State of Iowa

Iowa Administrative Code Supplement

Biweekly
December 10, 2014

STEPHANIE A. HOFF
ADMINISTRATIVE CODE EDITOR

Published by the
STATE OF IOWA
UNDER AUTHORITY OF IOWA CODE SECTION 17A.6

The Iowa Administrative Code Supplement is published biweekly pursuant to Iowa Code section 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 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

Education Department[281]

Replace Analysis
Replace Chapter 23
Replace Chapter 36
Remove Reserved Chapters 48 to 50
Insert Chapter 48 and Reserved Chapters 49 and 50
Replace Chapter 56
Replace Chapter 60
Replace Chapter 79

Human Services Department[441]

Replace Analysis
Replace Chapters 107 and 108
Replace Chapter 200

Inspections and Appeals Department[481]

Replace Analysis
Replace Chapter 51
Replace Chapters 57 and 58
Replace Chapters 62 to 65

Natural Resource Commission[571]

Replace Analysis
Replace Chapter 9 with Reserved Chapter 9
Replace Chapter 53 with Reserved Chapter 53

Public Employment Relations Board[621]

Replace Analysis
Replace Chapters 2 and 3

Public Health Department[641]

Replace Analysis
Replace Chapter 4
Replace Chapter 176
Remove Reserved Chapters 196 to 200
Insert Chapter 196 and Reserved Chapters 197 to 200
Replace Chapter 202
Remove Chapter 204 and Reserved Chapter 205
Insert Reserved Chapters 204 and 205

Professional Licensure Division[645]

Replace Chapter 31

Pharmacy Board[657]

Replace Analysis
Replace Chapters 3 and 4
Replace Chapter 8
Replace Chapter 10
Replace Chapter 19
Replace Reserved Chapter 33 with Chapter 33

Revenue Department[701]

Replace Analysis
Replace Chapter 10
Replace Chapter 71

Secretary of State[721]

Replace Chapter 22

Labor Services Division[875]

Replace Analysis
Replace Chapter 4
Replace Chapters 71 to 73

EDUCATION DEPARTMENT[281]

Created by 1986 Iowa Acts, chapter 1245, section 1401.
Prior to 9/7/88, see Public Instruction Department[670]
(Replacement pages for 9/7/88 published in 9/21/88 IAC)

TITLE I
GENERAL INFORMATION—
DEPARTMENT OPERATIONS

CHAPTER 1
ORGANIZATION AND OPERATION

1.1(17A,256) State board of education
1.2(17A,256) Student member of state board of education
1.3(17A,256) Director of education
1.4(17A,256) Department of education

CHAPTER 2
AGENCY PROCEDURE FOR RULE MAKING AND PETITIONS FOR RULE MAKING
(Uniform Rules)

2.1(17A) Applicability
2.2(17A) Advice on possible rules before notice of proposed rule adoption
2.3(17A) Public rule-making docket
2.4(17A) Notice of proposed rule making
2.5(17A) Public participation
2.6(17A) Regulatory analysis
2.7(17A,25B) Fiscal impact statement
2.8(17A) Time and manner of rule adoption
2.9(17A) Variance between adopted rule and published notice of proposed rule adoption
2.10(17A) Exemptions from public rule-making procedures
2.11(17A) Concise statement of reasons
2.12(17A) Contents, style, and form of rule
2.13(17A) Agency rule-making record
2.14(17A) Filing of rules
2.15(17A) Effectiveness of rules prior to publication
2.16(17A) General statements of policy
2.17(17A) Review by agency of rules
2.18(17A) Petition for rule making
2.19(17A) Inquiries

CHAPTER 3
DECLARATORY ORDERS
(Uniform Rules)

3.1(17A) Petition for declaratory order
3.2(17A) Notice of petition
3.3(17A) Intervention
3.4(17A) Briefs
3.5(17A) Inquiries
3.6(17A) Service and filing of petitions and other papers
3.7(17A) Consideration
3.8(17A) Action on petition
3.9(17A) Refusal to issue order
3.10(17A) Contents of declaratory order—effective date
3.11(17A) Copies of orders
3.12(17A) Effect of a declaratory order

CHAPTER 4
WAIVERS OR VARIANCES FROM ADMINISTRATIVE RULES

4.1(17A,ExecOrd11) Definitions
4.2(17A,ExecOrd11) Scope of chapter
4.3(17A,ExecOrd11) Applicability of chapter
4.4(17A,ExecOrd11) Criteria for waiver
4.5(17A,ExecOrd11) Filing of petition
4.6(17A,ExecOrd11) Content of petition
4.7(17A,ExecOrd11) Additional information
4.8(17A,ExecOrd 11) Notice
4.9(17A,ExecOrd11) Hearing procedures
4.10(17A,ExecOrd11) Ruling
4.11(17A,ExecOrd11) Public availability
4.12(17A,ExecOrd11) Summary reports
4.13(17A,ExecOrd11) Cancellation
4.14(17A,ExecOrd11) Violations
4.15(17A,ExecOrd11) Defense
4.16(17A,ExecOrd11) Judicial review
4.17(17A,ExecOrd11) Exception

CHAPTER 5
PUBLIC RECORDS AND FAIR INFORMATION PRACTICES
(Uniform Rules)

5.1(256) Definitions
5.3(256) Requests for access to records
5.6(256) Procedure by which additions, dissents, or objections may be entered into certain records
5.9(256) Disclosures without the consent of the subject
5.10(256) Routine use
5.11(256) Consensual disclosure of confidential records
5.12(256) Release to a subject
5.13(256) Availability of records
5.14(256) Personally identifiable information
5.15(256) Other groups of records
5.16(256) Applicability

CHAPTER 6
APPEAL PROCEDURES

6.1(290) Scope of appeal
6.2(256,290,17A) Definitions
6.3(290,17A) Manner of appeal
6.4(17A) Continuances
6.5(17A) Intervention
6.6(17A) Motions
6.7(17A) Disqualification
6.8(290) Subpoena of witnesses and costs
6.9(17A) Discovery
6.10(17A) Consolidation—severance
6.11(17A) Waiver of procedures
6.12(17A) Appeal hearing
6.13 Reserved
6.14(17A) Ex parte communication
6.15(17A) Record

6.16(17A) Recording costs
6.17(290,17A) Decision and review
6.18(290) Finality of decision
6.19(17A) Default
6.20(17A) Application for rehearing of final decision
6.21(17A) Rehearing
6.22(17A) Emergency adjudicative proceedings
6.23(256,17A) Additional requirements for specific programs

CHAPTER 7
CRITERIA FOR GRANTS

7.1(256,17A) Purpose
7.2(256,17A) Definitions
7.3(256,17A) Requirements
7.4(256,17A) Review process
7.5(290,17A) Appeal of grant denial or termination

CHAPTERS 8 to 10
Reserved

TITLE II
ACCREDITED SCHOOLS AND SCHOOL DISTRICTS

CHAPTER 11
UNSAFE SCHOOL CHOICE OPTION

11.1(PL107-110) Purpose
11.2(PL107-110) Definitions
11.3(PL107-110) Whole school option
11.4(PL107-110) Individual student option
11.5(PL107-110) District reporting

CHAPTER 12
GENERAL ACCREDITATION STANDARDS

DIVISION I
GENERAL STANDARDS

12.1(256) General standards

DIVISION II
DEFINITIONS

12.2(256) Definitions

DIVISION III
ADMINISTRATION

12.3(256) Administration

DIVISION IV
SCHOOL PERSONNEL

12.4(256) School personnel

DIVISION V
EDUCATION PROGRAM

12.5(256) Education program

DIVISION VI
ACTIVITY PROGRAM

12.6(256) Activity program

DIVISION VII
STAFF DEVELOPMENT

12.7(256,284,284A) Professional development

DIVISION VIII
ACCOUNTABILITY

12.8(256) Accountability for student achievement

DIVISION IX
EXEMPTION REQUEST PROCESS

12.9(256) General accreditation standards exemption request

DIVISION X
INDEPENDENT ACCREDITING AGENCIES

12.10(256) Independent accrediting agencies

CHAPTERS 13 and 14
Reserved

CHAPTER 15
USE OF ONLINE LEARNING AND TELECOMMUNICATIONS FOR INSTRUCTION BY SCHOOLS

15.1(256) Purpose
15.2(256) Definitions

DIVISION I
USE OF TELECOMMUNICATIONS FOR INSTRUCTION BY SCHOOLS

15.3(256) Interactivity
15.4(256) Course eligibility
15.5(256) Teacher preparation and accessibility
15.6(256) School responsibilities

DIVISION II
ONLINE LEARNING OFFERED BY A SCHOOL DISTRICT

15.7(256) School district responsibilities
15.8(256) Prohibition regarding open enrollment

15.9(256) Special education services

DIVISION III
IOWA LEARNING ONLINE (ILO)

15.10(256) Appropriate applications of ILO coursework
15.11(256) Inappropriate applications of ILO coursework; criteria for waiver
15.12(256) School and school district responsibilities
15.13(256) Department responsibilities
15.14(256) Enrollment in an ILO course

CHAPTER 16
STATEWIDE VOLUNTARY PRESCHOOL PROGRAM

16.1(256C) Purpose
16.2(256C) Definitions
16.3(256C) Preschool program standards
16.4(256C) Collaboration requirements
16.5(256C) Applications for funding
16.6(256C) Application process
16.7(256C) Award contracts
16.8(256C) Contract termination
16.9(256C) Criteria for applications for funding
16.10(256C) Appeal of application denial or termination
16.11(256C) Finance
16.12(256C) Transportation
16.13(256C) Accountability requirements
16.14(256C) Monitoring
16.15(256C) Open enrollment not applicable

CHAPTER 17
OPEN ENROLLMENT

17.1(282) Intent and purpose
17.2(282) Definitions
17.3(282) Application process
17.4(282) Filing after the March 1 deadline—good cause
17.5(282) Filing after the March 1 deadline—harassment or serious health condition
17.6(282) Restrictions to open enrollment requests
17.7(282) Open enrollment for kindergarten
17.8(282) Requirements applicable to parents/guardians and students
17.9(282) Transportation
17.10(282) Method of finance
17.11(282) Special education students
17.12(282) Laboratory school provisions
17.13(282) Applicability
17.14(282) Voluntary diversity plans or court-ordered desegregation plans

CHAPTER 18
SCHOOL FEES

18.1(256) Policy
18.2(256) Fee policy
18.3(256) Eligibility for waiver, partial waiver or temporary waiver of student fees
18.4(256) Fees covered
18.5(256) Effective date

CHAPTERS 19 and 20
Reserved

TITLE III
COMMUNITY COLLEGES

CHAPTER 21
COMMUNITY COLLEGES

DIVISION I
APPROVAL STANDARDS

21.1(260C)	Definitions
21.2(260C)	Administration
21.3	Reserved
21.4(260C)	Curriculum and evaluation
21.5(260C)	Library or learning resource center
21.6(260C)	Student services
21.7(260C)	Laboratories, equipment and supplies
21.8(260C)	Physical plant
21.9(260C)	Nonreimbursable facilities
21.10 to 21.19	Reserved

DIVISION II
COMMUNITY COLLEGE ENERGY APPROPRIATIONS

21.20 to 21.29	Reserved

DIVISION III
INSTRUCTIONAL COURSE FOR DRINKING DRIVERS

21.30(321J)	Purpose
21.31(321J)	Course
21.32(321J)	Tuition fee established
21.33(321J)	Administrative fee established
21.34(321J)	Advisory committee

DIVISION IV
JOBS NOW CAPITALS ACCOUNT

21.35 to 21.44	Reserved

DIVISION V
STATE COMMUNITY COLLEGE FUNDING PLAN

21.45(260C)	Purpose

DIVISION VI
INTERCOLLEGIATE ATHLETIC COMPETITION

21.46 to 21.56	Reserved

DIVISION VII
QUALITY INSTRUCTIONAL CENTER INITIATIVE

21.57 to 21.63	Reserved

DIVISION VIII
PROGRAM AND ADMINISTRATIVE SHARING INITIATIVE

21.64 to 21.71	Reserved

DIVISION IX
APPRENTICESHIP PROGRAM

21.72(260C)	Purpose
21.73(260C)	Definitions
21.74(260C)	Apprenticeship programs

DIVISION X
MISCELLANEOUS PROVISIONS

21.75(260C,82GA,SF358) Used motor vehicle dealer education program

CHAPTER 22
SENIOR YEAR PLUS PROGRAM

DIVISION I
GENERAL PROVISIONS

22.1(261E) Scope
22.2(261E) Student eligibility
22.3(261E) Teacher eligibility, responsibilities
22.4(261E) Institutional eligibility, responsibilities
22.5 Reserved

DIVISION II
DEFINITIONS

22.6(261E) Definitions

DIVISION III
ADVANCED PLACEMENT PROGRAM

22.7(261E) School district obligations
22.8(261E) Obligations regarding registration for advanced placement examinations
22.9 and 22.10 Reserved

DIVISION IV
CONCURRENT ENROLLMENT PROGRAM

22.11(261E) Applicability
22.12 and 22.13 Reserved

DIVISION V
POSTSECONDARY ENROLLMENT OPTIONS PROGRAM

22.14(261E) Availability
22.15(261E) Notification
22.16(261E) Student eligibility
22.17(261E) Eligible postsecondary courses
22.18(261E) Application process
22.19(261E) Credits
22.20(261E) Transportation
22.21(261E) Tuition payments
22.22(261E) Tuition reimbursements and adjustments
22.23 Reserved

DIVISION VI
CAREER ACADEMIES

22.24(261E) Career academies
22.25 Reserved

DIVISION VII
REGIONAL ACADEMIES

22.26(261E) Regional academies
22.27(261E) Waivers for certain regional academies

DIVISION VIII
INTERNET-BASED AND ICN COURSEWORK

22.28(261E) Internet-based coursework
22.29(261E) ICN-based coursework
22.30 and 22.31 Reserved

DIVISION IX
PROJECT LEAD THE WAY

22.32(261E) Project lead the way

CHAPTER 23
ADULT EDUCATION AND LITERACY PROGRAMS

23.1(260C) Definitions
23.2(260C) State planning
23.3(260C) Program administration
23.4(260C) Career pathways
23.5(260C) Student eligibility
23.6(260C) Qualification of staff
23.7(260C) High-quality professional development
23.8(260C) Performance and accountability

CHAPTER 24
COMMUNITY COLLEGE ACCREDITATION

24.1(260C) Purpose
24.2(260C) Scope
24.3(260C) Definitions
24.4(260C) Accreditation components and criteria—Higher Learning Commission
24.5(260C) Accreditation components and criteria—additional state standards
24.6(260C) Accreditation process

CHAPTER 25
PATHWAYS FOR ACADEMIC CAREER AND EMPLOYMENT PROGRAM;
GAP TUITION ASSISTANCE PROGRAM

DIVISION I
GENERAL PROVISIONS

25.1(260H,260I) Scope
25.2(260H,260I) Definitions
25.3 to 25.10 Reserved

DIVISION II
PATHWAYS FOR ACADEMIC CAREER AND EMPLOYMENT (PACE) PROGRAM

25.11(260H) Purpose
25.12(260H) Target populations
25.13(260H) Eligibility criteria for projects
25.14(260H) Program component requirements
25.15(260H) Pipeline program
25.16(260H) Career pathways and bridge curriculum development program
25.17 to 25.19 Reserved

DIVISION III
GAP TUITION ASSISTANCE PROGRAM

25.20(260I) Purpose
25.21(260I) Applicants for tuition assistance—eligibility criteria
25.22(260I) Applicants for tuition assistance—additional provisions
25.23(260I) Eligible costs
25.24(260I) Eligible certificate programs
25.25(260I) Initial assessment
25.26(260I) Program interview
25.27(260I) Participation requirements
25.28(260I) Oversight

TITLE IV
DRIVER AND SAFETY EDUCATION

CHAPTER 26
Reserved

CHAPTER 27
WORKFORCE TRAINING AND ECONOMIC DEVELOPMENT FUNDS

27.1(260C) Purpose
27.2(260C) Definitions
27.3(260C) Funds allocation
27.4(260C) Community college workforce and economic development fund plans and progress reports
27.5(260C) Use of funds
27.6(260C) Prior approval
27.7(260C) Annual plan and progress report approval
27.8(260C) Options upon default or noncompliance

CHAPTERS 28 to 30
Reserved

TITLE V
NONTRADITIONAL STUDENTS

CHAPTER 31
PRIVATE INSTRUCTION AND DUAL ENROLLMENT

31.1(299,299A) Purpose and definitions
31.2(299) Reports as to competent private instruction
31.3(299,299A) Duties of privately retained licensed practitioners
31.4(299,299A) Duties of licensed practitioners, home school assistance program
31.5(299A) School district duties related to competent private instruction
31.6(299A) Dual enrollment
31.7(299) Open enrollment
31.8(299A) Baseline evaluation and annual assessment
31.9(299A) Reporting assessment results
31.10(299A) Special education students
31.11(299,299A) Independent private instruction
31.12(299,299A) Miscellaneous provisions

CHAPTER 32
HIGH SCHOOL EQUIVALENCY DIPLOMA

32.1(259A) Test
32.2(259A) By whom administered
32.3(259A) Minimum score
32.4(259A) Effectiveness of test scores
32.5(259A) Retest
32.6(259A) Application fee
32.7(259A) Diploma, transcript, verification fees
32.8(259A) Admission to testing

CHAPTER 33
EDUCATING THE HOMELESS

33.1(256) Purpose
33.2(256) Definitions
33.3(256) Responsibilities of the board of directors

33.4(256) School records; student transfers
33.5(256) Immunization requirements
33.6(256) Waiver of fees and charges encouraged
33.7(256) Waiver of enrollment requirements encouraged; placement
33.8(256) Residency of homeless child or youth
33.9(256) Dispute resolution
33.10(256) Transportation of homeless children and youth
33.11(256) School services

CHAPTER 34
FUNDING FOR CHILDREN RESIDING IN STATE INSTITUTIONS
OR MENTAL HEALTH INSTITUTES

34.1(218) Scope
34.2(218) Definitions
34.3(218) General principles
34.4(218) Notification
34.5(218) Program submission and approval
34.6(218) Budget submission and approval
34.7(218) Payments
34.8(218) Payments to the AEA
34.9(218) Contracting for services
34.10(218) Accounting for average daily attendance
34.11(218) Accounting for actual program costs
34.12(218) Audit
34.13(218) Hold-harmless provision
34.14(218,256B,34CFR300) AEA services
34.15(218,233A,261C) Postsecondary credit courses

CHAPTER 35
Reserved

TITLE VI
INTERSCHOLASTIC COMPETITION

CHAPTER 36
EXTRACURRICULAR INTERSCHOLASTIC COMPETITION

36.1(280) Definitions
36.2(280) Registered organizations
36.3(280) Filings by organizations
36.4(280) Executive board
36.5(280) Federation membership
36.6(280) Salaries
36.7(280) Expenses
36.8(280) Financial report
36.9(280) Bond
36.10(280) Audit
36.11(280) Examinations by auditors
36.12(280) Access to records
36.13(280) Appearance before state board
36.14(280) Interscholastic athletics
36.15(280) Eligibility requirements
36.16(280) Executive board review
36.17(280) Appeals to director
36.18(280) Organization policies

36.19(280) Eligibility in situations of district organization change
36.20(280) Cooperative student participation

CHAPTER 37
EXTRACURRICULAR ATHLETIC ACTIVITY
CONFERENCE FOR MEMBER SCHOOLS

37.1(280) Policy and purpose
37.2(280) Initial responsibility
37.3(280) Complaint to the director, department of education
37.4(280) Mediation
37.5(280) Resolution or recommendation of the mediation team
37.6(280) Decision
37.7(280) Effective date of the decision

CHAPTERS 38 to 40
Reserved

TITLE VII
SPECIAL EDUCATION

CHAPTER 41
SPECIAL EDUCATION

DIVISION I
PURPOSE AND APPLICABILITY

41.1(256B,34CFR300) Purposes
41.2(256B,34CFR300) Applicability of this chapter

DIVISION II
DEFINITIONS

41.3(256B,34CFR300) Act
41.4(256B,273) Area education agency
41.5(256B,34CFR300) Assistive technology device
41.6(256B,34CFR300) Assistive technology service
41.7(256B,34CFR300) Charter school
41.8(256B,34CFR300) Child with a disability
41.9(256B,34CFR300) Consent
41.10(256B,34CFR300) Core academic subjects
41.11(256B,34CFR300) Day; business day; school day
41.12(256B,34CFR300) Educational service agency
41.13(256B,34CFR300) Elementary school
41.14(256B,34CFR300) Equipment
41.15(256B,34CFR300) Evaluation
41.16(256B,34CFR300) Excess costs
41.17(256B,34CFR300) Free appropriate public education
41.18(256B,34CFR300) Highly qualified special education teachers
41.19(256B,34CFR300) Homeless children
41.20(256B,34CFR300) Include
41.21(256B,34CFR300) Indian and Indian tribe
41.22(256B,34CFR300) Individualized education program
41.23(256B,34CFR300) Individualized education program team
41.24(256B,34CFR300) Individualized family service plan
41.25(256B,34CFR300) Infant or toddler with a disability
41.26(256B,34CFR300) Institution of higher education
41.27(256B,34CFR300) Limited English proficient

41.28(256B,34CFR300) Local educational agency
41.29(256B,34CFR300) Native language
41.30(256B,34CFR300) Parent
41.31(256B,34CFR300) Parent training and information center
41.32(256B,34CFR300) Personally identifiable
41.33(256B,34CFR300) Public agency; nonpublic agency; agency
41.34(256B,34CFR300) Related services
41.35(34CFR300) Scientifically based research
41.36(256B,34CFR300) Secondary school
41.37(34CFR300) Services plan
41.38(34CFR300) Secretary
41.39(256B,34CFR300) Special education
41.40(34CFR300) State
41.41(256B,34CFR300) State educational agency
41.42(256B,34CFR300) Supplementary aids and services
41.43(256B,34CFR300) Transition services
41.44(34CFR300) Universal design
41.45(256B,34CFR300) Ward of the state
41.46 to 41.49 Reserved
41.50(256B,34CFR300) Other definitions associated with identification of eligible individuals
41.51(256B,34CFR300) Other definitions applicable to this chapter
41.52 to 41.99 Reserved

DIVISION III
RULES APPLICABLE TO THE STATE AND TO ALL AGENCIES

41.100(256B,34CFR300) Eligibility for assistance
41.101(256B,34CFR300) Free appropriate public education (FAPE)
41.102(256B,34CFR300) Limitation—exceptions to FAPE for certain ages
41.103(256B,34CFR300) FAPE—methods and payments
41.104(256B,34CFR300) Residential placement
41.105(256B,34CFR300) Assistive technology
41.106(256B,34CFR300) Extended school year services
41.107(256B,34CFR300) Nonacademic services
41.108(256B,34CFR300) Physical education
41.109(256B,34CFR300) Full educational opportunity goal (FEOG)
41.110(256B,34CFR300) Program options
41.111(256B,34CFR300) Child find
41.112(256B,34CFR300) Individualized education programs (IEPs)
41.113(256B,34CFR300) Routine checking of hearing aids and external components of surgically implanted medical devices
41.114(256B,34CFR300) Least restrictive environment (LRE)
41.115(256B,34CFR300) Continuum of alternative services and placements
41.116(256B,34CFR300) Placements
41.117(256B,34CFR300) Nonacademic settings
41.118(256B,34CFR300) Children in public or private institutions
41.119(256B,34CFR300) Technical assistance and training activities
41.120(256B,34CFR300) Monitoring activities
41.121(256B,34CFR300) Procedural safeguards
41.122(256B,34CFR300) Evaluation
41.123(256B,34CFR300) Confidentiality of personally identifiable information
41.124(256B,34CFR300) Transition of children from the Part C program to preschool programs
41.125 to 41.128 Reserved
41.129(256B,34CFR300) Responsibility regarding children in private schools

41.130(256,256B,34CFR300) Definition of parentally placed private school children with disabilities
41.131(256,256B,34CFR300) Child find for parentally placed private school children with disabilities
41.132(256,256B,34CFR300) Provision of services for parentally placed private school children with disabilities: basic requirement
41.133(256,256B,34CFR300) Expenditures
41.134(256,256B,34CFR300) Consultation
41.135(256,256B,34CFR300) Written affirmation
41.136(256,256B,34CFR300) Compliance
41.137(256,256B,34CFR300) Equitable services determined
41.138(256,256B,34CFR300) Equitable services provided
41.139(256,256B,34CFR300) Location of services and transportation
41.140(256,256B,34CFR300) Due process complaints and state complaints
41.141(256,256B,34CFR300) Requirement that funds not benefit a private school
41.142(256,256B,34CFR300) Use of personnel
41.143(256,256B,34CFR300) Separate classes prohibited
41.144(256,256B,34CFR300) Property, equipment, and supplies
41.145(256B,34CFR300) Applicability of rules 281—41.146(256B,34CFR300) to 281—41.147(256B,34CFR300)
41.146(256B,34CFR300) Responsibility of department
41.147(256B,34CFR300) Implementation by department
41.148(256B,34CFR300) Placement of children by parents when FAPE is at issue
41.149(256B,34CFR300) SEA responsibility for general supervision
41.150 Reserved
41.151(256B,34CFR300) Adoption of state complaint procedures
41.152(256B,34CFR300) Minimum state complaint procedures
41.153(256B,34CFR300) Filing a complaint
41.154(256B,34CFR300) Methods of ensuring services
41.155(256B,34CFR300) Hearings relating to AEA or LEA eligibility
41.156(256B,34CFR300) Personnel qualifications
41.157 to 41.161 Reserved
41.162(256B,34CFR300) Supplementation of state, local, and other federal funds
41.163(256B,34CFR300) Maintenance of state financial support
41.164 Reserved
41.165(256B,34CFR300) Public participation
41.166(256B,34CFR300) Rule of construction
41.167(256B,34CFR300) State advisory panel
41.168(256B,34CFR300) Advisory panel membership
41.169(256B,34CFR300) Advisory panel duties
41.170(256B,34CFR300) Suspension and expulsion rates
41.171 Reserved
41.172(256B,34CFR300) Access to instructional materials
41.173(256B,34CFR300) Overidentification and disproportionality
41.174(256B,34CFR300) Prohibition on mandatory medication
41.175 Reserved
41.176(256B) Special school provisions
41.177(256B) Facilities
41.178(256B) Materials, equipment and assistive technology
41.179 to 41.185 Reserved
41.186(256B,34CFR300) Assistance under other federal programs
41.187(256B) Research, innovation, and improvement
41.188 to 41.199 Reserved

DIVISION IV
LEA AND AEA ELIGIBILITY, IN GENERAL

41.200(256B,34CFR300) Condition of assistance
41.201(256B,34CFR300) Consistency with state policies
41.202(256B,34CFR300) Use of amounts
41.203(256B,34CFR300) Maintenance of effort
41.204(256B,34CFR300) Exception to maintenance of effort
41.205(256B,34CFR300) Adjustment to local fiscal efforts in certain fiscal years
41.206(256B,34CFR300) Schoolwide programs under Title I of the ESEA
41.207(256B,34CFR300) Personnel development
41.208(256B,34CFR300) Permissive use of funds
41.209(256B,34CFR300) Treatment of charter schools and their students
41.210(256B,34CFR300) Purchase of instructional materials
41.211(256B,34CFR300) Information for department
41.212(256B,34CFR300) Public information
41.213(256B,34CFR300) Records regarding migratory children with disabilities
41.214 to 41.219 Reserved
41.220(256B,34CFR300) Exception for prior local plans
41.221(256B,34CFR300) Notification of AEA or LEA or state agency in case of ineligibility
41.222(256B,34CFR300) AEA or LEA and state agency compliance
41.223(256B,34CFR300) Joint establishment of eligibility
41.224(256B,34CFR300) Requirements for jointly establishing eligibility
41.225 Reserved
41.226(256B,34CFR300) Early intervening services
41.227 Reserved
41.228(256B,34CFR300) State agency eligibility
41.229(256B,34CFR300) Disciplinary information
41.230(256B,34CFR300) SEA flexibility
41.231 to 41.299 Reserved

DIVISION V
EVALUATION, ELIGIBILITY, IEPs, AND PLACEMENT DECISIONS

41.300(256B,34CFR300) Parental consent and participation
41.301(256B,34CFR300) Full and individual initial evaluations
41.302(256B,34CFR300) Screening for instructional purposes is not evaluation
41.303(256B,34CFR300) Reevaluations
41.304(256B,34CFR300) Evaluation procedures
41.305(256B,34CFR300) Additional requirements for evaluations and reevaluations
41.306(256B,34CFR300) Determination of eligibility
41.307(256B,34CFR300) Specific learning disabilities
41.308(256B,34CFR300) Additional group members
41.309(256B,34CFR300) Determining the existence of a specific learning disability
41.310(256B,34CFR300) Observation
41.311(256B,34CFR300) Specific documentation for the eligibility determination
41.312(256B,34CFR300) General education interventions
41.313(256B,34CFR300) Systematic problem-solving process
41.314(256B,34CFR300) Progress monitoring and data collection
41.315 to 41.319 Reserved
41.320(256B,34CFR300) Definition of individualized education program
41.321(256B,34CFR300) IEP team
41.322(256B,34CFR300) Parent participation
41.323(256B,34CFR300) When IEPs must be in effect
41.324(256B,34CFR300) Development, review, and revision of IEP

41.325(256B,34CFR300) Private school placements by public agencies
41.326(256B,34CFR300) Other rules concerning IEPs
41.327(256B,34CFR300) Educational placements
41.328(256B,34CFR300) Alternative means of meeting participation
41.329 to 41.399 Reserved

DIVISION VI
ADDITIONAL RULES RELATED TO AEAs, LEAs, AND SPECIAL EDUCATION

41.400(256B,34CFR300) Shared responsibility
41.401(256B,34CFR300) Licensure (certification)
41.402(256B,273,34CFR300) Authorized personnel
41.403(256B) Paraprofessionals
41.404(256B) Policies and procedures required of all public agencies
41.405(256B) Special health services
41.406(256B) Additional requirements of LEAs
41.407(256B,273,34CFR300) Additional requirements of AEAs
41.408(256B,273,34CFR300) Instructional services
41.409(256B,34CFR300) Support services
41.410(256B,34CFR300) Itinerant services
41.411(256B,34CFR300) Related services, supplementary aids and services
41.412(256B,34CFR300) Transportation
41.413(256,256B,34CFR300) Additional rules relating to accredited nonpublic schools
41.414 to 41.499 Reserved

DIVISION VII
PROCEDURAL SAFEGUARDS

41.500(256B,34CFR300) Responsibility of SEA and other public agencies
41.501(256B,34CFR300) Opportunity to examine records; parent participation in meetings
41.502(256B,34CFR300) Independent educational evaluation
41.503(256B,34CFR300) Prior notice by the public agency; content of notice
41.504(256B,34CFR300) Procedural safeguards notice
41.505(256B,34CFR300) Electronic mail
41.506(256B,34CFR300) Mediation
41.507(256B,34CFR300) Filing a due process complaint
41.508(256B,34CFR300) Due process complaint
41.509(256B,34CFR300) Model forms
41.510(256B,34CFR300) Resolution process
41.511(256B,34CFR300) Impartial due process hearing
41.512(256B,34CFR300) Hearing rights
41.513(256B,34CFR300) Hearing decisions
41.514(256B,34CFR300) Finality of decision
41.515(256B,34CFR300) Timelines and convenience of hearings
41.516(256B,34CFR300) Civil action
41.517(256B,34CFR300) Attorneys' fees
41.518(256B,34CFR300) Child's status during proceedings
41.519(256B,34CFR300) Surrogate parents
41.520(256B,34CFR300) Transfer of parental rights at age of majority
41.521 to 41.529 Reserved
41.530(256B,34CFR300) Authority of school personnel
41.531(256B,34CFR300) Determination of setting
41.532(256B,34CFR300) Appeal
41.533(256B,34CFR300) Placement during appeals and mediations
41.534(256B,34CFR300) Protections for children not determined eligible for special education and related services

41.535(256B,34CFR300) Referral to and action by law enforcement and judicial authorities
41.536(256B,34CFR300) Change of placement because of disciplinary removals
41.537(256B,34CFR300) State enforcement mechanisms
41.538 to 41.599 Reserved

DIVISION VIII
MONITORING, ENFORCEMENT, CONFIDENTIALITY, AND PROGRAM INFORMATION

41.600(256B,34CFR300) State monitoring and enforcement
41.601(256B,34CFR300) State performance plans and data collection
41.602(256B,34CFR300) State use of targets and reporting
41.603(256B,34CFR300) Department review and determination regarding public agency performance
41.604(256B,34CFR300) Enforcement
41.605(256B,34CFR300) Withholding funds
41.606(256B,34CFR300) Public attention
41.607 Reserved
41.608(256B,34CFR300) State enforcement
41.609(256B,34CFR300) State consideration of other state or federal laws
41.610(256B,34CFR300) Confidentiality
41.611(256B,34CFR300) Definitions
41.612(256B,34CFR300) Notice to parents
41.613(256B,34CFR300) Access rights
41.614(256B,34CFR300) Record of access
41.615(256B,34CFR300) Records on more than one child
41.616(256B,34CFR300) List of types and locations of information
41.617(256B,34CFR300) Fees
41.618(256B,34CFR300) Amendment of records at parent's request
41.619(256B,34CFR300) Opportunity for a hearing
41.620(256B,34CFR300) Result of hearing
41.621(256B,34CFR300) Hearing procedures
41.622(256B,34CFR300) Consent
41.623(256B,34CFR300) Safeguards
41.624(256B,34CFR300) Destruction of information
41.625(256B,34CFR300) Children's rights
41.626(256B,34CFR300) Enforcement
41.627 to 41.639 Reserved
41.640(256B,34CFR300) Annual report of children served—report requirement
41.641(256B,34CFR300) Annual report of children served—information required in the report
41.642(256B,34CFR300) Data reporting
41.643(256B,34CFR300) Annual report of children served—certification
41.644(256B,34CFR300) Annual report of children served—criteria for counting children
41.645(256B,34CFR300) Annual report of children served—other responsibilities of the SEA
41.646(256B,34CFR300) Disproportionality
41.647 to 41.699 Reserved

DIVISION IX
ALLOCATIONS BY THE SECRETARY TO THE STATE

41.700 to 41.703 Reserved
41.704(256B,34CFR300) State-level activities
41.705(256B,34CFR300) Subgrants to AEAs
41.706 to 41.799 Reserved

DIVISION X
PRESCHOOL GRANTS FOR CHILDREN WITH DISABILITIES

41.800(256B,34CFR300) General rule
41.801 and 41.802 Reserved
41.803(256B,34CFR300) Definition of state
41.804(256B,34CFR300) Eligibility
41.805 Reserved
41.806(256B,34CFR300) Eligibility for financial assistance
41.807 to 41.811 Reserved
41.812(256B,34CFR300) Reservation for state activities
41.813(256B,34CFR300) State administration
41.814(256B,34CFR300) Other state-level activities
41.815(256B,34CFR300) Subgrants to AEAs
41.816(256B,34CFR300) Allocations to AEAs
41.817(256B,34CFR300) Reallocation of AEA funds
41.818(256B,34CFR300) Part C of the Act inapplicable
41.819 to 41.899 Reserved

DIVISION XI
ADDITIONAL RULES CONCERNING FINANCE AND PUBLIC ACCOUNTABILITY

41.900(256B,282) Scope
41.901(256B,282) Records and reports
41.902(256B,282) Audit
41.903(256B,282) Contractual agreements
41.904(256B) Research and demonstration projects and models for special education program development
41.905(256B,273) Additional special education
41.906(256B,273,282) Extended school year services
41.907(256B,282,34CFR300,303) Program costs
41.908(256B,282) Accountability
41.909 to 41.999 Reserved

DIVISION XII
PRACTICE BEFORE MEDIATORS AND ADMINISTRATIVE LAW JUDGES

41.1000(17A,256B,290) Applicability
41.1001(17A,256B,290) Definitions
41.1002(256B,34CFR300) Special education mediation conference
41.1003(17A,256B) Procedures concerning due process complaints
41.1004(17A,256B) Participants in the hearing
41.1005(17A,256B) Convening the hearing
41.1006(17A,256B) Stipulated record hearing
41.1007(17A,256B) Evidentiary hearing
41.1008(17A,256B) Mixed evidentiary and stipulated record hearing
41.1009(17A,256B) Witnesses
41.1010(17A,256B) Rules of evidence
41.1011(17A,256B) Communications
41.1012(17A,256B) Record
41.1013(17A,256B) Decision and review
41.1014(17A,256B) Finality of decision
41.1015(256B,34CFR300) Disqualification of mediator
41.1016(17A) Correcting decisions of administrative law judges
41.1017 to 41.1099 Reserved

DIVISION XIII
ADDITIONAL RULES NECESSARY TO IMPLEMENT AND APPLY THIS CHAPTER

41.1100(256B,34CFR300) References to Code of Federal Regulations
41.1101(256B,34CFR300) Severability

CHAPTER 42
Reserved

TITLE VIII
SCHOOL TRANSPORTATION

CHAPTER 43
PUPIL TRANSPORTATION

DIVISION I
TRANSPORTATION ROUTES

43.1(285) Intra-area education agency routes
43.2(285) Interarea education agency routes

DIVISION II
PRIVATE CONTRACTORS

43.3(285) Contract required
43.4(285) Uniform charge
43.5(285) Board must be party
43.6(285) Contract with parents
43.7(285) Vehicle requirements

DIVISION III
FINANCIAL RECORDS AND REPORTS

43.8(285) Required charges
43.9(285) Activity trips deducted

DIVISION IV
USE OF SCHOOL BUSES

43.10(285) Permitted uses listed
43.11(285) Teacher transportation

DIVISION V
THE BUS DRIVER

43.12(285) Driver qualifications
43.13(285) Stability factors
43.14(285) Driver age
43.15(285) Physical fitness
43.16 Reserved
43.17(285) Insulin-dependent diabetics
43.18(285) Authorization to be carried by driver
43.19 and 43.20 Reserved
43.21(285) Experience, traffic law knowledge and driving record
43.22(321) Fee collection and distribution of funds
43.23(285) Application form
43.24(321) Authorization denials and revocations

DIVISION VI
PURCHASE OF BUSES

43.25(285) Local board procedure
43.26(285) Financing
43.27 to 43.29 Reserved

DIVISION VII
MISCELLANEOUS REQUIREMENTS

43.30(285) Semiannual inspection
43.31(285) Maintenance record
43.32(285) Drivers' schools
43.33(285) Insurance
43.34(285) Contract—privately owned buses
43.35(285) Contract—district-owned buses
43.36(285) Accident reports
43.37(285) Railroad crossings
43.38(285) Driver restrictions
43.39(285) Civil defense projects
43.40(285) Pupil instruction
43.41(285) Trip inspections
43.42(285) Loading and unloading areas
43.43(285) Communication equipment

DIVISION VIII
COMMON CARRIERS

43.44(285) Standards for common carriers

CHAPTER 44
SCHOOL BUSES

44.1(285) Requirements for manufacturers
44.2(285) School bus—type classifications
44.3(285) School bus body and chassis specifications
44.4(285) Construction of vehicles for children with mobility challenges
44.5(285) Type III vehicles
44.6(285) Repair, replacement of school bus body and chassis components following original equipment manufacture

CHAPTER 45
Reserved

TITLE IX
VOCATIONAL EDUCATION

CHAPTER 46
VOCATIONAL EDUCATION PROGRAMS

46.1(258) Standards for vocational education
46.2(258) Planning process
46.3(258) Public involvement and participation
46.4(258) Final plan and accountability report
46.5(258) Geographic area
46.6(258) Revised standards for vocational education
46.7(258) Definitions and descriptions of procedures

CHAPTER 47
CAREER ACADEMIES

47.1(260C) Definitions
47.2(260C) Career academy program of study

CHAPTER 48
STATEWIDE WORK-BASED LEARNING INTERMEDIARY NETWORK

48.1(256) Purpose
48.2(256) Definitions
48.3(256) Statewide work-based learning intermediary network
48.4(256) Regional work-based learning intermediary network

CHAPTERS 49 and 50
Reserved

TITLE X
VETERANS' TRAINING

CHAPTER 51
APPROVAL OF ON-THE-JOB TRAINING ESTABLISHMENTS
UNDER THE MONTGOMERY G.I. BILL

51.1(256) Application
51.2(256) Content and approval of application
51.3(256) Wage schedules

CHAPTER 52
APPROVAL OF EDUCATIONAL INSTITUTIONS
FOR THE EDUCATION AND TRAINING OF ELIGIBLE VETERANS
UNDER THE MONTGOMERY G.I. BILL

52.1(256) Colleges
52.2(256) High schools
52.3 Reserved
52.4(256) Schools of Bible or theology
52.5(256) Schools of nursing
52.6(256) Hospitals
52.7(256) Schools of cosmetology
52.8(256) Schools of barbering
52.9 Reserved
52.10(256) Schools of business
52.11(256) Trade schools
52.12(256) Correspondence schools
52.13(256) Successful operation on a continuous basis
52.14(256) Nonaccredited schools
52.15(256) Evaluation standards

CHAPTERS 53 to 55
Reserved

TITLE XI
VOCATIONAL REHABILITATION EDUCATION

CHAPTER 56
IOWA VOCATIONAL REHABILITATION SERVICES

DIVISION I
SCOPE AND GENERAL PRINCIPLES

56.1(259) Responsibility of division
56.2(259) Nondiscrimination

DIVISION II
DEFINITIONS

56.3(259) Definitions

DIVISION III
ELIGIBILITY

56.4(259) Individuals who are recipients of SSD/SSI
56.5(259) Eligibility for vocational rehabilitation services
56.6(259) Eligibility for specific services
56.7(259) Areas in which exceptions shall not be granted
56.8(259) Waiting list
56.9(259) Individuals who are blind
56.10(259) Students in high school
56.11(259) Establishment of financial need

DIVISION IV
CASE MANAGEMENT

56.12(259) Case finding and intake
56.13(259) Case diagnosis
56.14(259) Individual plan for employment (IPE)

DIVISION V
SERVICES

56.15(259) Scope of services
56.16(259) Training
56.17(259) Maintenance
56.18(259) Transportation
56.19(259) Rehabilitation technology
56.20 Reserved
56.21(259) Placement
56.22(259) Progressive employment
56.23(259) Miscellaneous or auxiliary services
56.24(259) Facilities
56.25(259) Exceptions to payment for services
56.26(259) Exceptions to duration of services
56.27(259) Maximum rates of payment to training facilities

DIVISION VI
PURCHASING PRINCIPLES

56.28(259) Purchasing

DIVISION VII
SUPERVISOR REVIEW, MEDIATION, HEARINGS, AND APPEALS

56.29(259) Review process
56.30(259) Supervisor review
56.31(259) Mediation
56.32(259) Hearing before impartial hearing officer

DIVISION VIII
PUBLIC RECORDS AND FAIR INFORMATION PRACTICES

56.33(259) Collection and maintenance of records
56.34(259) Personally identifiable information
56.35(259) Other groups of records routinely available for public inspection

DIVISION IX
STATE REHABILITATION COUNCIL

56.36(259) State rehabilitation council

DIVISION X
IOWA SELF-EMPLOYMENT PROGRAM
(a/k/a ENTREPRENEURS WITH DISABILITIES PROGRAM)

56.37(259) Purpose
56.38(259) Eligibility requirements
56.39(259) Application procedure
56.40(259) Award of technical assistance funds
56.41(259) Business plan feasibility study procedure
56.42(259) Award of financial assistance funds

CHAPTER 57
Reserved

TITLE XII
PROGRAMS ADMINISTRATION

CHAPTER 58
SCHOOL BREAKFAST AND LUNCH PROGRAM; NUTRITIONAL CONTENT STANDARDS FOR OTHER FOODS AND BEVERAGES

58.1(283A,256) Authority

DIVISION I
SCHOOL BREAKFAST AND LUNCH PROGRAM

58.2(283A) Definitions
58.3(283A) Agreement required
58.4(283A) State plan
58.5(283A) Service area defined
58.6(283A) School breakfast program
58.7(283A) School lunch program
58.8(283A) Procurement

DIVISION II
NUTRITIONAL CONTENT STANDARDS FOR OTHER FOODS AND BEVERAGES

58.9(256) Definitions
58.10(256) Scope
58.11(256) Nutritional content standards

CHAPTER 59
GIFTED AND TALENTED PROGRAMS

59.1(257) Scope and general principles
59.2(257) Definitions
59.3 Reserved
59.4(257) Program plan
59.5(257) Responsibilities of school districts
59.6(257) Responsibilities of area education agencies
59.7(257) Responsibilities of the department

CHAPTER 60
PROGRAMS FOR STUDENTS OF LIMITED ENGLISH PROFICIENCY

60.1(280) Scope
60.2(280) Definitions
60.3(280) School district responsibilities
60.4(280) Department responsibility

60.5(280) Nonpublic school participation
60.6(280) Funding

CHAPTER 61
IOWA READING RESEARCH CENTER

61.1(256) Establishment
61.2(256) Purpose
61.3(256) Intensive summer literacy program
61.4(256) First efforts of the center
61.5(256) Nature of the center's operation
61.6(256) Nature of the center's products
61.7(256) Governance and leadership of the center
61.8(256) Financing of the center
61.9(256) Annual report

CHAPTER 62
STATE STANDARDS FOR PROGRESSION IN READING

62.1(256,279) Purpose
62.2(256,279) Assessment of reading proficiency
62.3(256,279) Tools for evaluating and reevaluating reading proficiency
62.4(256,279) Identification of a student as having a substantial deficiency in reading
62.5(256,279) Intensive summer reading program
62.6(256,279) Successful progression for early readers
62.7(256,279) Promotion to grade four
62.8(256,279) Good-cause exemption
62.9(256,279) Ensuring continuous improvement in reading proficiency
62.10(256,279) Miscellaneous provisions

CHAPTER 63
EDUCATIONAL PROGRAMS AND SERVICES
FOR PUPILS IN JUVENILE HOMES

63.1(282) Scope
63.2(282) Definitions
63.3(282) Forms
63.4(282) Budget amendments
63.5(282) Area education agency responsibility
63.6(282) Educational program
63.7(282) Special education
63.8(282) Educational services
63.9(282) Media services
63.10(282) Other responsibilities
63.11(282) Curriculum
63.12(282) Disaster procedures
63.13(282) Maximum class size
63.14(282) Teacher certification and preparation
63.15(282) Aides
63.16(282) Accounting
63.17(282) Revenues
63.18(282) Expenditures
63.19(282) Claims
63.20(282) Audits
63.21(282) Waivers

CHAPTER 64
CHILD DEVELOPMENT COORDINATING COUNCIL

64.1(256A,279) Purpose
64.2(256A,279) Definitions
64.3(256A,279) Child development coordinating council
64.4(256A,279) Procedures
64.5(256A,279) Duties
64.6(256A,279) Eligibility identification procedures
64.7(256A,279) Primary eligibility
64.8(256A,279) Secondary eligibility
64.9(256A,279) Grant awards criteria
64.10(256A,279) Application process
64.11(256A,279) Request for proposals
64.12(256A,279) Grant process
64.13(256A,279) Award contracts
64.14(256A,279) Notification of applicants
64.15(256A,279) Grantee responsibilities
64.16(256A,279) Withdrawal of contract offer
64.17(256A,279) Evaluation
64.18(256A,279) Contract revisions and budget reversions
64.19(256A,279) Termination for convenience
64.20(256A,279) Termination for cause
64.21(256A,279) Responsibility of grantee at termination
64.22(256A,279) Appeal from terminations
64.23(256A,279) Refusal to issue ruling
64.24(256A,279) Request for Reconsideration
64.25(256A,279) Refusal to issue decision on request
64.26(256A,279) Granting a Request for Reconsideration

CHAPTER 65
INNOVATIVE PROGRAMS FOR AT-RISK EARLY ELEMENTARY STUDENTS

65.1(279) Purpose
65.2(279) Definitions
65.3(279) Eligibility identification procedures
65.4(279) Primary risk factor
65.5(279) Secondary risk factors
65.6(279) Grant awards criteria
65.7(279) Application process
65.8(279) Request for proposals
65.9(279) Grant process
65.10 Reserved
65.11(279) Notification of applicants
65.12(279) Grantee responsibilities
65.13(279) Withdrawal of contract offer
65.14(279) Evaluation
65.15(279) Contract revisions
65.16(279) Termination for convenience
65.17(279) Termination for cause
65.18(279) Responsibility of grantee at termination
65.19(279) Appeals from terminations
65.20(279) Refusal to issue ruling
65.21(279) Requests for Reconsideration

65.22(279) Refusal to issue decision on request
65.23(279) Granting a Request for Reconsideration

CHAPTER 66
SCHOOL-BASED YOUTH SERVICES PROGRAMS

66.1(279) Scope, purpose and general principles
66.2(279) Definitions
66.3(279) Development of a program plan
66.4(279) Program plan
66.5(279) Evaluation of financial support
66.6(279) Responsibilities of area education agencies
66.7(279) Responsibilities of the department of education

CHAPTER 67
EDUCATIONAL SUPPORT PROGRAMS FOR PARENTS
OF AT-RISK CHILDREN AGED BIRTH THROUGH FIVE YEARS

67.1(279) Purpose
67.2(279) Definitions
67.3(279) Eligibility identification procedures
67.4(279) Eligibility
67.5(279) Secondary eligibility
67.6(279) Grant awards criteria
67.7(279) Application process
67.8(279) Request for proposals
67.9(279) Award contracts
67.10(279) Notification of applicants
67.11(279) Grantee responsibilities
67.12(279) Withdrawal of contract offer
67.13(279) Evaluation
67.14(279) Contract revisions
67.15(279) Termination for convenience
67.16(279) Termination for cause
67.17(279) Responsibility of grantee at termination
67.18(279) Appeal from terminations
67.19(279) Refusal to issue ruling
67.20(279) Request for Reconsideration
67.21(279) Refusal to issue decision on request
67.22(279) Granting a Request for Reconsideration

CHAPTER 68
IOWA PUBLIC CHARTER AND INNOVATION ZONE SCHOOLS

DIVISION I
GENERAL PROVISIONS

68.1(256F,83GA,SF2033) Purpose
68.2(256F,83GA,SF2033) Definitions

DIVISION II
CHARTER SCHOOLS

68.3(256F,83GA,SF2033) Application to a school board
68.4(256F,83GA,SF2033) Review process
68.5(256F,83GA,SF2033) Ongoing review by department
68.6(256F,83GA,SF2033) Renewal of charter
68.7(256F,83GA,SF2033) Revocation of charter
68.8 to 68.10 Reserved

DIVISION III
INNOVATION ZONE SCHOOLS

68.11(256F,83GA,SF2033) Application process
68.12(256F,83GA,SF2033) Review process
68.13(256F,83GA,SF2033) Ongoing review by department
68.14(256F,83GA,SF2033) Renewal of contract
68.15(256F,83GA,SF2033) Revocation of contract

CHAPTER 69
Reserved

TITLE XIII
AREA EDUCATION AGENCIES

CHAPTERS 70 and 71
Reserved

CHAPTER 72
ACCREDITATION OF AREA EDUCATION AGENCIES

72.1(273) Scope
72.2(273) Definitions
72.3(273) Accreditation components
72.4(273) Standards for services
72.5 to 72.8 Reserved
72.9(273) Comprehensive improvement plan
72.10(273) Annual budget and annual progress report
72.11(273) Comprehensive site visit

TITLE XIV
TEACHERS AND PROFESSIONAL LICENSING

CHAPTERS 73 to 76
Reserved

CHAPTER 77
STANDARDS FOR TEACHER INTERN PREPARATION PROGRAMS

77.1(256) General statement
77.2(256) Definitions
77.3(256) Institutions affected
77.4(256) Criteria for Iowa teacher intern preparation programs
77.5(256) Approval of programs
77.6(256) Periodic reports
77.7(256) Approval of program changes
77.8(256) Governance and resources
77.9(256) Diversity
77.10(256) Faculty
77.11(256) Teacher intern selection
77.12(256) Curriculum and instruction
77.13(256) Candidate support
77.14(256) Candidate assessment
77.15(256) Program evaluation

CHAPTER 78
Reserved

CHAPTER 79
STANDARDS FOR PRACTITIONER AND ADMINISTRATOR PREPARATION PROGRAMS

DIVISION I
GENERAL STANDARDS APPLICABLE TO ALL PRACTITIONER PREPARATION PROGRAMS

79.1(256) General statement
79.2(256) Definitions
79.3(256) Institutions affected
79.4(256) Criteria for practitioner preparation programs
79.5(256) Approval of programs
79.6(256) Visiting teams
79.7(256) Periodic reports
79.8(256) Reevaluation of practitioner preparation programs
79.9(256) Approval of program changes

DIVISION II
SPECIFIC EDUCATION STANDARDS APPLICABLE TO ALL PRACTITIONER PREPARATION PROGRAMS

79.10(256) Governance and resources standard
79.11(256) Diversity standard
79.12(256) Faculty standard
79.13(256) Assessment system and unit evaluation standard

DIVISION III
SPECIFIC EDUCATION STANDARDS APPLICABLE ONLY TO INITIAL PRACTITIONER PREPARATION PROGRAMS FOR TEACHER CANDIDATES

79.14(256) Teacher preparation clinical practice standard
79.15(256) Teacher candidate knowledge, skills and dispositions standard

DIVISION IV
SPECIFIC EDUCATION STANDARDS APPLICABLE ONLY TO ADMINISTRATOR PREPARATION PROGRAMS

79.16(256) Administrator preparation clinical practice standard
79.17(256) Administrator knowledge, skills, and dispositions standard
79.18 Reserved

DIVISION V
SPECIFIC EDUCATION STANDARDS APPLICABLE ONLY TO PRACTITIONER PREPARATION PROGRAMS OTHER THAN TEACHER OR ADMINISTRATOR PREPARATION PROGRAMS

79.19(256) Purpose
79.20(256) Clinical practice standard
79.21(256) Candidate knowledge, skills and dispositions standard

CHAPTER 80
STANDARDS FOR PARAEDUCATOR PREPARATION PROGRAMS

80.1(272) General statement
80.2(272) Definitions
80.3(272) Institutions affected
80.4(272) Criteria for Iowa paraeducator preparation programs
80.5(272) Approval of programs
80.6(272) Periodic reports
80.7(272) Reevaluation of paraeducator preparation programs
80.8(272) Approval of program changes
80.9(272) Organizational and resources standards
80.10(272) Diversity
80.11(272) Paraeducator candidate performance standards

CHAPTER 81
STANDARDS FOR SCHOOL BUSINESS OFFICIAL PREPARATION PROGRAMS

81.1(256) Definitions
81.2(256) Institutions eligible to provide a school business official preparation program
81.3(256) Approval of programs
81.4(256) Governance and resources standard
81.5(256) Instructor standard
81.6(256) Assessment system and institution evaluation standard
81.7(256) School business official candidate knowledge and skills standards and criteria
81.8(256) School business official mentoring program
81.9(256) Periodic reports
81.10(256) Reevaluation of school business official preparation programs
81.11(256) Approval of program changes

CHAPTER 82
STANDARDS FOR SCHOOL ADMINISTRATION MANAGER PROGRAMS

82.1(272) Definitions
82.2(272) Organizations eligible to provide a school administration manager training program
82.3(272) Approval of training programs
82.4(272) Governance and resources standard
82.5(272) Trainer and coach standard
82.6(272) Assessment system and organization evaluation standard
82.7(272) School administration manager knowledge and skills standards and criteria
82.8(272) Periodic reports
82.9(272) Reevaluation of school administration manager programs
82.10(272) Approval of program changes and flexibility of programs
82.11(272) Fees

CHAPTER 83
TEACHER AND ADMINISTRATOR QUALITY PROGRAMS

DIVISION I
GENERAL STANDARDS APPLICABLE TO BOTH ADMINISTRATOR AND TEACHER QUALITY PROGRAMS

83.1(284,284A) Purposes
83.2(284,284A) Definitions

DIVISION II
SPECIFIC STANDARDS APPLICABLE TO TEACHER QUALITY PROGRAMS

83.3(284) Mentoring and induction program for beginning teachers
83.4(284) Iowa teaching standards and criteria
83.5(284) Evaluator approval training
83.6(284) Professional development for teachers
83.7(284) Teacher quality committees

DIVISION III
SPECIFIC STANDARDS APPLICABLE TO ADMINISTRATOR QUALITY PROGRAMS

83.8(284A) Administrator quality program
83.9(284A) Mentoring and induction program for administrators
83.10(284A) Iowa school leadership standards and criteria for administrators
83.11(284A) Evaluation
83.12(284A) Professional development of administrators

CHAPTER 84
FINANCIAL INCENTIVES FOR NATIONAL BOARD CERTIFICATION

84.1(256) Purpose
84.2(256) Definitions
84.3(256) Registration fee reimbursement program
84.4(256) NBC annual award
84.5(256) Appeal of denial of a registration fee reimbursement award or an NBC annual award

CHAPTERS 85 to 93
Reserved

TITLE XV
EDUCATIONAL EXCELLENCE

CHAPTER 94
ADMINISTRATIVE ADVANCEMENT AND RECRUITMENT PROGRAM

94.1(256) Purpose
94.2(256) Eligibility identification procedures
94.3(256) Grant award procedure
94.4(256) Application process
94.5(256) Request for proposals
94.6(256) Grant process
94.7(256) Awards contract
94.8(256) Notification of applicants
94.9(256) Grantee responsibility

CHAPTER 95
EQUAL EMPLOYMENT OPPORTUNITY AND AFFIRMATIVE ACTION IN EDUCATIONAL AGENCIES

95.1(256) Purpose
95.2(256) Definitions
95.3(256) Equal employment opportunity standards
95.4(256) Duties of boards of directors
95.5(256) Plan components
95.6(256) Dissemination
95.7(256) Reports

TITLE XVI
SCHOOL FACILITIES

CHAPTER 96
STATEWIDE/LOCAL OPTION SALES AND SERVICES TAX FOR SCHOOL INFRASTRUCTURE

96.1(423E,423F) Definitions
96.2(423E,423F) Reports to the department
96.3(423E,423F) Combined actual enrollment
96.4(423E,423F) Application and certificate of need process
96.5(423E,423F) Review process
96.6(423E,423F) Award process
96.7(423E,423F) Applicant responsibilities
96.8(423E,423F) Appeal of certificate denial

CHAPTER 97
SUPPLEMENTARY WEIGHTING

97.1(257) Definitions
97.2(257) Supplementary weighting plan
97.3(257) Supplementary weighting plan for at-risk students
97.4(257) Supplementary weighting plan for a regional academy
97.5(257) Supplementary weighting plan for whole-grade sharing
97.6(257) Supplementary weighting plan for ICN video services
97.7(257) Supplementary weighting plan for operational services

CHAPTER 98
FINANCIAL MANAGEMENT OF CATEGORICAL FUNDING

DIVISION I
GENERAL PROVISIONS

98.1(256,257) Definitions
98.2(256,257) General finance
98.3 to 98.10 Reserved

DIVISION II
APPROPRIATE USE OF BUDGETARY ALLOCATIONS

98.11(257) Categorical and noncategorical student counts
98.12(257,299A) Home school assistance program
98.13(256C,257) Statewide voluntary four-year-old preschool program
98.14(257) Supplementary weighting
98.15(257) Operational function sharing supplementary weighting
98.16(257,280) Limited English proficiency (LEP) weighting
98.17(256B,257) Special education weighting
98.18(257) At-risk formula supplementary weighting
98.19(257) Reorganization incentive weighting
98.20(257) Gifted and talented program
98.21(257) Returning dropout and dropout prevention program
98.22(257) Use of the unexpended general fund balance
98.23(256D,257) Iowa early intervention block grant, also known as early intervention supplement
98.24(257,284) Teacher salary supplement
98.25 Reserved
98.26(257,284) Educator quality professional development, also known as professional development supplement
98.27 to 98.39 Reserved

DIVISION III
APPROPRIATE USE OF GRANTS IN AID

98.40(256,257,298A) Grants in aid
98.41 Reserved
98.42(257,284) Beginning teacher mentoring and induction program
98.43(257,284A) Beginning administrator mentoring and induction program
98.44(257,301) Nonpublic textbook services
98.45 to 98.59 Reserved

DIVISION IV
APPROPRIATE USE OF SPECIAL TAX LEVIES AND FUNDS

98.60(24,29C,76,143,256,257,274,275,276,279,280,282,283A,285,291,296,298,298A,300,301,423E,423F,565,670) Levies and funds
98.61(24,143,257,275,279,280,285,297,298,298A,301,473,670) General fund
98.62(279,296,298,670) Management fund
98.63(298) Library levy fund

98.64(279,283,297,298) Physical plant and equipment levy (PPEL) fund
98.65(276,300) Public educational and recreational levy (PERL) fund
98.66(257,279,298A,565) District support trust fund
98.67(257,279,298A,565) Permanent funds
98.68(76,274,296,298,298A) Debt service fund
98.69(76,273,298,298A,423E,423F) Capital projects fund
98.70(279,280,298A) Student activity fund
98.71(256B,257,298A) Special education instruction fund
98.72(282,298A) Juvenile home program instruction fund
98.73(283A,298A) School nutrition fund
98.74(279,298A) Child care and before- and after-school programs fund
98.75(298A) Regular education preschool fund
98.76(298A) Student construction fund
98.77(298A) Other enterprise funds
98.78 to 98.81 Reserved
98.82(298A) Internal service funds
98.83 to 98.91 Reserved
98.92(257,279,298A,565) Private purpose trust funds
98.93(298A) Other trust funds
98.94 to 98.100 Reserved
98.101(298A) Agency funds
98.102 to 98.110 Reserved
98.111(24,29C,257,298A) Emergency levy fund
98.112(275) Equalization levy fund

CHAPTER 99
BUSINESS PROCEDURES AND DEADLINES
99.1(257) Definitions
99.2(256,257,285,291) Submission deadlines
99.3(257) Good cause for late submission
99.4(24,256,257,291) Budgets, accounting and reporting

CHAPTER 100
Reserved

TITLE XVII
PROTECTION OF CHILDREN

CHAPTER 101
Reserved

CHAPTER 102
PROCEDURES FOR CHARGING AND
INVESTIGATING INCIDENTS OF ABUSE
OF STUDENTS BY SCHOOL EMPLOYEES
102.1(280) Statement of intent and purpose
102.2(280) Definitions
102.3(280) Jurisdiction
102.4(280) Exceptions
102.5(280) Duties of school authorities
102.6(280) Filing of a report
102.7(280) Receipt of report
102.8(280) Duties of designated investigator—physical abuse allegations
102.9(280) Duties of designated investigator—sexual abuse allegations

102.10(280) Content of investigative report
102.11(280) Founded reports—designated investigator's duties
102.12(280) Level-two investigator's duties
102.13(280) Retention of records
102.14(280) Substantial compliance
102.15(280) Effective date

CHAPTER 103
CORPORAL PUNISHMENT BAN; RESTRAINT;
PHYSICAL CONFINEMENT AND DETENTION

103.1(256B,280) Purpose
103.2(256B,280) Ban on corporal punishment
103.3(256B,280) Exclusions
103.4(256B,280) Exceptions and privileges
103.5(256B,280) Reasonable force
103.6(256B,280) Physical confinement and detention
103.7(256B,280) Additional minimum mandatory procedures
103.8(256B,280) Additional provisions concerning physical restraint

CHAPTERS 104 to 119
Reserved

TITLE XVIII
EARLY CHILDHOOD

CHAPTER 120
EARLY ACCESS INTEGRATED SYSTEM OF
EARLY INTERVENTION SERVICES

DIVISION I
PURPOSE AND APPLICABILITY

120.1(34CFR303) Purposes and outcomes of the Early ACCESS Integrated System of Early Intervention Services
120.2(34CFR303) Applicability of this chapter
120.3(34CFR303) Applicable federal regulations

DIVISION II
DEFINITIONS

120.4(34CFR303) Act
120.5(34CFR303) At-risk infant or toddler
120.6(34CFR303) Child
120.7(34CFR303) Consent
120.8(34CFR303) Council
120.9(34CFR303) Day
120.10(34CFR303) Developmental delay
120.11(34CFR303) Early intervention service program
120.12(34CFR303) Early intervention service provider
120.13(34CFR303) Early intervention services
120.14(34CFR303) Elementary school
120.15(34CFR303) Free appropriate public education
120.16(34CFR303) Health services
120.17(34CFR303) Homeless children
120.18(34CFR303) Include; including
120.19(34CFR303) Indian; Indian tribe
120.20(34CFR303) Individualized family service plan

120.21(34CFR303) Infant or toddler with a disability
120.22(34CFR303) Lead agency
120.23(34CFR303) Local educational agency
120.24(34CFR303) Multidisciplinary
120.25(34CFR303) Native language
120.26(34CFR303) Natural environments
120.27(34CFR303) Parent
120.28(34CFR303) Parent training and information center
120.29(34CFR303) Personally identifiable information
120.30(34CFR303) Public agency
120.31(34CFR303) Qualified personnel
120.32(34CFR303) Scientifically based research
120.33(34CFR303) Secretary
120.34(34CFR303) Service coordination services (case management)
120.35(34CFR303) State
120.36(34CFR303) State educational agency
120.37(34CFR303) Ward of the state
120.38(34CFR303) Other definitions used in this chapter
120.39 to 120.99 Reserved

DIVISION III
STATE ELIGIBILITY FOR A GRANT AND REQUIREMENTS
FOR A STATEWIDE SYSTEM: GENERAL AUTHORITY AND ELIGIBILITY

120.100(34CFR303) General authority
120.101(34CFR303) State eligibility—requirements for a grant under Part C of the Act
120.102(34CFR303) State conformity with Part C of the Act
120.103 and 120.104 Reserved
120.105(34CFR303) Positive efforts to employ and advance qualified individuals with disabilities
120.106 to 120.109 Reserved
120.110(34CFR303) Minimum components of a statewide system
120.111(34CFR303) State definition of developmental delay
120.112(34CFR303) Availability of early intervention services
120.113(34CFR303) Evaluation, assessment, and nondiscriminatory procedures
120.114(34CFR303) Individualized family service plan (IFSP)
120.115(34CFR303) Comprehensive child find system
120.116(34CFR303) Public awareness program
120.117(34CFR303) Central directory
120.118(34CFR303) Comprehensive system of personnel development (CSPD)
120.119(34CFR303) Personnel standards
120.120(34CFR303) Lead agency role in supervision, monitoring, funding, interagency coordination, and other responsibilities
120.121(34CFR303) Policy for contracting or otherwise arranging for services
120.122(34CFR303) Reimbursement procedures
120.123(34CFR303) Procedural safeguards
120.124(34CFR303) Data collection
120.125(34CFR303) State interagency coordinating council
120.126(34CFR303) Early intervention services in natural environments
120.127 to 120.199 Reserved

DIVISION IV
STATE APPLICATION AND ASSURANCES

120.200(34CFR303) State application and assurances
120.201(34CFR303) Designation of lead agency
120.202(34CFR303) Certification regarding financial responsibility

120.203(34CFR303) Statewide system and description of services
120.204 Reserved
120.205(34CFR303) Description of use of funds
120.206(34CFR303) Referral policies for specific children
120.207(34CFR303) Availability of resources
120.208(34CFR303) Public participation policies and procedures
120.209(34CFR303) Transition to preschool and other programs
120.210(34CFR303) Coordination with Head Start and Early Head Start, early education, and child care programs
120.211 Reserved
120.212(34CFR303) Additional information and assurances
120.213 to 120.219 Reserved
120.220(34CFR303) Assurances satisfactory to the Secretary
120.221(34CFR303) Expenditure of funds
120.222(34CFR303) Payor of last resort
120.223(34CFR303) Control of funds and property
120.224(34CFR303) Reports and records
120.225(34CFR303) Prohibition against supplanting; indirect costs
120.226(34CFR303) Fiscal control
120.227(34CFR303) Traditionally underserved groups
120.228(34CFR303) Subsequent state application and modifications of application
120.229 to 120.299 Reserved

DIVISION V
CHILD FIND; EVALUATIONS AND ASSESSMENTS; INDIVIDUALIZED FAMILY SERVICE PLANS

120.300(34CFR303) General
120.301(34CFR303) Public awareness program—information for parents
120.302(34CFR303) Comprehensive child find system
120.303(34CFR303) Referral procedures
120.304 to 120.309 Reserved
120.310(34CFR303) Post-referral timeline (45 calendar days)
120.311 to 120.319 Reserved
120.320(34CFR303) Screening procedures
120.321(34CFR303) Evaluation of the child and assessment of the child and family
120.322(34CFR303) Determination that a child is not eligible
120.323 to 120.339 Reserved
120.340(34CFR303) Individualized family service plan—general
120.341 Reserved
120.342(34CFR303) Procedures for IFSP development, review, and evaluation
120.343(34CFR303) IFSP team meeting and periodic review
120.344(34CFR303) Content of an IFSP
120.345(34CFR303) Interim IFSPs—provision of services before evaluations and assessments are completed
120.346(34CFR303) Responsibility and accountability
120.347 to 120.399 Reserved

DIVISION VI
PROCEDURAL SAFEGUARDS

120.400(34CFR303) General responsibility of lead agency for procedural safeguards
120.401(34CFR303) Confidentiality and opportunity to examine records
120.402(34CFR303) Confidentiality
120.403(34CFR303) Definitions
120.404(34CFR303) Notice to parents
120.405(34CFR303) Access rights

120.406(34CFR303)	Record of access
120.407(34CFR303)	Records on more than one child
120.408(34CFR303)	List of types and locations of information
120.409(34CFR303)	Fees for records
120.410(34CFR303)	Amendment of records at a parent's request
120.411(34CFR303)	Opportunity for a hearing
120.412(34CFR303)	Result of hearing
120.413(34CFR303)	Hearing procedures
120.414(34CFR303)	Consent prior to disclosure or use
120.415(34CFR303)	Safeguards
120.416(34CFR303)	Destruction of information
120.417(34CFR303)	Enforcement
120.418 and 120.419	Reserved
120.420(34CFR303)	Parental consent and ability to decline services
120.421(34CFR303)	Prior written notice and procedural safeguards notice
120.422(34CFR303)	Surrogate parents
120.423 to 120.429	Reserved
120.430(34CFR303)	State dispute resolution options
120.431(34CFR303)	Mediation
120.432(34CFR303)	Adoption of state complaint procedures
120.433(34CFR303)	Minimum state complaint procedures
120.434(34CFR303)	Filing a complaint
120.435(34CFR303)	Appointment of an administrative law judge
120.436(34CFR303)	Parental rights in due process hearing proceedings
120.437(34CFR303)	Convenience of hearings and timelines
120.438(34CFR303)	Civil action
120.439(34CFR303)	Limitation of actions
120.440(34CFR303)	Rule of construction
120.441(34CFR303)	Attorney fees
120.442 to 120.448	Reserved
120.449(34CFR303)	State enforcement mechanisms
120.450 to 120.499	Reserved

DIVISION VII
USE OF FUNDS; PAYOR OF LAST RESORT

120.500(34CFR303)	Use of funds, payor of last resort, and system of payments
120.501(34CFR303)	Permissive use of funds by the department
120.502 to 120.509	Reserved
120.510(34CFR303)	Payor of last resort
120.511(34CFR303)	Methods to ensure the provision of, and financial responsibility for, Early ACCESS services
120.512 to 120.519	Reserved
120.520(34CFR303)	Policies related to use of public benefits or insurance or private insurance to pay for Early ACCESS services
120.521(34CFR303)	System of payments and fees
120.522 to 120.599	Reserved

DIVISION VIII
STATE INTERAGENCY COORDINATING COUNCIL

120.600(34CFR303)	Establishment of council
120.601(34CFR303)	Composition
120.602(34CFR303)	Meetings
120.603(34CFR303)	Use of funds by the council
120.604(34CFR303)	Functions of the council; required duties

120.605(34CFR303) Authorized activities by the council
120.606 to 120.699 Reserved

DIVISION IX
FEDERAL AND STATE MONITORING AND ENFORCEMENT;
REPORTING; AND ALLOCATION OF FUNDS

120.700(34CFR303) State monitoring and enforcement
120.701(34CFR303) State performance plans and data collection
120.702(34CFR303) State use of targets and reporting
120.703(34CFR303) Department review and determination regarding EIS program performance
120.704(34CFR303) Enforcement
120.705(34CFR303) Withholding funds
120.706(34CFR303) Public attention
120.707 Reserved
120.708(34CFR303) State enforcement
120.709(34CFR303) State consideration of other state or federal laws
120.710 to 120.719 Reserved
120.720(34CFR303) Data requirements—general
120.721(34CFR303) Annual report of children served—report requirement
120.722(34CFR303) Data reporting
120.723(34CFR303) Annual report of children served—certification
120.724(34CFR303) Annual report of children served—other responsibilities of the department
120.725 to 120.800 Reserved

DIVISION X
OTHER PROVISIONS

120.801(34CFR303) Early ACCESS system—state level
120.802(34CFR303) Interagency service planning
120.803(34CFR303) System-level disputes
120.804(34CFR303) Early ACCESS system—regional and community levels
120.805(34CFR303) Provision of year-round services
120.806(34CFR303) Evaluation and improvement
120.807(34CFR303) Research
120.808(34CFR303) Records and reports
120.809(34CFR303) Information for department
120.810(34CFR303) Public information
120.811(34CFR303) Dispute resolution: practice before mediators and administrative law judges
120.812(34CFR303) References to federal law
120.813(34CFR303) Severability

CHAPTER 23
ADULT EDUCATION AND LITERACY PROGRAMS

[Prior to 9/7/88, see Public Instruction Department[670] Ch 34]

281—23.1(260C) Definitions. For purposes of this chapter, the indicated terms are defined as follows:

"Adult education and literacy program" means adult basic education, adult education leading to a high school equivalency diploma under Iowa Code chapter 259A, English as a second language instruction, workplace and family literacy instruction, integrated basic education and technical skills instruction, and other activities specified in the Adult Education and Family Literacy Act, 20 U.S.C. Ch. 73 and subsequent federal workforce training and adult education legislation.

"Career pathways" means a combination of rigorous and high-quality education, training, and other services that:

1. Aligns with the skill needs of industries in the state or regional economy;
2. Prepares an individual to be successful in any of a full range of secondary or postsecondary education options, including apprenticeships;
3. Includes counseling to support an individual in achieving the individual's education and career goals;
4. Includes, as appropriate, education offered concurrently with and in the same context as workforce preparation activities and training for a specific occupation or occupational cluster;
5. Organizes education, training, and other services to meet the particular needs of an individual in a manner that accelerates the educational and career advancement of the individual to the extent practicable; and
6. Helps an individual enter or advance within a specific occupation or occupational cluster.

"Coordinator" means the person(s) responsible for making decisions for the adult education and literacy program at the local level.

"Department" means the Iowa department of education.

"English as a second language" means a structured language acquisition program designed to teach English to students whose native language is other than English.

"Intake" means admittance and enrollment in an adult education and literacy program operated by an eligible provider.

"Professional staff" means all staff that are engaged in providing services, including instruction and data entry, for individuals who are eligible for adult education and literacy programs.

"State assessment policy" means a federally approved policy which stipulates the use of a standardized assessment, scoring and reporting protocols, certification requirements for test administrators, and the protocol for tracking test and attendance data.

"Volunteer staff" means all non-paid persons who perform services, including individualized instruction and data entry, for individuals who are eligible for adult education and literacy programs.

[**ARC 1775C**, IAB 12/10/14, effective 1/14/15]

281—23.2(260C) State planning.

23.2(1) *Basis.* A state plan for adult education shall be developed as required by federal legislation. Current federal rules and regulations shall be followed in developing the state plan.

23.2(2) *State planning.* Statewide planning shall be conducted in accordance with applicable federal legislation. The state board is authorized to prepare, amend, and administer the state plan in accordance with state and federal law. The state plan shall establish appropriate statewide strategies and goals for adult education and literacy programs.

23.2(3) *Funding allocation.* The department shall be responsible for the allocation and distribution of state and federal funds for adult basic education programs in accordance with these rules and with the state plan. The state has the right under federal legislation to establish the funding formula and to issue a competitive bidding process.

[**ARC 1775C**, IAB 12/10/14, effective 1/14/15]

281—23.3(260C) Program administration. The department, through the division of community colleges, is hereby designated as the agency for administration of state and federally funded adult basic education programs and for supervision of the administration of adult basic education programs. The division shall be responsible for the allocation and distribution of state and federal funds awarded to eligible institutions for adult basic education programs through a grant application in accordance with this chapter and with the state plan.

23.3(1) *Eligible institutions.* Adult education and literacy programs may be operated by:

a. Entities accredited by the Higher Learning Commission and approved by the department; or

b. Eligible entities as defined by the Adult Education and Family Literacy Act, 20 U.S.C. Ch. 73, and subsequent federal workforce training and adult education legislation, and approved by the department.

23.3(2) *Program components.*

a. The eligible institution shall maintain the ability to provide the following adult education and literacy services as deemed appropriate by the community or needs of the students:

(1) Adult basic education;

(2) Programs for adults of limited English proficiency;

(3) Adult secondary education, including programs leading to the achievement of a high school equivalency certificate or high school diploma;

(4) Instructional services provided by qualified instructors as defined in subrule 23.6(1) to improve student proficiencies necessary to function effectively in adult life, including accessing further education, employment-related training, or employment;

(5) Assessment and guidance services adhering to the state's assessment policy; and

(6) Programs and services stipulated by current and subsequent federal and state adult education legislation.

b. Institutions shall effectively use technology, services, and delivery systems, including distance education, in a manner sufficient to increase the amount and quality of student learning and performance.

c. Institutions shall ensure a student acquires the skills needed to transition to and complete postsecondary education and training programs and obtain and advance in employment leading to economic self-sufficiency.

23.3(3) *Local planning.*

a. Adult education and literacy programs shall collaborate and enter into agreements with multiple partners in the community for the purpose of establishing a local plan. Such plans shall expand the services available to adult learners, align with the strategies and goals established by the state plan, and prevent duplication of services.

b. An adult education and literacy program's agreement shall not be formalized until the local plan is approved by the department. A plan shall be approved provided the plan complies with the standards and criteria outlined in this chapter, federal adult education and family literacy legislation, and the strategies and goals of the state plan as defined in the local plan application.

c. Local plans may be approved by the state for single or multiple years.

23.3(4) *Federal funding.* Federal funds received by an adult education and literacy program must not be expended for any purpose other than authorized activities, in the manner prescribed by the authorizing federal legislation.

23.3(5) *State funding.* Moneys received from state funding sources for adult education and literacy programs shall be used in the manner described in this subrule. All funds shall be used to expand services and improve the quality of adult education and literacy programs.

a. *Use of funds.* State funding shall be expended on:

(1) Allowable uses pursuant to the Adult Education and Family Literacy Act, 20 U.S.C. Ch. 73, and subsequent federal workforce training and adult education legislation.

(2) High school equivalency testing and associated costs.

b. *Restrictions.* In expending state funding, adult education and literacy programs shall adhere to the allowable use restrictions of the Adult Education and Family Literacy Act, 20 U.S.C. Ch. 73, and

subsequent federal workforce training and adult education legislation, except for administrative cost restrictions.

c. *Reporting.* All reporting for state funding shall adhere to a summary of financial transactions related to the adult education and literacy program's resources and expenses in a format prescribed by the department. Adult education and literacy programs shall submit quarterly reports to the department on dates to be set by the department. A year-end report shall be submitted to the department no later than October 1.

23.3(6) *English as a second language.* In addition to meeting the requirements of subrules 23.3(1) through 23.3(5), English as a second language programs shall adhere to the following provisions.

a. *Application process.* An English as a second language program shall annually submit an application to the department that identifies the need, sets benchmarks, and provides a plan for high-quality instruction.

b. *Distribution and allocation.* The department and the community colleges shall jointly prescribe the distribution and allocation of funding, which shall be based on need for instruction in English as a second language in the region served by each community college. Need shall be based on census, survey, and local outreach efforts and results.

c. *Midyear reporting.* English as a second language programs shall include a narrative describing the progress and attainment of the benchmarks specified in the application described in paragraph 23.3(6)*"a."* The report shall be provided to the department midway through the academic year.

[**ARC 1775C**, IAB 12/10/14, effective 1/14/15]

281—23.4(260C) Career pathways. Adult education and literacy programs may use state adult education and literacy education funding for activities related to the development and implementation of the basic skills component of a career pathways system.

23.4(1) *Collaboration.* Adult education and literacy programs shall coordinate with other available education, training, and social service resources in the community for the development of career pathways, such as by establishing strong links with elementary schools and secondary schools, postsecondary educational institutions, institutions of higher education, local workforce investment boards, one-stop centers, job training programs, social service agencies, business and industry, labor organizations, community-based organizations, nonprofit organizations, and intermediaries.

23.4(2) *Use of state funds.* Only activities directly linked to adult education and literacy programs and instruction shall be funded with moneys received from state adult education and literacy funds. Consideration shall be given to providing adult education and literacy activities concurrently with workforce preparation activities and workforce training for the purpose of educational and career advancement.

[**ARC 1775C**, IAB 12/10/14, effective 1/14/15]

281—23.5(260C) Student eligibility. A person seeking to enroll in an adult education and literacy program shall be at least 16 years of age and not enrolled or required to be enrolled in a secondary school under Iowa Code section 299.1A and shall meet one of the following eligibility requirements:

1. Lacks sufficient mastery of basic educational skills to enable the person to function effectively in society, demonstrated by a score of Adult Secondary Education (Low) or lower in at least one modality;
2. Does not have a secondary school diploma or a recognized equivalent; or
3. Is unable to speak, read, or write the English language.

[**ARC 1775C**, IAB 12/10/14, effective 1/14/15]

281—23.6(260C) Qualification of staff. Adult education and literacy programs shall be in compliance with the requirements established under this rule by July 1, 2015. The requirements of this rule apply to all staff hired after July 1, 2015. All staff hired prior to July 1, 2015, are exempt from this rule.

23.6(1) *Professional staff.* Professional staff providing instruction in an adult education and literacy program to students must possess at minimum a bachelor's degree.

23.6(2) *Volunteer staff.* Volunteer staff must possess at minimum a high school diploma or high school equivalency diploma.
[**ARC 1775C**, IAB 12/10/14, effective 1/14/15]

281—23.7(260C) High-quality professional development.

23.7(1) *Responsibility of program.* Adult education and literacy programs shall be responsible for providing professional development opportunities for professional and volunteer staff, including:

a. Proper procedures for the administration and reporting of data pursuant to rule 281—23.8(260C);

b. The development and dissemination of instructional and programmatic practices based on the most rigorous and scientifically valid research available; and

c. Appropriate reading, writing, speaking, mathematics, English language acquisition, distance education, and staff training practices aligned with content standards for adult education.

23.7(2) *Professional development requirements.* Professional development shall include formal and informal means of assisting professional and volunteer staff to:

a. Acquire knowledge, skills, approaches, and dispositions;

b. Explore new or advanced understandings of content, theory, and resources; and

c. Develop new insights into theory and its application to improve the effectiveness of current practice and lead to professional growth.

23.7(3) *Professional development standards.* The department and entities providing adult education and literacy programs shall promote effective professional development and foster continuous instructional improvement. Professional development shall incorporate the following standards:

a. Strengthens professional and volunteer staff knowledge and application of content areas, instructional strategies, and assessment strategies based on research;

b. Prepares and supports professional and volunteer staff in creating supportive environments that help adult learners reach realistic goals;

c. Uses data to drive professional development priorities, analyze effectiveness, and help sustain continuous improvement for adult education and literacy programs and learners;

d. Uses a variety of strategies to guide adult education and literacy program improvement and initiatives;

e. Enhances abilities of professional and volunteer staff to evaluate and apply current research, theory, evidence-based practices, and professional wisdom;

f. Models or incorporates theories of adult learning and development; and

g. Fosters adult education and literacy program, community, and state level collaboration.

23.7(4) *Provision of professional development.* Adult education and literacy program staff shall participate in professional development activities that are related to their job duties and improve the quality of the adult education and literacy program with which the staff is associated. All professional development activities shall be in accordance with the published Iowa Adult Education Professional Development Standards.

a. All professional staff shall receive at least 12 clock hours of professional development annually. Professional staff who possess a valid Iowa teacher certificate are exempt from this requirement.

b. All professional staff new to adult education shall receive 6 clock hours of preservice professional development prior to, but no later than, one month after starting employment with an adult education program. Preservice professional development may apply toward the professional development requirements of paragraph 23.7(4)*"a."*

c. Volunteer staff shall receive 50 percent of the professional development required in paragraphs 23.7(4)*"a"* and 23.7(4)*"b."*

23.7(5) *Individual professional development plan.* Adult education and literacy programs shall develop and maintain a plan for hiring and developing quality professional staff that includes all of the following:

a. An implementation schedule for the plan.

b. Orientation for new professional staff.

c. Continuing professional development for professional staff.

d. Procedures for accurate record keeping and documentation for plan monitoring.

e. Specific activities to ensure that professional staff attain and demonstrate instructional competencies and knowledge in related adult education and literacy fields.

f. Procedures for collection and maintenance of records demonstrating that each staff member has attained or documented progress toward attaining minimal competencies.

g. Provision that all professional staff will be included in the plan. The plan requirements may be differentiated for each type of employee.

23.7(6) *Waiver.* The requirement for professional development may be reduced by local adult education and literacy programs in individual cases where exceptional circumstances prevent staff from completing the required hours of professional development. Documentation shall be kept which justifies the granting of a waiver. Requests for exemption from staff qualification requirements in individual cases shall be kept on record and made available to the department for review upon request.

23.7(7) *Monitoring.* Records of staff qualifications and professional development shall be maintained by each adult education and literacy program for five years and shall be made available to department staff for monitoring upon request.

[**ARC 1775C**, IAB 12/10/14, effective 1/14/15]

281—23.8(260C) Performance and accountability.

23.8(1) *Accountability system.* Adult education and literacy programs shall adhere to the standards established by the Adult Education and Family Literacy Act, 20 U.S.C. Ch. 73, and subsequent federal workforce training and adult education legislation in the use and administration of the accountability system. The accountability system will be a statewide system to include, but not be limited to, enrollment reports, progress indicators and core measures.

23.8(2) *Performance indicators.*

a. *Compliance.* Adult education and literacy programs shall adhere to the policies and procedures outlined in the state assessment policy. Data shall be submitted by the tenth day of each month or, should that day fall outside of standard business hours, the first Monday following the tenth day of the month. All adult education and literacy programs shall comply with data quality reviews and complete quality data checks as required to ensure federal compliance with reporting.

b. *Determination of progress.* Upon administration of a standardized assessment, within the first 12 hours of attendance, adult education and literacy programs shall place eligible students at an appropriate level of instruction. Progress assessments shall be administered after the recommended hours of instruction as published in the state assessment policy.

c. *Core measures.* Federal and state adult education and literacy legislation has established the data required for reporting core measures, including, but not limited to, percentage of participants in unsubsidized employment during the second and fourth quarter after exit from the program; median earnings; percentage of participants who obtain a postsecondary credential or diploma during participation or within one year after exit from the program; participants achieving measurable skill gains; and effectiveness in serving employers.

[**ARC 1775C**, IAB 12/10/14, effective 1/14/15]

These rules are intended to implement Iowa Code chapter 260C.

[Filed 3/27/81, Notice 2/4/81—published 4/15/81, effective 5/20/81]
[Filed 8/19/88, Notice 6/29/88—published 9/7/88, effective 10/12/88]
[Filed 1/14/94, Notice 10/27/93—published 2/2/94, effective 3/9/94]
[Filed ARC 8645B (Notice ARC 8389B, IAB 12/16/09), IAB 4/7/10, effective 5/12/10]
[Filed ARC 1775C (Notice ARC 1672C, IAB 10/15/14), IAB 12/10/14, effective 1/14/15]

TITLE VI
INTERSCHOLASTIC COMPETITION

CHAPTER 36
EXTRACURRICULAR INTERSCHOLASTIC COMPETITION

[Prior to 9/7/88, see Public Instruction Department[670] Ch 9]

281—36.1(280) Definitions Whenever the following terms are used, they shall refer to the following definitions:

"All-star" means a secondary student from a high school interscholastic athletic team whose outstanding performance is the basis for the student's selection to compete individually in an all-star contest or on an all-star high school team to compete with other all-stars from several other high school teams against another all-star team in an all-star contest. An "all-star" shall not include a twelfth grade student whose interscholastic athletic season for the sport in question has concluded.

NOTE: Bylaw 14.6 of the National Collegiate Athletic Association (NCAA) (as revised 7/30/10) states that a "student-athlete shall be denied the first year of intercollegiate athletics competition if, following completion of high-school eligibility in the student-athlete's sport and prior to the student-athlete's high-school graduation, the student-athlete competes in more than two all-star football contests or two all-star basketball contests."

"All-star contest" means an event for which admission is charged and at which all-stars compete during the school year against other all-stars, either individually or as all-star teams. "All-star contests" shall not include noninvitational events for which students audition or try out or the auditions or try outs themselves.

"Associate member school" means a nonaccredited nonpublic school that has been granted associate member status by any corporation, association, or organization registered with the state department of education pursuant to Iowa Code section 280.13, upon approval by the department based upon proof of compliance with:

1. Iowa Code section 279.19B, and rules adopted by the department of education related to the qualifications of the affected teaching staff, and
2. The student eligibility rules of this chapter.

Associate membership is subject to the requirements, dues, or other obligations established by the organization for which associate membership is sought.

"Coach" means an individual, with coaching endorsement or authorization as required by Iowa law, employed by a school district under the provisions of an extracurricular athletic contract or employed by a nonpublic school in a position responsible for an extracurricular athletic activity. "Coach" also includes an individual who instructs, diagnoses, prescribes, evaluates, assists, or directs student learning of an interscholastic athletic endeavor on a voluntary basis on behalf of a school or school district.

"Compete" means participating in an interscholastic contest or competition and includes dressing in full team uniform for the interscholastic contest or competition as well as participating in pre-game warm-up exercises with team members. "Compete" does not include any managerial, record-keeping, or other non-competitor functions performed by a student on behalf of a member or associate member school.

"Department" means the state department of education.

"Dropout" means a student who quit school because of extenuating circumstances over which the student had no control or who voluntarily withdrew from school. This does not include a student who has been expelled or one who was doing failing work when the student voluntarily dropped from school.

"Executive board" means the governing body authorized under a constitution or bylaws to establish policy for an organization registered under this chapter.

"Executive officer" means the executive director or secretary of each governing organization.

"Member school," for purposes of this chapter, means a public school or accredited nonpublic school that has been granted such status by any corporation, association, or organization registered with the state department of education pursuant to Iowa Code section 280.13.

"Parent" means the natural or adoptive parent having actual bona fide custody of a student.

"Student" means a person under 20 years of age enrolled in grades 9 through 12. For purposes of these rules, ninth grade begins with the summer immediately following eighth grade. The rules contained herein shall apply uniformly to all students.

"Superintendent" means a superintendent of a local school or a duly authorized representative.

[**ARC 9475B**, IAB 4/20/11, effective 5/25/11]

281—36.2(280) Registered organizations. Organizations registered with the department include the following:

36.2(1) Iowa High School Athletic Association (hereinafter association).

