authorization from the employer, or

c. An electronic designation of authority from the employer.

22.18(2) The foregoing documents shall contain the following information:

a. Employer's full legal name, address and account number.

b. Employer doing business as (DBA) or trade name if any.

c. Legal name, address, telephone number and federal employer identification number (FEIN) of the agent or firm representing the employer.

d. Employer's email address.

e. Address of the designated agent.

f. Roles that the agent or firm is authorized to perform for the employer.

g. Signature of the employer.

22.18(3) Rescinded IAB 3/5/03, effective 4/9/03.

This rule is intended to implement Iowa Code section 96.11(7).

[**ARC 8711B**, IAB 5/5/10, effective 6/9/10]

871—22.19(96) Notification of availability of unemployment insurance.

22.19(1) Upon separation from employment, an employer shall provide documentation to an employee of the availability of unemployment insurance.

22.19(2) The notice shall inform employees of the following:

a. Unemployment insurance benefits are available to workers who are unemployed and who meet the state's eligibility requirements;

b. Employees may file a claim in the first week that employment stops or work hours are reduced;

c. Employees may file claims online at iowaworkforcedevelopment.gov or by telephone at (866)239-0843;

d. Employees must provide the department with the following information to process the claim:

(1) Full legal name;

(2) Social security number;

(3) Authorization to work (if the employee is not a U.S. citizen or resident);

(4) Last employer name and address;

(5) Start and end dates of the employee's last employment;

(6) Additional information upon request of the department.

This rule is intended to implement Iowa Code chapter 96 and the Coronavirus Aid, Relief, and Economic Security (CARES) Act (P.L. 116-136).

[**ARC 5127C**, IAB 8/12/20, effective 7/23/20]

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