36.2(2) Iowa Girls' High School Athletic Union (hereinafter union).

36.2(3) Iowa High School Music Association (hereinafter music association).

36.2(4) Iowa High School Speech Association (hereinafter speech association).

36.2(5) Unified Iowa High School Activities Federation (hereinafter federation).

281—36.3(280) Filings by organizations. Each organization shall maintain a current file with the state department of education of the following items:

36.3(1) Constitution and bylaws which must have the approval of the state board of education.

36.3(2) Current membership and associate membership lists.

36.3(3) Organization policies.

36.3(4) Minutes of all meetings of organization boards.

36.3(5) Proposed constitution and bylaw amendments or revisions.

36.3(6) Audit reports.

36.3(7) General bulletins.

36.3(8) Other information pertinent to clarifying organization administration.

281—36.4(280) Executive board. Each organization shall have some representation from school administrators, teachers, and elective school officers on its executive board; provided, however, that the membership shall include the following:

36.4(1) *School board member.* One member who shall be a member of a school board in Iowa, appointed by the Iowa association of school boards to represent the lay public.

36.4(2) *Activity member.* One member, who is either a coach, sponsor or director, of an activity sponsored by the organization to which the member is elected and who works directly with the students or the program: This member is to be elected by ballot of the member schools, the vote to be cast by the school's designated representative of the organization involved.

36.4(3) *Organization elections.* The election procedure for each organization shall be conducted as provided by the organization's constitution. All criteria for protecting the voter's anonymity and ensuring adequate notice of elections shall be maintained in the election procedures. In addition, there shall be one representative designated by the department director present at the counting of all ballots. That representative shall also validate election results.

281—36.5(280) Federation membership. The federation, in addition to conforming to other requirements in this section, shall have in its membership the executive board of the association, union, music association, speech association, and the school administrators of Iowa.

281—36.6(280) Salaries. No remuneration, salary, or remittance shall be made to any member of an executive board, representative council or advisory committee, of an organization for the member's service.

281—36.7(280) Expenses. Travel and actual expenses of executive board members, representative council members, advisory committee members, and officers shall be paid from organizational funds only when on official business for the organization. Actual expenses shall be paid for travel for transportation outside the state, along with necessary and reasonable expenses which shall be itemized.

Itemized accounting of the travel and business expenses of employees shall be furnished to the department in an annual report on a form prescribed by the department.

281—36.8(280) Financial report. Full and detailed reports of all receipts and expenditures shall be filed annually with the department of education.

281—36.9(280) Bond. The executive board of each activity organization shall purchase a blanket fidelity bond from a corporate surety approved by it, conditioned upon the faithful performance of the duties of the executive officer, the members of the executive board, and all other employees of the activity organization. Such blanket bond shall be in a penal amount set by the executive board and shall be the sum of 50 percent of the largest amount of moneys on hand in any 30-day period during the preceding fiscal year, and 20 percent of the net valuation of all assets of the activity organization as of the close of the last fiscal year, but such bond shall in no case be in an amount less than $10,000.

281—36.10(280) Audit. The financial condition and transaction of all organizations shall be examined once each year, or more often if directed by the director of education, by either a certified public accountant chosen by the organization or by a committee chosen by the organization and approved by the director of education.

281—36.11(280) Examinations by auditors. Auditors shall have the right while making the examination to examine all organization papers, books, records, tickets, and documents of any of the officers and employees of the organizations, and shall have the right in the presence of the custodian or deputy, to have access to the cash drawers and cash in the official custody of the officer and to the records of any depository which has funds of the organization in its custody.

281—36.12(280) Access to records. Upon request, organizations shall make available to the state department of education or its delegated representative all records, data, written policies, books, accounts, and other materials relating to any or all aspects of their operations.

281—36.13(280) Appearance before state board. At the request of the state board of education or its executive officer, members of the governing boards and employees of the organizations shall appear before and give full accounting and details on the aforesaid matters to the state board of education.

281—36.14(280) Interscholastic athletics. In addition to the requirements of rule 281—36.15(280), organizations shall prescribe and implement the rules described below for participants in interscholastic athletic competition.

36.14(1) *Physical examination.* Every year each student shall present to the student's superintendent a certificate signed by a licensed physician and surgeon, osteopathic physician and surgeon, osteopath, qualified doctor of chiropractic, licensed physician assistant, or advanced registered nurse practitioner, to the effect that the student has been examined and may safely engage in athletic competition.

Each doctor of chiropractic licensed as of July 1, 1974, shall affirm on each certificate of physical examination completed that the affidavit required by Iowa Code section 151.8 is on file with the Iowa board of chiropractic.

The certificate of physical examination is valid for the purpose of this rule for one calendar year. A grace period not to exceed 30 calendar days is allowed for expired physical certifications.

36.14(2) *Sportsmanship.* It is the clear obligation of member and associate member schools to ensure that their contestants, coaches, and spectators in all interscholastic competitions practice the highest principles of sportsmanship, conduct, and ethics of competition. The governing organization shall have authority to penalize any member school, associate member school, contestant, or coach in violation of this obligation.

36.14(3) *Awards.*

a. Awards from a secondary school or registered organization. For participation in an interscholastic athletic contest or program, a student will be permitted to receive from the student's

school, another secondary school, a registered organization, or the host of an event sanctioned by a registered organization an award whose value cannot exceed $50.

b. Awards for participation in school programs from an individual or organization other than a secondary school or registered organization. No student shall receive any award from an individual or outside organization for high school participation while enrolled in high school, except that nothing in this subrule shall preclude the giving of a complimentary dinner by local individuals, organizations, or groups, with approval of the superintendent, to members of the local high school athletic squad. No student shall accept any trip or excursion of any kind by any individual, organization, or group outside the student's own school or the governing organization, with the exception of bona fide recruiting trips that meet NCAA requirements. Nothing in this subrule shall preclude or prevent the awarding and the acceptance of an inexpensive, unmounted, unframed paper certificate of recognition as an award, or an inexpensive table favor which is given to everyone attending a banquet.

c. Awards for participation in nonschool programs. If a student participates in an outside school activity, the student may receive any award provided that the award does not violate the amateur award rule of the amateur sanctioning body for that sport. In the absence of an applicable amateur award rule, the student shall not receive any award the value of which exceeds $50.

d. Absolute prohibition on cash. At no time may any student accept an award of cash.

e. Compliance. The superintendent or designee shall be held responsible for compliance with this subrule. Questions or interpretation regarding medals or awards shall be referred to the executive board.

36.14(4) *Interstate competition.* Every student participating in interstate athletic competition on behalf of the student's school must meet the eligibility rules.

36.14(5) *Competition seasons.* The length of training periods and competition seasons shall be determined solely by the governing organization.

36.14(6) *Tournaments.* The number and type of state tournaments for the various sports shall be determined by the organization. In scheduling and conducting these tournaments, the organization shall have the final authority for determining the tournament eligibility of all participants. Organization bylaws shall provide for a timely method of seeking an internal review of initial decisions regarding tournament eligibility.

36.14(7) *Ineligible player competition.* Member or associate member schools that permit or allow a student to compete in an interscholastic competition in violation of the eligibility rules or that permit or allow a student who has been suspended to so compete shall be subject to penalties imposed by the executive board. The penalties may include, but are not limited to, the following: forfeiture of contests or events or both, involving any ineligible student(s); adjustment or relinquishment of conference/district/tournament standings; and return of team awards or individual awards or both.

If a student who has been declared ineligible or who has been suspended is permitted to compete in an interscholastic competition because of a current restraining order or injunction against the school, registered organization, or department of education, and if such restraining order or injunction subsequently is voluntarily vacated, stayed, reversed, or finally determined by the courts not to justify injunctive relief, the penalties listed above may be imposed.

This rule is intended to implement Iowa Code section 280.13.

[**ARC 9475B**, IAB 4/20/11, effective 5/25/11; **ARC 9477B**, IAB 4/20/11, effective 5/25/11]

281—36.15(280) Eligibility requirements.

36.15(1) *Local eligibility and student conduct rules.* Local boards of education may impose additional eligibility requirements not in conflict with these rules. Nothing herein shall be construed to prevent a local school board from declaring a student ineligible to participate in interscholastic competition by reason of the student's violation of rules adopted by the school pursuant to Iowa Code sections 279.8 and 279.9. A member or associate member school shall not allow any student, including any transfer student, to compete until such time as the school has reasonably reliable proof that the student is eligible to compete for the member or associate member school under these rules.

36.15(2) *Scholarship rules.*

a. All contestants must be enrolled and in good standing in a school that is a member or associate member in good standing of the organization sponsoring the event.

b. All contestants must be under 20 years of age.

c. All contestants shall be enrolled students of the school in good standing. They shall receive credit in at least four subjects, each of one period or "hour" or the equivalent thereof, at all times. To qualify under this rule, a "subject" must meet the requirements of 281—Chapter 12. Coursework taken from a postsecondary institution and for which a school district or accredited nonpublic school grants academic credit toward high school graduation shall be used in determining eligibility. No student shall be denied eligibility if the student's school program deviates from the traditional two-semester school year.

(1) Each contestant shall be passing all coursework for which credit is given and shall be making adequate progress toward graduation requirements at the end of each grading period. Grading period, graduation requirements, and any interim periods of ineligibility are determined by local policy. For purposes of this subrule, "grading period" shall mean the period of time at the end of which a student in grades 9 through 12 receives a final grade and course credit is awarded for passing grades.

(2) If at the end of any grading period a contestant is given a failing grade in any course for which credit is awarded, the contestant is ineligible to dress for and compete in the next occurring interscholastic athletic contests and competitions in which the contestant is a contestant for 30 consecutive calendar days.

d. A student with a disability who has an individualized education program shall not be denied eligibility on the basis of scholarship if the student is making adequate progress, as determined by school officials, towards the goals and objectives on the student's individualized education program.

e. A student who meets all other qualifications may be eligible to participate in interscholastic athletics for a maximum of eight consecutive semesters upon entering the ninth grade for the first time. However, a student who engages in athletics during the summer following eighth grade is also eligible to compete during the summer following twelfth grade. Extenuating circumstances, such as health, may be the basis for an appeal to the executive board which may extend the eligibility of a student when the executive board finds that the interests of the student and interscholastic athletics will be benefited.

f. All member schools shall provide appropriate interventions and necessary academic supports for students who fail or who are at risk to fail, and shall report to the department regarding those interventions on the comprehensive school improvement plan.

g. A student is academically eligible upon entering the ninth grade.

h. A student is not eligible to participate in an interscholastic sport if the student has, in that same sport, participated in a contest with or against, or trained with, a National Collegiate Athletic Association (NCAA), National Junior College Athletic Association (NJCAA), National Association of Intercollegiate Athletics (NAIA), or other collegiate governing organization's sanctioned team. A student may not participate with or against high school graduates if the graduates represent a collegiate institution or if the event is sanctioned or sponsored by a collegiate institution. Nothing in this subrule shall preclude a student from participating in a one-time tryout with or against members of a college team with permission from the member school's administration and the respective collegiate institution's athletic administration.

i. No student shall be eligible to participate in any given interscholastic sport if the student has engaged in that sport professionally.

j. The local superintendent of schools, with the approval of the local board of education, may give permission to a dropout student to participate in athletics upon return to school if the student is otherwise eligible under these rules.

k. Remediation of a failing grade by way of summer school or other means shall not affect the student's ineligibility. All failing grades shall be reported to any school to which the student transfers.

36.15(3) *General transfer rule.* A student who transfers from a school in another state or country or from one member or associate member school to another member or associate member school shall be ineligible to compete in interscholastic athletics for a period of 90 consecutive school days, as defined in rule 281—12.1(256), exclusive of summer enrollment, unless one of the exceptions listed

in paragraph 36.15(3)*"a"* applies. The period of ineligibility applies only to varsity level contests and competitions. ("Varsity" means the highest level of competition offered by one school or school district against the highest level of competition offered by an opposing school or school district.) In ruling upon the eligibility of transfer students, the executive board shall consider the factors motivating student changes in residency. Unless otherwise provided in these rules, a student intending to establish residency must show that the student is physically present in the district for the purpose of making a home and not solely for school or athletic purposes.

a. Exceptions. The executive officer or executive board shall consider and apply the following exceptions in formally or informally ruling upon the eligibility of a transfer student and may make eligibility contingent upon proof that the student has been in attendance in the new school for at least ten school days:

(1) Upon a contemporaneous change in parental residence, a student is immediately eligible if the student transfers to the new district of residence or to an accredited nonpublic member or associate member school located in the new school district of residence. In addition, if with a contemporaneous change in parental residence, the student had attended an accredited nonpublic member or associate member school immediately prior to the change in parental residence, the student may have immediate eligibility if the student transfers to another accredited nonpublic member or associate member school.

(2) If the student is attending in a school district as a result of a whole-grade sharing agreement between the student's resident district and the new school district of attendance, the student is immediately eligible.

(3) A student who has attended high school in a district other than where the student's parent(s) resides, and who subsequently returns to live with the student's parent(s), becomes immediately eligible in the parent's resident district.

(4) Pursuant to Iowa Code section 256.46, a student whose residence changes due to any of the following circumstances is immediately eligible provided the student meets all other eligibility requirements in these rules and those set by the school of attendance:

1. Adoption.
2. Placement in foster or shelter care.
3. Participation in a foreign exchange program, as evidenced by a J-1 visa issued by the United States government, unless the student attends the school primarily for athletic purposes.
4. Placement in a juvenile correction facility.
5. Participation in a substance abuse program.
6. Participation in a mental health program.
7. Court decree that the student is a ward of the state or of the court.
8. The child is living with one of the child's parents as a result of divorce, separation, death, or other change in the child's parents' marital relationship, or pursuant to other court-ordered decree or order of custody.

(5) A transfer student who attends in a member or associate member school that is a party to a cooperative student participation agreement, as defined in rule 281—36.20(280), with the member or associate member school the student previously attended is immediately eligible in the new district to compete in those interscholastic athletic activities covered by the cooperative agreement.

(6) Any student whose parents change district of residence but who remains in the original district without interruption in attendance continues to be eligible in the member or associate member school of attendance.

(7) A special education student whose attendance center changes due to a change in placement agreed to by the district of residence is eligible in either the resident district or the district of attendance, but not both.

(8) In any transfer situation not provided for elsewhere in this chapter, the executive board shall exercise its administrative authority to make any eligibility ruling which it deems to be fair and reasonable. The executive board shall consider the motivating factors for the student transfer. The determination shall be made in writing with the reasons for the determination clearly delineated.

b. In ruling upon the transfer of students who have been emancipated by marriage or have reached the age of majority, the executive board shall consider all circumstances with regard to the transfer to determine if it is principally for school or athletic purposes, in which case participation shall not be approved.

c. A student who participates in the name of a member or associate member school during the summer following eighth grade is ineligible to participate in the name of another member or associate member school in the first 90 consecutive school days of ninth grade unless a change of residence has occurred after the student began participating in the summer.

d. A school district that has more than one high school in its district shall set its own eligibility policies regarding intradistrict transfers.

36.15(4) *Open enrollment transfer rule.* A student in grades 9 through 12 whose transfer of schools had occurred due to a request for open enrollment by the student's parent or guardian is ineligible to compete in interscholastic athletics during the first 90 school days of transfer except that a student may participate immediately if the student is entering grade 9 for the first time and did not participate in an interscholastic athletic competition for another school during the summer immediately following eighth grade. The period of ineligibility applies only to varsity level contests and competitions. ("Varsity" means the highest level of competition offered by one school or school district against the highest level of competition offered by an opposing school or school district.) This period of ineligibility does not apply if the student:

a. Participates in an athletic activity in the receiving district that is not available in the district of residence; or

b. Participates in an athletic activity for which the resident and receiving districts have a cooperative student participation agreement pursuant to rule 281—36.20(280); or

c. Has paid tuition for one or more years to the receiving school district prior to making application for and being granted open enrollment; or

d. Has attended in the receiving district for one or more years prior to making application for and being granted open enrollment under a sharing or mutual agreement between the resident and receiving districts; or

e. Has been participating in open enrollment and whose parents/guardians move out of their district of residence but exercise either the option of remaining in the original open enrollment district or enrolling in the new district of residence. If the pupil has established athletic eligibility under open enrollment, it is continued despite the parent's or guardian's change in residence; or

f. Has not been participating in open enrollment, but utilizes open enrollment to remain in the original district of residence following a change of residence of the student's parent(s). If the pupil has established athletic eligibility, it is continued despite the parent's or guardian's change in residence; or

g. Obtains open enrollment due to the dissolution and merger of the former district of residence under Iowa Code subsection 256.11(12); or

h. Obtains open enrollment due to the pupil's district of residence entering into a whole-grade sharing agreement on or after July 1, 1990, including the grade in which the pupil would be enrolled at the start of the whole-grade sharing agreement; or

i. Participates in open enrollment and the parent/guardian is an active member of the armed forces and resides in permanent housing on government property provided by a branch of the armed services.

36.15(5) *Eligibility for other enrollment options.*

a. *Shared-time students.* A nonpublic school student who is enrolled only part-time in the public school district of the student's residence under a "shared-time" provision or for driver education is not eligible to compete in interscholastic athletics in the public school district.

b. *Dual enrollment.* A student who receives competent private instruction, not in an accredited nonpublic or public school, may seek dual enrollment in the public school of the student's resident district and is eligible to compete in interscholastic athletic competition in the resident school district provided the student meets the eligibility requirements of these rules and those set by the public school of attendance.

If a student seeking such dual enrollment is enrolled in an associate member school of the Iowa Girls' High School Athletic Union or Iowa High School Athletic Association, the student is eligible for and may participate in interscholastic athletic competition only for the associate member school or a school with which the associate member school is in a cooperative sharing agreement. (Eligibility in such case is governed by 281—36.1(280).)

Any ineligibility imposed under this chapter shall begin with the first day of participation under dual enrollment. Any period of ineligibility applies only to varsity level contests and competitions. ("Varsity" means the highest level of competition offered by one school or school district against the highest level of competition offered by an opposing school or school district.)

c. *Competent private instruction.* A student who receives competent private instruction, and is not dual-enrolled in a public school, may participate in and be eligible for interscholastic athletics at an accredited nonpublic school if the student is accepted by that school and the student meets the eligibility requirements of this chapter and those set by the accredited nonpublic school where the student participates. Application shall be made to the accredited nonpublic school on a form provided by the department of education.

If a student seeking such participation is enrolled in an associate member school of the Iowa Girls' High School Athletic Union or Iowa High School Athletic Association, the student is eligible for and may participate in interscholastic athletic competition only for the associate member school or a school with which the associate member school is in a cooperative sharing agreement. (Eligibility in such case is governed by 281—36.1(280).)

Any ineligibility imposed under this chapter shall begin with the first day of participation with the accredited nonpublic school. Any period of ineligibility applies only to varsity level contests and competitions. ("Varsity" means the highest level of competition offered by one school or school district against the highest level of competition offered by an opposing school or school district.)

36.15(6) *Summer camps and clinics and coaching contacts out of season.*

a. School personnel, whether employed or volunteers, of a member or associate member school shall not coach that school's student athletes during the school year in a sport for which the school personnel are currently under contract or are volunteers, outside the period from the official first day of practice through the finals of tournament play. Provided, however, school personnel may coach a senior student from the coach's school in an all-star contest once the senior student's interscholastic athletic season for that sport has concluded. In addition, volunteer or compensated coaching personnel shall not require students to participate in any activities outside the season of that coach's sport as a condition of participation in the coach's sport during its season.

b. A summer team or individual camp or clinic held at a member or associate member school facility shall not conflict with sports in season. Coaching activities between June 1 and the first day of fall sports practices shall not conflict with sports in season.

c. Rescinded IAB 4/20/11, effective 5/25/11.

d. Penalty. A school whose volunteer or compensated coaching personnel violate this rule is ineligible to participate in a governing organization-sponsored event in that sport for one year with the violator(s) coaching.

36.15(7) *Nonschool team participation.* The local school board shall by policy determine whether or not participation in nonschool athletic events during the same season is permitted and provide penalties for students who may be in violation of the board's policy.

This rule is intended to implement Iowa Code sections 256.46, 280.13 and 282.18.

[**ARC 9475B**, IAB 4/20/11, effective 5/25/11; **ARC 9476B**, IAB 4/20/11, effective 5/25/11; **ARC 1779C**, IAB 12/10/14, effective 1/14/15]

281—36.16(280) Executive board review. A student, parent of a minor student, or school contesting the ruling of a student's eligibility based on these rules, other than subrule 36.15(1) or paragraph 36.15(2)*"c," "d," "f,"* or *"k,"* or a school contesting a penalty imposed under paragraph 36.15(6)*"b,"* shall be required to state the basis of the objections in writing, addressed to the executive officer of the board of the governing organization. Upon request of a student, parent of a minor student, or a

school, the executive officer shall schedule a hearing before the executive board on or before the next regularly scheduled meeting of the executive board but not later than 20 calendar days following the receipt of the objections unless a later time is mutually agreeable. The executive board shall give at least 5 business days' written notice of the hearing. The executive board shall consider the evidence presented and issue findings and conclusions in a written decision within 5 business days of the hearing and shall mail a copy to appellant.
[**ARC 9475B**, IAB 4/20/11, effective 5/25/11]

281—36.17(280) Appeals to director. If the claimant is still dissatisfied, an appeal may be made in writing to the director of education by giving written notice of the appeal to the state director of education with a copy by registered mail to the executive officer of the governing organization. An appeal shall be in the form of an affidavit and shall be filed within 10 business days after the date of mailing of the decision of the governing organization. The director of education shall establish a date for hearing within 20 calendar days of receipt of written notice of appeal by giving at least 5 business days' written notice of hearing to the appellant unless another time is mutually agreeable. The procedures for hearing adopted by the state board of education and found at 281—Chapter 6 shall be applicable, except that the decision of the director is final. Appeals to the executive board and the state director are not contested cases under Iowa Code subsection 17A.2(5).
[**ARC 9475B**, IAB 4/20/11, effective 5/25/11]

281—36.18(280) Organization policies. The constitution or bylaws of organizations sponsoring contests for participation by member schools shall reflect the following policies:

36.18(1) *Expenditure policy.* It shall be the expenditure policy of each organization, after payment of costs incurred in 281—36.6(280) to 281—36.9(280) and legitimate expenses for housing, equipment and supplies including by agreement with other organizations having a mutual interest in interscholastic activities, to use all receipts to promote and fiscally sponsor those extracurricular interscholastic contests and competitions deemed by it to be most beneficial to all eligible students enrolled in member schools. Organizations with large revenues may provide assistance in staff, space, equipment and the transfer of funds to other organizations whose contests or competitions do not generate sufficient moneys to carry out an adequate program in their areas of service. Each organization shall make an annual payment to the federation to cover the necessary expenditures of the federation. The amount of this payment shall be determined by the federation.

36.18(2) *Federation survey.* A survey shall be made at least biennially, using a sampling procedure selected by the executive committee of the federation to determine in what extracurricular interscholastic contests or competitions students of member secondary schools would like to participate. The organizations shall put high priority on the findings of the survey in the determination of what interscholastic activities are to be sponsored.

36.18(3) *Calendar of events.* The federation shall establish yearly in advance a calendar of events for the interscholastic contests and competitions sponsored by the organizations.

36.18(4) *Information to local member schools.* The federation shall distribute to member schools the yearly calendar of events and other information believed by officers of the federation to be helpful to local school officials in providing a comprehensive program of extracurricular interscholastic contests or competitions.

36.18(5) *"All-star" contests.* A student enrolled in a member or associate member school will be ineligible for 12 calendar months in the sport in which the violation occurred if the student participates in an all-star contest.

36.18(6) *Team participation.* Participation in interscholastic contests or competitions shall be by school teams only and not selected individuals, with the exception of individual sports events such as wrestling, track, cross country, golf, tennis, and music and speech activities.

36.18(7) *Contests outside Iowa.* Out-of-state contest participation by a member school shall be limited to regularly scheduled interscholastic activities.

36.18(8) *Promoting interstate contests.* No activity organization shall sponsor interstate contests or competition between individuals, teams or groups.

36.18(9) *Chaperones.* It is the responsibility of all school districts to see that all teams or contestants are properly chaperoned when engaged in interscholastic activities.

36.18(10) *Membership.* Membership in an organization shall be limited to schools accredited by the department or approved by the department solely for purposes of associate membership in a registered organization.

281—36.19(280) Eligibility in situations of district organization change. Notwithstanding any other provision of this chapter, in the event eligibility of one or more students is jeopardized or in question as a result of actions beyond their control due to pending reorganization of school districts approved by the voters under Iowa Code chapter 275; action of the district boards of directors under Iowa Code section 274.37; or the joint employment of personnel and sharing of facilities under Iowa Code section 280.15 and the result is a complete discontinuance of the high school grades, or discontinuance of the high school grades pursuant to Iowa Code section 282.7, first paragraph, the boards of directors of the school districts involved may, by written agreement, determine the eligibility of students for the time the district of residence does not provide an activity program governed by this chapter. When the respective boards have not provided by written agreement for the eligibility of students whose eligibility is jeopardized or questioned four weeks prior to the normal established time for beginning the activity, students or parents of students involved may request a determination of eligibility from the governing body of the organization involved. All parties directly interested shall be given an opportunity to present their views to the governing board.

A determination of eligibility by the governing board shall be based upon fairness and the best interests of the students.

In the event that one or more parties involved in the request for determination before the governing board are dissatisfied with the decision of the governing board, an appeal may be made by the dissatisfied party to the director of the department under the provisions of 281—36.17(280). A decision of the director in the matter shall be final.

The above provisions shall apply insofar as applicable to changes of organization entered into between two or more nonpublic schools.

This rule is intended to implement Iowa Code section 280.13.

[1]**281—36.20(280) Cooperative student participation.** Notwithstanding any other provision of this chapter, in the event a member or associate member school does not directly make participation in an interscholastic activity available to its students, the governing board of the member or associate member school may, by formally adopted policy if among its own attendance centers, or by written agreement with the governing board of another member or associate member school, provide for the eligibility of its students in interscholastic activities provided by another member or associate member school. The eligibility of students under a policy, insofar as applicable, or a written agreement is conditioned upon the following:

36.20(1) All terms and conditions of the agreement are in writing;

36.20(2) The attendance boundary of each school that is party to the agreement is contiguous to or contained within the attendance boundary of one of the other schools, unless the activity is not offered at any school contiguous to the party district, or all schools that are contiguous refuse to negotiate an agreement with the party district, in which case the contiguous requirement may be waived by the applicable governing organization. For the purposes of this rule, a nonpublic school member will utilize the attendance boundaries of the public school in which its attendance center is located;

36.20(3) Any interscholastic activity not available to students of the schools participating in the agreement may be included in the agreement. A school's students may be engaged in cooperative activities under the terms of only one agreement;

However, if several schools are in a consortia cooperative agreement for a specific activity, they are not precluded from having a separate agreement with one or more of the same schools for a different activity as long as all schools of the consortia agree to such a separate agreement.

36.20(4) Agreements shall be for a minimum of one school year. Amendments may be made to agreements, including allowing additional member schools to join an existing agreement, without necessarily extending the time of existence of the agreement.

36.20(5) All students participating under the agreement are enrolled in one of the schools, are in good standing and meet all other eligibility requirements of these rules;

36.20(6) A copy of the written agreement between the governing boards of the particular schools involved, and all amendments to the agreement, shall be filed with the appropriate governing organization(s) no later than April 30 for the subsequent year, unless exception is granted by the organization for good cause shown. The agreements and amendments shall be deemed approved unless denied by the governing organization(s) within ten calendar days;

36.20(7) It is the purpose of this rule to allow individual students participation in interscholastic competition in activities not available to them at the school they attend, through local policy or arrangements made between the governing boards of the schools involved, so long as the interscholastic activities of other schools are not substantially prejudiced. Substantial prejudice shall include, but not necessarily be limited to, situations where a cooperative effort may result in an unfair domination of an activity or substantial disruption of activity classifications and management. In the event an activity organization determines, after investigation, that an agreement between schools that was developed under the terms of this rule results in substantial prejudice to other schools engaged in the activity, or the terms of the agreement are not in conformity with the purpose and terms of this rule, the activity organization may give timely notice to the schools involved that the local policy or agreement between them is null and void for the purposes of this rule, insofar as cooperative student participation is concerned with a particular activity. Determinations are appealable to the director of education under the applicable terms of 281—36.17(280). For notice to be timely, it must be given at least 45 calendar days prior to the beginning of the activity season.

This rule shall become effective on January 8, 1986. However, prior written agreements in existence at the time of this rule's adoption shall continue in force and effect until terminated by the parties or by the terms of the existing agreement.

This rule is intended to implement Iowa Code section 280.13.

[**ARC 9475B**, IAB 4/20/11, effective 5/25/11]

[1] See last paragraph of this rule.

[Filed 12/13/66; amended 12/15/72, 10/12/73, 7/25/75]
[Filed 1/12/76, Notice 10/20/75—published 1/26/76, effective 3/1/76]
[Filed 2/28/77, Notice 12/15/76—published 3/23/77, effective 4/27/77]
[Filed emergency 4/25/80—published 5/14/80, effective 5/1/80]
[Filed 7/24/81, Notice 4/15/81—published 8/19/81, effective 9/25/81]
[Filed 5/20/82, Notice 2/17/82—published 6/9/82, effective 8/1/82, 7/1/83][1]
[Filed 11/14/85, Notice 7/31/85—published 12/4/85, effective 1/8/86]
[Filed 11/14/86, Notice 8/27/86—published 12/3/86, effective 1/7/87][2]
[Filed 11/14/86, Notice 9/10/86—published 12/3/86, effective 1/7/87][2]
[Filed 8/19/88, Notice 6/29/88—published 9/7/88, effective 10/12/88]
[Filed 5/12/89, Notices 2/8/89, 4/5/89—published 5/31/89, effective 7/5/89]◊
[Filed 9/15/89, Notice 7/26/89—published 10/4/89, effective 11/8/89]
[Filed 1/17/92, Notice 10/2/91—published 2/5/92, effective 7/1/92]
[Filed 10/9/92, Notice 6/24/92—published 10/28/92, effective 12/2/92]
[Filed 2/12/93, Notice 9/16/92—published 3/3/93, effective 4/7/93]
[Filed 3/11/94, Notice 12/8/93—published 3/30/94, effective 5/4/94]
[Filed emergency 5/20/94—published 6/8/94, effective 5/20/94]
[Filed 9/9/94, Notice 6/8/94—published 9/28/94, effective 11/2/94]
[Filed 11/17/94, Notice 9/28/94—published 12/7/94, effective 1/11/95]
[Filed emergency 2/26/96—published 3/13/96, effective 3/13/96]
[Filed 9/13/96, Notice 7/17/96—published 10/9/96, effective 11/13/96]

[Filed emergency 11/25/96—published 12/18/96, effective 11/25/96]
[Filed 2/13/97, Notice 12/18/96—published 3/12/97, effective 4/16/97][◊]
[Filed 8/8/97, Notice 6/4/97—published 8/27/97, effective 10/1/97]
[Filed 8/10/98, Notice 5/6/98—published 9/9/98, effective 10/14/98]
[Filed 4/19/02, Notice 2/6/02—published 5/15/02, effective 6/19/02]
[Filed 8/2/02, Notice 6/26/02—published 8/21/02, effective 9/25/02]
[Filed 3/3/06, Notice 12/7/05—published 3/29/06, effective 7/1/06]
[Filed 4/3/08, Notice 1/16/08—published 4/23/08, effective 7/1/08]
[Filed ARC 9475B (Notice ARC 9144B, IAB 10/6/10), IAB 4/20/11, effective 5/25/11]
[Filed ARC 9476B (Notice ARC 9270B, IAB 12/15/10), IAB 4/20/11, effective 5/25/11]
[Filed ARC 9477B (Notice ARC 9374B, IAB 2/23/11), IAB 4/20/11, effective 5/25/11]
[Filed ARC 1779C (Notice ARC 1673C, IAB 10/15/14), IAB 12/10/14, effective 1/14/15]

◊ Two or more ARCs

1 See rule 36.20, last paragraph.

2 See Education, Department of[281], IAB.

CHAPTER 48
STATEWIDE WORK-BASED LEARNING INTERMEDIARY NETWORK

281—48.1(256) Purpose. The statewide work-based learning intermediary network is established to prepare students for the workforce by connecting business and the education system and offering relevant, work-based learning activities to students and teachers.
[**ARC 1781C**, IAB 12/10/14, effective 1/14/15]

281—48.2(256) Definitions. For purposes of this chapter, the following definitions shall apply:

"Core services" means services related to work-based learning including, but not limited to, student job shadowing, student internships, and teacher or student tours.

"Department" means the Iowa department of education.

"Region" means a community college region.

"Regional work-based learning intermediary network" means the entity responsible for providing the services defined in subrule 48.4(1) to students in a region.

"Targeted industries" means those industries identified pursuant to Iowa Code section 15.102, including advanced manufacturing, biosciences, and information technology.

"Work-based learning" means planned and supervised connections of classroom, laboratory and work experiences that prepare students for current and future careers.

"Work-based learning plan" means the regional work-based learning intermediary network's annual grant application.
[**ARC 1781C**, IAB 12/10/14, effective 1/14/15]

281—48.3(256) Statewide work-based learning intermediary network. The statewide work-based learning intermediary network program is established by the department and shall be administered by the department through the division of community colleges.

48.3(1) *Statewide work-based learning intermediary network fund.* A separate, statewide work-based learning intermediary network fund is created in the state treasury under the control of the department pursuant to Iowa Code section 256.40(1).

a. Moneys deposited in the statewide work-based learning intermediary network fund established under Iowa Code section 256.40(1) shall be distributed annually to each region for the implementation of the work-based learning plan pursuant to Iowa Code section 256.40(7).

b. If the balance in the statewide work-based learning intermediary network fund on July 1 of a fiscal year is $1.5 million or less, the department shall distribute moneys in the fund to the regional work-based learning intermediary networks or consortium of regions on a competitive basis. If the balance in the statewide work-based learning intermediary network fund on July 1 of a fiscal year is greater than $1.5 million, the department shall distribute $100,000 to each region and distribute the remaining moneys pursuant to the state aid distribution formula established in Iowa Code section 260C.18C.

48.3(2) *Steering committee.* The department shall establish and facilitate a steering committee comprised of representatives from the department of workforce development, the economic development authority, community colleges, institutions under the control of the state board of regents, accredited private institutions, area education agencies, school districts, and business and industry including, but not limited to, construction trade industry professionals. The steering committee shall:

a. Make recommendations to the department regarding the development and implementation of the statewide work-based learning intermediary network.

b. Develop a design for a statewide network comprised of 15 regional work-based learning intermediary networks aligned with community college boundaries. The design shall include network specifications, strategic functions, and desired outcomes.

c. Recommend program parameters and reporting requirements to the department.

48.3(3) *Providers.* No more than one entity from each region will be designated as the regional work-based learning intermediary network. A consortium of entities may collaborate to form a single work-based learning intermediary network in a region.
[**ARC 1781C**, IAB 12/10/14, effective 1/14/15]

281—48.4(256) Regional work-based learning intermediary network.

48.4(1) A regional work-based learning intermediary network shall prepare students for the workforce by connecting businesses and the education system and shall offer relevant, work-based learning activities to students and teachers within the region. The network shall:

a. Conduct a needs assessment in collaboration with school districts within the region to inform the development of core services. Evidence that a needs assessment was conducted shall be maintained and made available upon request by the department.

b. Provide core services as defined in rule 281—48.2(256).

c. Prepare students to make informed postsecondary education and career decisions. Services shall be integrated with other career exploration-related activities such as the student core curriculum plan and the career information and decision-making system developed and administered pursuant to Iowa Code section 279.61, where appropriate.

d. Build and sustain relationships between employers and local youth, the education system, and the community through communication and coordination.

e. Connect students to local career opportunities.

f. Provide a one-stop contact point for information useful to both educators and employers, including information on internships, job shadowing experiences, and other core services for students, particularly related to science, technology, engineering, or mathematics occupations, occupations related to critical infrastructure and commercial and residential construction, or targeted industries.

g. Facilitate the attainment of portable, industry-recognized credentials such as the National Career Readiness Certificate, where appropriate.

48.4(2) Work-based learning plan. Each network or consortium of networks shall annually submit a work-based learning plan to the department. Each plan shall detail how the intermediary network will provide core services to all school districts within the region and support the integration of job shadowing and other work-based learning activities into secondary career and technical education programs.

48.4(3) Funding. All funds are to be used to develop or expand work-based learning opportunities within the intermediary network region.

a. *Match.* Of the funds received pursuant to subrule 48.3(1), each regional work-based learning intermediary network shall contribute a match of resources equal to 25 percent pursuant to Iowa Code section 256.40(9). The financial resources used to provide the match may include private donations, in-kind contributions, or public moneys other than the moneys received pursuant to subrule 48.3(1).

b. *Staffing.* Funds may be used to support personnel responsible for the implementation of the intermediary network program components outlined under subrule 48.3(1).

48.4(4) Collaboration. Regional work-based learning intermediary networks shall work collaboratively with the statewide intermediary network and stakeholders. Evidence of collaboration shall be documented in each region's annual report.

48.4(5) Advisory council. Each regional work-based learning intermediary network shall establish an advisory council consisting of intermediary network stakeholders from business and industry representatives, including construction trade industry professionals, to provide guidance and assistance in developing the intermediary network's work-based learning plan. Advisory councils shall meet at least annually. Meeting minutes shall be maintained and be made available upon request by the department. The advisory council shall be subject to open meetings laws under Iowa Code chapter 21.

48.4(6) Annual report. Each regional work-based learning intermediary network shall submit an annual report to the department in a manner prescribed by the department. The report shall include,

but not be limited to, performance metrics prescribed by the department and a summary of financial expenses.

[**ARC 1781C**, IAB 12/10/14, effective 1/14/15]

These rules are intended to implement Iowa Code section 256.40.

[Filed ARC 1781C (Notice ARC 1598C, IAB 9/3/14), IAB 12/10/14, effective 1/14/15]

CHAPTERS 49 and 50
Reserved

TITLE XI
VOCATIONAL REHABILITATION EDUCATION

CHAPTER 56
IOWA VOCATIONAL REHABILITATION SERVICES

[Prior to 9/7/88, see Public Instruction Department[670] Ch 35]

DIVISION I
SCOPE AND GENERAL PRINCIPLES

281—56.1(259) Responsibility of division. The division is responsible for providing services leading to competitive employment for eligible Iowans with disabilities in accordance with Iowa Code chapter 259, the federal Rehabilitation Act of 1973 as amended, the federal Social Security Act (42 U.S.C. Section 301, et seq.), and the corresponding federal regulations.
[**ARC 1778C**, IAB 12/10/14, effective 1/14/15]

281—56.2(259) Nondiscrimination. The division shall not discriminate on the basis of age, race, creed, color, sex, sexual orientation, gender identity, national origin, religion, duration of residency, or disability in the determination of a person's eligibility for rehabilitation services and in the provision of necessary rehabilitation services.
[**ARC 1778C**, IAB 12/10/14, effective 1/14/15]

DIVISION II
DEFINITIONS

281—56.3(259) Definitions. For the purpose of this chapter, the indicated terms are defined as follows:

"Act" means the federal Rehabilitation Act of 1973, as amended and codified at 29 U.S.C. Section 701, et seq.

"Aggregate data" means information about one or more aspects of division job candidates, or from some specific subgroup of division job candidates, but from which personally identifiable information on any individual cannot be discerned.

"Assistive technology device" means any item, piece of equipment or product system, whether acquired commercially or off the shelf, modified, or customized, that is used to increase, maintain, or improve the functional capabilities of an individual with a disability.

"Assistive technology service" means any service that directly assists an individual with a disability in the selection, acquisition, or use of an assistive technology device. Assistive technology services include:

1. Evaluating the needs of an individual with a disability, including a functional evaluation of the individual in the individual's customary environment;
2. Aiding an individual with a disability in purchasing, leasing, or otherwise providing for the acquisition of an assistive technology device;
3. Selecting, designing, fitting, customizing, adapting, applying, maintaining, repairing, or replacing assistive technology devices;
4. Coordinating and using other therapies, interventions, or services with assistive technology devices, such as those associated with existing education and rehabilitation plans and programs;
5. Providing training or technical assistance for an individual with a disability or, if appropriate, the family members, guardians, advocates, or authorized representatives of the individual; and
6. Providing training or technical assistance for professionals (including individuals providing education and rehabilitation services), employers, or others who provide services to, employ, or are otherwise substantially involved in the major life functions of individuals with disabilities, to the extent that training or technical assistance is necessary to the achievement of an employment outcome by an individual with disabilities.

"Case record" means the file of personally identifiable information, whether written or electronic in form, on an individual that is collected to carry out the purposes of the division as defined in the Act and the Social Security Act. This information remains a part of the case record and is subject to these rules

even when temporarily physically removed, either in whole or in part, from the file folder in which it is normally kept.

"Competitive employment" means work in the competitive labor market that is performed on a full-time or part-time basis in an integrated setting and for which the job candidate is compensated at or above the minimum wage, but not less than the customary wage and level of benefits paid by the employer for the same or similar work performed by individuals who are not disabled.

"Customized employment" means a flexible process designed to personalize the employment relationship between a job candidate and an employer in a way that meets the needs of both. Customized employment is based on an individualized match between the strengths, conditions, and interests of a job candidate and the identified business needs of an employer. Customized employment utilizes an individualized approach to employment planning and job development, one person at a time, one employer at a time.

"Department" means the department of education.

"Designated representative" means anyone the job candidate designates to represent the job candidate's interests before and within the division. The term does not necessarily mean a legal representative. The designated representative may be a parent, guardian, friend, attorney, or other designated person.

"Division" means the division of vocational rehabilitation services of the department of education.

"Employment outcome" means, with respect to an individual, entering or retaining full-time or, if appropriate, part-time competitive employment in the integrated labor market; supported employment; or any other type of employment, including self-employment, telecommuting, homemaking, other unpaid work within the individual's family, or business ownership, that is consistent with an individual's strengths, resources, priorities, concerns, abilities, capabilities, interests, and informed choice.

"Home modification" means the alteration of an already existing living unit to make it accessible or more accessible by a person with a disability who is involved with the independent living program or as necessary to achieve stable employment as part of an individual plan for employment.

"Impartial hearing officer" or *"IHO"* means a person who is not an employee of the division; is not a member of the state rehabilitation advisory council; has not been involved previously in the vocational rehabilitation of the applicant or job candidate; has knowledge of the delivery of vocational rehabilitation services, the state plan and the federal and state rules and regulations governing the provision of such services; has received training in the performance of the duties of a hearing officer; and has no personal or financial interest that would be in conflict with the person's objectivity.

"Independent living services" or *"IL services"* means those items and services provided to individuals who have a significant physical, mental, or cognitive impairment and whose ability to function independently in the family or community or whose ability to obtain, maintain, or advance in employment is substantially limited, and for whom the delivery of IL services will improve their ability to function, continue functioning, or move toward functioning independently in the family or community or to continue in employment.

"Individual plan for employment" or *"IPE"* means a plan that specifies the services needed by an eligible individual and the involvement of other payers and must include the expected employment outcome and the timeline for achievement of the expected employment outcome.

"Individual with a most significant disability" means an individual who is seriously limited in three or more functional capacities (such as mobility, communication, self-care, self-direction, interpersonal skills, work tolerance, or work skills) in terms of an employment outcome and includes an individual who, because of a disability, has been separated from employment or is in danger of becoming separated from employment.

"Individual with a significant disability" means an individual who has a significant physical or mental impairment that seriously limits one or more functional capacities (such as mobility, communication, self-care, self-direction, interpersonal skills, work tolerance, or work skills) in terms of an employment outcome or who is a recipient of SSD/SSI.

"Integrated work setting," with respect to the provision of services, means a setting typically found in the community in which applicants or eligible individuals interact with nondisabled individuals other than nondisabled individuals who are providing services to those applicants or eligible individuals.

With respect to an employment outcome, "integrated work setting" means a setting typically found in the community in which applicants or eligible individuals interact with nondisabled individuals, other than nondisabled individuals who are providing services to those applicants or eligible individuals, to the same extent that nondisabled individuals in comparable positions interact with other persons.

"Job candidate" means an eligible individual receiving benefits or services from any part of the division and shall include former job candidates of the division whose files or records are retained by the division.

"Maintenance" means monetary support provided to a job candidate for expenses, such as food, shelter, and clothing, that are in excess of the normal expenses of the job candidate and that are necessitated by the job candidate's participation in the program.

"Mediation" means the act or process of using an independent third party to act as a mediator, intermediary, or conciliator to assist persons or parties in settling differences or disputes prior to pursuing formal administrative or other legal remedies.

"Menu of services" means the services provided by community partners to assist an individual with a disability in achieving an employment outcome. The services are selected and jointly agreed to by the counselor and job candidate of the division. Payments for services are made based on a fee structure that is published and updated annually and includes the following:

1. Assessment through discovery, community work-site assessment, comprehensive vocational evaluation, facility work-site assessment, career exploration, or job shadowing assessment to identify a realistic vocational goal that is compatible with the individual's needs, preferences, abilities, disability, and informed choice;

2. Placement services selected by the counselor, job candidate and interested partners to prepare for and obtain employment. Placement services include the following:

- Vocational preparation that enhances and improves the job candidate's ability to perform specific work, learn the necessary skills to do a specific job, minimize negative work habits and behaviors that have impeded job retention, develop skills in finding a job, and learn how to navigate transportation systems to and from work;
- Work adjustment training that remedies negative work habits and behaviors, improves work tolerance, and develops strategies to improve a job candidate's ability to maintain employment;
- Job-seeking skills training that teaches the job candidate strategies necessary to find employment at the level required by the job candidate's needs;
- Job development and job follow-up that places the job candidate on a job in the community working for a business, maintains contact with the employer on the job candidate's progress, is jointly funded through the Medicaid waiver program when appropriate, and is purchased only when used in conjunction with another required service;
- Employer development that, through a job analysis, identifies for businesses the job tasks and customized training plan for the job for which the job candidate will be trained, is authorized only as a stand-alone service when the Medicaid waiver funds the job development and is purchased only when used in conjunction with another required service;
- Supported job coaching that assists the job candidate in learning job-specific skills and work habits and behaviors while employed on the job and that continues as needed after the division file is closed;
- Selected job coaching that assists the job candidate in learning job-specific skills and work habits and behaviors while employed on the job and that is purchased only when approved by the area office supervisor.

"Ongoing support services" means services that are needed to support and maintain individuals with the most significant disabilities in supported employment. Such services shall be specified in the IPE and include, at a minimum, twice-monthly monitoring at the work site to assess employment stability, unless it is determined in the IPE that off-site monitoring is more appropriate.

"Physical or mental impairment" means:

1. Any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems: neurological, musculoskeletal, special sense organs, respiratory (including speech organs), cardiovascular, reproductive, digestive, genitourinary, hemic and lymphatic, skin, or endocrine; or

2. Any mental or psychological disorder such as an intellectual disability, organic brain syndrome, emotional or mental illness, or specific learning disabilities.

3. Any impairment for which an individual has a documented history of receiving special education services in both elementary and secondary school.

"Physical or mental restoration services" means:

1. Corrective surgery or therapeutic treatment that is likely, within a reasonable period of time, to correct or modify substantially a stable or slowly progressive physical or mental impairment that constitutes a substantial impediment to employment;

2. Diagnosis of and treatment for mental or emotional disorders by qualified personnel in accordance with state licensure laws;

3. Dentistry;

4. Nursing services;

5. Necessary hospitalization (either inpatient or outpatient) in connection with surgery or treatment and clinical services;

6. Drugs and supplies;

7. Prosthetic and orthotic devices;

8. Eyeglasses and visual services, including visual training, and the examination and services necessary for the prescription and provision of eyeglasses, contact lenses, microscopic lenses, telescopic lenses, and other special visual aids prescribed by personnel that are qualified in accordance with state licensure laws;

9. Podiatry;

10. Physical therapy;

11. Occupational therapy;

12. Speech and hearing therapy;

13. Mental health services;

14. Treatment of either acute or chronic medical complications and emergencies that are associated with or arise out of the provision of physical and mental restoration services or that are inherent in the condition under treatment;

15. Special services for the treatment of individuals with end-stage renal disease, including transplantation, dialysis, artificial kidneys, and supplies; and

16. Other medical or medically related rehabilitation services.

"Progressive employment" means a coordinated set of experiences that may begin with volunteering and gradually progress to competitive employment for individuals for whom employment has not otherwise occurred.

"Rehabilitation engineering" means the systematic application of engineering sciences to design, develop, adapt, test, evaluate, apply, and distribute technological solutions to problems confronted by individuals with disabilities in functional areas, such as mobility, communications, hearing, vision, and cognition, and in activities associated with employment, independent living, education, and integration into the community.

"Rehabilitation technology" means the systematic application of technologies, engineering methodologies, or scientific principles to meet the needs of, and address the barriers confronted by, individuals with disabilities in areas that include education, rehabilitation, employment, transportation, independent living, and recreation. The term includes rehabilitation engineering, assistive technology devices, and assistive technology services.

"Residency requirement" is a condition of eligibility and is met by an individual who resides in the state of Iowa and is present and available for participation in a rehabilitation plan.

"Satisfactory employment" means stable employment consistent with an individual's IPE and acceptable to both the individual and the employer.

"Status" means the existing condition or position of a case. The specific case statuses are as follows:

02-0 Referral/Applicant (individual requests services and signs the rights and responsibilities form);

04-0 Accepted for services (eligible), but does not meet waiting list categories being served;

06-0 Trial work experiences/extended evaluation (individual's abilities, capabilities, and capacities are explored);

08-0 Closed before acceptance (eligibility criteria cannot be met or case is closed for some other reason);

10-__ Accepted for services (eligible); substatus:

10-0 Eligible individuals;

12-0 IPE developed, awaiting start of services;

14-0 Counseling and guidance only (counselor works with job candidate directly to reach goals through counseling and placement);

16-0 Physical and mental restoration (when such services are the most significant services called for on the IPE);

18-__ Training (when training is the most significant service called for on the IPE); substatuses are:

18-1 Training in a workshop/facility;

18-2 On-the-job training;

18-3 Vocational-technical training;

18-4 Academic training;

18-5 Correspondence training;

18-6 Supported employment;

18-7 Other types of training not covered above (including nonsupported employment job coaching);

20-0 Ready for employment (IPE has been completed to extent possible);

22-0 Employed;

24-0 Service interrupted (IPE can no longer be continued for some reason and no new IPE is readily obvious);

26-0 Closed rehabilitated (can only occur from Status 22-0 when job candidate has been employed in the job of closure for a minimum of 90 days);

28-0 Closed after IPE initiated (suitable employment cannot be achieved or employment resulted without benefit of services from the division);

30-0 Closed before IPE initiated (can only occur from either Status 10-__ or 12-0 when a suitable individual plan for employment cannot be developed or achieved or when employment resulted without benefit of services from the division);

32-0 Postemployment services;

33-__ Closed after postemployment services; substatuses are:

33-1 Individual is returned to suitable employment or employment is otherwise stabilized;

33-2 Case reopened for comprehensive vocational rehabilitation services;

33-3 Situation has deteriorated to the point that further services would be of no benefit to individual;

38-0 Closed from Status 04-0 (individual does not meet one of the waiting list categories and the individual no longer wants to remain on the waiting list or fails to respond when contacted because individual's name is at top of waiting list).

"Substantial impediment to employment" means that a physical or mental impairment (in light of attendant medical, psychological, vocational, educational, communication, and other related factors) hinders an individual from preparing for, entering into, engaging in, or retaining employment consistent with the individual's abilities and capacities.

"Supported employment" means:

1. Competitive employment in an integrated setting, or employment in integrated work settings in which individuals are working toward competitive employment, consistent with the strengths, resources,

priorities, concerns, abilities, capabilities, interests, and informed choice of the individuals, with ongoing support services for individuals with the most significant disabilities:

- For whom competitive employment has not traditionally occurred or for whom competitive employment has been interrupted or intermittent as a result of a significant disability; and
- Who, because of the nature and severity of their disabilities, need intensive supported employment services from the division and extended services after transition to perform this work; or

2. Transitional employment, as defined herein, for individuals with the most significant disabilities due to mental illness.

"Supported employment services" means ongoing support services and other appropriate services needed to support and maintain an individual with a most significant disability in supported employment that are provided by the division and documented:

1. For a period of time consistent with federal regulations unless, under special circumstances, the eligible individual and the rehabilitation counselor jointly agree to extend the time to achieve the employment outcome identified in the IPE; and

2. Following successful case closure, as postemployment services that are unavailable from an extended service provider and that are necessary for the individual to maintain or regain the job placement or to advance in employment.

"Transitional employment," as used in the definition of supported employment, means a series of temporary job placements in competitive work in integrated settings with ongoing support services for individuals with the most significant disabilities due to mental illness. In transitional employment, the provision of ongoing support services must include continuing sequential job placements until job permanency is achieved.

"Transition services" means a coordinated set of activities provided to a student and designed within an outcome-oriented process that promotes movement from school to postschool activities. Postschool activities include postsecondary education, vocational training, integrated employment (including supported employment), continuing and adult education, adult services, independent living, and community participation. The coordinated set of activities must be based upon the individual student's needs, taking into account the student's preferences and interests, and must include instruction, community experiences, the development of employment and other postschool adult living objectives, and, if appropriate, acquisition of daily living skills and functional vocational evaluation. Transition services must promote or facilitate the achievement of the employment outcome identified in the student's IPE.

"Trial work experiences" means an exploration of the individual's abilities, capabilities, and capacity to perform in realistic work situations in an integrated work setting in order to determine whether there is clear and convincing evidence that the individual is too severely disabled to benefit from the division's services.

[**ARC 8806B**, IAB 6/2/10, effective 7/7/10; **ARC 1778C**, IAB 12/10/14, effective 1/14/15]

DIVISION III
ELIGIBILITY

281—56.4(259) Individuals who are recipients of SSD/SSI. Recipients of social security disability payments or supplemental security income payments are presumed eligible as being significantly disabled and are eligible for vocational rehabilitation services if such recipients demonstrate eligibility under rules 281—56.8(259) and 281—56.13(259). Recipients who demonstrate eligibility under rules 281—56.8(259) and 281—56.13(259) must also demonstrate need in the employment plan under rule 281—56.14(259). Nothing in this rule automatically entitles a recipient of social security disability payments or supplemental security income payments to any good or service provided by the division.

[**ARC 8806B**, IAB 6/2/10, effective 7/7/10; **ARC 1778C**, IAB 12/10/14, effective 1/14/15]

281—56.5(259) Eligibility for vocational rehabilitation services. Eligibility for vocational rehabilitation services shall be determined upon the basis of the following:

56.5(1) A determination by qualified personnel that the applicant has a physical or mental impairment;

56.5(2) A determination by qualified personnel that the applicant's physical or mental impairment constitutes or results in a substantial impediment to employment for the applicant;

56.5(3) A determination by a qualified vocational rehabilitation counselor that the applicant requires vocational rehabilitation services to prepare for, secure, retain, or regain employment consistent with the applicant's unique strengths, resources, priorities, concerns, abilities, capabilities, interests, and informed choice.

A presumption exists that the applicant can benefit, in terms of an employment outcome, from the provision of vocational rehabilitation services. This presumption may be overcome by the division if, based on clear and convincing evidence, the division determines that the applicant is incapable of benefiting, in terms of an employment outcome, from vocational rehabilitation services due to the severity of the applicant's disability;

56.5(4) A determination that the individual meets the residency requirement at the time of application.

[**ARC 1778C**, IAB 12/10/14, effective 1/14/15]

281—56.6(259) Eligibility for specific services. Financial need must be established prior to provision of certain services at the division's expense. Applicants are eligible for physical restoration, occupational licenses, customary occupational tools and equipment, training materials, maintenance and transportation (except transportation for diagnosis, guidance or placement) only on the basis of financial need and when services are not otherwise immediately available. The following criteria are established for determination of eligibility of job candidates for the following services:

56.6(1) *Physical restoration.*

a. The service is necessary for the job candidate's satisfactory occupational adjustment.

b. The condition causing disability is relatively stable or slowly progressive.

c. The condition is of a nature that treatment may be expected to remove, arrest, or substantially reduce the disability within a reasonable length of time.

d. The prognosis for life and employability are favorable.

56.6(2) *Training and training materials.*

a. The training and books and supplies are necessary for the job candidate's satisfactory occupational adjustment.

b. The job candidate has the mental and physical capacity to acquire a skill that the job candidate can perform in an occupation commensurate with the job candidate's abilities and limitations.

c. The job candidate is not otherwise precluded by law from employment in the job candidate's field of training.

d. The job candidate meets the residency requirement.

56.6(3) *Occupational licenses and occupational tools and equipment.* The division may pay for occupational licenses and customary occupational tools and equipment when necessary for the job candidate's entrance into, and successful performance in, a selected occupation.

56.6(4) *Transportation.* A job candidate may be provided transportation in connection with securing medical or psychological examinations, physical restoration, training or placement, if such transportation is part of the job candidate's IPE. A companion may be provided transportation at the division's expense if the job candidate cannot travel alone.

56.6(5) *Maintenance.* A job candidate is eligible for maintenance when it is necessary to the job candidate's vocational rehabilitation and is an extra expense incurred due to the IPE.

[**ARC 1778C**, IAB 12/10/14, effective 1/14/15]

281—56.7(259) Areas in which exceptions shall not be granted. Pursuant to federal law, an exception shall not be granted for any of the following requirements:

1. The eligibility requirements in rule 281—56.5(259) (i.e., presence of disability, substantial impediment to employment, need for vocational rehabilitation services).

2. The required use of trial work experiences prior to closure in Status 08-0 due to severity of disability.

3. The required contents of the IPE.

4. Identification of a long-term follow-up provider in supported employment cases.

5. Being in employment and in Status 22-0 consistent with federal regulations prior to Status 26-0 closure.

6. Status progression, restrictions, and time frames, such as the federal requirement that eligibility be determined within 60 days of an individual's application for services unless the individual has agreed to an extension.

7. Services may be provided only to individuals who are not on a waiting list, except for assessments which will help the division appropriately determine on which waiting list an individual belongs.

[**ARC 1778C**, IAB 12/10/14, effective 1/14/15]

281—56.8(259) Waiting list. As required by the Act and 34 CFR 361.36, if the division cannot serve all eligible individuals who apply, the division shall develop and maintain a waiting list for services based on significance of disability. The three categories of waiting lists are as follows, listed in order of priority to be served:

1. Individuals with most significant disabilities;
2. Individuals with significant disabilities; and
3. Other individuals.

An individual's order of selection is determined by the waiting list and the date on which the individual applied for services from the division. All waiting lists are statewide in scope; no regional lists are to be maintained.

Assessment of the significance of an applicant's disability is done during the process of determining eligibility but may continue after the individual has been placed on a waiting list.

[**ARC 1778C**, IAB 12/10/14, effective 1/14/15]

281—56.9(259) Individuals who are blind. Pursuant to 111—10.4(216B), individuals who meet the department for the blind's definition of "blind" are to be served primarily by the department for the blind. Individuals with multiple disabilities who also are blind may receive technical assistance and consultation services while the department for the blind provides their rehabilitation plan.

281—56.10(259) Students in high school. The division may serve students in high school who may legally work in competitive environments for nonfamily members. If an applicant is in high school and is determined to be eligible for vocational rehabilitation services, such services may begin before the student exits the secondary school system. The services shall not supplant services for which the secondary school is responsible.

When the division determines that a student is eligible for services, the student's place on the waiting list under rule 281—56.8(259) shall be determined. If the waiting list category appropriate for the student is a category currently being served, the case record moves to a planning status and the student will work with a counselor to develop an employment plan. Otherwise the case is placed in Status 04-0, and the student's name is added to the waiting list for that category, based on the student's date of application. An IPE may be written for a student at any time the student's vocational goal and the services necessary to reach that goal have been agreed upon by the student and the student's division counselor. The IPE must be in place as required by federal regulations, unless the student has agreed to an extension or is on a waiting list. The plan shall be developed in accordance with the standard established by the division.

The counselor assigned by the division to work with the student may participate in the student's individualized education program meetings to provide consultation and technical assistance if the student is on the waiting list for services. Once a student is removed from the waiting list, the counselor may also provide vocational counseling and planning for the student and coordinate services with transition planning teams. When such services do not supplant services for which the secondary school is responsible, the division may begin to provide services specifically related to employment, such

as supported employment or job coaching services, as early as the student's junior year of secondary school. Students in high school or in an alternative high school who have not yet met high school graduation requirements after four years of secondary enrollment may continue to receive said services that do not supplant the responsibilities of the high school. Students in their final year of high school who have made satisfactory progress and who have demonstrated job-specific skills to work in their trained profession may receive assistance in purchasing tools to be used on a job.
[**ARC 1778C**, IAB 12/10/14, effective 1/14/15]

281—56.11(259) Establishment of financial need. The division establishes the job candidate's financial need prior to providing physical restoration, including prostheses; transportation (for other than diagnostic, guidance or placement purposes); maintenance; and occupational licenses, tools and equipment. Recipients of SSD/SSI are not subject to a financial needs test for any services but must demonstrate eligibility under rules 281—56.8(259) and 281—56.13(259), as well as demonstrate need in the employment plan under rule 281—56.14(259).

In determining financial need, the job candidates or, in the case of minors, the minors' parents or guardians are required to make a specific declaration regarding all family income from any source that may be applied toward the cost of rehabilitation services, except those of diagnosis, counseling, training and placement, which are provided without regard to financial need; however, the division shall not pay for more than the balance of the cost of the service minus comparable services and benefits. The income should be available to the job candidate; that is, actually on hand, free from prior obligations and ready when needed.

The division shall observe the following policies in making a determination of financial need based upon the findings:

56.11(1) All services requiring the determination of financial need are provided on the basis of supplementing the resources of the job candidate or of those responsible for the job candidate.

56.11(2) A supervisor may grant an exception in cases where the applicant's disability caused or is directly related to financial need and where all other sources of money have been exhausted by the applicant or the parents or guardians of a minor applicant.

56.11(3) Consideration shall be given to the job candidate's responsibility for the immediate needs and maintenance of the job candidate's dependents, and the job candidate shall be expected to reserve sufficient funds to meet the job candidate's family obligations and to provide for the family's future care, education and medical expenses.

56.11(4) Consideration shall also be given to factors such as prior obligations as well as to the desirability of conserving the job candidate's own resources for future rehabilitation purposes, such as becoming established in business or providing a business automobile required for transportation or employment.

56.11(5) Income up to a reasonable amount should be considered from the standpoint of its conservation and its maximum utilization to the long-term interest of the job candidate. Small casual earnings and unpredictable gifts of indeterminate value should not be counted as resources.

56.11(6) Financial aid from public assistance is disregarded as a resource.

56.11(7) Grants and scholarships based on merit, while not required to be searched for a comparable benefit, may be considered when determining financial support of a plan. Public grants and institutional grants or scholarships not based on merit are considered a comparable benefit.
[**ARC 8806B**, IAB 6/2/10, effective 7/7/10; **ARC 1778C**, IAB 12/10/14, effective 1/14/15]

DIVISION IV
CASE MANAGEMENT

281—56.12(259) Case finding and intake. The division seeks to locate all disabled individuals of employable age who desire to be employed full- or part-time and may be eligible for vocational rehabilitation services. To that end, referrals are accepted from all sources, and the division has established working relationships with public and private agencies in the areas of health, welfare, compensation, education, employment, and other related services. All new cases, whether referred to a

local worker or to the division, are checked for previous information and are acknowledged promptly by letter or a personal call.

281—56.13(259) Case diagnosis. The case diagnosis constitutes a comprehensive study of the job candidate, including medical as well as a vocational diagnosis of the individual. Each case diagnosis is based on pertinent information, including the individual's health and physical status, intelligence, educational background and achievements, vocational aptitudes and interests, employment experience and opportunities, and personal and social adjustments.

56.13(1) *Medical diagnosis.*

a. As a basis for determination of eligibility and formulation of the individual's rehabilitation plan, the division secures competent medical diagnosis. When necessary, the diagnosis is, if at all practicable, secured from recognized specialists in specific fields indicated by the general medical diagnosis. Whenever possible the diagnosis is accompanied by recommendations as to the means and methods of restoration and by a statement of any physical or mental limitations that may exist.

b. The division accepts a medical report in lieu of securing a new examination when the report can be relied upon to provide a sound basis for diagnosis of the physical or mental condition of the individual; is from providers or sources as listed in the case service manual; and is from an accredited or certified medical or treatment institution recognized by the state of Iowa or licensed by the department of public health or department of human services in any other state.

56.13(2) *Vocational diagnosis.* The methods of the vocational diagnosis include counseling interviews with the job candidate; reports as may be needed, including when necessary in the individual case, reports from schools, employers, social agencies, and others; and psychological information.

56.13(3) *Recording case data.* The division maintains a record for each case. The case record contains pertinent case information including, as a minimum, the basis for determination of eligibility, the basis justifying the plan of services and the reason for closing the case together with a justification of the closure. A case record may not be destroyed until four years after the case has been closed. A case record documenting participation in a transitional alliance program shall be maintained until the job candidate reaches age 25 or later.

[**ARC 1778C**, IAB 12/10/14, effective 1/14/15]

281—56.14(259) Individual plan for employment (IPE).

56.14(1) *Content.* The IPE contains the job candidate's expected employment goal, the specific vocational rehabilitation services needed to reach that goal, the entity or entities that will provide those services, the method by which satisfactory progress will be evaluated, and the methods available for procuring the services. The IPE shall be developed consistent with federal regulations.

56.14(2) *Job candidate's participation and approval.* The IPE is formulated with the job candidate's participation and approval and provides for all rehabilitation services that are recognized to be necessary to fully accomplish the job candidate's vocational rehabilitation whether or not services are at the expense of the division.

56.14(3) *Conditions for development of the IPE.* The basic conditions to be considered during the development of the IPE are:

a. The belief of the division that when concluded the IPE shall satisfactorily aid in the individual's achievement of vocational rehabilitation; and

b. That all services are to be carried to completion provided, however, that the division exercises its discretion in relation to the termination or revision of the individual's IPE when, for any reason, it becomes evident that the IPE cannot be completed or when the financial condition of the individual or the division makes termination necessary.

56.14(4) *Cooperation by the job candidate.* The division requires good conduct, regular attendance and cooperation of all individuals engaged in the rehabilitation plan's implementation. The division makes the following provisions for ensuring trainee cooperation: instruction, verbally or by pamphlet, emphasizing the importance of these factors to the success of the IPE; at the beginning of the program, advising each trainee about what is expected of the trainee and that services shall continue only if

the trainee's progress, attitude and conduct are satisfactory; requiring periodic progress, grade and attendance reports from the training agency; promptly calling the trainee's attention to evidence of unsatisfactory progress or attendance before such conditions become serious; providing encouragement to the trainee to promote good work habits, with due commendation for effective effort; and maintaining good relationships with the training agency.

56.14(5) *Ticket to work.* The job candidate's signature on the IPE verifies the ticket assignment to the division unless otherwise directed by the job candidate.

[**ARC 1778C**, IAB 12/10/14, effective 1/14/15]

DIVISION V
SERVICES

281—56.15(259) Scope of services. All necessary vocational rehabilitation services, including counseling, physical restoration, training, and placement, are made available to eligible individuals to the extent necessary to achieve their vocational rehabilitation and must be included in the employment plan and agreed to by the eligible individual's counselor before the service is delivered. The division cooperates with federal and other state agencies providing vocational rehabilitation or similar services, and written agreements providing for interagency cooperation may be entered into as required by the Act at the discretion of the division. In selected instances, the division assumes responsibility for providing short periods of medical care for acute conditions arising in the course of the job candidate's rehabilitation, which if not cared for would constitute a hazard to the achievement of the rehabilitation objective because of the job candidate's limited funds and the unavailability of free medical services.

[**ARC 8806B**, IAB 6/2/10, effective 7/7/10; **ARC 1778C**, IAB 12/10/14, effective 1/14/15]

281—56.16(259) Training.

56.16(1) Duration of training. Rehabilitation training is provided according to the actual needs of the individual. It is designed to achieve the specific employment outcome that is selected by the individual consistent with the individual's unique strengths, resources, priorities, concerns, abilities, capabilities, interests, and informed choice.

56.16(2) Types of training. The types of training programs available are as follows:

a. Postsecondary training, which is training in the arts and sciences for which postsecondary credit is given and which is generally considered to be applicable toward an associate's degree, bachelor's degree, or advanced degree.

b. Vocational training, which includes any organized form of instruction that provides the knowledge and skills essential for performing in a vocational-technical area. Such knowledge and skills may be acquired through training in an institution, on the job, by correspondence, by tutors, through a selection from the menu of services, by apprenticeship, or through a combination of any or all of these methods.

c. Prevocational training, which includes any form of basic training given for the acquisition of background knowledge or skills prerequisite or preparatory to vocational training or to employment where the primary occupational knowledge and skills are learned on the job or through a selection from the menu of services.

d. Work adjustment training, which includes any training given for any one or a combination of the following reasons:

(1) To assist individuals with disabilities, if needed, to acquire personal habits, attitudes and skills that will enable them to function effectively.

(2) To develop or increase work tolerance prior to engaging in prevocational or vocational training, or in employment.

(3) To develop work habits and to orient the individual to the world of work.

(4) To provide skills or techniques for the specific purpose of enabling the individual to compensate for the loss of the use of a member of the body or the loss of a functional capacity.

e. Job coaching, which includes, but is not limited to, intensive on-the-job training necessary to teach an employee both the job duties and job-related responsibilities.

f. Supported employment, which means competitive work in an integrated work setting with ongoing support services for individuals with the most significant disabilities for whom competitive employment has not traditionally occurred or has been interrupted or intermittent as a result of significant disabilities. Supported employment also includes transitional employment for individuals with chronic mental illness. Supported employment is limited in accordance with federal regulations.

g. OJT means training on the job either as an employee or trainee of the business. See rule 281—56.3(259).

56.16(3) Scope of training. The division may provide training services as long as those services are part of a job candidate's IPE. Training facilities shall be selected to meet the job candidate's health, disability, and program needs. Training facilities within the state are preferred; those outside Iowa shall not be used unless approved for use by the vocational rehabilitation agency in the state in which the facility is located.

56.16(4) Financial assistance for postsecondary training. Calculations of financial assistance for postsecondary training are determined annually. In order for the division to continue to assist the greatest practical number of eligible job candidates, assistance shall be no less than 40 percent and no more than 60 percent of the cost of attending the least expensive in-state public institution for a course of instruction leading to an undergraduate degree. In all cases, the postsecondary institution in which the student is enrolled must be accredited by an entity recognized by the federal Department of Education as having authority to accredit postsecondary institutions.

a. Tuition and fee-based general assistance.

(1) Second year or less status. A student is considered to be in second year or less status when the student has earned fewer than 60 semester or 90 quarter credit hours in the student's present area of study or discipline; when the student is enrolled in a community college or other two-year postsecondary institution; or when the student is enrolled in a program whose terminal degree is an associate degree but the student has not yet attained the associate degree. For an eligible student in second year or less status, the division shall pay no less than 40 percent and no more than 60 percent of the least expensive per-credit-hour tuition charged by an Iowa community college.

(2) Third or fourth year status. A student is considered to be in third or fourth year status if the student has earned at least 60 semester or 90 quarter credit hours or has achieved an associate degree in the student's present area of study or discipline but has not yet earned a postsecondary baccalaureate degree. For an eligible student in third or fourth year status, the division shall pay no less than 40 percent and no more than 60 percent of the tuition charged by the college or university, limited to the amount charged by the least expensive Iowa regents institution. Students in third or fourth year status who take graduate courses are only eligible to receive the established assistance rate for third or fourth year status.

(3) Medical school. Only a student enrolled full-time in a graduate school pursuing a course of studies that will lead to a medical doctor (MD) or doctor of osteopathy (DO) degree is eligible for assistance under this paragraph. For a student who is an MD or DO candidate, the division shall pay no less than 40 percent and no more than 60 percent of the tuition charged by the college of medicine of the University of Iowa. Students pursuing any other graduate degree in a medical arts program may be eligible for assistance under subparagraph 56.16(4)*"a"*(5).

(4) Law school. Only a student enrolled full-time in a graduate school pursuing a course of studies that will lead to a doctor of jurisprudence (JD) degree is eligible for assistance under this paragraph. For a student who is a JD candidate, the division shall pay no less than 40 percent and no more than 60 percent of the tuition charged by the college of law of the University of Iowa. Students pursuing any other graduate degree from a law school may be eligible for assistance under subparagraph 56.16(4)*"a"*(5).

(5) Graduate or postgraduate school. Notwithstanding subparagraphs 56.16(4)*"a"*(3) and (4), for a student enrolled in a graduate or postgraduate school, the division shall pay no less than 40 percent and no more than 60 percent of the tuition charged by the college or university, limited to the amount charged by the least expensive comparable graduate school at an Iowa regents institution.

(6) Distance learning (on-line courses). For a student enrolled in a distance learning course, the division shall pay the lesser of one of the following:

1. No less than 40 percent and no more than 60 percent of the actual cost of the course, or

2. The rate established for a student at the student's academic level.

(7) Continuing education courses. For a student taking a noncredit continuing education course, the division shall pay the lesser of one of the following:

1. No less than 40 percent and no more than 60 percent of the actual cost of the course, or

2. The rate established for a student in second year or less status.

(8) Out-of-state postsecondary institutions. For an eligible student who attends a postsecondary institution located outside Iowa, the division shall pay at the same rates set in this subrule.

b. Support services for postsecondary training. Unless approved as an exception by the supervisor, the amounts authorized for the items listed herein cannot exceed the amounts that would otherwise be spent on tuition and fees.

(1) Transportation shall be provided only when and to the extent that the cost is caused by participation in a program of vocational rehabilitation services.

(2) Maintenance shall be provided only to support participation in a program of vocational rehabilitation services when the job candidate has an extra expense beyond the job candidate's basic living expenses.

(3) Books and supplies may be provided in lieu of tuition and fees, but the amount provided therefor shall be no less than 40 percent and no more than 60 percent of the amount based on tuition and fees.

(4) Tutoring shall be provided only for courses that are part of the actual degree requirements and only when this service is not available for free through the school attended by the job candidate. Tutoring for program entrance examinations, such as the GRE, LSAT, or MCAT, is not allowed without an exception approved by the supervisor.

(5) Unless approved as an exception, tools and equipment required for participation in a training program shall be provided in lieu of the tuition and fee amount.

(6) Unless approved as an exception, supplies for a course without which the course cannot be successfully completed shall be provided in lieu of the tuition and fee amount.

(7) Fees for certification tests that are part of a course shall be paid pursuant to the 40 percent to 60 percent range established as the tuition and fees standard. For certifications and licensure fees that are not part of a course, the division shall use the financial needs assessment form to determine the level of division participation.

56.16(5) General guidance regarding postsecondary training is available from the division's case services manual.

[**ARC 8806B**, IAB 6/2/10, effective 7/7/10; **ARC 1778C**, IAB 12/10/14, effective 1/14/15]

281—56.17(259) Maintenance. The costs of maintenance shall not exceed the amount of increased expenses that the rehabilitation causes for the job candidate or the job candidate's family. Maintenance is not intended to provide relief from poverty or abject living conditions. Guidance regarding the financial support of maintenance is available from the division's case service manual.

[**ARC 1778C**, IAB 12/10/14, effective 1/14/15]

281—56.18(259) Transportation. When necessary to enable an applicant or a job candidate to participate in or receive the benefits of other vocational rehabilitation services, travel and related expenses, including expenses for training in the use of public transportation vehicles and systems, may be provided by the division. Transportation services may include the use of private or commercial conveyances (such as private automobile or van, public taxi, bus, ambulance, train, or plane) or the use of public transportation and coordination with a regional transit agency. The division shall not purchase a vehicle for a job candidate unless it is needed for self-employment. The division shall not rent a vehicle unless it is necessary for a job candidate's relocation. The division shall not pay for maintenance or repair of vehicles unless written approval of the supervisor allows for an exception.

[**ARC 1778C**, IAB 12/10/14, effective 1/14/15]

281—56.19(259) Rehabilitation technology.

56.19(1) Rehabilitation technology services are available at any point in the rehabilitation process, except to those job candidates on the waiting list. Such services include, as appropriate, an evaluation

of the ability of the individual to benefit from rehabilitation technology services. Areas in which rehabilitation technology services may be of assistance include seating and positioning, augmentative communication, computer access, environmental controls, mobility equipment, and modification of the job site or home.

56.19(2) Unless a written exception is approved by a supervisor, the following division contribution limits apply:

a. The division shall pay for no more than the established rate in division policy.

b. The division shall not pay anything toward the modification of a second living unit.

[**ARC 1778C**, IAB 12/10/14, effective 1/14/15]

281—56.20(259) Business initiatives. Rescinded IAB 8/27/08, effective 10/1/08.

281—56.21(259) Placement. The division not only prepares individuals with disabilities for jobs and trains them in techniques in securing their own jobs, but also accomplishes the actual placement, directly or indirectly through a service from the menu of services, of all eligible individuals with disabilities who receive rehabilitation services. Placement activities are based upon adequate evaluation and preparation of the job candidate and ordinarily include some combination of the following: evaluation of the job candidate's job readiness; development and execution of a plan for job-seeking activities; instruction in making job applications and in conduct and appearance during interviews; employer contacts; registration with the state workforce development center administration division; job analysis and modification; job coaching; employer or supervisor consultation, advisement and training; time-limited job coaching; postplacement follow-up; and relocation costs. Satisfactory employment is the objective of all division services of preparation, and placement services are an important, integral part of the overall vocational rehabilitation program. As such, in addition to the services listed herein, placement services may include the need for transportation and subsistence allowances and the purchase and acquisition of appropriate clothing, tools, equipment, and occupational licenses.

[**ARC 8806B**, IAB 6/2/10, effective 7/7/10; **ARC 1778C**, IAB 12/10/14, effective 1/14/15]

281—56.22(259) Progressive employment. As defined in rule 281—56.3(259), progressive employment is a process that facilitates employment in the community through a natural progression beginning with employment awareness and volunteerism and gradually increasing the level of responsibility to workplace acquisition of skills and using on-the-job training and supported employment to achieve competitive employment.

[**ARC 8806B**, IAB 6/2/10, effective 7/7/10; **ARC 1778C**, IAB 12/10/14, effective 1/14/15]

281—56.23(259) Miscellaneous or auxiliary services.

56.23(1) *Family member services.* If necessary to enable an applicant or job candidate to achieve an employment outcome as defined in these rules, the division may provide any service to a family member that it is legally able to provide to a job candidate, as long as the purpose of the service is to assess the ability of the job candidate to benefit from a program of vocational rehabilitation, prepare for, enter, and be successful in employment, or participate in a program of independent living services. Excluded are programs designed to prepare a family member to enter employment that will allow the family member to make money to support the applicant or job candidate. A family member is an individual who either (a) is a relative or guardian of an applicant or job candidate or (b) lives in the same household as an applicant or job candidate and has a substantial interest in the well-being of the applicant or job candidate.

56.23(2) *Interpreter and note taker.* If deemed necessary by the division to enable a job candidate to engage in all parts of the vocational rehabilitation or independent living program process, interpreter services or note taker services shall be provided to such job candidate, unless provision of such services is the statutory responsibility of an institution or organization.

Interpreter services are those special communications services provided by persons qualified by training and experience to facilitate communication between division personnel and persons who are deaf or hard of hearing. Persons receiving services include deaf and hard-of-hearing persons who communicate using signs and finger spelling, as well as lip reading, writing, gestures, pictures, and

other methods. Persons not fluent in the English language who could benefit from having any part of the vocational rehabilitation process translated into their major language are included. The division shall purchase sign language interpreter services, including transliterating services, from appropriately licensed interpreters only.

Note taker services are services provided to make written notes and summaries of orally presented material. The notes may be made from a live presentation, such as a classroom lecture, or from materials that have been taped. These services are only purchased when the law states that the presenter or institution is not statutorily responsible.

56.23(3) *Other goods and services.* Other goods and services include anything that is legal and necessary to the completion of the job candidate's IPE or independent living (IL) services plan. Under no circumstances may real estate be purchased or built with division funds. Services designed to decrease the need for future IL services can only be provided directly to IL job candidates.

[**ARC 1778C**, IAB 12/10/14, effective 1/14/15]

281—56.24(259) Facilities.

56.24(1) *Types of facilities.* It is the policy of the division to utilize any type of public or private facility that is equipped to render the required services from the menu of services of diagnosis, physical restoration, training, and placement. Facilities include public and private schools; colleges and universities; correspondence schools; agencies for personal adjustment training; business and industrial establishments for employment training; psychometric service agencies; physicians' and dentists' offices; hospitals; sanatoria and clinics; audiometric service centers; rehabilitation centers; the offices of occupational, physical and work therapists or agencies providing these services; convalescent homes; prosthetic appliance dealerships; and other similar facilities that are adequately equipped to contribute to the rehabilitation of individuals with disabilities.

56.24(2) *Standards for facilities providing specialized training or other services.* The division selects its training agencies on the basis of their ability to supply the quality of training desired. The general practice of the division is to utilize the facilities of accredited or approved colleges, universities, community rehabilitation programs, and trade and commercial schools for residence and correspondence training. The general practice of the division is to utilize community partners to deliver items from the menu of services based on the partners' ability to supply the quality of training desired and to achieve expected outcomes resulting in job placements for job candidates of the division.

56.24(3) *Facilities providing training.* Facilities selected as locations for employment training must have personnel qualified with respect to personality, knowledge and skills in the technique of instruction, have adequate equipment and instructional materials and be willing to make definite provisions for a plan of graduated progress in the job to be learned according to an efficiently organized and supervised instructional schedule.

56.24(4) *Facilities providing personal adjustment training.* In addition to other standards set for tutorial and customized training, an important basis for selection of facilities for personal adjustment training is a sympathetic understanding of the personal adjustment needs of the individual and their importance to the job candidate's total rehabilitation.

[**ARC 8806B**, IAB 6/2/10, effective 7/7/10; **ARC 1778C**, IAB 12/10/14, effective 1/14/15]

281—56.25(259) Exceptions to payment for services. As required by the Act and 34 CFR 361.50(c), the division shall have a method of allowing for exceptions to its rules regarding payment for services.

56.25(1) *Reasons for exceptions.* Major reasons that will be considered in determining if an exception should be granted in favor of an applicant include, but are not limited to, the following:

a. The need is disability-related.

b. The applicant has used all sources available, such as applying for and using all available loans in postsecondary training situations.

c. Family issues, such as dissolution of marriage, loss of income, or estrangement, render resources unavailable.

d. Academic performance is poor, but could reasonably be expected to return to the required threshold in one semester.

e. Documented evidence supports that the job candidate is in the process of repaying a previously defaulted student loan.

56.25(2) *Prohibitions.* Pursuant to federal law, the division is subject to the following prohibitions:

a. The fee schedule shall not be designed in a way that effectively denies an individual a necessary service.

b. An absolute dollar limit on specific service categories or on the total services provided to an individual may not be established.

56.25(3) *Exception process.* A request for an exception shall originate with a counselor, who shall either develop a case note detailing the reason(s) why an exception is believed to be warranted or complete the appropriate form. The case note or form shall be presented to a supervisor for determination. The supervisor's determination shall be documented by the supervisor in a separate case note or in the designated place on the form.

[**ARC 1778C**, IAB 12/10/14, effective 1/14/15]

281—56.26(259) Exceptions to duration of services. As required by the Act and 34 CFR 361.50(d), the division shall have a method of allowing for exceptions to its rules regarding the duration of services. In order to exceed the duration of service as defined in the employment plan, a job candidate must follow through on the agreed-upon employment plan and related activities and keep the division informed of the job candidate's progress.

56.26(1) *Reasons for exceptions.* Major reasons that will be considered in determining if an exception should be granted in favor of an applicant include, but are not limited to, the following:

a. The need is disability-related.

b. Academic performance is poor, but could reasonably be expected to return to or above the required threshold in one semester.

c. The service is necessary and required in order for the job candidate to attain employment.

56.26(2) *Prohibitions.* Pursuant to federal law, the division is subject to the following prohibitions:

a. The time period established for the provision of services shall not be so short as to effectively deny an individual a necessary service.

b. An absolute time limit on the provision of a specific service or on the total services provided to an individual may not be established. The duration of each service needed by an individual must be determined on an individual basis and reflected in that individual's IPE.

56.26(3) *Exception process.* A request for an exception shall originate with a counselor, who shall either develop a case note detailing the reason(s) why an exception is believed to be warranted or complete the appropriate form. The case note or form shall be presented to a supervisor for determination. The supervisor's determination shall be documented by the supervisor in a separate case note or in the designated place on the form.

[**ARC 8806B**, IAB 6/2/10, effective 7/7/10; **ARC 1778C**, IAB 12/10/14, effective 1/14/15]

281—56.27(259) Maximum rates of payment to training facilities. In no case shall the amount paid a training facility exceed the rate published, and in the case of facilities not having published rates, the amount paid the facility shall not exceed the amount paid to the facility by other public agencies for similar services. The division will maintain information necessary to justify the rates of payment made to training facilities.

DIVISION VI
PURCHASING PRINCIPLES

281—56.28(259) Purchasing.

56.28(1) *General purchasing principles.*

a. The division shall purchase only those items/models that allow a job candidate to meet the job candidate's vocational objective. The division shall not pay for additional features that exceed the requirements to meet a job candidate's vocational objective or that serve primarily to enhance the job candidate's personal life.

b. The division shall purchase the most economical item/model that meets the job candidate's vocational needs.

c. The division shall seek out the most economical alternatives to meet the job candidate's vocational needs.

d. The division shall encourage all job candidates to develop strategies and savings programs to pay for replacement items/models or upgrades.

e. Items purchased for a job candidate become the property of the job candidate but may be repossessed by the division, subject to reimbursement to the job candidate for the job candidate's share of the purchase price, if the job candidate does not attain employment prior to case closure.

56.28(2) *Job candidate-specific purchasing principles.* When considering what item/model to purchase for a specific job candidate, the division shall in all cases consider the following factors:

a. Whether the item/model truly is needed for the job candidate to be able to perform the essential functions of the job candidate's job.

b. Whether a more economical item/model is available to permit the job candidate to perform the essential functions of the job candidate's job.

c. Whether other parties or entities may be responsible for providing or contributing to the costs of an item.

[**ARC 8806B**, IAB 6/2/10, effective 7/7/10; **ARC 1778C**, IAB 12/10/14, effective 1/14/15]

DIVISION VII
SUPERVISOR REVIEW, MEDIATION, HEARINGS, AND APPEALS

281—56.29(259) Review process. At the time of making application for rehabilitation services, and at other times throughout the rehabilitation process, all applicants and job candidates shall be informed of the right to appeal and the procedures by which to file an appeal. If an applicant or job candidate is dissatisfied with any agency decision that directly affects the applicant or job candidate, the applicant, job candidate, or designated representative may appeal that decision or request mediation. The term "appellant" shall be used to indicate the applicant, job candidate, or designated representative who initiates an appeal. The appellant may initiate the appeal process either by calling a counselor or supervisor or by filing the appropriate division appeal form, available from any counselor or supervisor of the division. If the appeal process is initiated by telephone, the counselor or supervisor who received the call must complete the appeal form to the best of that person's ability with information from the appellant. The division shall accept as an appeal a written letter, facsimile, or electronic mail that indicates that the applicant or job candidate desires to appeal. An appeal must be filed within 90 days of notification of the disputed decision. Once the appeal form has been filed with the division administrator, a hearing shall be held before an impartial hearing officer (IHO) within the next 60 days unless an extension of time is mutually agreed upon or one of the parties shows good cause for an extension. The appellant may request that the appeal go directly to impartial hearing, but the appellant shall be offered the opportunity for a supervisor review or mediation. The appellant may request assistance with an appeal or mediation from the Iowa client assistance program (ICAP).

[**ARC 8806B**, IAB 6/2/10, effective 7/7/10; **ARC 1778C**, IAB 12/10/14, effective 1/14/15]

281—56.30(259) Supervisor review. As a first step, the appellant shall be advised that a supervisor review of the counselor's decision may be requested by notifying the counselor or supervisor in person, by telephone or by letter of the decision to appeal. If the supervisor has been involved in decisions in the case to the extent that the supervisor cannot render a fair and impartial decision or if the supervisor is not available to complete the review in a timely manner, the appeal and case file shall be forwarded to the bureau chief for review. The appellant is not required to request supervisor review as a prerequisite for appeal before an IHO; however, if a supervisor review is requested, the following steps shall be observed:

56.30(1) Upon receipt of a request for supervisor review, the supervisor shall notify all appropriate parties of the date and nature of the appeal; examine case file documentation; discuss the issues and reasons for the decision with the immediate counselor and other counselors who may have been

previously involved with the case/issue; and, if necessary, meet with any or all parties to discuss the dispute.

56.30(2) The supervisor shall have ten working days from receipt of the request for supervisor review to decide the issue and notify the appellant in writing. A copy of the supervisor's decision shall be sent to all appropriate parties.

56.30(3) If the supervisor's decision is adverse to the appellant, the copy of the written decision given to the appellant shall include further appeal procedures, including notification that the appellant has ten days from the date of the letter to file further appeal. Also included shall be notice of the Iowa client assistance program (ICAP), a program within the department of human rights, commission of persons with disabilities. If ICAP determines it appropriate, ICAP provides assistance in the preparation and presentation of the appellant's case.

56.30(4) As an alternative to, but not to the exclusion of, filing for further appeal, the appellant may request mediation of the supervisor's decision.

[**ARC 1778C**, IAB 12/10/14, effective 1/14/15]

281—56.31(259) Mediation. Regardless of whether a supervisor review is requested, an appellant may request resolution of the dispute through the mediation process. Mediation is also available if the appellant is dissatisfied with the supervisor's decision. If mediation is requested by the appellant and agreed to by the division, the following steps shall be observed:

56.31(1) Mediation shall be conducted by a qualified and impartial mediator, as defined in 34 CFR 361.5(43), trained in effective mediation techniques and selected randomly by the division from a list maintained by the division.

56.31(2) The mediation shall be conducted in a timely manner at a location convenient to the parties.

56.31(3) Mediation shall not be used to delay the appellant's right to a hearing.

56.31(4) Mediation must be voluntary on the part of the appellant and the division.

56.31(5) Mediation is at no cost to the appellant.

56.31(6) All discussions and other communications that occur during the mediation process are confidential. Any offers of settlement made by either party during the mediation process are inadmissible if further appeal is sought by the appellant.

56.31(7) Existing division services provided to an appellant shall not be suspended, reduced, or terminated pending decision of the mediator, unless so requested by the appellant.

281—56.32(259) Hearing before impartial hearing officer. Regardless of whether the appellant has used supervisor review or mediation or both, if the appellant requests a hearing before an IHO, the following provisions apply:

56.32(1) The division shall appoint the IHO from the pool of hearing officers with whom the division has contracts. The IHO shall be assigned on a random basis or by agreement between the administrator of the division and the appellant.

56.32(2) The hearing shall be held within 20 days of the receipt of the appointment of the IHO. A written decision shall be rendered and given to the parties by the IHO within 30 days after completion of the hearing. Either or both of these time frames may be extended by mutual agreement of the parties or by a showing of good cause by one party.

56.32(3) The appellant shall be informed that the filing of an appeal confers consent for the release of the case file information to the IHO. The IHO shall have access to the case file or a copy thereof at any time following acceptance of the appointment to hear the case.

56.32(4) Within five working days after appointment, the IHO shall notify both parties in writing of the following:

a. The role of the IHO;

b. The IHO's understanding of the reasons for the appeal and the requested resolution;

c. The date, time, and place for the hearing, which shall be accessible and located as advantageously as possible for both parties but more so for the appellant;

d. The availability of the case file for review and copying in a vocational rehabilitation office prior to the hearing and how to arrange for the same (see also rule 281—56.29(259));

e. That the hearing shall be closed to the public unless the appellant specifically requests an open hearing;

f. That the appellant may present evidence and information personally, may call witnesses, may be represented by counsel or other appropriate advocate at the appellant's expense, and may examine all witnesses and other relevant sources of information and evidence;

g. The availability to the appellant of the Iowa client assistance program (ICAP) for possible assistance;

h. Information about the amount of time it will take to complete the hearing process;

i. The possibility of reimbursement of necessary travel and related expenses; and

j. The availability of interpreter and reader services for appellants not familiar with the English language and those who are deaf, as well as transportation or attendant services for those appellants requiring such assistance.

56.32(5) Existing division services provided to an appellant shall not be suspended, reduced, or terminated pending decision of the IHO, unless so requested by the appellant.

56.32(6) The IHO shall provide a full written decision, including the findings of fact and grounds for the decision. Unless either party chooses to seek judicial review pursuant to Iowa Code chapter 17A, the decision of the IHO is final. If judicial review is sought, the IHO's decision shall be implemented pending outcome of the judicial review.

DIVISION VIII
PUBLIC RECORDS AND FAIR INFORMATION PRACTICES

The following rules are implemented in addition to the department's rules in 281—Chapter 5.

281—56.33(259) Collection and maintenance of records. The division has the authority to collect and maintain records on individuals under the Act, the state plan for vocational rehabilitation services, and the Social Security Act. The acceptance of the provisions and benefits of the Rehabilitation Act, under Iowa Code section 259.1, is conditioned on the requirement that the division maintain the confidentiality of personally identifiable information and its release under certain circumstances as provided by applicable federal laws. These laws include, but are not limited to, the following:

1. The Freedom of Information Act (5 U.S.C. 552, added by P.L. 90-23 and amended by P.L. 93-502 and P.L. 94-409).
2. The Privacy Act of 1974 (5 U.S.C. 552a, added by P.L. 93-579).
3. The Drug Abuse Office and Treatment Act (21 U.S.C. 1175, added by P.L. 92-255), as amended by the Comprehensive Alcohol and Alcoholism Prevention, Treatment, and Rehabilitation Act Amendment of 1974 (42 U.S.C. 4582, added by P.L. 93-282).
4. Section 6103 of the Internal Revenue Code (26 U.S.C. 6103) as amended by the Tax Reform Act of 1976 (P.L. 94-455).
5. The Government in the Sunshine Act (P.L. 94-409).
6. The Family Educational Rights and Privacy Act (FERPA) (20 U.S.C. 1232g, added by P.L. 93-568).

Pursuant to Iowa Code section 259.9, the state of Iowa accepts the social security system rules for the disability determination program of the division. Failure to follow the provisions of the Act can result in the loss of federal funds. The state plan provides that all personally identifiable information is confidential and may be released only with the informed written consent of the job candidate or the job candidate's representative, except as permitted by federal law. Any contrary provision in Iowa Code chapter 22 must be waived in order for the state to receive federal funds, services, and essential information for the administration of vocational rehabilitation services.

[**ARC 1778C**, IAB 12/10/14, effective 1/14/15]

281—56.34(259) Personally identifiable information. This rule describes the nature and extent of the personally identifiable information collected, maintained, and retrieved by the agency by personal identifier in record systems as defined herein. The record systems maintained by the division include the following:

56.34(1) *Personnel records.* These records contain information relating to initial application, job performance and evaluation, reprimands, grievances, notes from and reports of investigations of allegations related to improper employee behavior, and reports of hearings and outcomes of reprimands and grievances. Pursuant to Iowa Code section 22.7(11), some of the information in personnel records may be confidential.

56.34(2) *Job candidate case records.* An individual file is maintained for each person who has been referred to or has applied for the services of the division. The file contains a variety of personal information about the job candidate, which is used in the establishment of eligibility and the provision of agency services. All information is personally identifiable and is confidential.

56.34(3) *Job candidate service record computer database.* This database contains personal data items about individual job candidates. Data identifying the job candidate is confidential. Data in the aggregate is not personally identifiable and thus is not confidential.

56.34(4) *Vendor purchase records.* These are records of purchases of goods or services made for the benefit of clients. If the record contains the client's name or other personal identifiers, the record is confidential. Lists of nonclient vendors, services purchased, and the costs of those services are not confidential when retrieved from a data processing system without personally identifiable information.

56.34(5) *Records and transcripts of hearings or client appeals.* These contain personally identifiable information about a client's case, appeal from or for some action, and the decision that has been rendered. The personally identifiable information is confidential. Some of the information is maintained in an index provided for in Iowa Code subsection 17A.3(1)*"d."* Information is available after confidential personally identifiable information is deleted.

56.34(6) *All computer databases of client and applicant names and other identifiers.* The data processing system contains client status records organized by a variety of personal identifiers. These records are confidential as long as any personally identifiable information is present.

56.34(7) *All computer-generated reports that contain personally identifiable information.* The division may choose to draw or generate from a data processing system reports that contain information or an identifier which would allow the identification of an individual client or clients. This material is for internal division use only and is confidential.

[**ARC 1778C**, IAB 12/10/14, effective 1/14/15]

281—56.35(259) Other groups of records routinely available for public inspection. This rule describes groups of records maintained by the division other than record systems. These records are routinely available to the public, with the exception of parts of the records that contain confidential information. This rule generally describes the nature of the records, the type of information contained therein, and whether the records are confidential in whole or in part.

56.35(1) Rule making. Rule-making records, including public comments on proposed rules, are not confidential.

56.35(2) Council and commission records. Agendas, minutes, and materials presented to any council or commission required under the Act are available to the public with the exception of those records that are exempt from disclosure under Iowa Code section 21.5. Council and commission records are available from the main office of the division at 510 E. 12th Street, Des Moines, Iowa 50319.

56.35(3) Publications. News releases, annual reports, project reports, agency newsletters, and other publications are available from the main office of the division at 510 E. 12th Street, Des Moines, Iowa 50319. Brochures describing various division programs are also available at local offices of the division.

56.35(4) Statistical reports. Periodic reports of statistical information on expenditures, numbers and types of case closures, and aggregate data on various client characteristics are compiled as needed for agency administration or as required by the federal funding source and are available to the public.

56.35(5) Grants. Records of persons receiving grants from division services are available through the main office of the division. Grant records contain information about grantees and may contain information about employees of a grantee that has been collected pursuant to federal requirements.

56.35(6) Published materials. The division uses many legal and technical publications, which may be inspected by the public upon request. Some of these materials may be protected by copyright law.

56.35(7) Policy manuals. Manuals containing the policies and procedures for programs administered by the division are available in every office of the division. Subscriptions to all or some of the manuals are available at the cost of production and handling. Requests for subscription information should be addressed to Vocational Rehabilitation Services Division, 510 E. 12th Street, Des Moines, Iowa 50319.

56.35(8) Operating expense records. The division maintains records of the expense of operation of the division, including records related to office rent, employee travel expenses, and costs of supplies and postage, all of which are available to the public.

56.35(9) Training records. Lists of training programs, the persons approved to attend, and associated costs are maintained in these records, which are available to the public.

56.35(10) Facility surveys. Records of division reviews of facilities providing services to the division are maintained and used to determine the current acceptable fee schedule. Information about individuals may be included in these records; therefore, parts of the records may be confidential.

56.35(11) All other records that are not exempted from disclosure by law.

DIVISION IX
STATE REHABILITATION COUNCIL

281—56.36(259) State rehabilitation council.

56.36(1) *Composition.* The state rehabilitation council shall be composed of no less than 15 members, appointed by the governor. A majority of the council members must be individuals with disabilities who are not employed by the division. The council members shall include the following:

a. At least one representative of the statewide independent living council, one of whom must be the chairperson or chairperson's designee of that council;

b. At least one representative of a parent training and information center established pursuant to Section 682(a) of the Individuals with Disabilities Education Act;

c. At least one representative of the client assistance program, one of whom must be the director or the director's designee of that program;

d. At least one qualified vocational rehabilitation counselor with knowledge of and experience with vocational rehabilitation programs who serves as an ex officio, nonvoting member of the council if employed by the division;

e. At least one representative of community rehabilitation program service providers;

f. Four representatives of business, industry, and labor;

g. Representatives of disability groups that include a cross section of:

(1) Individuals with physical, cognitive, sensory, and mental disabilities; and

(2) Representatives of individuals with disabilities who have difficulty representing themselves or are unable, due to their disabilities, to represent themselves;

h. Current or former applicants for, or recipients of, vocational rehabilitation services;

i. At least one representative of the department's bureau of children, family, and community services;

j. At least one representative of the Iowa workforce development board; and

k. The director of the division, who serves as an ex officio, nonvoting member of the council.

56.36(2) *Chairperson.* The chairperson must be selected by the members of the council from among the voting members of the council.

56.36(3) *Terms.* Each member of the council shall be appointed for a term of no more than three years. Each member of the council, other than the representative of the client assistance program, shall serve for no more than two consecutive full terms. The terms of service of the members initially appointed must be for a varied number of years to ensure that terms expire on a staggered basis.

56.36(4) *Vacancies.* The governor shall fill a vacancy in council membership, unless the governor has delegated authority to fill that vacancy to the remaining members of the council.

56.36(5) *Functions.* The council shall perform the following functions:

a. Review and advise the division regarding the performance of the division's responsibilities under this chapter and the Act;

b. In partnership with the division, develop, agree to, and review state goals and priorities;

c. In partnership with the division, evaluate the effectiveness of the vocational rehabilitation program and submit reports of progress to the federal Secretary of Education when required;

d. Assist in the preparation of the state plan and amendments thereto, applications, reports, needs assessments, and evaluations required by the Act;

e. To the extent feasible, conduct a review and analysis of the effectiveness of and consumer satisfaction with:

(1) The functions performed by the division;

(2) The vocational rehabilitation services provided by state agencies and other public and private entities responsible for providing vocational rehabilitation services to individuals with disabilities under the Act; and

(3) The employment outcomes achieved by eligible individuals receiving services from the division, including the availability of health and other employment benefits in connection with those employment outcomes;

f. Prepare and submit to the governor and to the Secretary of Education an annual report on the status of vocational rehabilitation programs operated within the state and make the report available to the public through appropriate modes of communication;

g. Coordinate activities with the activities of other councils within the state, including the statewide independent living council, the advisory panel established under Section 612(a)(21) of the Individuals with Disabilities Education Act, the state developmental disabilities planning council, the state mental health planning and advisory council, and the state workforce development board;

h. Provide for the coordination and establishment of working relationships between the division and the statewide independent living council and centers for independent living within the state;

i. Prepare a plan for the provision of resources, including staff and other personnel, that may be necessary and sufficient for the council to carry out its functions under this rule; and

j. Perform other comparable functions, consistent with the purpose of the Act, as the council determines to be appropriate, that are comparable to the other functions performed by the council.

56.36(6) *Meetings.* The council shall convene at least quarterly in locations open and accessible to the general public, including individuals with disabilities. The council's meetings are subject to Iowa Code chapter 21, the open meetings law.

Rule 281—56.36(259) is intended to implement 34 CFR 361.16 and 361.17.

DIVISION X
IOWA SELF-EMPLOYMENT PROGRAM
(a/k/a ENTREPRENEURS WITH DISABILITIES PROGRAM)

281—56.37(259) Purpose. The division of vocational rehabilitation services works in collaboration with the Iowa department for the blind to administer the Iowa self-employment (ISE) program. The purpose of the program is to provide business development funds in the form of technical assistance (up to $10,000) and financial assistance (up to $10,000) to qualified Iowans with disabilities who start, expand, or acquire a business within the state of Iowa. Actual assistance is based on the requirements of the business, not to exceed the technical assistance and financial assistance limits.

[**ARC 8806B**, IAB 6/2/10, effective 7/7/10; **ARC 1778C**, IAB 12/10/14, effective 1/14/15]

281—56.38(259) Eligibility requirements. Clients of the division or the department for the blind may apply for the program. All of the following conditions are also applicable:

1. The division may limit or deny ISE assistance to an applicant who has previously received educational or training equipment from the division through another rehabilitation program when such equipment could be used in the applicant's proposed business.

2. Any equipment purchased for the applicant under this program that is no longer used by the applicant may be returned to the division, at the discretion of the division.

3. An applicant must demonstrate that the applicant has at least 51 percent ownership in a for-profit business that is actively owned, operated, and managed in Iowa.

4. Recommendation for and approval of financial assistance is based upon acceptance of a business plan feasibility study and documentation of the applicant's ability to match dollar-for-dollar the amount of funds requested.

5. In order to receive financial support from the ISE program, the applicant's business plan feasibility study must result in self-sufficiency for the applicant as measured by earnings that equal or exceed 80 percent of substantial gainful activity.

6. The division cannot support the purchase of real estate or improvements to real estate.

7. The division cannot provide funding to be used as a cash infusion, for personal or business loan repayments, or for personal or business credit card debt.

8. The division may deny ISE assistance to an applicant who desires to start, expand, or acquire any of the following types of businesses:

- A hobby or similar activity that does not produce income at the level required for self-sufficiency;
- A business venture that is speculative in nature or considered high risk by the Better Business Bureau or similar organization;
- A business registered with the federal Internal Revenue Service as a Section 501(c)(3) entity or other entity set up deliberately to be not-for-profit;
- A business that is not fully compliant with all local, state, and federal zoning requirements and all other applicable local, state, and federal requirements;
- A multitiered marketing business.

[**ARC 8806B**, IAB 6/2/10, effective 7/7/10; **ARC 1778C**, IAB 12/10/14, effective 1/14/15]

281—56.39(259) Application procedure.

56.39(1) *Application.* Application materials for the program are available from the division and the department for the blind.

56.39(2) *Submittal.* Completed applications shall be submitted to a counselor employed by the division or the department for the blind.

56.39(3) *Review.* Applications will be forwarded to a business development specialist employed by the division for review. Approval of technical assistance funding is based upon the results of a business plan feasibility study. If the application is for financial assistance only, a business plan feasibility study will be required at the time of submission of the application. Approval of financial assistance funding is based upon acceptance of a business plan feasibility study and documentation of the applicant's ability to match dollar-for-dollar the amount of funds requested.

56.39(4) *Funding.* Before the division will provide funding for a small business, the job candidate must complete an in-depth study about the business the job candidate intends to start.

56.39(5) *Appeal.* If an application is denied, an applicant may appeal the decision to the division or the department for the blind. An appeal shall be consistent with the appeal processes of the division or the department for the blind.

[**ARC 8806B**, IAB 6/2/10, effective 7/7/10; **ARC 1778C**, IAB 12/10/14, effective 1/14/15]

281—56.40(259) Award of technical assistance funds.

56.40(1) *Awards.* Technical assistance funds may be used for specialized consulting services as determined necessary by the counselor, the business development specialist, and the job candidate. Technical assistance funds may be awarded, based on need, up to a maximum of $10,000 per applicant. Specialized technical assistance may include, but is not limited to, engineering, legal, accounting, and computer services and other consulting services that require specialized education and training.

56.40(2) *Technical assistance.* When technical assistance is needed for specialized services beyond the expertise of the business development specialist, technical assistance will be provided to assist the job candidate.

56.40(3) *Technical assistance contracts.* The division shall negotiate contracts with qualified consultants for delivery of services to an applicant if specialized services are deemed necessary. The contracts shall state hourly fees for services, the type of service to be provided, and a timeline for delivery of services. Authorization of payment will be made by a counselor employed by the division or the department for the blind based upon the negotiated rate as noted in the contract. A copy of each contract shall be filed with the division.

56.40(4) *Consultants.* Applicants will be provided a list of qualified business consultants by the business development specialist if specialized consultation services are necessary. The selection of the consultant(s) shall be the responsibility of the applicant.

56.40(5) *Case management.* The business development specialist or counselor will be available as needed for direct consultation to each applicant to ensure that quality services for business planning are provided in a timely manner.

[**ARC 8806B**, IAB 6/2/10, effective 7/7/10; **ARC 1778C**, IAB 12/10/14, effective 1/14/15]

281—56.41(259) Business plan feasibility study procedure. Information and materials are available from the division and the department for the blind. The job candidate shall submit the job candidate's business plan feasibility study to the job candidate's counselor if the study is completed at the time application is made or to the business development specialist if the business plan feasibility study is completed after application approval.

[**ARC 8806B**, IAB 6/2/10, effective 7/7/10; **ARC 1778C**, IAB 12/10/14, effective 1/14/15]

281—56.42(259) Award of financial assistance funds.

56.42(1) *Awards.* Following the business development specialist's evaluation and scoring of the business plan feasibility study, the business development specialist will issue a recommendation to support or not to support the proposed business venture. The counselor shall make a decision regarding approval or denial of the recommendation. If the plan is approved, the job candidate and counselor will review conditions of the financial assistance award and sign the appropriate forms of acknowledgment.

a. Financial assistance funds may be awarded, based on need, up to $10,000 after approval of a business plan feasibility study and evidence of business need or evidence of business progression. Before receiving financial assistance, the job candidate must demonstrate a dollar-for-dollar match based on the amount of funding needed. The match may be provided through approved existing business assets, cash, conventional financing or other approved sources.

b. Financial assistance funds may be approved for, but are not limited to: equipment, tools, printing of marketing materials, advertising, rent (up to six months), direct-mail postage, raw materials, inventory, insurance (up to six months), and other approved start-up, expansion, or acquisition costs.

56.42(2) *Award process.* The amount that may be recommended by the business development specialist and approved by the counselor shall be provided in three phases of business operations, when each phase meets specified business results and when the need for additional financial assistance funding is indicated.

a. The timing of each phase and the amount of funds for each phase should be established in the approved business plan feasibility study, as recommended by the business development specialist and approved by the counselor.

b. Recipients of financial assistance must demonstrate ongoing cooperation by providing the business development specialist with financial information needed to assess business progress before additional funds are expended.

56.42(3) *Financial assistance contracts.* Contracts for financial assistance funds shall be the responsibility of the division and will be consistent with the authorized use of Title I vocational rehabilitation funds and policy.

56.42(4) *Vendors.* Procurement of goods or services shall follow procedures established by the department of administrative services. The type of goods or services to be obtained, as well as a timeline

for delivery of such, shall be stated by the vendor and agreed upon by the division. Authorization for goods or services shall be made by a counselor employed by the division or the department for the blind based upon the negotiated rate and terms as noted in the contract. A copy of each contract shall be filed with the division. Approval for payment of authorized goods or services shall be made by authorized division personnel.

[**ARC 8806B**, IAB 6/2/10, effective 7/7/10; **ARC 1778C**, IAB 12/10/14, effective 1/14/15]

These rules are intended to implement Iowa Code chapter 259, the federal Rehabilitation Act of 1973 as amended, the federal Social Security Act (42 U.S.C. Section 301 et seq.), and 2008 Iowa Acts, Senate File 2101.

[Filed 7/1/52]
[Filed 4/15/88, Notice 3/9/88—published 5/4/88, effective 6/9/88]
[Filed 8/19/88, Notice 6/29/88—published 9/7/88, effective 10/12/88]
[Filed emergency 11/17/88—published 12/14/88, effective 12/1/88]
[Filed 2/10/89, Notice 12/14/88—published 3/8/89, effective 4/12/89]
[Filed 6/4/04, Notice 3/31/04—published 6/23/04, effective 7/28/04]
[Filed 7/27/06, Notice 4/26/06—published 8/16/06, effective 9/20/06]
[Filed 7/27/07, Notice 5/9/07—published 8/15/07, effective 9/19/07]
[Filed 8/1/08, Notice 6/18/08—published 8/27/08, effective 10/1/08]
[Filed ARC 8806B (Notice ARC 8641B, IAB 4/7/10), IAB 6/2/10, effective 7/7/10]
[Filed ARC 1778C (Notice ARC 1676C, IAB 10/15/14), IAB 12/10/14, effective 1/14/15]

CHAPTER 60
PROGRAMS FOR STUDENTS OF LIMITED ENGLISH PROFICIENCY

[Prior to 9/7/88, see Public Instruction Department[670] Ch 57]

281—60.1(280) Scope. These rules apply to the identification of students and provision of programs for limited English proficient students and to the application procedures for securing fiscal support.

281—60.2(280) Definitions. As used in these rules, the following definitions apply:

"Educational and instructional model" means an instructional model, strategy, method, or skill that provides a framework of instructional approaches to guide decision making about teaching and learning. Based on the needs of particular students, "educational and instructional model" may include but is not limited to a specific set of instructional services or a fully developed curriculum or other supplementary services.

"English as a second language" refers to a structured language acquisition program designed to teach English to students whose native language is other than English, until the student demonstrates a functional ability to speak, read, write, and listen to English language at the age- and grade-appropriate level.

"Fully English proficient" refers to a student who is able to read, understand, write, and speak the English language and to use English to ask questions, to understand teachers and reading materials, to test ideas, and to challenge what is being asked in the classroom.

"Limited English proficient" refers to a student who has a language background other than English, and the proficiency in English is such that the probability of the student's academic success in an English-only classroom is below that of an academically successful peer with an English language background.

"Research-based" means based on a body of research showing that the educational and instructional model, or other educational practice, has a high likelihood of improving teaching and learning. To determine whether research meets this standard for purposes of this chapter, research reports must be reviewed for the following:

1. The specific population studied;
2. Research that involves the application of rigorous, systematic, and objective procedures to obtain reliable results and provide a basis for valid inferences relevant to education activities and programs;
3. Whether the research employs systematic, empirical methods that draw on observation or experiment;
4. Reliance on measurement or observational methods that provide reliable and valid data;
5. Inclusion of rigorous data analyses that are adequate to test the stated hypotheses and justify the general conclusions or inferences drawn;
6. Description of the magnitude of the impact on student learning results; and
7. Inclusion of the level of the review of the study.

"Transitional bilingual instruction" refers to a program of instruction in English and the native language of the student until the student demonstrates a functional ability to speak, read, write, and listen to the English language at the age- and grade-appropriate level.

[**ARC 8383B**, IAB 12/16/09, effective 1/20/10; **ARC 1776C**, IAB 12/10/14, effective 1/14/15]

281—60.3(280) School district responsibilities.

60.3(1) *Student identification and assessment.* A school district shall use the following criteria in determining a student's eligibility:

a. In order to determine the necessity of conducting an English language assessment of any student, the district shall, at the time of registration, ascertain the place of birth of each student and whether there is a prominent use of any language(s) other than English in the home. If the student's registration form indicates the prominent use of another language in the student's home, the district shall determine the first language acquired by the student and the languages spoken by the student and by others in the student's home. School district personnel shall be prepared to conduct oral or

native language interviews with those adults in the student's home who may not have sufficient skills in English.

b. Students identified as prominently using a language other than English in the home shall be assessed by the district. The assessment shall include (1) an assessment of the student's English proficiency in the areas of speaking, listening, reading, and writing; and (2) an assessment of the student's academic skills in relation to their grade or age level. A consistent plan of evaluation which includes ongoing evaluation of student progress shall be developed and implemented by the district for the above areas for each student so identified.

60.3(2) *Staffing.* Teachers in an English as a second language (ESL) program must possess a valid Iowa teaching license. Individuals who were licensed in Iowa prior to October 1, 1988, and were allowed to teach English as a second language without completing the endorsement requirements must complete the endorsement requirements by July 1, 2012, in order to teach or continue to teach English as a second language. A waiver provision is available through the board of educational examiners for individuals who have been successfully teaching English as a second language.

60.3(3) *Limited English proficient student placement.* Placement of students identified as limited English proficient shall be in accordance with the following:

a. Mainstream classes. Students will be placed in classes with chronological peers or, when absolutely necessary, within two years of the student's age.

b. Limited English proficient program placement.

(1) Students enrolled in a program for limited English proficient students shall receive language instruction with other limited English proficient students with similar language needs.

(2) When students of different age groups or educational levels are combined in the same class, the school shall ensure that the instruction given is appropriate to each student's level of educational attainment.

(3) A program of transitional bilingual instruction may include the participation of students whose native language is English.

(4) Exit from program. An individual student may exit from an ESL or Transitional Bilingual Education (TBE) program after an assessment has shown both that the student can function in English (in speaking, listening, reading, and writing) at a level commensurate with the student's grade or age peers and that the student can function academically at the same level as the English speaking grade level peers. These assessments shall be conducted by utilizing state, local, or nationally recognized tests as well as teacher observations and recommendations.

(5) Professional development. All district instructional staff and area education agency staff responsible for implementing the educational and instructional models defined in rule 281—60.2(280) shall receive such professional development as may be necessary to implement those educational and instructional models. Such professional development may be part of a district or area education agency professional development plan, an attendance center professional development plan, an individual professional development plan, or some combination thereof. The necessity for such professional development shall be determined based on the framework in rule 281—83.6(284). Providers of professional development required by this subrule shall meet the standards in 281—subrule 83.6(3). In determining whether providers meet the standards in 281—subrule 83.6(3), the following nonexhaustive factors may be considered, as they are relevant to the particular professional development to be provided:

1. English as a second language endorsement or equivalent;
2. Five years of English as a second language teaching experience; or
3. A graduate degree in teaching English to speakers of other languages or in a related field.

60.3(4) *Medium of instruction.* Instruction in all secular subjects taught in both public and nonpublic schools shall be in the English language, except when the use of a foreign language is deemed appropriate because the student is limited English proficient. When the student is limited English proficient, both public and nonpublic schools shall provide special instruction, which shall include but need not be limited to either instruction in English as a second language or transitional bilingual instruction until the student

is fully English proficient or demonstrates a functional ability to speak, read, write, and understand the English language.

60.3(5) *Research-based educational and instructional models.* Districts shall utilize research-based educational and instructional models as defined in rule 281—60.2(280) with limited English proficient students so that such students may acquire English proficiency and meet high academic standards.
[**ARC 8383B**, IAB 12/16/09, effective 1/20/10; **ARC 1776C**, IAB 12/10/14, effective 1/14/15]

281—60.4(280) Department responsibility. The department of education shall provide technical assistance to school districts, including advising and assisting schools in planning, implementation, and evaluation of programs for limited English proficient students.

60.4(1) to **60.4(3)** Rescinded IAB 2/2/94, effective 3/9/94.

281—60.5(280) Nonpublic school participation. English as a second language and transitional bilingual programs offered by a public school district shall be made available to students attending an accredited nonpublic school located within the district. The district obtains funding for such students in accordance with Iowa Code sections 257.31(5)*"j"* and 280.4.
[**ARC 8383B**, IAB 12/16/09, effective 1/20/10]

281—60.6(280) Funding. Additional weighting for students in programs provided under this chapter is available in accordance with Iowa Code sections 257.31(5)*"j"* and 280.4.

60.6(1) *Weighting.* A weighting is included in the weighted enrollment of the school district of residence for a period not exceeding four years to provide funds for the excess costs of instruction of limited English proficient students above the costs of instruction of pupils in a regular curriculum.

a. A student may be included for weighting if the student meets the definition of a limited English proficient student and the student is being provided instruction related to limited English proficiency above the level of instruction provided to pupils in the regular curriculum.

b. A student may be included for weighting up to four consecutive years.

c. If a student was present on the date specified in Iowa Code section 257.6 for counting students in one year, moved out of the district or dropped out of school, but returned to the same district by the date specified for counting students in the subsequent year, the student is considered to be served in consecutive years without regard to the break in instruction from the district.

d. If a student was present on the date specified in Iowa Code section 257.6 for counting students in one year, moved out of the district or dropped out of school, and did not return to the same district by the date specified for counting students in the subsequent year, but did return to the same district in a later year, the student is considered to be a new student eligible to begin in year one if the student meets the requirements in paragraph *"a."*

60.6(2) *Modified allowable growth.* In addition to weighting, the school budget review committee (SBRC) may grant modified allowable growth for an unusual need to continue funding beyond the four years of weighting or for costs in excess of the weighting to provide instruction to limited English proficient students above the costs of regular instruction.

a. A school district of residence may apply for modified allowable growth to the SBRC. The modified allowable growth will be calculated as the total actual budgeted expenditures for the current year, reduced by the limited English proficient funding generated in the current budget year based on the limited English proficient count on the certified enrollment in the previous year, and reduced by any other grants, carryover, or other resources provided to the district for this program.

b. In order to apply for modified allowable growth under this subrule, the district must complete and submit the application form no later than January 15 following the date specified in Iowa Code section 257.6, subsection 1, for the certified enrollment. The SBRC will act on these requests during its March regular meeting. If the SBRC grants the district's request for modified allowable growth, the department of management will increase the district's budget authority by that amount.

c. The SBRC may require the district to appear at a hearing to discuss its request for modified allowable growth.

60.6(3) *Appropriate expenditures.* Appropriate expenditures for the limited English proficiency program are those that are direct costs of providing instruction which supplement, but do not supplant, the costs of the regular curriculum. These expenditures are delineated in 281—Chapter 98.

60.6(4) *Inappropriate expenditures.* Inappropriate expenditures are delineated in 281—Chapter 98.

60.6(5) *Financial management.* Limited English proficient funding is categorical funding and follows the general provisions in 281—Chapter 98.

60.6(6) *Annual reporting.* Districts shall include and identify the detail of financial transactions related to limited English proficient resources, expenditures, and carryfoward balances on their certified annual report. School districts shall use the account coding appropriate to the limited English proficient program as defined by Uniform Financing Accounting for Iowa School Districts and AEAs. Each district shall submit its certified annual report following the close of the fiscal year but no later than September 15.

[**ARC 8383B**, IAB 12/16/09, effective 1/20/10]

These rules are intended to implement Iowa Code sections 256.7(31)*"c,"*257.31(5)*"j"* and 280.4.

[Filed 9/12/80, Notice 5/28/80—published 10/1/80, effective 11/5/80]
[Filed 1/16/81, Notice 11/12/80—published 2/4/81, effective 3/11/81]
[Filed 8/19/88, Notice 6/29/88—published 9/7/88, effective 10/12/88]
[Filed 1/14/94, Notice 9/29/93—published 2/2/94, effective 3/9/94]
[Filed ARC 8383B (Notice ARC 8051B, IAB 8/26/09), IAB 12/16/09, effective 1/20/10]
[Filed ARC 1776C (Notice ARC 1675C, IAB 10/15/14), IAB 12/10/14, effective 1/14/15]

CHAPTER 79
STANDARDS FOR PRACTITIONER AND ADMINISTRATOR PREPARATION PROGRAMS

DIVISION I
GENERAL STANDARDS APPLICABLE TO ALL PRACTITIONER PREPARATION PROGRAMS

281—79.1(256) General statement. Programs of practitioner and administrator preparation leading to licensure in Iowa are subject to approval by the state board of education, as provided in Iowa Code chapter 256. All programs having accreditation on August 31, 2001, are presumed accredited unless or until the state board takes formal action to remove accreditation.
[**ARC 8053B**, IAB 8/26/09, effective 9/30/09]

281—79.2(256) Definitions. For purposes of clarity, the following definitions are used throughout the chapter:

"Administrator candidates" means individuals who are enrolled in practitioner preparation programs leading to administrator licensure.

"Administrator preparation programs" means the programs of practitioner preparation leading to licensure of administrators.

"Area education agency" or *"AEA"* means a regional service agency that provides school improvement services for students, families, teachers, administrators and the community.

"Candidates" means individuals who are preparing to become educational practitioners through a practitioner preparation program.

"Clinical experiences" means a candidate's direct experiences in PK-12 schools. "Clinical experiences" includes field experiences and student teaching or internships.

"College/university supervisors" means qualified employees or individuals contracted by the college or university offering teacher preparation who provide guidance and supervision to teacher candidates during the candidates' clinical experiences in the schools.

"Cooperating administrators" means school administrators who provide guidance and supervision to administrator candidates during the candidates' clinical experiences in the schools.

"Cooperating teachers" means appropriately licensed classroom teachers of record who provide guidance and supervision to teacher candidates in the cooperating teachers' classrooms during the candidates' field experiences in the schools.

"Delivery model" means the form in which the educator preparation program is delivered to candidates and may include conventional campus-based, face-to-face models, distance learning models, off-campus models, programs delivered through consortia arrangements, and programs or elements delivered by contracted outside providers.

"Department" means department of education.

"Director" means director of the department.

"Distance learning" means a formal education process in which the major portion of the instruction occurs when the learner and the instructor are not in the same place at the same time and occurs through virtually any media including printed materials, videotapes, audio recordings, facsimiles, telephone communications, the ICN, Internet communications through E-mail, and Web-based delivery systems.

"Distance learning program" means a program in which over half of the required courses in the program occur when the learner and the instructor are not in the same place at the same time (see definition of distance learning). These programs include those offered by the professional educational unit through a contract with an outside vendor or in a consortium arrangement with other higher education institutions, area education agencies, or other entities.

"Diverse groups" means one or more groups of individuals possessing certain traits or characteristics, including but not limited to age, color, creed, national origin, race, religion, marital status, sex, sexual orientation, gender identity, physical attributes, physical or mental ability or disability, ancestry, political party preference, political belief, socioeconomic status, or familial status.

"Educator preparation program" means practitioner preparation program.

"ELPS" means Educational Leadership Policy Standards, national standards for educational administration.

"Facility" means a residential or other setting for a child in which the child receives an appropriate educational program. "Facility" includes a foster care facility as defined in Iowa Code section 237.1, a facility that provides residential treatment pursuant to Iowa Code chapter 125, an approved or licensed shelter care home as defined in Iowa Code section 232.2, subsection 34, an approved juvenile detention home as defined in Iowa Code section 232.2, subsection 32, and a psychiatric medical institution for children as defined in Iowa Code section 135H.1.

"Faculty" means the teaching staff of a university or college responsible for delivering instruction.

"ICN" means the Iowa communications network.

"Institution" means a college or university in Iowa offering practitioner preparation or an educational organization offering administrator preparation and seeking state board approval of its practitioner preparation program(s).

"InTASC" means Interstate Teacher Assessment and Support Consortium, the source of national standards for teachers.

"Iowa core" means a legislatively mandated state initiative that provides local school districts and nonpublic schools a guide to delivering instruction to students based on consistent, challenging and meaningful content.

"ISSL" means Iowa Standards for School Leaders.

"Leadership preparation program" means administrator preparation program.

"Mentor" means an experienced educator who provides guidance to a practitioner, administrator candidate or novice educator.

"National professional standards" means standards developed by nationally recognized organizations that establish best practices for education.

"Novice" means an individual in an educational position who has no previous experience in the role of that position or who is newly licensed by the board of educational examiners.

"Off-campus program" means a program offered by a unit on sites other than the main campus. Off-campus programs may be offered in the same state, in other states, or in countries other than the United States.

"Practitioner candidates" means individuals who are enrolled in practitioner preparation programs leading to licensure as teachers, as administrators or as other professional school personnel that require a license issued by the board of educational examiners.

"Practitioner preparation programs" means the programs of practitioner preparation leading to licensure of teachers, administrators, and other professional school personnel.

"Program" means a specific field of specialization leading to a specific endorsement.

"Regional accreditation" means official approval by an agency or organization approved or recognized by the U.S. Department of Education.

"State board" means Iowa state board of education.

"Students" means PK-12 pupils.

"Teacher candidates" means individuals who are enrolled in practitioner preparation programs leading to teacher licensure.

"Unit" means the organizational entity within an institution with the responsibility of administering and delivering the practitioner preparation program(s).

[**ARC 8053B**, IAB 8/26/09, effective 9/30/09; **ARC 1780C**, IAB 12/10/14, effective 1/14/15]

281—79.3(256) Institutions affected. In order to attain the authority to recommend candidates for Iowa licensure, colleges and universities offering practitioner preparation programs in Iowa, as well as other Iowa educational organizations engaged in the preparation of school administrators, shall meet the standards contained in this chapter to gain or maintain state board approval of their programs.

[**ARC 8053B**, IAB 8/26/09, effective 9/30/09]

281—79.4(256) Criteria for practitioner preparation programs. Each institution seeking approval by the state board of its programs of practitioner preparation, including those programs offered by distance

delivery models or at off-campus locations, must be regionally accredited and shall file evidence of the extent to which each program meets the standards contained in this chapter by means of a written self-evaluation report and an evaluation conducted by the department. The institution shall demonstrate such evidence by means of a template developed by the department and through a site visit conducted by the department. After the state board has approved the practitioner preparation programs of an institution, students who complete the programs and are recommended by the authorized official of that institution will be issued the appropriate license and endorsement(s).
[**ARC 8053B**, IAB 8/26/09, effective 9/30/09]

281—79.5(256) Approval of programs. Approval of institutions' practitioner preparation programs by the state board shall be based on the recommendation of the director after study of the factual and evaluative evidence on record about each program in terms of the standards contained in this chapter.

Approval, if granted, shall be for a term of seven years; however, approval for a lesser term may be granted by the state board if it determines conditions so warrant.

If approval is not granted, the applying institution will be advised concerning the areas in which improvement or changes appear to be essential for approval. In this case, the institution shall be given the opportunity to present factual information concerning its programs at a regularly scheduled meeting of the state board, not beyond three months of the board's initial decision. Following a minimum of six months after the board's decision to deny approval, the institution may reapply when it is ready to show what actions have been taken to address the areas of suggested improvement.

Programs may be granted conditional approval upon review of appropriate documentation. In such an instance, the program shall receive a full review after one year or, in the case of a new program, at the point at which candidates demonstrate mastery of standards for licensure.
[**ARC 8053B**, IAB 8/26/09, effective 9/30/09]

281—79.6(256) Visiting teams. Upon application or reapplication for approval, a review team shall visit each institution for evaluation of its practitioner preparation program(s). When an institution offers off-campus practitioner preparation programs, the team may elect to include visits to some or all of the sites of the off-campus programs. The membership of the team shall be selected by the department with the concurrence of the institution being visited. The team may include faculty members of other practitioner preparation institutions; personnel from elementary and secondary schools, to include licensed practitioners; personnel of the state department of education; personnel of the board of educational examiners; and representatives from professional education organizations. Each team member should have appropriate competencies, background, and experiences to enable the member to contribute to the evaluation visit. The expenses for the review team shall be borne by the institution.
[**ARC 8053B**, IAB 8/26/09, effective 9/30/09]

281—79.7(256) Periodic reports. Upon request of the department, approved programs shall make periodic reports which shall provide basic information necessary to keep records of each practitioner preparation program up to date and to carry out research studies relating to practitioner preparation. The department may request that information be disaggregated by attendance center or delivery model or both.
[**ARC 8053B**, IAB 8/26/09, effective 9/30/09]

281—79.8(256) Reevaluation of practitioner preparation programs. Every seven years or at any time deemed necessary by the director, an institution shall file a written self-evaluation of its practitioner preparation programs to be followed by a review team visit. Any action for continued approval or rescission of approval shall be approved by the state board.
[**ARC 8053B**, IAB 8/26/09, effective 9/30/09]

281—79.9(256) Approval of program changes. Upon application by an institution, the director is authorized to approve minor additions to, or changes within, the curricula of an institution's approved practitioner preparation program. When an institution proposes a revision which exceeds the primary

scope of its programs, including revisions which significantly change the delivery model(s), the revisions shall become operative only after having been approved by the state board.
[**ARC 8053B**, IAB 8/26/09, effective 9/30/09]

DIVISION II
SPECIFIC EDUCATION STANDARDS APPLICABLE TO ALL PRACTITIONER PREPARATION PROGRAMS

281—79.10(256) Governance and resources standard. Governance and resources adequately support the preparation of practitioner candidates to meet professional, state and institutional standards in accordance with the following provisions.

79.10(1) A clearly understood governance structure provides guidance and support for all educator preparation programs in the unit.

79.10(2) The professional education unit has primary responsibility for all educator preparation programs offered by the institution through any delivery model.

79.10(3) The unit's conceptual framework establishes the shared vision for the unit and provides the foundation for all components of the educator preparation programs.

79.10(4) The unit demonstrates alignment of unit standards with current national professional standards for educator preparation. Teacher preparation must align with InTASC standards. Leadership preparation programs must align with ISSL standards.

79.10(5) The unit provides evidence of ongoing collaboration with appropriate stakeholders. There is an active advisory committee that is involved semiannually in providing input for program evaluation and continuous improvement.

79.10(6) When a unit is a part of a college or university, there is ongoing collaboration with the appropriate departments of the institution, especially regarding content knowledge.

79.10(7) The institution provides resources and support necessary for the delivery of quality preparation program(s). The resources and support include the following:

a. Financial resources; facilities; appropriate educational materials, equipment and library services; and commitment to a work climate, policies, and faculty/staff assignments which promote/support best practices in teaching, scholarship and service;

b. Resources to support professional development opportunities;

c. Resources to support technological and instructional needs to enhance candidate learning;

d. Resources to support quality clinical experiences for all educator candidates; and

e. Commitment of sufficient administrative, clerical, and technical staff.

79.10(8) The unit has a clearly articulated appeals process, aligned with the institutional policy, for decisions impacting candidates. This process is communicated to all candidates and faculty.

79.10(9) The use of part-time faculty and graduate students in teaching roles is purposeful and is managed to ensure integrity, quality, and continuity of all programs.

79.10(10) Resources are equitable for all program components, regardless of delivery model or location.
[**ARC 8053B**, IAB 8/26/09, effective 9/30/09; **ARC 1780C**, IAB 12/10/14, effective 1/14/15]

281—79.11(256) Diversity standard. The environment and experiences provided for practitioner candidates support candidate growth in knowledge, skills, and dispositions to help all students learn in accordance with the following provisions.

79.11(1) The institution and unit work to establish a climate that promotes and supports diversity.

79.11(2) The institution's and unit's plans, policies, and practices document their efforts in establishing and maintaining a diverse faculty and student body.
[**ARC 8053B**, IAB 8/26/09, effective 9/30/09; **ARC 1780C**, IAB 12/10/14, effective 1/14/15]

281—79.12(256) Faculty standard. Faculty qualifications and performance shall facilitate the professional development of practitioner candidates in accordance with the following provisions.

79.12(1) The unit defines the roles and requirements for faculty members by position. The unit describes how roles and requirements are determined.

79.12(2) The unit documents the alignment of teaching duties for each faculty member with that member's preparation, knowledge, experiences and skills.

79.12(3) The unit holds faculty members accountable for teaching prowess. This accountability includes evaluation and indicators for continuous improvement.

79.12(4) The unit holds faculty members accountable for professional growth to meet the academic needs of the unit.

79.12(5) Faculty members collaborate with:

a. Colleagues in the unit;

b. Colleagues across the institution;

c. Colleagues in PK-12 schools/agencies/learning settings. Faculty members engage in professional education and maintain ongoing involvement in activities in preschool and elementary, middle, or secondary schools. For faculty members engaged in teacher preparation, activities shall include at least 40 hours of teaching at the appropriate grade level(s) during a period not exceeding five years in duration.

[**ARC 8053B**, IAB 8/26/09, effective 9/30/09; **ARC 1780C**, IAB 12/10/14, effective 1/14/15]

281—79.13(256) Assessment system and unit evaluation standard. The unit's assessment system shall appropriately monitor individual candidate performance and use that data in concert with other information to evaluate and improve the unit and its programs in accordance with the following provisions.

79.13(1) The unit has a clearly defined, cohesive assessment system.

79.13(2) The assessment system is based on unit standards.

79.13(3) The assessment system includes both individual candidate assessment and comprehensive unit assessment.

79.13(4) Candidate assessment includes clear criteria for:

a. Entrance into the program (for teacher education, this includes testing described in Iowa Code section 256.16).

b. Continuation in the program with clearly defined checkpoints/gates.

c. Admission to clinical experiences (for teacher education, this includes specific criteria for admission to student teaching).

d. Program completion (for teacher education, this includes testing described in Iowa Code section 256.16; see subrule 79.15(5) for required teacher candidate assessment).

79.13(5) Individual candidate assessment includes all of the following:

a. Measures used for candidate assessment are fair, reliable, and valid.

b. Candidates are assessed on their demonstration/attainment of unit standards.

c. Multiple measures are used for assessment of the candidate on each unit standard.

d. Candidates are assessed on unit standards at different developmental stages.

e. Candidates are provided with formative feedback on their progress toward attainment of unit standards.

f. Candidates use the provided formative assessment data to reflect upon and guide their development/growth toward attainment of unit standards.

g. Candidates are assessed at the same level of performance across programs, regardless of the place or manner in which the program is delivered.

79.13(6) Comprehensive unit assessment includes all of the following:

a. Individual candidate assessment data on unit standards, as described in subrule 79.13(5), are analyzed.

b. The aggregated assessment data are analyzed to evaluate programs.

c. Findings from the evaluation of aggregated assessment data are used to make program improvements.

d. Evaluation data are shared with stakeholders.

e. The collection, aggregation, analysis, and evaluation of assessment data described in this subrule take place on a regular cycle.

79.13(7) The unit shall conduct a survey of graduates and their employers to ensure that the graduates are well-prepared, and the data shall be used for program improvement.

79.13(8) The unit regularly reviews, evaluates, and revises the assessment system.

79.13(9) The unit annually reports to the department such data as is required by the state and federal governments.

[**ARC 8053B**, IAB 8/26/09, effective 9/30/09; **ARC 0476C**, IAB 11/28/12, effective 1/2/13; **ARC 1780C**, IAB 12/10/14, effective 1/14/15]

DIVISION III
SPECIFIC EDUCATION STANDARDS APPLICABLE ONLY TO INITIAL PRACTITIONER PREPARATION PROGRAMS FOR TEACHER CANDIDATES

281—79.14(256) Teacher preparation clinical practice standard. The unit and its school partners shall provide field experiences and student teaching opportunities that assist candidates in becoming successful teachers in accordance with the following provisions.

79.14(1) The unit ensures that clinical experiences occurring in all locations are well-sequenced, supervised by appropriately qualified personnel, monitored by the unit, and integrated into the unit standards. These expectations are shared with teacher candidates, college/university supervisors, and cooperating teachers.

79.14(2) PK-12 school partners and the unit share responsibility for selecting, preparing, evaluating, supporting, and retaining both:

a. High-quality college/university supervisors, and

b. High-quality cooperating teachers.

79.14(3) Cooperating teachers and college/university supervisors share responsibility for evaluating the teacher candidates' achievement of unit standards. Clinical experiences are structured to have multiple performance-based assessments at key points within the program to demonstrate candidates' attainment of unit standards.

79.14(4) Teacher candidates experience clinical practices in multiple settings that include diverse groups and diverse learning needs.

79.14(5) Teacher candidates admitted to a teacher preparation program must complete a minimum of 80 hours of pre-student teaching field experiences, with at least 10 hours occurring prior to acceptance into the program.

79.14(6) Pre-student teaching field experiences support learning in context and include all of the following:

a. High-quality instructional programs for PK-12 students in a state-approved school or educational facility.

b. Opportunities for teacher candidates to observe and be observed by others and to engage in discussion and reflection on clinical practice.

c. The active engagement of teacher candidates in planning, instruction, and assessment.

79.14(7) The unit is responsible for ensuring that the student teaching experience for initial licensure:

a. Includes a full-time experience for a minimum of 14 consecutive weeks in duration during the teacher candidate's final year of the teacher preparation program.

b. Takes place in the classroom of a cooperating teacher who is appropriately licensed in the subject area and grade level endorsement for which the teacher candidate is being prepared.

c. Includes prescribed minimum expectations and responsibilities, including ethical behavior, for the teacher candidate.

d. Involves the teacher candidate in communication and interaction with parents or guardians of students in the teacher candidate's classroom.

e. Requires the teacher candidate to become knowledgeable about the Iowa teaching standards and to experience a mock evaluation, which shall not be used as an assessment tool by the unit, performed by the cooperating teacher or a person who holds an Iowa evaluator license.

f. Requires collaborative involvement of the teacher candidate, cooperating teacher, and college/university supervisor in candidate growth. This collaborative involvement includes biweekly supervisor observations with feedback.

g. Requires the teacher candidate to bear primary responsibility for planning, instruction, and assessment within the classroom for a minimum of two weeks (ten school days).

h. Includes a written evaluation procedure, after which the completed evaluation form is included in the teacher candidate's permanent record.

79.14(8) The unit annually offers one or more workshops for cooperating teachers to define the objectives of the student teaching experience, review the responsibilities of the cooperating teacher, and provide the cooperating teacher other information and assistance the unit deems necessary. The duration of the workshop shall be equivalent to one day.

79.14(9) The institution enters into a written contract with the cooperating school or district providing clinical experiences, including field experiences and student teaching.

[**ARC 8053B**, IAB 8/26/09, effective 9/30/09; **ARC 1117C**, IAB 10/16/13, effective 11/20/13; **ARC 1780C**, IAB 12/10/14, effective 1/14/15]

281—79.15(256) Teacher candidate knowledge, skills and dispositions standard. Teacher candidates demonstrate the content, pedagogical, and professional knowledge, skills and dispositions necessary to help all students learn in accordance with the following provisions.

79.15(1) Each teacher candidate demonstrates the acquisition of a core of liberal arts knowledge including but not limited to English composition, mathematics, natural sciences, social sciences, and humanities.

79.15(2) Each teacher candidate receives dedicated coursework related to the study of human relations, cultural competency, and diverse learners, such that the candidate is prepared to work with students from diverse groups, as defined in rule 281—79.2(256). The unit shall provide evidence that teacher candidates develop the ability to meet the needs of all learners, including:

a. Students from diverse ethnic, racial and socioeconomic backgrounds.

b. Students with disabilities.

c. Students who are gifted and talented.

d. English language learners.

e. Students who may be at risk of not succeeding in school.

79.15(3) Each teacher candidate demonstrates knowledge about literacy and receives preparation in literacy. Each candidate also develops and demonstrates the ability to integrate reading strategies into content area coursework. Each teacher candidate in elementary education demonstrates knowledge related to the acquisition of literacy skills and receives preparation in a variety of instructional approaches to reading programs, including but not limited to reading recovery.

79.15(4) Each unit defines unit standards (aligned with InTASC standards) and embeds them in courses and field experiences.

79.15(5) Each teacher candidate exhibits competency in all of the following professional core curricula:

a. Content/subject matter specialization. The teacher candidate demonstrates an understanding of the central concepts, tools of inquiry, and structure of the discipline(s) the candidate teaches and creates learning experiences that make these aspects of the subject matter meaningful for students. This specialization is evidenced by a completion of a 30-semester-hour teaching major which must minimally include the requirements for at least one of the basic endorsement areas, special education teaching endorsements, or secondary level occupational endorsements. The teacher candidate must either meet or exceed a score above the 25th percentile nationally on subject assessments designed by a nationally recognized testing service that measure pedagogy and knowledge of at least one subject area as approved by the director of the department of education, or the teacher candidate must meet or exceed the equivalent of a score above the 25th percentile nationally on an alternate assessment also approved by the director. The alternate assessment must be a valid and reliable subject-area-specific, performance-based assessment for preservice teacher candidates that is centered on student learning.

Additionally, each elementary teacher candidate must also complete a field of specialization in a single discipline or a formal interdisciplinary program of at least 12 semester hours.

b. Student learning. The teacher candidate demonstrates an understanding of human growth and development and of how students learn and participates in learning opportunities that support intellectual, career, social and personal development.

c. Diverse learners. The teacher candidate demonstrates an understanding of how students differ in their approaches to learning and creates instructional opportunities that are equitable and adaptable to diverse learners.

d. Instructional planning. The teacher candidate plans instruction based upon knowledge of subject matter, students, the community, curriculum goals, and state curriculum models.

e. Instructional strategies. The teacher candidate demonstrates an understanding of and an ability to use a variety of instructional strategies to encourage student development of critical and creative thinking, problem-solving, and performance skills.

f. Learning environment/classroom management. The teacher candidate uses an understanding of individual and group motivation and behavior; creates a learning environment that encourages positive social interaction, active engagement in learning, and self-motivation; maintains effective classroom management; and is prepared to address behaviors related to substance abuse and other high-risk behaviors.

g. Communication. The teacher candidate uses knowledge of effective verbal, nonverbal, and media communication techniques, and other forms of symbolic representation, to foster active inquiry and collaboration and to support interaction in the classroom.

h. Assessment. The teacher candidate understands and uses formal and informal assessment strategies to evaluate the continuous intellectual, social, and physical development of the student, and effectively uses both formative and summative assessment of students, including student achievement data, to determine appropriate instruction.

i. Foundations, reflective practice and professional development. The teacher candidate develops knowledge of the social, historical, and philosophical foundations of education. The teacher candidate continually evaluates the effects of the candidate's choices and actions on students, parents, and other professionals in the learning community; actively seeks out opportunities to grow professionally; and demonstrates an understanding of teachers as consumers of research and as researchers in the classroom.

j. Collaboration, ethics and relationships. The teacher candidate fosters relationships with parents, school colleagues, and organizations in the larger community to support student learning and development; demonstrates an understanding of educational law and policy, ethics, and the profession of teaching, including the role of boards of education and education agencies; and demonstrates knowledge of and dispositions for cooperation with other educators, especially in collaborative/co-teaching as well as in other educational team situations.

k. Technology. The teacher candidate effectively integrates technology into instruction to support student learning.

l. Methods of teaching. Methods of teaching have an emphasis on the subject and grade-level endorsement desired.

79.15(6) Teacher candidates demonstrate competency in content coursework directly related to the Iowa core.

79.15(7) Each teacher candidate meets all requirements established by the board of educational examiners for any endorsement for which the candidate is recommended.

79.15(8) Programs shall submit curriculum exhibit sheets for approval by the board of educational examiners and the department.

[**ARC 8053B**, IAB 8/26/09, effective 9/30/09; **ARC 0476C**, IAB 11/28/12, effective 1/2/13; **ARC 1434C**, IAB 4/30/14, effective 6/4/14; **ARC 1780C**, IAB 12/10/14, effective 1/14/15]

DIVISION IV
SPECIFIC EDUCATION STANDARDS APPLICABLE ONLY TO ADMINISTRATOR PREPARATION PROGRAMS

281—79.16(256) Administrator preparation clinical practice standard. The unit and its school partners shall provide clinical experiences that assist candidates in becoming successful school administrators in accordance with the following provisions.

79.16(1) The unit ensures that clinical experiences occurring in all locations are well-sequenced, purposeful, supervised by appropriately qualified personnel, monitored by the unit, and integrated into unit standards. These expectations are shared with candidates, supervisors and cooperating administrators.

79.16(2) The PK-12 school and the unit share responsibility for selecting, preparing, evaluating, supporting, and retaining both:

a. High-quality college/university supervisors, and

b. High-quality cooperating administrators.

79.16(3) Cooperating administrators and college/university supervisors share responsibility for evaluating the candidate's achievement of unit standards. Clinical experiences are structured to have multiple performance-based assessments at key points within the program to demonstrate candidates' attainment of unit standards.

79.16(4) Clinical experiences include all of the following criteria:

a. A minimum of 400 hours during the candidate's preparation program.

b. Take place with appropriately licensed cooperating administrators in state-approved schools or educational facilities.

c. Take place in multiple high-quality educational settings that include diverse populations and students of different age groups.

d. Include minimum expectations and responsibilities for cooperating administrators, school districts, accredited nonpublic schools, or AEAs and for higher education supervising faculty members.

e. Include prescribed minimum expectations and responsibilities of the candidate for ethical performance of both leadership and management tasks.

f. The involvement of the administrator candidate in relevant responsibilities to include demonstration of the capacity to facilitate the use of assessment data in affecting student learning.

g. Involve the candidate in professional meetings and other school-based activities directed toward the improvement of teaching and learning.

h. Involve the candidate in communication and interaction with parents or guardians, community members, faculty and staff, and cooperating administrators in the school.

79.16(5) The institution annually delivers one or more professional development opportunities for cooperating administrators to define the objectives of the field experience, review the responsibilities of the cooperating administrator, build skills in coaching and mentoring, and provide the cooperating administrator other information and assistance the institution deems necessary. The professional development opportunities incorporate feedback from participants and utilize appropriate delivery strategies.

79.16(6) The institution shall enter into a written contract with the cooperating school districts that provide field experiences for administrator candidates.

[**ARC 8053B**, IAB 8/26/09, effective 9/30/09; **ARC 1780C**, IAB 12/10/14, effective 1/14/15]

281—79.17(256) Administrator knowledge, skills, and dispositions standard. Administrator candidates shall demonstrate the content, pedagogical, and professional knowledge, skills and dispositions necessary to help all students learn in accordance with the following provisions.

79.17(1) Each educational administrator program shall define program standards (aligned with current ISSL standards) and embed them in coursework and clinical experiences at a level appropriate for a novice administrator.

79.17(2) Each new administrator candidate successfully completes the appropriate evaluator training provided by a state-approved evaluator trainer.

79.17(3) Each administrator candidate demonstrates the knowledge, skills, and dispositions necessary to support the implementation of the Iowa core.

79.17(4) Each administrator candidate demonstrates, within specific coursework and clinical experiences related to the study of human relations, cultural competency, and diverse learners, that the candidate is prepared to work with students from diverse groups, as defined in rule 281—79.2(256). The unit shall provide evidence that administrator candidates develop the ability to meet the needs of all learners, including:

a. Students from diverse ethnic, racial and socioeconomic backgrounds.

b. Students with disabilities.

c. Students who are gifted and talented.

d. English language learners.

e. Students who may be at risk of not succeeding in school.

79.17(5) Each administrator candidate meets all requirements established by the board of educational examiners for any endorsement for which the candidate is recommended. Programs shall submit curriculum exhibit sheets for approval by the board of educational examiners and the department.
[**ARC 8053B**, IAB 8/26/09, effective 9/30/09; **ARC 1780C**, IAB 12/10/14, effective 1/14/15]

281—79.18 Reserved.

DIVISION V
SPECIFIC EDUCATION STANDARDS APPLICABLE ONLY TO PRACTITIONER PREPARATION PROGRAMS
OTHER THAN TEACHER OR ADMINISTRATOR PREPARATION PROGRAMS

281—79.19(256) Purpose. This division addresses preparation of an individual seeking a license based on school-centered preparation for employment as one of the following: school guidance counselor, school audiologist, school psychologist, school social worker, speech-language pathologist, supervisor of special education (support and orientation and mobility specialist). (See also the board of educational examiners' 282—Chapter 27, regarding licenses for service other than as a teacher.)
[**ARC 8053B**, IAB 8/26/09, effective 9/30/09]

281—79.20(256) Clinical practice standard. The unit and its school, AEA, and facility partners shall provide clinical experiences that assist candidates in becoming successful practitioners in accordance with the following provisions.

79.20(1) The unit ensures that clinical experiences occurring in all locations are well-sequenced, purposeful, supervised by appropriately qualified personnel, monitored by the unit, and integrated into unit standards. These expectations are shared with candidates, supervisors and cooperating professional educators.

79.20(2) The PK-12 school, AEA, and facility partners and the unit share responsibility for selecting, preparing, evaluating, supporting, and retaining both:

a. High-quality college/university supervisors, and

b. High-quality cooperating professional educators.

79.20(3) Cooperating professional educators and college/university supervisors share responsibility for evaluating the candidate's achievement of unit standards. Clinical experiences are structured to have multiple performance-based assessments at key points within the program to demonstrate the candidate's attainment of unit standards.

79.20(4) Clinical experiences include all of the following criteria:

a. Learning that takes place in the context of providing high-quality instructional programs for students in a state-approved school, agency, or educational facility;

b. Take place in educational settings that include diverse populations and students of different age groups;

c. Provide opportunities for candidates to observe and be observed by others and to engage in discussion and reflection on clinical practice;

d. Include minimum expectations and responsibilities for cooperating professional educators, school districts, accredited nonpublic schools, or AEAs and for higher education supervising faculty members;

e. Include prescribed minimum expectations for involvement of candidates in relevant responsibilities directed toward the work for which they are preparing;

f. Involve candidates in professional meetings and other activities directed toward the improvement of teaching and learning; and

g. Involve candidates in communication and interaction with parents or guardians, community members, faculty and staff, and cooperating professional educators in the school.

79.20(5) The institution annually delivers one or more professional development opportunities for cooperating professional educators to define the objectives of the field experience, review the responsibilities of the cooperating professional educators, build skills in coaching and mentoring, and provide the cooperating professional educators other information and assistance the institution deems necessary. The professional development opportunities incorporate feedback from participants and utilize appropriate delivery strategies.

79.20(6) The institution shall enter into a written contract with the cooperating school districts that provide field experiences for candidates.

[**ARC 8053B**, IAB 8/26/09, effective 9/30/09; **ARC 1780C**, IAB 12/10/14, effective 1/14/15]

281—79.21(256) Candidate knowledge, skills and dispositions standard. Candidates shall demonstrate the content knowledge and the pedagogical and professional knowledge, skills and dispositions necessary to help all students learn in accordance with the following provisions.

79.21(1) Each professional educator program shall define program standards (aligned with current national standards) and embed them in coursework and clinical experiences at a level appropriate for a novice professional educator.

79.21(2) Each candidate demonstrates, within specific coursework and clinical experiences related to the study of human relations, cultural competency, and diverse learners, that the candidate is prepared to work with students from diverse groups, as defined in rule 281—79.2(256). The unit shall provide evidence that candidates develop the ability to meet the needs of all learners, including:

a. Students from diverse ethnic, racial and socioeconomic backgrounds.

b. Students with disabilities.

c. Students who are gifted and talented.

d. English language learners.

e. Students who may be at risk of not succeeding in school.

79.21(3) Each candidate meets all requirements established by the board of educational examiners for any endorsement for which the candidate is recommended. Programs shall submit curriculum exhibit sheets for approval by the board of educational examiners and the department.

[**ARC 8053B**, IAB 8/26/09, effective 9/30/09; **ARC 1780C**, IAB 12/10/14, effective 1/14/15]

These rules are intended to implement Iowa Code sections 256.7, 256.16 and 272.25(1).

[Filed 10/22/99, Notice 6/30/99—published 11/17/99, effective 8/31/01]
[Filed 8/10/01, Notice 4/18/01—published 9/5/01, effective 10/10/01]
[Filed 8/12/04, Notice 3/31/04—published 9/1/04, effective 10/6/04]
[Filed 9/17/07, Notice 6/6/07—published 10/10/07, effective 11/14/07]
[Filed ARC 8053B (Notice ARC 7780B, IAB 5/20/09), IAB 8/26/09, effective 9/30/09]
[Filed ARC 0476C (Notice ARC 0299C, IAB 8/22/12), IAB 11/28/12, effective 1/2/13]
[Filed ARC 1117C (Notice ARC 0968C, IAB 8/21/13), IAB 10/16/13, effective 11/20/13]
[Filed ARC 1434C (Notice ARC 1339C, IAB 2/19/14), IAB 4/30/14, effective 6/4/14]
[Filed ARC 1780C (Notice ARC 1674C, IAB 10/15/14), IAB 12/10/14, effective 1/14/15]

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.

TITLE I
GENERAL DEPARTMENTAL PROCEDURES

CHAPTER 1
DEPARTMENTAL ORGANIZATION AND PROCEDURES

1.1(17A)	Director
1.2(17A)	Council
1.3(17A)	Organization at state level
1.4(17A)	Field operations structure
1.5	Reserved
1.6(17A)	Mental health and developmental disabilities commission
1.7(17A)	Governor's developmental disabilities council (governor's DD council)
1.8(17A,217)	Waivers of administrative rules (hereinafter referred to as exceptions to policy)
1.9	Reserved
1.10(17A,514I)	HAWK-I board

CHAPTER 2
CONTRACTING OUT DEPARTMENT OF HUMAN SERVICES EMPLOYEES AND PROPERTY

2.1(23A,225C)	Definitions
2.2(23A,225C)	Contracts for use of the services of department employees
2.3(23A,225C)	Contract provisions
2.4(23A,225C)	Leasing of space at state institutions
2.5(23A,225C)	Requirements prior to leasing

CHAPTER 3
DEPARTMENT PROCEDURE FOR RULE MAKING

3.1(17A)	Applicability
3.2(17A)	Advice on possible rules before notice of proposed rule adoption
3.3(17A)	Public rule-making docket
3.4(17A)	Notice of proposed rule making
3.5(17A)	Public participation
3.6(17A)	Regulatory analysis
3.7(17A,25B)	Fiscal impact statement
3.8(17A)	Time and manner of rule adoption
3.9(17A)	Variance between adopted rule and published notice of proposed rule adoption
3.10(17A)	Exemptions from public rule-making procedures
3.11(17A)	Concise statement of reasons
3.12(17A)	Contents, style, and form of rule
3.13(17A)	Department rule-making record
3.14(17A)	Filing of rules
3.15(17A)	Effectiveness of rules prior to publication
3.16(17A)	Review by department of rules

CHAPTER 4
PETITIONS FOR RULE MAKING

4.1(17A)	Petition for rule making
4.2(17A)	Briefs

4.3(17A) Inquiries
4.4(17A) Agency consideration

CHAPTER 5
DECLARATORY ORDERS

5.1(17A) Petition for declaratory order
5.2(17A) Notice of petition
5.3(17A) Intervention
5.4(17A) Briefs
5.5(17A) Inquiries
5.6(17A) Service and filing of petitions and other papers
5.7(17A) Consideration
5.8(17A) Action on petition
5.9(17A) Refusal to issue order
5.10(17A) Contents of declaratory order—effective date
5.11(17A) Copies of orders
5.12(17A) Effect of a declaratory order

CHAPTER 6
Reserved

CHAPTER 7
APPEALS AND HEARINGS

7.1(17A) Definitions
7.2 Reserved

DIVISION I

7.3(17A) Presiding officer
7.4(17A) Notification of hearing procedures
7.5(17A) The right to appeal
7.6(17A) Informing persons of their rights
7.7(17A) Notice of intent to approve, deny, terminate, reduce, or suspend assistance or deny reinstatement of assistance
7.8(17A) Opportunity for hearing
7.9(17A) Continuation of assistance pending a final decision on appeal
7.10(17A) Procedural considerations
7.11(17A) Information and referral for legal services
7.12(17A) Subpoenas
7.13(17A) Rights of appellants during hearings
7.14(17A) Limitation of persons attending
7.15(17A) Medical examination
7.16(17A) The appeal decision
7.17(17A) Exhausting administrative remedies
7.18(17A) Ex parte communication
7.19(17A) Accessibility of hearing decisions
7.20(17A) Right of judicial review and stays of agency action
7.21(17A) Food assistance hearings and appeals
7.22 Reserved
7.23(17A) Contested cases with no factual dispute
7.24(17A) Emergency adjudicative proceedings
7.25 to 7.40 Reserved

DIVISION II
APPEALS BASED ON THE COMPETITIVE PROCUREMENT BID PROCESS

7.41(17A)	Scope and applicability
7.42(17A)	Requests for timely filing of an appeal
7.43(17A)	Bidder appeals
7.44(17A)	Procedures for bidder appeal
7.45(17A)	Stay of agency action for bidder appeal
7.46(17A)	Request for review of the proposed decision
7.47(17A)	Other procedural considerations
7.48(17A)	Appeal record
7.49(17A)	Pleadings
7.50(17A)	Ex parte communications
7.51(17A)	Right of judicial review

CHAPTER 8
PAYMENT OF SMALL CLAIMS

8.1(217)	Authorization to reimburse

CHAPTER 9
PUBLIC RECORDS AND FAIR
INFORMATION PRACTICES

9.1(17A,22)	Definitions
9.2(17A,22)	Statement of policy
9.3(17A,22)	Requests for access to records
9.4(17A,22)	Access to confidential records
9.5(17A,22)	Requests for treatment of a record as a confidential record and its withholding from examinations
9.6(17A,22)	Procedure by which additions, dissents, or objections may be entered into certain records
9.7(17A,22,228)	Consent to disclosure by the subject of a confidential record
9.8(17A,22)	Notice to suppliers of information
9.9(17A,22)	Release to subject
9.10(17A,22)	Use and disclosure without consent of the subject
9.11(22)	Availability of records
9.12(22,252G)	Personally identifiable information
9.13(217)	Distribution of informational materials
9.14(17A,22)	Special policies and procedures for protected health information
9.15(17A,22)	Person who may exercise rights of the subject

CHAPTER 10
Reserved

CHAPTER 11
COLLECTION OF PUBLIC ASSISTANCE DEBTS

11.1(217)	Definitions
11.2(217)	Establishment of claim
11.3(217)	Application of payment
11.4(217)	Setoff against state income tax refund, rebate, or other state payments, including, for example, state employee wages
11.5(234)	Setoff against federal income tax refund or other federal payments, including, for example, federal employee wages

CHAPTER 12
VOLUNTEER SERVICES

12.1(234) Definition
12.2(234) Allocation of block grant funds
12.3(234) Requirements for volunteers
12.4(234) Volunteer service programs
12.5(234) Services and benefits available to volunteers

CHAPTER 13
PROGRAM EVALUATION

13.1(234,239B,249A) Definitions
13.2(234,239B,249A) Review of public assistance records by the department
13.3(234,239B,249A) Who shall be reviewed
13.4(234,239B,249A) Notification of review
13.5(234,239B,249A) Review procedure
13.6(234,239B,249A) Failure to cooperate
13.7(234,239B,249A) Report of findings
13.8(234,239B,249A) Federal rereview

CHAPTER 14
OFFSET OF COUNTY DEBTS OWED DEPARTMENT

14.1(217,234) Definitions
14.2(217,234) Identifying counties with liabilities
14.3(217,234) List of counties with amounts owed
14.4(217,234) Notification to county regarding offset
14.5(217,234) Implementing the final decision
14.6(217,234) Offset completed

CHAPTER 15
RESOLUTION OF LEGAL SETTLEMENT DISPUTES

15.1(225C) Definitions
15.2(225C) Assertion of legal settlement dispute
15.3(225C) Response to dispute notification
15.4(225C) Contested case hearing
15.5(225C) Change in determination

TITLE II
Reserved

CHAPTERS 16 to 21
Reserved

TITLE III
MENTAL HEALTH

CHAPTER 22
AUTISM SUPPORT PROGRAM

22.1(225D) Definitions
22.2(225D) Eligibility and application requirements
22.3(225D) Cost-sharing requirements and graduated schedule of cost sharing
22.4(225D) Review of financial eligibility, cost-sharing requirements, exemption from cost sharing, and disenrollment in the program
22.5(225D) Initial service authorization and renewal of service authorization
22.6(225D) Provider network

22.7(225D) Financial management of the program
22.8(225D) Appeal

CHAPTER 23
MENTAL HEALTH AND DISABILITY SERVICES
REDESIGN TRANSITION FUND

23.1(225C,84GA,SF2315) Definitions
23.2(225C,84GA,SF2315) Eligibility
23.3(225C,84GA,SF2315) Application requirements
23.4(225C,84GA,SF2315) Guidelines for the management of transition funds
23.5(225C,84GA,SF2315) Allocation of transition funds

CHAPTER 24
ACCREDITATION OF PROVIDERS OF SERVICES TO PERSONS WITH MENTAL ILLNESS, INTELLECTUAL DISABILITIES, OR DEVELOPMENTAL DISABILITIES

DIVISION I
SERVICES FOR INDIVIDUALS WITH DISABILITIES

24.1(225C) Definitions
24.2(225C) Standards for policy and procedures
24.3(225C) Standards for organizational activities
24.4(225C) Standards for services
24.5(225C) Accreditation
24.6(225C) Deemed status
24.7(225C) Complaint process
24.8(225C) Appeal procedure
24.9(225C) Exceptions to policy
24.10 to 24.19 Reserved

DIVISION II
CRISIS RESPONSE SERVICES

24.20(225C) Definitions
24.21(225C) Standards for crisis response services
24.22(225C) Standards for policies and procedures
24.23(225C) Standards for organizational activities
24.24(225C) Standards for crisis response staff
24.25(225C) Standards for services
24.26(225C) Accreditation
24.27(225C) Deemed status
24.28(225C) Complaint process
24.29(225C) Appeal procedure
24.30(225C) Exceptions to policy
24.31(225C) Standards for individual crisis response services
24.32(225C) Crisis evaluation
24.33(225C) Twenty-four-hour crisis response
24.34(225C) Twenty-four-hour crisis line
24.35(225C) Warm line
24.36(225C) Mobile response
24.37(225C) Twenty-three-hour crisis observation and holding
24.38(225C) Crisis stabilization community-based services (CSCBS)
24.39(225C) Crisis stabilization residential services (CSRS)
24.40(225C) Medication—administration, storage and documentation

CHAPTER 25
DISABILITY SERVICES MANAGEMENT

DIVISION I
REGIONAL CORE SERVICES

25.1(331) Definitions
25.2(331) Core service domains
25.3(331) Access standards
25.4(331) Practices
25.5 to 25.10 Reserved

DIVISION II
REGIONAL SERVICE SYSTEM

25.11(331) Definitions
25.12(331) Regional governance structure
25.13(331) Regional finances
25.14(331) Regional governance agreement
25.15(331) Eligibility, diagnosis, and functional assessment criteria
25.16(331) Financial eligibility requirements
25.17(331) Exempted counties
25.18(331) Annual service and budget plan
25.19(331) Annual service and budget plan approval
25.20(331) Annual report
25.21(331) Policies and procedures manual for the regional service system
25.22 to 25.40 Reserved

DIVISION III
MINIMUM DATA SET

25.41(331) Minimum data set
25.42 to 25.50 Reserved

DIVISION IV
INCENTIVE AND EFFICIENCY POOL FUNDING

25.51(77GA,HF2545) Desired results areas
25.52(77GA,HF2545) Methodology for applying for incentive funding
25.53(77GA,HF2545) Methodology for awarding incentive funding
25.54(77GA,HF2545) Subsequent year performance factors
25.55(77GA,HF2545) Phase-in provisions
25.56 to 25.60 Reserved

DIVISION V
RISK POOL FUNDING

25.61(426B) Definitions
25.62(426B) Risk pool board
25.63(426B) Application process
25.64(426B) Methodology for awarding risk pool funding
25.65(426B) Repayment provisions
25.66(426B) Appeals
25.67 to 25.70 Reserved

DIVISION VI
TOBACCO SETTLEMENT FUND RISK POOL FUNDING

25.71(78GA,ch1221) Definitions
25.72(78GA,ch1221) Risk pool board
25.73(78GA,ch1221) Rate-setting process
25.74(78GA,ch1221) Application process
25.75(78GA,ch1221) Methodology for awarding tobacco settlement fund risk pool funding

25.76(78GA,ch1221) Repayment provisions
25.77(78GA,ch1221) Appeals
25.78 to 25.80 Reserved

DIVISION VII
COMMUNITY MENTAL HEALTH CENTER WAIVER REQUEST

25.81(225C) Waiver request
25.82 to 25.90 Reserved

DIVISION VIII
CRITERIA FOR EXEMPTING COUNTIES FROM JOINING INTO REGIONS TO ADMINISTER MENTAL HEALTH AND DISABILITY SERVICES

25.91(331) Exemption from joining into mental health and disability services region
25.92 to 25.94 Reserved

DIVISION IX
DATA SUBMISSION TO DETERMINE MEDICAID OFFSET FOR COUNTIES

25.95(426B) Definitions
25.96(426B) Data to determine Medicaid offset

CHAPTERS 26 and 27
Reserved

CHAPTER 28
POLICIES FOR MENTAL HEALTH
INSTITUTES AND RESOURCE CENTERS

28.1(218) Definitions
28.2(218,222) Selection of facility
28.3 Reserved
28.4(225C,229) Grievances
28.5(217,218) Photographing and recording of individuals and use of cameras
28.6(217,218) Interviews and statements
28.7(218) Use of grounds, facilities, or equipment
28.8(218) Tours of facility
28.9(218) Donations
28.10 and 28.11 Reserved
28.12(217) Release of confidential information
28.13(218) Applying county institutional credit balances

CHAPTER 29
MENTAL HEALTH INSTITUTES

29.1(218) Catchment areas
29.2(218,229) Voluntary admissions
29.3(229,230) Certification of county of residence
29.4(218,230) Charges for care
29.5(229) Authorization for treatment
29.6(217,228,229) Rights of individuals
29.7(218) Visiting

CHAPTER 30
STATE RESOURCE CENTERS

30.1(218,222) Catchment areas
30.2(218,222) Admission
30.3(222) Non-Medicaid payment-eligible individuals
30.4(222) Liability for support

30.5(217,218,225C) Rights of individuals
30.6(218) Visiting

CHAPTER 31
CIVIL COMMITMENT UNIT

31.1(229A) Definitions
31.2(229A) Visitation
31.3(229A) Group visitation
31.4(229A) Grievances
31.5(229A) Photographing and recording individuals
31.6(229A) Release of information
31.7(229A) Communication with individuals
31.8(229A) Building and grounds
31.9(8,218) Gifts and bequests
31.10(229A) Cost of care

CHAPTERS 32 and 33
Reserved

CHAPTER 34
ALTERNATIVE DIAGNOSTIC FACILITIES

34.1(225C) Definitions
34.2(225C) Function
34.3(225C) Standards

CHAPTER 35
Reserved

CHAPTER 36
FACILITY ASSESSMENTS

DIVISION I
ASSESSMENT FEE FOR INTERMEDIATE CARE FACILITIES FOR THE MENTALLY RETARDED

36.1(249A) Assessment of fee
36.2(249A) Determination and payment of fee for facilities certified to participate in the Medicaid program
36.3(249A) Determination and payment of fee for facilities not certified to participate in the Medicaid program
36.4(249A) Termination of fee assessment
36.5 Reserved

DIVISION II
QUALITY ASSURANCE ASSESSMENT FOR NURSING FACILITIES

36.6(249L) Assessment
36.7(249L) Determination and payment of assessment
36.8 and 36.9 Reserved

DIVISION III
HEALTH CARE ACCESS ASSESSMENT FOR HOSPITALS

36.10(249M) Application of assessment
36.11(249M) Determination and payment of assessment
36.12(249M) Termination of health care access assessment

CHAPTER 37
Reserved

CHAPTER 38
DEVELOPMENTAL DISABILITIES BASIC STATE GRANT

38.1(225C,217) Definitions
38.2(225C,217) Program eligibility
38.3(225C,217) Application under competitive process
38.4(225C,217) Competitive project awards
38.5(225C,217) Sole source or emergency selection project awards
38.6(225C,217) Field-initiated proposals
38.7(225C,217) Notification
38.8(225C,217) Request for reconsideration
38.9(225C,217) Contracts
38.10 Reserved
38.11(225C,217) Reallocation of funds
38.12(225C,217) Conflict of interest policy

CHAPTER 39
Reserved

TITLE IV
FAMILY INVESTMENT PROGRAM

CHAPTER 40
APPLICATION FOR AID

DIVISION I
FAMILY INVESTMENT PROGRAM—CONTROL GROUP

40.1 to 40.20 Reserved

DIVISION II
FAMILY INVESTMENT PROGRAM—TREATMENT GROUP

40.21(239B) Definitions
40.22(239B) Application
40.23(239B) Date of application
40.24(239B) Procedure with application
40.25(239B) Time limit for decision
40.26(239B) Effective date of grant
40.27(239B) Continuing eligibility
40.28(239B) Referral for investigation

CHAPTER 41
GRANTING ASSISTANCE

DIVISION I
FAMILY INVESTMENT PROGRAM—CONTROL GROUP

41.1 to 41.20 Reserved

DIVISION II
FAMILY INVESTMENT PROGRAM—TREATMENT GROUP

41.21(239B) Eligibility factors specific to child
41.22(239B) Eligibility factors specific to payee
41.23(239B) Home, residence, citizenship, and alienage
41.24(239B) Promoting independence and self-sufficiency through employment job opportunities and basic skills (PROMISE JOBS) program
41.25(239B) Uncategorized factors of eligibility
41.26(239B) Resources
41.27(239B) Income
41.28(239B) Need standards

41.29(239B) Composite FIP/SSI cases
41.30(239B) Time limits

CHAPTER 42
Reserved

CHAPTER 43
ALTERNATE PAYEES

DIVISION I
FAMILY INVESTMENT PROGRAM—CONTROL GROUP

43.1 to 43.20 Reserved

DIVISION II
FAMILY INVESTMENT PROGRAM—TREATMENT GROUP

43.21(239B) Conservatorship or guardianship
43.22 and 43.23 Reserved
43.24(239B) Emergency payee

CHAPTER 44
Reserved

CHAPTER 45
PAYMENT

DIVISION I
FAMILY INVESTMENT PROGRAM—CONTROL GROUP

45.1 to 45.20 Reserved

DIVISION II
FAMILY INVESTMENT PROGRAM—TREATMENT GROUP

45.21(239B) Issuing payment
45.22(239B) Return
45.23(239B) Held warrants
45.24(239B) Underpayment
45.25(239B) Deceased payees
45.26(239B) Limitation on payment
45.27(239B) Rounding of need standard and payment amount

CHAPTER 46
OVERPAYMENT RECOVERY

DIVISION I
FAMILY INVESTMENT PROGRAM—CONTROL GROUP

46.1 to 46.20 Reserved

DIVISION II
FAMILY INVESTMENT PROGRAM—TREATMENT GROUP

46.21(239B) Definitions
46.22(239B) Monetary standards
46.23(239B) Notification and appeals
46.24(239B) Determination of overpayments
46.25(239B) Source of recoupment
46.26 Reserved
46.27(239B) Procedures for recoupment
46.28 Reserved
46.29(239B) Fraudulent misrepresentation of residence

CHAPTER 47
DIVERSION INITIATIVES

DIVISION I
PROMOTING AWARENESS OF THE BENEFITS OF A HEALTHY MARRIAGE

47.1(234) Eligibility criteria
47.2(234) Notice and eligibility period
47.3 to 47.20 Reserved

DIVISION II
FAMILY SELF-SUFFICIENCY GRANTS PROGRAM

47.21(239B) Definitions
47.22(239B) Availability of the family self-sufficiency grants program
47.23(239B) General criteria
47.24(239B) Assistance available in family self-sufficiency grants
47.25(239B) Application, notification, and appeals
47.26(239B) Approved local plans for family self-sufficiency grants
47.27(239B) Evaluation of family self-sufficiency grants
47.28(239B) Recovery of FSSG overpayments

CHAPTERS 48 and 49
Reserved

TITLE V
STATE SUPPLEMENTARY ASSISTANCE

CHAPTER 50
APPLICATION FOR ASSISTANCE

50.1(249) Definitions
50.2(249) Application procedures
50.3(249) Approval of application and effective date of eligibility
50.4(249) Reviews
50.5(249) Application under conditional benefits

CHAPTER 51
ELIGIBILITY

51.1(249) Application for other benefits
51.2(249) Supplementation
51.3(249) Eligibility for residential care
51.4(249) Dependent relatives
51.5(249) Residence
51.6(249) Eligibility for supplement for Medicare and Medicaid eligibles
51.7(249) Income from providing room and board
51.8(249) Furnishing of social security number
51.9(249) Recovery

CHAPTER 52
PAYMENT

52.1(249) Assistance standards

CHAPTER 53
Reserved

CHAPTER 54
FACILITY PARTICIPATION

54.1(249) Application and contract agreement
54.2(249) Maintenance of case records
54.3(249) Financial and statistical report
54.4(249) Goods and services provided
54.5(249) Personal needs account
54.6(249) Case activity report
54.7(249) Billing procedures
54.8(249) Audits

TITLE VI
GENERAL PUBLIC ASSISTANCE PROVISIONS

CHAPTERS 55 and 56
Reserved

CHAPTER 57
INTERIM ASSISTANCE REIMBURSEMENT

57.1(249) Definitions
57.2(249) Requirements for reimbursement
57.3(249) Certificate of authority

CHAPTER 58
EMERGENCY ASSISTANCE

DIVISION I
IOWA DISASTER AID INDIVIDUAL ASSISTANCE GRANT PROGRAM

58.1(29C) Definitions
58.2(29C) Program implementation
58.3(29C) Application for assistance
58.4(29C) Eligibility criteria
58.5(29C) Eligible categories of assistance
58.6(29C) Eligibility determination and payment
58.7(29C) Contested cases
58.8(29C) Discontinuance of program
58.9 to 58.20 Reserved

DIVISION II
FAMILY INVESTMENT PROGRAM—EMERGENCY ASSISTANCE

58.21 to 58.40 Reserved

DIVISION III
TEMPORARY MEASURES RELATED TO DISASTERS

58.41(217) Purpose
58.42(234,237A,239B,249,249A,249J,514I) Extension of scheduled reporting and review requirements
58.43(237A) Need for child care services
58.44(249A,249J,514I) Premium payments
58.45(249A) Citizenship and identity
58.46 to 58.50 Reserved

DIVISION IV
IOWANS HELPING IOWANS UNMET NEEDS DISASTER ASSISTANCE PROGRAM

58.51(234) Definitions
58.52(234) Program implementation
58.53(234) Application for assistance
58.54(234) Eligibility criteria

58.55(234) Eligible categories of assistance
58.56(234) Eligibility determination and payment
58.57(234) Contested cases
58.58(234) Discontinuance of program
58.59 and 58.60 Reserved

DIVISION V
TICKET TO HOPE PROGRAM

58.61(234) Definitions
58.62(234) Application process
58.63(234) Eligibility criteria
58.64(234) Provider participation
58.65(234) Provider reimbursement
58.66(234) Reconsideration
58.67(234) Appeal
58.68(234) Discontinuance of program

CHAPTER 59
Reserved

CHAPTER 60
REFUGEE CASH ASSISTANCE

60.1(217) Alienage requirements
60.2(217) Application procedures
60.3(217) Effective date of grant
60.4(217) Accepting other assistance
60.5(217) Eligibility factors
60.6(217) Students in institutions of higher education
60.7(217) Time limit for eligibility
60.8(217) Criteria for exemption from registration for employment services, registration, and refusal to register
60.9(217) Work and training requirements
60.10(217) Uncategorized factors of eligibility
60.11(217) Temporary absence from home
60.12(217) Application
60.13(217) Continuing eligibility
60.14(217) Alternate payees
60.15(217) Payment
60.16(217) Overpayment recovery

CHAPTER 61
REFUGEE SERVICES PROGRAM

61.1(217) Definitions
61.2(217) Authority
61.3(217) Eligibility for refugee services
61.4(217) Planning and coordinating the placement of refugees in advance of their arrival
61.5(217) Services of the department available for refugees
61.6(217) Provision of services
61.7(217) Application for services
61.8(217) Adverse service actions
61.9(217) Client appeals
61.10(217) Refugee sponsors
61.11(217) Adverse actions regarding sponsor applications
61.12(217) Administrative review of denial of sponsorship application

61.13(217) Refugee resettlement moneys
61.14(217) Unaccompanied refugee minors program
61.15(217,622A) Interpreters and translators for legal proceedings
61.16(217) Pilot recredentialing services
61.17(217) Targeted assistance grants
61.18(217) Iowa refugee services foundation

CHAPTERS 62 to 64
Reserved

TITLE VII
FOOD PROGRAMS

CHAPTER 65
FOOD ASSISTANCE PROGRAM ADMINISTRATION

DIVISION I

65.1(234) Definitions
65.2(234) Application
65.3(234) Administration of program
65.4(234) Issuance
65.5(234) Simplified reporting
65.6(234) Delays in certification
65.7 Reserved
65.8(234) Deductions
65.9(234) Treatment centers and group living arrangements
65.10 Reserved
65.11(234) Discrimination complaint
65.12(234) Appeals
65.13(234) Joint processing
65.14 Reserved
65.15(234) Proration of benefits
65.16(234) Complaint system
65.17(234) Involvement in a strike
65.18 and 65.19 Reserved
65.20(234) Notice of expiration issuance
65.21(234) Claims
65.22(234) Verification
65.23(234) Prospective budgeting
65.24(234) Inclusion of foster children in household
65.25(234) Effective date of change
65.26(234) Eligible students
65.27(234) Voluntary quit or reduction in hours of work
65.28(234) Work requirements
65.29(234) Income
65.30(234) Resources
65.31(234) Homeless meal providers
65.32(234) Basis for allotment
65.33(234) Dependent care deduction
65.34 to 65.36 Reserved
65.37(234) Eligibility of noncitizens
65.38(234) Income deductions
65.39(234) Categorical eligibility
65.40 Reserved

65.41(234) Actions on changes increasing benefits
65.42 and 65.43 Reserved
65.44(234) Reinstatement
65.45 Reserved
65.46(234) Disqualifications
65.47 to 65.49 Reserved
65.50(234) No increase in benefits
65.51(234) State income and eligibility verification system
65.52(234) Systematic alien verification for entitlements (SAVE) program

CHAPTER 66
EMERGENCY FOOD ASSISTANCE PROGRAM
66.1(234) Definitions
66.2(234) Application to be a TEFAP contractor
66.3(234) Contracts
66.4(234) Distribution
66.5(234) Household eligibility
66.6(234) Reimbursement for allowable costs
66.7(234) Commodity losses and claims
66.8(234) State monitoring
66.9(234) Limits on unrelated activities
66.10(234) Complaints

CHAPTERS 67 to 73
Reserved

TITLE VIII
MEDICAL ASSISTANCE

CHAPTER 74
IOWA HEALTH AND WELLNESS PLAN
74.1(249A,85GA,SF446) Definitions
74.2(249A,85GA,SF446) Eligibility factors
74.3(249A,85GA,SF446) Application
74.4(249A,85GA,SF446) Financial eligibility
74.5(249A,85GA,SF446) Enrollment period
74.6(249A,85GA,SF446) Reporting changes
74.7(249A,85GA,SF446) Reenrollment
74.8(249A,85GA,SF446) Terminating enrollment
74.9(249A,85GA,SF446) Recovery
74.10(249A,85GA,SF446) Right to appeal
74.11(249A,85GA,SF446) Financial participation
74.12(249A,85GA,SF446) Benefits and service delivery
74.13(249A,85GA,SF446) Claims and reimbursement methodologies
74.14(249A,85GA,SF446) Discontinuance of program
74.15(249A,85GA,ch138) Enrollment for IowaCare members

CHAPTER 75
CONDITIONS OF ELIGIBILITY

DIVISION I
GENERAL CONDITIONS OF ELIGIBILITY, COVERAGE GROUPS, AND SSI-RELATED PROGRAMS
75.1(249A) Persons covered
75.2(249A) Medical resources
75.3(249A) Acceptance of other financial benefits

75.4(249A)	Medical assistance lien
75.5(249A)	Determination of countable income and resources for persons in a medical institution
75.6(249A)	Entrance fee for continuing care retirement community or life care community
75.7(249A)	Furnishing of social security number
75.8(249A)	Medical assistance corrective payments
75.9(249A)	Treatment of Medicaid qualifying trusts
75.10(249A)	Residency requirements
75.11(249A)	Citizenship or alienage requirements
75.12(249A)	Inmates of public institutions
75.13(249A)	Categorical relatedness
75.14(249A)	Establishing paternity and obtaining support
75.15(249A)	Disqualification for long-term care assistance due to substantial home equity
75.16(249A)	Client participation in payment for medical institution care
75.17(249A)	Verification of pregnancy
75.18(249A)	Continuous eligibility for pregnant women
75.19(249A)	Continuous eligibility for children
75.20(249A)	Disability requirements for SSI-related Medicaid
75.21(249A)	Health insurance premium payment (HIPP) program
75.22(249A)	AIDS/HIV health insurance premium payment program
75.23(249A)	Disposal of assets for less than fair market value after August 10, 1993
75.24(249A)	Treatment of trusts established after August 10, 1993
75.25(249A)	Definitions
75.26	Reserved
75.27(249A)	AIDS/HIV settlement payments
75.28(249A)	Recovery
75.29(249A)	Investigation by quality control or the department of inspections and appeals
75.30(249A)	Member lock-in
75.31 to 75.49	Reserved

DIVISION II
ELIGIBILITY FACTORS SPECIFIC TO COVERAGE GROUPS RELATED TO THE FAMILY MEDICAL ASSISTANCE PROGRAM (FMAP)

75.50(249A)	Definitions
75.51	Reserved
75.52(249A)	Continuing eligibility
75.53(249A)	Iowa residency policies specific to FMAP and FMAP-related coverage groups
75.54(249A)	Eligibility factors specific to child
75.55(249A)	Eligibility factors specific to specified relatives
75.56(249A)	Resources
75.57(249A)	Income
75.58(249A)	Need standards
75.59(249A)	Persons who may be voluntarily excluded from the eligible group when determining eligibility for the family medical assistance program (FMAP) and FMAP-related coverage groups
75.60(249A)	Pending SSI approval
75.61 to 75.69	Reserved

DIVISION III
FINANCIAL ELIGIBILITY BASED ON MODIFIED ADJUSTED GROSS INCOME (MAGI)

75.70(249A)	Financial eligibility based on modified adjusted gross income (MAGI)
75.71(249A)	Income limits

CHAPTER 76
ENROLLMENT AND REENROLLMENT

76.1(249A) Definitions
76.2(249A) Application with the department
76.3(249A) Referrals from a health insurance marketplace
76.4(249A) Express lane eligibility
76.5(249A) Enrollment through SSI
76.6(249A) Referral for Medicare savings program
76.7(249A) Presumptive eligibility
76.8(249A) Applicant responsibilities
76.9(249A) Responsible persons and authorized representatives
76.10(249A) Right to withdraw the application
76.11(249A) Choice of electronic notifications
76.12(249A) Application not required
76.13(249A) Initial enrollment
76.14(249A) Reenrollment
76.15(249A) Report of changes
76.16(249A) Action on information received
76.17(249A) Automatic redetermination of eligibility

CHAPTER 77
CONDITIONS OF PARTICIPATION FOR PROVIDERS OF MEDICAL AND REMEDIAL CARE

77.1(249A) Physicians
77.2(249A) Retail pharmacies
77.3(249A) Hospitals
77.4(249A) Dentists
77.5(249A) Podiatrists
77.6(249A) Optometrists
77.7(249A) Opticians
77.8(249A) Chiropractors
77.9(249A) Home health agencies
77.10(249A) Medical equipment and appliances, prosthetic devices and medical supplies
77.11(249A) Ambulance service
77.12(249A) Behavioral health intervention
77.13(249A) Hearing aid dispensers
77.14(249A) Audiologists
77.15(249A) Community mental health centers
77.16(249A) Screening centers
77.17(249A) Physical therapists
77.18(249A) Orthopedic shoe dealers and repair shops
77.19(249A) Rehabilitation agencies
77.20(249A) Independent laboratories
77.21(249A) Rural health clinics
77.22(249A) Psychologists
77.23(249A) Maternal health centers
77.24(249A) Ambulatory surgical centers
77.25(249A) Home- and community-based habilitation services
77.26(249A) Behavioral health services
77.27(249A) Birth centers
77.28(249A) Area education agencies
77.29(249A) Case management provider organizations

77.30(249A) HCBS health and disability waiver service providers
77.31(249A) Occupational therapists
77.32(249A) Hospice providers
77.33(249A) HCBS elderly waiver service providers
77.34(249A) HCBS AIDS/HIV waiver service providers
77.35(249A) Federally qualified health centers
77.36(249A) Advanced registered nurse practitioners
77.37(249A) Home- and community-based services intellectual disability waiver service providers
77.38(249A) Assertive community treatment
77.39(249A) HCBS brain injury waiver service providers
77.40(249A) Lead inspection agencies
77.41(249A) HCBS physical disability waiver service providers
77.42(249A) Public health agencies
77.43(249A) Infant and toddler program providers
77.44(249A) Local education agency services providers
77.45(249A) Indian health service 638 facilities
77.46(249A) HCBS children's mental health waiver service providers
77.47(249A) Health home services providers
77.48(249A) Speech-language pathologists
77.49(249A) Physician assistants
77.50(249A) Ordering and referring providers
77.51(249A) Accountable care organizations

CHAPTER 78
AMOUNT, DURATION AND SCOPE OF
MEDICAL AND REMEDIAL SERVICES

78.1(249A) Physicians' services
78.2(249A) Prescribed outpatient drugs
78.3(249A) Inpatient hospital services
78.4(249A) Dentists
78.5(249A) Podiatrists
78.6(249A) Optometrists
78.7(249A) Opticians
78.8(249A) Chiropractors
78.9(249A) Home health agencies
78.10(249A) Durable medical equipment (DME), prosthetic devices and medical supplies
78.11(249A) Ambulance service
78.12(249A) Behavioral health intervention
78.13(249A) Nonemergency medical transportation
78.14(249A) Hearing aids
78.15(249A) Orthopedic shoes
78.16(249A) Community mental health centers
78.17(249A) Physical therapists
78.18(249A) Screening centers
78.19(249A) Rehabilitation agencies
78.20(249A) Independent laboratories
78.21(249A) Rural health clinics
78.22(249A) Family planning clinics
78.23(249A) Other clinic services
78.24(249A) Psychologists
78.25(249A) Maternal health centers

78.26(249A) Ambulatory surgical center services
78.27(249A) Home- and community-based habilitation services
78.28(249A) List of medical services and equipment requiring prior authorization, preprocedure review or preadmission review
78.29(249A) Behavioral health services
78.30(249A) Birth centers
78.31(249A) Hospital outpatient services
78.32(249A) Area education agencies
78.33(249A) Case management services
78.34(249A) HCBS ill and handicapped waiver services
78.35(249A) Occupational therapist services
78.36(249A) Hospice services
78.37(249A) HCBS elderly waiver services
78.38(249A) HCBS AIDS/HIV waiver services
78.39(249A) Federally qualified health centers
78.40(249A) Advanced registered nurse practitioners
78.41(249A) HCBS intellectual disability waiver services
78.42(249A) Pharmacies administering influenza vaccine to children
78.43(249A) HCBS brain injury waiver services
78.44(249A) Lead inspection services
78.45(249A) Assertive community treatment
78.46(249A) Physical disability waiver service
78.47(249A) Pharmaceutical case management services
78.48(249A) Public health agencies
78.49(249A) Infant and toddler program services
78.50(249A) Local education agency services
78.51(249A) Indian health service 638 facility services
78.52(249A) HCBS children's mental health waiver services
78.53(249A) Health home services
78.54(249A) Speech-language pathology services

CHAPTER 79
OTHER POLICIES RELATING TO PROVIDERS OF
MEDICAL AND REMEDIAL CARE

79.1(249A) Principles governing reimbursement of providers of medical and health services
79.2(249A) Sanctions
79.3(249A) Maintenance of records by providers of service
79.4(249A) Reviews and audits
79.5(249A) Nondiscrimination on the basis of handicap
79.6(249A) Provider participation agreement
79.7(249A) Medical assistance advisory council
79.8(249A) Requests for prior authorization
79.9(249A) General provisions for Medicaid coverage applicable to all Medicaid providers and services
79.10(249A) Requests for preadmission review
79.11(249A) Requests for preprocedure surgical review
79.12(249A) Advance directives
79.13(249A) Requirements for enrolled Medicaid providers supplying laboratory services
79.14(249A) Provider enrollment
79.15(249A) Education about false claims recovery
79.16(249A) Electronic health record incentive program

CHAPTER 80
PROCEDURE AND METHOD OF PAYMENT

80.1	Reserved
80.2(249A)	Submission of claims
80.3(249A)	Payment from other sources
80.4(249A)	Time limit for submission of claims and claim adjustments
80.5(249A)	Authorization process
80.6(249A)	Payment to provider—exception
80.7(249A)	Health care data match program

CHAPTER 81
NURSING FACILITIES

DIVISION I
GENERAL POLICIES

81.1(249A)	Definitions
81.2	Reserved
81.3(249A)	Initial approval for nursing facility care
81.4(249A)	Arrangements with residents
81.5(249A)	Discharge and transfer
81.6(249A)	Financial and statistical report and determination of payment rate
81.7(249A)	Continued review
81.8	Reserved
81.9(249A)	Records
81.10(249A)	Payment procedures
81.11(249A)	Billing procedures
81.12(249A)	Closing of facility
81.13(249A)	Conditions of participation for nursing facilities
81.14(249A)	Audits
81.15	Reserved
81.16(249A)	Nurse aide requirements and training and testing programs
81.17	Reserved
81.18(249A)	Sanctions
81.19	Reserved
81.20(249A)	Out-of-state facilities
81.21(249A)	Outpatient services
81.22(249A)	Rates for Medicaid eligibles
81.23(249A)	State-funded personal needs supplement
81.24 to 81.30	Reserved

DIVISION II
ENFORCEMENT OF COMPLIANCE

81.31(249A)	Definitions
81.32(249A)	General provisions
81.33(249A)	Factors to be considered in selecting remedies
81.34(249A)	Available remedies
81.35(249A)	Selection of remedies
81.36(249A)	Action when there is immediate jeopardy
81.37(249A)	Action when there is no immediate jeopardy
81.38(249A)	Action when there is repeated substandard quality of care
81.39(249A)	Temporary management
81.40(249A)	Denial of payment for all new admissions
81.41(249A)	Secretarial authority to deny all payments
81.42(249A)	State monitoring

81.43(249A) Directed plan of correction
81.44(249A) Directed in-service training
81.45(249A) Closure of a facility or transfer of residents, or both
81.46(249A) Civil money penalties—basis for imposing penalty
81.47(249A) Civil money penalties—when penalty is collected
81.48(249A) Civil money penalties—notice of penalty
81.49(249A) Civil money penalties—waiver of hearing, reduction of penalty amount
81.50(249A) Civil money penalties—amount of penalty
81.51(249A) Civil money penalties—effective date and duration of penalty
81.52(249A) Civil money penalties—due date for payment of penalty
81.53(249A) Use of penalties collected by the department
81.54(249A) Continuation of payments to a facility with deficiencies
81.55(249A) State and federal disagreements involving findings not in agreement when there is no immediate jeopardy
81.56(249A) Duration of remedies
81.57(249A) Termination of provider agreement

CHAPTER 82
INTERMEDIATE CARE FACILITIES FOR PERSONS
WITH AN INTELLECTUAL DISABILITY

82.1(249A) Definition
82.2(249A) Licensing and certification
82.3(249A) Conditions of participation for intermediate care facilities for persons with an intellectual disability
82.4 Reserved
82.5(249A) Financial and statistical report
82.6(249A) Eligibility for services
82.7(249A) Initial approval for ICF/ID care
82.8(249A) Determination of need for continued stay
82.9(249A) Arrangements with residents
82.10(249A) Discharge and transfer
82.11(249A) Continued stay review
82.12(249A) Quality of care review
82.13(249A) Records
82.14(249A) Payment procedures
82.15(249A) Billing procedures
82.16(249A) Closing of facility
82.17(249A) Audits
82.18(249A) Out-of-state facilities
82.19(249A) State-funded personal needs supplement

CHAPTER 83
MEDICAID WAIVER SERVICES

DIVISION I—HCBS HEALTH AND DISABILITY WAIVER SERVICES

83.1(249A) Definitions
83.2(249A) Eligibility
83.3(249A) Application
83.4(249A) Financial participation
83.5(249A) Redetermination
83.6(249A) Allowable services
83.7(249A) Service plan
83.8(249A) Adverse service actions

83.9(249A) Appeal rights
83.10 to 83.20 Reserved

DIVISION II—HCBS ELDERLY WAIVER SERVICES

83.21(249A) Definitions
83.22(249A) Eligibility
83.23(249A) Application
83.24(249A) Client participation
83.25(249A) Redetermination
83.26(249A) Allowable services
83.27(249A) Service plan
83.28(249A) Adverse service actions
83.29(249A) Appeal rights
83.30(249A) Enhanced services
83.31 to 83.40 Reserved

DIVISION III—HCBS AIDS/HIV WAIVER SERVICES

83.41(249A) Definitions
83.42(249A) Eligibility
83.43(249A) Application
83.44(249A) Financial participation
83.45(249A) Redetermination
83.46(249A) Allowable services
83.47(249A) Service plan
83.48(249A) Adverse service actions
83.49(249A) Appeal rights
83.50 to 83.59 Reserved

DIVISION IV—HCBS INTELLECTUAL DISABILITY WAIVER SERVICES

83.60(249A) Definitions
83.61(249A) Eligibility
83.62(249A) Application
83.63(249A) Client participation
83.64(249A) Redetermination
83.65 Reserved
83.66(249A) Allowable services
83.67(249A) Service plan
83.68(249A) Adverse service actions
83.69(249A) Appeal rights
83.70 and 83.71 Reserved
83.72(249A) Rent subsidy program
83.73 to 83.80 Reserved

DIVISION V—BRAIN INJURY WAIVER SERVICES

83.81(249A) Definitions
83.82(249A) Eligibility
83.83(249A) Application
83.84(249A) Client participation
83.85(249A) Redetermination
83.86(249A) Allowable services
83.87(249A) Service plan
83.88(249A) Adverse service actions
83.89(249A) Appeal rights
83.90 to 83.100 Reserved

DIVISION VI—PHYSICAL DISABILITY WAIVER SERVICES

83.101(249A) Definitions
83.102(249A) Eligibility
83.103(249A) Application
83.104(249A) Client participation
83.105(249A) Redetermination
83.106(249A) Allowable services
83.107(249A) Individual service plan
83.108(249A) Adverse service actions
83.109(249A) Appeal rights
83.110 to 83.120 Reserved

DIVISION VII—HCBS CHILDREN'S MENTAL HEALTH WAIVER SERVICES

83.121(249A) Definitions
83.122(249A) Eligibility
83.123(249A) Application
83.124(249A) Financial participation
83.125(249A) Redetermination
83.126(249A) Allowable services
83.127(249A) Service plan
83.128(249A) Adverse service actions
83.129(249A) Appeal rights

CHAPTER 84
EARLY AND PERIODIC SCREENING, DIAGNOSIS, AND TREATMENT

84.1(249A) Definitions
84.2(249A) Eligibility
84.3(249A) Screening services
84.4(249A) Referral
84.5(249A) Follow up

CHAPTER 85
SERVICES IN PSYCHIATRIC INSTITUTIONS

DIVISION I
PSYCHIATRIC HOSPITALS

85.1(249A) Acute care in psychiatric hospitals
85.2(249A) Out-of-state placement
85.3(249A) Eligibility of persons under the age of 21
85.4(249A) Eligibility of persons aged 65 and over
85.5(249A) Client participation
85.6(249A) Responsibilities of hospitals
85.7(249A) Psychiatric hospital reimbursement
85.8(249A,81GA,ch167) Eligibility of persons aged 21 through 64
85.9 to 85.20 Reserved

DIVISION II
PSYCHIATRIC MEDICAL INSTITUTIONS FOR CHILDREN

85.21(249A) Conditions for participation
85.22(249A) Eligibility of persons under the age of 21
85.23(249A) Client participation
85.24(249A) Responsibilities of facilities
85.25(249A) Reimbursement to psychiatric medical institutions for children
85.26(249A) Outpatient day treatment for persons aged 20 or under
85.27 to 85.40 Reserved

DIVISION III
NURSING FACILITIES FOR PERSONS WITH MENTAL ILLNESS

85.41(249A) Conditions of participation
85.42(249A) Out-of-state placement
85.43(249A) Eligibility of persons aged 65 and over
85.44(249A) Client participation
85.45(249A) Responsibilities of nursing facility
85.46(249A) Policies governing reimbursement
85.47(249A) State-funded personal needs supplement

CHAPTER 86
HEALTHY AND WELL KIDS IN IOWA (HAWK-I) PROGRAM

86.1(514I) Definitions
86.2(514I) Eligibility factors
86.3(514I) Application process
86.4(514I) Coordination with Medicaid
86.5(514I) Effective date of coverage
86.6(514I) Selection of a plan
86.7(514I) Cancellation
86.8(514I) Premiums and copayments
86.9(514I) Annual reviews of eligibility
86.10(514I) Reporting changes
86.11(514I) Notice requirements
86.12(514I) Appeals and fair hearings
86.13(514I) Third-party administrator
86.14(514I) Covered services
86.15(514I) Participating health and dental plans
86.16(514I) Clinical advisory committee
86.17(514I) Use of donations to the HAWK-I program
86.18(505) Health insurance data match program
86.19(514I) Recovery
86.20(514I) Supplemental dental-only coverage

CHAPTER 87
STATE-FUNDED FAMILY PLANNING PROGRAM

87.1(82GA,ch1187) Definitions
87.2(82GA,ch1187) Eligibility
87.3(82GA,ch1187) Application
87.4(82GA,ch1187) Effective date
87.5(82GA,ch1187) Period of eligibility and reapplication
87.6(82GA,ch1187) Reporting changes
87.7(82GA,ch1187) Allocation of funds
87.8(82GA,ch1187) Availability of services
87.9(82GA,ch1187) Payment of covered services
87.10(82GA,ch1187) Submission of claims

CHAPTER 88
MANAGED HEALTH CARE PROVIDERS

DIVISION I
HEALTH MAINTENANCE ORGANIZATION

88.1(249A) Definitions
88.2(249A) Participation
88.3(249A) Enrollment

88.4(249A) Disenrollment
88.5(249A) Covered services
88.6(249A) Emergency and urgent care services
88.7(249A) Access to service
88.8(249A) Grievance procedures
88.9(249A) Records and reports
88.10(249A) Marketing
88.11(249A) Patient education
88.12(249A) Reimbursement
88.13(249A) Quality assurance
88.14(249A) Contracts with federally qualified health centers (FQHCs) and rural health clinics (RHCs)
88.15 to 88.20 Reserved

DIVISION II
PREPAID HEALTH PLANS

88.21(249A) Definitions
88.22(249A) Participation
88.23(249A) Enrollment
88.24(249A) Disenrollment
88.25(249A) Covered services
88.26(249A) Emergency services
88.27(249A) Access to service
88.28(249A) Grievance procedures
88.29(249A) Records and reports
88.30(249A) Marketing
88.31(249A) Patient education
88.32(249A) Payment to the PHP
88.33(249A) Quality assurance
88.34 to 88.40 Reserved

DIVISION III
MEDICAID PATIENT MANAGEMENT

88.41(249A) Definitions
88.42(249A) Eligible recipients
88.43(249A) Project area
88.44(249A) Eligible providers
88.45(249A) Contracting for the provision of patient management
88.46(249A) Enrollment and changes in enrollment
88.47(249A) Disenrollment
88.48(249A) Services
88.49(249A) Grievance procedure
88.50(249A) Payment
88.51(249A) Utilization review and quality assessment
88.52(249A) Marketing
88.53 to 88.60 Reserved

DIVISION IV
IOWA PLAN FOR BEHAVIORAL HEALTH

88.61(249A) Definitions
88.62(249A) Participation
88.63(249A) Enrollment
88.64(249A) Disenrollment
88.65(249A) Covered services

88.66(249A) Emergency services
88.67(249A) Access to service
88.68(249A) Review of contractor decisions and actions
88.69(249A) Records and reports
88.70(249A) Marketing
88.71(249A) Enrollee education
88.72(249A) Payment to the contractor
88.73(249A) Claims payment
88.74(249A) Quality assurance
88.75(249A) Iowa Plan advisory committee
88.76 to 88.80 Reserved

DIVISION V
PROGRAMS OF ALL-INCLUSIVE CARE FOR THE ELDERLY

88.81(249A) Scope and definitions
88.82(249A) PACE organization application and waiver process
88.83(249A) PACE program agreement
88.84(249A) Enrollment and disenrollment
88.85(249A) Program services
88.86(249A) Access to PACE services
88.87(249A) Program administrative requirements
88.88(249A) Payment

CHAPTER 89
DEBTS DUE FROM TRANSFERS OF ASSETS

89.1(249F) Definitions
89.2(249F) Creation of debt
89.3(249F) Exceptions
89.4(249F) Presumption of intent
89.5(249F) Notice of debt
89.6(249F) No timely request of a hearing
89.7(249F) Timely request for a hearing
89.8(249F) Department-requested hearing
89.9(249F) Filing and docketing of the order
89.10(249F) Exemption from Iowa Code chapter 17A

CHAPTER 90
TARGETED CASE MANAGEMENT

90.1(249A) Definitions
90.2(249A) Eligibility
90.3(249A) Determination of need for service
90.4(249A) Application
90.5(249A) Service provision
90.6(249A) Terminating services
90.7(249A) Appeal rights
90.8(249A) Provider requirements

CHAPTER 91
MEDICARE DRUG SUBSIDY

91.1(249A) Definitions
91.2(249A) Application
91.3(249A) Eligibility determination
91.4(249A) Notice of decision
91.5(249A) Effective date

91.6(249A) Changes in circumstances
91.7(249A) Reinvestigation
91.8(249A) Appeals

CHAPTER 92
IOWACARE

92.1(249A,249J) Definitions
92.2(249A,249J) Eligibility
92.3(249A,249J) Application
92.4(249A,249J) Application processing
92.5(249A,249J) Determining income eligibility
92.6(249A,249J) Effective date
92.7(249A,249J) Financial participation
92.8(249A,249J) Benefits
92.9(249A,249J) Claims and reimbursement methodologies
92.10(249A,249J) Reporting changes
92.11(249A,249J) Reapplication
92.12(249A,249J) Terminating eligibility
92.13(249A,249J) Recovery
92.14(249A,249J) Discontinuance of the program
92.15(249A,249J) Right to appeal

TITLE IX
WORK INCENTIVE DEMONSTRATION

CHAPTER 93
PROMISE JOBS PROGRAM

93.1(239B) Definitions
93.2(239B) Program administration
93.3(239B) Registration and referral
93.4(239B) The family investment agreement (FIA)
93.5(239B) Assessment
93.6(239B) Job readiness and job search activities
93.7(239B) Work activities
93.8(239B) Education and training activities
93.9(239B) Other FIA activities
93.10(239B) Required documentation and verification
93.11(239B) Supportive payments
93.12(239B) Recovery of PROMISE JOBS expense payments
93.13(239B) Resolution of participation issues
93.14(239B) Problems that may provide good cause for participation issues
93.15(239B) Right of appeal
93.16(239B) Resolution of a limited benefit plan
93.17(239B) Worker displacement grievance procedure

CHAPTER 94
Reserved

TITLE X
SUPPORT RECOVERY

CHAPTER 95
COLLECTIONS

95.1(252B) Definitions
95.2(252B) Child support recovery eligibility and services

95.3(252B) Crediting of current and delinquent support
95.4(252B) Prepayment of support
95.5(252B) Lump sum settlement
95.6(252B) Offset against state income tax refund or rebate
95.7(252B) Offset against federal income tax refund and federal nontax payment
95.8(96) Child support offset of unemployment insurance benefits
95.9 to 95.11 Reserved
95.12(252B) Procedures for providing information to consumer reporting agencies
95.13(17A) Appeals
95.14(252B) Termination of services
95.15(252B) Child support recovery unit attorney
95.16(252B) Handling and use of federal 1099 information
95.17(252B) Effective date of support
95.18(252B) Continued services available to canceled family investment program (FIP) or Medicaid recipients
95.19(252B) Cooperation of public assistance recipients in establishing and obtaining support
95.20(252B) Cooperation of public assistance applicants in establishing and obtaining support
95.21(252B) Cooperation in establishing and obtaining support in nonpublic assistance cases
95.22(252B) Charging pass-through fees
95.23(252B) Reimbursing assistance with collections of assigned support
95.24(252B) Child support account
95.25(252B) Emancipation verification

CHAPTER 96
INFORMATION AND RECORDS

96.1(252B) Access to information and records from other sources
96.2(252B) Refusal to comply with written request or subpoena
96.3(252B) Procedure for refusal
96.4(252B) Conference conducted
96.5(252B) Fine assessed
96.6(252B) Objection to fine or failure to pay

CHAPTER 97
COLLECTION SERVICES CENTER

97.1(252B) Definitions
97.2(252B) Transfer of records and payments
97.3(252B) Support payment records
97.4(252B) Method of payment
97.5(252D) Electronic transmission of payments
97.6(252B) Authorization of payment
97.7(252B) Processing misdirected payments

CHAPTER 98
SUPPORT ENFORCEMENT SERVICES

DIVISION I
MEDICAL SUPPORT ENFORCEMENT

98.1(252E) Definitions
98.2(252E) Provision of services
98.3(252E) Establishing medical support
98.4(252E) Accessibility of the health benefit plan
98.5(252E) Health benefit plan information
98.6(252E) Insurer authorization
98.7(252E) Enforcement

98.8(252E) Contesting the order
98.9 to 98.20 Reserved

DIVISION II
INCOME WITHHOLDING
PART A
DELINQUENT SUPPORT PAYMENTS

98.21(252D) When applicable
98.22 and 98.23 Reserved
98.24(252D) Amount of withholding
98.25 to 98.30 Reserved

PART B
IMMEDIATE INCOME WITHHOLDING

98.31(252D) Effective date
98.32(252D) Withholding automatic
98.33 Reserved
98.34(252D) Approval of request for immediate income withholding
98.35(252D) Modification or termination of withholding
98.36(252D) Immediate income withholding amounts
98.37(252D) Immediate income withholding amounts when current support has ended
98.38 Reserved

PART C
INCOME WITHHOLDING—GENERAL PROVISIONS

98.39(252D,252E) Provisions for medical support
98.40(252D,252E) Maximum amounts to be withheld
98.41(252D) Multiple obligations
98.42(252D) Notice to employer and obligor
98.43(252D) Contesting the withholding
98.44(252D) Termination of order
98.45(252D) Modification of income withholding
98.46(252D) Refunds of amounts improperly withheld
98.47(252D) Additional information about hardship
98.48 to 98.50 Reserved

DIVISION III
REVIEW AND ADJUSTMENT OF CHILD SUPPORT OBLIGATIONS

98.51 to 98.60 Reserved

DIVISION IV
PUBLICATION OF NAMES

98.61(252B) List for publication
98.62(252B) Releasing the list
98.63 to 98.70 Reserved

DIVISION V
ADMINISTRATIVE SEEK EMPLOYMENT ORDERS

98.71(252B) Seek employment order
98.72(252B) Effective date of order
98.73(252B) Method and requirements of reporting
98.74(252B) Reasons for noncompliance
98.75(252B) Method of service
98.76(252B) Duration of order
98.77 to 98.80 Reserved

DIVISION VI
DEBTOR OFFSET

98.81(252B) Offset against payment owed to a person by a state agency
98.82 to 98.90 Reserved

DIVISION VII
ADMINISTRATIVE LEVY

98.91(252I) Administrative levy
98.92 Reserved
98.93(252I) Verification of accounts
98.94(252I) Notice to financial institution
98.95(252I) Notice to support obligor
98.96(252I) Responsibilities of financial institution
98.97(252I) Challenging the administrative levy
98.98 to 98.100 Reserved

DIVISION VIII
LICENSE SANCTION

98.101(252J) Referral for license sanction
98.102(252J) Reasons for exemption
98.103(252J) Notice of potential sanction of license
98.104(252J) Conference
98.105(252J) Payment agreement
98.106(252J) Staying the process due to full payment of support
98.107(252J) Duration of license sanction
98.108 to 98.120 Reserved

DIVISION IX
EXTERNAL ENFORCEMENT

98.121(252B) Difficult-to-collect arrearages
98.122(252B) Enforcement services by private attorney entitled to state compensation

CHAPTER 99
SUPPORT ESTABLISHMENT AND ADJUSTMENT SERVICES

DIVISION I
CHILD SUPPORT GUIDELINES

99.1(234,252B,252H) Income considered
99.2(234,252B) Allowable deductions
99.3(234,252B) Determining net income
99.4(234,252B) Applying the guidelines
99.5(234,252B) Deviation from guidelines
99.6 to 99.9 Reserved

DIVISION II
PATERNITY ESTABLISHMENT
PART A
JUDICIAL PATERNITY ESTABLISHMENT

99.10(252A) Temporary support
99.11 to 99.20 Reserved

PART B
ADMINISTRATIVE PATERNITY ESTABLISHMENT

99.21(252F) When paternity may be established administratively
99.22(252F) Mother's certified statement
99.23(252F) Notice of alleged paternity and support debt
99.24(252F) Conference to discuss paternity and support issues
99.25(252F) Amount of support obligation

99.26(252F) Court hearing
99.27(252F) Paternity contested
99.28(252F) Paternity test results challenge
99.29(252F) Agreement to entry of paternity and support order
99.30(252F) Entry of order establishing paternity only
99.31(252F) Exception to time limit
99.32(252F) Genetic test costs assessed
99.33 to 99.35 Reserved

PART C
PATERNITY DISESTABLISHMENT

99.36(598,600B) Definitions
99.37(598,600B) Communication between parents
99.38(598,600B) Continuation of enforcement
99.39(598,600B) Satisfaction of accrued support
99.40 Reserved

DIVISION III
ADMINISTRATIVE ESTABLISHMENT OF SUPPORT

99.41(252C) Establishment of an administrative order
99.42 to 99.60 Reserved

DIVISION IV
REVIEW AND ADJUSTMENT OF CHILD SUPPORT OBLIGATIONS

99.61(252B,252H) Definitions
99.62(252B,252H) Review of permanent child support obligations
99.63(252B,252H) Notice requirements
99.64(252B,252H) Financial information
99.65(252B,252H) Review and adjustment of a child support obligation
99.66(252B,252H) Medical support
99.67(252B,252H) Confidentiality of financial information
99.68(252B,252H) Payment of service fees and other court costs
99.69(252B,252H) Denying requests
99.70(252B,252H) Withdrawing requests
99.71(252H) Effective date of adjustment
99.72 to 99.80 Reserved

DIVISION V
ADMINISTRATIVE MODIFICATION

99.81(252H) Definitions
99.82(252H) Availability of service
99.83(252H) Modification of child support obligations
99.84(252H) Notice requirements
99.85(252H) Financial information
99.86(252H) Challenges to the proposed modification action
99.87(252H) Voluntary reduction of income
99.88(252H) Effective date of modification
99.89(252H) Confidentiality of financial information
99.90(252H) Payment of fees
99.91(252H) Denying requests
99.92(252H) Withdrawing requests
99.93 to 99.100 Reserved

DIVISION VI
SUSPENSION AND REINSTATEMENT OF SUPPORT

99.101(252B) Definitions
99.102(252B) Availability of service
99.103(252B) Basis for suspension of support
99.104(252B) Request for assistance to suspend
99.105(252B) Order suspending support
99.106(252B) Suspension of enforcement of current support
99.107(252B) Request for reinstatement
99.108(252B) Reinstatement
99.109(252B) Reinstatement of enforcement of support
99.110(252B) Temporary suspension becomes final

CHAPTER 100
CHILD SUPPORT PARENTAL OBLIGATION PILOT PROJECTS

100.1(17A,80GA,HF667) Definitions
100.2(17A,80GA,HF667) Incentives
100.3(17A,80GA,HF667) Application to be a funded pilot project
100.4(17A,80GA,HF667) Selection of projects
100.5(17A,80GA,HF667) Termination of pilot projects
100.6(17A,80GA,HF667) Reports and records
100.7(17A,80GA,HF667) Appeals
100.8(17A,80GA,HF667) Continued application of rules and sunset provisions

TITLE XI
CHILDREN'S INSTITUTIONS

CHAPTER 101
IOWA JUVENILE HOME

101.1(218) Definitions
101.2(218) Standards
101.3(218) Admission
101.4(218) Plan of care
101.5(218) Communication with individuals
101.6(218) Photographing and recording of individuals
101.7(218) Employment of individual
101.8(218) Temporary home visits
101.9(218) Grievances
101.10(218) Alleged child abuse
101.11(233B) Cost of care
101.12(218) Buildings and grounds
101.13(8,218) Gifts and bequests

CHAPTER 102
Reserved

CHAPTER 103
STATE TRAINING SCHOOL

103.1(218) Definitions
103.2(218) Admission
103.3(218) Plan of care
103.4(218) Communication with individuals
103.5(218) Photographing and recording of individuals
103.6(218) Employment of individual

103.7(218) Temporary home visits
103.8(218) Grievances
103.9(692A) Sex offender registration
103.10(218) Alleged child abuse
103.11(233A) Cost of care
103.12(218) Buildings and grounds
103.13(8,218) Gifts and bequests

CHAPTER 104
Reserved

TITLE XII
LICENSING AND APPROVED STANDARDS

CHAPTER 105
JUVENILE DETENTION
AND SHELTER CARE HOMES

105.1(232) Definitions
105.2(232) Buildings and grounds
105.3(232) Personnel policies
105.4(232) Procedures manual
105.5(232) Staff
105.6(232) Intake procedures
105.7(232) Assessments
105.8(232) Program services
105.9(232) Medication management and administration
105.10(232) Control room—juvenile detention home only
105.11(232) Clothing
105.12(232) Staffings
105.13(232) Child abuse
105.14(232) Daily log
105.15(232) Children's rights
105.16(232) Discipline
105.17(232) Case files
105.18(232) Discharge
105.19(232) Approval
105.20(232) Provisional approval
105.21(232) Mechanical restraint—juvenile detention only
105.22(232) Chemical restraint

CHAPTER 106
SAFETY STANDARDS FOR CHILDREN'S CENTERS

106.1(237B) Definitions
106.2(237B) Application of the standards
106.3(237B) Providing for basic needs
106.4(237B) Protection from mistreatment, physical abuse, sexual abuse, and neglect
106.5(237B) Record checks
106.6(237B) Seclusion and restraints
106.7(237B) Health
106.8(237B) Safety
106.9(237B) Emergencies
106.10(237B) Buildings

CHAPTER 107
CERTIFICATION OF ADOPTION INVESTIGATORS

107.1(600) Introduction
107.2(600) Definitions
107.3(600) Application
107.4(600) Requirements for certification
107.5(600) Granting, denial, or revocation of certification
107.6(600) Certificate
107.7(600) Renewal of certification
107.8(600) Investigative services
107.9(600) International adoptions postplacement report
107.10(600) Retention of adoption records
107.11(600) Reporting of violations
107.12(600) Appeals

CHAPTER 108
LICENSING AND REGULATION OF CHILD-PLACING AGENCIES

108.1(238) Definitions
108.2(238) Licensing procedure
108.3(238) Administration and organization
108.4(238) Staff qualifications
108.5(238) Staffing requirements
108.6(238) Personnel administration
108.7(238) Foster care services
108.8(238) Foster home studies
108.9(238) Adoption services
108.10(238) Supervised apartment living placement services

CHAPTER 109
CHILD CARE CENTERS

109.1(237A) Definitions
109.2(237A) Licensure procedures
109.3(237A) Inspection and evaluation
109.4(237A) Administration
109.5(237A) Parental participation
109.6(237A) Personnel
109.7(237A) Professional growth and development
109.8(237A) Staff ratio requirements
109.9(237A) Records
109.10(237A) Health and safety policies
109.11(237A) Physical facilities
109.12(237A) Activity program requirements
109.13(237A) Extended evening care
109.14(237A) Get-well center
109.15(237A) Food services

CHAPTER 110
CHILD DEVELOPMENT HOMES

110.1(237A) Definitions
110.2(237A) Application for registration
110.3(237A) Renewal
110.4(237A) Number of children
110.5(237A) Standards

110.6(237A) Compliance checks
110.7(234) Registration decision
110.8(237A) Additional requirements for child development home category A
110.9(237A) Additional requirements for child development home category B
110.10(237A) Additional requirements for child development home category C
110.11(237A) Complaints
110.12(237A) Registration actions for nonpayment of child support
110.13(237A) Transition exception
110.14(237A) Prohibition from involvement with child care

CHAPTER 111
FAMILY-LIFE HOMES

111.1(249) Definitions
111.2(249) Application for certification
111.3(249) Provisions pertaining to the certificate
111.4(249) Physical standards
111.5(249) Personal characteristics of family-life home family
111.6(249) Health of family
111.7(249) Planned activities and personal effects
111.8(249) Client eligibility
111.9(249) Medical examinations, records, and care of a client
111.10(249) Placement agreement
111.11(249) Legal liabilities
111.12(249) Emergency care and release of client
111.13(249) Information about client to be confidential

CHAPTER 112
LICENSING AND REGULATION OF CHILD FOSTER CARE FACILITIES

112.1(237) Applicability
112.2(237) Definitions
112.3(237) Application for license
112.4(237) License
112.5(237) Denial
112.6(237) Revocation
112.7(237) Provisional license
112.8(237) Adverse actions
112.9(237) Suspension
112.10(232) Mandatory reporting of child abuse

CHAPTER 113
LICENSING AND REGULATION OF FOSTER FAMILY HOMES

113.1(237) Applicability
113.2(237) Definitions
113.3(237) Licensing procedure
113.4(237) Provisions pertaining to the license
113.5(237) Physical standards
113.6(237) Sanitation, water, and waste disposal
113.7(237) Safety
113.8(237) Foster parent training
113.9(237) Involvement of kin
113.10(237) Information on the foster child
113.11(237) Health of foster family
113.12(237) Characteristics of foster parents

113.13(237) Record checks
113.14(237) Reference checks
113.15(237) Unannounced visits
113.16(237) Planned activities and personal effects
113.17(237) Medical examinations and health care of the child
113.18(237) Training and discipline of foster children
113.19(237) Emergency care and release of children
113.20(237) Changes in foster family home

CHAPTER 114
LICENSING AND REGULATION OF ALL
GROUP LIVING FOSTER CARE FACILITIES FOR CHILDREN

114.1(237) Applicability
114.2(237) Definitions
114.3(237) Physical standards
114.4(237) Sanitation, water, and waste disposal
114.5(237) Safety
114.6(237) Organization and administration
114.7(237) Policies and record-keeping requirements
114.8(237) Staff
114.9(237) Intake procedures
114.10(237) Program services
114.11(237) Case files
114.12(237) Drug utilization and control
114.13(237) Children's rights
114.14(237) Personal possessions
114.15(237) Religion—culture
114.16(237) Work or vocational experiences
114.17(237) Family involvement
114.18(237) Children's money
114.19(237) Child abuse
114.20(237) Discipline
114.21(237) Illness, accident, death, or absence from the facility
114.22(237) Records
114.23(237) Unannounced visits
114.24(237) Standards for private juvenile shelter care and detention homes

CHAPTER 115
LICENSING AND REGULATION OF
COMPREHENSIVE RESIDENTIAL FACILITIES FOR CHILDREN

115.1(237) Applicability
115.2(237) Definitions
115.3(237) Information upon admission
115.4(237) Staff
115.5(237) Program services
115.6(237) Restraints
115.7(237) Control room
115.8(237) Locked cottages
115.9(237) Mechanical restraint
115.10(237) Chemical restraint

CHAPTER 116
LICENSING AND REGULATION OF RESIDENTIAL FACILITIES
FOR MENTALLY RETARDED CHILDREN

116.1(237) Applicability
116.2(237) Definitions
116.3(237) Qualifications of staff
116.4(237) Staff to client ratio
116.5(237) Program components
116.6(237) Restraint

CHAPTER 117
FOSTER PARENT TRAINING

117.1(237) Required preservice training
117.2(237) Required orientation
117.3(237) Application materials for in-service training
117.4(237) Application process for in-service training
117.5(237) Application decisions
117.6(237) Application conference available
117.7(237) Required in-service training
117.8(237) Specific in-service training required
117.9(237) Foster parent training expenses

CHAPTER 118
CHILD CARE QUALITY RATING SYSTEM

118.1(237A) Definitions
118.2(237A) Application for quality rating
118.3(237A) Rating standards for child care centers and preschools (sunsetting on July 31, 2011)
118.4(237A) Rating criteria for child development homes (sunsetting on July 31, 2011)
118.5(237A) Rating standards for child care centers, preschools, and programs operating under the authority of an accredited school district or nonpublic school
118.6(237A) Rating criteria for child development homes
118.7(237A) Award of quality rating
118.8(237A) Adverse actions

CHAPTER 119
RECORD CHECK EVALUATIONS FOR
CERTAIN EMPLOYERS AND EDUCATIONAL TRAINING PROGRAMS

119.1(135B,135C) Definitions
119.2(135B,135C) When record check evaluations are requested
119.3(135C) Request for evaluation
119.4(135B,135C) Completion of evaluation
119.5(135B,135C) Appeal rights

CHAPTERS 120 to 129
Reserved

TITLE XIII
SERVICE ADMINISTRATION

CHAPTER 130
GENERAL PROVISIONS

130.1(234) Definitions
130.2(234) Application
130.3(234) Eligibility

130.4(234) Fees
130.5(234) Adverse service actions
130.6(234) Social casework
130.7(234) Case plan
130.8 Reserved
130.9(234) Entitlement

CHAPTER 131
SOCIAL CASEWORK

131.1(234) Definitions
131.2(234) Eligibility
131.3(234) Service provision
131.4 Reserved
131.5(234) Adverse actions

CHAPTER 132
Reserved

CHAPTER 133
IV-A EMERGENCY ASSISTANCE PROGRAM

133.1(235) Definitions
133.2(235) Application
133.3(235) Eligibility
133.4(235) Method of service provision
133.5(235) Duration of services
133.6(235) Discontinuance of the program

CHAPTERS 134 to 141
Reserved

CHAPTER 142
INTERSTATE COMPACT ON THE PLACEMENT OF CHILDREN

142.1(238) Compact agreement
142.2(238) Compact administrator
142.3(238) Article II(d)
142.4(238) Article III(a)
142.5(238) Article III(a) procedures
142.6(238) Article III(c)
142.7(238) Article VIII(a)
142.8(238) Applicability

CHAPTER 143
INTERSTATE COMPACT ON JUVENILES

143.1(232) Compact agreement
143.2(232) Compact administrator
143.3(232) Sending a juvenile out of Iowa under the compact
143.4(232) Receiving cases in Iowa under the interstate compact
143.5(232) Runaways

CHAPTERS 144 to 149
Reserved

TITLE XIV
GRANT/CONTRACT/PAYMENT ADMINISTRATION

CHAPTER 150
PURCHASE OF SERVICE

DIVISION I
TERMS AND CONDITIONS FOR IOWA PURCHASE OF SOCIAL SERVICES AGENCY AND INDIVIDUAL CONTRACTS, IOWA PURCHASE OF ADMINISTRATIVE SUPPORT, AND IOWA DONATIONS OF FUNDS CONTRACT AND PROVISIONS FOR PUBLIC ACCESS TO CONTRACTS

150.1(234)	Definitions
150.2(234)	Categories of contracts
150.3(234)	Iowa purchase of social services agency contract
150.4(234)	Iowa purchase of social services contract—individual providers
150.5(234)	Iowa purchase of administrative support
150.6 to 150.8	Reserved
150.9(234)	Public access to contracts

CHAPTER 151
JUVENILE COURT SERVICES DIRECTED PROGRAMS

DIVISION I
GENERAL PROVISIONS

151.1(232)	Definitions
151.2(232)	Administration of funds for court-ordered services and graduated sanction services
151.3(232)	Administration of juvenile court services programs within each judicial district
151.4(232)	Billing and payment
151.5(232)	Appeals
151.6(232)	District program reviews and audits
151.7 to 151.19	Reserved

DIVISION II
COURT-ORDERED SERVICES

151.20(232)	Juvenile court services responsibilities
151.21(232)	Certification process
151.22(232)	Expenses
151.23 to 151.29	Reserved

DIVISION III
GRADUATED SANCTION SERVICES

151.30(232)	Life skills
151.31(232)	School-based supervision
151.32(232)	Supervised community treatment
151.33(232)	Tracking, monitoring, and outreach
151.34(232)	Administration of graduated sanction services
151.35(232)	Contract development for graduated sanction services

CHAPTER 152
FOSTER GROUP CARE CONTRACTING

152.1(234)	Definitions
152.2(234)	Conditions of participation
152.3(234)	Determination of rates
152.4(234)	Initiation of contract proposal
152.5(234)	Contract
152.6(234)	Client eligibility and referral
152.7(234)	Billing procedures
152.8(234)	Contract management

152.9(234) Provider reviews
152.10(234) Sanctions against providers
152.11(234) Appeals of departmental actions

CHAPTER 153
FUNDING FOR LOCAL SERVICES

DIVISION I
SOCIAL SERVICES BLOCK GRANT

153.1(234) Definitions
153.2(234) Development of preexpenditure report
153.3(234) Amendment to preexpenditure report
153.4(234) Service availability
153.5(234) Allocation of block grant funds
153.6 and 153.7 Reserved
153.8(234) Expenditure of supplemental funds
153.9 and 153.10 Reserved

DIVISION II
DECATEGORIZATION OF CHILD WELFARE AND JUVENILE JUSTICE FUNDING

153.11(232) Definitions
153.12(232) Implementation requirements
153.13(232) Role and responsibilities of decategorization project governance boards
153.14(232) Realignment of decategorization project boundaries
153.15(232) Decategorization services funding pool
153.16(232) Relationship of decategorization funding pool to other department child welfare funding
153.17(232) Relationship of decategorization funding pool to juvenile court services funding streams
153.18(232) Requirements for annual services plan
153.19(232) Requirements for annual progress report
153.20 to 153.30 Reserved

DIVISION III
MENTAL ILLNESS, MENTAL RETARDATION, AND DEVELOPMENTAL DISABILITIES—LOCAL SERVICES

153.31 to 153.50 Reserved

DIVISION IV
STATE PAYMENT PROGRAM FOR LOCAL MENTAL HEALTH, MENTAL RETARDATION, AND DEVELOPMENTAL DISABILITIES SERVICES TO ADULTS WITHOUT LEGAL SETTLEMENT

153.51(331) Definitions
153.52(331) Eligibility requirements
153.53(331) Application procedure
153.54(331) Eligibility determination
153.55(331) Eligible services
153.56(331) Program administration
153.57(331) Reduction, denial, or termination of benefits
153.58(331) Appeals

CHAPTER 154
Reserved

CHAPTER 155
CHILD ABUSE PREVENTION PROGRAM

155.1(235A) Definitions
155.2(235A) Contract for program administration
155.3(235A) Awarding of grants

CHAPTER 156
PAYMENTS FOR FOSTER CARE

156.1(234) Definitions
156.2(234) Foster care recovery
156.3 to 156.5 Reserved
156.6(234) Rate of maintenance payment for foster family care
156.7 Reserved
156.8(234) Additional payments
156.9(234) Rate of payment for foster group care
156.10(234) Payment for reserve bed days
156.11(234) Emergency care
156.12(234) Supervised apartment living
156.13 Reserved
156.14(234,252C) Voluntary placements
156.15(234) Child's earnings
156.16(234) Trust funds and investments
156.17(234) Preadoptive homes
156.18 Reserved
156.19(237) Rate of payment for care in a residential care facility
156.20(234) Eligibility for foster care payment

CHAPTER 157
Reserved

CHAPTER 158
FOSTER HOME INSURANCE FUND

158.1(237) Payments from the foster home insurance fund
158.2(237) Payment limits
158.3(237) Claim procedures
158.4(237) Time frames for filing claims
158.5(237) Appeals

CHAPTER 159
CHILD CARE RESOURCE AND REFERRAL SERVICES

159.1(237A) Definitions
159.2(237A) Availability of funds
159.3(237A) Participation requirements
159.4(237A) Request for proposals for project grants
159.5(237A) Selection of proposals

CHAPTER 160
ADOPTION OPPORTUNITY GRANT PROGRAM

160.1(234) Definitions
160.2(234) Availability of grant funds
160.3(234) Project eligibility
160.4(234) Request for proposals for project grants
160.5(234) Selection of proposals

160.6(234) Project contracts
160.7(234) Records
160.8(234) Evaluation of projects
160.9(234) Termination
160.10(234) Appeals

CHAPTER 161
IOWA SENIOR LIVING TRUST FUND

161.1(249H) Definitions
161.2(249H) Funding and operation of trust fund
161.3(249H) Allocations from the senior living trust fund
161.4(249H) Participation by government-owned nursing facilities

CHAPTER 162
NURSING FACILITY CONVERSION
AND LONG-TERM CARE SERVICES
DEVELOPMENT GRANTS

162.1(249H) Definitions
162.2(249H) Availability of grants
162.3(249H) Grant eligibility
162.4(249H) Grant application process
162.5(249H) Grant dispersal stages
162.6(249H) Project contracts
162.7(249H) Grantee responsibilities
162.8(249H) Offset
162.9(249H) Appeals

CHAPTER 163
ADOLESCENT PREGNANCY PREVENTION AND SERVICES
TO PREGNANT AND PARENTING ADOLESCENTS
PROGRAMS

163.1(234) Definitions
163.2(234) Availability of grants for projects
163.3(234) Project eligibility
163.4(234) Request for proposals for pilot project grants
163.5(234) Selection of proposals
163.6(234) Project contracts
163.7(234) Records
163.8(234) Evaluation
163.9(234) Termination of contract
163.10(234) Appeals

CHAPTER 164
IOWA HOSPITAL TRUST FUND

164.1(249I) Definitions
164.2(249I) Funding and operation of trust fund
164.3(249I) Allocations from the hospital trust fund
164.4(249I) Participation by public hospitals

CHAPTER 165
Reserved

CHAPTER 166
QUALITY IMPROVEMENT INITIATIVE GRANTS

166.1(249A) Definitions
166.2(249A) Availability of grants
166.3(249A) Requirements for applicants
166.4(249A) Requirements for initiatives
166.5(249A) Applications
166.6(249A) Awarding of grants
166.7(249A) Grant requirements

CHAPTER 167
JUVENILE DETENTION REIMBURSEMENT

DIVISION I
ANNUAL REIMBURSEMENT PROGRAM

167.1(232) Definitions
167.2(232) Availability of funds
167.3(232) Eligible facilities
167.4(232) Available reimbursement
167.5(232) Submission of voucher
167.6(232) Reimbursement by the department

CHAPTER 168
CHILD CARE EXPANSION PROGRAMS

168.1(234) Definitions
168.2(234) Availability of funds
168.3(234) Eligibility requirements
168.4(234) Request for proposals
168.5(234) Selection of proposals
168.6(234) Appeals
168.7(234) Contracts
168.8(234) Reporting requirements
168.9(234) Termination of contract

CHAPTER 169
Reserved

TITLE XV
INDIVIDUAL AND FAMILY SUPPORT AND PROTECTIVE SERVICES

CHAPTER 170
CHILD CARE SERVICES

170.1(237A) Definitions
170.2(237A,239B) Eligibility requirements
170.3(237A,239B) Application and determination of eligibility
170.4(237A) Elements of service provision
170.5(237A) Adverse actions
170.6(237A) Appeals
170.7(237A) Provider fraud
170.8 Reserved
170.9(237A) Child care assistance overpayments

CHAPTER 171
Reserved

CHAPTER 172
FAMILY-CENTERED CHILD WELFARE SERVICES

DIVISION I
GENERAL PROVISIONS

172.1(234)	Definitions
172.2(234)	Purpose and scope
172.3(234)	Authorization
172.4(234)	Reimbursement
172.5(234)	Client appeals
172.6(234)	Reviews and audits
172.7 to 172.9	Reserved

DIVISION II
SAFETY PLAN SERVICES

172.10(234)	Service requirements
172.11(234)	Contractor selection
172.12(234)	Service eligibility
172.13(234)	Service components
172.14(234)	Monitoring of service delivery
172.15(234)	Billing and payment
172.16 to 172.19	Reserved

DIVISION III
FAMILY SAFETY, RISK, AND PERMANENCY SERVICES

172.20(234)	Service requirements
172.21(234)	Contractor selection
172.22(234)	Service eligibility
172.23(234)	Service components
172.24(234)	Monitoring of service delivery
172.25(234)	Billing and payment
172.26 to 172.29	Reserved

DIVISION IV
FAMILY-CENTERED SUPPORTIVE SERVICES

172.30(234)	Service components
172.31(234)	Contractor selection
172.32(234)	Service eligibility
172.33(234)	Monitoring of service delivery
172.34(234)	Billing and payment

CHAPTERS 173 and 174
Reserved

CHAPTER 175
ABUSE OF CHILDREN

DIVISION I
CHILD ABUSE

175.1 to 175.20	Reserved

DIVISION II
CHILD ABUSE ASSESSMENT

175.21(232,235A)	Definitions
175.22(232)	Receipt of a report of suspected child abuse
175.23(232)	Sources of report of suspected child abuse
175.24(232)	Assessment intake process
175.25(232)	Assessment process

175.26(232) Completion of a written assessment report
175.27(232) Contact with juvenile court or the county attorney
175.28(232) Consultation with health practitioners or mental health professionals
175.29(232) Consultation with law enforcement
175.30(232) Information shared with law enforcement
175.31(232) Completion of required correspondence
175.32(232,235A) Case records
175.33(232,235A) Child protection centers
175.34(232) Department-operated facilities
175.35(232,235A) Jurisdiction of assessments
175.36(235A) Multidisciplinary teams
175.37(232) Community education
175.38(235) Written authorizations
175.39(232) Founded child abuse
175.40 Reserved
175.41(235A) Access to child abuse information
175.42(235A) Person conducting research
175.43(235A) Child protection services citizen review panels

CHAPTER 176
DEPENDENT ADULT ABUSE

176.1(235B) Definitions
176.2(235B) Denial of critical care
176.3(235B) Appropriate evaluation
176.4(235B) Reporters
176.5(235B) Reporting procedure
176.6(235B) Duties of the department upon receipt of report
176.7(235B) Appropriate evaluation or assessment
176.8(235B) Immunity from liability for reporters
176.9(235B) Registry records
176.10(235B) Adult abuse information disseminated
176.11(235B) Person conducting research
176.12(235B) Examination of information
176.13(235B) Dependent adult abuse information registry
176.14 Reserved
176.15(235B) Multidisciplinary teams
176.16(235B) Medical and mental health examinations
176.17(235B) Request for correction or expungement

CHAPTER 177
IN-HOME HEALTH RELATED CARE

177.1(249) In-home health related care
177.2(249) Own home
177.3(249) Service criteria
177.4(249) Eligibility
177.5(249) Providers of health care services
177.6(249) Health care plan
177.7(249) Client participation
177.8(249) Determination of reasonable charges
177.9(249) Written agreements
177.10(249) Emergency services
177.11(249) Termination

CHAPTERS 178 to 183
Reserved

CHAPTER 184
INDIVIDUAL AND FAMILY DIRECT SUPPORT

DIVISION I
FAMILY SUPPORT SUBSIDY PROGRAM

184.1(225C)	Definitions
184.2(225C)	Eligibility requirements
184.3(225C)	Application process
184.4(225C)	Family support services plan
184.5	Reserved
184.6(225C)	Amount of subsidy payment
184.7(225C)	Redetermination of eligibility
184.8(225C)	Termination of subsidy payments
184.9(225C)	Appeals
184.10 to 184.20	Reserved

DIVISION II
COMPREHENSIVE FAMILY SUPPORT PROGRAM

184.21(225C)	Definitions
184.22(225C)	Eligibility
184.23(225C)	Application
184.24(225C)	Contractor selection and duties
184.25(225C)	Direct assistance
184.26(225C)	Appeals
184.27(225C)	Parent advisory council

CHAPTER 185
Reserved

CHAPTER 186
COMMUNITY CARE

186.1(234)	Definitions
186.2(234)	Eligibility
186.3(234)	Services provided
186.4(234)	Appeals

CHAPTER 187
AFTERCARE SERVICES AND SUPPORTS

DIVISION I
AFTERCARE SERVICES

187.1(234)	Purpose
187.2(234)	Eligibility
187.3(234)	Services and supports provided
187.4(234)	Termination
187.5(234)	Waiting list
187.6(234)	Administration
187.7 to 187.9	Reserved

DIVISION II
PREPARATION FOR ADULT LIVING (PAL) PROGRAM

187.10(234)	Purpose
187.11(234)	Eligibility
187.12(234)	Payment

187.13(234) Termination of stipend
187.14(234) Waiting list
187.15(234) Administration

CHAPTERS 188 to 199
Reserved

TITLE XVI
ALTERNATIVE LIVING

CHAPTER 200
ADOPTION SERVICES

200.1(600) Definitions
200.2(600) Release of custody services
200.3(600) Application
200.4(600) Adoption services
200.5(600) Termination of parental rights
200.6 and 200.7 Reserved
200.8(600) Interstate placements
200.9 Reserved
200.10(600) Requests for home studies
200.11(600) Reasons for denial
200.12(600) Removal of child from preadoptive family
200.13(600) Consents
200.14(600) Requests for access to information for research or treatment
200.15(600) Requests for information for purposes other than research or treatment
200.16(600) Appeals

CHAPTER 201
SUBSIDIZED ADOPTIONS

201.1(600) Administration
201.2(600) Definitions
201.3(600) Conditions of eligibility or ineligibility
201.4(600) Application
201.5(600) Negotiation of amount of presubsidy or subsidy
201.6(600) Types of subsidy
201.7(600) Termination of subsidy
201.8(600) Reinstatement of subsidy
201.9(600) New application
201.10(600) Medical assistance based on residency
201.11(600) Presubsidy recovery

CHAPTER 202
FOSTER CARE PLACEMENT AND SERVICES

202.1(234) Definitions
202.2(234) Eligibility
202.3(234) Voluntary placements
202.4(234) Selection of facility
202.5(234) Preplacement
202.6(234) Placement
202.7(234) Out-of-area placements
202.8(234) Out-of-state placements
202.9(234) Supervised apartment living
202.10(234) Services to foster parents

202.11(234) Services to the child
202.12(234) Services to parents
202.13(234) Removal of the child
202.14(234) Termination
202.15(234) Case permanency plan
202.16(135H) Department approval of need for a psychiatric medical institution for children
202.17(232) Area group care targets
202.18(235) Local transition committees

CHAPTER 203
IOWA ADOPTION EXCHANGE

203.1(232) Definitions
203.2(232) Children to be registered on the exchange system
203.3(232) Families to be registered on the exchange system
203.4(232) Matching process

CHAPTER 204
SUBSIDIZED GUARDIANSHIP PROGRAM

204.1(234) Definitions
204.2(234) Eligibility
204.3(234) Application
204.4(234) Negotiation of amount of subsidy
204.5(234) Parental liability
204.6(234) Termination of subsidy
204.7(234) Reinstatement of subsidy
204.8(234) Appeals
204.9(234) Medical assistance

CHAPTER 107
CERTIFICATION OF ADOPTION INVESTIGATORS
[Prior to 2/11/87, Human Services[498]]

441—107.1(600) Introduction. Persons with academic qualifications and adoption work experience may be certified by the department to provide adoption preplacement investigations, postplacement supervision, and reports to the court.

441—107.2(600) Definitions.

"Adoption work experience" means supervised employment in adoption services, which includes direct provision of adoption services, developing adoption policies, conducting training related to adoption services, oversight and review of adoption documents and activities, and direct supervision of adoption workers. Only the percent of time related to provision of adoption services shall be considered as adoption work experience when job duties involve activities other than adoption services.

"Certified adoption investigator" means a person authorized by the department to provide background reports on birth parents, adoption preplacement investigations, postplacement supervision, and reports to the court within the state of Iowa.

"Department" means the department of human services.

[**ARC 1754C**, IAB 12/10/14, effective 2/1/15]

441—107.3(600) Application.

107.3(1) *Application form.* Application for certification as an adoption investigator shall be made on Form SS-6105-0, Application for Certification of Adoption Investigator. This form may be obtained from the Division of Adult, Children, and Family Services, Department of Human Services, Hoover State Office Building, Des Moines, Iowa 50319-0114.

107.3(2) *Employees of licensed child placing agencies and the department of human services.* Persons employed as social workers in licensed child placing agencies who meet the requirements for certification in rule 441—107.4(600) are eligible to apply for certification as adoption investigators unless the agency employing them objects in writing. The applicant shall furnish a letter of approval from the agency as part of the certification process.

Persons employed as social workers for the department of human services who meet the requirements for certification in rule 441—107.4(600) are eligible to apply for certification as adoption investigators for services provided outside of their current job duties, unless their current job duties include any of the following:

a. Any of the activities described in rule441—107.8(600).

b. Immediate supervision of employees engaged in activities described in rule 441—107.8(600).

c. Certification of adoption investigators.

d. Placement of children for adoption.

e. Development of adoption policies used in administration of the adoption program.

441—107.4(600) Requirements for certification.

107.4(1) *Office location.* The applicant shall retain an office in Iowa where all Iowa adoption reports and records of fees are maintained and are available for inspection.

107.4(2) *Education and experience.*

a. If the applicant was initially certified as an adoption investigator before October 1, 1991, the applicant shall have one of the following combinations of education and experience:

(1) Graduation from an accredited four-year college or university and adoption work experience equivalent to a total of three years, full-time experience.

(2) A bachelor's degree in social work from an accredited four-year college or university in a program accredited by the council on social work education and adoption work experience equivalent to a total of two years, full-time experience.

(3) A master's degree in social work from an accredited college or university in a program accredited by the council on social work education and adoption work experience equivalent to a total of one year, full-time experience.

b. If the applicant is initially certified as an adoption investigator on or after October 1, 1991, the applicant shall have one of the following combinations of education and experience:

(1) Graduation from an accredited four-year college or university with a bachelor's degree in social work, psychology, counseling, family therapy, family living, or other family-oriented degree and postgraduation adoption work experience equivalent to a total of three years, full-time experience.

(2) Graduate education in a master's program in social work, psychology, counseling, family therapy, family living, or other family-oriented program from an accredited four-year college or university may be substituted for required adoption work experience on the basis of 30 semester hours for one year of full-time experience, for up to two full years of the required three years of adoption work experience.

(3) A master's degree in social work, psychology, counseling, family therapy, family living, or other family-oriented degree from an accredited college or university and postgraduation adoption work experience equivalent to a total of one year, full-time experience.

107.4(3) *Verification of qualifications.*

a. The applicant shall provide a certified transcript of college credits, and

b. The applicant shall provide a record of all adoption work experience including dates and location, and

c. The applicant shall provide the name(s) of employer(s) and supervisor(s) to enable the department to verify the applicant's adoption work experience, and

d. The applicant shall give names of at least two additional persons as character references who shall be contacted by the certifier.

107.4(4) *Statement of activities and duties.* Prior to certification, the applicant shall prepare a written statement identifying the proposed activities, duties and fees of the applicant as a certified adoption investigator.

a. The statement shall indicate that the services described in rule 441—107.8(600) are being provided by the individual investigator, not a child placing agency, and are not provided in the course of the individual investigator's employment with a child placing agency or the department of human services.

b. The activities and duties identified in the statement cannot exceed the scope of an investigator's services as defined in rule 441—107.8(600).

c. The statement shall include the fee schedule to be used in the determination of a charge for investigative services.

d. A copy of the statement shall be provided to the department to be maintained as a public record.

e. Upon request, this statement shall be provided by the investigator to persons requesting services from the investigator.

107.4(5) *Record checks.* The department of inspections and appeals shall submit record checks for each new applicant and those applying for recertification to determine whether they have any founded child abuse reports or convictions or have been placed on the sex offender registry. The department of inspections and appeals shall use Form 470-0643, Request for Child Abuse Information, and Form 595-1396, DHS Criminal History Record Check, Form B for this purpose. The department shall not certify the applicant with a record of founded child abuse, a criminal conviction, or placement on the sex offender registry as an adoption investigator unless evaluation of the founded abuse or crime indicates approval for certification.

The applicant shall complete and return Form 470-2310, Record Check Evaluation, within ten calendar days of the date on the form to be used by the department to assist in the evaluation. Failure of the applicant to complete and return Form 470-2310 within the specified time frame shall result in denial of certification.

The department shall evaluate the nature and seriousness of the founded abuse or crimes, the time elapsed since the commission of the founded abuse or crimes, the circumstances under which the founded

abuse or crime was committed, the degree of rehabilitation, the likelihood that the person will commit the abuse or crime again, and the number of founded abuses or crimes committed by the applicant. The department shall notify the applicant of the results of the evaluation using Form 470-2386, Record Check Decision. The department shall also issue Form 470-2386 when the applicant fails to complete the evaluation form.

Investigators applying for recertification are subject to the same record checks as new applicants. The department shall evaluate only abuses, convictions of crimes, and placement on the sex offender registry since the last record check using the same process.

107.4(6) *Certification actions for nonpayment of child support.* The department shall revoke or deny the issuance or renewal of a certification of an adoption investigator upon the receipt of a certificate of noncompliance from the child support recovery unit of the department according to the procedures in Iowa Code chapter 252J. In addition to the procedures set forth in Iowa Code chapter 252J, the rules in this chapter shall apply.

a. The notice required by Iowa Code section 252J.8 shall be served upon the applicant or certified investigator by restricted certified mail, return receipt requested, or personal service in accordance with Iowa Rules of Civil Procedure 56.1. Alternatively, the applicant or certified investigator may accept service personally or through authorized counsel.

b. The effective date of the revocation or denial of the certification as specified in the notice required by Iowa Code section 252J.8 shall be 60 days following service of the notice upon the applicant or certified investigator.

c. The department director or designee of the director is authorized to prepare and serve the notice as required by Iowa Code section 252J.8 upon the applicant or certified investigator.

d. Applicants and certified investigators shall keep the department informed of all court actions, and all child support recovery unit actions taken under or in connection with Iowa Code chapter 252J, and shall provide the department copies, within seven days of filing or issuance, of all applications filed with the district court pursuant to Iowa Code section 252J.9, all court orders entered in these actions, and withdrawals of certificates of noncompliance by the child support recovery unit.

e. An applicant or certified investigator may file an application with the district court within 30 days of service of a department notice pursuant to Iowa Code sections 252J.8 and 252J.9.

(1) The filing of the application shall stay the department action until the department receives a court order lifting the stay, dismissing the action, or otherwise directing the department to proceed.

(2) For purposes of determining the effective date of the revocation, or denial of the issuance or renewal of a certification, the department shall count the number of days before the action was filed and the number of days after the action was disposed of by the court.

f. The department shall notify the applicant or certified investigator in writing through regular first-class mail, or such other means as the department deems appropriate in the circumstances, within ten days of the effective date of the revocation of certification or the denial of the issuance or renewal of a certificate of adoption investigator, and shall similarly notify the applicant or certified investigator when the certificate is issued, renewed, or reinstated following the department's receipt of a withdrawal of the certificate of noncompliance.

g. Notwithstanding Iowa Code section 17A.18, the registrant does not have the right to a hearing regarding this issue, but may request a court hearing pursuant to Iowa Code section 252J.9.

441—107.5(600) Granting, denial, or revocation of certification.

107.5(1) *Granting of certification.* When all of the requirements of this chapter are met, certification shall be granted.

107.5(2) *Denial or revocation of certification.*

a. Certification or recertification shall be denied or revoked when one or more of the following conditions exist:

(1) The applicant does not comply with the requirements listed in subrules 107.4(1), 107.4(2), and 107.4(4), and rules 441—107.10(600) and 441—107.11(600).

(2) The applicant does not provide information required in subrule 107.4(3).

(3) The applicant has willfully or knowingly misrepresented information regarding qualifications for certification.

(4) When information about the certified investigator is received and verified by the department of inspections and appeals such as, but not limited to, failure to carry out the activities and duties as stated in this chapter, charging fees in excess of those specified in subrule 107.8(5) and breaches of confidentiality, and the effect of the investigator's actions would be detrimental to any of the parties to the adoption. Complaints involving the reasonable exercise of professional judgment in the denial or approval of a preplacement investigation are not grounds for decertification.

(5) The investigator, after being warned in writing by the licensor, provided incomplete or inadequate information or inaccurate information in required reports as described in rule 441—107.8(600).

(6) The applicant has a founded child abuse or criminal record conviction unless an evaluation of the founded abuse or criminal conviction is conducted by the department of inspections and appeals which concludes that the abuse or crime does not merit prohibition of certification.

(7) The investigator aids or participates in an illegal placement or violates the statutes of Iowa Code chapter 600.

b. If an applicant is denied certification or recertification based on an inability to meet the requirements of subrule 107.4(1), 107.4(2), 107.4(3), 107.4(4), 107.4(5), or 107.4(6), the applicant may reapply when the requirements for certification have been met.

c. Rescinded IAB 8/12/98, effective 10/1/98.

441—107.6(600) Certificate.

107.6(1) *Contents.* Form SS-1204-0, Certificate of Adoption Investigator, shall contain the name of the investigator and the expiration date of the certificate and be signed by a person designated by the director of the department.

107.6(2) *Time limit.* The investigator shall be certified for two years. Certification shall expire at the end of two years unless the investigator has made timely application for recertification. No provisional certificates shall be issued.

107.6(3) *Records of certifications.*

a. The department shall keep records of certifications including the application and verifications.

b. The department shall keep an alphabetical list of certified adoption investigators by districts and shall update the list at least semiannually. Lists of certified adoption investigators shall be furnished to all district offices of the department and to any person who requests a list.

441—107.7(600) Renewal of certification.

107.7(1) *Request for renewal.* A currently certified investigator who wishes to be recertified shall notify the department in writing at least 30 days but no more than 60 days prior to the expiration of the certificate. To be recertified, the person shall submit a new application on Form SS-6105-0, Application for Certification of Adoption Investigator. If no application is submitted, the certification shall expire.

107.7(2) *Evaluation of investigator.* Upon receipt of the request for recertification, the department investigators' records shall be reviewed and evaluated by the licensor to determine whether the requirements of these rules have been met. This evaluation shall include the review of 20 percent, or no fewer than four, of the adoption records opened since the last review for certification and the fees assessed clients. Reports of investigations shall be available to the licensor during the review for recertification, or at any other time upon request by the licensor.

When deficiencies are noted at the time of review, the investigator shall be given 7 to 30 days to meet the standards set forth in 441—Chapter 107. The deficiencies shall be noted in writing and the investigator shall sign a statement that includes agreement to the following:

a. The deficiencies noted by the licensor, including the areas of 441—Chapter 107 which are not met.

b. A plan for correcting the deficiencies.

c. The date by which the deficiencies will be corrected.

When the deficiencies are corrected within the time frame granted, the certificate will be renewed. Deficiencies not corrected within the allowed time frame are grounds for revocation of the investigator's certificate.

107.7(3) *Notification.* The department shall notify the investigator of the decision regarding the initial application, and any applications for recertification, within 60 days of receipt of the application. When the request for recertification is not received prior to the date of expiration, the department shall notify the investigator that the certification has expired.

441—107.8(600) Investigative services.

107.8(1) *Preplacement investigations.* When a certified adoption investigator provides a preplacement investigation of a prospective adoptive family, the investigation shall meet the requirements of Iowa Code section 600.8(1)*"a,"* including an assessment of the family's ability to parent a child.

a. The preplacement investigation shall include at a minimum two contacts, one face-to-face interview with the applicants and each member of the household and at least one home visit.

b. The certified adoption investigator shall have on file a written assessment of the family which shall be used to approve or deny a prospective adoptive family. The written assessment (home study) shall include the date the home study was completed, shall be signed by the investigator and the signature notarized. The assessment shall include the following:

(1) Motivation for adoption and whether the family has biological, adopted, or foster children;

(2) Family and extended family's attitude toward accepting an adopted child, and plans for discussing adoption with the child;

(3) The attitude towards adoption of other people involved with the family in a significant way;

(4) Emotional maturity; marital history, including verification of marriages and divorces; assessment of marital relationship; and compatibility of the adoptive parents;

(5) Ability to cope with problems, stress, frustrations, crises, separation, and loss;

(6) Medical, mental, or emotional conditions which would affect the applicant's ability to parent a child;

(7) Ability to provide for the child's physical and emotional needs and to respect the child's cultural and religious identity;

(8) Description of biological children and previously adopted children, if any, including their attitudes towards adoption, relationships with others, and school performance;

(9) Capacity to give and receive affection;

(10) Statements from at least three references provided by the family and other unsolicited references that the investigator may wish to contact;

(11) Attitudes of the adoptive applicants towards the birth parent(s) and the reason(s) the child is available for adoption;

(12) Income information, including the family's ability to financially provide for a child;

(13) Disciplinary practices that will be used;

(14) History of abuse involving family members, including how the abuse was addressed and how that history impacts the applicant's ability to be an adoptive parent;

(15) Assessment of, commitment to, and capacity to maintain other significant relationships;

(16) Substance use or abuse by members of the household, treatment history and current status of treatment;

(17) Recommendations for the number, age, sex, characteristics, and unique needs of children best served by this family; and

(18) The family's ability to anticipate and understand the unique needs of an adopted child as the child gets older and how the family will manage those needs.

c. Record checks. The certified adoption investigator shall perform record checks for each applicant and for the other persons living in the home of the applicant as follows:

(1) The records of the applicants shall be checked:

1. On the Iowa central abuse registry using the Request for Child Abuse Information form;

2. By the Iowa division of criminal investigation, using the DHS Criminal History Record Check Form B;

3. On the Iowa sex offender registry;

4. On the child abuse registry of any state where the applicant has lived during the five years prior to the issuance of the investigative report; and

5. For a national criminal history through fingerprinting or another biometric identification-based process accepted by the federal government.

(2) The records of persons aged 14 or older living in the home of the applicant shall be checked:

1. On the Iowa central abuse registry using the Request for Child Abuse Information form;

2. By the Iowa division of criminal investigation, using the DHS Criminal History Record Check Form B; and

3. On the Iowa sex offender registry.

(3) Out-of-state child abuse checks and national criminal history checks may be completed on any adult in the home of the applicant if the certified adoption investigator has reason to do so.

(4) The person making the investigation shall not approve a prospective applicant and shall not perform an evaluation if the applicant or any other adult living in the home of the applicant has been convicted of a felony offense as set forth in Iowa Code section 600.8(2)*"b."*

(5) The person making the investigation shall not approve a prospective applicant and shall not perform an evaluation if the applicant or any other adult living in the home of the applicant has committed a crime in a state other than Iowa that would be a forcible felony if the crime would have been committed in Iowa, as set forth in Iowa Code section 600.8(2)*"b."*

d. Evaluation of record. If there is a record of founded child abuse or a criminal conviction for the applicant or any other adult living in the home of the applicant, the applicant shall not be approved to adopt unless an evaluation determines that the abuse or criminal conviction does not warrant prohibition of approval.

(1) The evaluation shall consider the nature and seriousness of the founded child abuse or crime in relation to adoption, the time elapsed since the commission of the founded abuse or crime, the circumstances under which the abuse or crime was committed, the degree of rehabilitation, the likelihood that the person will commit the abuse or crime again, and the number of abuses or crimes committed by the person.

(2) The person with the founded child abuse or criminal conviction report shall complete and return the Record Check Evaluation form within ten calendar days of the date on the form to be used to assist in the evaluation. Failure of the person to complete and return the form within the specified time frame may result in a written denial of approval for adoption.

(3) If the applicant, or any other adult living in the home of the applicant, has been convicted of a simple misdemeanor or a serious misdemeanor that occurred five or more years prior to application, the evaluation and decision may be made by a certified adoption investigator. The certified adoption investigator shall notify the applicant of the results of the evaluation in writing. The notice shall contain information on appeal rights.

(4) If the applicant, or any other person living in the home of the applicant, has a founded child abuse report, has been convicted of an aggravated misdemeanor or felony at any time, or has been convicted of a simple or serious misdemeanor that occurred within five years prior to application, a certified adoption investigator shall initially conduct the evaluation.

1. If the certified adoption investigator determines that the abuse or crime does warrant prohibition of approval, the certified adoption investigator shall notify the applicant of the results of the evaluation in writing.

2. If the certified adoption investigator determines that the applicant should be approved despite the abuse or criminal conviction, the certified adoption investigator shall provide copies of the child abuse report or criminal history record and the Record Check Evaluation form to the Administrator, Division of Adult, Children and Family Services, Department of Human Services, Hoover State Office Building, Des Moines, Iowa 50319-0114. Within 30 days, the administrator shall determine whether the abuse or crime merits prohibition of approval and shall notify the certified adoption investigator in

writing of that decision. The certified adoption investigator shall mail the applicant the department's written decision regarding the evaluation of an abuse or crime.

e. Decision. The certified adoption investigator shall notify the applicant in writing no later than 30 days after completion of the home study of the investigator's decision regarding approval for placement of a child.

(1) If the applicant is denied, the certified adoption investigator shall state the reasons for denial in the written decision.

(2) The certified adoption investigator shall date, sign and notarize the adoptive home study.

(3) The certified adoption investigator shall provide a copy of the home study to the family at the time the written decision is sent.

(4) A home study shall be valid for up to two years from the date signed by the certified adoption investigator.

f. Denial. The certified adoption investigator shall deny approval of an adoption application when:

(1) The applicant or any other person living in the home of the applicant has been convicted of a felony offense as set forth in Iowa Code section 600.8(2)*"b."*

(2) The standards set forth in these rules are not met and cannot be corrected.

(3) The applicant or any person residing in the home has been convicted of a crime, unless an evaluation of the crime has been made by the department, which concludes that the crime does not merit prohibition of approval of an adoption application.

(4) The applicant or any person residing in the home has a record of founded child abuse, unless an evaluation of the founded child abuse has been made by the department, which concluded that the founded child abuse does not merit prohibition of approval of an adoption application.

(5) The applicant has knowingly made false statements or has knowingly concealed information that is material to the investigation.

g. Updates. An update to the home study shall be completed no later than 24 months from the previous home study or previous home study update in order for the home study to remain valid. The home study update shall consist of completion of the following:

(1) The child abuse and criminal history record checks, except for national criminal history checks, shall be repeated. If there are new founded abuses or convictions of crimes that were not evaluated in the previous home study, they shall be evaluated using the process set forth in paragraph 107.8(1)*"d."*

(2) One face-to-face visit shall be conducted with the approved family annually.

(3) The information in the approved home study shall be reviewed.

(4) An updated report of the adoptive home study shall be written, dated, signed and notarized and a copy provided to the applicant.

h. Annual visits to the adoptive home. The certified adoption investigator shall complete a minimum of one visit each year in the homes of families approved to adopt by the investigator.

(1) The visit shall include, but not be limited to, assessment of the following areas:

1. Home environment.
2. Persons present at the time of the visit.
3. Changes in the home or household members, or other areas addressed in the home study.

(2) When a person aged 14 or older moves into the home, the investigator shall perform checks on the Iowa central child abuse registry, by the division of criminal investigation, and on the sex offender registry. The record check evaluation process shall be completed if the person has a criminal conviction or founded child abuse report or is on the sex offender registry.

(3) The findings from the visit shall be documented and maintained in the file.

107.8(2) *Background information investigation.* When a certified adoption investigator is requested to complete a background information investigation on the child to be adopted, the investigation shall include a complete medical, mental health and criminal history of the family and developmental history of the child to be adopted.

a. A personal interview with each parent of the child must be completed unless a parent's identity or whereabouts is unknown.

b. If a parent's identity or whereabouts is unknown, as much information as possible shall be obtained from the other parent or other sources if available.

c. A copy of the background information shall be provided to prospective adoptive families before placement of the child.

107.8(3) *Postplacement supervision.* When a certified adoption investigator completes postplacement supervision, at least three visits to the adoptive family's home and personal observation of the child are required.

a. Postplacement reports shall be written after each postplacement visit and copies kept in the permanent family file retained by the investigator.

b. Postplacement supervision shall address the unique needs of the child, including but not limited to the following areas:

(1) Integration and interaction of the child with the family.

(2) Changes in the family functioning which may be due to the child's placement.

(3) Social and emotional adjustment of the child.

(4) Child's growth and development since placement with the adoptive family.

(5) Changes and adjustments that have been made in the family since the child's placement.

(6) Family's method of dealing with testing behaviors and discipline.

(7) Behavioral evidence of the degree of bonding that is taking place and the degree to which the child is becoming a permanent member of the adoptive family.

(8) School adjustment of a child who is attending a school.

(9) The behavioral needs of the child.

(10) The psychological and mental health needs of the child.

(11) Services and supports that will assist the family in the future.

c. Postplacement visits shall be completed at a minimum as follows:

(1) One no later than 30 days after placement.

(2) One no later than 90 days after placement.

(3) A final visit prior to requesting a consent to adopt, no later than 180 days after placement.

(4) Postplacement visits shall be completed as often as necessary if the adoptive family is experiencing problems, and the visits may extend to finalization or beyond 180 days if additional time is needed.

d. The certified adoption investigator shall prepare a written report based on observations made during each home visit. Each report shall address the specific needs of the child and the family's ability to meet those needs. The reports shall be used by the certified adoption investigator in making a written recommendation to the court regarding finalization of the adoption.

107.8(4) *Reports of investigations.* The certified adoption investigator is authorized to provide reports to the courts concerning the above investigations and reports to the guardian or custodian of the child and the attorney for the adoptive family.

107.8(5) *Fees for services.* Certified adoption investigators may charge a fee for the services described in subrules 107.8(1), 107.8(2), and 107.8(3). The licensor shall review the amount of fees for services charged to families at the time that the investigator's records are reviewed for recertification. Information shall also be retained regarding fees charged to a family by another party and collected by the investigator.

[**ARC 1754C**, IAB 12/10/14, effective 2/1/15]

441—107.9(600) International adoptions postplacement report.

107.9(1) For an adoption based on a decree issued by a foreign jurisdiction within the United States, the certified adoption investigator shall conduct a postplacement investigation and issue a postplacement report as required in 441—subrule 108.9(5).

107.9(2) For an adoption based on a decree issued by a jurisdiction outside the United States, a certified adoption investigator shall conduct a postplacement investigation that consists of a minimum of three face-to-face visits with the minor person and the adoptive parents during the first year after placement with the first such visit to be conducted within 60 days of the placement of the minor person

in the adoptive home. Additional visits shall be conducted if required by the jurisdiction that issued the decree.

107.9(3) The postplacement investigation and report under this rule shall include documentation that any unique needs of the minor person are being met appropriately through the placement.
[**ARC 1754C**, IAB 12/10/14, effective 2/1/15]

441—107.10(600) Retention of adoption records. The adoption investigator shall maintain a record of each family or child when one or more of the required reports have been completed. The record shall contain copies of all completed reports and a statement of fees charged by the investigator.

107.10(1) *Access to records.* The provisions regarding sealing of and access to adoption records in Iowa Code section 600.16 shall be followed, except that access under subrule 107.10(3) for recertification is permitted.

107.10(2) *Disposition of records.* Upon revocation, denial of renewal, or expiration of certification, all sealed records held by investigators shall be forwarded to the department.

107.10(3) *Access for recertification.* Authorized representatives of the department shall have access to all records of reports completed within a two-year period prior to recertification for purposes of recertification. Authorized representatives shall respect the confidential nature of these records.
[**ARC 1754C**, IAB 12/10/14, effective 2/1/15]

441—107.11(600) Reporting of violations. All violations or suspected violations under Iowa Code chapter 600 or 600A which come to the attention of the investigator shall be reported in writing to the district court having jurisdiction of the matter and to the department of human services. The investigator shall maintain copies of these written reports to the court and the department.
[**ARC 1754C**, IAB 12/10/14, effective 2/1/15]

441—107.12(600) Appeals. Certified investigators or applicants may appeal decisions of the department according to rules in 441—Chapter 7.
[**ARC 1754C**, IAB 12/10/14, effective 2/1/15]

These rules are intended to implement Iowa Code chapter 600.

[Filed 3/22/85, Notice 10/24/84—published 4/10/85, effective 6/1/85]
[Filed emergency 1/15/87—published 2/11/87, effective 1/15/87]
[Filed emergency 6/19/87—published 7/15/87, effective 7/1/87]
[Filed 8/28/87, Notice 7/15/87—published 9/23/87, effective 11/1/87]
[Filed 7/10/91, Notice 2/20/91—published 8/7/91, effective 10/1/91]
[Filed 10/14/93, Notice 9/1/93—published 11/10/93, effective 1/1/94]
[Filed 6/16/94, Notice 5/11/94—published 7/6/94, effective 9/1/94]
[Filed 7/15/98, Notice 6/3/98—published 8/12/98, effective 10/1/98]
[Filed 4/15/99, Notice 2/10/99—published 5/5/99, effective 7/1/99]
[Filed 5/9/01, Notice 3/21/01—published 5/30/01, effective 8/1/01]
[Filed ARC 1754C (Notice ARC 1657C, IAB 10/1/14), IAB 12/10/14, effective 2/1/15]

CHAPTER 108
LICENSING AND REGULATION OF CHILD-PLACING AGENCIES

[Prior to 7/1/83, Social Services [770] Ch 108]
[Prior to 2/11/87, Human Services [498]]

PREAMBLE

This chapter establishes licensing procedures for all child-placing agencies authorized by Iowa Code chapter 238. Included in this chapter are rules relating to: the licensing process; administration and organization; foster care services; adoption services; and supervised apartment living services.

441—108.1(238) Definitions.

"Administrator" means the person who is designated to have day-to-day responsibility for the administration of a child-placing agency, and who ensures that the mission of the agency and laws relating to the welfare and protection of children are carried out.

"Adoption work experience" means supervised employment in adoption services, which includes direct provision of adoption services, development of adoption policies, provision of training related to adoption services, oversight and review of adoption documents and activities, and direct supervision of adoption workers. Only the percent of time related to provision of adoption services shall be considered as adoption work experience when job duties involve activities other than adoption services.

"Adoptive applicant" means the person who has requested approval for placement of a child for adoption from a licensed child-placing agency.

"Adoptive family" means an approved person or persons who have a child placed in their home for the purpose of adoption and are being supervised by the agency or who have a child in their home who has been legally adopted and is entitled to the same benefits as a child born to the parents.

"Approved living arrangement" means that the living situation shall be located so as to provide reasonably convenient access to schools, places of employment, or services required by the youth, comply with applicable state and local zoning, fire, and sanitary regulations, and be reasonably priced so as to fit within the youth's budget.

"Caseworker" means the person who works directly with children, their families, and other relevant individuals and who has primary responsibility for the development, implementation, and review of the agency's service plans for the child and parents; or who completes foster care or adoptive family home studies or supervises foster family or adoptive placements; or who supervises children placed in approved supervised apartment living arrangements.

"Child" shall mean the same as defined by Iowa Code section 234.1.

"Child-placing agency" means an agency organized within the state of Iowa for the purpose of receiving minor children for placement, supervision, or both in private family homes for foster care; or for adoption; or the placement, supervision, or both of children who are 16 years of age and older living in approved supervised apartment living placements.

"Department" means the department of human services.

"Parent" means custodial and noncustodial parent.

"Safety-related information" means information that indicates whether the child has behaved in a manner that threatened the safety of another person, has committed a violent act causing bodily injury to another person, or has been a victim or perpetrator of sexual abuse.

"Sibling" means two or more persons having at least one common parent.

"Supervised apartment living placement" means the placement of a child who is at least 16 years of age in an approved living arrangement which provides an environment in which the child can experience living in the community with minimum supervision.

"Volunteer" means any nonpaid person who donates time to an agency, either in working with an individual or groups of clients. A volunteer may also be a student intern.

[**ARC 1754C**, IAB 12/10/14, effective 2/1/15]

441—108.2(238) Licensing procedure.

108.2(1) *Right to apply.* Any person or agency has the right to make application for a child-placing license. When applying for a child-placing license, the applicant shall indicate the services for which licensure is being requested.

108.2(2) *Application.* An agency or person applying for a license shall complete Form 470-0723, Application for License or Certificate of Approval. The application shall be completed and signed by the administrator or the appropriate officer and submitted to the department.

a. The applicant shall report withdrawal of an application to the department within 30 days of the withdrawal decision.

b. Each application shall be evaluated by the department to ensure that all requirements are met.

c. The applicant shall provide requested reports and information relevant to the licensing determination to the department.

108.2(3) *Applications for renewal.* Applications for renewal shall be made to the department at least 30 but no more than 90 days before expiration of the license.

108.2(4) *Notification.* Agencies shall be notified of approval or denial within 90 days of application or reapplication.

108.2(5) *Certificate of license.* The department shall issue or renew Form 470-3623, Certificate of License, every three years, without cost, to any child-placing agency which meets the minimum requirements applicable to child-placing agencies as defined by Iowa Code chapter 238 and this chapter. The license shall be posted in a conspicuous place on the licensed premises.

108.2(6) *Provisional license.* A provisional license may be issued to an agency which does not meet all licensing requirements when the failure to meet all licensing requirements does not pose a danger to the health, safety, or well-being of the children being served. It is issued until the agency meets all requirements, up to a maximum time period of one year. A provisional license is issued when the applicant has signed a written statement which includes the following:

a. The deficiencies necessitating the provisional license, including the specific requirements which are not met.

b. A plan for correcting the deficiencies.

c. The date by which the requirements will be met.

108.2(7) *Suspension of a license.* The suspension of a child-placing license prohibits the agency from engaging in any child-placing activities during the period of the suspension. The department shall suspend a license when the agency's failure to meet the requirements poses a danger to the health, safety, or well-being of the children being served. The suspension of a license shall not extend beyond 12 months, and the existence of the condition requiring suspension shall be corrected within a year and documented in the agency's record.

The agency shall submit a written statement for approval by the department. The statement shall include the following:

a. The deficiencies necessitating the suspended license, including the specific requirements which are not met.

b. A plan for correcting the deficiencies.

c. The date by which the requirements will be met.

108.2(8) *Completed corrective action.* When the corrective action plan is completed on or before the date specified on the provisional license or notice of suspension, a full license shall be issued for the remainder of the licensing period.

108.2(9) *Denial or revocation of a license.* The department shall deny an application or reapplication for a license or revoke a license when the applicant fails to meet the licensing requirements or when any of the following conditions exist:

a. The agency is operating without due regard to the health, safety, and well-being of the children being served.

b. A provisional license is not approved.

c. The recipient of a provisional license fails to complete the corrective action plan within the time allowed.

d. An agency with a suspended license fails to complete the corrective action plan on time and a provisional license is not appropriate.

e. The agency misuses public funds.

f. The agency refuses to cooperate with child protective investigations involving children placed by the agency.

g. The agency continuously and significantly violates licensing requirements.

108.2(10) *Method and content of notice.* The notice of denial, revocation, or suspension shall be sent by restricted certified mail and shall include the following:

a. A specific description of the condition requiring the suspension, denial or revocation.

b. The specific laws or rules violated.

c. The effective date of denial, revocation or suspension.

108.2(11) *Right to appeal.* Any agency which disagrees with the department's licensing decision may appeal to the department. The appeal shall be filed within 30 days of receipt of the licensing decision.

441—108.3(238) Administration and organization.

108.3(1) *Statement of purpose.* The agency shall have a written statement of its child-placing philosophy, purpose, and program. The statement shall contain a description of services and methods for service delivery and a description of the persons for whom the services will be provided. The statement shall be available to the public.

108.3(2) *Governing board.* The agency shall have a governing board which, together with the executive, shall be responsible for making policy and for financing and general management of the agency. The governing board may be either the board of directors or the owners of the agency. If the governing board is a board of directors, the following rules shall apply:

a. The agency shall provide for continuity of board membership.

b. The board shall meet regularly for the purpose of ensuring the proper operation of the agency and fulfilling its responsibilities.

c. The minutes of each meeting of the board shall be kept and made a part of the permanent record of the agency.

108.3(3) *Annual report.* A child-placing agency shall require the administrator to submit a written annual report of the agency's activities. The report shall include fiscal and statistical sections indicating receipts and disbursements, number of clients served, and programs. The annual report shall be available to the department.

108.3(4) *Table of organization.* A table of organization, including the identification of lines of responsibility and authority for policy making and service to clients, shall be available to agency staff and to the department.

108.3(5) *Finances.* The licensee shall:

a. Annually develop and implement a plan of financing which is necessary for the operation of the agency in carrying out its programs, ensuring proper care for children, and meeting requirements for licensing.

b. Annually provide either an audit or a detailed financial statement prepared by an independent fiscal agency that provides a review of receipts and disbursements and a statement of fund balances.

c. Retain fiscal records for five years.

108.3(6) *Employment of administrator.* The agency shall employ a qualified administrator and shall delegate to the administrator the responsibility for the administration of the agency. The administrator shall ensure that the mission of the agency and laws relating to the welfare and protection of children are carried out.

108.3(7) *Office space, equipment and supplies.* The agency shall provide and maintain sufficient office space, equipment, and supplies to ensure delivery of services.

441—108.4(238) Staff qualifications. An agency employee or volunteer shall be a person of good character, emotional stability, and have necessary ability, experience, and education to perform the duties assigned. An employee or volunteer shall not have a criminal record or founded child abuse report, unless

the department has evaluated the crime or founded report and concluded that the crime or report does not merit prohibition of employment or licensure.

108.4(1) *Contracted employees.* A child-placing agency which contracts for services shall ensure that contracted employees meet the same qualifications, training, and evaluation requirements as those of workers in employed positions. A child-placing agency is responsible for the services provided by contracted providers as well as volunteers and agency employees.

108.4(2) *Qualifications of administrator.* An agency administrator shall possess one of the following:

a. A master's degree in social work, sociology, psychology, guidance and counseling, a related area of human services, education, business administration, or public administration and two years of experience in a public or private social services agency.

b. A bachelor's degree in social work, sociology, psychology, guidance and counseling, a related area of human services, education, business administration, or public administration and four years of experience in a public or private social services agency.

108.4(3) *Caseworker qualifications.* Therapy and counseling services, psychosocial evaluation and assessment and care plan development shall be provided by staff who meet one of the following minimum education and experience criteria:

a. Graduation from an accredited four-year college or university and the equivalent of three years of full-time experience in social work or experience in the delivery of human services in a public or private agency. In addition, these individuals shall have been employed by the agency prior to September 1, 1993. Persons meeting this criterion will not be qualified to provide therapy and counseling if they change place of employment.

b. Graduation from an accredited four-year college, institute or university with a bachelor's degree in social work from a program accredited by the council on social work education.

c. Graduation from an accredited four-year college or university with a bachelor's degree in a human service field related to social work and the equivalent of two years of full-time experience in social work or experience in the delivery of human services in a public or private agency.

d. Graduation from an accredited four-year college or university with a master's degree in social work or related human service field.

e. Any equivalent combination of graduate education in the social or behavioral sciences from an accredited four-year college or university and qualifying experience up to a maximum of 30 semester hours for one year of the required experience.

108.4(4) *Person filling more than one position.* A person functioning in more than one position specified by these rules shall meet the requirements for each of the positions the person fills.

441—108.5(238) Staffing requirements.

108.5(1) *Number of staff.* The agency shall employ a sufficient number of competent staff to perform duties as required by licensing rules for those programs operated by the agency. This shall include the following:

a. Administration of services offered by the agency.

b. Selection and appointment of qualified staff.

c. Provision for staff training.

108.5(2) *Staffing caseload.* The agency shall develop a written policy regarding a staffing ratio based on the workload necessary to provide services in accordance with the agency's program statements. The staffing ratio shall take into consideration all of the following:

a. Qualifications of the caseworkers.

b. Types of children served and their special needs.

c. Types and intensity of services to be provided.

d. Distances involved in provision of services.

e. Other functions or responsibilities of the caseworkers.

441—108.6(238) Personnel administration.

108.6(1) *Personnel policies.* An agency shall develop personnel policies in writing that identify responsibilities of the organization and staff. The policies shall specify hours of work, grievance procedures, sick leave, vacation and all other benefits. A copy of the policies shall be made available to the employee at time of hire.

108.6(2) *Job description and evaluation.* There shall be a written job description for each employee, volunteer, and contracted position identifying duties, qualifications, education, training requirements, and lines of authority. A copy shall be made available to the employees, volunteers, and contracted workers. There shall be a written evaluation of an employee's or contracted worker's performance within six months of being hired or contracted, and annually thereafter.

108.6(3) *Staff training.* An agency shall provide orientation training on the agency's purpose, policies and procedures within one month of hire and 24 hours of training in the first year of employment for all employed and contracted casework staff. The 24 hours of training shall include: training on family foster care services, adoption services, supervised apartment living services, or children and families' mental health topics, and 2 hours of training related to the identification and reporting of child abuse for all employed or contracted casework staff in accordance with Iowa Code section 232.69. An agency shall provide 12 hours of training per year after the first year of employment for all employed or contracted casework staff. The 12 hours of training shall include: training on family foster care services, adoption services, supervised apartment living services, or children and families' mental health topics and child abuse training every five years in accordance with Iowa Code section 232.69.

The training formats that shall qualify as training are as follows: in-service training, seminars, conferences, workshops, institutes, visiting other facilities, and meeting with consultants.

The training provided shall be documented. The documentation shall include the training topic, format, date and number of hours.

108.6(4) *Volunteers.* An agency which utilizes volunteer or student intern staff to work directly with a particular child or group of children shall have a written plan for using these volunteers. This plan shall be given to all volunteer staff and shall indicate that all volunteers are:

a. To be supervised directly by a paid staff member.

b. To be trained and oriented in the philosophy of the agency, the needs of the clients being served, and the methods of meeting these needs.

c. To be subject to the character and reference disclosure and checks required of employed and contracted applicants and employees.

d. To be subject to the same confidentiality rules as paid or contracted staff.

e. To assist and supplement paid staff only, and not replace them.

108.6(5) *Personnel records.* A confidential personnel record shall be maintained for each employee, contracted agent, and volunteer. The record shall contain all of the following information:

a. Name and address.

b. Record of training sessions attended, including dates and content of training.

c. Record of criminal convictions and the department's evaluation of same.

d. Record of founded child abuse reports and the department's evaluation of same.

441—108.7(238) Foster care services.

108.7(1) *Program statement.* An agency authorized to place children in foster care shall have a current written program statement. This statement shall be made available to all agency foster parents, foster children, their parents, referring agencies, and all persons making formal inquiry regarding foster care. The program statement shall include all of the following:

a. Types of foster care provided.

b. Types of children accepted for foster care.

c. Types of services provided to the children, their families, and their foster families.

d. Fees and application costs, if any.

e. A statement informing applicants of the right to appeal the agency's decision regarding nonapproval of the family for placement of a child for foster care.

108.7(2) *Agency's authorization to place.* The agency shall obtain a signed placement agreement from the child's custodial parent or legal custodian within 48 hours of placement.

108.7(3) *Preplacement documentation.* Except for emergency placements, a child shall be placed in the agency's foster care program only after the agency determines that its foster care program is an appropriate resource.

108.7(4) *Placement of siblings.* Preference shall be given to placing children from the same family together. If this is not in the best interest of the child, the reasons shall be documented in the child's record.

108.7(5) *Consideration of racial and cultural identity.* Race, color, or national origin may not be routinely considered in placement selections. Placement decisions shall be made consistent with the best interests and special needs of the child.

108.7(6) *Placement preparation.* An agency shall document the preparation for each child placed in foster care. Preparation shall be appropriate to the child's age, individual needs, the circumstances requiring placement, and the special problems presented. Preparation activities shall, when possible, include:

a. Face-to-face visits.

b. A description provided to the child of the foster family.

c. A description of the child's strengths and needs and safety-related information provided to the foster family. Safety-related information shall be withheld only if:

(1) Withholding the information is ordered by the court; or

(2) The department or the agency developing the service plan determines that providing the information would be detrimental to the child or to the family with whom the child is living.

d. Any other activities deemed significant.

108.7(7) *Initial placement outline.* If a placement outline is not in the child's case permanency plan, a brief outline documenting all of the following shall be entered in the child's case record within five working days after placement:

a. Name, birthdate, sex, race, and other significant identifying information.

b. Date of placement.

c. Name and address of parents or legal guardian.

d. Names and whereabouts of siblings.

e. Religious preference.

f. Immediate and significant health needs including the child's physical and emotional state at the time of placement.

g. The circumstances leading to the need for foster care.

h. Known previous out-of-home placements.

i. The immediate needs of the child and parents and services to be provided to meet these needs.

j. The name, address, and telephone number of the referring agent or worker.

108.7(8) *Education.* Within ten school days of placement, provisions shall be made by the agency for enrollment of each child of school age into a school program.

108.7(9) *Clothing.* An agency shall make provisions for adequate and individualized clothing for each child admitted into foster care.

108.7(10) *Monthly visit.* Each child in care shall be personally visited by the assigned caseworker at least once a month.

108.7(11) *Parent and child contact.* Provisions for contact between parents and children shall be made except where the parental rights have been terminated or where the court has determined that visits or contact are detrimental to the child.

a. If the mother is breastfeeding the child:

(1) An assessment shall be made whether continuation of breastfeeding is in the best interest of the child; and

(2) A plan shall be developed to support the mother's breastfeeding efforts, if appropriate.

b. The parents and child shall be informed of the contact plan in a manner consistent with their capacity to understand.

108.7(12) *Health and dental program.* An agency shall provide for a complete health and dental program for each child. An agency shall have a written procedure for handling medical emergencies on a 24-hour basis. A copy of the procedure shall be given to each foster home.

a. The agency shall obtain written authorization from the parent or legal guardian to provide medical, psychiatric, dental, anesthesia, immunization, substance abuse evaluation, and emergency surgical treatment. Only the parent or legal guardian shall consent to nonemergency surgery, unless ordered by court. If the child's parent prohibits medical examination, immunization, or treatment based on religious grounds, the agency shall obtain a signed statement from the parent that specifies the prohibitions. In potentially life-threatening situations, the agency shall refer the child's care to appropriate medical and legal authorities.

b. A child shall have a physical examination at least annually. This shall be performed by a licensed physician, physician's assistant or licensed nurse practitioner.

c. A child shall have current immunizations as required by the department of public health. If documentation of prior immunization is unavailable, immunizations shall begin within 30 days of placement, unless contraindicated and unless a statement from a physician to that effect is included in the child's medical record. A statement from physician, referring agency, parent, or guardian indicating immunizations are current is sufficient documentation of immunizations.

d. An agency shall provide for dental examinations and treatment; the initial referral at 12 months of age, the next at 24 months of age, then every 6 months.

e. A health record shall be maintained for each child and shall include all of the following:

(1) Authorization for medical care.

(2) A medical history and copies of required physical examinations.

(3) A record of medical and dental care, treatment and prescribed medication, immunizations, accidents requiring medical treatment, and hospitalizations. At the time of discharge from agency foster care, a summary of this record shall be provided to the legal custodian. Information about drug evaluation or treatment, venereal disease tests, HIV tests, and pregnancy tests shall be excluded.

108.7(13) *Service plan development and review.* The provider shall develop and revise service plans for each child in placement. An initial service plan shall be developed within 30 calendar days of placement in foster care. The provider shall identify qualified persons to monitor the services identified in the service plan to ensure that the plan continues to be necessary, appropriate, and addresses the permanency goal. Service plans shall be developed and reviewed as follows:

a. The service plan shall be developed and revised in collaboration with the referral worker, child, family, and the foster parents unless the service plan contains documentation for the treatment rationale for the lack of involvement of one of these parties. The provider shall document the dates and content of the collaboration on the initial and revised service plans. The provider shall provide a copy of the initial and revised service plans to the child's parent and the referring agency, unless otherwise ordered by the court. The initial and revised service plan shall identify the following:

(1) Strengths and needs of the child and parents.

(2) Goals, which are statements of outcomes to be achieved in meeting the needs of the child including the child's permanency needs.

(3) Objectives, which are specific, measurable and time-limited statements of indicators, levels of competence, or accomplishments which are necessary for progress toward each goal.

(4) Specific treatment service activities to be provided to achieve the objectives.

(5) Designation of the persons responsible for providing the services.

(6) Date of initiation and service plan development.

(7) Anticipated duration of services.

b. All service plans shall be reviewed 90 calendar days from the initiation of services and every 90 calendar days thereafter for the duration of the services or when the needs of the child or the services necessary for the parents to meet the needs of the child have changed and these changes significantly affect goals, objectives and service activities. The review shall determine if the services continue to be necessary, appropriate and consistent with the child's permanency goal. The reviewer shall revise

the service plan to reflect the services that are necessary, appropriate, and consistent with the child's permanency goal.

108.7(14) *Information for foster parents.* At the time of placement, an agency shall provide foster parents with all of the following if known:

a. Name of the child, agency caseworker, and referring agency.

b. Information about the child's known behavioral characteristics including safety-related information, needs, and plans for the child and family. Safety-related information shall be withheld only if:

(1) Withholding the information is ordered by the court, or

(2) The department or the agency developing the service plan determines that providing the information would be detrimental to the child or to the family with whom the child is living.

c. Written consent to obtain routine, nonsurgical medical care and to authorize emergency medical and surgical treatment, anesthesia, and immunizations for each child placed in the foster home.

d. A copy of the child's current physical examination and medical history when completed.

As this information becomes available to the agency, foster parents shall be informed immediately.

108.7(15) *Religious policy.* The agency shall have a written policy on religious participation and training for foster children. The agency shall provide the policy to parents and foster parents and shall ensure that the policy is adhered to in each foster home.

108.7(16) *Mail.* There shall be a written policy which ensures that foster children are permitted to send and receive mail, unless documented that this practice is contraindicated.

108.7(17) *Allowance policy.* An agency shall have a written policy addressing payment of and accounting for personal allowances for foster children.

108.7(18) *Reporting hospitalization or death of child.* Any serious injury or illness requiring hospitalization of a child in care shall be reported to the parent and the responsible agency as soon as possible. Efforts to notify parents and responsible agency staff shall be documented in the child's record. The death of a child shall be reported immediately to the parent or next of kin and to the referring agency.

108.7(19) *Foster care records.* The agency shall maintain confidential individual records for each child placed in a foster home. The record shall include:

a. The initial placement outline. (Refer to subrule 108.7(7).)

b. All legal documents pertaining to the child.

c. The child's health record, including psychological and psychiatric reports.

d. The summary narrative which reflects the dates and content of the caseworker's contact regarding the child.

e. Educational records and reports.

f. All service plans developed by the agency.

g. Case permanency plans developed by the referring agency.

h. A record of foster placements made by the agency including foster parents' names and addresses and dates of placements.

108.7(20) *Termination of foster care.* When a foster care placement is terminated, all of the following information shall be documented in the child's record within 30 days:

a. Reason for termination.

b. Current location of the child, unless the child was placed for adoption. In that case the record shall state only that the child was placed for adoption and shall not disclose the identity of the adoptive family unless the adoptive family agrees to disclosure of identity prior to finalizing of adoption.

c. Steps remaining to achieve permanency plan goal.

d. Provisions for follow-up, if any.

e. For unplanned terminations, a summary explaining the circumstances.

441—108.8(238) Foster home studies. The agency shall provide information to prospective foster parents about foster care, agency policies, licensing requirements for foster care, the children needing foster care, the licensing process and the reimbursement rates.

108.8(1) *Licensing procedures.*

a. Availability of applications. The agency may provide Form 470-0689, Foster Family Home License Application, to anyone requesting to be licensed.

b. Licensing study. The agency may complete a licensing study of the family.

c. New applications. If the child-placing agency decides to complete the initial licensing study, the agency shall submit to the department all documents and information required by 441—Chapter 113 pertaining to the licensing and regulation of foster family homes. This shall include a narrative evaluation of the foster family home which reflects a thorough study of each foster family. The narrative shall document at least two face-to-face interviews with the prospective foster family and at least one face-to-face interview with each member of the household before the placement of a child. At least one interview shall take place in the applicant's home. The narrative summary of the family study shall assess all of the following:

(1) Motivation for foster care.

(2) Family's and extended family's attitude toward accepting foster children.

(3) Family's attitude toward foster children's parents.

(4) Emotional stability, physical health, and compatibility of foster parents, and ways they cope with change and stress.

(5) Adjustment of own children, if any.

(6) Assessment of the child-caring skills, including disciplinary techniques used.

(7) Strengths and weaknesses of each member of the household.

(8) Types of children desired.

(9) Type of children, if any, for whom placement with the family would be appropriate.

(10) Recommendation as to the number, age, sex, characteristics, and special needs of children best served by this family.

(11) Assessment of the need for training and a plan for providing the needed training.

(12) Any other pertinent information that might assist the agency in making the licensing recommendation.

(13) Record checks. The licensed child-placing agency shall submit record checks for each applicant and for anyone who is 14 years of age or older living in the home of the applicant to determine whether they have any founded child abuse reports or criminal convictions or have been placed on the sex offender registry. The licensed child-placing agency shall use Form 470-0643, Request for Child Abuse Information, and Form 595-1396, DHS Criminal History Record Check, Form B, for this purpose. Each person subject to record checks shall also be fingerprinted for a national criminal history check. The department's contractor for the recruitment and retention of resource families shall assist applicants in completing required record checks, including fingerprinting. Any criminal or abuse records discovered shall be evaluated according to the procedures in rule 441—113.13(237).

(14) Health of foster parents and impact of medical conditions on their ability to foster a child.

(15) Income information.

(16) Documentation that at least three references have been received and the responses reviewed.

108.8(2) *Licensing decision.* The department shall make the licensing decision and notify the applicant and the child-placing agency within 30 days of the licensing decision. In no case shall a child be placed in a foster home before licensing approval.

a. A full license shall be issued to foster families meeting all necessary criteria for a full licensure.

b. A provisional license may be issued for up to one year if the foster family fails to meet all requirements for licensure. When an agency recommends, because of rule violation, that a foster home receive a provisional license at the time the license is issued or renewed, the agency shall document the violation in the foster home file, and shall send the following to the department:

(1) A copy of the assessment of the rule violation and recommendation.

(2) A copy of the foster home's plan to achieve rule compliance within stipulated time frames.

c. When an agency recommends that a foster home license be denied or revoked, the agency shall send the following documents to the department:

(1) A copy of the assessment of rule compliance and the foster family's reaction to the assessment.

(2) The agency's recommendation and supporting rationale.

(3) Other appropriate documents supporting the findings.

108.8(3) *Reapplications.* At least 30 days before the expiration of the license, the agency shall submit all documents and information required by 441—Chapter 113 pertaining to the licensing and regulation of foster family homes. This shall include an update of the narrative noting any changes that may have occurred in the foster family's living arrangement or life style and any other pertinent information that might assist in making the licensing decision, including an assessment of the foster family's ability to provide foster care.

108.8(4) *Unannounced visits.* The agency shall conduct at least one annual unannounced visit to each licensed foster family home the agency inspects to meet the requirements of Iowa Code section 237.7.

108.8(5) *Complaints.* When an agency receives a complaint which may indicate possible violation of the foster care licensing rules, the agency shall, within five working days of receiving the complaint, either conduct an investigation to assess compliance with applicable rules or refer the complaint to the department for investigation. If the agency conducts the investigation, the agency shall submit a written report of the investigation to the department within ten working days of receiving the complaint with a statement of rule violation and a recommendation regarding the license of the foster family home. The written report shall be filed in the foster parents' file.

108.8(6) *Foster family training.* The agency shall ensure that each foster home recommended for foster family license has complied with the training requirements in 441—113.8(237).

Within six months of licensure and every five years thereafter, each foster parent shall obtain mandatory reporter training relating to identification and reporting of child abuse.

108.8(7) *Placement agreement.* When a child is placed with a foster family, the agency shall have a signed agreement with each foster family home including the expectations and responsibilities of both the agency and the foster family, the services to be provided, and the financial arrangements for children placed in the home.

108.8(8) *Foster family home records.* The agency shall keep separate records for each foster family home. The agency shall begin the record at the time of application. Foster family home records shall contain:

a. The application.

b. Family assessment.

c. Most recent medical reports on foster family members.

d. Summary of dates and content of worker's contacts relating to licensing or relicensing.

e. Reference letters.

f. Annual assessment of strengths and weaknesses of the foster family relative to the care of individual children placed with them.

441—108.9(238) Adoption services.

108.9(1) *Program statement.*

a. An agency licensed to place children for adoption shall have a current written program statement which shall include all of the following:

(1) Characteristics of children to be placed.

(2) Eligibility requirements for adoptive families.

(3) Services provided during the adoption process.

(4) Services to the birth parents upon relinquishment.

(5) Postadoption services to adoptive families, if offered.

(6) Explanation of all fees and any other costs for which the adoptive family is responsible for payment.

(7) A statement that payment of fees does not ensure adoption approval.

(8) A statement informing applicants of the right to appeal the agency's decision regarding nonapproval of the family for placement of a child for adoption, or other adverse decisions.

b. The program statement shall be made available to referring agencies and to all persons making formal inquiry regarding adoption.

108.9(2) *Services to birth families.* An agency which offers services to birth parents who are considering relinquishing a child for adoption shall provide the following:

a. Intake process. When an agency agrees to provide services to the birth parents, intake interviews shall be conducted, including provision of information to the birth parents regarding the adoption process and their rights and role.

(1) When an agency completes a background information investigation report on the child to be adopted, a personal interview with each parent of the child must be completed unless a parent's identity or whereabouts is unknown.

(2) If a parent's identity or whereabouts is unknown, as much information as possible shall be obtained from the other parent or other sources if available.

b. Background information on birth parents. The agency shall obtain as much information as possible about birth parents that includes, but is not limited to:

(1) Birth parents' strengths and needs.

(2) Birth parents' physical description.

(3) Birth parents' and extended family members' medical and mental health history.

(4) Parents' criminal history.

(5) Birth parents' educational level.

(6) An affidavit signed by the birth parents instructing the court to reveal, or not reveal, their names to the child pursuant to Iowa Code chapter 600.

(7) Any additional information the birth parents wish to include in the child's adoption record.

c. Background information for an infant adoption. Information shall be obtained that includes, but is not limited to, the following:

(1) The child's due date.

(2) Prenatal care received by the mother during pregnancy.

(3) Risk factors that may affect the child's health after birth.

(4) Birth records following the child's birth, if available.

d. Background information on an older child. Information shall be obtained that includes, but is not limited to the following:

(1) The child's legal status.

(2) The child's physical description, medical and mental health history, developmental information, and other pertinent information necessary for a child study.

(3) Identification of any specific and unique needs of the child and the type of family to be considered for adoptive placement.

(4) The involvement of the birth parents and significant others in the child's care.

e. A copy of the background information of the child and birth parents shall be provided to the prospective family before placement of the child.

f. Birth parent counseling. If accepted by the birth parents, the counseling shall be provided after the birth of the child and prior to the signing of a release of custody that meets the requirements of Iowa Code chapter 600A or prior to the filing of a petition for termination of parental rights.

(1) The purpose of the counseling is to:

1. Provide information about options to assist birth parents in making an informed decision regarding release of custody.

2. Assist birth parents in resolving emotional issues related to separation and loss.

(2) Counseling shall be provided to birth parents only by the following persons:

1. Certified adoption investigators.

2. Mental health professionals who have the equivalent of two years of adoption work experience in the direct provision of adoption services.

3. Private agency staff with two years of adoption work experience in the direct provision of adoption services.

4. Department staff with two years of adoption work experience in the direct provision of adoption services.

(3) Forms. All forms used to execute a release of custody shall comply with the requirements of Iowa Code chapters 600 and 600A.

(4) Affidavit and documentation. The person providing the counseling shall complete the Counseling Affidavit to certify that the counselor has provided the birth parent with the requested counseling or that the birth parent has refused counseling. The Counseling Affidavit and documentation that the person providing the counseling is qualified to provide the requested counseling shall be attached to the release of custody. Documentation shall include one of the following:

1. A copy of a professional license, when applicable.

2. A record of all adoption work experience, including dates and location. In addition, the person providing counseling shall provide the names of the counselor's employers and supervisors to enable the court to verify the counselor's adoption work experience.

108.9(3) *Preparation of child for adoptive placement.* Preparing a child, especially an older child, includes activities designed to enable a child to make a transition to an adoptive placement. The activities shall include, but are not limited to:

a. Counseling regarding issues of separation, loss, grief, guilt, anger and adjustment to an adoptive family.

b. Preparation of a life book.

c. Provision of age-appropriate information regarding community resources available, such as children's support group to assist the child in the transition and integration into the adoptive family.

108.9(4) *Services to adoptive applicants.*

a. *Application process.* Before proceeding with an adoptive home study, the agency shall have received an application for adoption from the person or persons wishing to adopt a child. The application form shall include information about the applicant's intent to become an adoptive parent, and the basic data about the applicant's family, home, financial status, health, and references.

b. *Explanation of the adoption process.* The agency shall provide the applicant an explanation of the entire adoption process, including the legal procedures, the agency policies and procedures regarding placement of children, and the children available for adoption.

c. *Adoptive home study.* The home study consists of a family assessment which shall include at least two face-to-face interviews with the applicant and at least one face-to-face interview with each member of the household. At least one interview shall take place in the applicant's home. The assessment shall include, but need not be limited to, the following:

(1) Motivation for adoption and whether the family has biological, adopted or foster children.

(2) Family and extended family's attitude toward accepting an adopted child, and plans for discussing adoption with the child.

(3) The attitude toward adoption of other people involved with the family in a significant way.

(4) Emotional maturity; marital history, including verification of marriages and divorces; assessment of marital relationship; and compatibility of the adoptive parents.

(5) Ability to cope with problems, stress, frustrations, crises, separation and loss.

(6) Medical, mental, or emotional conditions which may affect the applicant's ability to parent a child.

(7) Ability to provide for the child's physical and emotional needs and to respect the child's cultural and religious identity.

(8) Description of biological and previously adopted children, if any, including their attitudes toward adoption, relationship with others, and school performance.

(9) Capacity to give and receive affection.

(10) Statements from at least three references provided by the family and other unsolicited references that the agency may wish to contact.

(11) Attitudes of the adoptive applicants toward the birth parents and the reasons the child is available for adoption.

(12) Income information, including the family's ability to financially provide for a child.

(13) Disciplinary practices that will be used.

(14) History of abuse involving family members, including how the abuse was addressed and how that history impacts the applicant's ability to be an adoptive parent.

(15) Assessment of, commitment to, and capacity to maintain other significant relationships.

(16) Substance use or abuse by members of the household, treatment history and current status of treatment.

(17) Recommendations for the number, age, sex, characteristics, and unique needs of children best parented by this family.

(18) The family's ability to anticipate and understand the unique needs of an adopted child as the child gets older and how the family will manage those needs.

d. Record checks. The licensed child-placing agency shall perform record checks for each applicant and for the other persons living in the home of the applicant as follows:

(1) The records of the applicants shall be checked:

1. On the Iowa central abuse registry using the Request for Child Abuse Information form;

2. By the Iowa division of criminal investigation, using the DHS Criminal History Record Check Form B;

3. On the Iowa sex offender registry;

4. On the child abuse registry of any state where the applicant has lived during the five years prior to the issuance of the investigative report; and

5. For a national criminal history through fingerprinting or another biometric identification-based process accepted by the federal government.

(2) The records of persons aged 14 or older living in the home of the applicant shall be checked:

1. On the Iowa central abuse registry using the Request for Child Abuse Information form;

2. By the Iowa division of criminal investigation, using the DHS Criminal History Record Check Form B; and

3. On the Iowa sex offender registry.

(3) Out-of-state child abuse checks and national criminal history checks may be completed on any adult in the home of the applicant if the certified adoption investigator has reason to do so.

(4) The agency shall not approve a prospective applicant and the department shall not perform an evaluation if the applicant or anyone living in the home of the applicant has been convicted of a felony offense as set forth in Iowa Code section 600.8(2)*"b."*

(5) The agency shall not approve a prospective applicant and shall not perform an evaluation if the applicant or anyone living in the home of the applicant has committed a crime in a state other than Iowa that would be a forcible felony if the crime would have been committed in Iowa, as set forth in Iowa Code section 600.8(2)*"b."*

e. Evaluation of record. If the applicant or anyone living in the home has record of founded child abuse, a criminal conviction, or placement on the sex offender registry, the applicant shall not be approved to adopt unless an evaluation determines that the abuse or criminal conviction does not warrant prohibition of approval.

(1) The evaluation shall consider the nature and seriousness of the founded abuse or crime in relation to adoption, the time elapsed since the commission of the founded abuse or crime, the circumstances under which the abuse or crime was committed, the degree of rehabilitation, the likelihood that the person will commit the abuse or crime again, and the number of abuses or crimes committed by the person.

(2) The person with the criminal conviction or founded child abuse report shall complete and return the Record Check Evaluation form within 10 calendar days of the date on the form to be used to assist in the evaluation. Failure of the person to complete and return the form within the specified time frame may result in a written denial of approval for adoption.

(3) If the applicant, or anyone living in the home of the applicant, has been convicted of a simple misdemeanor or a serious misdemeanor that occurred five or more years prior to application, the evaluation and decision may be made by the licensed child-placing agency. The licensed child-placing agency shall notify the applicant of the results of the evaluation.

(4) If the applicant, or any person living in the home of the applicant, has a founded child abuse report, has been convicted of an aggravated misdemeanor or felony at any time, or has been convicted of a simple or serious misdemeanor that occurred within five years prior to application, the licensed child-placing agency shall initially conduct the evaluation.

1. If the licensed child-placing agency determines that the abuse or crime does warrant prohibition of approval, the licensed child-placing agency shall notify the applicant of the results of the evaluation in writing. The notice shall contain information on appeal rights.

2. If the child-placing agency determines that the applicant should be approved despite the abuse or criminal conviction, the agency shall provide copies of the Record Check Evaluation form and the written notice to the applicant to the Administrator, Division of Adult, Children and Family Services, Department of Human Services, 1305 East Walnut Street, Des Moines, Iowa 50319-0114. Within 30 days, the administrator shall determine whether the abuse or crime merits prohibition of approval and shall notify the child-placing agency in writing of that decision.

f. *Agency decision.* The licensed child-placing agency shall notify the applicant in writing no later than 30 days after completion of the home study of the agency's decision regarding approval for placement of a child.

(1) If the applicant is denied approval, the agency shall state the reasons for denial in the written decision.

(2) The agency worker and supervisor shall date and sign the adoptive home study.

(3) The agency shall provide a copy of the home study to the family at the time the written notice is sent.

(4) An agency shall not place a child in an adoptive home before the family is approved, or before a placement agreement is signed by the family and the agency.

(5) A home study shall be valid for up to two years from the date signed by the agency worker and supervisor.

g. *Denial.* The licensed child-placing agency shall deny approval of an adoption application when:

(1) The applicant or any other person living in the home of the applicant has been convicted of a felony offense as set forth in Iowa Code section 600.8(2)*"b."*

(2) The minimum standards set forth in these rules are not met and cannot be corrected.

(3) The applicant or any person residing in the home has been convicted of a crime, unless an evaluation of the crime has been made by the department which concludes that the crime does not merit prohibition of approval.

(4) The applicant or any person residing in the home has a record of founded child abuse, unless an evaluation of the founded child abuse has been made by the department which concluded that the founded child abuse does not merit prohibition of approval.

(5) The application is fraudulent, which means the applicant has knowingly made false statements or has knowingly concealed information that is material to the investigation.

h. *Updates.* To remain valid, an update to the home study shall be completed no later than 24 months from the previous home study or previous home study update. The update shall be conducted by completion of the following:

(1) The child abuse and criminal history record checks, except for the national criminal history check, shall be repeated. Any abuses or convictions of crimes since the last record check shall be evaluated using the same process.

(2) A minimum of one home visit shall be conducted with the approved adoptive family.

(3) The information in the approved adoptive home study shall be reassessed.

(4) A written report of the assessment and updated adoptive home study shall be completed, dated, signed by the agency worker and the agency supervisor, and provided to the adoptive family.

i. *Annual visits to the adoptive home.* The agency shall complete a minimum of one visit each year in the homes of families approved to adopt by the agency.

(1) The visit shall include, but not be limited to, assessment of the following areas:

1. Home environment.

2. Persons present at the time of the visit.

3. Changes in the home or household members, or other areas addressed in the home study.

(2) When a person aged 14 or older moves into the home, the agency shall perform checks on the Iowa central abuse registry, by the division of criminal investigation, and on the sex offender registry. The record check evaluation process shall be completed if the person has a criminal conviction or founded child abuse report or is on the sex offender registry.

(3) The findings from the visit shall be documented and maintained in the file.

108.9(5) *Services to adoptive families.*

a. Preparation of the family includes activities designed to prepare the adoptive family for the placement of a particular child. These activities shall assist the adoptive family in expanding its knowledge and understanding of the child and enhance the family's readiness to accept the child into the family and encourage the family's commitment. The activities shall include, but not be limited to:

(1) Providing background information on the child and the birth family, including a child study.

(2) Providing information regarding the unique needs and characteristics of the child.

(3) Providing information regarding an older child's anticipated behavior.

(4) Discussing the impact that adding a new member to their family may have on all current family members.

(5) Discussing the issues of separation, loss, grief, anger, and guilt that adoptive children experience at various developmental stages.

(6) Providing the family with community resources that are available, such as support groups.

b. Preplacement services include the preplacement visits of the child and approved family and any activities necessary to plan, conduct, and assess these transitional visits before the placement of the child in the adoptive family's home for the purpose of adoption.

c. Postplacement services include postplacement supervision, support, crisis intervention, and required reports to the court. The postplacement services are provided from the time the child is placed with an approved adoptive family until finalization of the adoption occurs.

(1) No fewer than three face-to-face postplacement visits in the family's home are required.

(2) At a minimum the first visit shall be completed within 30 days after placement; the second visit within 90 days after placement; and the final visit before granting consent to adopt no later than 180 days after placement.

(3) Postplacement visits shall be completed as often as necessary if the adoptive family is experiencing problems, and may extend to finalization or beyond 180 days if additional time is needed.

d. Postplacement supervision. The agency shall provide postplacement supervision to assess the unique needs of the child including, but not limited to, the following areas:

(1) Integration and interaction of the child with the family.

(2) Changes in the family functioning which may be due to the child's placement.

(3) Social and emotional adjustment of the child.

(4) Child's growth and development since placement with the adoptive family.

(5) Changes and adjustments that have been made in the family since the child's placement.

(6) Family's method of dealing with testing behaviors and discipline.

(7) Behavioral evidence of the degree of bonding that is taking place and the degree to which the child is becoming a permanent member of the adoptive family.

(8) School adjustment of a child who is attending a school.

(9) The behavioral needs of the child.

(10) The psychological and mental health needs of the child.

(11) Services and supports that will assist the family in the future.

e. Postadoption services. The agency shall provide postadoption services to adoptive parents and adoptees, or shall refer adoptive parents and adoptees to other community resources for the services.

f. Postplacement reports. The agency worker shall prepare a written report based on observations made during each home visit. Each report shall address the specific needs of the child and the family's ability to meet those needs. The reports shall be used by the agency in making a written recommendation to the court regarding finalization of the adoption.

108.9(6) *International adoptions.*

a. *International adoptions preplacement investigation.* Preplacement investigations for the purpose of international adoptions shall meet the requirements of the United States Citizen Immigration Service.

b. *International adoptions postplacement report.*

(1) For an adoption based on a decree issued by a foreign jurisdiction within the United States, the agency shall conduct a postplacement investigation and issue a postplacement report as required in subrule 108.9(5).

(2) For an adoption based on a decree issued by a jurisdiction outside the United States, an investigator shall conduct a postplacement investigation that consists of a minimum of three face-to-face visits with the minor person and the adoptive parents during the first year after placement with the first such visit to be conducted within 60 days of the placement of the minor person in the adoptive home. Additional visits shall be conducted if required by the jurisdiction that issued the decree.

(3) The postplacement investigation and report under this subrule shall include documentation that any unique needs of the minor person are being met appropriately through the placement.

108.9(7) *Religious policy.* There shall be a written policy on religious participation for prospective placing parents, adoptive parents, and adoptees. The policy shall be made available to referral sources as well.

108.9(8) *Adoption records.* The agency shall keep separate records for each prospective, approved, or active adoptive family. Contents of these records shall be as follows:

a. The application.

b. The adoptive home study.

c. Current medical records.

d. All references.

e. All legal documents pertaining to the adoption.

f. Birth family information and background report, including physical descriptions, medical and mental health history, educational level, developmental history, problem areas such as substance or alcohol abuse.

g. Summary narrative on the placement decision and the preplacement and postplacement contacts with the adoptive family and child.

h. Information pertaining to the child including, but not limited to: physical, medical, and mental health; problem areas, including verification of the child's special needs; and whether or not a referral was made to the department for adoption subsidy.

i. In the event a family is not approved for placement of a child, the narrative shall clearly indicate the reason.

j. In the event a family is approved, but no child is placed with them, the narrative shall clearly indicate the reason.

108.9(9) *Right to appeal.* An adoptive applicant or an adoptive family may appeal an adverse decision made by a licensed agency. The appeal shall be filed with the department within 30 days of the notice of decision to the applicant or family by the licensed agency.

108.9(10) *Disposition of records.* When an adoption has occurred, the agency must maintain all records regarding the child, the birth family, and the adoptive family or families, forever. Any subsequent information received following the adoption finalization shall be placed in the adoption record. If the agency closes, all adoption records shall be forwarded to the department.

[**ARC 1754C**, IAB 12/10/14, effective 2/1/15]

441—108.10(238) Supervised apartment living placement services. An agency seeking to obtain a child-placing license which authorizes the agency to place or supervise children in supervised apartment living placements shall meet the standards in rules 441—108.2(238) to 441—108.6(238).

108.10(1) *Program statement.* An agency authorized to place or supervise children in supervised apartment living placements shall have a current written program statement which shall be provided to all children placed in supervised apartment living. The statement shall include all of the following:

a. A description of the types of living arrangements approved by the agency.

b. The eligibility requirements for the children who may be placed in a supervised apartment living placement.

c. The means of financial support for the children.

d. The expectations the agency has for children while placed in a supervised apartment living placement.

e. Services provided to the children.

f. Provisions for emergency medical care.

g. A description of the education and community activity options that are available.

108.10(2) *Basis for placement.* Before placing a child in supervised apartment living, an agency shall document all of the following:

a. The child is at least 16 years of age.

b. An initial assessment has been made that identifies the child's strengths and needs as these pertain to the child's ability to live independently.

c. The child has the capacity to function outside the structure of a foster family or group care setting.

d. The selection of a supervised apartment living placement is the most appropriate placement for the child.

e. The child will be involved in school or an educational or vocational program, work, or a combination thereof, as indicated in the child's individual service plan.

f. The child has entered into a mutually agreed-upon written contract with the agency which specifies the responsibilities of the agency and the child. This contract shall be reviewed with the child quarterly.

g. The agency has determined, through a visit to the living arrangement, that the following minimum standards for approval have been met:

(1) The living arrangement provides reasonably convenient access to schools, places of employment, and services required by the child.

(2) The living arrangement is in compliance with the applicable state and local zoning, fire, sanitary, and safety regulations.

(3) The living arrangement is reasonably priced to fit within the child's budget.

h. The agency has determined, based on the criteria in this subrule, that the agency's program can meet the needs of the child.

108.10(3) *Services provided.* The following services are required:

a. Ongoing assessment that identifies the child's strengths and needs as these pertain to the child's ability to live independently.

b. Development of an individual service plan by the agency worker within 30 days of the child's placement. The service plan shall be developed in consultation with the child, the child's family (unless a reason for noninvolvement is documented in the case record), and referring worker and shall be signed by all involved. The individual service plan shall be reviewed and updated quarterly or more often as necessary and shall be signed by all involved. The plan shall document the following:

(1) The goals that are intended to meet the specific needs of the child and the projected dates of accomplishment.

(2) The objectives (action steps) to be taken by the child and the agency and the projected dates of accomplishment to meet the child's goals.

(3) The services and activities necessary to achieve the child's goals and facilitate objectives (action steps), the frequency of services or activities, and the persons responsible.

(4) A budget, developed with the child, based upon the child's monthly maintenance payment, any start-up allowance, and any earned or unearned income or assistance (such as food assistance). The agency worker shall work with the child to ensure that needed items are purchased and that bills are paid.

(5) In the quarterly update, the child's progress toward the goals and objectives and the child's compliance with the service plan.

c. Supervision to assist the child in developing the needed structure to live in this setting and in locating and using other needed services. Supervision shall include guidance, oversight, and behavior monitoring.

(1) If the child is under age 18, supervision shall include a minimum of weekly face-to-face contacts.

(2) For children aged 18 or older, supervision shall include face-to-face contact at least every other week.

(3) Agency staff shall be present on site in a cluster setting at any time when more than one child is present in the living arrangement and shall be available to the children 24 hours a day, seven days a week.

(4) The agency shall provide a means for children in a scattered site setting to contact agency personnel 24 hours a day, seven days a week.

(5) The agency shall ensure that each child has access to and is receiving necessary medical care.

d. Documented observation by the agency worker that:

(1) The living situation is an environment that allows for the child's social and emotional needs to be met;

(2) There is an operating smoke alarm on each level of occupancy;

(3) The child has access to a telephone; and

(4) There is no reasonable cause for believing that the child's mode of living presents any unacceptable risks to the child's health or safety.

108.10(4) *Record.* In addition to any other documentation requirements, an agency shall maintain a record for each child in a supervised apartment living placement. The record shall contain all of the following:

a. The name, date of birth, sex, and address of the child and information on how the child can be contacted.

b. Documentation of financial support sufficient to meet the child's housing, clothing, food, and miscellaneous expenses.

c. Name, address, and telephone number of guardian, if applicable, and referring worker.

d. Medical records.

e. Educational and employment records.

f. All of the individual service plans and updated reviews.

g. Documentation of visits.

108.10(5) *Staffing requirements.* Each child in a supervised apartment living placement shall receive an agreed-upon number of hours of casework services per month. This shall be recorded in the child's individual service plan.

[**ARC 8901B**, IAB 6/30/10, effective 9/1/10; **ARC 9730B**, IAB 9/7/11, effective 11/1/11]

These rules are intended to implement Iowa Code chapter 238.

[Filed December 14, 1967]
[Filed 6/25/76, Notice 5/17/76—published 7/12/76, effective 8/16/76]
[Filed emergency 2/10/84—published 2/29/84, effective 2/10/84]
[Filed emergency 1/15/87—published 2/11/87, effective 1/15/87]
[Filed emergency 6/19/87—published 7/15/87, effective 7/1/87]
[Filed 8/28/87, Notice 7/15/87—published 9/23/87, effective 11/1/87]
[Filed 8/12/93, Notice 2/17/93—published 9/1/93, effective 11/1/93]
[Filed 1/12/94, Notice 11/24/93—published 2/2/94, effective 3/9/94]
[Filed emergency 12/15/94—published 1/4/95, effective 2/1/95]
[Filed 2/16/95, Notice 1/4/95—published 3/15/95, effective 5/1/95]
[Filed 6/13/96, Notice 4/24/96—published 7/3/96, effective 9/1/96]
[Filed 10/15/97, Notice 7/30/97—published 11/5/97, effective 1/1/98]
[Filed 4/15/99, Notice 2/10/99—published 5/5/99, effective 7/1/99]
[Filed 9/12/00, Notice 7/26/00—published 10/4/00, effective 12/1/00]
[Filed emergency 5/9/01—published 5/30/01, effective 5/9/01]

[Filed 5/9/01, Notice 3/21/01—published 5/30/01, effective 8/1/01]
[Filed 7/11/01, Notice 5/30/01—published 8/8/01, effective 10/1/01]
[Filed 11/18/02, Notice 8/21/02—published 12/11/02, effective 2/1/03]
[Filed 3/11/04, Notice 1/21/04—published 3/31/04, effective 6/1/04]
[Filed 11/16/05, Notice 9/28/05—published 12/7/05, effective 1/11/06]
[Filed emergency 6/14/07—published 7/4/07, effective 7/1/07]
[Filed 9/12/07, Notice 7/4/07—published 10/10/07, effective 11/14/07]
[Filed ARC 8901B (Notice ARC 8582B, IAB 3/10/10), IAB 6/30/10, effective 9/1/10]
[Filed ARC 9730B (Notice ARC 9563B, IAB 6/15/11), IAB 9/7/11, effective 11/1/11]
[Filed ARC 1754C (Notice ARC 1657C, IAB 10/1/14), IAB 12/10/14, effective 2/1/15]

TITLE XVI
ALTERNATIVE LIVING

CHAPTER 200
ADOPTION SERVICES

[Prior to 7/1/83, Social Services[770] Ch 139]
[Previously appeared as Ch 139—renumbered IAB 2/29/84]
[Prior to 2/11/87, Human Services[498]]

PREAMBLE

These rules define and structure the adoption services to be provided to birth families, children legally available for adoption, prospective adoptive families and adoptive families. These rules also establish policy regarding requests for access to sealed records.

441—200.1(600) Definitions.

"Adoption" means a legal and social process through which a child becomes a member of a family into which the child was not born. Adoption provides the child the same rights, privileges and duties as a birth child.

"Adoption service" means a service directed towards children who are legally available for adoption, the birth family, prospective adoptive family and adoptive family.

"Adoption work experience" means supervised employment in adoption services, which includes direct provision of adoption services, development of adoption policies, provision of training related to adoption services, oversight and review of adoption documents and activities, and direct supervision of adoption workers. Only the percent of time related to provision of adoption services shall be considered as adoption work experience when job duties involve activities other than adoption services.

"Adoptive family" means an approved person or persons who have a child placed in their home and are being supervised prior to finalizing the adoption; or who have a child in their home who is legally adopted and entitled to the same benefits as a child born into the family.

"Adoptive home study" includes an assessment of the family's parental attributes and a written report stating approval or nonapproval of the family for adoptive placement of a child or children.

"Certified adoption investigator" means a person as defined at rule 441—107.2(600).

"Child study or social history" includes a written description of the child including strengths and needs; medical, mental, social, educational, placement and court history; a description of the child's relationships with the birth family, foster family, and significant others; a summary of the child's understanding and feeling about adoption and recommendations as to the type of family that can best meet the child's needs.

"Court-ordered studies" means home studies ordered by a judge for the purpose of determining custody of a child or placement of a child for the purpose of adoption.

"Department" means the department of human services.

"Family safety, risk, and permanency service" means a service provided under 441—Chapter 172 that uses strategies and interventions designed to achieve safety and permanency for a child with an open department child welfare case, regardless of the setting in which the child resides.

"Foster family adoption" means the adoption of a child by a licensed foster family who has cared for the child.

"Guardianship record" means a case record regarding a child, established and retained by the department, when the department is named guardian of the child by court order. The purpose of the guardianship record is to collect and maintain information about the child and the birth family, legal documents, and other information that will assist in fulfilling the responsibility of guardian.

"Life book" means a compilation of information about the child, including birth information, photographs of the child; placement history, including dates of placement, names of caretakers, reasons for leaving the placement; relationships; school reports; social, medical, mental health developmental

history; awards received, important events, letters from significant persons, and other information that the child wishes to include. The life book will assist the child in dealing with separation and loss issues and provide background and genealogy data.

"Mental health professional" means a psychiatrist, psychologist, social worker, psychiatric nurse or mental health counselor who holds a current license as required by law.

"Placement services" includes the activities and travel necessary to place the child in the adoptive family.

"Postadoption services" includes those services that an adoptive family may access after the adoption is finalized to assist the family in coping with and resolving problems within the family.

"Postplacement services" includes the supervision, support and intervention necessary prior to finalization to assist in maintaining the adoptive placement.

"Preadoptive family" means an approved adoptive family with a child placed in the home for adoption whose adoption has not been finalized.

"Preparation of child" includes activities necessary to ready the child for placement into an adoptive family.

"Preparation of family" includes the activities necessary to assist the family in adding an adoptive child as a new member of their family.

"Preplacement visits" means contacts, activities, and visits between the child and adoptive family prior to the adoptive placement.

"Procedendo" means an order issued by the supreme court returning jurisdiction to the district court after a final appellate decision regarding an appeal.

"Recruitment and retention contractor" means the entity that contracts with the department statewide to recruit foster and adoptive parents, complete home studies, and perform activities to support and encourage retention of foster and adoptive parents, or any of its subcontractors.

"Relative within the fourth degree of consanguinity" means an adult who is related to a child as follows:

1. The child's parent, brother, or sister (first degree);
2. The child's grandparent, aunt, uncle, niece, nephew, or first cousin (second degree);
3. The child's great grandparent, great aunt, great uncle, great niece, great nephew, first cousin once removed, or second cousin (third degree); or
4. The child's great-great grandparent, great-grand aunt, great-grand uncle, great-grand niece, great-grand nephew, first cousin twice removed, second cousin once removed, or third cousin (fourth degree).

"Release of custody services" includes providing information regarding options to assist the parents in making permanent plans for their child and counseling regarding personal and emotional issues as described in 441—subrule 108.9(2).

"Selection of family" means reviewing approved home studies to match a family's strengths with a specific child's needs.

"Special needs child" means a child who meets one or more of the criteria set forth at 441—subrule 201.3(1).

[**ARC 8010B**, IAB 7/29/09, effective 10/1/09; **ARC 1754C**, IAB 12/10/14, effective 2/1/15]

441—200.2(600) Release of custody services. This rule applies to all terminations filed under Iowa Code chapter 600A. The parents shall be offered a minimum of three hours of counseling by a person authorized to provide counseling in accordance with 441—paragraph 108.9(2)*"f."*

[**ARC 8010B**, IAB 7/29/09, effective 10/1/09; **ARC 1754C**, IAB 12/10/14, effective 2/1/15]

441—200.3(600) Application. Persons wishing to apply to adopt a child through the department shall complete an Application for Adoption form. An application for adoption shall only be accepted for children who are under the guardianship of the department.

200.3(1) *Limitations.* The department and its recruitment and retention contractor shall accept only applications for adoption of a special needs child. Applications for adoption of a child without special needs shall be referred to private child-placing agencies. Exceptions to this rule may be made for:

a. Relatives of a child under the guardianship of the department; or

b. Foster parents with whom the child has a significant relationship.

200.3(2) *Procedures.* An application for adoption of a special needs child shall be accepted by any department office or by the department's recruitment and retention contractor. Before a home study is completed, applicants shall:

a. Complete the Application for Adoption form, and

b. Ensure that the Physician's Report for Foster and Adoptive Parents form is completed by the applicant's family physician.

[**ARC 8010B**, IAB 7/29/09, effective 10/1/09; **ARC 1754C**, IAB 12/10/14, effective 2/1/15]

441—200.4(600) Adoption services. Adoption services shall include: adoptive home study, preparation of child, selection of family, preparation of family, preplacement visits, placement services, and postplacement services.

200.4(1) *Adoptive home study.* For applicants who apply to the department to adopt, the recruitment and retention contractor shall prepare an adoptive home study through the following activities:

a. *Family assessment.* The family assessment shall include a minimum of two face-to-face interviews with the applicants and at least one face-to-face interview with each member of the household. At least one of the interviews shall take place at the applicant's home. The assessment of the prospective adoptive family shall include an evaluation of the family's ability to parent a special needs child or children including the following:

(1) Motivation for adoption and whether the family has biological, adopted or foster children.

(2) Family's and extended family's attitude toward accepting an adopted child and plans for discussing adoption with the child.

(3) The attitude toward adoption of other people involved with the family in a significant way.

(4) Emotional maturity; marital history, including verification of marriages and divorces; assessment of marital relationship; and compatibility of the adoptive parents.

(5) Ability to cope with problems, stress, frustrations, crises, separation, and loss.

(6) Medical, mental and emotional conditions that may affect the applicant's ability to parent a child, treatment history, and current status of treatment.

(7) Willingness to accept a child who has medical problems (such as a child who is at risk for HIV or is HIV positive), intellectual disabilities, or emotional or behavioral problems. Ability to provide for the child's physical, medical and emotional needs and respect the child's ethnic and religious identity.

(8) Description of biological children and previously adopted children, if any, including their attitudes toward adoption, relationship with others, and school performance.

(9) Capacity to give and receive affection.

(10) Statements from three references provided by the family and additional references the worker for the recruitment and retention contractor may wish to contact.

(11) Attitudes of the adoptive applicants toward the birth parents and the reasons the child is available for adoption.

(12) Financial information, including the family's ability to provide for a child.

(13) Disciplinary practices that will be used.

(14) History of abuse involving family members, including how the abuse was addressed and how that history impacts the applicant's ability to be an adoptive parent.

(15) Assessment of, commitment to, and capacity to maintain other significant relationships.

(16) Substance use or abuse by members of the household, treatment history and current status of treatment.

(17) Recommendations for the number, age, sex, characteristics, and special needs of a child or children the family can best parent.

(18) The family's ability to anticipate and understand the special needs of an adopted child as the child gets older and how the family will manage those needs.

b. *Record checks.* Record checks are required for each applicant and for anyone who is 14 years of age or older living in the home of the applicant to determine whether any of those persons have

founded child abuse reports or criminal convictions or have been placed on the sex offender registry. The department's contractor for the recruitment and retention of resource families shall assist applicants applying through the department in completing required record checks, including fingerprinting.

(1) The records of the applicants shall be checked:

1. On the Iowa central abuse registry using the Request for Child Abuse Information form;

2. By the Iowa division of criminal investigation, using the DHS Criminal History Record Check Form B;

3. On the Iowa sex offender registry;

4. On the child abuse registry of any state where the applicant has lived during the five years prior to the issuance of the investigative report; and

5. For a national criminal history through fingerprinting or another biometric identification-based process accepted by the federal government.

(2) The records of persons aged 14 or older living in the home of the applicant shall be checked:

1. On the Iowa central abuse registry using the Request for Child Abuse Information form;

2. By the Iowa division of criminal investigation, using the DHS Criminal History Record Check Form B; and

3. On the Iowa sex offender registry.

(3) Out-of-state child abuse checks and national criminal history checks may be completed on any adult living in the home of the applicant if the department has reason to do so.

(4) The department shall not approve a prospective applicant and shall not perform an evaluation if the applicant or anyone living in the home of the applicant has been convicted of a felony offense as set forth in Iowa Code section 600.8(2)*"b."*

(5) The department shall not approve a prospective applicant and shall not perform an evaluation if the applicant or anyone living in the home of the applicant has committed a crime in a state other than Iowa that would be a forcible felony if the crime would have been committed in Iowa, as set forth in Iowa Code section 600.8(2)*"b."*

c. Evaluation of record.

(1) If the applicant or anyone living in the home has a record of founded child abuse, a criminal conviction, or placement on the sex offender registry, the applicant shall not be approved to adopt unless an evaluation determines that the abuse or criminal conviction does not warrant prohibition of approval.

(2) The evaluation shall be conducted according to procedures in 441—subrules 113.13(2) and 113.13(3) for applications for adoption through the department or procedures in 441—paragraph 108.9(4)*"e"* for applications for adoption through a child-placing agency.

d. Written report. The worker for the recruitment and retention contractor shall prepare a written report of the family assessment, known as the adoptive home study, using the PS-MAPP family profile format. The worker for the recruitment and retention contractor shall use the home study to recommend to the department to approve or deny a prospective family as an appropriate placement for a child or children. The worker and supervisor for the recruitment and retention contractor shall date and sign the adoptive home study.

(1) The department shall notify the family of the decision using the Adoption Notice of Decision form.

(2) If the department does not approve the home study, the reasons shall be stated on the notice.

(3) The department shall provide the family a copy of the adoptive home study with the notification of approval or denial.

e. Preplacement assessment and home study update. A preplacement assessment and home study update is required if the adoptive home study was written more than two years previously, in accordance with Iowa Code section 600.8. The preplacement assessment and home study update shall be conducted by completion of the following:

(1) The child abuse and criminal record checks shall be repeated, except for fingerprinting. If there are any founded abuses or convictions of crimes that were not evaluated in the previous home study, they shall be evaluated using the process set forth in paragraph 200.4(1)*"c."*

(2) One face-to-face visit shall be conducted with the approved adoptive family.

(3) The information in the approved adoptive home study shall be reassessed.

(4) An updated written report of the reassessment and adoptive home study shall be written, dated, signed by the worker and the supervisor for the recruitment and retention contractor, and a copy provided to the adoptive family.

(5) Families who are dually licensed to provide foster family care shall have their adoption approval date align with their foster home licensing date.

f. *Procedure for foster parent adoptions.* When a licensed foster parent applies for approval as an adoptive home, home study activities that have been completed within the previous year as part of a licensing study pursuant to 441—Chapter 113 need not be repeated.

g. *Annual visits to the adoptive family home.* The recruitment and retention contractor shall complete a minimum of one visit each year in the homes of families approved to adopt.

(1) The visit shall not be waived.

(2) When a person aged 14 or older moves into the home, the agency shall perform checks on the Iowa central abuse registry, by the division of criminal investigation, and on the sex offender registry. The record check evaluation process shall be completed if the person has a criminal conviction or founded abuse report or is on the sex offender registry.

(3) Findings and observations of the visit shall be documented and provided to the department when the update is submitted.

(4) The department shall be notified within 30 days of any deficiencies noted or other concerns discovered that require corrective action.

200.4(2) *Preparation of child.* The department worker shall conduct specific activities designed to enable a child to make the transition to an adoptive placement or refer the child to the family safety, risk, and permanency services contractor or other professionals. The activities shall include, but not be limited to:

a. Counseling regarding issues of separation, loss, grief, guilt, anger and adjustment to an adoptive family.

b. Assisting in the preparation or update of a life book.

c. Provision of age-appropriate information regarding community resources available, such as children's support groups, to assist the child in the transition and integration into the adoptive family.

d. Any appropriate evaluations or testing.

e. HIV testing of a child by the University of Iowa Hospitals and Clinics (UIHC) or a local physician when any of the following conditions exist:

(1) The child was, or may have been, sexually abused by a person who participated in high-risk behavior such as sharing of needles with an infected person or sex participation with an infected person.

(2) The child's birth mother participated in high-risk behavior, or is HIV positive.

(3) The child participated in, or has participated in, high-risk behavior.

(4) The child is symptomatic or at high risk of infections.

(5) There is a lack of medical information regarding the birth parents or the child.

200.4(3) *Selection of family.* The family that can best meet the needs of the adoptive child shall be selected as follows:

a. Before preplacement visits occur, a conference shall be held to select an approved family. A minimum of two department social workers and a department supervisor shall be included in the conference. The child's special needs, characteristics, and anticipated behaviors shall be reviewed in the conference to determine a family that can best meet the needs of the child. Approved families shall also be reviewed in an effort to match the specific family's parenting strengths with a particular child's needs.

b. The following selection criteria shall be observed:

(1) Preference shall be given to placing children from the same birth family together. If placement together is not possible, or is not in the best interest of the children, the reasons shall be identified and documented in each child's case record. Efforts shall be made to ensure continuous contact between siblings when the siblings are not placed together.

(2) Race, color, or national origin may not be routinely considered in placement selections except when an Indian child is being placed pursuant to Iowa Code section 232.7 or Iowa Code chapter 232B. Placement decisions shall be made consistent with the best interests and special needs of the child.

(3) A relative who is within the fourth degree of consanguinity shall be given consideration for selection as the adoptive family for a child who is legally available for adoption if the child has a significant relationship with the relative or the child is aged 14 or older and elects adoption by the relative.

(4) Foster parents shall be given consideration for selection as the adoptive family for a child in the foster parents' care who is legally available for adoption if the child has been in the foster parents' care for six months or longer or the child has a significant relationship with the family.

200.4(4) *Preparation of family.* The recruitment and retention contractor and the department shall conduct activities designed to enhance the family's readiness to accept the child or children into the family and strengthen the family's commitment to adopt. A referral may be made for family safety, risk, and permanency services if needed. The activities shall include, but not be limited to:

a. Completion of at least 30 hours of "Partnering for Safety and Permanence: Model Approach to Partnership in Parenting" (PS-MAPP) and the self-study course, "Universal Precautions in Foster and Adoptive Family Homes," before placement of a child. These training requirements apply to families who are adopting special needs children who are under the guardianship of the department.

(1) Foster parents licensed before December 31, 2002, who have been caring for a foster child in their home for at least six months and who have been selected to adopt that child may have their participation in adoption training waived by the service area manager or designee.

(2) Relatives who have cared for a related child for at least six months and who have been selected to adopt that related child may have their participation in the PS-MAPP preservice training waived by the service area manager or designee.

(3) The department may waive the PS-MAPP training requirement in whole or in part when the department finds that:

1. The applicant has completed relevant training or has a combination of relevant training and experience that is an acceptable equivalent to all or a portion of the required preservice training; or

2. There is good cause for the waiver based upon the circumstances of the child and the applicant.

(4) If the adoptive parents are accepting placement of a child who is at high risk of becoming or is HIV positive, they shall also complete the "Caring for Children With HIV" course.

(5) Applicants must retake PS-MAPP if the adoption approval process is not completed within 24 months after PS-MAPP is initially completed.

b. Discussion with family members regarding problems resulting from a child's separation, loss, grief, and anger due to the loss of the birth parents.

c. Provision of background information on the child and birth family, including a child study that includes experiences such as foster and adoption placements and other pertinent information and the child's life book.

d. Provision of information regarding the child's special needs and behavior patterns.

e. Provision of a description of the child's medical needs, including whether or not the child is at risk of or is HIV positive.

f. Discussion of the impact that adding a new member or members to the family may have on all current family members.

g. Explanation of the subsidized adoption program.

h. Provision of information regarding the community resources that are available to assist the family, such as parent support groups.

200.4(5) *Preplacement visits.* The department worker shall plan, conduct and assess the transitional visits between the adoptive family and the child or children before the adoptive placement of the child in the home.

200.4(6) *Placement services.* Placement services include the activities necessary to plan and carry out the placement of a child or children into the adoptive family.

Before placement of a child, the Agreement of Placement for Adoption, Form 470-0761, shall be signed by all parties.

200.4(7) *Postplacement services.* An adoptive family is eligible for postplacement services from the time a child is placed with the family until finalization of the adoption occurs. The department worker shall supervise the placement, provide ongoing support to the child and family, perform crisis intervention, and complete required reports. Assistance with behavioral interventions to strengthen the placement and prevent disruption may be provided through family safety, risk, and permanency services.

a. Postplacement supervision shall focus on the following areas:

(1) Integration and interaction of the child or children with the family.

(2) Changes in the family functioning which may be due to the child's placement.

(3) Social and emotional adjustment of the child or children.

(4) Child's growth and development since placement with the adoptive family.

(5) Changes and adjustments that have been made in the family since the child's placement.

(6) Family's method of dealing with testing behaviors and discipline.

(7) Behavioral evidence of the degree of bonding that is taking place and the degree to which the child is becoming a permanent member of the adoptive family.

(8) School adjustment of a child who is attending a school.

(9) The behavioral needs of the child.

(10) The psychological and mental health needs of the child.

(11) Services and supports that will assist the child and family in the future.

b. At a minimum, the department worker shall make monthly home visits until the adoption is final. If the family is experiencing problems, the department worker shall make as many visits as are necessary to assess and support the placement.

c. The department worker shall prepare a written report based on the postplacement visits with recommendations regarding the finalization of the adoption and submit the report to the court before the hearing to consider granting a decree of adoption.

200.4(8) *Postadoption services.* The department's recruitment and retention contractor shall provide postadoption services to families that are eligible for the department's adoption subsidy program in accordance with the contract. The goal of these services is to prevent adoption dissolution. The family may obtain additional support through community resources or support groups.

[**ARC 8010B**, IAB 7/29/09, effective 10/1/09; **ARC 1754C**, IAB 12/10/14, effective 2/1/15]

441—200.5(600) Termination of parental rights. The department shall not place a child in an approved adoptive home until parental rights of the child's birth parents have been terminated and guardianship assigned to the department. If one or both birth parents are deceased, the worker shall provide the court with verification of the birth parents' death and the death shall be stated in the guardianship order. When the termination of parental rights is appealed by a birth parent, an adoptive placement may be made if the adoptive parents sign an adoptive placement agreement that includes an acknowledgment of the conditions of the placement should termination be overturned. However, the adoption may not be finalized until the appeal is withdrawn or a final decision regarding the appeal is reached and a procedendo issued.

441—200.6(600) Service provision. Rescinded IAB 7/29/09, effective 10/1/09.

441—200.7(600) Department fees. Rescinded IAB 7/29/09, effective 10/1/09.

441—200.8(600) Interstate placements. Interstate placement of a child into Iowa, or out of Iowa, shall follow interstate placement of child procedures in accordance with Iowa Code sections 232.158 through 232.166.

[**ARC 1754C**, IAB 12/10/14, effective 2/1/15]

441—200.9(600) International adoptions. Rescinded IAB 7/29/09, effective 10/1/09.

441—200.10(600) Requests for home studies.

200.10(1) *Court-ordered.* Court-ordered home studies for adoption of a child or children under the authority of the department shall be completed by the department's recruitment and retention contractor.

200.10(2) *Interstate compact.* Requests for an adoptive home study through the interstate compact process shall be completed by the department's recruitment and retention contractor.

[**ARC 8010B**, IAB 7/29/09, effective 10/1/09]

441—200.11(600) Reasons for denial. An individual or family shall be denied approval of an adoptive home study for one or more of the following reasons:

200.11(1) *Founded child abuse report.* A founded child abuse report shall mean denial of approval unless an evaluation determines than it does not merit denial.

200.11(2) *Criminal conviction.* A criminal conviction shall mean denial of approval unless an evaluation determines that it does not merit denial.

200.11(3) *Documented concerns.* Concerns may be documented in one or more of the following areas:

a. Motivation to adopt.

b. Child-rearing ability and practices.

c. Emotional stability.

d. Physical or mental health.

e. Interpersonal relationships.

f. Finances.

g. Marital relationship.

h. Other areas that may impact the applicant's ability to meet the needs of a child both at present and in the future.

200.11(4) *Substance abuse.* Verified substance use or abuse that prevents the family from adequately caring for the child shall mean denial of approval.

200.11(5) *Lack of cooperation.* If the individual or family fails to cooperate in providing the information needed to complete the preplacement assessment or home study, the application shall be denied.

[**ARC 1754C**, IAB 12/10/14, effective 2/1/15]

441—200.12(600) Removal of child from preadoptive family. When the department determines that it is in the best interest of a child to be removed from a preadoptive family, a Letter of Removal, Form 470-3018, shall be mailed to the family prior to the removal. Removal of a child from a preadoptive family is not an appealable issue, as a child continues to be under the guardianship of the department until an adoption is finalized.

441—200.13(600) Consents. A request for consent to the adoption shall be submitted to the guardian for a child who is under the guardianship of the department and for whom finalizing an adoption is recommended. If the adoption is in the best interest of the child, the director or designee shall sign a Consent to Adoption, Form 470-0775, prior to a court hearing to finalize the adoption.

A consent to adopt may be rescinded by the department, by signing Rescinding the Consent to Adoption, Form 470-2990, for any of the following reasons:

1. At the request of the adoptive family.
2. A founded child abuse report, or accusation of child abuse, pending determination of the report.
3. Conviction of a crime, or accusation of a crime, pending a court decision regarding the crime.
4. At the request of a child who is aged 14 or over and has reversed the decision regarding the adoption.
5. Other verified indications that the adoption is not in the best interest of the child.

441—200.14(600) Requests for access to information for research or treatment.

200.14(1) *Requests.* Any person seeking access to the department's sealed adoption records for the purpose or purposes set forth in Iowa Code paragraph 600.16(1)*"c"* or Iowa Code subsection 600.24(2)

shall submit a request in writing to the director. Each request shall contain sufficient facts to establish that the information sought is necessary for conducting a legitimate medical research project, or for treating a patient in a medical facility.

200.14(2) *Process.* Upon receipt of a request for information sought in conducting a research project, the director or a designee shall review the request for information and make a decision to approve, or deny, the request based on the research to be conducted, the benefits of the research, the methodology, and the confidentiality measures to be followed. Upon a request for information for treating a patient in a medical facility, a decision regarding approval or denial shall be made by the director or designee based on the written information provided by a physician or the medical facility, making the request. Requesters shall be notified in writing of approval or denial and if denied, reasons for denial given.

441—200.15(600) Requests for information for purposes other than research or treatment. Requests for information from department adoption records for purposes other than research or treatment shall be made to the Department of Human Services, Division of Adult, Children and Family Services, Adoption Program, Hoover State Office Building, 1305 East Walnut Street, Des Moines, Iowa 50319-0114.

200.15(1) The department shall not release identifying information from sealed adoption records. Adult adoptees, adoptive parents, birth parents, siblings or descendants of an adopted person, or legal representatives of any of the above shall be provided:

a. An adoption packet containing a sample affidavit for filing with the court,

b. Directions for filing the affidavit,

c. A list of county clerks of court,

d. The address of the bureau of vital statistics, and

e. Instructions on how to obtain the name of the Iowa county where the adoption was finalized, if necessary.

200.15(2) An adopted person who was a resident of the Annie Wittenmeyer Home (Iowa Soldier's and Sailor's Home) may receive nonidentifying information from Annie Wittenmeyer records if the information is available.

[**ARC 8010B**, IAB 7/29/09, effective 10/1/09; **ARC 1754C**, IAB 12/10/14, effective 2/1/15]

441—200.16(600) Appeals. Prospective adoptive families may appeal denial of approval of their home study based on rule 441—200.11(600), pursuant to 441—Chapter 7.

These rules are intended to implement Iowa Code chapter 600.

[Filed 2/11/77, Notice 11/3/76—published 3/9/77, effective 2/1/77]
[Filed 6/10/77, Notice 5/4/77—published 6/29/77, effective 8/3/77]
[Filed 9/6/79, Notice 6/27/79—published 10/3/79, effective 11/7/79]
[Filed 10/23/80, Notices 8/20/80, 9/3/80—published 11/12/80, effective 12/17/80]
[Filed 10/23/81, Notice 8/19/81—published 11/11/81, effective 1/1/82]
[Filed 10/28/83, Notice 8/17/83—published 11/23/83, effective 1/1/84]
[Filed emergency 2/10/84—published 2/29/84, effective 2/10/84]
[Filed 4/2/84, Notice 2/15/84—published 4/25/84, effective 6/1/84]
[Filed 3/22/85, Notice 10/24/84—published 4/10/85, effective 6/1/85]
[Filed emergency 1/15/87—published 2/11/87, effective 1/15/87]
[Filed emergency 6/19/87—published 7/15/87, effective 7/1/87]
[Filed 8/28/87, Notice 7/15/87—published 9/23/87, effective 11/1/87]
[Filed 11/12/93, Notice 9/15/93—published 12/8/93, effective 2/1/94]
[Filed 4/13/95, Notice 2/1/95—published 5/10/95, effective 7/1/95]
[Filed 11/16/95, Notice 9/27/95—published 12/6/95, effective 2/1/96]
[Filed 8/15/96, Notice 6/5/96—published 9/11/96, effective 11/1/96]
[Filed 4/11/97, Notice 1/15/97—published 5/7/97, effective 7/1/97]
[Filed 4/15/99, Notice 2/10/99—published 5/5/99, effective 7/1/99]
[Filed 9/12/00, Notice 7/26/00—published 10/4/00, effective 12/1/00]

[Filed 5/9/01, Notice 3/21/01—published 5/30/01, effective 8/1/01]
[Filed 11/18/02, Notice 8/21/02—published 12/11/02, effective 2/1/03]
[Filed emergency 6/16/06—published 7/5/06, effective 7/1/06]
[Filed 9/19/06, Notice 7/5/06—published 10/11/06, effective 11/16/06]
[Filed emergency 6/14/07—published 7/4/07, effective 7/1/07]
[Filed 9/12/07, Notice 7/4/07—published 10/10/07, effective 11/14/07]
[Filed ARC 7606B (Notice ARC 7372B, IAB 12/3/08), IAB 3/11/09, effective 5/1/09]
[Filed ARC 8010B (Notice ARC 7712B, IAB 4/8/09), IAB 7/29/09, effective 10/1/09]
[Filed ARC 1754C (Notice ARC 1657C, IAB 10/1/14), IAB 12/10/14, effective 2/1/15]

INSPECTIONS AND APPEALS DEPARTMENT[481]

CHAPTER 1
ADMINISTRATION

1.1(10A) Organization
1.2(10A) Definitions
1.3(10A) Administration division
1.4(10A) Investigations division
1.5(10A) Health facilities division
1.6(10A) Administrative hearings division
1.7(10A) Administering discretion
1.8(10A) Employment appeal board
1.9(10A,237) Child advocacy board
1.10(10A,13B) State public defender
1.11(10A,99D,99F) Racing and gaming commission

CHAPTER 2
PETITIONS FOR RULE MAKING

2.1(17A) Petition for rule making
2.2(17A) Briefs
2.3(17A) Inquiries
2.4(17A) Agency consideration

CHAPTER 3
DECLARATORY ORDERS
(Uniform Rules)

3.1(17A) Petition for declaratory order
3.2(17A) Notice of petition
3.3(17A) Intervention
3.4(17A) Briefs
3.5(17A) Inquiries
3.6(17A) Service and filing of petitions and other papers
3.7(17A) Consideration
3.8(17A) Action on petition
3.9(17A) Refusal to issue order
3.12(17A) Effect of a declaratory order

CHAPTER 4
AGENCY PROCEDURE FOR RULE MAKING
(Uniform Rules)

4.3(17A) Public rule-making docket
4.4(17A) Notice of proposed rule making
4.5(17A) Public participation
4.6(17A) Regulatory analysis
4.10(17A) Exemptions from public rule-making procedures
4.11(17A) Concise statement of reasons
4.13(17A) Agency rule-making record

CHAPTER 5
PUBLIC RECORDS AND FAIR INFORMATION PRACTICES
(Uniform Rules)

5.1(17A,22) Definitions
5.3(17A,22) Requests for access to records

5.6(17A,22) Procedure by which a subject may have additions, dissents, or objections entered into the record
5.9(17A,22) Disclosures without the consent of the subject
5.10(17A,22) Routine use
5.11(17A,22) Consensual disclosure of confidential records
5.12(17A,22) Release to subject
5.13(17A,22) Availability of records
5.14(17A,22) Authority to release confidential records
5.15(17A,22) Personnel files
5.16(17A,22) Personally identifiable information

CHAPTER 6
UNIFORM WAIVER AND VARIANCE RULES

6.1(10A,17A,ExecOrd11) Applicability
6.2(10A,17A,ExecOrd11) Definitions
6.3(10A,17A,ExecOrd11) Interpretive rules
6.4(10A,17A,ExecOrd11) Compliance with statute
6.5(10A,17A,ExecOrd11) Criteria for waiver or variance
6.6(10A,17A,ExecOrd11) Filing of petition
6.7(10A,17A,ExecOrd11) Content of petition
6.8(10A,17A,ExecOrd11) Additional information
6.9(10A,17A,ExecOrd11) Notice
6.10(10A,17A,ExecOrd11) Hearing procedures
6.11(10A,17A,ExecOrd11) Ruling
6.12(10A,17A,ExecOrd11) Public availability
6.13(10A,17A,ExecOrd11) Voiding or cancellation
6.14(10A,17A,ExecOrd11) Violations
6.15(10A,17A,ExecOrd11) Defense
6.16(10A,17A,ExecOrd11) Appeals
6.17(10A,17A,ExecOrd11) Sample petition for waiver or variance

CHAPTER 7
CONSENT FOR THE SALE OF GOODS
AND SERVICES

7.1(68B) General prohibition
7.2(68B) Definitions
7.3(68B) Conditions of consent for officials
7.4(68B) Application for consent
7.5(68B) Effect of consent
7.6(22,68B) Public information
7.7(68B) Appeal

CHAPTER 8
LICENSING ACTIONS FOR NONPAYMENT OF CHILD SUPPORT
AND STUDENT LOAN DEFAULT/NONCOMPLIANCE
WITH AGREEMENT FOR PAYMENT OF OBLIGATION

8.1(252J) Certificates of noncompliance
8.2(261) Student loan default/noncompliance with agreement for payment of obligation
8.3(261) Suspension or revocation of a license

CHAPTER 9
INDIGENT DEFENSE CLAIMS PROCESSING

9.1(232,815) Definitions
9.2(815) Claims submitted by a public defender
9.3(815) Claims submitted by a private attorney
9.4(815) Claims submitted by a county
9.5(815) Claims for other professional services
9.6(10A) Processing and payment
9.7(10A) Payment errors
9.8(10A) Availability of records

CHAPTER 10
CONTESTED CASE HEARINGS

10.1(10A) Definitions
10.2(10A,17A) Time requirements
10.3(10A) Requests for a contested case hearing
10.4(10A) Transmission of contested cases
10.5(17A) Notices of hearing
10.6(10A) Waiver of procedures
10.7(10A,17A) Telephone proceedings
10.8(10A,17A) Scheduling
10.9(17A) Disqualification
10.10(10A,17A) Consolidation—severance
10.11(10A,17A) Pleadings
10.12(17A) Service and filing of pleadings and other papers
10.13(17A) Discovery
10.14(10A,17A) Subpoenas
10.15(10A,17A) Motions
10.16(17A) Prehearing conference
10.17(10A) Continuances
10.18(10A,17A) Withdrawals
10.19(10A,17A) Intervention
10.20(17A) Hearing procedures
10.21(17A) Evidence
10.22(17A) Default
10.23(17A) Ex parte communication
10.24(10A,17A) Decisions
10.25(10A,17A) DIA appeals
10.26(10A,17A,272C) Board hearings
10.27(10A) Transportation hearing fees
10.28(10A) Recording costs
10.29(10A) Code of administrative judicial conduct

CHAPTER 11
PROCEDURE FOR CONTESTED CASES INVOLVING PERMITS
TO CARRY WEAPONS AND ACQUIRE FIREARMS

11.1(17A,724) Definitions
11.2(724) Appeals
11.3(17A,724) Notice of hearing
11.4(17A,724) Agency record
11.5(17A) Contested case hearing
11.6(17A) Service and filing of documents

11.7(17A) Witness lists and exhibits
11.8(17A) Evidence
11.9(17A) Withdrawals and dismissals
11.10(17A) Default
11.11(10A) Costs
11.12(724) Probable cause
11.13(724) Clear and convincing evidence

CHAPTERS 12 to 19
Reserved

AUDITS DIVISION

CHAPTERS 20 and 21
Reserved

CHAPTER 22
HEALTH CARE FACILITY AUDITS
22.1(10A) Audit occurrence
22.2(10A) Confidentiality

CHAPTERS 23 and 24
Reserved

CHAPTER 25
IOWA TARGETED SMALL BUSINESS CERTIFICATION PROGRAM
25.1(73) Definitions
25.2(10A) Certification
25.3(17A) Description of application
25.4(10A) Eligibility standards
25.5(10A) Special consideration
25.6(10A) Family-owned business
25.7(10A) Cottage industry
25.8(10A) Decertification
25.9(12) Request for bond waiver
25.10(714) Fraudulent practices in connection with targeted small business programs
25.11(17A) Appeal procedure

CHAPTERS 26 to 29
Reserved

INSPECTIONS DIVISION

CHAPTER 30
FOOD AND CONSUMER SAFETY
30.1(10A,137C,137D,137F) Food and consumer safety bureau
30.2(10A,137C,137D,137F) Definitions
30.3(137C,137D,137F) Licensing and postings
30.4(137C,137D,137F) License fees
30.5(137F) Penalty and delinquent fees
30.6(137C,137D,137F) Returned checks
30.7(137F) Double licenses
30.8(137C,137D,137F) Inspection frequency
30.9(22) Examination of records
30.10(17A,137C,137D,137F) Denial, suspension, or revocation of a license to operate

30.11(10A,137C,137D,137F) Formal hearing
30.12(137F) Primary servicing laboratory

CHAPTER 31
FOOD ESTABLISHMENT AND FOOD
PROCESSING PLANT INSPECTIONS

31.1(137F) Inspection standards for food establishments
31.2(137F) Inspection standards for food processing plants
31.3(137D,137F) Adulterated food and disposal
31.4(137D,137F) False label or defacement
31.5(137F) Temporary food establishments and farmers market potentially hazardous food licensees

CHAPTERS 32 and 33
Reserved

CHAPTER 34
HOME FOOD ESTABLISHMENTS

34.1(137D) Inspection standards
34.2(137D) Enforcement
34.3(137D) Labeling requirement
34.4(137D) Annual gross sales
34.5(137D) Criminal offense—conviction of license holder

CHAPTER 35
CONTRACTOR REQUIREMENTS

35.1(137C,137D,137F) Definitions
35.2(137C,137D,137F) Contracts
35.3(137C,137D,137F) Contractor
35.4(137C,137D,137F) Contractor inspection personnel
35.5(137C,137D,137F) Investigation
35.6(137C,137D,137F) Inspection standards
35.7(137C,137D,137F) Enforcement
35.8(137C,137D,137F) Licensing
35.9(137C,137D,137F) Records
35.10(137C,137D,137F) Reporting requirements
35.11(137C,137D,137F) Contract rescinded

CHAPTER 36
Reserved

CHAPTER 37
HOTEL AND MOTEL INSPECTIONS

37.1(137C) Building and grounds
37.2(137C) Guest rooms
37.3(137C) Bedding
37.4(137C) Lavatory facilities
37.5(137C) Glasses and ice
37.6(137C) Employees
37.7(137C) Room rates
37.8(137C) Inspections
37.9(137C) Enforcement
37.10(137C) Criminal offense—conviction of license holder

CHAPTERS 38 and 39
Reserved

CHAPTER 40
FOSTER CARE FACILITY INSPECTIONS

40.1(10A) License surveys
40.2(10A) Unannounced inspections
40.3(10A) Results
40.4(10A) Ownership of records

CHAPTER 41
PSYCHIATRIC MEDICAL INSTITUTIONS FOR CHILDREN (PMIC)

41.1(135H) Definitions
41.2(135H) Application for license
41.3(135H) Renewal application or change of ownership
41.4(135H) Licenses for distinct parts
41.5(135H) Variances
41.6(135H) Notice to the department
41.7(135H) Inspection of complaints
41.8(135H) General requirement
41.9(135H) Certification of need for services
41.10(135H) Active treatment
41.11(135H) Individual plan of care
41.12(135H) Individual written plan of care
41.13(135H) Plan of care team
41.14(135H) Required discharge
41.15(135H) Criminal behavior involving children
41.16(22,135H) Confidential or open information
41.17(135H) Additional provisions concerning physical restraint

CHAPTERS 42 to 49
Reserved

CHAPTER 50
HEALTH CARE FACILITIES ADMINISTRATION

50.1(10A) Inspections
50.2(10A) Definitions
50.3(135B,135C) Licensing
50.4(135C) Fines and citations
50.5(135C) Denial, suspension or revocation
50.6(10A) Formal hearing
50.7(10A,135C) Additional notification
50.8(22,135B,135C) Records
50.9(135C) Criminal, dependent adult abuse, and child abuse record checks
50.10(135C) Inspections, exit interviews, plans of correction, and revisits
50.11(135C) Complaint and self-reported incident investigation procedure
50.12(135C) Requirements for service
50.13(135C) Inspectors' conflicts of interest

CHAPTER 51
HOSPITALS

51.1(135B) Definitions
51.2(135B) Classification, compliance and license

51.3(135B) Quality improvement program
51.4(135B) Long-term acute care hospital located within a general hospital
51.5(135B) Medical staff
51.6(135B) Patient rights and responsibilities
51.7(135B) Abuse
51.8(135B) Organ and tissue—requests and procurement
51.9(135B) Nursing services
51.10 and 51.11 Reserved
51.12(135B) Records and reports
51.13 Reserved
51.14(135B) Pharmaceutical service
51.15 Reserved
51.16(135B) Radiological services
51.17 Reserved
51.18(135B) Laboratory service
51.19 Reserved
51.20(135B) Food and nutrition services
51.21 Reserved
51.22(135B) Equipment for patient care
51.23 Reserved
51.24(135B) Infection control
51.25 Reserved
51.26(135B) Surgical services
51.27 Reserved
51.28(135B) Anesthesia services
51.29 Reserved
51.30(135B) Emergency services
51.31 Reserved
51.32(135B) Obstetric and neonatal services
51.33 Reserved
51.34(135B) Pediatric services
51.35 Reserved
51.36(135B) Psychiatric services
51.37 Reserved
51.38(135B) Long-term care service
51.39(135B) Penalty and enforcement
51.40(135B) Validity of rules
51.41(135B) Criminal, dependent adult abuse, and child abuse record checks
51.42 to 51.49 Reserved
51.50(135B) Minimum standards for construction
51.51 and 51.52 Reserved
51.53(135B) Critical access hospitals

CHAPTER 52
DEPENDENT ADULT ABUSE IN FACILITIES AND PROGRAMS

52.1(235E) Definitions
52.2(235E) Persons who must report dependent adult abuse and the reporting procedure for those persons
52.3(235E) Reports and registry of dependent adult abuse
52.4(235E) Financial institution employees and reporting suspected financial exploitation
52.5(235E) Evaluation of report
52.6(235E) Separation of victim and alleged abuser

52.7(235E) Interviews, examination of evidence, and investigation of dependent adult abuse allegations
52.8(235E) Notification to subsequent employers

CHAPTER 53
HOSPICE LICENSE STANDARDS

53.1(135J) Definitions
53.2(135J) License
53.3(135J) Patient rights
53.4(135J) Governing body
53.5(135J) Quality assurance and utilization review
53.6(135J) Attending physician services
53.7(135J) Medical director
53.8(135J) Interdisciplinary team (IDT)
53.9(135J) Nursing services
53.10 Reserved
53.11(135J) Coordinator of patient care
53.12(135J) Social services
53.13(135J) Counseling services
53.14(135J) Volunteer services
53.15(135J) Spiritual counseling
53.16(135J) Optional services
53.17(135J) Contracted services
53.18(135J) Short-term hospital services
53.19(135J) Bereavement services
53.20(135J) Records

CHAPTER 54
GOVERNOR'S AWARD FOR QUALITY CARE

54.1(135C) Purpose
54.2(135C) Definitions
54.3(135C) Nomination
54.4(135C) Applicant eligibility
54.5(135C) Nomination information
54.6(135C) Evaluation
54.7(135C) Selection of finalists
54.8(135C) Certificate of recognition

CHAPTER 55
Reserved

CHAPTER 56
FINING AND CITATIONS

56.1(135C) Authority for citations
56.2(135C) Classification of violations—classes
56.3(135C) Fines
56.4(135C) Time for compliance
56.5(135C) Failure to correct a violation within the time specified—penalty
56.6(135C) Treble and double fines
56.7(135C) Notation of classes of violations
56.8(135C) Notation for more than one class of violation
56.9(135C) Factors determining selection of class of violation
56.10(135C) Factors determining imposition of citation and fine

56.11(135C) Class I violation not specified in the rules
56.12(135C) Class I violation as a result of multiple lesser violations
56.13(135C) Form of citations
56.14(135C) Licensee's response to a citation
56.15(135C) Procedure for facility after informal conference
56.16 Reserved
56.17(135C) Formal contest

CHAPTER 57
RESIDENTIAL CARE FACLITIES

57.1(135C) Definitions
57.2(135C,17A) Waiver or variance
57.3(135C) Application for licensure
57.4(135C) Issuance of license
57.5(135C) Licenses for distinct parts
57.6(135C) Special classification—memory care
57.7(135C) General requirements
57.8(135C) Certified volunteer long-term care ombudsman program
57.9(135C) Required notifications to the department
57.10(135C) Administrator
57.11(135C) Personnel
57.12(135C) General policies
57.13(135C) Admission, transfer and discharge
57.14(135C) Involuntary discharge or transfer
57.15(135C) Residency agreement
57.16(135C) Medical examinations
57.17(135C) Records
57.18(135C) Resident care and personal services
57.19(135C) Drugs
57.20(135C) Dental services
57.21(135C) Dietary
57.22(135C) Orientation and service plan
57.23(135C) Resident activities program
57.24(135C) Residents' rights
57.25(135C) Dignity preserved
57.26(135C) Communications
57.27(135C) Resident activities
57.28(135C) Resident property
57.29(135C) Financial affairs—management
57.30(135C) Resident work
57.31(135C) Family—shared rooms
57.32(135C) Resident abuse prohibited
57.33(135C) Crisis intervention
57.34(135C) Safety
57.35(135C) Housekeeping
57.36(135C) Maintenance
57.37(135C) Laundry
57.38(135C) Garbage and waste disposal
57.39(135C) Supplies
57.40(135C) Buildings, furnishings, and equipment
57.41(135C) Family and employee accommodations
57.42(135C) Animals

57.43(135C) Another business or activity in a facility
57.44(135C) Respite care services

CHAPTER 58
NURSING FACILITIES

58.1(135C) Definitions
58.2(135C) Variances
58.3(135C) Application for licensure
58.4(135C) General requirements
58.5(135C) Notifications required by the department
58.6 Reserved
58.7(135C) Licenses for distinct parts
58.8(135C) Administrator
58.9(135C) Administration
58.10(135C) General policies
58.11(135C) Personnel
58.12(135C) Admission, transfer, and discharge
58.13(135C) Contracts
58.14(135C) Medical services
58.15(135C) Records
58.16(135C) Resident care and personal services
58.17 Reserved
58.18(135C) Nursing care
58.19(135C) Required nursing services for residents
58.20(135C) Duties of health service supervisor
58.21(135C) Drugs, storage, and handling
58.22(135C) Rehabilitative services
58.23(135C) Dental, diagnostic, and other services
58.24(135C) Dietary
58.25(135C) Social services program
58.26(135C) Resident activities program
58.27(135C) Certified volunteer long-term care ombudsman program
58.28(135C) Safety
58.29(135C) Resident care
58.30 Reserved
58.31(135C) Housekeeping
58.32(135C) Maintenance
58.33(135C) Laundry
58.34(135C) Garbage and waste disposal
58.35(135C) Buildings, furnishings, and equipment
58.36(135C) Family and employee accommodations
58.37(135C) Animals
58.38(135C) Supplies
58.39(135C) Residents' rights in general
58.40(135C) Involuntary discharge or transfer
58.41(135C) Residents' rights
58.42(135C) Financial affairs—management
58.43(135C) Resident abuse prohibited
58.44(135C) Resident records
58.45(135C) Dignity preserved
58.46(135C) Resident work
58.47(135C) Communications

58.48(135C) Resident activities
58.49(135C) Resident property
58.50(135C) Family visits
58.51(135C) Choice of physician and pharmacy
58.52(135C) Incompetent resident
58.53(135C) County care facilities
58.54(73GA,ch 1016) Special unit or facility dedicated to the care of persons with chronic confusion or a dementing illness (CCDI unit or facility)
58.55(135C) Another business or activity in a facility
58.56(135C) Respite care services
58.57(135C) Training of inspectors

CHAPTER 59
TUBERCULOSIS (TB) SCREENING

59.1(135B,135C) Purpose
59.2(135B,135C) Definitions
59.3(135B,135C) TB risk assessment
59.4(135B,135C) Health care facility or hospital risk classification
59.5(135B,135C) Baseline TB screening procedures for health care facilities and hospitals
59.6(135B,135C) Serial TB screening procedures for health care facilities and hospitals
59.7(135B,135C) Screening of HCWs who transfer to other health care facilities or hospitals
59.8(135B,135C) Baseline TB screening procedures for residents of health care facilities
59.9(135B,135C) Serial TB screening procedures for residents of health care facilities
59.10(135B,135C) Performance of screening and testing

CHAPTER 60
MINIMUM PHYSICAL STANDARDS
FOR RESIDENTIAL CARE FACILITIES

60.1(135C) Definitions
60.2(135C) Variances
60.3(135C) General requirements
60.4(135C) Typical construction
60.5(135C) Supervised care unit
60.6(135C) Support area
60.7(135C) Service area
60.8(135C) Administration and staff area
60.9(135C) Definition of public area
60.10(135C) Elevator requirements
60.11(135C) Mechanical requirements
60.12(135C) Electrical requirement
60.13(135C) Codes and standards

CHAPTER 61
MINIMUM PHYSICAL STANDARDS FOR NURSING FACILITIES

61.1(135C) Definitions
61.2(135C) General requirements
61.3(135C) Submission of construction documents
61.4(135C) Variances
61.5(135C) Additional notification requirements
61.6(135C) Construction requirements
61.7(135C) Nursing care unit

61.8(135C) Dietetic and other service areas
61.9(135C) Specialized unit or facility for persons with chronic confusion or a dementing illness (CCDI unit or facility)

CHAPTER 62
RESIDENTIAL CARE FACILITIES
FOR PERSONS WITH MENTAL ILLNESS (RCF/PMI)

62.1(135C) Definitions
62.2(135C) Application for license
62.3(135C) Licenses for distinct parts
62.4(135C) Variances
62.5(135C) General requirements
62.6(135C) Notification required by the department
62.7(135C) Administrator
62.8(135C) Administration
62.9(135C) Personnel
62.10(135C) General admission policies
62.11(135C) Evaluation services
62.12(135C) Programming
62.13(135C) Crisis intervention
62.14(135C) Discharge or transfer
62.15(135C) Medication management
62.16(135C) Resident property
62.17(135C) Financial affairs
62.18(135C) Records
62.19(135C) Health and safety
62.20(135C) Nutrition
62.21(135C) Physical facilities and maintenance
62.22 Reserved
62.23(135C) Residents' rights in general
62.24(135C) County care facilities
62.25(135C) Another business or activity in a facility
62.26(135C) Respite care services

CHAPTER 63
RESIDENTIAL CARE FACILITIES FOR THE
INTELLECTUALLY DISABLED

63.1(135C) Definitions
63.2(135C) Variances
63.3(135C) Application for licensure
63.4(135C) General requirements
63.5(135C) Notifications required by the department
63.6 Reserved
63.7(135C) Licenses for distinct parts
63.8(135C) Administrator
63.9(135C) General policies
63.10 Reserved
63.11(135C) Personnel
63.12(135C) Resident care and personal services
63.13(135C) Admission, transfer, and discharge
63.14(135C) Contracts
63.15(135C) Physical examinations

63.16(135C) Dental services
63.17(135C) Records
63.18(135C) Drugs
63.19(135C) Dietary
63.20(135C) Orientation program
63.21(135C) Individualized program of care
63.22 Reserved
63.23(135C) Safety
63.24(135C) Housekeeping
63.25(135C) Maintenance
63.26(135C) Laundry
63.27(135C) Garbage and waste disposal
63.28(135C) Buildings, furnishings, and equipment
63.29(135C) Family and employee accommodations
63.30(135C) Animals
63.31(135C) Environment and grounds
63.32(135C) Supplies
63.33(135C) Residents' rights in general
63.34(135C) Involuntary discharge or transfer
63.35(135C) Resident rights
63.36(135C) Financial affairs—management
63.37(135C) Resident abuse prohibited
63.38(135C) Resident records
63.39(135C) Dignity preserved
63.40(135C) Resident work
63.41(135C) Communications
63.42(135C) Resident activities
63.43(135C) Resident property
63.44(135C) Family visits
63.45(135C) Choice of physician
63.46(135C) Incompetent resident
63.47(135C) Specialized license for three- to five-bed facilities
63.48 Reserved
63.49(135C) Another business or activity in a facility
63.50(135C) Respite care services

CHAPTER 64
INTERMEDIATE CARE FACILITIES FOR THE
INTELLECTUALLY DISABLED

64.1 Reserved
64.2(135C) Variances
64.3(135C) Application for license
64.4(135C) General requirements
64.5(135C) Notifications required by the department
64.6(135C) Veteran eligibility
64.7(135C) Licenses for distinct parts
64.8 to 64.16 Reserved
64.17(135C) Contracts
64.18(135C) Records
64.19 to 64.32 Reserved
64.33(135C) Allegations of dependent adult abuse

64.34(135C) Employee criminal record checks, child abuse checks and dependent adult abuse checks and employment of individuals who have committed a crime or have a founded abuse
64.35 Reserved
64.36(135C) Involuntary discharge or transfer
64.37 to 64.59 Reserved
64.60(135C) Federal regulations adopted—conditions of participation
64.61(135C) Federal regulations adopted—rights
64.62(135C) Another business or activity in a facility
64.63(135C) Respite care services

CHAPTER 65
INTERMEDIATE CARE FACILITIES
FOR PERSONS WITH MENTAL ILLNESS (ICF/PMI)

65.1(135C) Definitions
65.2(135C) Application for license
65.3(135C) Licenses for distinct parts
65.4(135C) Variances
65.5(135C) General requirements
65.6(135C) Notification required by the department
65.7(135C) Administrator
65.8(135C) Administration
65.9(135C) Personnel
65.10(135C) General admission policies
65.11(135C) Evaluation services
65.12(135C) Individual program plan (IPP)
65.13(135C) Activity program
65.14(135C) Crisis intervention
65.15(135C) Restraint or seclusion
65.16(135C) Discharge or transfer
65.17(135C) Medication management
65.18(135C) Resident property and personal affairs
65.19(135C) Financial affairs
65.20(135C) Records
65.21(135C) Health and safety
65.22(135C) Nutrition
65.23(135C) Physical facilities and maintenance
65.24 Reserved
65.25(135C) Residents' rights in general
65.26(135C) Incompetent residents
65.27(135C) County care facilities
65.28(135C) Violations
65.29(135C) Another business or activity in a facility
65.30(135C) Respite care services

CHAPTER 66
BOARDING HOMES

66.1(83GA,SF484) Definitions
66.2(83GA,SF484) Registration of boarding homes
66.3(83GA,SF484) Occupancy reports
66.4(83GA,SF484) Complaints
66.5(83GA,SF484) Investigations

66.6(83GA,SF484) Penalties
66.7(83GA,SF484) Public and confidential information

CHAPTER 67
GENERAL PROVISIONS FOR ELDER GROUP HOMES, ASSISTED LIVING PROGRAMS, AND ADULT DAY SERVICES

67.1(231B,231C,231D) Definitions
67.2(231B,231C,231D) Program policies and procedures, including those for incident reports
67.3(231B,231C,231D) Tenant rights
67.4(231B,231C,231D) Program notification to the department
67.5(231B,231C,231D) Medications
67.6(231B,231C,231D) Another business or activity located in a program
67.7(231B,231C,231D) Waiver of criteria for retention of a tenant in the program
67.8(231B,231C,231D) All other waiver requests
67.9(231B,231C,231D) Staffing
67.10(17A,231B,231C,231D) Monitoring
67.11(231B,231C,231D) Complaint and program-reported incident report investigation procedure
67.12 Reserved
67.13(17A,231B,231C,231D,85GA,HF2365) Exit interview, final report, plan of correction
67.14(17A,231B,231C,231D,85GA,HF2365) Response to final report
67.15(17A,231B,231C,231D) Denial, suspension or revocation of a certificate
67.16(17A,231B,231C,231D) Conditional certification
67.17(17A,231B,231C,231D) Civil penalties
67.18(17A,231B,231C,231D) Judicial review
67.19(135C,231B,231C,231D) Criminal, dependent adult abuse, and child abuse record checks
67.20(17A,231C,231D) Emergency removal of tenants
67.21(231C) Nursing assistant work credit
67.22(231B,231C,231D) Public or confidential information

CHAPTER 68
ELDER GROUP HOMES

68.1(231B) Definitions
68.2(231B) Program certification and posting requirements
68.3(231B) Certification—application process
68.4(231B) Certification—application content
68.5(231B) Initial certification process
68.6(231B) Expiration of program certification
68.7(231B) Recertification process
68.8(231B) Notification of recertification
68.9(231B) Listing of all certified programs
68.10(231B) Transfer of certification
68.11(231B) Cessation of program operation
68.12(231B) Occupancy agreement
68.13(231B) Evaluation of tenant
68.14(231B) Criteria for admission and retention of tenants
68.15(231B) Involuntary transfer from the program
68.16(231B) Tenant documents
68.17(231B) Service plans
68.18(231B) Nurse review
68.19(231B) Staffing
68.20(231B) Managed risk policy and managed risk consensus agreements
68.21(231B) Transportation

68.22(231B) Identification of veteran's benefit eligibility
68.23(231B) Resident advocate committees
68.24(231B) Life safety—emergency policies and procedures and structural safety requirements
68.25(231B) Structural standards
68.26(231B) Landlord and tenant Act

CHAPTER 69
ASSISTED LIVING PROGRAMS

69.1(231C) Definitions
69.2(231C) Program certification
69.3(231C) Certification of a nonaccredited program—application process
69.4(231C) Nonaccredited program—application content
69.5(231C) Initial certification process for a nonaccredited program
69.6(231C) Expiration of the certification of a nonaccredited program
69.7(231C) Recertification process for a nonaccredited program
69.8(231C) Notification of recertification for a nonaccredited program
69.9(231C) Certification or recertification of an accredited program—application process
69.10(231C) Certification or recertification of an accredited program—application content
69.11(231C) Initial certification process for an accredited program
69.12(231C) Recertification process for an accredited program
69.13(231C) Listing of all certified programs
69.14(231C) Recognized accrediting entity
69.15(231C) Requirements for an accredited program
69.16(231C) Maintenance of program accreditation
69.17(231C) Transfer of certification
69.18(231C) Structural and life safety reviews of a building for a new program
69.19(231C) Structural and life safety review prior to the remodeling of a building for a certified program
69.20(231C) Cessation of program operation
69.21(231C) Occupancy agreement
69.22(231C) Evaluation of tenant
69.23(231C) Criteria for admission and retention of tenants
69.24(231C) Involuntary transfer from the program
69.25(231C) Tenant documents
69.26(231C) Service plans
69.27(231C) Nurse review
69.28(231C) Food service
69.29(231C) Staffing
69.30(231C) Dementia-specific education for program personnel
69.31(231C) Managed risk policy and managed risk consensus agreements
69.32(231C) Life safety—emergency policies and procedures and structural safety requirements
69.33(231C) Transportation
69.34(231C) Activities
69.35(231C) Structural requirements
69.36(231C) Dwelling units in dementia-specific programs
69.37(231C) Landlord and tenant Act
69.38(83GA,SF203) Identification of veteran's benefit eligibility
69.39(231C) Respite care services

CHAPTER 70
ADULT DAY SERVICES

70.1(231D) Definitions
70.2(231D) Program certification
70.3(231D) Certification of a nonaccredited program—application process
70.4(231D) Nonaccredited program—application content
70.5(231D) Initial certification process for a nonaccredited program
70.6(231D) Expiration of the certification of a nonaccredited program
70.7(231D) Recertification process for a nonaccredited program
70.8(231D) Notification of recertification for a nonaccredited program
70.9(231D) Certification or recertification of an accredited program—application process
70.10(231D) Certification or recertification of an accredited program—application content
70.11(231D) Initial certification process for an accredited program
70.12(231D) Recertification process for an accredited program
70.13(231D) Listing of all certified programs
70.14(231D) Recognized accrediting entity
70.15(231D) Requirements for an accredited program
70.16(231D) Maintenance of program accreditation
70.17(231D) Transfer of certification
70.18(231D) Structural and life safety reviews of a building for a new program
70.19(231D) Structural and life safety review prior to the remodeling of a building for a certified program
70.20(231D) Cessation of program operation
70.21(231D) Contractual agreement
70.22(231D) Evaluation of participant
70.23(231D) Criteria for admission and retention of participants
70.24(231D) Involuntary discharge from the program
70.25(231D) Participant documents
70.26(231D) Service plans
70.27(231D) Nurse review
70.28(231D) Food service
70.29(231D) Staffing
70.30(231D) Dementia-specific education for program personnel
70.31(231D) Managed risk policy and managed risk consensus agreements
70.32(231D) Life safety—emergency policies and procedures and structural safety requirements
70.33(231D) Transportation
70.34(231D) Activities
70.35(231D) Structural requirements
70.36(231D) Identification of veteran's benefit eligibility

CHAPTER 71
SUBACUTE MENTAL HEALTH CARE FACILITIES

71.1(135G) Purpose—subacute mental health services
71.2(135G) Definitions
71.3(135G) Application for licensure
71.4(135G) Licenses for distinct parts
71.5(135G) Variances
71.6(135G) Provisional license
71.7(135G) General requirements
71.8(135G) Required notifications to the department
71.9(135G) Reports of dependent adult abuse
71.10(135G) Administrator

71.11(135G) Administration
71.12(135G) Personnel
71.13(135G) Admission, transfer, and discharge
71.14(135G) Treatment plan
71.15(135G) Crisis intervention
71.16(135G) Seclusion and restraint
71.17(135G) Medication management
71.18(135G) Records
71.19(135G) Residents' rights in general
71.20(135G) Health and safety

CHAPTER 72
PUBLIC ASSISTANCE
FRONT END INVESTIGATIONS

72.1(10A) Definitions
72.2(10A) Referrals
72.3(10A) Investigation procedures
72.4(10A) Findings

CHAPTER 73
MEDICAID FRAUD CONTROL BUREAU

73.1(10A) Definitions
73.2(10A) Complaints
73.3(10A) Investigative procedures
73.4(10A) Audit of clinical and fiscal records by the department
73.5(10A) Who shall be reviewed, audited, or investigated
73.6(10A) Auditing and investigative procedures
73.7(10A) Actions based on audit or investigative findings
73.8(10A) Confidentiality
73.9(10A) Appeal by provider of care

CHAPTER 74
ECONOMIC ASSISTANCE FRAUD BUREAU

74.1(10A) Definitions
74.2(10A) Responsibilities
74.3(10A) Procedures
74.4(10A) Investigations
74.5(10A) Executive branch investigations

CHAPTER 75
DIVESTITURE UNIT

PREAMBLE
75.1(10A) Definitions
75.2(10A) Referral process
75.3(10A) Referral review
75.4(10A) Investigation
75.5(10A) Organizing information
75.6(10A) Computation of debt
75.7(10A) Issuing notices
75.8(10A) Conducting informal conferences
75.9(10A) Failure to timely request hearing
75.10(10A) District court hearing

75.11(10A) Filing and docketing of the order
75.12(10A,22) Confidentiality

CHAPTERS 76 to 89
Reserved

CHAPTER 90
PUBLIC ASSISTANCE DEBT RECOVERY UNIT

90.1(10A) Definitions
90.2(10A) Recovery process
90.3(10A) Records
90.4(10A) Review
90.5(10A) Debt repayment
90.6(10A) Further collection action
90.7(10A) Appeal rights
90.8(10A) Data processing systems matches
90.9(10A) Confidentiality

CHAPTERS 91 to 99
Reserved

GAMES OF SKILL, CHANCE, BINGO AND RAFFLES

CHAPTER 100
ADMINISTRATION

100.1(10A,99B) Definitions
100.2(99B) Licensing
100.3(99B) License requirements
100.4(99B) Participation
100.5(99B) Posted rules
100.6(99B) Prizes
100.7(10A,99B) Records
100.8(10A,99B) Inspections
100.9(99B) Reports
100.10(99B) Extension of time to file quarterly report
100.11(10A,422) State and local option sales tax
100.12(10A,17A,99B) Appeal rights
100.13(99B) Penalties
100.14 to 100.29 Reserved

QUALIFIED ORGANIZATION

100.30(99B) License requirements
100.31 Reserved
100.32(99B) Raffles
100.33(99B) Expenses
100.34(99B) Nature and dedication of net receipts
100.35(99B) Extension of time to dedicate net receipts
100.36(10A,22) Confidentiality
100.37 to 100.49 Reserved

RAFFLES CONDUCTED AT A FAIR

100.50(99B) Raffles conducted at a fair
100.51(99B) Raffle prizes at a fair
100.52(99B) Exceptions for an annual raffle

100.53 to 100.79 Reserved

ANNUAL GAME NIGHT
BINGO MANUFACTURERS AND DISTRIBUTORS

100.80(99B) Bingo manufacturers and distributors
100.81(99B) Bingo manufacturer and distributor licenses
100.82(99B) Bingo supplies and equipment

CHAPTER 101
AMUSEMENT CONCESSIONS

101.1(99B) License requirements
101.2(99B) Prizes
101.3(99B) Conducting games
101.4(99B) Posted rules

CHAPTER 102
SOCIAL GAMBLING

102.1(99B) License requirements
102.2(99B) Participation allowed
102.3(99B) Permissible games

CHAPTER 103
BINGO

103.1(10A,99B) Definitions
103.2(10A,99B) License
103.3(99B) Bingo occasion
103.4(99B) Game of bingo
103.5(99B) State and house rules
103.6(99B) Prizes
103.7(10A,99B) Workers
103.8(99B) Expenses
103.9(99B) Location
103.10 Reserved
103.11(10A,725) Advertising
103.12(10A,99B) Equipment
103.13(99B) Records
103.14(10A,99B) Bingo checking account
103.15(10A,99B) Bingo savings account
103.16(10A,99B) Reports
103.17(10A,99B) Inspections and audits
103.18(10A,99B) Penalties

CHAPTER 104
GENERAL PROVISIONS FOR ALL AMUSEMENT DEVICES

104.1(10A,99B) Definitions
104.2(99B) Device restrictions
104.3(99B) Prohibited games/devices
104.4(99B) Prizes
104.5(99B) Registration
104.6(99B) Violations

CHAPTER 105
REGISTERED AMUSEMENT DEVICES

105.1(10A,99B) Definitions
105.2(99B) Registered amusement device restrictions
105.3(99B) Prohibited registered amusement devices
105.4(99B) Prizes
105.5(99B) Registration by a manufacturer, manufacturer's representative, distributor, or an owner that operates for profit
105.6(99B) Registration of registered amusement devices
105.7(99B) Violations
105.8(10A,99B) Appeal rights
105.9(10A,99B,82GA,SF510) Procedure for denial, revocation, or suspension of a registration
105.10(99B) Reports
105.11(99B) Criteria for approval or denial of a registration
105.12(10A,99B) Suspension or revocation of a registration

CHAPTER 106
CARD GAME TOURNAMENTS BY VETERANS ORGANIZATIONS

106.1(10A,99B) Definitions
106.2(99B) Licensing
106.3(99B) Card game tournament
106.4(99B) Required postings
106.5(99B) Prizes and cost to participate
106.6(99B) Restrictions
106.7(99B) Qualified expenses limitation
106.8(99B) Records
106.9(99B) State and local option sales tax
106.10(99B) Inspections
106.11(99B) Quarterly reports
106.12(99B) Penalties
106.13(99B) Revocation, suspension, or denial of license

CHAPTER 107
GAME NIGHTS

107.1(10A,99B) Definitions
107.2(99B) Restrictions on game nights
107.3(99B) Applications
107.4(99B) Games
107.5(99B) Sponsors
107.6(99B) Reports and dedication of funds for qualified and eligible qualified organizations
107.7(422) State and local option sales tax

CHAPTER 51
HOSPITALS

[Prior to 12/14/88, see Health Department[470] Ch 51]
[Prior to 8/8/90, see Public Health[641] Ch 51]

481—51.1(135B) Definitions. As used in this chapter, unless the context otherwise requires, the following definitions apply:

"Critical access hospital" means any hospital located in a rural area and certified by the Iowa department of public health as being a necessary provider of health care services to residents of the area. A "critical access hospital" makes available 24-hour emergency care, is a designated provider in a rural health network, and meets the criteria specified pursuant to 481—51.53(135B). If swing-bed approval has been granted, all 25 beds may be used interchangeably for acute or skilled nursing facility level of care services.

"Department" means the Iowa department of inspections and appeals.

"Governing board" means the board of trustees, the owner or the person or persons designated by the owner as the governing authority who shall have supreme authority in the hospital and be responsible for the management, control, and appointment of the medical staff.

"Governmental unit" means the state, or any county, municipality, or other political subdivision, or any department, division, board or other agency of any of the foregoing.

"Hospital" or *"general hospital"* means an institution, place, building, or agency represented and held out to the general public as ready, willing and able to furnish care, accommodations, facilities and equipment for the diagnosis or treatment, over a period exceeding 24 hours, of two or more nonrelated individuals suffering from illness, injury, infirmity or deformity, or other physical or mental condition for which medical, surgical and obstetrical care services are provided. The term "hospital" does not include the following:

1. Any institution for well children, day nursery and child care center, foster boarding homes or houses, and homes for disabled children. However, such institutions that have a dual function, including nursing and medical care, and care of the sick are required to be licensed.
2. Homes, houses or institutions for aged persons which limit their functions to room and board and provide no medical or nursing care and house no bedridden person.
3. Dispensary or first-aid stations maintained for the care of employees, students, customers, and members of any commercial or industrial plant, educational institution, or convent.

"Long-term acute care hospital" means any hospital that has an average inpatient length of stay greater than 25 days, and that provides extended medical and rehabilitative care for patients who are clinically complex and who may suffer from multiple acute or chronic conditions. Services provided by a long-term acute care hospital include but are not limited to comprehensive rehabilitation, respiratory therapy, head trauma treatment, and pain management. A long-term acute care hospital shall meet the requirements for a general hospital including emergency services, except that obstetrical facilities are not required, and, if the long-term acute care hospital is located within a separately licensed hospital and does not provide its own emergency services, the long-term acute care hospital shall contract for emergency services with the host general hospital.

"Medical staff" means an organized body that is composed of individuals appointed by the hospital governing board, that operates under bylaws approved by the governing board and that is responsible for the quality of medical care provided to patients by the hospital. All members of the medical staff, one of whom shall be a licensed physician, shall be licensed to practice in the state of Iowa.

"Person" means any individual, firm, partnership, corporation, company, association, or joint stock association and includes any trustee, receiver, assignee, or other similar representative.

"Premises" means any or all designated portions of a building or structure, enclosures or places in the building, or real estate when the distinct and clearly identifiable parts provide separate care and services. The definition of "premises" shall not be construed to permit the existence of a separately licensed specialty hospital within the physical structure of a general hospital. A specialty hospital shall be

defined pursuant to 42 CFR Section 411.351 and any amendments thereto, or pursuant to any regulations promulgated by the Secretary of Health and Human Services.

"Registered nurse" means a person who has graduated from an accredited school of nursing and who is registered in the state of Iowa.

"Specialized hospital" means any hospital devoted primarily to the specialized care and treatment of persons with chronic or long-term illness, injury, or infirmity. The diagnosis, treatment or care shall be administered by or performed under the direction of persons especially qualified in the diagnosis and treatment of the particular illness, injury, or infirmity. A specialized hospital shall meet the requirements for a general hospital. "Specialized hospital" as defined in this rule does not include a specialty hospital defined pursuant to 42 CFR Section 411.351.

481—51.2(135B) Classification, compliance and license.

51.2(1) Classification. For the purpose of administering the hospital licensing law, all institutions subject to licensure shall be classified as a critical access hospital, general hospital, long-term acute care hospital, or specialized hospital. The license issued by the department shall clearly identify the classification of the hospital.

51.2(2) Compliance requirements for each classification. A hospital shall comply with all of the general regulations for hospitals and shall comply with regulations pertaining to specialized services, if specialized services are provided in the hospital.

51.2(3) Separate license required. A separate license shall be required for each hospital even though more than one is operated under the same management. A separate license is not required for separate buildings of a hospital located on separate parcels of land, which are not adjoining but provide elements of the hospital's full range of services for the diagnosis, care, and treatment of human illness, including convalescence and rehabilitation, and which are organized under a single owner or governing board with a single designated administrator and medical staff.

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

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

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

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

[**ARC 9253B**, IAB 12/1/10, effective 1/5/11; **ARC 1305C**, IAB 2/5/14, effective 3/12/14]

481—51.3(135B) Quality improvement program. There shall be an ongoing hospitalwide quality improvement program. This program is to be designed to improve, as needed, the quality of patient care by:

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

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

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

51.3(3) There shall be a written plan for the quality improvement program that:

a. Describes the program's objectives, organization, scope, and mechanisms for overseeing the effectiveness of monitoring, evaluation, and problem-solving activities;

b. Ensures participation from all departments, services (including services provided both directly and under contract), and disciplines;

c. Provides for assessment of participation through a quality improvement committee meeting on an established periodic basis;

d. Provides for coordination of quality improvement activities;

e. Ensures communication, reporting and documentation of all quality improvement activities on a regular basis to the governing board, the medical staff, and the hospital administrator;

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

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

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

481—51.4(135B) Long-term acute care hospital located within a general hospital.

51.4(1) If a long-term acute care hospital occupies the same building, premises or physical location of a general hospital, all treatment facilities and administrative offices for each hospital shall be clearly marked and separated from each other, and located within the licensed premises of each licensee.

a. Treatment facilities shall be sufficient to meet the medical needs of the patients.

b. Administrative offices shall include, but not be limited to, record rooms and personnel offices.

c. There shall be clearly identifiable and distinguishable signs for each hospital.

51.4(2) If a long-term acute care hospital occupies the same building, premises or physical location of a general hospital, each hospital shall have its own entrance. The separate entrance shall have appropriate signs and shall be clearly identifiable as belonging to a particular hospital. Nothing shall prohibit a long-term acute care hospital that is occupying the same building, premises or physical location as a general hospital from utilizing the entrance, hallway, stairs, elevators or escalators of the general hospital to provide access to the long-term acute care hospital's separate entrance.

51.4(3) A long-term acute care hospital located within a general hospital shall have sufficient staff to meet the patients' needs. No nursing services staff of either the long-term acute care hospital or the host general hospital shall be simultaneously assigned patient duties in both licensed hospitals.

51.4(4) Each long-term acute care hospital located within a general hospital and the host general hospital shall have a separate and distinct governing board, which shall be in control of the respective hospital. No more than one board member shall serve in a common capacity on the governing board of each licensed hospital. For the purposes of this rule, control exists if an individual or an organization has the power, directly or indirectly, to significantly influence or direct the actions or policies of an organization or institution.

51.4(5) A long-term acute care hospital located within a general hospital may contract with the host general hospital for the provision of services, including but not limited to pharmaceutical, radiological, laboratory, food and dietetic, surgical, anesthesia, emergency, housekeeping, laundry and environmental, or other services necessary to maintain a clean and safe physical environment. The contract shall be executed by the governing boards of the long-term acute care hospital and the host general hospital. All contracts shall clearly delineate the responsibilities of and services provided by the long-term acute care hospital and the host general hospital.

51.4(6) Any life safety code violation identified by the state fire marshal during an inspection of a licensee may be a life safety code violation for both the long-term acute care hospital and the general hospital.

481—51.5(135B) Medical staff.

51.5(1) A roster of medical staff members shall be kept.

51.5(2) All hospitals shall have one or more licensed physicians designated for emergency call service at all times.

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

51.5(4) A hospital shall establish and implement written criteria for the granting of clinical privileges. The written criteria shall include, but not be limited to, consideration of the:

a. Ability of the applicant to provide patient care services independently or appropriately in the hospital;

b. License held by the applicant to practice;

c. Training, experience, and competence of applicant;

d. Relationship between the applicant's request for privileges and the hospital's current scope of patient care services;

e. Applicant's ability to provide comprehensive, appropriate and cost-effective services.

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

51.6(1) The statement of principles shall be made available to patients of the hospital.

51.6(2) The statement of principles regarding patient rights shall, at a minimum, address:

a. Access to treatment regardless of race, creed, sex, national origin, diagnosis, or source of payment for care;

b. Preservation of individual dignity and protection of personal privacy in receipt of care;

c. Confidentiality of medical and other appropriate information;

d. Assurance of reasonable safety within the hospital;

e. Knowledge of the identity of the physician or other practitioner primarily responsible for the patient's care as well as identity and professional status of others providing services to the patient while in the hospital;

f. Nature of patient's right to information regarding the patient's medical condition unless medically contraindicated, to consult with a specialist at the patient's request and expense, and to refuse treatment to the extent authorized by law;

g. Access to and explanation of patient billings; and

h. Process for patient pursuit of grievances.

51.6(3) The statement of principles regarding patient responsibilities shall, at a minimum, address:

a. Need of patient to provide accurate and complete information regarding the patient's health status;

b. Need of patient to follow recommended treatment plans;

c. Requirement that patient abide by hospital rules and regulations affecting patient care and conduct and be considerate of the rights of other patients and hospital personnel; and

d. Obligation to fulfill the patient's financial obligations as soon as possible following discharge.

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

[**ARC 9253B**, IAB 12/1/10, effective 1/5/11; **ARC 1305C**, IAB 2/5/14, effective 3/12/14]

481—51.7(135B) Abuse.

51.7(1) *Definitions.*

a. Mental abuse includes, but is not limited to, humiliation, harassment, and threats of punishment or deprivation.

b. Physical abuse includes, but is not limited to, corporal punishment and the use of restraints as punishment.

c. Sexual abuse includes, but is not limited to, the exposing of pubes to a patient, and the exposure of a patient's genitals, pubes, breasts or buttocks, fondling or touching the inner thigh, groin, buttocks, anus, or breast of a patient or the clothing covering these areas for sexual satisfaction, sexually suggestive comments or remarks made to a patient, a genital-to-genital or oral-to-genital contact or the commission of a sexual offense under Iowa Code chapter 709 or Iowa Code section 726.2.

d. Domestic abuse, as defined in Iowa Code section 236.2, means the commission of assault under either of the following circumstances:

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

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

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

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

a. Restraints shall be applied only when they are necessary to prevent injury to the patient or to others and shall be used only when alternative measures are not sufficient to accomplish their purposes.

b. There must be a written order signed by the attending physician approving the use of restraints either at the time they are applied or as soon thereafter as possible.

c. Careful consideration shall be given to the methods by which the restraints can be speedily removed in case of fire or other emergency.

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

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

(1) An interview with the victim in a place that ensures privacy;

(2) Confidentiality of the person's treatment and information;

(3) Sharing of information regarding the domestic abuse hotline and programs; and

(4) Education of appropriate emergency department staff to assist in the identification of victims of domestic abuse.

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

(1) An assessment of the extent of abuse to the victim specifically describing the location and extent of the injury and reported pain;

(2) Evidence that the victim was informed of the telephone numbers for the domestic abuse hotline and domestic abuse programs, and the victim's response;

(3) A record of the treatment and intervention by health care provider personnel;

(4) A record of the need for follow-up care and specification of the follow-up care to be given (e.g., X-rays, surgery, consultation, similar care); and

(5) The victim's statement of how the injury occurred.

51.7(4) *Child abuse and dependent adult abuse.* Each hospital shall ensure that written policies and procedures cover all requirements for the mandatory reporting of abuse pursuant to the Iowa Code. Each hospital shall provide that the treatment records of victims of child abuse or dependent adult abuse include a statement that the department of human services protective services was contacted.

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

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

a. Hospitals shall be familiar with the uniform anatomical gift law, Iowa Code chapter 142C, and shall develop policies and protocols for consent to organ and tissue donation by either the patient or an appropriate person to consent on the patient's behalf consistent with that law's provisions.

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

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

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

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

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

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

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

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

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

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

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

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

51.8(2) Determination of death.

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

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

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

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

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

51.8(3) Determination of medical suitability.

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

b. Each hospital shall consult with a recognized organ and tissue procurement program or programs in establishing medical requirements for organ and tissue donation and in evaluating a particular patient's suitability for donation. Where required by federal law, hospitals shall work only with organ or tissue procurement organizations designated by the Department of Health and Human Services (DHHS). Organ and tissue procurement programs maintain guidelines for determining medical suitability and generally will provide a hospital with a copy of those guidelines which may be incorporated into the hospital's own policies and protocol for organ and tissue donation.

51.8(4) Organ and tissue procurement.

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

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

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

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

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

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

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

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

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

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

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

481—51.9(135B) Nursing services.

51.9(1) The hospital shall have an organized nursing service which shall provide complete and efficient nursing care to each patient. The authority, responsibility and function of each nurse shall be clearly defined.

51.9(2) Registered nurse(s) shall utilize the nursing process in the provision of nursing care to each patient. The nursing process includes:

a. Nursing assessment about the health status of the patient, analysis of the data, and formation of a nursing diagnosis;

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

c. Nursing interventions implementing the plan of care;

d. Evaluation of patient status in relation to established goals and the plan of care.

51.9(3) Licensed practical nurse(s) shall participate in the nursing process as described in subrule 51.9(2) consistent with accepted practice by assisting the registered nurse or physician.

51.9(4) All nurses employed in a hospital who practice nursing as a registered nurse or licensed practical nurse shall be licensed in Iowa.

51.9(5) There shall be a director of nursing service with administrative and executive competency who shall be a registered nurse licensed in the state of Iowa.

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

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

51.9(8) The nursing service shall have adequate numbers of licensed registered nurses, licensed practical nurses, and other personnel to provide nursing care essential for the proper treatment, well-being, and recovery of the patient.

51.9(9) Written policies and procedures shall be established for the administrative and technical guidance of the personnel in the hospital. Each employee shall be familiar with these policies and procedures.

51.9(10) Each hospital shall have a minimum of one registered nurse on duty at all times.

481—51.10(135B) Water supply. Rescinded IAB 12/22/93, effective 1/26/94.

481—51.11(135B) Sewage disposal. Rescinded IAB 12/22/93, effective 1/26/94.

481—51.12(135B) Records and reports.

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

51.12(2) *Hospital records.*

a. *Admission records.* A register of all admissions to the hospital shall be maintained.

b. *Death records.* A record of all deaths in the hospital shall be kept, including all information required on a standard death certificate as specified in Iowa Code chapter 144.

c. *Birth records.* A record of all births in the hospital shall be kept, including all information required on a standard birth certificate as specified in Iowa Code chapter 144.

d. *Controlled substance records.* Controlled substance records shall be maintained in accordance with state and federal laws, rules and regulations.

51.12(3) *Annual reports.* Annual reports shall be filed with the Iowa department of public health within three months after termination of each fiscal year in accordance with Iowa Code section 135.75.

481—51.13(135B) Sterilizing equipment. Rescinded IAB 12/22/93, effective 1/26/94; see 481—51.50(135B).

481—51.14(135B) Pharmaceutical service.

51.14(1) *General requirements.* Hospital pharmaceutical services shall be licensed in accordance with Iowa board of pharmacy examiners rules in 657—Chapter 7.

51.14(2) *Medication administration.* All drugs and biologicals must be administered by, or under the supervision of, nursing or other trained personnel in accordance with hospital policies and procedures. The person assigned the responsibility of medication administration must complete the entire procedure by personally preparing the dose from a multiple-dose container or using a prepackaged unit dose, personally administering it to the patient, and observing the act of the medication being taken.

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

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

51.14(4) *Standing orders.* Standing orders for drugs may be used for specified patients when authorized by the prescribing practitioner. These standing orders shall be in accordance with policies and procedures established by the appropriate committee within each hospital. At a minimum, the standing orders shall:

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

b. Specify the types of medical conditions of the patients for whom the standing orders are intended;

c. Be reviewed and revised by the prescribing practitioner on a regular basis as specified by hospital policies and procedures;

d. Be specific as to the drug, dosage, route, and frequency of administration; and

e. Be dated, signed by the prescribing practitioner within a period not to exceed 30 days following a patient's discharge, and included in the patient's medical record.

51.14(5) *Self-administration of medications.* Patients shall only be permitted to self-administer medications when specifically ordered by the prescribing practitioner and the prescribing practitioner has determined this practice is safe for the specific patient. The hospital shall develop policies and procedures regarding storage and documentation of the administration of drugs.

481—51.15(135B) Screens. Rescinded IAB 12/22/93, effective 1/26/94; see 481—51.50(135B).

481—51.16(135B) Radiological services.

51.16(1) The hospital must maintain, or have available, radiological services to meet the needs of the patients.

51.16(2) All radiological services including diagnostic, fluoroscopy, mammography, therapeutic, and nuclear medicine furnished by the hospital or its agent shall be furnished in compliance with 641 IAC Chapters 38 to 42.

481—51.17(135B) Laundry. Rescinded IAB 12/22/93, effective 1/26/94; see 481—51.50(135B).

481—51.18(135B) Laboratory service.

51.18(1) The hospital must maintain, or have available, adequate laboratory and pathology services and facilities to meet the needs of its patients. The medical staff shall determine which laboratory tests are necessary to be performed on site to meet the needs of the patients.

51.18(2) Emergency laboratory services must be available 24 hours a day.

51.18(3) The hospital must ensure that all laboratory services provided to its patients are performed in a laboratory certified and operating in accordance with the Code of Federal Regulations in 42 CFR Part 493.

[**ARC 1751C**, IAB 12/10/14, effective 1/14/15]

481—51.19 Reserved.

481—51.20(135B) Food and nutrition services.

51.20(1) *Food and nutrition service definition.* "Food service" means providing safe, satisfying, and nutritionally adequate food for patients through the provision of appropriate staff, space, equipment, and supplies. "Nutrition service" means providing assessment and education to ensure that the nutritional needs of the patients are met.

51.20(2) *General requirements.*

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

b. The food service shall provide food of the quality and quantity to meet the patient's needs in accordance with the qualified health practitioner's orders and, to the extent medically possible, to meet the current Recommended Dietary Allowances, adopted by the Food and Nutrition Board of the National Research Council, National Academy of Sciences, and the following:

(1) Not less than three meals shall be served daily unless contraindicated.

(2) Not more than 14 hours shall elapse between the evening meal and breakfast of the following day.

(3) Nourishment between meals shall be available to all patients unless contraindicated by the qualified health care practitioner.

(4) Patient food preferences shall be respected as much as possible, and substitutes shall be offered through use of appropriate food groups.

(5) When food is provided by a contract food service, all applicable requirements set forth herein shall be met. The hospital shall maintain adequate space, equipment, and staple food supplies to provide patient food service in emergencies.

c. Policies and procedures shall be developed and maintained in consultation with representatives of the medical staff, nursing staff, food and nutrition service staff, pharmacy staff, and administration to

govern the provision of food and nutrition services. Policies and procedures shall be approved by the medical staff, administration, and governing body.

d. A current diet manual approved by the dietitian and the medical staff shall be used as the basis for diet orders and for planning therapeutic diets. The diet manual shall be reviewed, revised and updated at least every five years. Copies of the diet manual shall be readily available to all medical, nursing, and food service personnel.

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

f. The patient's diet card shall state likes, dislikes, food allergies, and other pertinent information.

g. Menus.

(1) Menus for regular and therapeutic diets shall be written, approved, dated and available in the food service area at least one week in advance.

(2) If meals served vary from the planned menu, the change shall be noted in writing as part of the available menu. A copy of the menu as served shall be kept on file for at least 30 days.

(3) Menus should be planned with consideration for cultural and religious background and food habits of patients.

(4) Standardized recipes with nutritional analysis adjusted to number of portions shall be maintained and used in food preparation.

h. Food shall be prepared by methods that conserve nutritive value, flavor, and appearance. Food shall be served attractively at appropriate and safe temperatures and in a form to meet individual needs.

i. Nutritional care.

(1) Nutrition screening shall be conducted by qualified hospital staff to determine the patient's need for a comprehensive nutrition assessment by the licensed dietitian.

(2) Nutritional care shall be integrated in the patient care plan, as appropriate, based upon the patient's diagnosis and length of stay.

(3) The licensed dietitian shall record in the patient's medical record any observations and information pertinent to medical nutrition therapy.

(4) Pertinent dietary records shall be included in the patient's transfer discharge record to ensure continuity of nutritional care.

(5) Upon discharge, nutrition counseling and education shall be provided to the patient and family as ordered by the qualified health care practitioner, requested by the patient or deemed appropriate by the licensed dietitian.

j. In-service training, in accordance with hospital policies, shall be provided for all food and nutrition service personnel. A record of subject areas covered, date and duration of each session, and attendance lists shall be maintained. In-service records shall be kept for a minimum of one year.

k. On the nursing units, a separate patient food storage area shall be maintained that ensures proper temperature control.

51.20(3) *Food and nutrition service staff.*

a. A licensed dietitian shall be employed on a full-time, part-time or consulting basis. Part-time or consultant services shall be provided on the premises at appropriate times on a regularly scheduled basis. These services shall be of sufficient duration and frequency to provide continuing liaison with medical and nursing staffs, advice to the administrator, patient counseling, guidance to the supervisor and staff of the food and nutrition service, approval of all menus, and participation in the development or revision of departmental policies and procedures and in planning and conducting in-service education programs.

b. If a licensed dietitian is not employed full-time, then one must be employed on a part-time or consultation basis with an additional full-time person who has completed a 250-hour dietary manager course and who shall be employed to be responsible for the operation of the food service.

c. Sufficient food service personnel shall be employed, oriented, trained, and their working hours scheduled to provide for the nutritional needs of the patients and to maintain the food service areas. If

food service employees are assigned duties in other service areas, those duties shall not interfere with the sanitation, safety, or time required for food service work assignments.

51.20(4) *Food service equipment and supplies.* Equipment necessary for preparation and maintenance of menus, records, and references shall be provided. At least one week's supply of staple foods and a reasonable supply of perishable foods shall be maintained on the premises. Supplies shall be appropriate to meet the requirements of the menu.

[**ARC 9252B**, IAB 12/1/10, effective 1/5/11]

481—51.21 Reserved.

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

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

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

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

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

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

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

481—51.23 Reserved.

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

51.24(1) *Segregation.* There shall be proper arrangement of areas, rooms and patients' beds to provide for the prevention of cross-infections and the control of communicable diseases.

a. There shall be proper procedures for the cleansing of rooms and surgeries, immediately following the care of a communicable case.

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

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

51.24(3) *Health examinations.* Health examinations for all personnel shall be required at the commencement of employment and thereafter at least every four years. The examination shall include, at a minimum, the health status of the employee. Consideration shall be given to requiring health examinations at shorter intervals for those employees working in high-risk areas. Screening and testing for tuberculosis shall be conducted pursuant to 481—Chapter 59.

51.24(4) *Notification.* Prior to removal of a deceased resident/patient from a facility, the funeral director or person responsible for transporting the body shall be notified by the facility staff of any special precautions that were followed by the facility having to do with the mode of transmission of a known or suspected communicable disease.

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

[**ARC 0484C**, IAB 12/12/12, effective 1/16/13; see Delay note at end of chapter]

481—51.25 Reserved.

481—51.26(135B) Surgical services. All hospitals providing surgical services shall be properly organized and equipped to provide for the safe and aseptic treatment of surgical patients.

51.26(1) Written policies and procedures shall be implemented governing surgical services that are consistent with the needs of the patient and the resources of the hospital. Policies and procedures shall be developed in consultation with and the approval of the hospital's medical staff. At a minimum, the policies and procedures shall provide for:

a. Surgical services under the direction of a qualified doctor of medicine or osteopathy.

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

c. Immediate availability of at least one registered nurse for the operating room suites to respond to emergencies.

d. The qualifications and job descriptions of nursing personnel, surgical technicians, and other support personnel and continuing education required.

e. Appropriate staffing for surgical services including physician and anesthesia coverage and other support personnel.

f. Availability of ancillary services for surgical patients including, but not limited to: blood banking, laboratory, radiology, and anesthesia.

g. Infection control and disease prevention, including aseptic surveillance and practice, identification of infected and noninfected cases, sterilization and disinfection procedures, and ongoing monitoring of infections and infection rates.

h. Housekeeping requirements.

i. Safety practices.

j. Ongoing quality assessment, performance improvement, and process improvement.

k. Provisions for the pathological examination of tissue specimens either directly or through contractual arrangements.

l. Appropriate preoperative teaching and discharge planning.

Reference sources to guide hospitals in the development of policies and procedures are: "Statement of Principles," March 1994 Edition, American College of Surgeons; and "Standards and Recommended Practices," 1995 Edition, Association of Operating Room Nurses.

51.26(2) Policies and procedures may be adjusted as appropriate to reflect the provision of surgical services in inpatient, outpatient or one-day surgical settings.

51.26(3) There must be an appropriate history and physical workup documented and a properly executed consent form in the chart of each patient prior to surgery, except in the event of an emergency.

51.26(4) An operative report must be written or dictated promptly following surgery and signed by the individual conducting the surgery.

51.26(5) Equipment available in the operating room, recovery room, outpatient surgical areas, and for postsurgical care, must be consistent with the needs of the patient.

51.26(6) The surgical facilities shall be constructed in accordance with 481—51.50(135B).

481—51.27 Reserved.

481—51.28(135B) Anesthesia services.

51.28(1) There shall be written policies and procedures governing anesthesia services which are consistent with the needs and resources of the hospital.

a. Policies and procedures shall be developed in consultation with and with the approval of the hospital's medical staff.

b. At a minimum, the policies and procedures shall provide:

(1) Anesthesia services shall be provided under the direction of a qualified doctor of medicine or osteopathy.

(2) Delineation of the qualifications of individuals authorized to administer anesthesia as set out in the hospital's medical staff bylaws or medical staff rules and regulations.

(3) For preanesthesia evaluation, appraisal of a patient's current condition, preparation of an intraoperative anesthesia record, and discharge criteria for patients.

(4) For equipment functioning and safety, including ensuring that a qualified medical doctor, osteopathic physician and surgeon or anesthetist checks, prior to the administration of anesthesia, the readiness, availability, cleanliness, and working condition of all equipment to be used in the administration of anesthetic agents.

(5) For minimizing electrical hazards in all anesthetizing areas.

(6) Quality assurance which shall at least include infection control procedures; integration of anesthesia services into various areas of the hospital; and ongoing monitoring, review, and evaluation of anesthesia services, processes, and procedures.

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

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

481—51.29 Reserved.

481—51.30(135B) Emergency services. All hospitals shall provide for emergency service which offers reasonable care within the medical capabilities of the facility in determining whether an emergency exists, renders care appropriate to the facility and at a minimum renders lifesaving first aid and makes appropriate referral to a facility that is capable of providing needed services.

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

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

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

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

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

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

481—51.31 Reserved.

481—51.32(135B) Obstetric and neonatal services.

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

51.32(2) Written policies and procedures shall be implemented governing obstetric and neonatal services that are consistent with the needs of the patient and resources of the hospital. Policies and procedures shall be developed in consultation with and with the approval of the hospital's medical staff. At a minimum, the policies and procedures shall provide for:

a. Obstetric and neonatal services under the direction of a qualified doctor of medicine or osteopathy.

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

c. The qualifications of nursing personnel and continuing education required.

d. Adequate staffing for obstetrical and newborn services.

e. Location and arrangement of obstetric and newborn services.

f. Infection control and disease prevention.

g. Ongoing quality assessment.

Reference sources to guide hospitals in the development of policies and procedures are: 641—Chapter 150, Iowa Regionalized System of Perinatal Health Care, Iowa Administrative Code, and Guidelines for Perinatal Care, Fourth Edition, American Academy of Pediatrics, American College of Obstetrics and Gynecology.

481—51.33 Reserved.

481—51.34(135B) Pediatric services.

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

51.34(2) Written policies and procedures shall be implemented governing pediatric services that are consistent with the needs of the child and resources of the hospital. Policies and procedures shall be developed in consultation with and the approval of the hospital's medical staff. At a minimum, the policies and procedures shall provide for:

a. Pediatric services under the medical direction of a qualified doctor of medicine or osteopathy.

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

c. The qualifications of nursing personnel and continuing education required, including care in the event of emergency situations.

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

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

f. Ongoing quality assessment.

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

Reference sources to guide hospitals in the development of policies and procedures are American Academy of Pediatrics' 1994 Policy Reference Guide and policy statements which are published on a monthly basis in "Pediatrics" and "Pediatric Dosage Handbook," Third Edition, American Pharmaceutical Association.

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

481—51.35 Reserved.

481—51.36(135B) Psychiatric services.

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

a. Be a hospital or unit primarily engaged in providing, by or under the supervision of a doctor of medicine or osteopathy, psychiatric services for the diagnosis and treatment of persons with psychiatric illnesses/disorders;

b. Meet the general and specialized rules of this chapter pertaining to general hospitals. If medical and surgical diagnostic and treatment services are not available within the institution, the institution shall have an agreement with an outside source of these services to ensure they are immediately available;

c. Have policies and procedures for informing patients of their rights and responsibilities and for ensuring the availability of a patient advocate; and

d. Have sufficient numbers of qualified professionals and support staff to evaluate patients, formulate written individualized comprehensive treatment plans, provide active treatment measures, and engage in discharge planning.

51.36(2) Personnel.

a. *Director of inpatient psychiatric services.* The director of inpatient psychiatric services shall be a doctor of medicine or osteopathy qualified to meet the training and experience requirements for examination by the American Board of Psychiatry and Neurology or the American Osteopathic Board of Neurology and Psychiatry. The number and qualifications of doctors of medicine or doctors of osteopathy on staff must be adequate to provide essential psychiatric and medical services.

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

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

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

c. *Psychological services.* Psychological services shall be provided or available which are in compliance with Iowa Code chapter 154B.

d. *Social services.* Social services shall provide, or have available by contract, at least one staff member who has:

(1) A master's degree from an accredited school of social work; or

(2) A bachelor's degree in social work with two years' experience in the care of persons with mental disorders.

e. *Therapeutic services.* Therapeutic activities shall be provided by qualified therapists. The activities shall be appropriate to the needs and interests of the patients.

51.36(3) Individual written plan of care. An individual written plan of care shall be developed by an interdisciplinary team of a physician and other personnel who are employed by, or who provide service under contract to patients in the facility. The plan of care shall:

a. Be based on a diagnostic and psychiatric evaluation that includes examination of the medical, psychological, social, behavioral, and developmental aspects of the patient. The initial diagnostic and psychiatric evaluation shall be completed within 60 hours of admission;

b. Be developed by an interdisciplinary team in consultation with the patient, the patient's legal guardian, and others who are currently providing services or who will provide care upon discharge;

c. State treatment objectives through measurable and obtainable outcomes;

d. Prescribe an integrated program of therapies, activities, and experiences designed to meet those objectives;

e. Include an appropriate postdischarge plan with coordination of services to provide continuity of care following discharge; and

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

481—51.37 Reserved.

481—51.38(135B) Long-term care service.

51.38(1) *Long-term care service definition.* Long-term care service means any building or distinct part of a building utilized by the hospital for the provision of a service (except as provided by 51.38(2) below) that falls within the definition of a health care facility as specified in Iowa Code chapter 135C and Iowa Code section 135C.1(12), nursing facility, as it would be applied were it not operating as part of a hospital licensed under Iowa Code chapter 135B.

51.38(2) *Long-term care service general requirements.* The general requirements for the hospital's long-term care service shall be the same as required by Iowa Code chapter 135C and the rules promulgated under its authority for the category of health care facility involved. Exceptions to those

rules requiring distinct parts to be established may be waived where it is found to be in the best interest of the long-term care resident and of no detriment to the patients in the hospital.

Requests for variances to other rules for which equivalent health, safety and welfare provisions are provided may be made in accordance with the appropriate health care facility rules. In any case where a distinct part has been established for long-term residents or where the department has given approval for the intermingling of such residents with acute care patients, the same provisions and rules promulgated under Iowa Code chapter 135C shall be applicable. These rules include, but are not limited to, the same restrictions, obligations, programs of care, personal and rehabilitative services and all of the conveniences and considerations which the residents would normally have received in a licensed health care facility.

51.38(3) *Long-term care service staff.* The staffing requirements for the hospital's long-term care service shall be the same as required by Iowa Code chapter 135C and the rules promulgated under its authority for the category of health care facility involved. Where a hospital operates a freestanding nursing care facility, it shall be under the administrative authority of a licensed nursing home administrator who will be responsible to the hospital's administrator. Where a hospital operates a distinct part long-term care unit under the auspices of the hospital license, a licensed nursing home administrator is not required.

51.38(4) *Long-term care service equipment and supplies.* The equipment and supplies required for the hospital's long-term care service shall be the same as required by Iowa Code chapter 135C and the rules promulgated under its authority for the category of health care facility involved.

51.38(5) *Long-term care service space.* The space requirements for the various areas and resident rooms of the hospital's long-term care service shall be the same as required by Iowa Code chapter 135C and the rules promulgated under its authority for the category of health care facility involved.

481—51.39(135B) Penalty and enforcement. See Iowa Code sections 135B.14 to 135B.16.

481—51.40(135B) Validity of rules. If any provision of these rules or the application thereof to any person or circumstances shall be held invalid, such validity shall not affect the provisions or application of these rules which can be given effect without the invalid provision or application, and to this end the provisions of these rules are declared to be severable.

481—51.41(135B) Criminal, dependent adult abuse, and child abuse record checks.

51.41(1) *Definitions.* The following definitions apply for the purposes of this rule.

"Background check" or *"record check"* means criminal history, child abuse and dependent adult abuse record checks.

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

"Employee" means any individual who is paid, either by the hospital or any other entity (i.e., temporary agency, private duty, Medicare/Medicaid or independent contractors).

"Evaluation" means review by the department of human services to determine whether a founded child abuse, dependent adult abuse or criminal conviction warrants the person's being prohibited from employment in a hospital.

"Indirect services" means services provided without person-to-person contact such as those provided by administration, dietary, laundry, and maintenance.

51.41(2) *Requirements for employer prior to employing an individual.* Prior to employment of a person in a hospital, the hospital shall request that the department of public safety perform a criminal history check and that the department of human services perform child and dependent adult abuse record checks of the person in this state.

a. Informing the prospective employee. A hospital shall ask each person seeking employment by the hospital, "Do you have a record of founded child or dependent adult abuse or have you ever been

convicted of a crime in this state or any other state?" The person shall also be informed that a background check will be conducted. The person shall indicate, by signature, that the person has been informed that the background check will be conducted.

b. Conducting a background check. The hospital may access the single contact repository (SING) to perform the required background check. If the SING is used, the hospital shall submit the person's maiden name, if applicable, with the background check request. If SING is not used, the hospital must obtain a criminal history check from the department of public safety and a check of the child and dependent adult abuse registries from the department of human services.

c. If a person considered for employment has been convicted of a crime. If a person being considered for employment in a hospital has been convicted of a crime under a law of any state, the department of public safety shall notify the hospital that upon the request of the hospital the department of human services will perform an evaluation to determine whether the crime warrants prohibition of the person's employment in the hospital.

d. If a person considered for employment has a record of founded child abuse or dependent adult abuse. If a department of human services child or dependent adult abuse record check shows that a person being considered for employment in a hospital has a record of founded child or dependent adult abuse, the department of human services shall notify the hospital that upon the request of the hospital the department of human services will perform an evaluation to determine whether the founded child or dependent adult abuse warrants prohibition of employment in the hospital.

e. Employment pending evaluation. The hospital may employ a person for not more than 60 calendar days pending the completion of the evaluation by the department of human services if all of the following apply. The 60-day period begins on the first day of the person's employment.

(1) The person is being considered for employment other than employment involving the operation of a motor vehicle;

(2) The person does not have a record of founded child or dependent adult abuse;

(3) The person has been convicted of a crime that is a simple misdemeanor offense under Iowa Code section 123.47 or a first offense of operating a motor vehicle while intoxicated under Iowa Code section 321J.2, subsection 1; and

(4) The hospital has requested an evaluation to determine whether the crime warrants prohibition of the person's employment.

f. Validity of background check results. The results of a background check conducted pursuant to this rule shall be valid for a period of 30 calendar days from the date the results of the background check are received by the hospital.

51.41(3) *Employment prohibition.* A person who has committed a crime or has a record of founded child or dependent adult abuse shall not be employed in a hospital unless an evaluation has been performed by the department of human services.

51.41(4) *Transfer of an employee to another hospital owned or operated by the same person.* If an employee transfers from one hospital to another hospital owned or operated by the same person, without a lapse in employment, the hospital is not required to request additional criminal and child and dependent adult abuse record checks of that employee.

51.41(5) *Transfer of ownership of a hospital.* If the ownership of a hospital is transferred, at the time of transfer the background check required by this rule shall be performed for each employee for whom there is no documentation that such background check has been performed. The hospital may continue to employ such employee pending the performance of the background check and any related evaluation.

51.41(6) *Change of employment—person with criminal or abuse record—exception to record check evaluation requirements.* A person with a criminal or abuse record who is or was employed by a certified hospital and is hired by another certified hospital shall be subject to the background check.

a. A reevaluation of the latest record check is not required, and the person may commence employment with the other hospital if the following requirements are met:

(1) The department of human services previously performed an evaluation concerning the person's criminal or abuse record and concluded the record did not warrant prohibition of the person's employment;

(2) The latest background check does not indicate a crime was committed or founded abuse record was entered subsequent to the prior evaluation;

(3) The position with the subsequent employer is substantially the same or has the same job responsibilities as the position for which the previous evaluation was performed;

(4) Any restrictions placed on the person's employment in the previous evaluation by the department of human services and still applicable shall remain applicable in the person's subsequent employment; and

(5) The person subject to the background check has maintained a copy of the previous evaluation and provided it to the subsequent employer, or the previous employer provides the previous evaluation from the person's personnel file pursuant to the person's authorization. If a physical copy of the previous evaluation is not provided to the subsequent employer, a current record check evaluation shall be performed.

b. For purposes of this subrule, a position is "substantially the same or has the same job responsibilities" if the position requires the same certification, licensure, or advanced training. For example, a licensed nurse has substantially the same or the same job responsibilities as a director of nursing; a certified nurse aide does not have substantially the same or the same job responsibilities as a licensed nurse.

c. The subsequent employer must maintain the previous evaluation in the employee's personnel file for verification of the exception to the requirement for a record check evaluation.

d. The subsequent employer may request a reevaluation of the background check and may employ the person while the reevaluation is being performed, even though an exemption under paragraph 51.41(6)*"a"* may be authorized.

51.41(7) *Employee notification of criminal convictions or founded abuse after employment.* If a person employed by an employer that is subject to this rule is convicted of a crime or has a record of founded child or dependent adult abuse entered in the abuse registry after the person's employment application date, the person shall inform the employer of such information within 48 hours of the criminal conviction or entry of the record of founded child or dependent adult abuse.

a. The employer shall act to verify the information within seven calendar days of notification. "Verify," for purposes of this subrule, means to access the single contact repository (SING) to perform a background check, to request a criminal background check from the department of public safety, to request an abuse record check from the department of human services, to conduct an online search through the Iowa Courts Online Web site, or to contact the county clerk of court office and obtain a copy of relevant court documents.

b. If the information is verified, the hospital shall follow the requirements of paragraphs 51.41(2)*"c"* and *"d."*

c. The employer may continue to employ the person pending the performance of an evaluation by the department of human services.

d. A person who is required by this subrule to inform the person's employer of a conviction or entry of an abuse record and fails to do so within the required period commits a serious misdemeanor under Iowa Code section 135C.33.

e. The employer may notify the county attorney for the county where the employer is located of any violation or failure by an employee to notify the employer of a criminal conviction or entry of an abuse record within the period required under this subrule.

51.41(8) *Hospital receipt of credible information that an employee has been convicted of a crime or founded for abuse.* If the hospital receives credible information, as determined by the hospital, from someone other than the employee, that the employee has been convicted of a crime or a record of founded child or dependent adult abuse has been entered in the abuse registry after employment, and the employee has not informed the employer of the information within the time required by subrule 51.41(7), the hospital shall take the following actions:

a. The hospital shall act to verify credible information within seven calendar days of receipt. "Verify," for purposes of this subrule, means to access the single contact repository (SING) to perform a background check, to request a criminal background check from the department of public safety, to

request an abuse record check from the department of human services, to conduct an online search through the Iowa Courts Online Web site, or to contact the county clerk of court office and obtain a copy of relevant court documents.

b. If the information is verified, the hospital shall follow the requirements of paragraphs 51.41(2)*"c"* and *"d."*

51.41(9) *Proof of background checks for temporary employment agencies and contractors.* Proof of background checks may be kept in the files maintained by temporary employment agencies and contractors. Facilities may require temporary employment agencies and contractors to provide a copy of the result of the background checks. Copies of such results shall be made available to the department upon request.

This rule is intended to implement Iowa Code sections 135B.7 and 135B.34 and 2013 Iowa Acts, Senate File 347.

[**ARC 0963C**, IAB 8/21/13, effective 9/25/13; **ARC 1304C**, IAB 2/5/14, effective 3/12/14; **ARC 1751C**, IAB 12/10/14, effective 1/14/15]

481—51.42 to **51.49** Reserved.

481—51.50(135B) Minimum standards for construction.

51.50(1) *Minimum standards.* Hospitals and off-site premises licensed under this chapter shall be built in accordance with the following construction standards.

a. Construction shall be in accordance with the standards set forth in Part 2 and other applicable provisions of the Guidelines for Design and Construction of Health Care Facilities, 2010 edition, produced by the Facility Guidelines Institute.

b. A critical access hospital as defined in rule 481—51.1(135B) shall meet the standards for construction for small primary care hospitals set forth in Part 2.3 of the Guidelines for Design and Construction of Health Care Facilities, 2010 edition, produced by the Facility Guidelines Institute, with the following exceptions:

(1) The patient room capacity requirements contained in section 2.3-2.2.2.1(1) shall not apply. The maximum number of beds per room shall be two.

(2) The first paragraph of section 2.3-2.2.4.6 is amended to read as follows: "The small primary care hospital shall include the following:".

(3) Section 2.3-3.4.1, which limits the types of surgical procedures, shall not apply.

c. Existing hospitals, critical access hospitals, and off-site premises built in compliance with prior editions of the hospital construction guidelines will be deemed in compliance with subsequent regulations, with the exception of any new structural renovations, additions, functional alterations, or changes in utilization to existing facilities, which shall meet the standards specified in this subrule.

d. In jurisdictions without a local building code enforcement program, the construction shall be in conformance with the state building code, as authorized by Iowa Code section 103A.7, in effect at the time of plan submittal for review and approval. In jurisdictions with a local building code enforcement program, local building code enforcement must include both the adoption and enforcement of a local building code through plan reviews and inspections.

A hospital or off-site premises that is required to meet the provisions of the state building code shall be deemed to be in compliance with the fire safety requirements of the state building code if the hospital or off-site premises is in compliance with the provisions of rule 661—205.5(100). In any case in which an applicable requirement of the Life Safety Code, 2000 edition, is inconsistent with an applicable requirement of the state building code, the hospital shall be deemed to be in compliance with the state building code requirement if the Life Safety Code requirement is met.

Rule 661—301.5(103A) shall not be applicable to hospitals and other structures required under this chapter to meet the provisions of the state building code.

e. The design and construction of a hospital or off-site premises shall be in conformance with NFPA 101: Life Safety Code 2000 as published by the National Fire Protection Association.

51.50(2) *Submission of construction documents.*

a. Submissions of architectural technical documents, engineering documents, and plans and specifications to the building code commissioner are the responsibility of the owner of the building or facility, although the actual submission may be completed by an authorized agent of the owner or the responsible design professional.

b. "Responsible design professional" means a registered architect or licensed professional engineer who signs the documents submitted.

c. Plans, specifications and other supporting information shall be sufficiently clear and complete to show in detail that the proposed work will comply with the requirements of the applicable provisions of the state building code.

d. In section 107.2.5 of the International Building Code, 2009 edition, the word "permit" shall be replaced by the words "plan review."

e. Submittals to the commissioner shall be certified or stamped and signed as required by Iowa Code chapters 542B and 544A unless the applicant has certified on the submittal to the applicability of a specific exception under Iowa Code section 544A.18 and the submittal does not constitute the practice of professional engineering as defined by Iowa Code section 542B.2.

f. The responsible design professional shall certify that the building plans meet the requirements specified in subrule 51.50(1), unless a variance has been granted pursuant to subrule 51.50(3).

51.50(3) *Variances.* The director of the department may grant variances to building and construction guidelines as contained in the 2010 edition of the Guidelines for Design and Construction of Health Care Facilities. The hospital or off-site premises must submit a variance request in writing to the director. The request must demonstrate how patient safety and the quality of care offered will not be compromised by the variance. The facility must demonstrate its ability to completely fulfill all other requirements of the service. The director shall make a written determination of the request. In determining whether a variance request shall be granted, the director shall give consideration to the following conditions and to any other conditions the director deems relevant:

a. The design and planning for the specific property shall offer improved or compensating features which provide equivalent desirability and utility;

b. Alternate or special construction methods, techniques, and mechanical equipment shall offer equivalent durability; utility; safety; structural strength and rigidity; sanitation; odor control; protection from corrosion, decay and insect attack; and quality of workmanship;

c. The health, safety or welfare of any patient shall not be endangered;

d. The variance shall be limited to the specific project under consideration and shall not be construed as establishing a precedent for similar acceptance in other cases;

e. Occupancy and function of the building shall be considered; and

f. The type of licensing shall be considered.

[**ARC 9251B**, IAB 12/1/10, effective 1/5/11; **ARC 0135C**, IAB 5/30/12, effective 7/4/12]

481—51.51(135B) Minimum standards for construction after July 8, 1998, and prior to May 22, 2002. Rescinded IAB 12/1/10, effective 1/5/11.

481—51.52(135B) Minimum standards for construction after May 22, 2002. Rescinded IAB 12/1/10, effective 1/5/11.

481—51.53(135B) Critical access hospitals. Critical access hospitals shall meet the following criteria:

51.53(1) The hospital shall be no less than 35 miles from another hospital or no less than 15 miles over secondary roads or shall be designated by the department of public health as a necessary provider of health care prior to January 1, 2006.

51.53(2) The hospital shall be a public or nonprofit hospital and shall be located in a county in a rural area. Rural counties do not include Black Hawk, Johnson, Linn, Polk, Pottawattamie, Scott and Woodbury Counties. All other counties are considered to be in rural areas for purposes of this subrule.

51.53(3) The hospital shall provide 24-hour emergency care services as described in 481 IAC 51.30(135B).

51.53(4) The hospital shall maintain no more than 25 acute care inpatient beds. However, if the hospital provides inpatient psychiatric services in a distinct part unit or inpatient rehabilitation services in a distinct part unit, no more than 10 beds shall be maintained in the distinct part unit. The beds in the distinct part unit are excluded from the 25 inpatient-bed count limit specified in 42 CFR 485.620(a).

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

51.53(6) The hospital shall continue to comply with all general hospital license requirements as defined in 481 IAC 51.

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

[**ARC 9253B**, IAB 12/1/10, effective 1/5/11; **ARC 1305C**, IAB 2/5/14, effective 3/12/14]

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

[Filed June 30, 1948]
[Filed 9/9/76, Notice 6/14/76—published 10/6/76, effective 11/15/76]
[Filed 11/12/76, Notice 10/6/76—published 12/1/76, effective 1/5/77]
[Filed 11/10/77, Notice 9/7/77—published 11/30/77, effective 1/4/78]
[Filed 12/28/84, Notice 10/10/84—published 1/16/85, effective 4/3/85]
[Filed 1/10/86, Notice 11/6/85—published 1/29/86, effective 3/5/86]
[Filed 4/1/86, Notice 1/1/86—published 4/23/86, effective 5/28/86]
[Filed 5/15/86, Notice 2/26/86—published 6/4/86, effective 7/9/86]
[Filed 5/16/86, Notice 1/1/86—published 6/4/86, effective 7/9/86]
[Filed 1/20/87, Notice 12/3/86—published 2/11/87, effective 3/18/87]
[Filed 3/12/87, Notice 12/31/86—published 4/8/87, effective 5/13/87]
[Filed 5/12/88, Notice 3/9/88—published 6/1/88, effective 7/6/88][1]
[Filed 5/13/88, Notice 3/9/88—published 6/1/88, effective 7/6/88]
[Filed 5/13/88, Notice 4/6/88—published 6/1/88, effective 7/6/88]
[Filed 11/17/88, Notice 8/10/88—published 12/14/88, effective 1/18/89]
[Filed 11/9/89, Notice 8/9/89—published 11/29/89, effective 1/3/90]
[Filed 1/12/90, Notice 11/29/89—published 2/7/90, effective 3/14/90]
[Filed 3/15/90, Notice 12/27/89—published 4/4/90, effective 5/9/90]
[Filed emergency 7/13/90—published 8/8/90, effective 7/20/90]
[Filed 9/28/90, Notice 8/8/90—published 10/17/90, effective 11/21/90]◊
[Filed 3/12/92, Notice 12/11/91—published 4/1/92, effective 5/6/92]
[Filed 12/2/93, Notices 10/13/93—published 12/22/93, effective 1/26/94]◊
[Filed 3/11/94, Notice 2/2/94—published 3/30/94, effective 5/4/94]
[Filed 8/12/94, Notice 6/8/94—published 8/31/94, effective 10/5/94]
[Filed 5/16/95, Notice 3/15/95—published 6/7/95, effective 7/12/95]
[Filed 11/30/95, Notice 9/13/95—published 12/20/95, effective 1/24/96]
[Filed 1/25/96, Notice 12/20/95—published 2/14/96, effective 3/20/96]
[Filed 3/19/96, Notice 12/20/95—published 4/10/96, effective 5/15/96]
[Filed 7/11/97, Notice 4/9/97—published 7/30/97, effective 9/3/97]
[Filed 7/24/97, Notice 3/26/97—published 8/13/97, effective 9/17/97]
[Filed 3/31/98, Notice 11/5/97—published 4/22/98, effective 5/27/98]
[Filed 5/14/98, Notice 2/25/98—published 6/3/98, effective 7/8/98]
[Filed 11/12/98, Notice 9/23/98—published 12/2/98, effective 1/6/99]
[Filed 3/18/99, Notice 2/10/99—published 4/7/99, effective 5/12/99]
[Filed 5/14/99, Notice 3/10/99—published 6/2/99, effective 7/7/99]

[Filed 11/12/99, Notice 8/25/99—published 12/1/99, effective 1/5/00]
[Filed 3/30/00, Notice 2/9/00—published 4/19/00, effective 5/24/00][◊]
[Filed 9/15/00, Notice 8/9/00—published 10/4/00, effective 11/8/00]
[Filed 9/13/01, Notice 8/8/01—published 10/3/01, effective 11/7/01][◊]
[Filed 11/16/01, Notice 8/8/01—published 12/12/01, effective 1/16/02]
[Filed 3/29/02, Notice 2/6/02—published 4/17/02, effective 5/22/02]
[Filed 7/17/03, Notice 6/11/03—published 8/6/03, effective 9/10/03]
[Filed 9/11/03, Notice 8/6/03—published 10/1/03, effective 11/5/03]
[Filed 7/15/04, Notice 6/9/04—published 8/4/04, effective 9/8/04]
[Filed 1/12/05, Notice 12/8/04—published 2/2/05, effective 3/9/05]
[Filed 7/13/05, Notice 6/8/05—published 8/3/05, effective 9/7/05]
[Filed 1/11/06, Notice 10/12/05—published 2/1/06, effective 3/8/06]
[Filed 11/15/06, Notice 10/11/06—published 12/6/06, effective 1/10/07]
[Filed emergency 7/11/07—published 8/1/07, effective 7/11/07]
[Filed 9/12/07, Notice 8/1/07—published 10/10/07, effective 11/14/07][◊]
[Filed 3/17/08, Notice 1/30/08—published 4/9/08, effective 5/14/08]
[Filed ARC 9251B (Notice ARC 9119B, IAB 10/6/10), IAB 12/1/10, effective 1/5/11]
[Filed ARC 9252B (Notice ARC 9121B, IAB 10/6/10), IAB 12/1/10, effective 1/5/11]
[Filed ARC 9253B (Notice ARC 9120B, IAB 10/6/10), IAB 12/1/10, effective 1/5/11]
[Filed ARC 0135C (Notice ARC 0071C, IAB 4/4/12), IAB 5/30/12, effective 7/4/12]
[Filed ARC 0484C (Notice ARC 0353C, IAB 10/3/12), IAB 12/12/12, effective 1/16/13][2]
[Filed ARC 1305C (Notice ARC 1230C, IAB 12/11/13), IAB 2/5/14, effective 3/12/14]
[Filed ARC 1304C (Notice ARC 1242C, IAB 12/11/13), IAB 2/5/14, effective 3/12/14]
[Filed ARC 1751C (Notice ARC 1650C, IAB 10/1/14), IAB 12/10/14, effective 1/14/15]

◊ Two or more ARCs

1 Hospital Protocol for Donor Requests as it appeared in IAC 641—Chapter 180 prior to 4/4/90.

2 January 16, 2013, effective date of 51.24(3) [ARC 0484C] delayed 70 days by the Administrative Rules Review Committee at its meeting held January 8, 2013.

CHAPTER 57
RESIDENTIAL CARE FACLITIES

[Prior to 7/15/87, Health Department[470] Ch 57]

481—57.1(135C) Definitions. For the purposes of these rules, the following terms shall have the meanings indicated in this rule. The definitions set out in Iowa Code section 135C.1 shall be considered to be incorporated verbatim in these rules.

"Accommodation" means the provision of lodging, including sleeping, dining, and living areas.

"Activities of daily living" means the following self-care tasks: bathing, dressing, grooming, eating, transferring, toileting and ambulation.

"Administrator" means a person approved by the department who administers, manages, supervises, and is in general administrative charge of a residential care facility, whether or not such person has an ownership interest in the facility, and whether or not the functions and duties are shared with one or more other persons.

"Ambulatory" means the condition of a person who immediately and without the aid of another person is physically and mentally capable of traveling a normal path to safety, including the ascent and descent of stairs.

"Basement" means that part of a building where the finish floor is more than 30 inches below the finish grade of the building.

"Board" means the regular provision of meals.

"Change of ownership" means the purchase, transfer, assignment, or lease of a licensed residential care facility.

"Communicable disease" means a disease caused by the presence within a person's body of a virus or microbial agent which may be transmitted either directly or indirectly to other persons.

"Department" means the department of inspections and appeals.

"Distinct part" means a clearly identifiable area or section containing contiguous rooms within a health care facility.

"Interdisciplinary team" means the group of persons who develop a single, integrated, individual program plan to meet a resident's needs for services. The interdisciplinary team consists of, at a minimum, the resident, the resident's legal guardian if applicable, the resident's advocate if desired by the resident, a referral agency representative, other appropriate staff members, other providers of services, and other persons relevant to the resident's needs.

"Legal representative" means the resident's guardian or conservator if one has been appointed or the resident's power of attorney.

"Medication" means any drug, including over-the-counter substances, ordered and administered under the direction of the primary care provider.

"Nonambulatory" means the condition of a person who immediately and without the aid of another person is not physically or mentally capable of traveling a normal path to safety, including the ascent and descent of stairs.

"Personal care" means assistance with the activities of daily living which the recipient can perform only with difficulty. Examples are help in getting in and out of bed, assistance with personal hygiene and bathing, help with dressing and eating, and supervision over medications which can be self-administered.

"Primary care provider" means any of the following who provide primary care and meet licensure standards:

1. A physician who is a family or general practitioner or an internist.
2. An advanced registered nurse practitioner.
3. A physician assistant.

"Program of care" means all services being provided for a resident in a health care facility.

"Rate" means the daily fee that is charged for all residents equally and that includes the cost of all minimum services required in these rules and regulations.

"Records" includes electronic records.

"Responsible party" means the person who signs or cosigns the residency agreement required in rule 481—57.15(135C) or the resident's legal representative. In the event that a resident has neither a legal representative nor a person who signed or cosigned the resident's residency agreement, the term "responsible party" shall include the resident's sponsoring agency, e.g., the department of human services, the U.S. Department of Veterans Affairs, a religious group, fraternal organization, or foundation that assumes responsibility and advocates for its client patients and pays for their health care.

"Restraints" means the measures taken to control a resident's physical activity for the resident's own protection or for the protection of others.

[**ARC 1753C**, IAB 12/10/14, effective 1/14/15]

481—57.2(135C,17A) Waiver or variance. A waiver or variance from these rules may be granted by the director of the department in accordance with 481—Chapter 6. A request for waiver or variance will be granted or denied by the director within 120 calendar days of receipt.

[**ARC 1753C**, IAB 12/10/14, effective 1/14/15]

481—57.3(135C) Application for licensure.

57.3(1) *Application and licensing—new facility or change of ownership.* In order to obtain an initial residential care facility license for a facility not currently licensed as a residential care facility or for a residential care facility when a change of ownership is contemplated, the applicant must:

a. Make application at least 30 days prior to the proposed opening date of the facility. Application shall be made on forms provided by the department.

b. Meet all of the rules, regulations, and standards contained in 481—Chapters 50, 57 and 60. Exceptions noted in 481—subrule 60.3(2) shall not apply.

c. Submit a letter of intent and a written résumé of care. The résumé of care shall meet the requirements of subrule 57.3(2).

d. Submit a floor plan of each floor of the residential care facility. The floor plan of each floor shall be drawn on 8½" × 11" paper, show room areas in proportion, room dimensions, window and door locations, designation of the use of each room, and the room numbers for all rooms, including bathrooms.

e. Submit a photograph of the front and side of the residential care facility.

f. Submit the statutory fee for a residential care facility license.

g. Comply with all other local statutes and ordinances in existence at the time of licensure.

h. Submit a certificate signed by the state or local fire inspection authority as to compliance with fire safety rules and regulations.

57.3(2) *Résumé of care.* The résumé of care shall describe the following:

a. Purpose of the facility;

b. Criteria for admission to the facility;

c. Ownership of the facility;

d. Composition and responsibilities of the governing board;

e. Qualifications and responsibilities of the administrator;

f. Medical services provided to residents, to include the availability of emergency medical services in the area and the designation of a primary care provider to be responsible for residents in an emergency;

g. Dental services provided to residents and available in the area;

h. Nursing services provided to residents, if applicable;

i. Personal services provided to residents, including supervision of or assistance with activities of daily living;

j. Activity program;

k. Dietary services, including qualifications of the person in charge, consultation service (if applicable) and meal service;

l. Other services available as applicable, including social services, physical therapy, occupational therapy, and recreational therapy;

m. Housekeeping;

n. Laundry;

o. Physical plant; and

p. Staffing provided to meet residents' needs.

57.3(3) *Renewal application.* In order to obtain a renewal of the residential care facility license, the applicant must submit the following:

a. The completed application form 30 days prior to the annual license renewal date of the residential care facility license;

b. The statutory license fee for a residential care facility;

c. An approved current certificate signed by the state or local fire inspection authority as to compliance with fire safety rules and regulations;

d. Changes to the résumé of care, if any; and

e. Changes to the current residency agreement, if any.

[**ARC 1753C**, IAB 12/10/14, effective 1/14/15]

481—57.4(135C) Issuance of license. Licenses are issued to the person, entity or governmental unit with responsibility for the operation of the facility and for compliance with all applicable statutes, rules and regulations.

[**ARC 1753C**, IAB 12/10/14, effective 1/14/15]

481—57.5(135C) Licenses for distinct parts.

57.5(1) Separate licenses may be issued for distinct parts of a health care facility which are clearly identifiable, contain contiguous rooms, and provide separate categories of care and services.

57.5(2) The following requirements shall be met for separate licensing of a distinct part:

a. The distinct part shall serve only residents who require the category of care and services immediately available to them within that part. (III)

b. The distinct part shall meet all the standards, rules, and regulations pertaining to the category for which a license is being sought.

c. The distinct part must be operationally and financially feasible.

d. Personal care staff with qualifications appropriate to the care and services being rendered must be regularly assigned and working in the distinct part under responsible management. (III)

e. Separately licensed distinct parts may have certain services such as management, building maintenance, laundry and dietary in common with each other.

This rule is intended to implement Iowa Code sections 135C.6(2) and135C.14.

[**ARC 1753C**, IAB 12/10/14, effective 1/14/15]

481—57.6(135C) Special classification—memory care.

57.6(1) *Designation and application.* A residential care facility may choose to care for residents who require memory care in a distinct part of the facility or designate the entire residential care facility as one that provides memory care. Residents in the memory care unit or facility shall meet the level of care requirements for a residential care facility. "Memory care" in a residential care facility means the care of persons with early Alzheimer's-type dementia or other disorders causing dementia. (I, II, III)

a. Application for approval to provide this category of care shall be submitted by the licensee on a form provided by the department. (III)

b. Plans to modify the physical environment shall be submitted to the department for review based on the requirements of 481—Chapter 60. (III)

c. If the unit or facility is to be a locked unit or facility, all locking devices shall meet the Life Safety Code and any requirements of the state fire marshal. If the unit or facility is to be unlocked, a system of security monitoring is required. (I, II, III)

57.6(2) *Résumé of care.* A résumé of care shall be submitted to the department for approval at least 30 days before a separate memory care unit or facility is opened. For facilities with a memory care unit, this résumé of care is in addition to the résumé of care required by subrule 57.3(2). A new résumé of care shall be submitted when services are substantially changed. The résumé of care shall:

a. Describe the population to be served;

b. State the philosophy and objectives;

c. List criteria for transfer to and from the memory care unit or facility;

d. Include a copy of the floor plan;

e. List the titles of policies and procedures developed for the unit or facility;

f. Propose a staffing pattern;

g. Set out a plan for specialized staff training;

h. State visitor, volunteer, and safety policies;

i. Describe programs for activities, social services and families; and

j. Describe the interdisciplinary team and the role of each team member.

57.6(3) *Policies and procedures.* Separate written policies and procedures shall be implemented in the memory care unit or facility and shall address the following:

a. Criteria for admission and the preadmission evaluation process. The policy shall require a statement from the primary care provider approving the placement before a resident may be moved into a memory care unit or facility. (II, III)

b. Safety, including a description of the actions required of staff in the event of a fire, natural disaster, or emergency medical event or catastrophic event. Safety procedures shall also explain steps to be taken when a resident is discovered to be missing from the unit or facility, when hazardous cleaning materials or potentially dangerous mechanical equipment is being used in the unit or facility, and the manner in which the effectiveness of the security system will be monitored. (II, III)

c. Staffing requirements, including the minimum number, types and qualifications of staff in the unit or facility in accordance with resident needs. (II, III)

d. Visitation policies, including suggested times for visitation and ensuring the residents' rights to free access to visitors unless visits are contraindicated by the interdisciplinary team. (II, III)

e. The process and criteria which will be used to monitor and to respond to risks specific to the residents, including but not limited to drug use, restraint use, infections, incidents and acute behavioral events. (II, III)

57.6(4) *Assessment prior to transfer or admission.* Prior to the transfer or admission of a resident applicant to the memory care unit or facility, a complete assessment of the resident applicant's physical, mental, social and behavioral status shall be completed to determine whether the applicant meets admission criteria. This assessment shall be completed by facility staff and shall become part of the resident's permanent record upon admission. (II, III)

57.6(5) *Staff training.* All staff working in a memory care unit or facility shall have training appropriate to the needs of the residents. (I, II, III)

a. Upon assignment to the unit or facility, all staff working in the unit or facility shall be oriented to the needs of residents requiring memory care. Staff members shall have at least six hours of special training appropriate to their job descriptions within 30 days of assignment to the unit or facility. (I, II, III)

b. Training shall include the following topics: (II, III)

(1) An explanation of Alzheimer's disease and related disorders, including symptoms, behavior and disease progression;

(2) Skills for communicating with persons with dementia;

(3) Skills for communicating with family and friends of persons with dementia;

(4) An explanation of family issues such as role reversal, grief and loss, guilt, relinquishing the caregiving role, and family dynamics;

(5) The importance of planned and spontaneous activities;

(6) Skills in providing assistance with activities of daily living;

(7) Skills in working with challenging residents;

(8) Techniques for cueing, simplifying, and redirecting;

(9) Staff support and stress reduction;

(10) Medication management and nonpharmacological interventions.

c. Nursing staff, certified medication aides, medication managers, social services personnel, housekeeping and activity personnel shall have a minimum of six hours of in-service training annually.

This training shall be related to the needs of memory care residents. The six-hour initial training required in paragraph 57.6(5)*"a"* shall count toward the required annual in-service training. (II, III)

57.6(6) *Staffing.* There shall be at least one staff person on a memory care unit at all times. (I, II, III)

57.6(7) *Others living in the memory care unit.* A resident not requiring memory care services may live in the memory care unit if the resident's spouse requiring memory care services lives in the unit or if no other beds are available in the facility and the resident or the resident's legal representative consents in writing to the placement. (II, III)

57.6(8) *Revocation, suspension or denial.* The memory care unit license or facility license may be revoked, suspended or denied pursuant to Iowa Code chapter 135C and 481—Chapter 50.

This rule is intended to implement Iowa Code sections 135C.2(3)*"b"* and 135C.14.

[**ARC 1753C**, IAB 12/10/14, effective 1/14/15]

481—57.7(135C) General requirements.

57.7(1) The license shall be displayed in the facility in a conspicuous place which is accessible to the public. (III)

57.7(2) The license shall be valid only in the possession of the licensee to whom it is issued.

57.7(3) The posted license shall accurately reflect the current status of the residential care facility. (III)

57.7(4) The license shall expire one year after the date of issuance or as indicated on the license.

57.7(5) The licensee shall:

a. Assume the responsibility for the overall operation of the residential care facility. (I, II, III)

b. Be responsible for compliance with all applicable laws and with the rules of the department. (I, II, III)

c. Provide an organized continuous 24-hour program of care commensurate with the needs of the residents. (I, II, III)

57.7(6) Each citation or a copy of each citation issued by the department for a class I or class II violation shall be prominently posted by the facility in plain view of the residents, visitors, and persons inquiring about placement in the facility. The citation or copy of the citation shall remain posted until the violation is corrected to the satisfaction of the department. (I, II, III)

[**ARC 1753C**, IAB 12/10/14, effective 1/14/15]

481—57.8(135C) Certified volunteer long-term care ombudsman program. A certified volunteer long-term care ombudsman appointed in accordance with Iowa Code section 231.45 shall operate within the scope of the rules for volunteer ombudsmen promulgated by the office of the long-term care ombudsman and the Iowa department on aging.

[**ARC 1753C**, IAB 12/10/14, effective 1/14/15]

481—57.9(135C) Required notifications to the department. The department shall be notified:

57.9(1) Thirty days before any proposed change in the residential care facility's functional operation or addition or deletion of required services; (III)

57.9(2) Thirty days before the beginning of the renovation, addition, functional alteration, change of space utilization, or conversion in the residential care facility or on the premises; (III)

57.9(3) Thirty days before closure of the residential care facility; (III)

57.9(4) Within two weeks of any change in administrator; (III)

57.9(5) Ninety days before a change in the category of license; (III)

57.9(6) Thirty days before a change of ownership, the licensee shall:

a. Inform the department of the pending change of ownership; (III)

b. Inform the department of the name and address of the prospective purchaser, transferee, assignee, or lessee; (III)

c. Submit a written authorization to the department permitting the department to release all information of whatever kind from the department's files concerning the licensee's residential care facility to the named prospective purchaser, transferee, assignee, or lessee. (III)

[**ARC 1753C**, IAB 12/10/14, effective 1/14/15]

481—57.10(135C) Administrator. Each residential care facility shall have one person in charge, duly approved by the department or acting in a provisional capacity in accordance with these rules. (III)

57.10(1) *Qualifications of an administrator.*

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

(1) Have a two-year degree in human services, psychology, sociology, nursing, health care administration, public administration, or a related field and have a minimum of two years' experience in the field; or (III)

(2) Have a four-year degree in human services, psychology, sociology, nursing, health care administration, public administration, or a related field and have a minimum of one year experience in the field; or (III)

(3) Have a master's degree in human services, psychology, sociology, nursing, health care administration, public administration, or a related field and have a minimum of one year experience in the field; or (III)

(4) Be a licensed nursing home administrator; or (III)

(5) Have completed a one-year educational training program approved by the department for residential care facility administrators; or (III)

(6) Have passed the National Association of Long Term Care Administrator Boards (NAB) RC/AL administrator licensure examination; or

(7) Have two years of direct care experience and at least six months of administrative experience in a residential care facility. (III)

b. An individual employed as an administrator on January 14, 2015, will be deemed to meet the requirements of this subrule.

57.10(2) *Duties of an administrator.* The administrator shall:

a. Select and direct competent personnel who provide services for the residential care program. (III)

b. Arrange for the heads of nursing, social services, dietary and activities to attend a minimum of ten contact hours of educational programs per year to increase skills and knowledge needed for their positions. The ten hours is in addition to the in-service requirements in paragraph 57.10(2)*"c."* (III)

c. Provide in-service educational programming for all employees with direct resident contact and maintain records of programs and participants. (III) In-service educational programming offered during each calendar year shall include, at minimum, the following topics: (I, II, III)

(1) Infection control.

(2) Emergency preparedness (fire, tornado, flood, 911, etc.).

(3) Meal time procedures/dietary.

(4) Resident activities.

(5) Mental illness/behavior modification/crisis intervention.

(6) Resident safety/supervision.

(7) Resident rights.

(8) Medication education, to include administration, storage and drug interactions.

(9) Resident service plans/programming/goals.

57.10(3) *Administrator serving at more than one residential care facility.* The administrator may be responsible for no more than 150 beds in total if the administrator is an administrator of more than one facility. (II)

a. An administrator of more than one facility shall designate in writing an administrative staff person in each facility who shall be responsible for directing programs in the facility.

b. The administrative staff person designated by the administrator shall:

(1) Have at least one year of experience in a supervisory or direct care position in a residential care facility or in a facility for the intellectually disabled, mentally ill or developmentally disabled; (II, III)

(2) Be knowledgeable of the operation of the facility; (II, III)

(3) Have access to records concerned with the operation of the facility; (II, III)

(4) Be capable of carrying out administrative duties and of assuming administrative responsibilities; (II, III)

(5) Be at least 21 years of age; (III)

(6) Be empowered to act on behalf of the licensee concerning the health, safety and welfare of the residents; and (II, III)

(7) Have training in emergency response, including how to respond to residents' sudden illnesses. (II, III)

c. If an administrator serves more than one facility, the administrator must designate in writing regular and specific times during which the administrator will be available to consult with staff and residents to provide direction and supervision of resident care and services. (II, III)

57.10(4) *Provisional administrator.* A provisional administrator may be appointed on a temporary basis by the residential care facility licensee to assume the administrative responsibilities for a residential care facility for a period not to exceed one year when the facility has lost its administrator and has not been able to replace the administrator, provided that the department has been notified and approved the provisional administrator prior to the date of the provisional administrator's appointment. (III) The provisional administrator must meet the requirements of paragraph 57.10(3)*"b."*

57.10(5) *Temporary absence of administrator.*

a. In the temporary absence of the administrator, a responsible person shall be designated in writing to the department to be in charge of the facility. (III) The person designated shall:

(1) Be knowledgeable of the operation of the facility; (III)

(2) Have access to records concerned with the operation of the facility; (III)

(3) Be capable of carrying out administrative duties and of assuming administrative responsibilities; (III)

(4) Be at least 21 years of age; (III)

(5) Be empowered to act on behalf of the licensee during the administrator's absence concerning the health, safety, and welfare of the residents; (III)

(6) Have training in emergency response, including how to respond to residents' sudden illnesses. (II, III)

b. If the administrator is absent for more than six weeks, a provisional administrator must be appointed pursuant to subrule 57.10(4).

[**ARC 1753C**, IAB 12/10/14, effective 1/14/15]

481—57.11(135C) Personnel.

57.11(1) *Alcohol and drug use prohibited.* No person under the influence of intoxicating drugs or alcoholic beverages shall be permitted to provide services in a residential care facility. (I, II)

57.11(2) *Job description.* There shall be a written job description developed for each category of worker. The job description shall include the job title, responsibilities and qualifications. (III)

57.11(3) *Employee criminal record checks, child abuse checks and dependent adult abuse checks and employment of individuals who have committed a crime or have a founded abuse.* The facility shall comply with the requirements found in Iowa Code section 135C.33 as amended by 2014 Iowa Acts, chapter 1040, and rule 481—50.9(135C) related to completion of criminal record checks, child abuse checks, and dependent adult abuse checks and to employment of individuals who have committed a crime or have a founded abuse. (I, II, III)

57.11(4) *Personnel record.* A personnel record shall be kept for each employee and shall include but not be limited to the following information about the employee: name and address, social security number, date of birth, date of employment, position, experience and education, references, results of criminal record checks, child abuse checks and dependent adult abuse checks, and date of discharge or resignation. (III)

57.11(5) *Supervision and staffing.*

a. The facility shall provide sufficient staff to meet the needs of the residents served. (I, II, III)

b. Personnel in a residential care facility shall provide 24-hour coverage for residential care services. Personnel shall be awake at all times while on duty. (I, II, III)

c. Direct care staff shall be present in the facility unless all residents are involved in activities away from the facility. (I, II, III)

d. Staff shall be aware of and provide supervision levels based on the present needs of the residents in the staff's care. The facility shall document the supervision of residents who require more than general supervision, as defined by facility policy. (I, II, III)

e. The facility shall maintain an accurate record of actual hours worked by employees. (III)

57.11(6) *Physical examination and screening.* Employees shall have a physical examination no longer than 12 months prior to beginning employment and every four years thereafter. Screening and testing for tuberculosis shall be conducted pursuant to 481—Chapter 59. (I, II, III)

[**ARC 1753C**, IAB 12/10/14, effective 1/14/15]

481—57.12(135C) General policies. The licensee shall establish and implement written policies and procedures as set forth in this rule. The policies and procedures shall be available for review by the department, other agencies designated by Iowa Code section 135C.16(3), staff, residents, residents' families or legal representatives, and the public and shall be reviewed by the licensee annually. (II)

57.12(1) *Facility operation.* The licensee shall establish written policies for the operation of the facility, including, but not limited to the following: (III)

a. Personnel; (III)

b. Admission; (III)

c. Evaluation services; (II, III)

d. Programming and individual program plans; (II, III)

e. Registered sex offender management; (II, III)

f. Crisis intervention; (II, III)

g. Discharge or transfer; (III)

h. Medication management, including self-administration of medications and chemical restraints; (III)

i. Resident property; (II, III)

j. Resident finances; (II, III)

k. Records; (III)

l. Health and safety; (II, III)

m. Nutrition; (III)

n. Physical facilities and maintenance; (III)

o. Resident rights; (II, III)

p. Investigation and reporting of alleged dependent adult abuse; (II, III)

q. Investigation and reporting of accidents or incidents; (II, III)

r. Transportation of residents; (II, III)

s. Resident supervision; (II, III)

t. Smoking; (III)

u. Visitors; (III)

v. Disaster/emergency planning; (III) and

w. Infection control. (III)

57.12(2) *Personnel policies.* Written personnel policies shall include the hours of work and attendance at educational programs. (III)

57.12(3) *Infection control.* The facility shall have a written and implemented infection control program, which shall include policies and procedures based on guidelines issued by the Centers for Disease Control and Prevention, U.S. Department of Health and Human Services. The infection control program shall address the following:

a. Techniques for hand washing; (I, II, III)

b. Techniques for handling of blood, body fluids, and body wastes; (I, II, III)

c. Dressings, soaks or packs; (I, II, III)

d. Infection identification; (I, II, III)

e. Resident care procedures to be used when there is an infection present; (I, II, III)

f. Sanitation techniques for resident care equipment; (I, II, III)

g. Techniques for sanitary use and reuse of feeding syringes and single-resident use and reuse of urine collection bags; (I, II, III) and

h. Techniques for use and disposal of needles, syringes, and other sharp instruments. (I, II, III)

57.12(4) *Resident care techniques.* The facility shall have written and implemented procedures to be followed if a resident needs any of the following treatment or devices:

a. Intravenous or central line catheter; (I, II, III)

b. Urinary catheter; (I, II, III)

c. Respiratory suction, oxygen or humidification; (I, II, III)

d. Decubitus care; (I, II, III)

e. Tracheostomy; (I, II, III)

f. Nasogastric or gastrostomy tubes; (I, II, III)

g. Sanitary use and reuse of feeding syringes and single-resident use and reuse of urine collection bags. (I, II, III)

57.12(5) *Emergency care.* The facility shall establish written policies for the provision of emergency medical care to residents and employees in case of sudden illness or accident. The policies shall include a list of those individuals to be contacted in case of an emergency. (I, II, III)

[**ARC 1753C**, IAB 12/10/14, effective 1/14/15]

481—57.13(135C) Admission, transfer and discharge.

57.13(1) *General admission policies.*

a. Residents shall be admitted to a residential care facility only on a written order signed by a primary care provider, specifying the level of care, and certifying that the individual being admitted requires no more than personal care and supervision and does not require routine nursing care. (II, III)

b. No residential care facility shall admit or retain a resident who is in need of greater services than the facility can provide. (I, II, III)

c. No residential care facility shall admit more residents than the number of beds for which the facility is licensed. (II, III)

d. A residential care facility is not required to admit an individual through court order, referral or other means without the express prior approval of the administrator. (III)

e. The admission of a resident shall not grant the residential care facility the authority or responsibility to manage the personal affairs of the resident except as may be necessary for the safety of the resident and the safe and orderly management of the residential care facility as required by these rules. (III)

f. Individuals under the age of 18 shall not be admitted to a residential care facility without prior written approval by the department. A distinct part of a residential care facility, segregated from the adult section, may be established based on a résumé of care that is submitted by the licensee or applicant and is commensurate with the needs of the residents of the residential care facility and that has received the department's review and approval. (III)

g. No health care facility and no owner, administrator, employee or representative thereof shall act as guardian, trustee, or conservator for any resident's property unless such resident is related within the third degree of consanguinity to the person acting as guardian. (III)

57.13(2) *Discharge or transfer.*

a. Notification shall be made to the legal representative, primary care provider, and sponsoring agency, if any, prior to the transfer or discharge of any resident. (III)

b. The licensee shall not refuse to discharge or transfer a resident when the primary care provider, family, resident, or legal representative requests such transfer or discharge. (II, III)

c. Advance notification will be made to the receiving facility prior to the transfer of any resident. (III)

d. When a resident is transferred or discharged, the appropriate record will accompany the resident to ensure continuity of care. "Appropriate record" includes the resident's face sheet, service plan, most

recent orders of the primary care provider and any notifications of upcoming scheduled appointments. (II, III)

e. When a resident is transferred or discharged, the resident's unused prescriptions shall be sent with the resident or with a legal representative only upon the written order of a primary care provider. (II, III)

[**ARC 1753C**, IAB 12/10/14, effective 1/14/15]

481—57.14(135C) Involuntary discharge or transfer.

57.14(1) *Involuntary discharge or transfer permitted.* A facility may involuntarily discharge or transfer a resident for only one of the following reasons:

a. Medical reasons;

b. The resident's welfare or that of other residents;

c. Repeated refusal by the resident to participate in the resident's service plan;

d. Due to action pursuant to Iowa Code chapter 229; or

e. Nonpayment for the resident's stay, as described in the residency agreement for the resident's stay.

57.14(2) *Medical reasons.* Medical reasons for transfer or discharge shall be based on the resident's needs and shall be determined and documented in the resident's record by the primary care provider. Transfer or discharge may be required in order to provide a different level of care to the resident. (II)

57.14(3) *Welfare of a resident.* Welfare of a resident or that of other residents refers to a resident's social, emotional, or physical well-being. A resident may be transferred or discharged because the resident's behavior poses a continuing threat to the resident (e.g., suicidal) or to the well-being of other residents or staff (e.g., the resident's behavior is incompatible with other residents' needs and rights). Written documentation that the resident's continued presence in the facility would adversely affect the resident's own welfare or that of other residents shall be made by the administrator or designee and shall include specific information to support this determination. (II)

57.14(4) *Notice.* Involuntary transfer or discharge of a resident from a facility shall be preceded by a written notice to the resident and the responsible party. (II, III)

a. The notice shall contain all of the following information:

(1) The stated reason for the proposed transfer or discharge. (II)

(2) The effective date of the proposed transfer or discharge. (II)

(3) A statement, in not less than 12-point type, that reads as follows:

> You have a right to appeal the facility's decision to transfer or discharge you. If you think you should not have to leave this facility, you may request a hearing, in writing or verbally, with the Iowa department of inspections and appeals (hereinafter referred to as "department") within seven days after receiving this notice. You have a right to be represented at the hearing by an attorney or any other individual of your choice. If you request a hearing, it will be held no later than 14 days after receipt of your request by the department and you will not be transferred prior to a final decision. In emergency circumstances, extension of the 14-day requirement may be permitted upon request to the department's designee. If you lose the hearing, you will not be transferred before the expiration of (1) 30 days following receipt of the original notice of the discharge or transfer, or (2) 5 days following final decision of such hearing, including exhaustion of all appeals, whichever occurs later. To request a hearing or receive further information, call the department at (515)281-4115, or write to the department to the attention of: Administrator, Division of Health Facilities, Department of Inspections and Appeals, Lucas State Office Building, Des Moines, Iowa 50319-0083. (II)

b. The notice shall be personally delivered to the resident and a copy placed in the resident's record. A copy shall also be transmitted to the department; the resident's responsible party; the resident's primary care provider; the person or agency responsible for the resident's placement, maintenance, and care in the facility; and the department on aging's long-term care ombudsman. The notice shall indicate that a

copy has been transmitted to the required parties by using the abbreviation "cc:" and listing the names of all parties to whom copies were sent. (II)

c. The notice required by paragraph 57.14(4)*"a"* shall be provided at least 30 days in advance of the proposed transfer or discharge unless one of the following occurs: (II)

(1) An emergency transfer or discharge is mandated by the resident's health care needs and is in accordance with the written orders and medical justification of the primary care provider. Emergency transfers or discharges may also be mandated in order to protect the health, safety, or well-being of other residents and staff from the resident being transferred. (II)

(2) The transfer or discharge is subsequently agreed to by the resident or the resident's responsible party, and notification is given to the responsible party, the resident's primary care provider, and the person or agency responsible for the resident's placement, maintenance, and care in the facility.

d. A hearing requested pursuant to this subrule shall be held in accordance with subrule 57.14(6).

57.14(5) *Emergency transfer or discharge.* In the case of an emergency transfer or discharge, the resident must be given a written notice prior to or within 48 hours following transfer or discharge. (II, III)

a. A copy of this notice must be placed in the resident's file. The notice must contain all of the following information:

(1) The stated reason for the transfer or discharge. (II)

(2) The effective date of the transfer or discharge. (II)

(3) A statement, in not less than 12-point type, that reads:

> You have a right to appeal the facility's decision to transfer or discharge you on an emergency basis. If you think you should not have to leave this facility, you may request a hearing, in writing or verbally, with the Iowa department of inspections and appeals within 7 days after receiving this notice. You have the right to be represented at the hearing by an attorney or any other individual of your choice. If you request a hearing, it will be held no later than 14 days after receipt of your request by the department. You may be transferred or discharged before the hearing is held or before a final decision is rendered. If you win the hearing, you have the right to be transferred back into the facility. To request a hearing or receive further information, call the department at (515)281-4115, or write to the department to the attention of: Administrator, Division of Health Facilities, Department of Inspections and Appeals, Lucas State Office Building, Des Moines, Iowa 50319-0083. (II)

b. The notice shall be personally delivered to the resident and a copy placed in the resident's record. A copy shall also be transmitted to the department; the resident's responsible party; the resident's primary care provider; the person or agency responsible for the resident's placement, maintenance, and care in the facility; and the department on aging's long-term care ombudsman. The notice shall indicate that a copy has been transmitted to the required parties by using the abbreviation "cc:" and listing the names of all parties to whom copies were sent. (II)

c. A hearing requested pursuant to this subrule shall be held in accordance with subrule 57.14(6).

57.14(6) *Hearing.*

a. Request for hearing.

(1) The resident must request a hearing within 7 days of receiving the written notice.

(2) The request must be made to the department, either in writing or verbally.

b. The hearing shall be held no later than 14 days after receipt of the request by the department unless the resident requests an extension due to emergency circumstances.

c. Except in the case of an emergency discharge or transfer, a request for a hearing shall stay a transfer or discharge pending a final decision, including the exhaustion of all appeals. (II)

d. The hearing shall be heard by a department of inspections and appeals administrative law judge pursuant to Iowa Code chapter 17A and 481—Chapter 10. The hearing shall be public unless the resident or the resident's legal representative requests in writing that the hearing be closed. In a determination as to whether a transfer or discharge is authorized, the burden of proof by a preponderance of evidence rests on the party requesting the transfer or discharge.

e. Notice of the date, time, and place of the hearing shall be sent by certified mail or delivered in person to the facility, the resident, the responsible party, and the office of the long-term care ombudsman not later than 5 full business days after receipt of the request. The notice shall also inform the facility and the resident or the responsible party that they have a right to appear at the hearing in person or be represented by an attorney or other individual. The appeal shall be dismissed if neither party is present or represented at the hearing. If only one party appears or is represented, the hearing shall proceed with one party present. A representative of the office of the long-term care ombudsman shall have the right to appear at the hearing.

f. The administrative law judge's written decision shall be mailed by certified mail to the licensee, resident, responsible party, and the office of the long-term care ombudsman within 10 working days after the hearing has been concluded.

57.14(7) *Nonpayment.* If nonpayment is the basis for involuntary transfer or discharge, the resident shall have the right to make full payment up to the date that the discharge or transfer is to be made and then shall have the right to remain in the facility. (II)

57.14(8) *Discussion of involuntary transfer or discharge.* Within 48 hours after notice of involuntary transfer or discharge has been received by the resident, the facility shall discuss the involuntary transfer or discharge with the resident, the resident's responsible party, and the person or agency responsible for the resident's placement, maintenance, and care in the facility. (II)

a. The facility administrator or other appropriate facility representative serving as the administrator's designee shall provide an explanation and discussion of the reasons for the resident's involuntary transfer or discharge. (II)

b. The content of the explanation and discussion shall be summarized in writing, shall include the names of the individuals involved in the discussion, and shall be made part of the resident's record. (II)

c. The provisions of this subrule do not apply if the involuntary transfer or discharge has already occurred pursuant to subrule 57.14(5) and emergency notice is provided within 48 hours.

57.14(9) *Transfer or discharge planning.*

a. The facility shall develop a plan to provide for the orderly and safe transfer or discharge of each resident to be transferred or discharged. (II)

b. To minimize the possible adverse effects of the involuntary transfer, the resident shall receive counseling services by the sending facility before the involuntary transfer and by the receiving facility after the involuntary transfer. Counseling shall be documented in the resident's record. (II)

c. The counseling requirement in paragraph 57.14(9)*"b"* does not apply if the discharge has already occurred pursuant to subrule 57.14(5) and emergency notice is provided within 48 hours.

d. Counseling, if required, shall be provided by a licensed mental health professional as defined in Iowa Code section 228.1(6).

e. The receiving health care facility of a resident involuntarily transferred shall immediately formulate and implement a plan of care which takes into account possible adverse effects the transfer may cause. (II)

57.14(10) *Transfer upon revocation of license or voluntary closure.* Residents shall not have the right to a hearing to contest an involuntary discharge or transfer resulting from the revocation of the facility's license by the department of inspections and appeals. In the case of the voluntary closure of a facility, a period of 30 days must be allowed for an orderly transfer of residents to other facilities.

57.14(11) *Intrafacility transfer.*

a. Residents shall not be arbitrarily relocated from room to room within a licensed health care facility. (I, II) Involuntary relocation may occur only in the following situations, which shall be documented in the resident's record: (II)

(1) Incompatibility with or disturbing to other roommates.

(2) For the welfare of the resident or other residents of the facility.

(3) To allow a new admission to the facility that would otherwise not be possible due to separation of roommates by sex.

(4) In the case of a resident whose source of payment was previously private, but who now is eligible for Title XIX (Medicaid) assistance, the resident may be transferred from a private room to a semiprivate room or from one semiprivate room to another.

(5) Reasonable and necessary administrative decisions regarding the use and functioning of the building.

b. Unreasonable and unjustified reasons for changing a resident's room without the concurrence of the resident or responsible party include:

(1) Change from private pay status to Title XIX, except as outlined in subparagraph 57.14(11)*"a"*(4). (II)

(2) As punishment or behavior modification, except as specified in subparagraph 57.14(11)*"a"*(1). (II)

(3) Discrimination on the basis of race or religion. (II)

c. If intrafacility relocation is necessary for reasons outlined in paragraph 57.14(11)*"a,"* the resident shall be notified at least 48 hours prior to the transfer and the reason therefor shall be explained. The responsible party shall be notified as soon as possible. The notification shall be documented in the resident's record and signed by the resident or responsible party. (II, III)

d. If emergency relocation is required in order to protect the safety or health of the resident or other residents, the notification requirements may be waived. The conditions of the emergency shall be documented. The family or responsible party shall be notified immediately or as soon as possible of the condition that necessitates emergency relocation, and such notification shall be documented. (II, III)

e. A transfer to a part of a facility that has a different license must be handled the same way as a transfer to another facility, and not as an intrafacility transfer. (II, III)

[**ARC 1753C**, IAB 12/10/14, effective 1/14/15]

481—57.15(135C) Residency agreement.

57.15(1) Each residency agreement shall:

a. State the base rate or scale per day or per month, the services included, and the method of payment. (III)

b. Contain a complete schedule of all offered services for which a fee may be charged in addition to the base rate. (III) Furthermore, the agreement shall:

(1) Stipulate that no further additional fees shall be charged for items not contained in the complete schedule of services; (III)

(2) State the method of payment for additional charges; (III)

(3) Contain an explanation of the method of assessment of such additional charges and an explanation of the method of periodic reassessment, if any, resulting in changing such additional charges; (III)

(4) State that additional fees may be charged to the resident for nonprescription drugs, other personal supplies, and services provided by a barber, beautician, and such. (III)

c. Contain an itemized list of services to be provided to the resident based on an assessment at the time of the resident's admission and in consultation with the administrator and including the specific fee the resident will be charged for each service and the method of payment. (III)

d. Include the total fee to be charged initially to the resident. (III)

e. State the conditions whereby the facility may make adjustments to its overall fees for resident care as a result of changing costs. (II, III) Furthermore, the agreement shall provide that the facility shall give:

(1) Written notification to the resident, or the responsible party when appropriate, of changes in the overall rates of both base and additional charges at least 30 days prior to the effective date of such changes; (II, III)

(2) Notification to the resident, or the responsible party when appropriate, of changes in additional charges, based on a change in the resident's condition. Notification must occur prior to the date such revised additional charges begin. If notification is given orally, subsequent written notification must also

be given within a reasonable time, not to exceed one week, listing specifically the adjustments made. (II, III)

f. State the terms of agreement in regard to a refund of all advance payments in the event of the transfer, death, or voluntary or involuntary discharge of the resident. (II, III)

g. State the terms of agreement concerning the holding of and charging for a bed when a resident is hospitalized or leaves the facility temporarily for recreational or therapeutic reasons. The terms shall contain a provision that the bed will be held at the request of the resident or the resident's responsible party. (II, III)

(1) The facility shall ask the resident or responsible party whether the resident's bed should be held. This request shall be made before the resident leaves or within 48 hours after the resident leaves. The inquiry and the response shall be documented. (II, III)

(2) The facility shall inform the resident or responsible party that, when requested, the bed may be held beyond the number of days designated by the funding source, as long as payments are made in accordance with the agreement. (II, III)

h. State the conditions under which the involuntary discharge or transfer of a resident would be effected. (II, III)

i. Set forth any other matters deemed appropriate by the parties to the agreement. No agreement or any provision thereof shall be drawn or construed so as to relieve any health care facility of any requirement or obligation imposed upon it by this chapter or any standards or rules in force pursuant to this chapter. (II, III)

57.15(2) Each party to the residency agreement shall receive a copy of the signed agreement. (II, III)

[**ARC 1753C**, IAB 12/10/14, effective 1/14/15]

481—57.16(135C) Medical examinations.

57.16(1) Each resident in a residential care facility shall have a designated primary care provider who may be contacted when needed. (II, III)

57.16(2) Each resident admitted to a residential care facility shall have a physical examination prior to admission. (II, III)

a. If the resident is admitted directly from a hospital, a copy of the hospital admission physical and discharge summary may be a part of the record in lieu of an additional physical examination. A record of the examination, signed by the primary care provider, shall be a part of the resident's record. (II, III)

b. The record of the admission physical examination and medical history shall portray the current medical status of the resident and shall include the resident's name, sex, age, medical history, physical examination, diagnosis, statement of medical concerns, diet, and results of any diagnostic procedures. (II, III)

c. Screening and testing for tuberculosis shall be conducted pursuant to 481—Chapter 59. (I, II, III)

57.16(3) The person in charge shall immediately notify the primary care provider of any accident, injury or adverse change in the resident's condition that has the potential for requiring physician intervention. (I, II, III)

57.16(4) Each resident shall be visited by or shall visit the resident's primary care provider at least once each year. The one-year period shall be measured from the date of admission and does not include the resident's preadmission physical. (III)

[**ARC 1753C**, IAB 12/10/14, effective 1/14/15]

481—57.17(135C) Records.

57.17(1) *Resident record.* The licensee shall keep a permanent record on every resident admitted to the residential care facility, and all entries in the permanent record shall be current, dated, and signed. (III) The record shall include:

a. Name and previous address of resident; (III)

b. Birth date, sex, and marital status of resident; (III)

c. Church affiliation, if designated; (III)

d. Primary care provider's name, telephone number, and address; (III)

e. Dentist's name, telephone number, and address; (III)

f. Name, address, and telephone number of next of kin or legal representative; (III)

g. Name, address, and telephone number of person to be notified in case of emergency; (III)

h. Pharmacy name, telephone number, and address; (III)

i. Mortuary name, telephone number, and address, if designated; (III)

j. Physical examination and medical history; (III)

k. Primary care provider's orders for the resident's level of care, medication, treatments, and diet. The orders shall be in writing and signed by the primary care provider quarterly; (III)

l. A notation of visits to primary care provider and other professional services; (III)

m. Documentation regarding services provided by other providers, including but not limited to home health agencies, hospice, day treatment and those providing medical, mental health and Medicaid waiver services; (III)

n. Documentation of any adverse change in the resident's condition; (II, III)

o. A notation describing the resident's condition on admission, transfer and discharge; (III)

p. A copy of instructions given to the resident, legal representative or facility in the event of discharge or transfer; (III)

q. In the event of a resident's death, notations of the date and time of the resident's death, the circumstances of the resident's death, the disposition of the resident's body, and the date and time the resident's family and primary care provider were notified of the resident's death; and (III)

r. A notation of disposition of personal property and medications upon the resident's transfer, discharge or death. (III)

57.17(2) *Confidentiality of resident records.* Each resident shall be ensured confidential treatment of all information contained in the resident's records. The resident's written consent shall be required for the release of information to persons not otherwise authorized under law to receive the information. (II)

a. The facility shall limit access to any medical records to staff and professionals providing services to the resident. (II)

b. The facility shall limit access to the resident's personal records, e.g., financial records and social services records, to staff and professionals providing the service to the resident. Only those personnel concerned with the financial affairs of the resident may have access to the financial records. (II)

c. The resident, or the resident's responsible party, shall be entitled to examine all information contained in the resident's record and shall have the right to secure full copies of the record at reasonable cost upon request, unless the primary care provider determines that the disclosure of the record or section thereof is contraindicated, in which case this information will be deleted prior to making the record available to the resident or responsible party. This determination and the reasons for it must be documented in the resident's record. (II)

d. This subrule is not meant to preclude access to resident records by representatives of state and federal regulatory agencies.

57.17(3) *Incident record.*

a. Each residential care facility shall maintain an incident record report and shall have available incident report forms. (II, III)

b. Report of incidents shall be in detail on an incident report form. (III)

c. The person in charge at the time of the incident shall oversee the preparation of and sign the incident report. The administrator or designee shall review, sign and date the incident report within 72 hours of the accident, incident or unusual occurrence. (II, III)

d. An incident report shall be completed for every accident or incident where there is apparent injury or where an injury of unknown origin may have occurred. (II)

e. An incident report shall be completed for every accident, incident or unusual occurrence within the facility or on the premises that affects a resident, visitor, or employee. (II, III)

f. A copy of the incident report shall be kept on file in the facility. (II, III)

57.17(4) *Retention of records.*

a. Records shall be retained in the facility for five years following the termination of services to a resident. (III)

b. Records shall be retained within the facility upon change of ownership. (III)

c. When the facility ceases to operate, a copy of the resident's record shall be released to the facility to which the resident is transferred. (III)

d. When the facility ceases to operate, records shall be maintained for five years in a clean, dry secured storage area. (III)

57.17(5) *Electronic records.* In addition to the access provided in 481—subrule 50.10(2), an authorized representative of the department shall be provided unrestricted access to electronic records pertaining to the care provided to the residents of the facility. (II, III)

a. If access to an electronic record is requested by the authorized representative of the department, the facility may provide a tutorial on how to use its particular electronic system or may designate an individual who will, when requested, access the system, respond to any questions or assist the authorized representative as needed in accessing electronic information in a timely fashion. (II, III)

b. The facility shall provide a terminal where the authorized representative may access records. (II, III)

c. If the facility is unable to provide direct print capability to the authorized representative, the facility shall make available a printout of any record or part of a record on request in a time frame that does not intentionally prevent or interfere with the department's survey or investigation. (II, III)

[**ARC 1753C**, IAB 12/10/14, effective 1/14/15]

481—57.18(135C) Resident care and personal services.

57.18(1) A complete change of bed linen shall be provided at least once a week and more often if necessary. (III)

57.18(2) Residents shall receive sufficient supervision to promote personal cleanliness. (II, III)

57.18(3) Residents shall have clean clothing as needed. Clothing shall be appropriate to residents' activities and to the weather. (III)

57.18(4) Residents shall be encouraged to bathe at least twice a week. (II, III)

57.18(5) All nonambulatory residents shall be housed on the grade level floor unless the facility has a suitably sized elevator. (II)

[**ARC 1753C**, IAB 12/10/14, effective 1/14/15]

481—57.19(135C) Drugs.

57.19(1) *Drug storage.*

a. Residents who have been certified in writing by their primary care provider as capable of taking their own medications may retain these medications in their bedroom, but locked storage must be provided, with staff and the resident having access. Monitoring of the storage, administration and documentation by the resident shall be carried out by a person who meets the requirements of subrule 57.19(3) and is responsible for administering medications. (II, III)

b. Drug storage for residents who are unable to take their own medications and require supervision shall meet the following requirements:

(1) Locked storage for drugs, solutions, and prescriptions shall be provided. (III)

(2) A bathroom shall not be used for drug storage. (III)

(3) The drug storage shall be kept locked when not in use. (III)

(4) The drug storage key shall be secured and available only to those employees charged with the responsibility of administering medications. (II, III)

(5) Schedule II drugs, as defined by Iowa Code chapter 124, shall be kept in a locked box within the locked drug storage. (II, III)

(6) Medications requiring refrigeration shall be kept locked in a refrigerator and separated from food and other items. (II, III)

(7) Drugs for external use shall be stored separately from drugs for internal use. (II, III)

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

(9) Inspection of drug storage shall be made by the administrator or designee and a registered pharmacist not less than once every three months. The inspection shall be verified by a report signed by the administrator and the pharmacist and filed with the administrator. The report shall include, but not be limited to, certification of the absence of the following: expired drugs, deteriorated drugs, improper labeling, drugs for which there is no current primary care provider's order, and drugs improperly stored. (III)

(10) Bulk supplies of prescription drugs for multiresident use shall not be kept in a residential care facility. (III)

57.19(2) *Drug safeguards.*

a. All prescribed medications shall be clearly labeled indicating the resident's full name, primary care provider's name, prescription number, name and strength of drug, dosage, directions for use, date of issue, and name and address and telephone number of pharmacy or primary care provider issuing the drug. Where unit dose is used, prescribed medications shall, at a minimum, indicate the resident's full name, primary care provider's name, name and strength of drug, and directions for use. Standard containers shall be utilized for dispensing drugs. (III)

b. Sample medications provided by the resident's primary care provider shall clearly identify to whom the medications belong. (III)

c. Medication containers having soiled, damaged, illegible, or makeshift labels shall be returned to the issuing pharmacist, pharmacy, or primary care provider for relabeling or disposal. (III)

d. The medication for each resident shall be kept or stored in the original containers unless the resident is participating in an individualized medication program. (II, III)

e. Unused prescription drugs shall be destroyed by the person in charge, in the presence of a witness, and with a notation made on the resident's record or shall be returned to the supplying pharmacist. (III)

f. Prescriptions shall be refilled only with the permission of the resident's primary care provider. (II, III)

g. No medications prescribed for one resident may be administered to or allowed in the possession of another resident. (I, II)

h. Instructions shall be requested from the Iowa board of pharmacy concerning disposal of unused Schedule II drugs prescribed for a resident who has died or for whom the Schedule II drug was discontinued. (III)

i. Discontinued medications shall be destroyed within a specified time by a responsible person, in the presence of a witness, and with a notation made to that effect or shall be returned to the pharmacist for destruction. Drugs listed under the Schedule II drugs shall be destroyed in accordance with the requirements established by the Iowa board of pharmacy. (II, III)

j. All medication orders which do not specifically indicate the number of doses to be administered or the length of time the drug is to be administered shall be stopped automatically after a given time period. The automatic-stop order may vary for different types of drugs. The resident's primary care provider, in conjunction with the pharmacist, shall institute these policies and provide procedures for review and endorsement. (II, III)

k. No resident shall be allowed to possess any medications unless the primary care provider has certified in writing on the resident's medical record that the resident is mentally and physically capable of doing so. (II)

l. No medications or prescription drugs shall be administered to a resident without a written order signed by the primary care provider. (II)

m. The facility shall establish a policy to govern the distribution of prescribed medications to residents who are on leave from the facility. (II, III)

(1) Medications may be issued to residents who will be on leave from a facility for less than 24 hours. Only those medications needed for the time period the resident will be on leave from the facility

may be issued. Non-child-resistant containers may be used. Instructions shall be provided and include the date, the resident's name, the name of the facility, and the name of the medication, its strength, dose and time of administration. (II, III)

(2) Medication for residents on leave from a facility for longer than 24 hours shall be obtained in accordance with requirements established by the Iowa board of pharmacy. (II, III)

(3) Medication for residents on leave from a facility may be issued only by facility personnel responsible for administering medication. (II, III)

57.19(3) *Drug administration—authorized personnel.*

a. A properly trained person shall be charged with the responsibility of administering medications as ordered by a primary care provider. (II, III)

b. The person shall have knowledge of the purpose of the drugs and their dangers and contraindications. (II, III)

c. The person shall be a licensed nurse or primary care provider or shall have successfully completed a department-approved medication aide course and passed a department-approved medication aide challenge examination administered by an area community college. (II, III)

d. Prior to taking a department-approved medication aide course, the person shall:

(1) Successfully complete an approved residential aide course, nurse aide course, nurse aide training and testing program or nurse aide competency examination; (III)

(2) Have a letter of recommendation for admission to the medication aide course from the employing facility. (III)

e. A person who is a nursing student or a graduate nurse may take the challenge examination in place of taking a medication aide course. The person shall do all of the following before taking the medication aide challenge examination:

(1) Complete a clinical or nursing theory course within six months before taking the challenge examination; (III)

(2) Successfully complete a nursing program pharmacology course within one year before taking the challenge examination; (III)

(3) Provide to the community college a written statement from the nursing program's pharmacology or clinical instructor indicating that the person is competent in medication administration. (III)

f. A person who has written documentation of certification as a medication aide in another state may become a medication aide in Iowa by successfully completing a department-approved nurse aide competency examination and a medication aide challenge examination. The requirements of paragraph 57.19(3)*"d"* do not apply to this person. (III)

g. In a freestanding residential care facility licensed for 15 or fewer beds, a person who has successfully completed a state-approved medication manager course may administer medications.

57.19(4) *Drug administration.*

a. Unless the unit dose system is used, the person assigned the responsibility of medication administration must complete the procedure by personally preparing the dose, observing the actual act of swallowing the oral medication, and charting the medication. In facilities where the unit dose system is used, the person assigned the responsibility of medication administration must complete the procedure by observing the actual act of swallowing the oral medication and by charting the medication. Medications shall be prepared on the same shift of the same day that they are administered unless the unit dose system is used. (II)

b. Injectable medications shall be administered as permitted by Iowa law by a registered nurse, licensed practical nurse, primary care provider or pharmacist. For purposes of this subrule, "injectable medications" does not include an epinephrine autoinjector, e.g., an EpiPen. (II, III)

c. A resident certified by the resident's primary care provider as capable of injecting the resident's own insulin may do so. Insulin may be administered pursuant to paragraph 57.19(4)*"b"* or as otherwise authorized by the resident's primary care provider. (II, III) Authorization shall:

(1) Be in writing,

(2) Be maintained in the resident's record,

(3) Be renewed quarterly,

(4) Include the name of the person authorized to administer the insulin,

(5) Include documentation by the primary care provider that the authorized person is qualified to administer insulin to that resident. (II, III)

d. A resident may participate in the administration of the resident's own medication if the primary care provider has certified in writing in the resident's medical record that the resident is mentally and physically capable of participating and has explained in writing in the resident's medical record what the resident's participation may include.

e. An individual inventory record shall be maintained for each Schedule II drug prescribed for each resident, with an accurate count and authorized signatures at every shift. (II)

f. The facility may use a unit dose system.

g. Medication aides and medication managers may administer PRN medications without contacting a licensed nurse or primary care provider if all of the following apply: (I, II, III)

(1) A written order from the resident's primary care provider specifies the purpose of the PRN medication and the frequency, dosage and strength of the PRN medication.

(2) The resident's primary care provider provides in writing specific criteria for administering PRN medications.

(3) The pharmacist assesses the resident's use of PRN medications when conducting the inspection of drug storage as required by subparagraph 57.19(1)*"b"*(9).

h. The pharmacist shall assess the use of PRN medications when conducting the inspection of drug storage as required by subparagraph 57.19(1)*"b"*(9). (II, III)

i. Medications administered by an employee of the facility shall be recorded on a medication record by the individual who administers the medication. (I, II, III)

[**ARC 1753C**, IAB 12/10/14, effective 1/14/15]

481—57.20(135C) Dental services.

57.20(1) The residential care facility personnel shall assist residents in obtaining annual and emergency dental services and shall arrange transportation for such services. (III)

57.20(2) Dental services shall be performed only on the request of the resident, responsible party, legal representative, or primary care provider. The resident's primary care provider shall be advised of the resident's dental problems. (III)

57.20(3) All dental reports or progress notes shall be included in the resident record as available. The facility shall make reasonable efforts to obtain the records following the provision of services. (III)

57.20(4) Personal care staff shall assist the resident in carrying out the dentist's recommendations. (III)

[**ARC 1753C**, IAB 12/10/14, effective 1/14/15]

481—57.21(135C) Dietary.

57.21(1) *Dietary staffing.*

a. A minimum of one person directly responsible for food preparation shall successfully complete a course meeting the requirements for a food protection program included in the Food Code adopted pursuant to Iowa Code chapter 137F. Another course may be substituted if the course's curriculum includes substantially similar competencies to a course that meets the requirements of the Food Code and the provider of the course files with the department a statement indicating that the course provides substantially similar instruction as it relates to sanitation and safe food handling. (III)

b. If the person is in the process of completing the food protection program in paragraph 57.21(1)*"a,"* the requirement relating to the completion of a state-approved food protection program shall be considered to have been met.

c. In addition to the requirement of paragraph 57.21(1)*"a,"* personnel who are responsible for food preparation or service, or both food preparation and service, shall have an orientation on sanitation and safe food handling prior to handling food and shall have annual in-service training on food protection. (III)

57.21(2) *Nutrition and menu planning.*

a. Menus shall be planned and followed to meet the nutritional needs of residents in accordance with the primary care provider's orders. Diet orders should be reviewed as necessary, but at least quarterly, by the primary care provider. (II, III)

b. Menus shall be planned and served to include foods and amounts necessary to meet federal dietary guidelines. (II, III)

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

(1) There shall be no more than a 14-hour span between offering a substantial evening meal and breakfast. (II, III)

(2) Unless contraindicated, evening snacks shall be offered routinely to all residents. Special nourishments shall be available when ordered by the primary care provider. (II, III)

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

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

f. Records of menus as served shall be filed and maintained for 30 days and shall be available for review by departmental personnel. When substitutions are necessary or requested, they shall be of similar nutritive value and recorded on the menu or in a notebook. (III)

g. The facility shall provide an alternative choice at scheduled meal times. (III)

57.21(3) *Dietary storage, food preparation, and service.*

a. All food shall be handled, prepared, served and stored in compliance with the Food Code adopted pursuant to Iowa Code section 137F.2. (I, II, III)

b. Supplies of staple foods for a minimum of a one-week period and of perishable foods for a minimum of a two-day period shall be maintained on the premises. Minimum food portion requirements for a low-cost plan shall conform to information supplied by the bureau of nutrition and health promotion of the department of public health. (II, III)

c. Dishes shall be free of cracks, chips, and stains. (III)

d. If family-style service is used, all leftover prepared food that has been on the table shall be properly handled. (III)

57.21(4) *Sanitation in food preparation area.*

a. In facilities licensed for more than 15 beds, the kitchen shall not be used for serving meals to residents, food service personnel, or other staff. (III)

b. There shall be written procedures established for cleaning all work and serving areas in facilities with more than 15 beds. (III)

c. A schedule for duties to be performed daily shall be posted in each food area. (III)

d. All cooking equipment in facilities of 15 or more beds shall be provided with a properly sized exhaust system and hood to eliminate excess heat, moisture, and odors from the kitchen. (II, III)

e. The food service area shall be located so it will not be used as a passageway by residents, guests, or non-food service staff. (III)

f. There shall be no washing, ironing, sorting or folding of laundry in the food service area. Dirty linen shall not be carried through the food service area unless the linen is in sealed, leakproof containers. (III)

g. In facilities with more than 15 beds, a mechanical dishwasher is required. (III)

h. A three-compartment pot and pan sink with 110°F (43°C) to 115°F (46°C) water for washing, a compartment for rinsing with water at 170°F (76°C) to 180°F (82°C) for sanitizing with space for air drying, or a two-compartment sink with access to a mechanical dishwasher for sanitizing all utensils shall be provided. (III)

[**ARC 1753C**, IAB 12/10/14, effective 1/14/15]

481—57.22(135C) Orientation and service plan.

57.22(1) *Orientation.* Within 24 hours of admission, each resident shall receive orientation to the facility. The orientation program shall be documented in the resident's file and shall include, but shall

not be limited to, a review of the resident's rights, the daily schedule, house rules and the facility's evacuation plan. (II, III)

57.22(2) *Initial service plan.* Within 48 hours of admission, the administrator or the administrator's designee shall develop an initial service plan to address any immediate health and safety needs. The plan shall be based on information gathered from the resident, family, referring party, primary care provider, and other significant persons. The plan shall be followed until the service plan required in subrule 57.22(3) is complete. (I, II, III)

57.22(3) *Service plan.* Within 30 days of admission, the administrator or the administrator's designee, in conjunction with the resident, the resident's responsible party, the interdisciplinary team, and any organization that works with or serves the resident, shall develop a written, individualized, and integrated service plan for the resident. The service plan shall be developed and implemented to address the resident's priorities and assessed needs, such as activities of daily living, rehabilitation, activity, and social, behavioral, emotional, physical and mental health. (I, II, III)

a. The service plan shall include measurable goals and objectives and the specific service(s) to be provided to achieve the goals. Each goal shall include the date of initiation and anticipated duration of service(s). Any restriction of rights shall be included in the service plan. (I, II, III)

b. The service plan shall include the documentation procedure for each goal and objective. (II, III)

c. The service plan should be modified to add or delete goals and objectives as the resident's needs change. Communications related to service plan changes or changes in the resident's condition shall occur within five working days of the change and shall be conveyed to all individuals inside and outside the residential care facility who work with the resident, as well as to the resident's responsible party. (I, II, III)

d. The service plan shall be reviewed at least quarterly by relevant staff, the resident and appropriate others, such as the resident's family, case manager and responsible party. The review shall include a written report which addresses a summary of the resident's progress toward goals and objectives and the need for continued services. (I, II, III)

[**ARC 1753C**, IAB 12/10/14, effective 1/14/15]

481—57.23(135C) Resident activities program.

57.23(1) *Activities program.* Each residential care facility shall provide an organized resident activities program for the group and for the individual resident which shall include suitable activities. The facility shall offer at least two organized evening group activities per week and two organized weekend group activities per month. (III)

a. The activities program shall be designed to meet the needs and interests of each resident and to assist residents in continuing normal activities within limitations set by the resident's primary care provider. This shall include helping residents continue in their individual interests or hobbies. (III)

b. The activities program shall include measureable goals for each resident. (III)

c. The activities program shall include both group and individual activities. (III)

d. Residents shall be encouraged, but not required, to participate in activities. (III)

57.23(2) *Coordination of activities program.*

a. Each residential care facility with 15 or fewer beds shall designate a person to oversee the activities program, develop goals and monitor progress. (III)

b. Each residential care facility with more than 15 beds shall employ a person to direct the activities program. (III)

c. Staffing for the activities program shall be provided on the minimum basis of 45 minutes per resident per week. (II, III)

d. The activities coordinator shall have completed the activities coordinator orientation course approved by the department within six months of employment or have comparable training and experience as approved by the department. (III)

e. There shall be a written plan for personnel coverage when the activities coordinator is absent during scheduled working hours. (III)

57.23(3) *Duties of activities coordinator.* The activities coordinator shall:

a. Have access to all residents' records. (III)

b. Coordinate all activities, including volunteer or auxiliary activities and religious services. (III)

c. Keep all necessary records including:

(1) Attendance records; (III)

(2) Individual resident progress notes, recorded at least every three months; (III)

(3) Monthly calendars, prepared in advance, updated as necessary and maintained for one year. (III)

d. Coordinate the activities program with all other services in the facility. (III)

57.23(4) *Supplies, equipment, and storage.*

a. Each facility shall provide a variety of supplies and equipment of a nature calculated to fit the needs and interests of the residents. (III)

b. Storage shall be provided for recreational equipment and supplies. (III)

[**ARC 1753C**, IAB 12/10/14, effective 1/14/15]

481—57.24(135C) Residents' rights.

57.24(1) Each facility shall ensure that policies and procedures are written and implemented which include, at a minimum, the provisions of this rule and which govern all areas of service provided by the facility. These policies and procedures shall be available to staff, residents, residents' families or legal representatives and the public and shall be reviewed annually. (II, III)

57.24(2) Policies and procedures shall include a method for submitting complaints and recommendations by residents or their responsible parties and for ensuring a response and disposition by the facility. (II, III) The written procedures shall:

a. Ensure the provision of assistance to residents as necessary to complete and submit complaints and recommendations; (II, III)

b. Ensure protection of the resident from any form of reprisal or intimidation; (II, III)

c. Include designation of an employee responsible for handling grievances and recommendations; (II, III)

d. Include a method of investigating and assessing the validity of a grievance or recommendation; (II, III) and

e. Include methods of recording grievances and actions taken. (II, III)

57.24(3) Policies and procedures shall include provisions governing access to, duplication of, and dissemination of information from the residents' records. (II, III)

57.24(4) Policies and procedures shall include a provision that each resident shall be fully informed of the resident's rights and responsibilities as a resident and of all rules governing resident conduct and responsibilities. This information must be provided upon the resident's admission, or in the case of residents already in the facility, upon the facility's adoption or amendment of residents' rights policies. (II, III)

a. The facility shall communicate to residents prior to or within five days after admission what residents may expect from the facility and its staff, and what is expected from residents. The communication shall be in writing, e.g., in a separate handout or brochure describing the facility, and interpreted verbally, e.g., as part of a preadmission interview, resident counseling, or in individual or group orientation sessions following the resident's admission. (II, III)

b. Residents' rights and responsibilities shall be presented in language understandable to the resident. If the facility serves residents who are non-English-speaking or deaf, steps shall be taken to translate the information into a foreign or sign language. In the case of blind residents, either Braille or a recording shall be provided. Residents shall be encouraged to ask questions about their rights and responsibilities and these questions shall be answered. (II, III)

c. A statement shall be signed by the resident, or the resident's responsible party, if applicable, indicating an understanding of these rights and responsibilities and shall be maintained in the resident's record. The statement shall be signed no later than five days after admission, and a copy of the signed statement shall be given to the resident or responsible party. (II, III)

d. In order to ensure that residents continue to be aware of these rights and responsibilities during their stay, a written copy shall be prominently posted in a location that is available to all residents. (II, III)

e. All residents shall be advised within 30 days following changes made in the statement of residents' rights and responsibilities. Appropriate means shall be utilized to inform non-English-speaking, deaf or blind residents of changes. (II, III)

57.24(5) Choice of primary care provider. Each resident shall be permitted free choice of a primary care provider, and pharmacy, if accessible. The facility may require the selected pharmacy to utilize a drug distribution system compatible with the system currently used by the facility. (II)

57.24(6) Each resident shall be afforded the opportunity to participate in the planning of the resident's total care and treatment, which may include, but shall not be limited to, medical care, nutritional needs, activities, and social work services. Each resident has the right to refuse treatment except as provided by Iowa Code chapter 229. In the case of a resident with impaired decision-making skills, the responsible party shall be afforded the opportunity to participate in the planning of the resident's total care and medical treatment and to be informed of the resident's medical condition. (II, III)

57.24(7) Each resident shall be encouraged and assisted throughout the resident's period of stay to exercise the resident's rights as a resident and as a citizen and may voice grievances and recommend changes in policies and services to administrative staff or to outside representatives of the resident's choice, free from interference, coercion, discrimination, or reprisal. (II)

57.24(8) The facility shall provide ongoing opportunities for residents to be aware of and to exercise their rights as residents. Residents shall be kept informed of changes in policies and services that are more restrictive, and their views shall be solicited prior to action. (II)

57.24(9) The facility shall post in a prominent area the text of Iowa Code section 135C.46 (Retaliation Prohibited) and the name, telephone number, and address of the long-term care ombudsman, the department, and the local law enforcement agency to provide residents a further course of redress. (II)

57.24(10) All rights and responsibilities of the resident devolve to the resident's responsible party or any legal surrogate designated in accordance with state law, to the extent permitted by state law. This subrule is not intended to limit the authority of any individual acting pursuant to Iowa Code chapter 144A. (II, III)

[**ARC 1753C**, IAB 12/10/14, effective 1/14/15]

481—57.25(135C) Dignity preserved. The resident shall be treated with consideration, respect, and full recognition of dignity and individuality, including privacy in treatment and in care for personal needs. (I, II)

57.25(1) Staff shall display respect for residents when speaking with, caring for, or talking about them, as constant affirmation of their individuality and dignity as human beings. (I, II)

57.25(2) Schedules of daily activities shall allow maximum flexibility for residents to exercise choice about what they will do and when they will do it. Residents' individual preferences regarding such things as menus, clothing, religious activities, friendships, activity programs, entertainment, sleeping and eating, also times to retire at night and arise in the morning shall be elicited and considered by the facility. (II)

57.25(3) Residents shall be examined and treated in a manner that maintains the privacy of their bodies. A closed door or a drawn curtain shall shield the resident from passersby. People not involved in the care of the residents shall not be present without the resident's consent while the resident is being examined or treated. (II)

57.25(4) Privacy of a resident's body also shall be maintained during toileting, bathing, and other activities of personal hygiene, except as needed for resident safety or assistance. (II)

57.25(5) Staff shall knock and be acknowledged before entering a resident's room unless the resident is not capable of a response. This shall not apply under emergency conditions. (II)

[**ARC 1753C**, IAB 12/10/14, effective 1/14/15]

481—57.26(135C) Communications. Each resident may communicate, associate, and meet privately with persons of the resident's choice, unless to do so would infringe upon the rights of other residents, and may send and receive personal mail unopened. (II)

57.26(1) Subject to reasonable scheduling restrictions, visiting policies and procedures shall permit residents to receive visits from anyone they wish. Visiting hours shall be posted. (II)

57.26(2) Reasonable, regular visiting hours shall not be less than 12 hours per day and shall take into consideration the special circumstances of each visitor. A particular visitor(s) may be restricted by the facility for one of the following reasons:

a. The resident refuses to see the visitor(s). (II)

b. The resident's primary care provider documents specific reasons why such a visit would be harmful to the resident's health. (II)

c. The visitor's behavior is unreasonably disruptive to the functioning of the facility. This judgment must be made by the administrator, and the reasons shall be documented and kept on file. (II)

57.26(3) Decisions to restrict a visitor are reviewed and reevaluated:

a. Each time the medical orders are reviewed by the primary care provider;

b. At least quarterly by the facility's staff; or

c. At the resident's request. (II)

57.26(4) Space shall be provided for residents to receive visitors in reasonable comfort and privacy. (II)

57.26(5) Telephones shall be available and accessible for residents to make and receive calls with privacy. Residents who need help shall be assisted in using the telephone. (II)

57.26(6) Arrangements shall be made to provide assistance to residents who require help in reading or sending mail. (II)

57.26(7) Residents, including residents court-ordered to the facility, shall be permitted to leave the facility at reasonable times unless there are justifiable reasons established in writing by court order, the primary care provider, the interdisciplinary team, or facility administrator for refusing permission. (II)

57.26(8) Residents shall not have their personal lives regulated beyond reasonable adherence to meal schedules, bedtime hours, and other written policies which may be necessary for the orderly management of the facility and as required by these rules. However, residents shall be encouraged to participate in recreational programs. (II)

[**ARC 1753C**, IAB 12/10/14, effective 1/14/15]

481—57.27(135C) Resident activities.

57.27(1) Each resident may participate in activities of social, religious, and community groups at the resident's discretion unless contraindicated for reasons documented by the primary care provider or interdisciplinary team as appropriate in the resident's record. (II)

57.27(2) Residents who wish to meet with or participate in activities of social, religious, or other community groups in or outside of the facility shall be informed, encouraged, and assisted to do so. (II)

[**ARC 1753C**, IAB 12/10/14, effective 1/14/15]

481—57.28(135C) Resident property.

57.28(1) Residents shall be permitted to keep reasonable amounts of personal clothing and possessions for their use while in the facility. The facility shall offer the resident the opportunity to have personal property itemized and documented on an inventory sheet upon the resident's admission. The inventory sheet shall be kept in a safe location which is convenient to the resident and shall be updated at least annually. At discharge, residents may sign off on a list of the personal property they are taking with them. (II, III)

57.28(2) The facility shall provide for the safekeeping of personal effects, funds and other property of its residents. The facility may require that items of exceptional value or that would convey unreasonable responsibilities to the licensee be removed from the premises of the facility for safekeeping. (III)

57.28(3) Funds or properties received by the facility, belonging or due a resident, expendable for the resident's account, shall be trust funds. (III)

[**ARC 1753C**, IAB 12/10/14, effective 1/14/15]

481—57.29(135C) Financial affairs—management. Each resident who has not been assigned a guardian or conservator by the court may manage the resident's own personal financial affairs. To the extent the facility assists in management, under written authorization by the resident, the management shall be carried out in accordance with Iowa Code section 135C.24. (II)

57.29(1) The facility shall maintain a written account of all residents' funds received by or deposited with the facility. (II)

57.29(2) An employee shall be designated in writing to be responsible for resident accounts. (II)

57.29(3) The facility shall keep on deposit personal funds over which the resident has control in accordance with Iowa Code section 135C.24. Should the resident request these funds, they shall be given to the resident on request with receipts maintained by the facility and a copy to the resident. In the case of a resident with impaired decision-making skills, the resident's legal representative shall designate a method of disbursing the resident's funds. (II)

57.29(4) If the facility makes financial transactions on a resident's behalf, the facility must document that it has prepared and sent an itemized accounting of disbursements and current balances at least quarterly. A copy of this statement shall be maintained in the resident's financial or business record. (II)

57.29(5) A resident's personal funds shall not be used without the written consent of the resident or the resident's legal representative. (I, II)

57.29(6) A resident's personal funds shall be returned to the resident when the funds have been used without the written consent of the resident or the resident's legal representative. The department may report findings that resident funds have been used without written consent to the department's investigations division or the local law enforcement agency, as appropriate. (II)

[**ARC 1753C**, IAB 12/10/14, effective 1/14/15]

481—57.30(135C) Resident work. No resident may be required to perform services for the facility, except as provided by Iowa Code section 347B.5. (II)

57.30(1) Residents may not be used to provide a source of labor for the facility against their will. Approval by the primary care provider is required for all work programs. (I, II)

57.30(2) Residents who perform work for the facility must receive compensation unless the work is part of their approved training program. Persons on the resident census who perform work shall not be used to replace paid employees in fulfilling staffing requirements. (II)

[**ARC 1753C**, IAB 12/10/14, effective 1/14/15]

481—57.31(135C) Family—shared rooms. Family members or spouses shall be permitted to share a room, if available, if requested by both parties, unless the primary care provider of one of the parties documents in the medical record specific reasons why such an agreement would have an adverse effect on the health of the resident. (II)

[**ARC 1753C**, IAB 12/10/14, effective 1/14/15]

481—57.32(135C) Resident abuse prohibited. Each resident shall receive kind and considerate care at all times and shall be free from mental, physical, sexual, and verbal abuse, exploitation, neglect, and physical injury. (I, II)

57.32(1) Mental abuse includes, but is not limited to, humiliation, harassment, and threats of punishment or deprivation. (I, II)

57.32(2) Physical abuse includes, but is not limited to, corporal punishment and the use of restraints as punishment. (I, II)

57.32(3) Drugs such as tranquilizers shall only be used in accordance with orders of the primary care provider. (I, II)

57.32(4) Allegations of dependent adult abuse. Allegations of dependent adult abuse shall be reported and investigated pursuant to Iowa Code chapter 235E and 481—Chapter 52. (I, II, III)

[**ARC 1753C**, IAB 12/10/14, effective 1/14/15]

481—57.33(135C) Crisis intervention. If a facility utilizes physical restraints, there shall be written policies that define the uses of physical restraints, designate the administrator or designee as the person who may authorize their use, and establish a mechanism for monitoring and controlling their use. (I, II)

57.33(1) Temporary physical restraint of residents shall be used only under the following conditions: (I, II)

a. An emergency to prevent injury to the resident or to others; or (I, II)

b. For crisis intervention, but shall not be used for punishment, for the convenience of staff or as a substitution for supervision or programming; (I, II) and

c. No staff person shall use any restraint that obstructs the airway of the resident. (I, II)

57.33(2) Authorization for the use of physical restraints must be prior to or immediately after application of the restraint. (I, II)

57.33(3) Prone restraint is prohibited. Staff persons who find themselves involved in the use of a prone restraint when responding to an emergency must take immediate steps to end the prone restraint. (I, II)

57.33(4) The rationale and authorization for the use of physical restraint and staff action and procedures carried out to protect the resident's rights and to ensure safety shall be clearly set forth in the resident's record by the responsible staff persons. (I, II)

57.33(5) The primary care provider, the interdisciplinary team and the resident's responsible party shall be notified of any restraints administered. (I, II, III)

57.33(6) The facility shall provide to the staff a department-approved training program by qualified professionals on physical restraint techniques. (I, II)

a. The facility shall keep a record of training for review by the department and shall include attendance. (II, III)

b. Only staff with documented training in physical restraint and techniques shall be authorized to assist with physical restraint of a resident. (I, II)

c. Under no circumstances shall a resident be allowed to actively or passively assist in the restraint of another resident. (I, II)

57.33(7) Residents shall not be kept behind locked doors. (I, II)

[**ARC 1753C**, IAB 12/10/14, effective 1/14/15]

481—57.34(135C) Safety. The licensee of a residential care facility shall be responsible for the provision and maintenance of a safe environment for residents and personnel. (I, II, III)

57.34(1) *Fire safety.*

a. All residential care facilities shall meet the fire safety rules and regulations as promulgated by the state fire marshal. (I, II)

b. The size of the facility and needs of the residents shall be taken into consideration in evaluating safety precautions and practices.

57.34(2) *Safety duties of administrator.* The administrator shall have a written emergency plan to be followed in the event of fire, tornado, explosion, or other emergency. (III)

a. The plan shall be prominently posted in a common area of the building. (III)

b. In-service shall be provided to ensure that all employees are knowledgeable of the emergency plan. (II, III)

57.34(3) *Resident safety.*

a. Smoking shall be prohibited, except as allowed by Iowa Code chapter 142D, the smokefree air Act. (II, III)

b. Whenever full or empty tanks of oxygen are being used or stored, they shall be securely supported in an upright position. (II, III)

c. Residents shall receive adequate supervision to ensure against hazard from themselves, others, or elements in the environment. (I, II, III)

d. Storage areas for cleaning agents, bleaches, insecticides, or any other poisonous, dangerous, or flammable materials shall be locked. Residents permitted to access these materials shall be supervised by staff as identified in the resident's service plan. (I, II, III)

e. Sufficient numbers of noncombustible trash containers with covers shall be available. (III)

f. Residents' personal possessions that may constitute a hazard to residents or others shall be removed and stored. (III)

57.34(4) *First-aid kit.* A first-aid emergency kit shall be available on each floor in every facility. (II, III)

[**ARC 1753C**, IAB 12/10/14, effective 1/14/15]

481—57.35(135C) Housekeeping.

57.35(1) Written procedures shall be established and implemented for daily and weekly cleaning schedules. (III)

57.35(2) Each resident room shall be cleaned on a routine schedule. (III)

57.35(3) All rooms, corridors, storage areas, linen closets, attics, and basements shall be kept in a clean, orderly condition, free of unserviceable furniture and equipment and accumulations of refuse. (II, III)

57.35(4) A hallway or corridor shall not be used for storage of equipment. (II, III)

57.35(5) All odors shall be kept under control by cleanliness and proper ventilation. (III)

57.35(6) Clothing worn by personnel shall be clean and washable. (III)

57.35(7) Housekeeping and maintenance personnel shall be provided with well-constructed and properly maintained equipment appropriate to the function for which it is to be used. (III)

57.35(8) All furniture, bedding, linens, and equipment shall be cleaned periodically and before use by another resident. (II, III)

57.35(9) Polishes used on floors shall provide a nonslip finish. (II, III)

57.35(10) Throw or scatter rugs shall have nonskid backing. (II, III)

57.35(11) Entrances, exits, steps, and outside walkways shall be kept free from ice, snow, and other hazards. (II, III)

[**ARC 1753C**, IAB 12/10/14, effective 1/14/15]

481—57.36(135C) Maintenance.

57.36(1) Each facility shall establish a maintenance program to ensure the continued maintenance of the facility, to promote good housekeeping procedures, and to ensure sanitary practices throughout the facility. In facilities with more than 15 beds, the maintenance program shall be established in writing and available for review by the department. (II, III)

57.36(2) The building, grounds, and other buildings shall be maintained in a clean, orderly condition and in good repair. (II, III)

57.36(3) Window treatments and furniture shall be clean and in good repair. (II, III)

57.36(4) Cracks in plaster, peeling wallpaper or paint, and tears or splits in floor coverings shall be promptly repaired or replaced in a professional manner. (II, III)

57.36(5) The electrical systems, including appliances, cords, and switches, shall be maintained to guarantee safe functioning and comply with the National Electric Code. (II, III)

57.36(6) All plumbing fixtures shall function properly and comply with the state plumbing code. (II, III)

57.36(7) Yearly inspections of the heating and cooling systems shall be made to guarantee safe operation. (II, III)

57.36(8) The building, grounds, and other buildings shall be kept free of breeding areas for flies, other insects, and rodents. (II, III)

57.36(9) The facility shall be kept free of flies, other insects, and rodents. (II, III)

57.36(10) Janitor's closet.

a. Facilities shall be provided with storage for cleaning equipment and supplies. (III)

b. Mops, scrub pails, and other cleaning equipment used in the resident areas shall not be stored or used in the dietary area. (III)

c. In facilities licensed for more than 15 beds, a janitor's closet shall be provided. It shall be equipped with water for filling scrub pails and a janitor's sink for emptying scrub pails. (III)

[**ARC 1753C**, IAB 12/10/14, effective 1/14/15]

481—57.37(135C) Laundry.

57.37(1) All soiled linens shall be collected and transported to the laundry room in closed, leakproof laundry bags or covered, impermeable containers. (III)

57.37(2) Except for related activities, the laundry room shall not be used for other purposes. (III)

57.37(3) Procedures shall be written for the proper handling of wet, soiled, and contaminated linens. (III)

57.37(4) Residents' personal laundry shall be marked with an identification if comingled with other residents' personal laundry. (III)

57.37(5) Bed linens, towels, and washcloths shall be clean and stain-free. (III)

57.37(6) If laundry is done in the facility, the following shall be provided:

a. A clean, dry, well-lit area to accommodate a washer and dryer of adequate size to serve the needs of the facility. (III)

b. In facilities with more than 15 beds, the laundry room shall be divided into separate areas, one for sorting soiled linen and one for sorting and folding clean linen. (III)

[**ARC 1753C**, IAB 12/10/14, effective 1/14/15]

481—57.38(135C) Garbage and waste disposal.

57.38(1) All garbage shall be gathered, stored, and disposed of in a manner that will not permit transmission of disease, create a nuisance, or provide a breeding or feeding place for vermin or insects. (III)

57.38(2) All containers for refuse shall be watertight and rodent-proof and have tight-fitting covers. (III)

57.38(3) All unlined containers shall be thoroughly cleaned each time the containers are emptied. (III)

57.38(4) All waste shall be properly disposed of in compliance with local ordinances and state codes. (III)

[**ARC 1753C**, IAB 12/10/14, effective 1/14/15]

481—57.39(135C) Supplies.

57.39(1) *Linen supplies.*

a. There shall be an adequate supply of linen so that each resident shall have at least three washcloths, hand towels, and bath towels per week. (III)

b. A complete change of bed linens shall be available in the linen storage area for each bed. (III)

c. Sufficient lightweight, clean, serviceable blankets shall be available. All blankets shall be laundered as often as necessary for cleanliness and freedom from odors. (III)

d. Each bed shall be provided with clean, washable bedspreads. There shall be a supply available when changes are necessary. (III)

e. Adequate storage shall be provided for linens, pillows, and bedding. (III)

57.39(2) *Supplies, equipment and storage.*

a. All equipment shall be properly cleaned and sanitized before use by another resident. (III)

b. Clean and sanitary storage shall be provided for equipment and supplies. (III)

c. Each facility shall provide a variety of supplies and equipment of a nature calculated to fit the needs and interests of the residents. (III)

d. Locked storage should be available for potentially dangerous items such as scissors, knives, and toxic materials. (III)

[**ARC 1753C**, IAB 12/10/14, effective 1/14/15]

481—57.40(135C) Buildings, furnishings, and equipment.

57.40(1) *Buildings—general requirements.*

a. All windows shall be supplied with window treatments that are kept clean and in good repair. (III)

b. Whenever glass sliding doors or transparent panels are used, they shall be marked conspicuously. (III)

c. The facility shall meet the equivalent requirements of the appropriate group occupancy of the state building code. (III)

57.40(2) *Furnishings and equipment.*

a. All furnishings and equipment shall be durable, cleanable, and appropriate to their function. (III)

b. All resident areas shall be decorated, painted, and furnished to provide a homelike atmosphere. (III)

c. Upholstery materials shall be moisture- and soil-resistant as needed, except on furniture provided by the resident and the property of the resident. (III)

57.40(3) *Dining and living rooms.*

a. Every facility shall have a dining room and a living room easily accessible to all residents. (III)

b. Living rooms shall be maintained for the use of residents and their visitors and may be used for recreational activities. Living rooms shall be suitably furnished. (III)

c. Dining rooms shall be furnished with dining tables and chairs appropriate to the size and function of the facility. Dining rooms and furnishings shall be kept clean and sanitary. (III)

57.40(4) *Bedrooms.*

a. Each resident shall be provided with a standard, single, or twin bed, substantially constructed and in good repair. Rollaway beds, metal cots, or folding beds are not acceptable. (III)

b. Each bed shall be equipped with the following: casters or glides; clean springs in good repair; a clean, comfortable, well-constructed mattress approximately five inches thick and standard in size for the bed; and clean, comfortable pillows of average bed size. (III)

c. Each resident shall have a bedside table with a drawer to accommodate personal possessions. (III)

d. There shall be a comfortable chair, either a rocking chair or armchair, per resident bed. The resident's personal wishes shall be considered. (III)

e. There shall be drawer space for each resident's clothing. In a bedroom in which more than one resident resides, drawer space shall be assigned to each resident. (III)

f. Beds and other furnishings shall not obstruct free passage to and through doorways. (III)

g. Beds shall not be placed in such a manner that the side of the bed is against the radiator or in close proximity to it unless the radiator is covered so as to protect the resident from contact with it or from excessive heat. (III)

h. There shall be no more than four residents per room. (III)

57.40(5) *Bath and toilet facilities.*

a. All sinks shall have paper towel dispensers and an available supply of soap. (III)

b. Toilet paper shall be readily available to residents. (III)

57.40(6) *Heating.* A centralized heating system shall be maintained in good working order and capable of maintaining a comfortable temperature for residents of the facility. Portable units or space heaters are prohibited from being used in the facility except in an emergency. (II, III)

57.40(7) *Water supply.*

a. Private sources of water supply shall be tested annually and the report made available for review by the department upon request. (III)

b. A bacterially unsafe source of water supply shall be grounds for denial, suspension, or revocation of license. (III)

c. The department may require testing of private sources of water supply at its discretion in addition to the annual test. The facility shall supply reports of such tests as directed by the department. (III)

d. Hot and cold running water under pressure shall be available in the facility. (II, III)

e. Prior to construction of a new facility or new water source, private sources of water supply shall be surveyed and shall comply with the requirements of the department. (III)

[**ARC 1753C**, IAB 12/10/14, effective 1/14/15]

481—57.41(135C) Family and employee accommodations.

57.41(1) In facilities where the total occupancy of family, employees, and residents is more than five, separate bathing and toilet facilities shall be required for the family or employees distinct from such areas provided for the residents. (III)

57.41(2) In all facilities, if the family or employees live within the facility, separate living quarters and recreation facilities shall be required for the family or employees distinct from such areas provided for the residents. (III)

[**ARC 1753C**, IAB 12/10/14, effective 1/14/15]

481—57.42(135C) Animals. No animals shall be allowed to reside in the facility except with written approval of the department and under controlled conditions. (II, III)

[**ARC 1753C**, IAB 12/10/14, effective 1/14/15]

481—57.43(135C) Another business or activity in a facility. A facility is allowed to have another business or activity in a health care facility or in the same physical structure of the facility, if the other business or activity is under the control of and is directly related to and incidental to the operation of the health care facility, or the business or activity is approved by the department and the state fire marshal. (I, II, III)

57.43(1) To obtain the approval of the department and the state fire marshal, the facility must submit to the department a written request for approval which identifies the service(s) to be offered by the business and addresses the factors outlined in paragraphs 57.43(2)*"a"* through *"j."* (I, II, III)

57.43(2) The following factors will be considered by the department in determining whether a business or activity will interfere with the use of the facility by residents, interfere with services provided to residents, or be disturbing to residents:

a. Health and safety risks for residents;

b. Compatibility of the proposed business or activity with the facility program;

c. Noise created by the proposed business or activity;

d. Odors created by the proposed business or activity;

e. Use of entrances and exits for the business or activity in regard to safety and disturbance of residents and interference with delivery of services;

f. Use of the facility's corridors or rooms as thoroughfares to the business or activity in regard to safety and disturbance of residents and interference with delivery of services;

g. Proposed staffing for the business or activity;

h. Sharing of services and staff between the proposed business or activity and the facility;

i. Facility layout and design; and

j. Parking area utilized by the business or activity.

57.43(3) Approval of the state fire marshal shall be obtained before approval of the department will be considered.

57.43(4) A business or activity conducted in a health care facility or in the same physical structure as a health care facility shall not reduce space, services or staff available to residents below minimums required in these rules and 481—Chapter 60. (I, II, III)

[**ARC 1753C**, IAB 12/10/14, effective 1/14/15]

481—57.44(135C) Respite care services. "Respite care services" means an organized program of temporary supportive care provided for 24 hours or more to a person in order to relieve the usual caregiver of the person from providing continual care to the person. "Respite care services" does not include crisis stabilization services provided pursuant to 2014 Iowa Acts, chapter 1044 (to be codified at Iowa Code section 225C.19A). "Respite care individual" means a person receiving respite care services. A residential care facility which chooses to provide respite care services must meet the following requirements related to respite services and must be licensed as a residential care facility. (II, III)

57.44(1) *Length of stay.* Respite care may be provided for no more than 30 consecutive days and for a total of no more than 60 days in a consecutive 12-month period. The 12-month period begins on the first day of the respite care individual's stay at the facility. (II, III)

57.44(2) *No separate license.* A residential care facility which chooses to provide respite care services is not required to obtain a separate license or pay a license fee.

57.44(3) *Involuntary termination of respite services.* The facility may terminate the respite services for a respite care individual. Rule 481—57.14(135C) shall not apply. The facility shall make proper arrangements for the welfare of the respite care individual prior to involuntary termination of respite services, including notification of the respite care individual's family or legal representative. (II, III)

57.44(4) *Contract.* Pursuant to rule 481—57.15(135C), the facility shall have a contract with each resident in the facility. When an individual is there for respite care services, the contract shall specify the time period during which the individual will be considered to be receiving respite care services. At the end of that period, the contract may be amended to extend that period of time. The contract shall specifically state that respite care services may be involuntarily terminated. The contract shall meet other requirements under rule 481—57.15(135C), except the requirements under subrule 57.15(7). (II, III)

57.44(5) *Admission as a resident.*

a. An individual being cared for under a respite care contract shall not be considered an admission to the facility.

b. A respite care individual shall be included in the facility's census.

c. The facility shall not enter into multiple 30-day contracts with an individual being cared for under a respite care contract in order to lengthen the individual's stay at the facility. (II, III)

d. If an individual being cared for under a respite care contract remains in the facility beyond 30 consecutive days and is eligible for admission, the department shall consider the individual a resident in the facility. The facility shall follow all requirements for the individual's admission to the facility. (II, III)

57.44(6) *Level of care.* Respite care services shall not be provided by a health care facility to persons requiring a level of care which is higher than the level of care the facility is licensed to provide. (I, II, III)

57.44(7) *Reporting requirements.* The reporting requirements of rule 481—50.7(135C) shall apply to residents being cared for under a respite care contract. (I, II, III)

[**ARC 1753C**, IAB 12/10/14, effective 1/14/15]

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

[Filed 8/6/76, Notice 4/19/76—published 8/23/76, effective 9/27/76]
[Filed without Notice 10/4/76—published 10/20/76, effective 11/24/76]
[Filed emergency 12/21/76—published 1/12/77, effective 1/12/77]
[Filed without Notice 2/4/77—published 2/23/77, effective 3/30/77]
[Filed 8/18/77, Notice 3/9/77—published 9/7/77, effective 10/13/77]
[Filed without Notice 10/14/77—published 11/2/77, effective 12/8/77]
[Filed 1/20/78, Notice 12/14/77—published 2/8/78, effective 3/15/78]
[Filed 5/26/78, Notice 3/8/78—published 6/14/78, effective 7/19/78]
[Filed 7/7/78, Notice 5/31/78—published 7/26/78, effective 9/1/78]
[Filed 10/13/78, Notice 9/6/78—published 11/1/78, effective 12/7/78]
[Filed 11/9/78, Notice 6/28/78—published 11/29/78, effective 1/3/79]
[Filed emergency 11/22/78—published 12/13/78, effective 1/3/79]
[Filed 5/20/82, Notice 12/23/81—published 6/9/82, effective 7/14/82]
[Filed 1/10/86, Notice 11/6/85—published 1/29/86, effective 3/5/86][1]
[Filed 5/16/86, Notice 1/1/86—published 6/4/86, effective 7/9/86]
[Filed emergency 7/1/86—published 7/16/86, effective 7/1/86][2]
[Filed emergency 9/19/86—published 10/8/86, effective 9/19/86]
[Filed 3/12/87, Notice 1/28/87—published 4/8/87, effective 5/13/87]
[Filed emergency 6/25/87—published 7/15/87, effective 7/1/87]
[Filed 2/5/88, Notice 10/7/87—published 2/24/88, effective 3/30/88]◊
[Filed 4/28/88, Notice 12/16/87—published 5/18/88, effective 6/22/88]
[Filed 5/26/88, Notice 4/20/88—published 6/15/88, effective 7/20/88]
[Filed 9/30/88, Notice 8/24/88—published 10/19/88, effective 11/23/88]
[Filed 12/9/88, Notices 8/24/88, 10/5/88—published 12/28/88, effective 2/1/89]

[Filed 6/23/89, Notice 5/17/89—published 7/12/89, effective 8/16/89]
[Filed 7/20/89, Notice 6/14/89—published 8/9/89, effective 9/13/89]
[Filed 8/16/89, Notices 4/19/89, 7/12/89—published 9/6/89, effective 10/11/89]
[Filed 3/14/91, Notice 9/19/90—published 4/3/91, effective 5/8/91]
[Filed emergency 5/10/91—published 5/29/91, effective 5/10/91]
[Filed 1/31/92, Notice 11/13/91—published 2/19/92, effective 7/1/92]
[Filed 3/12/92, Notice 12/11/91—published 4/1/92, effective 5/6/92]
[Filed 5/21/93, Notice 11/25/92—published 6/9/93, effective 7/14/93][3]
[Filed 3/11/94, Notice 9/15/93—published 3/30/94, effective 5/4/94]
[Filed 5/16/95, Notice 3/15/95—published 6/7/95, effective 7/12/95]
[Filed 7/11/97, Notice 4/23/97—published 7/30/97, effective 9/3/97]
[Filed emergency 7/25/97—published 8/13/97, effective 7/25/97]
[Filed emergency 11/14/97—published 12/3/97, effective 11/14/97]
[Filed 11/14/97, Notice 8/13/97—published 12/3/97, effective 1/7/98]
[Filed 3/31/98, Notice 12/3/97—published 4/22/98, effective 5/27/98]
[Filed 7/9/98, Notice 4/22/98—published 7/29/98, effective 9/2/98]
[Filed 1/15/04, Notice 10/1/03—published 2/4/04, effective 3/10/04]
[Filed 1/15/04, Notice 12/10/03—published 2/4/04, effective 3/10/04]
[Filed 7/13/05, Notice 6/8/05—published 8/3/05, effective 9/7/05]
[Filed 9/20/06, Notice 8/2/06—published 10/11/06, effective 11/15/06]
[Filed 11/14/07, Notice 10/10/07—published 12/5/07, effective 1/9/08]
[Filed 7/9/08, Notice 1/30/08—published 7/30/08, effective 9/3/08]
[Filed ARC 0663C (Notice ARC 0513C, IAB 12/12/12), IAB 4/3/13, effective 5/8/13]
[Filed ARC 0766C (Notice ARC 0601C, IAB 2/6/13), IAB 5/29/13, effective 7/3/13]
[Filed ARC 0903C (Notice ARC 0776C, IAB 5/29/13), IAB 8/7/13, effective 9/11/13]
[Filed ARC 1050C (Notice ARC 0907C, IAB 8/7/13), IAB 10/2/13, effective 11/6/13]
[Filed ARC 1205C (Notice ARC 1082C, IAB 10/2/13), IAB 12/11/13, effective 1/15/14]
[Filed ARC 1204C (Notice ARC 1083C, IAB 10/2/13), IAB 12/11/13, effective 1/15/14]
[Filed ARC 1476C (Notice ARC 1413C, IAB 4/2/14), IAB 6/11/14, effective 7/16/14]
[Filed ARC 1753C (Notice ARC 1649C, IAB 10/1/14), IAB 12/10/14, effective 1/14/15]

◊ Two or more ARCs

1 Effective date of 470—57.15(2)*"a"* and *"b"* delayed until the expiration of 45 calendar days into the 1987 session of the General Assembly pursuant to Iowa Code section 17A.8(9), IAB 6/4/86.

2 See IAB, Inspections and Appeals Department.

3 Effective date of 481—57.12(2)*"a,"* last paragraph, delayed 70 days by the Administrative Rules Review Committee at its meeting held July 8, 1993.

CHAPTER 58
NURSING FACILITIES
[Prior to 7/15/87, Health Department[470] Ch 58]

481—58.1(135C) Definitions. For the purpose of these rules, the following terms shall have the meaning indicated in this chapter. The definitions set out in Iowa Code section 135C.1 shall be considered to be incorporated verbatim in the rules. The use of the words "shall" and "must" indicates those standards are mandatory. The use of the words "should" and "could" indicates those standards are recommended.

"Accommodation" means the provision of lodging, including sleeping, dining, and living areas.

"Administrator" means a person licensed pursuant to Iowa Code chapter 147 who administers, manages, supervises, and is in general administrative charge of a nursing facility, whether or not such individual has an ownership interest in such facility, and whether or not the functions and duties are shared with one or more individuals.

"Ambulatory" means the condition of a person who immediately and without aid of another is physically or mentally capable of traveling a normal path to safety, including the ascent and descent of stairs.

"Basement" means that part of a building where the finish floor is more than 30 inches below the finish grade.

"Board" means the regular provision of meals.

"Chairfast" means capable of maintaining a sitting position but lacking the capacity of bearing own weight, even with the aid of a mechanical device or another individual.

"Communicable disease" means a disease caused by the presence of viruses or microbial agents within a person's body, which agents may be transmitted either directly or indirectly to other persons.

"Department" means the state department of inspections and appeals.

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

"Medication" means any drug including over-the-counter substances ordered and administered under the direction of the physician.

"Nonambulatory" means the condition of a person who immediately and without aid of another is not physically or mentally capable of traveling a normal path to safety, including the ascent and descent of stairs.

"Nourishing snack" is defined as a verbal offering of items, single or in combination, from the basic food groups. Adequacy of the "nourishing snack" will be determined both by resident interviews and by evaluation of the overall nutritional status of residents in the facility.

"Person directed care environment" means the provision of care and services provided in a facility that promotes decision making and choices by the resident, enhances the primary caregiver's capacity to respond to each resident's needs, and promotes a homelike environment. Examples of a person directed care environment include, but are not limited to, the Green House concept, the Eden alternative, service houses and neighborhoods.

"Personal care" means assistance with the activities of daily living which the recipient can perform only with difficulty. Examples are assistance in getting in and out of bed, assistance with personal hygiene and bathing, assistance with dressing, meal assistance, and supervision over medications which can be self-administered.

"Potentially hazardous food" means a food that is natural or synthetic and that requires temperature control because it is in a form capable of supporting the rapid and progressive growth of infectious or toxigenic microorganisms, the growth and toxin production of clostridium botulinum, or in raw shell eggs, the growth of salmonella enteritidis. Potentially hazardous food includes an animal food (a food of animal origin) that is raw or heat-treated; a food of plant origin that is heat-treated or consists of raw seed sprouts; cut melons; and garlic and oil mixtures that are not acidified or otherwise modified at a food processing plant in a way that results in mixtures that do not support growth of bacteria.

"Primary care provider" means any of the following who provide primary care and meet certification standards:

1. A physician who is a family or general practitioner or an internist.
2. An advanced registered nurse practitioner.
3. A physician assistant.

"Program of care" means all services being provided for a resident in a health care facility.

"Qualified intellectual disabilities professional" means a psychologist, physician, registered nurse, educator, social worker, physical or occupational therapist, speech therapist or audiologist who meets the educational requirements for the profession, as required in the state of Iowa, and having one year's experience working with persons with an intellectual disability.

"Qualified nurse" means a registered nurse or a licensed practical nurse, as defined in Iowa Code chapter 152.

"Rate" means that daily fee charged for all residents equally and shall include the cost of all minimum services required in these rules and regulations.

"Responsible party" means the person who signs or cosigns the admission agreement required in 481—58.13(135C) or the resident's guardian or conservator if one has been appointed. In the event that a resident does not have a guardian, conservator or other person signing the admission agreement, the term "responsible party" shall include the resident's sponsoring agency, e.g., the department of human services, the U.S. Department of Veterans Affairs, religious groups, fraternal organizations, or foundations that assume responsibility and advocate for their client patients and pay for their health care.

"Restraints" means any chemical, manual method or physical or mechanical device, material, or equipment attached to the resident's body that the individual cannot remove easily which restricts freedom of movement or normal access to one's body.

"Substantial evening meal" is defined as an offering of three or more menu items at one time, one of which includes a high protein such as meat, fish, eggs or cheese. The meal would represent no less than 20 percent of the day's total nutritional requirements.

[**ARC 0766C**, IAB 5/29/13, effective 7/3/13; **ARC 1398C**, IAB 4/2/14, effective 5/7/14; **ARC 1752C**, IAB 12/10/14, effective 1/14/15]

481—58.2(135C) Variances. Variances from these rules may be granted by the director of the department of inspections and appeals for good and sufficient reason when the need for variance has been established; no danger to the health, safety, or welfare of any resident results; alternate means are employed or compensating circumstances exist and the variance will apply only to an individual nursing facility. Variances will be reviewed at the discretion of the director of the department of inspections and appeals.

58.2(1) To request a variance, the licensee must:

a. Apply for variance in writing on a form provided by the department;

b. Cite the rule or rules from which a variance is desired;

c. State why compliance with the rule or rules cannot be accomplished;

d. Explain alternate arrangements or compensating circumstances which justify the variance;

e. Demonstrate that the requested variance will not endanger the health, safety, or welfare of any resident.

58.2(2) Upon receipt of a request for variance, the director of inspections and appeals will:

a. Examine the rule from which variance is requested to determine that the request is necessary and reasonable;

b. If the request meets the above criteria, evaluate the alternate arrangements or compensating circumstances against the requirement of the rules;

c. Examine the effect of the requested variance on the health, safety, or welfare of the residents;

d. Consult with the applicant if additional information is required.

58.2(3) Based upon these studies, approval of the variance will be either granted or denied within 120 days of receipt.

481—58.3(135C) Application for licensure.

58.3(1) Initial application and licensing. In order to obtain an initial nursing facility license, for a nursing facility which is currently licensed, the applicant must:

a. Meet all of the rules, regulations, and standards contained in 481—Chapters 58 and 61. Applicable exceptions found in rule 481—61.2(135C) shall apply based on the construction date of the facility.

b. Submit a letter of intent and a written résumé of the resident care program and other services provided for departmental review and approval;

c. Make application at least 30 days prior to the change of ownership of the facility on forms provided by the department;

d. Submit a floor plan of each floor of the nursing facility, drawn on 8½- × 11-inch paper showing room areas in proportion, room dimensions, room numbers for all rooms, including bathrooms, and designation of the use to which room will be put and window and door location;

e. Submit a photograph of the front and side elevation of the nursing facility;

f. Submit the statutory fee for a nursing facility license;

g. Meet the requirements of a nursing facility for which licensure application is made;

h. Comply with all other local statutes and ordinances in existence at the time of licensure;

i. Have a certificate signed by the state fire marshal or deputy state fire marshal as to compliance with fire safety rules and regulations.

58.3(2) In order to obtain an initial nursing facility license for a facility not currently licensed as a nursing facility, the applicant must:

a. Meet all of the rules, regulations, and standards contained in 481—Chapters 58 and 61. Exceptions noted in 481—subrule 61.1(2) shall not apply;

b. Submit a letter of intent and a written résumé of the resident care program and other services provided for departmental review and approval;

c. Make application at least 30 days prior to the change of ownership of the facility on forms provided by the department;

d. Submit a floor plan of each floor of the nursing facility, drawn on 8½- × 11-inch paper showing room areas in proportion, room dimensions, room numbers for all rooms, including bathrooms, and designation of the use to which room will be put and window and door locations;

e. Submit a photograph of the front and side elevation of the nursing facility;

f. Submit the statutory fee for a nursing facility license;

g. Comply with all other local statutes and ordinances in existence at the time of licensure;

h. Have a certificate signed by the state fire marshal or deputy state fire marshal as to compliance with fire safety rules and regulations.

58.3(3) *Renewal application.* In order to obtain a renewal of the nursing facility license, the applicant must:

a. Submit the completed application form 30 days prior to annual license renewal date of nursing facility license;

b. Submit the statutory license fee for a nursing facility with the application for renewal;

c. Have an approved current certificate signed by the state fire marshal or deputy state fire marshal as to compliance with fire safety rules and regulations;

d. Submit appropriate changes in the résumé to reflect any changes in the resident care program or other services.

58.3(4) Licenses are issued to the person or governmental unit which has responsibility for the operation of the facility and authority to comply with all applicable statutes, rules or regulations.

The person or governmental unit must be the owner of the facility or, if the facility is leased, the lessee.

481—58.4(135C) General requirements.

58.4(1) The license shall be displayed in a conspicuous place in the facility which is viewed by the public. (III)

58.4(2) The license shall be valid only in the possession of the licensee to whom it is issued.

58.4(3) The posted license shall accurately reflect the current status of the nursing facility. (III)

58.4(4) Licenses expire one year after the date of issuance or as indicated on the license.

58.4(5) No nursing facility shall be licensed for more beds than have been approved by the health facilities construction review committee.

58.4(6) Each citation or a copy of each citation issued by the department for a class I or class II violation shall be prominently posted by the facility in plain view of the residents, visitors, and persons inquiring about placement in the facility. The citation or copy of the citation shall remain posted until the violation is corrected to the satisfaction of the department. (III)

481—58.5(135C) Notifications required by the department. The department shall be notified:

58.5(1) Within 48 hours, by letter, of any reduction or loss of nursing or dietary staff lasting more than seven days which places the staffing ratio below that required for licensing. No additional residents shall be admitted until the minimum staffing requirements are achieved; (III)

58.5(2) Of any proposed change in the nursing facility's functional operation or addition or deletion of required services; (III)

58.5(3) Thirty days before addition, alteration, or new construction is begun in the nursing facility or on the premises; (III)

58.5(4) Thirty days in advance of closure of the nursing facility; (III)

58.5(5) Within two weeks of any change in administrator; (III)

58.5(6) When any change in the category of license is sought; (III)

58.5(7) Prior to the purchase, transfer, assignment, or lease of a nursing facility, the licensee shall:

a. Inform the department of the pending sale, transfer, assignment, or lease of the facility; (III)

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

c. Submit a written authorization to the department permitting the department to release all information of whatever kind from the department's files concerning the licensee's nursing facility to the named prospective purchaser, transferee, assignee, or lessee. (III)

58.5(8) Pursuant to the authorization submitted to the department by the licensee prior to the purchase, transfer, assignment, or lease of a nursing facility, the department shall upon request send or give copies of all recent licensure surveys and of any other pertinent information relating to the facility's licensure status to the prospective purchaser, transferee, assignee, or lessee; costs for such copies shall be paid by the prospective purchaser.

481—58.6(135C) Witness fees. Rescinded IAB 3/30/94, effective 5/4/94. See 481—subrule 50.6(4).

481—58.7(135C) Licenses for distinct parts.

58.7(1) Separate licenses may be issued for distinct parts of a health care facility which are clearly identifiable, containing contiguous rooms in a separate wing or building or on a separate floor of the facility and which provide care and services of separate categories.

58.7(2) The following requirements shall be met for a separate licensing of a distinct part:

a. The distinct part shall serve only residents who require the category of care and services immediately available to them within that part; (III)

b. The distinct part shall meet all the standards, rules, and regulations pertaining to the category for which a license is being sought;

c. A distinct part must be operationally and financially feasible;

d. A separate staff with qualifications appropriate to the care and services being rendered must be regularly assigned and working in the distinct part under responsible management; (III)

e. Separately licensed distinct parts may have certain services such as management, building maintenance, laundry, and dietary in common with each other.

481—58.8(135C) Administrator.

58.8(1) Each nursing facility shall have one person in charge, duly licensed as a nursing home administrator or acting in a provisional capacity. (III)

58.8(2) A licensed administrator may act as an administrator for not more than two nursing facilities.

a. The distance between the two facilities shall be no greater than 50 miles. (II)

b. The administrator shall spend the equivalent of three full eight-hour days per week in each facility. (II)

c. The administrator may be responsible for no more than 150 beds in total if the administrator is an administrator of more than one facility. (II)

58.8(3) The licensee may be the licensed nursing home administrator providing the licensee meets the requirements as set forth in these regulations and devotes the required time to administrative duties. Residency in the facility does not in itself meet the requirement. (III)

58.8(4) A provisional administrator may be appointed on a temporary basis by the nursing facility licensee to assume the administrative duties when the facility, through no fault of its own, has lost its administrator and has been unable to replace the administrator provided that no facility licensed under Iowa Code chapter 135C shall be permitted to have a provisional administrator for more than 12 months in any 12-month period and further provided that:

a. The department has been notified prior to the date of the administrator's appointment; (III)

b. The board of examiners for nursing home administrators has approved the administrator's appointment and has confirmed such appointment in writing to the department. (III)

58.8(5) In the absence of the administrator, a responsible person shall be designated in writing to the department to be in charge of the facility. The administrator shall not be absent from the facility for more than 3 months without approval of the department. (III)

The person designated shall:

a. Be knowledgeable of the operation of the facility; (III)

b. Have access to records concerned with the operation of the facility; (III)

c. Be capable of carrying out administrative duties and of assuming administrative responsibilities; (III)

d. Be at least 21 years of age; (III)

e. Be empowered to act on behalf of the licensee during the administrator's absence concerning the health, safety, and welfare of the residents; (III)

f. Have had training to carry out assignments and take care of emergencies and sudden illness of residents. (III)

58.8(6) A licensed administrator in charge of two facilities shall employ an individual designated as a full-time assistant administrator for each facility. (III)

58.8(7) An administrator of only one facility shall be considered as a full-time employee. Full-time employment is defined as 40 hours per week. (III)

[**ARC 1398C**, IAB 4/2/14, effective 5/7/14]

481—58.9(135C) Administration.

58.9(1) The licensee shall:

a. Assume the responsibility for the overall operation of the nursing facility; (III)

b. Be responsible for compliance with all applicable laws and with the rules of the department; (III)

c. Establish written policies, which shall be available for review, for the operation of the nursing facility. (III)

58.9(2) The administrator shall:

a. Be responsible for the selection and direction of competent personnel to provide services for the resident care program; (III)

b. Be responsible for the arrangement for all department heads to annually attend a minimum of ten contact hours of educational programs to increase skills and knowledge needed for the position; (III)

c. Be responsible for a monthly in-service educational program for all employees and to maintain records of programs and participants; (III)

d. Make available the nursing facility payroll records for departmental review as needed; (III)

e. Be required to maintain a staffing pattern of all departments. These records must be maintained for six months and are to be made available for departmental review. (III)

481—58.10(135C) General policies.

58.10(1) There shall be written personnel policies in facilities of more than 15 beds to include hours of work, and attendance at educational programs. (III)

58.10(2) There shall be a written job description developed for each category of worker. The job description shall include title of job, job summary, qualifications (formal education and experience), skills needed, physical requirements, and responsibilities. (III)

58.10(3) There shall be written personnel policies for each facility. Personnel policies shall include the following requirements:

a. Employees shall have a physical examination before employment. (I, II, III)

b. Employees shall have a physical examination at least every four years. (I, II, III)

c. Screening and testing for tuberculosis shall be conducted pursuant to 481—Chapter 59. (I, II, III)

58.10(4) Health certificates for all employees shall be available for review. (III)

58.10(5) Rescinded IAB 10/19/88, effective 11/23/88.

58.10(6) There shall be written policies for emergency medical care for employees and residents in case of sudden illness or accident which includes the individual to be contacted in case of emergency. (III)

58.10(7) The facility shall have a written agreement with a hospital for the timely admission of a resident who, in the opinion of the attending physician, requires hospitalization. (III)

58.10(8) Infection control program. Each facility shall have a written and implemented infection control and exposure control program with policies and procedures based on the guidelines issued by the Centers for Disease Control and Prevention, U.S. Department of Health and Human Services. (I, II, III) CDC guidelines are available at http://www.cdc.gov/ncidod/dhqp/index.html.

58.10(9) Infection control committee. Each facility shall establish an infection control committee of representative professional staff responsible for overall infection control in the facility. (III)

a. The committee shall annually review and revise the infection control policies and procedures to monitor effectiveness and suggest improvement. (III)

b. The committee shall meet at least quarterly, submit reports to the administrator, and maintain minutes in sufficient detail to document its proceedings and actions. (III)

c. The committee shall monitor the health aspect and the environment of the facility. (III)

58.10(10) There shall be written policies for resident care programs and services as outlined in these rules. (III)

58.10(11) Prior to the removal of a deceased resident/patient from a facility, the funeral director or person responsible for transporting the body shall be notified by the facility staff of any special precautions that were followed by the facility having to do with the mode of transmission of a known or suspected communicable disease. (III)

[**ARC 0663C**, IAB 4/3/13, effective 5/8/13]

481—58.11(135C) Personnel.

58.11(1) *General qualifications.*

a. No person with a current record of habitual alcohol intoxication or addiction to the use of drugs shall serve in a managerial role of a nursing facility. (II)

b. No person under the influence of alcohol or intoxicating drugs shall be permitted to provide services in a nursing facility. (II)

c. No person shall be allowed to provide services in a facility if the person has a disease:

(1) Which is transmissible through required workplace contact, (I, II, III)

(2) Which presents a significant risk of infecting others, (I, II, III)

(3) Which presents a substantial possibility of harming others, and (I, II, III)

(4) For which no reasonable accommodation can eliminate the risk. (I, II, III)

Refer to Guidelines for Infection Control in Hospital Personnel, Centers for Disease Control, U.S. Department of Health and Human Services, PB85-923402 to determine (1), (2), (3) and (4).

d. Reserved.

e. Individuals with either physical or mental disabilities may be employed for specific duties, but only if that disability is unrelated to that individual's ability to perform the duties of the job. (III)

f. Persons employed in all departments, except the nursing department of a nursing facility shall be qualified through formal training or through prior experience to perform the type of work for which they have been employed. Prior experience means at least 240 hours of full-time employment in a field related to their duties. Persons may be hired in laundry, housekeeping, activities and dietary without experience or training if the facility institutes a formal in-service training program to fit the job description in question and documents such as having taken place within 30 days after the initial hiring of such untrained employees. (III)

g. Rescinded, effective 7/14/82.

h. The health services supervisor shall be a qualified nurse as defined in these regulations. (II)

i. Those persons employed as nurse's aides, orderlies, or attendants in a nursing facility who have not completed the state-approved 75-hour nurse's aide program shall be required to participate in a structured on-the-job training program of 20 hours' duration to be conducted prior to any resident contact, except that contact required by the training program. This educational program shall be in addition to facility orientation. Each individual shall demonstrate competencies covered by the curriculum. This shall be observed and documented by an R.N. and maintained in the personnel file. No aide shall work independently until this is accomplished, nor shall the aide's hours count toward meeting the minimum hours of nursing care required by the department. The curriculum shall be approved by the department. An aide who has completed the state-approved 75-hour course may model skills to be learned.

Further, such personnel shall be enrolled in a state-approved 75-hour nurse's aide program to be completed no later than six months from the date of employment. If the state-approved 75-hour program has been completed prior to employment, the on-the-job training program requirement is waived. The 20-hour course is in addition to the 75-hour course and is not a substitute in whole or in part. The 75-hour program, approved by the department, may be provided by the facility or academic institution.

Newly hired aides who have completed the state-approved 75-hour course shall demonstrate competencies taught in the 20-hour course upon hire. This shall be observed and documented by an R.N. and maintained in the personnel file.

All personnel administering medications must have completed the state-approved training program in medication administration. (II)

j. There shall be an organized ongoing in-service educational and training program planned in advance for all personnel in all departments. (II, III)

k. Nurse aides, orderlies or attendants in a nursing facility who have received training other than the Iowa state-approved program, must pass a challenge examination approved by the department of inspections and appeals. Evidence of prior formal training in a nursing aide, orderly, attendant, or other comparable program must be presented to the facility or institution conducting the challenge examination before the examination is given. The approved facility or institution, following department of inspections and appeals guidelines, shall make the determination of who is qualified to take the examination. Documentation of the challenge examinations administered shall be maintained.

58.11(2) *Nursing supervision and staffing.*

a. Rescinded IAB 8/7/91, effective 7/19/91.

b. Where only part-time nurses are employed, one nurse shall be designated health service supervisor. (III)

c. A qualified nurse shall be employed to relieve the supervising nurses, including charge nurses, on holidays, vacation, sick leave, days off, absences or emergencies. Pertinent information for contacting such relief person shall be posted at the nurse's station. (III)

d. When the health service supervisor serves as the administrator of a facility 50 beds and over, a qualified nurse must be employed to relieve the health service supervisor of nursing responsibilities. (III)

e. The department may establish on an individual facility basis the numbers and qualifications of the staff required in the facility using as its criteria the services being offered and the needs of the residents. (III)

f. Additional staffing, above the minimum ratio, may be required by the department commensurate with the needs of the individual residents. (III)

g. The minimum hours of resident care personnel required for residents needing intermediate nursing care shall be 2.0 hours per resident day computed on a seven-day week. A minimum of 20 percent of this time shall be provided by qualified nurses. If the maximum medical assistance rate is reduced below the 74th percentile, the requirement will return to 1.7 hours per resident per day computed on a seven-day week. A minimum of 20 percent of this time shall be provided by qualified nurses. (II, III)

h. The health service supervisor's hours worked per week shall be included in computing the 20 percent requirement.

i. A nursing facility of 75 beds or more shall have a qualified nurse on duty 24 hours per day, seven days a week. (II, III)

j. In facilities under 75 beds, if the health service supervisor is a licensed practical nurse, the facility shall employ a registered nurse, for at least four hours each week for consultation, who must be on duty at the same time as the health service supervisor. (II, III)

(1) This shall be an on-site consultation and documentation shall be made of the visit. (III)

(2) The registered nurse-consultant shall have responsibilities clearly outlined in a written agreement with the facility. (III)

(3) Consultation shall include but not be limited to the following: counseling the health service supervisor in the management of the health services; (III) reviewing and evaluating the health services in determining that the needs of the residents are met; (II, III) conducting a review of medications at least monthly if the facility does not employ a registered nurse part-time. (II, III)

k. Facilities with 75 or more beds must employ a health service supervisor who is a registered nurse. (II)

l. There shall be at least two people who shall be capable of rendering nursing service, awake, dressed, and on duty at all times. (II)

m. Physician's orders shall be implemented by qualified personnel. (II, III)

58.11(3) *Employee criminal record checks, child abuse checks and dependent adult abuse checks and employment of individuals who have committed a crime or have a founded abuse.* The facility shall comply with the requirements found in Iowa Code section 135C.33 as amended by 2013 Iowa Acts, Senate File 347, and rule 481—50.9(135C) related to completion of criminal record checks, child abuse checks, and dependent adult abuse checks and to employment of individuals who have committed a crime or have a founded abuse. (I, II, III)

[**ARC 0903C**, IAB 8/7/13, effective 9/11/13]

481—58.12(135C) Admission, transfer, and discharge.

58.12(1) *General admission policies.*

a. No resident shall be admitted or retained in a nursing facility who is in need of greater services than the facility can provide. (II, III)

b. No nursing facility shall admit more residents than the number of beds for which it is licensed, except guest rooms for visitors. (II, III)

c. There shall be no more beds erected than is stipulated on the license. (II, III)

d. There shall be no more beds erected in a room than its size and other characteristics will permit. (II, III)

e. The admission of a resident to a nursing facility shall not give the facility or any employee of the facility the right to manage, use, or dispose of any property of the resident except with the written authorization of the resident or the resident's legal representative. (III)

f. The admission of a resident shall not grant the nursing facility the authority or responsibility to manage the personal affairs of the resident except as may be necessary for the safety of the resident and safe and orderly management of the facility as required by these rules. (III)

g. A nursing facility shall provide for the safekeeping of personal effects, funds, and other property of its residents. The facility may require that items of exceptional value or which would

convey unreasonable responsibilities to the licensee be removed from the premises of the facility for safekeeping. (III)

h. Rescinded, effective 7/14/82.

i. Funds or properties received by the nursing facility belonging to or due a resident, expendable for the resident's account, shall be trust funds. (III)

j. Infants and children under the age of 16 shall not be admitted to health care facilities for adults unless given prior written approval by the department. A distinct part of a health care facility, segregated from the adult section, may be established based on a program of care submitted by the licensee or applicant which is commensurate with the needs of the residents of the health care facility and has received the department's review and approval. (III)

k. No health care facility, and no owner, administrator, employee or representative thereof shall act as guardian, trustee, or conservator for any resident's property, unless such resident is related to the person acting as guardian within the third degree of consanguinity.

l. Within 30 days of a resident's admission to a health care facility receiving reimbursement through the medical assistance program under Iowa Code chapter 249A, the facility shall ask the resident or the resident's personal representative whether the resident is a veteran and shall document the response. If the facility determines that the resident is a potential veteran, the facility shall report the resident's name along with the names of the resident's spouse and any dependent children, as well as the name of the contact person for this information, to the Iowa department of veterans affairs. Where appropriate, the facility may also report such information to the Iowa department of human services.

If a resident is eligible for benefits through the United States Department of Veterans Affairs or other third-party payor, the facility first shall seek reimbursement from the identified payor source before seeking reimbursement from the medical assistance program established under Iowa Code chapter 249A.

The provisions of this paragraph shall not apply to the admission of an individual as a resident to a state mental health institute for acute psychiatric care or to the admission of an individual to the Iowa Veterans Home. (II, III)

58.12(2) *Discharge or transfer.*

a. Prior notification shall be made to the resident, as well as the resident's next of kin, legal representative, attending physician, and sponsoring agency, if any, prior to transfer or discharge of any resident. (III)

b. Proper arrangements shall be made by the nursing facility for the welfare of the resident prior to transfer or discharge in the event of an emergency or inability to reach the next of kin or legal representative. (III)

c. The licensee shall not refuse to discharge or transfer a resident when the physician, family, resident, or legal representative requests such a discharge or transfer. (II, III)

d. Advance notification will be made to the receiving facility prior to the transfer of any resident. (III)

e. When a resident is transferred or discharged, the appropriate record as set forth in 58.15(2)*"k"* of these rules will accompany the resident. (II, III)

f. Prior to the transfer or discharge of a resident to another health care facility, arrangements to provide for continuity of care shall be made with the facility to which the resident is being sent. (II, III)

481—58.13(135C) Contracts. Each contract shall:

58.13(1) State the base rate or scale per day or per month, the services included, and the method of payment; (III)

58.13(2) Contain a complete schedule of all offered services for which a fee may be charged in addition to the base rate. Furthermore, the contract shall: (III)

a. Stipulate that no further additional fees shall be charged for items not contained in complete schedule of services as set forth in 58.13(3); (III)

b. State the method of payment of additional charges; (III)

c. Contain an explanation of the method of assessment of such additional charges and an explanation of the method of periodic reassessment, if any, resulting in changing such additional charges; (III)

d. State that additional fees may be charged to the resident for nonprescription drugs, other personal supplies, and services by a barber, beautician, etc.; (III)

58.13(3) Contain an itemized list of those services, with the specific fee the resident will be charged and method of payment, as related to the resident's current condition, based on the nursing assessment at the time of admission, which is determined in consultation with the administrator; (III)

58.13(4) Include the total fee to be charged initially to the specific resident; (III)

58.13(5) State the conditions whereby the facility may make adjustments to the facility's overall fees for resident care as a result of changing costs. (III) Furthermore, the contract shall provide that the facility shall give:

a. Written notification to the resident, or responsible party when appropriate, of changes in the overall rates of both base and additional charges at least 30 days prior to effective date of such changes; (III)

b. Notification to the resident, or responsible party when appropriate, of changes in additional charges, based on a change in the resident's condition. Notification must occur prior to the date such revised additional charges begin. If notification is given orally, subsequent written notification must also be given within a reasonable time, not to exceed one week, listing specifically the adjustments made; (III)

58.13(6) State the terms of agreement in regard to refund of all advance payments in the event of transfer, death, voluntary or involuntary discharge; (III)

58.13(7) State the terms of agreement concerning the holding and charging for a bed when a resident is hospitalized or leaves the facility temporarily for recreational or therapeutic reasons. The terms shall contain a provision that the bed will be held at the request of the resident or the resident's responsible party.

a. The facility shall ask the resident or responsible party if the resident wants the bed held. This request shall be made before the resident leaves or within 48 hours after the resident leaves. The inquiry and the response shall be documented. (II)

b. The facility shall reserve the bed when requested for as long as payments are made in accordance with the contract. (II)

58.13(8) State the conditions under which the involuntary discharge or transfer of a resident would be effected; (III)

58.13(9) State the conditions of voluntary discharge or transfer; (III)

58.13(10) Set forth any other matters deemed appropriate by the parties to the contract. No contract or any provision thereof shall be drawn or construed so as to relieve any health care facility of any requirement or obligation imposed upon it by this chapter or any standards or rules in force pursuant to this chapter; (III)

58.13(11) Each party shall receive a copy of the signed contract. (III)

481—58.14(135C) Medical services.

58.14(1) Each resident in a nursing facility shall designate a licensed physician who may be called when needed. Professional management of a resident's care shall be the responsibility of the hospice program when:

a. The resident is terminally ill, and

b. The resident has elected to receive hospice services under the federal Medicare program from a Medicare-certified hospice program, and

c. The facility and the hospice program have entered into a written agreement under which the hospice program takes full responsibility for the professional management of hospice care.

58.14(2) Each resident admitted to a nursing facility shall have had a physical examination prior to admission. If the resident is admitted directly from a hospital, a copy of the hospital admission physical

and discharge summary may be made part of the record in lieu of an additional physical examination. A record of the examination, signed by the physician, shall be a part of the resident's record. (III)

58.14(3) Arrangements shall be made to have a physician available to furnish medical care in case of emergency. (II, III)

58.14(4) Rescinded, effective 7/14/82.

58.14(5) The person in charge shall immediately notify the physician of any accident, injury, or adverse change in the resident's condition. (I, II, III)

58.14(6) A schedule listing the names and telephone numbers of the physicians shall be posted in each nursing station. (III)

58.14(7) Residents shall be admitted to a nursing facility only on a written order signed by a physician certifying that the individual being admitted requires no greater degree of nursing care than the facility is licensed to provide. (III)

58.14(8) Physician delegation of tasks. Each resident, including private pay residents, shall be visited by or shall visit the resident's physician at least twice a year. The year period shall be measured from the date of admission and is not to include preadmission physicals.

a. For a skilled nursing patient, the resident must be seen by a physician for the initial comprehensive visit. Additional visits are required at least once every 30 days for 90 days after admission and at least once every 60 days thereafter. After the initial comprehensive visit, alternate required visits may be performed by an advanced registered nurse practitioner, clinical nurse specialist or physician assistant who is working in collaboration with a physician, as outlined in Table 1. (III)

b. Notwithstanding the provisions of 42 CFR 483.40, any required physician task or visit in a nursing facility may also be performed by an advanced registered nurse practitioner, clinical nurse specialist, or physician assistant who is working in collaboration with a physician, as outlined in Table 1. (III)

c. In dually certified skilled nursing/nursing facilities, the advanced registered nurse practitioner, clinical nurse specialist, and physician assistant must follow the skilled nursing facility requirements for services for skilled nursing facility stays. For nursing facility stays in skilled nursing/nursing facilities, any required physician task or visit may be performed by an advanced registered nurse practitioner, clinical nurse specialist, or physician assistant working in collaboration with the physician. (III)

d. Nurse practitioners, clinical nurse specialists, and physician assistants may perform other tasks that are not reserved to the physician such as visits outside the normal schedule needed to address new symptoms or other changes in medical status. (III)

Table 1: Authority for non-physician practitioners to perform visits, sign orders, and sign certifications/recertifications when permitted by state law*

	Initial Comprehensive Visit/Orders	Other Required Visits[1]	Other Medically Necessary Visits and Orders[2]	Certification/ Recertification
Skilled Nursing Facilities				
Physician assistant, nurse practitioner and clinical nurse specialist employed by the facility	May not perform/May not sign	May perform alternate visits	May perform and sign	May not sign
Physician assistant, nurse practitioner and clinical nurse specialist not a facility employee	May not perform/May not sign	May perform alternate visits	May perform and sign	May sign subject to state requirements

	Initial Comprehensive Visit/Orders	Other Required Visits[1]	Other Medically Necessary Visits and Orders[2]	Certification/ Recertification
Nursing Facilities				
Nurse practitioner, clinical nurse specialist, and physician assistant employed by the facility	May not perform/May not sign	May not perform	May perform and sign	Not applicable[+]
Nurse practitioner, clinical nurse specialist, and physician assistant not a facility employee	May perform/May sign	May perform	May perform and sign	Not applicable[+]

*As permitted by state law governing the scope and practice of nurse practitioners, clinical nurse specialists, and physician assistants.

[1] Other required visits include the skilled nursing resident monthly visits that may be alternated between physician and advanced registered nurse practitioners, clinical nurse specialists, or physician assistants after the initial comprehensive visit is completed.

[2] Medically necessary visits may be performed prior to the initial comprehensive visit.

[+] This requirement relates specifically to coverage of Part A Medicare stays, which can take place only in a Medicare-certified skilled nursing facility.

[**ARC 1048C**, IAB 10/2/13, effective 11/6/13; **ARC 1398C**, IAB 4/2/14, effective 5/7/14]

481—58.15(135C) Records.

58.15(1) *Resident admission record.* The licensee shall keep a permanent record on all residents admitted to a nursing facility with all entries current, dated, and signed. This shall be a part of the resident clinical record. (III) The admission record form shall include:

a. Name and previous address of resident; (III)

b. Birth date, sex, and marital status of resident; (III)

c. Church affiliation; (III)

d. Physician's name, telephone number, and address; (III)

e. Dentist's name, telephone number, and address; (III)

f. Name, address, and telephone number of next of kin or legal representative; (III)

g. Name, address, and telephone number of person to be notified in case of emergency; (III)

h. Mortician's name, telephone number, and address; (III)

i. Pharmacist's name, telephone number, and address. (III)

58.15(2) *Resident clinical record.* There shall be a separate clinical record for each resident admitted to a nursing facility with all entries current, dated, and signed. (III) The resident clinical record shall include:

a. Admission record; (III)

b. Admission diagnosis; (III)

c. Physical examination: The record of the admission physical examination and medical history shall portray the current medical status of the resident and shall include the resident's name, sex, age, medical history, tuberculosis status, physical examination, diagnosis, statement of chief complaints, estimation of restoration potential and results of any diagnostic procedures. The report of the physical examination shall be signed by the physician. (III)

d. Physician's certification that the resident requires no greater degree of nursing care than the facility is licensed to provide; (III)

e. Physician's orders for medication, treatment, and diet in writing and signed by the physician quarterly; (III)

f. Progress notes.

(1) Physician shall enter a progress note at the time of each visit; (III)

(2) Other professionals, i.e., dentists, social workers, physical therapists, pharmacists, and others shall enter a progress note at the time of each visit; (III)

g. All laboratory, X-ray, and other diagnostic reports; (III)

h. Nurse's record including:

(1) Admitting notes including time and mode of transportation; room assignment; disposition of valuables; symptoms and complaints; general condition; vital signs; and weight; (II, III)

(2) Routine notes including physician's visits; telephone calls to and from the physician; unusual incidents and accidents; change of condition; social interaction; and P.R.N. medications administered including time and reason administered, and resident's reaction; (II, III)

(3) Discharge or transfer notes including time and mode of transportation; resident's general condition; instructions given to resident or legal representative; list of medications and disposition; and completion of transfer form for continuity of care; (II, III)

(4) Death notes including notification of physician and family to include time, disposition of body, resident's personal possessions and medications; and complete and accurate notes of resident's vital signs and symptoms preceding death; (III)

i. Medication record.

(1) An accurate record of all medications administered shall be maintained for each resident. (II, III)

(2) Schedule II drug records shall be kept in accordance with state and federal laws; (II, III)

j. Death record. In the event of a resident's death, notations in the resident's record shall include the date and time of the resident's death, the circumstances of the resident's death, the disposition of the resident's body, and the date and time that the resident's family and physician were notified of the resident's death; (III)

k. Transfer form.

(1) The transfer form shall include identification data from the admission record, name of transferring institution, name of receiving institution, and date of transfer; (III)

(2) The nurse's report shall include resident attitudes, behavior, interests, functional abilities (activities of daily living), unusual treatments, nursing care, problems, likes and dislikes, nutrition, current medications (when last given), and condition on transfer; (III)

(3) The physician's report shall include reason for transfer, medications, treatment, diet, activities, significant laboratory and X-ray findings, and diagnosis and prognosis; (III)

l. Consultation reports shall indicate services rendered by allied health professionals in the facility or in health-centered agencies such as dentists, physical therapists, podiatrists, oculists, and others. (III)

58.15(3) *Resident personal record.* Personal records may be kept as a separate file by the facility.

a. Personal records may include factual information regarding personal statistics, family and responsible relative resources, financial status, and other confidential information.

b. Personal records shall be accessible to professional staff involved in planning for services to meet the needs of the resident. (III)

c. When the resident's records are closed, the information shall become a part of the final record. (III)

d. Personal records shall include a duplicate copy of the contract(s). (III)

58.15(4) *Incident record.*

a. Each nursing facility shall maintain an incident record report and shall have available incident report forms. (III)

b. Report of incidents shall be in detail on a printed incident report form. (III)

c. The person in charge at the time of the incident shall prepare and sign the report. (III)

d. The report shall cover all accidents where there is apparent injury or where hidden injury may have occurred. (III)

e. The report shall cover all accidents or unusual occurrences within the facility or on the premises affecting residents, visitors, or employees. (III)

f. A copy of the incident report shall be kept on file in the facility. (III)

58.15(5) *Retention of records.*

a. Records shall be retained in the facility for five years following termination of services. (III)

b. Records shall be retained within the facility upon change of ownership. (III)

c. Rescinded, effective 7/14/82.

d. When the facility ceases to operate, the resident's record shall be released to the facility to which the resident is transferred. If no transfer occurs, the record shall be released to the individual's physician. (III)

58.15(6) *Reports to the department.* The licensee shall furnish statistical information concerning the operation of the facility to the department on request. (III)

58.15(7) *Personnel record.*

a. An employment record shall be kept for each employee, consisting of the following information: name and address of employee, social security number of employee, date of birth of employee, date of employment, experience and education, references, position in the home, criminal history and dependent adult abuse background checks, and date and reason for discharge or resignation. (III)

b. The personnel records shall be made available for review upon request by the department. (III)

481—58.16(135C) Resident care and personal services.

58.16(1) Beds shall be made daily and adjusted as necessary. A complete change of linen shall be made at least once a week and more often if necessary. (III)

58.16(2) Residents shall receive sufficient supervision so that their personal cleanliness is maintained. (II, III)

58.16(3) Residents shall have clean clothing as needed to present a neat appearance, to be free of odors, and to be comfortable. Clothing shall be based on resident choice and shall be appropriate to residents' activities and to the weather. (III)

58.16(4) Rescinded, effective 7/14/82.

58.16(5) Residents shall be encouraged to leave their rooms and make use of the recreational room or living room of the facility. (III)

58.16(6) Residents shall not be required to pass through another's bedroom to reach a bathroom, living room, dining room, corridor, or other common areas of the facility. (III)

58.16(7) Rescinded, effective 7/14/82.

58.16(8) Uncontrollable residents shall be transferred or discharged from the facility in accordance with contract arrangements and requirements of Iowa Code chapter 135C. (II, III)

58.16(9) Except for those who request differently, residents who are not bedfast shall be fully dressed each day to maintain self-esteem and promote the residents' normal lifestyles. (III)

58.16(10) Residents shall receive a bath of their choice, based on the facility's accommodations, as needed to maintain proper hygiene. (II, III)

481—58.17 Rescinded, effective 7/14/82.

481—58.18(135C) Nursing care.

58.18(1) Individual health care plans shall be based on resident treatment decisions, the nature of the illness or disability, treatment, and care prescribed. Goals shall be developed by each discipline providing service, treatment, and care. These plans shall be in writing, revised as necessary, and kept current. They shall be made available to all those rendering the services and for review by the department. (III)

58.18(2) Rescinded IAB 4/2/14, effective 5/7/14.

58.18(3) The facility shall provide resident and family education as an integral part of restorative and supportive care. (III)

58.18(4) The facility shall provide prompt response from qualified staff for the resident's use of the nurse call system. (II, III) (Prompt response being considered as no longer than 15 minutes.)

[**ARC 1398C**, IAB 4/2/14, effective 5/7/14]

481—58.19(135C) Required nursing services for residents. The resident shall receive and the facility shall provide, as appropriate, the following required nursing services under the 24-hour direction of qualified nurses with ancillary coverage as set forth in these rules:

58.19(1) *Activities of daily living.*

a. Bathing; (II, III)

b. Daily oral hygiene (denture care); (II, III)

c. Routine shampoo; (II, III)

d. Nail care; (III)

e. Shaving; (III)

f. Daily care and application of prostheses (glasses, hearing aids, glass eyes, limb prosthetics, braces, or other assistive devices); (II, III)

g. Ambulation with equipment if applicable, or transferring, or positioning; (I, II, III)

h. Daily routine range of motion; (II, III)

i. Mobility (assistance with wheelchair, mechanical lift, or other means of locomotion); (I, II, III)

j. Elimination.

(1) Assistance to and from the bathroom and perineal care; (II, III)

(2) Bedpan assistance; (II, III)

(3) Care for incontinent residents; (II, III)

(4) Bowel and bladder training programs including in-dwelling catheter care (i.e., insertion and irrigation), enema and suppository administration, and monitoring and recording of intake and output, including solid waste; (I, II, III)

k. Colostomy care (to be performed only by a registered nurse or licensed practical nurse or by a qualified aide under the direction of a registered nurse or licensed practical nurse); (I, II, III)

l. Ileostomy care (to be performed only by a registered nurse or licensed practical nurse or by a qualified aide under the direction of a registered nurse or licensed practical nurse); (I, II, III)

m. All linens necessary; (III)

n. Nutrition and meal service.

(1) Regular, therapeutic, modified diets, and snacks; (I, II, III)

(2) Mealtime preparation of resident; (II, III)

(3) Assistance to and from meals; (II, III)

(4) In-room meal service or tray service; (II, III)

(5) Assistance with food preparation and meal assistance including total assistance if needed; (II, III)

(6) Assistance with adaptive devices; (II, III)

(7) Enteral nutrition (to be performed by a registered nurse or licensed practical nurse only); (I, II, III)

o. Promote initiation of self-care for elements of resident care; (II, III)

p. Oral suctioning (to be performed only by a registered nurse or licensed practical nurse or by a qualified aide under the direction of a registered nurse or licensed practical nurse). (I, II)

58.19(2) *Medication and treatment.*

a. Administration of all medications as ordered by the physician including oral, instillations, topical, injectable (to be injected by a registered nurse or licensed practical nurse only); (I, II)

b. Provision of the appropriate care and treatment of wounds, including pressure sores, to promote healing, prevent infection, and prevent new sores from developing; (I, II)

c. Blood glucose monitoring; (I, II)

d. Vital signs, blood pressure, and weights; (I, II)

e. Ambulation and transfer; (II, III)

f. Provision of restraints; (I, II)

g. Administration of oxygen (to be performed only by a registered nurse or licensed practical nurse or by a qualified aide under the direction of a registered nurse or licensed practical nurse); (I, II)

h. Provision of all treatments; (I, II, III)

i. Provision of emergency medical care, including arranging for transportation, in accordance with written policies and procedures of the facility; (I, II, III)

j. Provision of accurate assessment and timely intervention for all residents who have an onset of adverse symptoms which represent a change in mental, emotional, or physical condition. (I, II, III)

[**ARC 1398C**, IAB 4/2/14, effective 5/7/14]

481—58.20(135C) Duties of health service supervisor. Every nursing facility shall have a health service supervisor who shall:

58.20(1) Direct the implementation of the physician's orders; (I, II)

58.20(2) Plan for and direct the nursing care, services, treatments, procedures, and other services in order that each resident's needs and choices, where practicable, are met; (II, III)

58.20(3) Review the health care needs and choices, where practicable, of each resident admitted to the facility and assist the attending physician in planning for the resident's care; (II, III)

58.20(4) Develop and implement a written health care plan in cooperation with, to the extent practicable, the resident, the resident's family or the resident's legal representative, and others in accordance with instructions of the attending physician as follows:

a. The written health care plan, based on the assessment and reassessment of the resident's health needs and choices, where practicable, is personalized for the individual resident and indicates care to be given, goals to be accomplished, and methods, approaches, and modifications necessary to achieve best results; (III)

b. The health service supervisor is responsible for preparing, reviewing, supervising the implementation, and revising the written health care plan; (III)

c. The health care plan is readily available for use by all personnel caring for the resident; (III)

58.20(5) Initiate preventative and restorative nursing procedures for each resident so as to achieve and maintain the highest possible degree of function, self-care, and independence based on resident choice, where practicable; (II, III)

58.20(6) Supervise health services personnel to ensure they perform the following restorative measures in their daily care of residents:

a. Maintaining good bodily alignment and proper positioning; (II, III)

b. Making every effort to keep the resident active except when contraindicated by physician's orders, and encouraging residents to achieve independence in activities of daily living by teaching self-care, transfer, and ambulation activities; (III)

c. Assisting residents to adjust to their disabilities, to use their prosthetic devices, and to redirect their interests as necessary; (III)

d. Assisting residents to carry out prescribed therapy exercises between visits of the therapist; (III)

e. Assisting residents with routine range of motion exercises; (III)

58.20(7) Plan and conduct nursing staff orientation and in-service programs and provide for training of nurse's aides; (III)

58.20(8) Plan with the resident and the resident's physician and family and health-related agencies for the care of the resident upon discharge; (III)

58.20(9) Designate a responsible person to be in charge during absences; (III)

58.20(10) Be responsible for all assignments and work schedules for all health services personnel to ensure that the health needs of the residents are met; (III)

58.20(11) Ensure that all nurse's notes are descriptive of the care rendered including the resident's response; (III)

58.20(12) Visit each resident routinely to be knowledgeable of the resident's current condition; (III)

58.20(13) Evaluate in writing the performance of each individual on the health care staff on at least an annual basis. This evaluation shall be available for review in the facility to the department; (III)

58.20(14) Keep the administrator informed of the resident's status; (III)

58.20(15) Teach and coordinate rehabilitative health care including activities of daily living, promotion and maintenance of optimal physical and mental functioning; (III)

58.20(16) Supervise serving of meals to ensure that individuals unable to assist themselves are promptly fed and that special eating adaptive devices are available as needed; (II, III)

58.20(17) Make available a nursing procedure manual which shall include all procedures practiced in the facility; (III)

58.20(18) Participate with the administrator in the formulation of written policies and procedures for resident services; (III)

58.20(19) The person in charge shall immediately notify the family of any accident, injury, or adverse change in the resident's condition requiring physician's notification. (III)

481—58.21(135C) Drugs, storage, and handling.

58.21(1) Drug storage for residents who are unable to take their own medications and require supervision shall meet the following requirements:

a. A cabinet with a lock, convenient to nursing service, shall be provided and used for storage of all drugs, solutions, and prescriptions; (III)

b. The drug storage cabinet shall be kept locked when not in use; (III)

c. The medication cabinet key shall be in the possession of the person directly responsible for issuing medications; (II, III)

d. Double-locked storage of Schedule II drugs shall not be required under single unit package drug distribution systems in which the quantity stored does not exceed a three-day supply and a missing dose can be readily detected. (II)

58.21(2) Drugs for external use shall be stored separately from drugs for internal use. (III)

58.21(3) Medications requiring refrigeration shall be kept in a refrigerator and separated from food and other items. A method for locking these medications shall be provided. (III)

58.21(4) All potent, poisonous, or caustic materials shall be stored separately from drugs. They shall be plainly labeled and stored in a specific, well-illuminated cabinet, closet, or storeroom and made accessible only to authorized persons. (I, II)

58.21(5) All flammable materials shall be specially stored and handled in accordance with applicable local and state fire regulations. (II)

58.21(6) A properly trained person shall be charged with the responsibility of administering nonparenteral medications.

a. The individual shall have knowledge of the purpose of the drugs, their dangers, and contraindications.

b. This person shall be a licensed nurse or physician or shall have successfully completed a department-approved medication aide course or passed a department-approved medication aide challenge examination administered by an area community college.

c. Prior to taking a department-approved medication aide course, the individual shall:

(1) Successfully complete an approved nurse aide course, nurse aide training and testing program or nurse aide competency examination.

(2) Be employed in the same facility for at least six consecutive months prior to the start of the medication aide course. This requirement is not subject to waiver.

(3) Have a letter of recommendation for admission to the medication aide course from the employing facility.

d. A person who is a nursing student or a graduate nurse may take the challenge examination in place of taking a medication aide course. This individual shall do all of the following before taking the medication aide challenge examination:

(1) Complete a clinical or nursing theory course within six months before taking the challenge examination;

(2) Successfully complete a nursing program pharmacology course within one year before taking the challenge examination;

(3) Provide to the community college a written statement from the nursing program's pharmacology or clinical instructor indicating the individual is competent in medication administration.

(4) Successfully complete a department-approved nurse aide competency evaluation.

e. A person who has written documentation of certification as a medication aide in another state may become a medication aide in Iowa by successfully completing a department-approved nurse aide competency examination and a medication aide challenge examination.

The requirements of paragraph *"c"* of this subrule do not apply to this individual.

58.21(7) Unless the unit dose system is used, the person assigned the responsibility of medication administration must complete the procedure by personally preparing the dose, observing the actual act of swallowing the oral medication, and charting the medication. (II) In facilities where the unit dose system is used, the person assigned the responsibility must complete the procedure by observing the actual act of swallowing the medication and charting the medication. Medications shall be prepared on the same shift of the same day that they are administered, (II) unless the unit dose system is used.

58.21(8) An accurate written record of medications administered shall be made by the individual administering the medication. (III)

58.21(9) Records shall be kept of all Schedule II drug medications received and dispensed in accordance with the controlled drug and substance Act. (III)

58.21(10) Any unusual resident reaction shall be reported to the physician at once. (II)

58.21(11) A policy shall be established by the facility in conjunction with a licensed pharmacist to govern the distribution of prescribed medications to residents who are on leave from the facility. (III)

a. Medication may be issued to residents who will be on leave from a facility for less than 24 hours. Notwithstanding the prohibition against paper envelopes in 58.21(14)*"a,"* non-child-resistant containers may be used. Each container may hold only one medication. A label on each container shall indicate the date, the resident's name, the facility, the medication, its strength, dose, and time of administration.

b. Medication for residents on leave from a facility longer than 24 hours shall be obtained in accordance with requirements established by the Iowa board of pharmacy examiners.

c. Medication distributed as above may be issued only by a nurse responsible for administering medication. (I, II, III)

58.21(12) Emergency medications. A nursing facility shall provide emergency medications pursuant to the following requirements: (III)

a. Prescription drugs as well as nonprescription items must be prescribed or approved by the physician, in consultation with the pharmacist, who provides emergency service to the facility; (III)

b. The emergency medications shall be stored in an accessible place; (III)

c. A list of the emergency medications and quantities of each item shall be maintained by the facility; (III)

d. The container holding the emergency medications shall be closed with a seal which may be broken when drugs are required in an emergency or for inspection; (III)

e. Any item removed from the emergency medications shall be replaced within 48 hours; (III)

f. A permanent record shall be kept of each time the emergency medications are used; (III)

g. The emergency medications shall be inspected by a pharmacist at least once every three months to determine the stability of items. (III)

58.21(13) Drug handling.

a. Bulk supplies of prescription drugs shall not be kept in a nursing facility unless a licensed pharmacy is established in the facility under the direct supervision and control of a pharmacist. (III)

b. Inspection of drug storage condition shall be made by the health service supervisor and a registered pharmacist not less than once every three months. The inspection shall be verified by a report signed by the nurse and pharmacist and filed with the administrator. The report shall include, but not be limited to, certifying absence of the following: expired drugs, deteriorated drugs, improper labeling, drugs for which there is no current physician's order, and drugs improperly stored. (III)

c. If the facility permits licensed nurses to dilute or reconstitute drugs at the nursing station, distinctive supplementary labels shall be available for the purpose. The notation on the label shall be so made as to be indelible. (III)

d. Dilution and reconstitution of drugs and their labeling shall be done by the pharmacist whenever possible. If not possible, the following shall be carried out only by the licensed nurse:

(1) Specific directions for dilution or reconstitution and expiration date should accompany the drug; (III)

(2) A distinctive supplementary label shall be affixed to the drug container when diluted or reconstituted by the nurse for other than immediate use. (III) The label shall bear the following: resident's name, dosage and strength per unit/volume, nurse's name, expiration date, and date and time of dilution. (III)

58.21(14) Drug safeguards.

a. All prescribed medications shall be clearly labeled indicating the resident's full name, physician's name, prescription number, name and strength of drug, dosage, directions for use, date of issue, and name and address and telephone number of pharmacy or physician issuing the drug. Where unit dose is used, prescribed medications shall, as a minimum, indicate the resident's full name, physician's name, name and strength of drug, and directions for use. Standard containers shall be utilized for dispensing drugs. Paper envelopes shall not be considered standard containers. (III)

b. Medication containers having soiled, damaged, illegible or makeshift labels, or medication samples shall be returned to the issuing pharmacist, pharmacy, or physician for relabeling or disposal. (III)

c. There shall be no medications or any solution in unlabeled containers. (II, III)

d. The medications of each resident shall be kept or stored in the originally received containers. (II, III)

e. Labels on containers shall be clearly legible and firmly affixed. No label shall be superimposed on another label of a drug container. (II, III)

f. When a resident is discharged or leaves the facility, the unused prescription shall be sent with the resident or with a legal representative only upon the written order of a physician. (III)

g. Unused prescription drugs prescribed for residents who are deceased shall be returned to the supplying pharmacist. (III)

h. Prescriptions shall be refilled only with the permission of the attending physician. (II, III)

i. No medications prescribed for one resident may be administered to or allowed in the possession of another resident. (II)

j. Instructions shall be requested of the Iowa board of pharmacy examiners concerning disposal of unused Schedule II drugs prescribed for residents who have died or for whom the Schedule II drug was discontinued. (III)

k. There shall be a formal routine for the proper disposal of discontinued medications within a reasonable but specified time. These medications shall not be retained with the resident's current medications. Discontinued drugs shall be destroyed by the responsible nurse with a witness and a notation made to that effect or returned to the pharmacist for destruction or resident credit. Drugs listed under the Schedule II drugs shall be disposed of in accordance with the provisions of the Iowa board of pharmacy examiners. (II, III)

l. All medication orders which do not specifically indicate the number of doses to be administered or the length of time the drug is to be administered shall be stopped automatically after a given time period. The automatic stop order may vary for different types of drugs. The physician, in consultation with the pharmacist serving the home, shall institute policies and provide procedures for review and endorsement of stop orders on drugs. This policy shall be conveniently located for personnel administering medications. (II, III)

m. No resident shall be allowed to keep possession of any medications unless the attending physician has certified in writing on the resident's medical record that the resident is mentally and physically capable of doing so. (II)

n. Residents who have been certified in writing by the physician as capable of taking their own medications may retain these medications in their bedroom, but locked storage must be provided. (II)

o. No medications or prescription drugs shall be administered to a resident without a written order signed by the attending physician. (II)

p. A qualified nurse shall:

(1) Establish a medication schedule system which identifies the time and dosage of each medication prescribed for each resident, is based on the resident's desired routine, and is approved by the resident's physician. (II, III)

(2) Establish a medication record containing the information specified above needed to monitor each resident's drug regimen. (II, III)

q. Telephone orders shall be taken by a qualified nurse. Orders shall be written into the resident's record and signed by the person receiving the order. Telephone orders shall be submitted to the physician for signature within 48 hours. (III)

r. A pharmacy operating in connection with a nursing facility shall comply with the provisions of the pharmacy law requiring registration of pharmacies and the regulations of the Iowa board of pharmacy examiners. (III)

s. In a nursing facility with a pharmacy or drug supply, service shall be under the personal supervision of a pharmacist licensed to practice in the state of Iowa. (III)

58.21(15) Drug administration.

a. Injectable medications shall be administered as permitted by Iowa law by a qualified nurse, physician, pharmacist, or physician assistant (PA). In the case of a resident who has been certified by the resident's physician or physician assistant (PA) as capable of taking the resident's own insulin, the resident may inject the resident's own insulin. (II)

b. An individual inventory record shall be maintained for each Schedule II drug prescribed for each resident. (II)

c. The health service supervisor shall be responsible for the supervision and direction of all personnel administering medications. (II)

[**ARC 1050C**, IAB 10/2/13, effective 11/6/13]

481—58.22(135C) Rehabilitative services. Rehabilitative services shall be provided to maintain function or improve the resident's ability to carry out the activities of daily living.

58.22(1) *Physical therapy services.*

a. Each facility shall have a written agreement with a licensed physical therapist to provide physical therapy services. (III)

b. Physical therapy shall be rendered only by a physical therapist licensed to practice in the state of Iowa. All personnel assisting with the physical therapy of residents must be under the direction of a licensed physical therapist. (II, III)

c. The licensed physical therapist shall:

(1) Evaluate the resident and prepare a physical therapy treatment plan conforming to the medical orders and goals; (III)

(2) Consult with other personnel in the facility who are providing resident care and plan with them for the integration of a physical therapy treatment program into the overall health care plan; (III)

(3) Instruct the nursing personnel responsible for administering selected restorative procedures between treatments; (III)

(4) Present programs in the facility's in-service education programs. (III)

d. Treatment records in the resident's medical chart shall include:

(1) The physician's prescription for treatment; (III)

(2) An initial evaluation note by the physical therapist; (III)

(3) The physical therapy care plan defining clearly the long-term and short-term goals and outlining the current treatment program; (III)

(4) Notes of the treatments given and changes in the resident's condition; (III)

(5) A complete discharge summary to include recommendations for nursing staff and family. (III)

e. There shall be adequate facilities, space, appropriate equipment, and storage areas as are essential to the treatment or examinations of residents. (III)

58.22(2) *Other rehabilitative services.*

a. The facility shall arrange for specialized and supportive rehabilitative services when such services are ordered by a physician. (III) These may include audiology and occupational therapy.

b. Audiology services shall be under the direction of a person licensed in the state of Iowa by the board of speech pathology and audiology. (II, III)

c. Occupational therapy services shall be under the direction of a qualified occupational therapist who is currently registered by the American Occupational Therapy Association. (II, III)

d. The appropriate professional shall:

(1) Develop the treatment plan and administer or direct treatment in accordance with the physician's prescription and rehabilitation goals; (III)

(2) Consult with other personnel within the facility who are providing resident care and plan with them for the integration of a treatment program into the overall health care plan. (III)

481—58.23(135C) Dental, diagnostic, and other services.

58.23(1) *Dental services.*

a. The nursing facility personnel shall assist residents to obtain regular and emergency dental services. (III)

b. Transportation arrangements shall be made when necessary for the resident to be transported to the dentist's office. (III)

c. Dental services shall be performed only on the request of the resident, responsible relative, or legal representative. The resident's physician shall be advised of the resident's dental problems. (III)

d. All dental reports or progress notes shall be included in the clinical record. (III)

e. Nursing personnel shall assist the resident in carrying out dentist's recommendations. (III)

f. Dentists shall be asked to participate in the in-service program of the facility. (III)

58.23(2) *Diagnostic services.*

a. The nursing facility shall make provisions for promptly securing required clinical laboratory, X-ray, and other diagnostic services. (III)

b. All diagnostic services shall be provided only on the written, signed order of a physician. (III)

c. Agreements shall be made with the local hospital laboratory or independent laboratory to perform specific diagnostic tests when they are required. (III)

d. Transportation arrangements for residents shall be made, when necessary, to and from the source of service. (III)

e. Copies of all diagnostic reports shall be requested by the facility and included in the resident's clinical record. (III)

f. The physician ordering the specific diagnostic service shall be promptly notified of the results. (III)

g. Simple tests such as customarily done by nursing personnel for diabetic residents may be performed in the facility. (III)

58.23(3) *Other services.*

a. The nursing facility shall assist residents to obtain such supportive services as requested by the physician. (III)

b. Transportation arrangements shall be made when necessary. (III)

c. Services could include the need for prosthetic devices, glasses, hearing aids, and other necessary items. (III)

481—58.24(135C) Dietary.

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

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

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

58.24(2) *Dietary staffing.*

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

(1) Is a qualified dietitian as defined in 58.24(2)*"e"*; or

(2) Is a graduate of a dietetic technician training program approved by the American Dietetic Association; or

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

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

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

(6) Has completed or is in the final 90-hour training course approved by the department. (II, III)

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

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

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

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

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

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

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

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

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

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

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

(2) Washing and sanitizing dishes, pots, pans and equipment at temperatures required by procedures described elsewhere; (II, III)

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

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

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

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

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

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

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

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

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

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

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

58.24(3) *Nutrition and menu planning.*

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

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

c. At least three meals or their equivalent shall be served daily, at regular hours comparable to normal mealtimes in the community. (II)

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

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

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

d. Menus shall include a variety of foods prepared in various ways. The same menu shall not be repeated on the same day of the following week. (III)

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

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

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

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

58.24(4) *Therapeutic diets.*

a. Therapeutic diets shall be prescribed by the attending physician. A current therapeutic diet manual shall be readily available to attending physicians, nurses and dietetic service personnel. This manual shall be used as a guide for writing menus for therapeutic diets. A licensed dietitian shall be responsible for writing and approving the therapeutic menu and reviewing procedures for preparation and service of food. (III)

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

58.24(5) *Food preparation and service.*

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

b. Foods shall be attractively served. (III)

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

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

e. Table service shall be attractive. (III)

f. Plasticware, china and glassware that are unsightly, unsanitary or hazardous because of chips, cracks or loss of glaze shall be discarded. (III)

g. All food that is transported through public corridors shall be covered. (III)

h. All potentially hazardous food or beverages capable of supporting rapid and progressive growth of microorganisms that can cause food infections or food intoxication shall be maintained at temperatures of 41°F or below or at 140°F or above at all times, except during necessary periods of preparation. Frozen food shall be maintained frozen. (I, II, III)

i. Potentially hazardous food that is cooked, cooled and reheated for hot holding shall be reheated so that all parts of the food reach a temperature of at least 165°F for 15 seconds. (I, II, III)

j. Food must be reheated to 165°F within no more than two hours after the heating process begins. (I, II, III)

k. Cooked potentially hazardous food shall be cooled:

(1) Within two hours, from 140°F to 70°F; and

(2) Within four hours, from 70°F to 41°F or less. (I, II, III)

58.24(6) *Dietary ordering, receiving, and storage.*

a. All food and beverages shall be of wholesome quality and procured from sources approved or considered satisfactory by federal, state and local authorities. Food or beverages from unlabeled, rusty, leaking, broken or damaged containers shall not be served. (I, II, III)

b. A minimum of at least a one-week supply of staple foods and a three-day supply of perishable foods shall be maintained on the premises to meet the planned menu needs until the next food delivery. Supplies shall be appropriate to meet the requirements of the menu. (III)

c. All milk shall be pasteurized. (III)

d. Milk may be served in individual, single-use containers. Milk may be served from refrigerated bulk milk dispensers or from the original container. Milk served from a refrigerated bulk milk dispenser shall be dispensed directly into the glass or other container from which the resident drinks. (II, III)

e. Records which show amount and kind of food purchased shall be retained for three months and shall be made available to the department upon request. (III)

f. Dry or staple items shall be stored at least six inches (15 cm) above the floor in a ventilated room, not subject to sewage or wastewater backflow, and protected from condensation, leakage, rodents or vermin in accordance with the Food Code, 1999 edition. (III)

g. Pesticides, other toxic substances and drugs shall not be stored in the food preparation or storage areas used for food or food preparation equipment and utensils. Soaps, detergents, cleaning compounds or similar substances shall not be stored in food storage rooms or areas. (II)

h. Food storage areas shall be clean at all times. (III)

i. There shall be a reliable thermometer in each refrigerator, freezer and in storerooms used for food. (III)

j. Foods held in refrigerated or other storage areas shall be appropriately covered. Food that was prepared and not served shall be stored appropriately, clearly identifiable and dated. (III)

58.24(7) *Sanitation in food preparation area.*

a. Unless otherwise indicated in this chapter or 481—Chapter 61, the sanitary provisions as indicated in Chapters 3, 4 and 7 of the 1999 Food Code, U.S. Public Health Service, Food and Drug Administration, Washington, DC 20204, shall apply.

b. Residents may be allowed in the food preparation area. (III)

c. The food preparation area may be used as a dining area for residents, staff or food service personnel. (III)

d. All food service areas shall be kept clean, free from litter and rubbish, and protected from rodents, animals, roaches, flies and other insects. (II, III)

e. All utensils, counters, shelves and equipment shall be kept clean, maintained in good repair, and shall be free from breaks, corrosion, cracks and chipped areas. (II, III)

f. There shall be effective written procedures established for cleaning all work and serving areas. (III)

g. A schedule of cleaning duties to be performed daily shall be posted. (III)

h. An exhaust system and hood shall be clean, operational and maintained in good repair. (III)

i. Spillage and breakage shall be cleaned up immediately and disposed of in a sanitary manner. (III)

j. Wastes from the food service that are not disposed of by mechanical means shall be kept in leakproof, nonabsorbent, tightly closed containers when not in immediate use and shall be disposed of frequently. (III)

k. The food service area shall be located so it will not be used as a passageway by residents, guests or non-food service staff. (III)

l. The walls, ceilings and floors of all rooms in which food is prepared and served shall be in good repair, smooth, washable, and shall be kept clean. Walls and floors in wet areas should be moisture-resistant. (III)

m. Ice shall be stored and handled in such a manner as to prevent contamination. Ice scoops should be sanitized daily and kept in a clean container. (III)

n. There shall be no animals or birds in the food preparation area. (III)

o. All utensils used for eating, drinking, and preparing and serving food and drink shall be cleaned and disinfected or discarded after each use. (III)

p. If utensils are washed and rinsed in an automatic dishmachine, one of the following methods shall be used:

(1) When a conventional dishmachine is utilized, the utensils shall be washed in a minimum of 140°F using soap or detergent and sanitized in a hot water rinse of not less than 170°F. (II, III)

(2) When a chemical dishmachine is utilized, the utensils shall be washed in a minimum of 120°F using soap or detergent and sanitized using a chemical sanitizer that is automatically dispensed by the machine and is in a concentration equivalent to 50 parts per million (ppm) available chloride. (II, III)

q. If utensils are washed and rinsed in a three-compartment sink, the utensils shall be thoroughly washed in hot water at a minimum temperature of 110°F using soap or detergent, rinsed in hot water to remove soap or detergent, and sanitized by one of the following methods:

(1) Immersion for at least 30 seconds in clean water at 180°F; (II, III)

(2) Immersion in water containing bactericidal chemical at a minimum concentration as recommended by the manufacturer. (II, III)

r. After sanitation, the utensils shall be allowed to drain and dry in racks or baskets on nonabsorbent surfaces. Drying cloths shall not be used. (III)

s. Procedures for washing and handling dishes shall be followed in order to protect the welfare of the residents and employees. Persons handling dirty dishes shall not handle clean dishes without first washing their hands. (III)

t. A mop and mop pail shall be provided for exclusive use in kitchen and food storage areas. (III)

58.24(8) *Hygiene of food service personnel.*

a. Personnel, if involved in dietetic services, shall be trained in basic food sanitation techniques, shall be clean and wear clean clothing, including a cap or a hairnet sufficient to contain, cover and restrain hair. Beards, mustaches and sideburns that are not closely cropped and neatly trimmed shall be covered. (III)

b. Personnel shall be excluded from duty when affected by skin infections or communicable diseases in accordance with the facility's infection control policies. (II, III)

c. Employee street clothing stored in the food service area shall be in a closed area. (III)

d. Food preparation sinks shall not be used for hand washing. Separate hand-washing facilities with soap, hot and cold running water, and single-use towels shall be used properly. (II, III)

e. The use of tobacco shall be prohibited in the food preparation area. (III)

58.24(9) *Paid nutritional assistants.* A paid nutritional assistant means an individual who meets the requirements of this subrule and who is an employee of the facility or an employee of a temporary employment agency employed by the facility. A facility may use an individual working in the facility as a paid nutritional assistant only if that individual has successfully completed a state-approved training program for paid nutritional assistants. (I, II, III)

a. *Training program requirements.*

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

1. Feeding techniques.
2. Assistance with feeding and hydration.
3. Communication and interpersonal skills.
4. Appropriate responses to resident behavior.

5. Safety and emergency procedures, including the Heimlich maneuver.
6. Infection control.
7. Resident rights.
8. Recognizing changes in residents that are inconsistent with their normal behavior and reporting these changes to the supervisory nurse.

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

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

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

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

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

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

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

1. Policies and procedures for program administration.
2. Qualifications of the instructors.
3. Maintenance of program records, including attendance records.
4. Criteria for determining competency.
5. Program costs and refund policies.
6. Lesson plans, including the objectives to be taught, skills demonstrations, assignments, quizzes, and classroom, laboratory and clinical hours.

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

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

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

c. *Working restrictions.*

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

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

481—58.25(135C) Social services program.

58.25(1) The administrator or designee shall be responsible for developing a written, organized orientation program for all residents. (III)

58.25(2) The program shall be planned and implemented to resolve or reduce personal, family, business, and emotional problems that may interfere with the medical or health care, recovery, and rehabilitation of the individual. (III)

58.25(3) The social services plan, including specific goals and regular evaluation of progress, shall be incorporated into the overall plan of care. (III)

481—58.26(135C) Resident activities program.

58.26(1) *Organized activities.* Each nursing facility shall provide an organized resident activity program for the group and for the individual resident which shall include suitable activities for evenings and weekends. (III)

a. The activity program shall be designed to meet the needs and interests of each resident and to assist residents in continuing normal activities within limitations set by the resident's physician. This shall include helping residents continue in their individual interests or hobbies. (III)

b. The program shall include individual goals for each resident. (III)

c. The program shall include both group and individual activities. (III)

d. No resident shall be forced to participate in the activity program. (III)

e. The activity program shall include suitable activities for those residents unable to leave their rooms. (III)

f. The program shall be incorporated into the overall health plan and shall be designed to meet the goals as written in the plan.

58.26(2) *Coordination of activities program.*

a. Each nursing facility shall employ a person to direct the activities program. (III)

[1]*b.* [2]Staffing for the activity program shall be provided on the minimum basis of 35 minutes per licensed bed per week. (II, III)

c. The activity coordinator shall have completed the activity coordinators' orientation course offered through the department within six months of employment or have comparable training and experience as approved by the department. (III)

d. The activity coordinator shall attend workshops or educational programs which relate to activity programming. These shall total a minimum of ten contact hours per year. These programs shall be approved by the department. (III)

e. There shall be a written plan for personnel coverage when the activity coordinator is absent during scheduled working hours. (III)

58.26(3) *Duties of activity coordinator.* The activity coordinator shall:

a. Have access to all residents' records excluding financial records; (III)

b. Coordinate all activities, including volunteer or auxiliary activities and religious services; (III)

c. Keep all necessary records including:

(1) Attendance; (III)

(2) Individual resident progress notes recorded at regular intervals (at least quarterly). A copy of these notes shall be placed in the resident's clinical record; (III)

(3) Monthly calendars, prepared in advance. (III)

d. Coordinate the activity program with all other services in the facility; (III)

e. Participate in the in-service training program in the facility. This shall include attending as well as presenting sessions. (III)

58.26(4) *Supplies, equipment, and storage.*

a. Each facility shall provide a variety of supplies and equipment of a nature calculated to fit the needs and interests of the residents. (III) These may include: books (standard and large print), magazines, newspapers, radio, television, and bulletin boards. Also appropriate would be box games, game equipment, songbooks, cards, craft supplies, record player, movie projector, piano, outdoor equipment, etc.

b. Storage shall be provided for recreational equipment and supplies. (III)

c. Locked storage should be available for potentially dangerous items such as scissors, knives, and toxic materials. (III)

[1] Emergency, pursuant to Iowa Code section 17A.5(2)*"b"*(2).

[2] Objection filed 2/14/79; see Objection following 481—Ch 57.

481—58.27(135C) Certified volunteer long-term care ombudsman program. A certified volunteer long-term care ombudsman appointed in accordance with Iowa Code section 231.45 as amended by 2013 Iowa Acts, Senate File 184, shall operate within the scope of the rules for volunteer ombudsmen promulgated by the office of long-term care ombudsman and Iowa department on aging.
[**ARC 1205C**, IAB 12/11/13, effective 1/15/14]

481—58.28(135C) Safety. The licensee of a nursing facility shall be responsible for the provision and maintenance of a safe environment for residents and personnel. (III)

58.28(1) *Fire safety.*

a. All nursing facilities shall meet the fire safety rules and regulations as promulgated by the state fire marshal. (I, II)

b. The size of the facility and needs of the residents shall be taken into consideration in evaluating safety precautions and practices.

58.28(2) *Safety duties of administrator.* The administrator shall have a written emergency plan to be followed in the event of fire, tornado, explosion, or other emergency. (III)

a. The plan shall be posted. (III)

b. In-service shall be provided to ensure that all employees are knowledgeable of the emergency plan. (III)

58.28(3) *Resident safety.*

a. Residents shall be permitted to smoke only where proper facilities are provided. Smoking shall not be permitted in bedrooms. Smoking by residents considered to be careless shall be prohibited except when the resident is under direct supervision. (II, III)

b. Smoking is prohibited in all rooms where oxygen is being administered or in rooms where oxygen is stored. (II, III)

c. Whenever full or empty tanks of oxygen are being used or stored, they shall be securely supported in an upright position. (II, III)

d. Smoking shall be permitted only in posted areas. (II, III)

e. Each resident shall receive adequate supervision to protect against hazards from self, others, or elements in the environment. (I, II, III)

f. Residents shall be protected against physical or environmental hazards to themselves. (I, II, III)
[**ARC 1398C**, IAB 4/2/14, effective 5/7/14]

481—58.29(135C) Resident care.

58.29(1) There shall be a readily available supply of self-help and ambulation devices such as wheelchairs, walkers, and such other devices maintained in good repair that will meet the current needs of all residents. (III)

58.29(2) The facility shall ensure that each ambulatory resident has well-fitting shoes to provide support and prevent slipping. (III)

58.29(3) Equipment for personal care shall be maintained in a safe and sanitary condition. (II, III)

58.29(4) The expiration date for sterile equipment shall be exhibited on its wrappings. (III)

58.29(5) Residents who have been known to wander shall be provided with appropriate means of identification. (II, III)

58.29(6) Electric heating pads, blankets, or sheets shall be used only on the written order of a physician, when allowed by the Life Safety Code or applicable state or local fire regulations. (II, III)

481—58.30 Rescinded, effective 7/14/82.

481—58.31(135C) Housekeeping.

58.31(1) Written procedures shall be established and implemented for daily and weekly cleaning schedules. (III)

58.31(2) Each resident unit shall be cleaned on a routine schedule. (III)

58.31(3) All rooms, corridors, storage areas, linen closets, attics, and basements shall be kept in a clean, orderly condition, free of unserviceable furniture and equipment and accumulations of refuse. (III)

58.31(4) A hallway or corridor shall not be used for storage of equipment. (III)

58.31(5) All odors shall be kept under control by cleanliness and proper ventilation. (III)

58.31(6) Clothing worn by personnel shall be clean and washable. (III)

58.31(7) Housekeeping and maintenance personnel shall be provided with well-constructed and properly maintained equipment appropriate to the function for which it is to be used. (III)

58.31(8) All furniture, bedding, linens, and equipment shall be cleaned periodically and before use by another resident. (III)

58.31(9) Polishes used on floors shall provide a nonslip finish. (III)

58.31(10) *Throw or scatter rugs shall not be permitted. (III)

*Objection. For text of Objection, see IAC Supp., Part I, 9/7/77. For text of Filed rules, 470—Chapter 58, see IAC Supp. 10/5/77.

58.31(11) Entrances, exits, steps, and outside walkways shall be kept free from ice, snow, and other hazards. (II, III)

58.31(12) Residents shall not have access to storage areas for all cleaning agents, bleaches, insecticides, or any other poisonous, dangerous, or flammable materials. (II, III)

58.31(13) Sufficient numbers of noncombustible trash containers, which have covers, shall be available. (III)

58.31(14) Definite procedures shall be established for training housekeeping personnel. (III)

58.31(15) Rescinded IAB 12/6/06, effective 1/10/07.

58.31(16) There shall be provisions for the cleaning and storage of housekeeping equipment and supplies for each nursing unit. (III)

58.31(17) Bathtubs, shower stalls, or lavatories shall not be used for laundering, cleaning of utensils and mops, or for storage. (III)

58.31(18) Bedside utensils shall be stored in enclosed cabinets. (III)

58.31(19) Kitchen sinks shall not be used for the cleaning of mops, soaking of laundry, cleaning of bedside utensils, nursing utensils, or dumping of wastewater. (III)

58.31(20) Personal possessions of residents which may constitute hazards to themselves or others shall be removed and stored. (III)

481—58.32(135C) Maintenance.

58.32(1) Each facility shall establish a maintenance program in writing to ensure the continued maintenance of the facility, to promote good housekeeping procedures, and to ensure sanitary practices throughout the facility. (III)

58.32(2) The building, grounds, and other buildings shall be maintained in a clean, orderly condition and in good repair. (III)

58.32(3) Draperies and furniture shall be clean and in good repair. (III)

58.32(4) Cracks in plaster, peeling wallpaper or paint, and tears or splits in floor coverings shall be promptly repaired or replaced in a professional manner. (III)

58.32(5) The electrical systems, including appliances, cords, and switches, shall be maintained to guarantee safe functioning and comply with the national electrical code. (III)

58.32(6) All plumbing fixtures shall function properly and comply with the state plumbing code. (III)

58.32(7) Yearly inspections of the heating and cooling systems shall be made to guarantee safe operation. Documentation of these inspections shall be available for review. (III)

58.32(8) The building, grounds, and other buildings shall be kept free of breeding areas for flies, other insects, and rodents. (III)

58.32(9) The facility shall be kept free of flies, other insects, and rodents. (III)

58.32(10) Maintenance personnel.

a. A written program shall be established for the orientation of maintenance personnel. (III)

b. Maintenance personnel shall:

(1) Follow established written maintenance programs; (III)

(2) Be provided with appropriate, well-constructed, and properly maintained equipment. (III)

481—58.33(135C) Laundry.

58.33(1) All soiled linens shall be collected in and transported to the laundry room in closed, leakproof laundry bags or covered, impermeable containers. (III)

58.33(2) Except for related activities, the laundry room shall not be used for other purposes. (III)

58.33(3) Procedures shall be written for the proper handling of wet, soiled, and contaminated linens. (III)

58.33(4) Residents' personal laundry shall be marked with an identification. (III)

58.33(5) Bed linens, towels, and washcloths shall be clean and stain-free. (III)

481—58.34(135C) Garbage and waste disposal.

58.34(1) All garbage shall be gathered, stored, and disposed of in a manner that will not permit transmission of disease, create a nuisance, or provide a breeding or feeding place for vermin or insects. (III)

58.34(2) All containers for refuse shall be watertight, rodent-proof, and have tight-fitting covers. (III)

58.34(3) All containers shall be thoroughly cleaned each time the containers are emptied. (III)

58.34(4) All wastes shall be properly disposed of in compliance with local ordinances and state codes. (III)

58.34(5) Special provision shall be made for the disposal of soiled dressings and similar items in a safe, sanitary manner. (III)

481—58.35(135C) Buildings, furnishings, and equipment.

58.35(1) *Buildings—general requirements.*

a. For purposes of computation of usable floor space in bedrooms and other living areas of the facility, that part of the room having no less than seven feet of ceiling height shall be used. Usable floor space may include irregularities in the rooms such as alcoves and offsets with approval of the department. Usable floor space shall not include space needed for corridor door swings or wardrobes being used as a substitute for closet space. (III)

b. Battery-operated, portable emergency lights in good working condition shall be available at all times, at a ratio of one light per one employee on duty from 6 p.m. to 6 a.m. (III)

c. All windows shall be supplied with curtains and shades or drapes which are kept clean and in good repair. (III)

d. Light fixtures shall be so equipped to prevent glare and to prevent hazards to the residents. (III)

e. Exposed heating pipes, hot water pipes, or radiators in rooms and areas used by residents and within reach of residents shall be covered or protected to prevent injury or burns to residents. (II, III)

f. All fans located within seven feet of the floor shall be protected by screen guards of not more than one-half-inch mesh. (III)

g. Whenever glass sliding doors or transparent panels are used, they shall be marked conspicuously. (III)

h. The facility shall meet the equivalent requirements of the appropriate group occupancy of the state building code. (III)

i. No part of any room shall be enclosed, subdivided, or partitioned unless such part is separately lighted and ventilated and meets such other requirements as its usage and occupancy dictates, except closets used for the storage of residents' clothing. (III)

58.35(2) *Furnishings and equipment.*

a. All furnishings and equipment shall be durable, cleanable, and appropriate to its function and in accordance with the department's approved program of care. (III)

b. All resident areas shall be decorated, painted, and furnished to provide a home-like atmosphere. (III)

c. Upholstery materials shall be moisture- and soil-resistant, except on furniture provided by the resident and the property of the resident. (III)

58.35(3) *Dining and living rooms.*

a. Every facility shall have a dining room and a living room easily accessible to all residents. (III)

b. Dining rooms and living rooms shall at no time be used as bedrooms. (III)

c. Dining rooms and living rooms shall be available for use by residents at appropriate times to provide periods of social and diversional individual and group activities. (III)

d. A combination dining room and living room may be permitted if the space requirements of a multipurpose room as provided in 58.35(3)*"e"* are met. (III)

e. Multipurpose rooms. When space is provided for multipurpose dining and activities and recreational purposes, the area shall total at least 30 square feet per licensed bed for the first 100 beds and 27 square feet per licensed bed for all beds in excess of 100. An open area of sufficient size shall be provided to permit group activities such as religious meetings or presentation of demonstrations or entertainment. (III)

f. Living rooms.

(1) Living rooms shall be maintained for the use of residents and their visitors and may be used for recreational activities. (III)

(2) Living rooms shall be suitably provided with parlor furniture, television and radio receivers in good working order, recreational material such as games, puzzles, and cards, and reading material such as current newspapers and magazines. Furnishings and equipment of the room should be such as to allow group activities. (III)

(3) Card tables or game tables shall be made available. The tables should be of a height to allow a person seated in a wheelchair to partake in the games or card playing. (III)

(4) Chairs of proper height and appropriate to their use shall be provided for seating residents at game tables and card tables. (III)

g. Dining rooms.

(1) Dining rooms shall be furnished with dining tables and chairs appropriate to the size and function of the facility. These rooms and furnishings shall be kept clean and sanitary. (III)

(2) Dining tables and chairs shall be provided. (III)

(3) Dining tables should be so constructed that a person seated in a wheelchair can dine comfortably. (III)

(4) Tables shall be of sturdy construction with smooth, durable, nonpermeable tops that can be cleaned with a detergent sanitizing solution. (III)

(5) Dining chairs shall be sturdy and comfortable. Some arm chairs should be provided for ease of movement for some residents. (III)

(6) Residents shall be encouraged to eat in the dining room. (III)

58.35(4) *Bedrooms.*

a. Each resident shall be provided with a standard, single, or twin bed that is substantially constructed and in good repair. Rollaway beds, metal cots, or folding beds are not acceptable. Seventy-five percent of the beds shall have a spring with an adjustable head and foot section. A resident shall have the right to sleep in a chair per the resident's request and to have the bed removed from the room to allow for additional space. (III)

b. Each bed shall be equipped with the following: casters or glides unless a low bed and mattress are being used for fall precautions; a clean, comfortable, well-constructed mattress approximately five inches thick and standard in size for the bed; clean, comfortable pillows of average size; and moisture-proof covers and sheets as necessary to keep the mattress and pillows dry and clean. (III)

c. Each resident shall have a bedside table with a drawer to accommodate personal possessions. (III)

d. There shall be a comfortable chair, either a rocking chair or armchair, per resident bed. The resident's personal wishes shall be considered. (III)

e. There shall be drawer space for each resident's clothing. In a multiple bedroom, drawer space shall be assigned each resident. (III)

f. Walls, ceilings, and floors shall have easily cleanable surfaces and shall be kept clean and in good repair. (III)

g. Beds and other furnishings shall not obstruct free passage to and through doorways. (III)

h. Clothing shall be hung in closets or wardrobes available in each room. (III)

i. Beds shall not be placed with the head of the bed in front of a window or radiator. (III)

j. Beds shall not be placed in such a manner that the side of the bed is against the radiator or in close proximity to it unless it is covered so as to protect the resident from contact with it or from excessive heat. (III)

k. Reading lamps shall be provided each resident in the resident's room. (III)

l. Each room shall have sufficient accessible mirrors to serve the resident's needs. Mirrors are not required if the room is located in a CCDI unit and the mirrors cause concern for the resident. (III)

m. Sturdy, adjustable overbed tables shall be provided for each resident who is unable to eat in the dining room. (III)

n. Each resident bedroom shall have a door. The door shall be the swing type and shall not swing into the corridor. (III)

58.35(5) *Heating.* A centralized heating system capable of maintaining a minimum temperature of 78°F (26°C) shall be provided. Portable units or space heaters are prohibited from being used in the facility except in an emergency. (III)

58.35(6) *Water supply.*

a. Every facility shall have an adequate water supply from an approved source. A municipal source of supply shall be considered as meeting this requirement. (III)

b. Private sources of supply shall be tested annually and the report submitted with the annual application for license. (III)

c. A bacterially unsafe source of supply shall be grounds for denial, suspension, or revocation of license. (III)

d. The department may require testing of private sources of supply at its discretion in addition to the annual test. The facility shall supply reports of such tests as directed by the department. (III)

e. Hot and cold running water under pressure shall be available in the facility. (III)

f. Prior to construction of a new facility or new water source, private sources of supply shall be surveyed and shall comply with the requirements of the department of health. (III)

58.35(7) *Nonambulatory residents.*

a. All nonambulatory residents shall be housed on the grade level floor. (II, III)

b. These provisions in *"a"* above relating to nonambulatory residents are not applicable if the facility has a suitably sized elevator.

481—58.36(135C) Family and employee accommodations.

58.36(1) Children under 14 years of age shall not be allowed into the service areas. (III)

58.36(2) The residents' bedrooms shall not be occupied by employees or family members of the licensee. (III)

58.36(3) In facilities where the total occupancy of family, employees, and residents is five or less, one toilet and one tub or shower shall be the minimum requirement. (III)

58.36(4) In facilities where the total occupancy of family, employees, and residents is more than five, separate bathing and toilet facilities shall be required for the family or employees distinct from such areas provided for residents. (III)

58.36(5) In all health care facilities, if the family or employees live within the facility, separate living quarters and recreation facilities shall be required for the family or employees distinct from such areas provided for residents. (III)

481—58.37(135C) Animals. Animals may be permitted within the facility with prior approval of the department and under controlled conditions. (III)

481—58.38(135C) Supplies.

58.38(1) *Linen supplies.*

a. There shall be an adequate supply of linen so that each resident shall have at least three washcloths, hand towels, and bath towels per week. (III)

b. A complete change of bed linens shall be available in the linen storage area for each bed. (III)

c. Sufficient lightweight, clean, serviceable blankets shall be available. All blankets shall be laundered as often as necessary for cleanliness and freedom from odors. (III)

d. Each bed shall be provided with clean, washable bedspreads. There shall be a supply available when changes are necessary. (III)

e. Uncrowded and convenient storage shall be provided for linens, pillows, and bedding. (III)

58.38(2) *First-aid kit.* A first-aid emergency kit shall be available on each floor in every facility. (II, III)

58.38(3) *Supplies and equipment for nursing services.*

a. All nursing care equipment shall be properly sanitized or sterilized before use by another resident. (II)

b. There shall be disposable or one-time use items available with provisions for proper disposal to prevent reuse except as allowed by 58.10(8)*"h,"*481—paragraph 59.12(10)*"h,"* or 481—paragraph 64.12(14)*"h."* (I, II, III)

c. Convenient, safe storage shall be provided for bath and toilet supplies, bathroom scales, mechanical lifts, and shower chairs. (III)

d. Sanitary and protective storage shall be provided for all equipment and supplies. (III)

e. All items that must be sterilized shall be autoclaved unless sterile disposable items are furnished which are promptly disposed of after a single use. (III)

f. Supplies and equipment for nursing and personal care sufficient in quantities to meet the needs of the residents shall be provided and, as a minimum, include the following: (III)

Bath basins	Rectal tubes
Soap containers	Catheters and catheterization equipment
Denture cups	Douche nozzle
Emesis basins	Oxygen therapy equipment
Mouthwash cups	Naso-gastric feeding equipment
Bedpans	Wheelchairs
Urinals	Moisture-proof draw sheets
Enema equipment	Moisture-proof pillow covers
Commodes	Moisture-proof mattress covers

Quart graduate measure
Thermometer for measurement of bath water temperature
Oral thermometer
Rectal thermometer
Basins for sterilizing thermometers
Basins for irrigations
Asepto syringes
Sphygmomanometer
Paper towels
Paper handkerchiefs
Insulin syringes
2 cc hypodermic syringes
Weight scales
Hypodermic needles
Stethoscope
Ice caps
Hot water bottles
Foot tubs
Metal pitcher
Disinfectant solutions
Alcohol
Lubricating jelly
Skin lotion
Applicators
Tongue blades
Toilet paper
Rubber gloves or disposable gloves
Scales for nonambulatory patients
Tourniquet
Suction machine
Medicine dispensing containers
Bandages
Adhesive
Portable linen hampers
Denture identification equipment
Tracheotomy care equipment

481—58.39(135C) Residents' rights in general.

58.39(1) Each facility shall ensure that policies and procedures are written and implemented which include, at a minimum, all of the following provisions (subrules 58.39(2) to 58.39(6)) and which govern all areas of service provided by the facility. These policies and procedures shall be available to staff, residents, their families or legal representatives and the public and shall be reviewed annually. (II)

58.39(2) Policies and procedures shall address the admission and retention of persons with histories of dangerous or disturbing behavior. For the purposes of the subrule, persons with histories of dangerous or disturbing behavior are those persons who have been found to be seriously mentally impaired pursuant to Iowa Code section 229.13 or 812.1 within six months of the request for admission to the facility. In addition to establishing the criteria for admission and retention of persons so defined, the policies and procedures shall provide for:

a. Reasonable precautions to prevent the resident from harming self, other residents, or employees of the facility.

b. Treatment of persons with mental illness as defined in Iowa Code section 229.1(1) and which is provided in accordance with the individualized health care plan.

c. Ongoing and documented staff training on individualized health care planning for persons with mental illness.

58.39(3) Policies and procedures regarding the admission, transfer, and discharge of residents shall ensure that:

a. Only those persons are accepted whose needs can be met by the facility directly or in cooperation with community resources or other providers of care with which it is affiliated or has contracts. (II)

b. As changes occur in residents' physical or mental condition, necessitating services or care which cannot be adequately provided by the facility, they are transferred promptly to other appropriate facilities. (II)

58.39(4) Policies and procedures regarding the use of chemical and physical restraints shall define the use of said restraints and identify the individual who may authorize the application of physical restraints in emergencies, and describe the mechanism for monitoring and controlling their use. (II)

58.39(5) Policies and procedures shall include a method for submitting complaints and recommendations by residents or their responsible party and for ensuring a response and disposition by the facility. (II)

58.39(6) Policies and procedures shall include provisions governing access to, duplication of, and dissemination of information from the residents' records. (II)

58.39(7) Policies and procedures shall include a provision that each resident shall be fully informed of the resident's rights and responsibilities as a resident and of all rules governing resident conduct and responsibilities. This information must be provided upon admission, or in the case of residents already in the facility, upon the facility's adoption or amendment of residents' rights policies. (II)

a. The facility shall make known to residents what they may expect from the facility and its staff, and what is expected from them. The facility shall communicate these expectations during the period of not more than two weeks before or five days after admission. The communication shall be in writing, e.g., in a separate handout or brochure describing the facility, and interpreted verbally, e.g., as part of a preadmission interview, resident counseling, or in individual or group orientation sessions following admission. (II)

b. Residents' rights and responsibilities shall be presented in language understandable to the resident. If the facility serves residents who are non-English speaking or deaf, steps shall be taken to translate the information into a foreign or sign language. In the case of blind residents, either Braille or a recording shall be provided. Residents shall be encouraged to ask questions about their rights and responsibilities and these questions shall be answered. (II)

c. A statement shall be signed by the resident, or the resident's responsible party, indicating an understanding of these rights and responsibilities, and shall be maintained in the record. The statement shall be signed no later than five days after admission, and a copy of the signed statement shall be given to the resident or responsible party, if applicable. In the case of an intellectually disabled resident, the signature shall be witnessed by a person not associated with or employed by the facility. The witness may be a parent, guardian, Medicaid agency representative, etc. (II)

d. In order to ensure that residents continue to be aware of these rights and responsibilities during their stay, a written copy shall be prominently posted in a location that is available to all residents. (II)

e. All residents shall be advised within 30 days following changes made in the statement of residents' rights and responsibilities. Appropriate means shall be utilized to inform non-English speaking, deaf, or blind residents of such changes. (II)

58.39(8) Each resident or responsible party shall be fully informed in a contract as required in rule 481—58.13(135C), prior to or at the time of admission and during the resident's stay, of services available in the facility, and of related charges including any charges for services not covered under the Title XIX program or not covered by the facility's basic per diem rate. (II)

58.39(9) Each resident or responsible party shall be fully informed by a physician of the resident's health and medical condition unless medically contraindicated (as documented by a physician in the resident's record). Each resident shall be afforded the opportunity to participate in the planning of the resident's total care and medical treatment, which may include, but is not limited to, nursing care, nutritional care, rehabilitation, restorative therapies, activities, and social work services. Each resident only participates in experimental research conducted under the U.S. Department of Health and Human Services' protection from research risks policy and then only upon the resident's informed written consent. Each resident has the right to refuse treatment except as provided by Iowa Code chapter 229. In the case of a confused or intellectually disabled individual, the responsible party shall be informed by the physician of the resident's medical condition and be afforded the opportunity to participate in the planning of the resident's total care and medical treatment, to be informed of the medical condition, and to refuse to participate in experimental research. (II)

a. The requirement that residents shall be informed of their conditions, involved in the planning of their care, and advised of any significant changes in either shall be communicated to every physician responsible for the medical care of residents in the facility. (II)

b. The administrator or designee shall be responsible for working with attending physicians in the implementation of this requirement. (II)

c. If the physician determines or in the case of a confused or intellectually disabled resident the responsible party determines that informing the resident of the resident's condition is contraindicated, this decision and reasons for it shall be documented in the resident's record by the physician. (II)

d. The resident's plan of care shall be based on the physician's orders. It shall be developed upon admission by appropriate facility staff and shall include participation by the resident if capable. Residents shall be advised of alternative courses of care and treatment and their consequences when such alternatives are available. The resident's preference about alternatives shall be elicited and honored if feasible.

e. Any clinical investigation involving residents must be under the sponsorship of an institution with a human subjects review board functioning in accordance with the requirements of Public Law 93-348, as implemented by Part 46 of Title 45 of the Code of Federal Regulations, as amended to December 1, 1981 (45 CFR 46). A resident being considered for participation in experimental research must be fully informed of the nature of the experiment, e.g., medication, treatment, and understand the possible consequences of participating or not participating. The resident's (or responsible party's) written informed consent must be received prior to participation. (II)

This rule is intended to implement Iowa Code section 135C.23(2).

[**ARC 0766C**, IAB 5/29/13, effective 7/3/13]

481—58.40(135C) Involuntary discharge or transfer.

58.40(1) *Involuntary discharge or transfer permitted.* A facility may involuntarily discharge or transfer a resident for only one of the following reasons:

a. Medical reasons;

b. The resident's welfare or that of other residents;

c. Nonpayment for the resident's stay, as described in the contract for the resident's stay;

d. Due to action pursuant to Iowa Code chapter 229;

e. By reason of negative action by the Iowa department of human services; or

f. By reason of negative action by the quality improvement organization (QIO). (I, II, III)

58.40(2) *Medical reasons.* Medical reasons for transfer or discharge shall be based on the resident's needs and shall be determined and documented in the resident's record by the primary care provider. Transfer or discharge may be required in order to provide a different level of care to the resident. (II)

58.40(3) *Welfare of a resident.* Welfare of a resident or that of other residents refers to a resident's social, emotional, or physical well-being. A resident may be transferred or discharged because the resident's behavior poses a continuing threat to the resident (e.g., suicidal) or to the well-being of other residents or staff (e.g., the resident's behavior is incompatible with other residents' needs and rights). Written documentation that the resident's continued presence in the facility would adversely affect the resident's own welfare or that of other residents shall be made by the administrator or designee and shall include specific information to support this determination. (II)

58.40(4) *Involuntary discharge or transfer prohibited—payment source.* A resident shall not be transferred or discharged solely because the cost of the resident's care is being paid under Iowa Code chapter 249A or because the resident's source of payment is changing from private support to payment under Iowa Code chapter 249A. (I, II)

58.40(5) *Notice.* Involuntary transfer or discharge of a resident from a facility shall be preceded by a written notice to the resident and the responsible party. (II, III)

a. The notice shall contain all of the following information:

(1) The stated reason for the proposed transfer or discharge. (II)

(2) The effective date of the proposed transfer or discharge. (II)

(3) A statement, in not less than 12-point type, that reads as follows:

You have a right to appeal the facility's decision to transfer or discharge you. If you think you should not have to leave this facility, you may request a hearing, in writing or verbally, with the Iowa department of inspections and appeals (hereinafter referred to as "department") within 7 days after receiving this notice. You have a right to be represented at the hearing by an attorney or any other individual of your choice. If you request a hearing, it will be held no later than 14 days after the department's receipt of your request and you will not be transferred before a final decision is rendered. Extension of the 14-day requirement may be permitted in emergency circumstances upon request to the department's designee. If you lose the hearing, you will not be transferred before the expiration of either (1) 30 days following your receipt of the original notice of the discharge or transfer, or (2) 5 days following final decision of such hearing, including the exhaustion of all appeals, whichever occurs later. To request a hearing or receive further information, call the department at (515)281-4115, or write to the department to the attention of: Administrator, Division of Health Facilities, Department of Inspections and Appeals, Lucas State Office Building, Des Moines, Iowa 50319-0083. (II)

b. The notice shall be personally delivered to the resident and a copy placed in the resident's record. A copy shall also be transmitted to the department; the resident's responsible party; the resident's primary care provider; the person or agency responsible for the resident's placement, maintenance, and care in the facility; and the department on aging's office of the long-term care ombudsman. The notice shall indicate that copies have been transmitted to the required parties by using the abbreviation "cc:" and listing the names of all parties to whom copies were sent.

c. The notice required by paragraph 58.40(5)*"a"* shall be provided at least 30 days in advance of the proposed transfer or discharge unless one of the following occurs:

(1) An emergency transfer or discharge is mandated by the resident's health care needs and is in accordance with the written orders and medical justification of the primary care provider. Emergency transfers or discharges may also be mandated in order to protect the health, safety, or well-being of other residents and staff from the resident being transferred. (II)

(2) The transfer or discharge is subsequently agreed to by the resident or the resident's responsible party, and notification is given to the responsible party, the resident's primary care provider, and the person or agency responsible for the resident's placement, maintenance, and care in the facility.

(3) The discharge or transfer is the result of a final, nonappealable decision by the department of human services or the QIO.

d. A hearing requested pursuant to this subrule shall be held in accordance with subrule 58.40(7).

58.40(6) *Emergency transfer or discharge.* In the case of an emergency transfer or discharge, the resident must be given a written notice prior to or within 48 hours following the transfer or discharge. (II, III)

a. A copy of this notice shall be placed in the resident's file. The notice shall contain all of the following information:

(1) The stated reason for the transfer or discharge. (II)

(2) The effective date of the transfer or discharge. (II)

(3) A statement, in not less than 12-point type, that reads as follows:

You have a right to appeal the facility's decision to transfer or discharge you on an emergency basis. If you think you should not have to leave this facility, you may request a hearing, in writing or verbally, with the Iowa department of inspections and appeals (hereinafter referred to as "department") within 7 days after receiving this notice. You have a right to be represented at the hearing by an attorney or any other individual of your choice. If you request a hearing, it will be held no later than 14 days after the department's receipt of your request. You may be transferred or discharged before the hearing is held or before a final decision is rendered. If you win the hearing, you have the right to be transferred back into the facility. To request a hearing or receive further information, call the department at (515)281-4115, or write to the department to the attention of: Administrator, Division of Health Facilities, Department of Inspections and Appeals, Lucas State Office Building, Des Moines, Iowa 50319-0083. (II)

b. The notice shall be personally delivered to the resident and a copy placed in the resident's record. A copy shall also be transmitted to the department; the resident's responsible party; the resident's primary care provider; the person or agency responsible for the resident's placement, maintenance, and care in the facility; and the department on aging's office of the long-term care ombudsman. The notice shall indicate that copies have been transmitted to the required parties by using the abbreviation "cc:" and listing the names of all parties to whom copies were sent.

c. A hearing requested pursuant to this subrule shall be held in accordance with subrule 58.40(7).

58.40(7) *Hearing.*

a. Request for hearing.

(1) The resident must request a hearing within 7 days of receipt of the written notice.

(2) The request must be made to the department, either in writing or verbally.

b. The hearing shall be held no later than 14 days after the department's receipt of the request unless either party requests an extension due to emergency circumstances.

c. Except in the case of an emergency discharge or transfer, a request for a hearing shall stay a transfer or discharge pending a final decision, including the exhaustion of all appeals. (II)

d. The hearing shall be heard by a department of inspections and appeals administrative law judge pursuant to Iowa Code chapter 17A and 481—Chapter 10. The hearing shall be public unless the resident or resident's legal representative requests in writing that the hearing be closed. In a determination as to whether a transfer or discharge is authorized, the burden of proof by a preponderance of the evidence rests on the party requesting the transfer or discharge.

e. Notice of the date, time, and place of the hearing shall be sent by certified mail or delivered in person to the facility, the resident, the responsible party, and the office of the long-term care ombudsman not later than 5 full business days after the department's receipt of the request. The notice shall also inform the facility and the resident or the responsible party that they have a right to appear at the hearing in person or be represented by an attorney or other individual. The appeal shall be dismissed if neither party is present or represented at the hearing. If only one party appears or is represented, the hearing shall proceed with one party present. The office of the long-term care ombudsman shall have the right to appear at the hearing.

f. The administrative law judge's written decision shall be mailed by certified mail to the facility, resident, responsible party, and the office of the long-term care ombudsman within 10 working days after the hearing has been concluded.

g. If the basis for an involuntary transfer or discharge is the result of a negative action by the Iowa department of human services or the QIO, an appeal shall be filed with those agencies as appropriate. Continued payment shall be consistent with rules of those agencies.

58.40(8) *Nonpayment.* If nonpayment is the basis for involuntary transfer or discharge, the resident shall have the right to make full payment up to the date that the discharge or transfer is to be made and then shall have the right to remain in the facility. (II)

58.40(9) *Discussion of involuntary transfer or discharge.* Within 48 hours after notice of involuntary transfer or discharge has been received by the resident, the facility shall discuss the involuntary transfer or discharge with the resident, the resident's responsible party, and the person or agency responsible for the resident's placement, maintenance, and care in the facility. (II)

a. The facility administrator or other appropriate facility representative serving as the administrator's designee shall provide an explanation and discussion of the reasons for the resident's involuntary transfer or discharge. (II)

b. The content of the explanation and discussion shall be summarized in writing, shall include the names of the individuals involved in the discussion, and shall be made part of the resident's record. (II)

c. The provisions of this subrule do not apply if the involuntary transfer or discharge has already occurred pursuant to subrule 58.40(6) and emergency notice is provided within 48 hours.

58.40(10) *Transfer or discharge planning.*

a. The facility shall develop a plan to provide for the orderly and safe transfer or discharge of each resident to be transferred or discharged. (II)

b. To minimize the possible adverse effects of the involuntary transfer, the resident shall receive counseling services by the sending facility before the involuntary transfer and by the receiving facility after the involuntary transfer. Counseling shall be documented in the resident's record. (II)

c. The counseling requirement in paragraph 58.40(10)*"b"* does not apply if the discharge has already occurred pursuant to subrule 58.40(6) and emergency notice is provided within 48 hours.

d. Counseling, if required, shall be provided by a licensed mental health professional as defined in Iowa Code section 228.1(6). (II)

e. The health care facility that receives a resident who has been involuntarily transferred shall immediately formulate and implement a plan of care which takes into account possible adverse effects the transfer may cause. (II)

58.40(11) *Transfer upon revocation of license or voluntary closure.* Residents shall not have the right to a hearing to contest an involuntary discharge or transfer resulting from the revocation of the facility's license by the department of inspections and appeals. In the case of the voluntary closure of a facility, a period of 30 days must be allowed for an orderly transfer of residents to other facilities.

58.40(12) *Intrafacility transfer.*

a. Residents shall not be arbitrarily relocated from room to room within a licensed health care facility. (I, II) Involuntary relocation may occur only in the following situations, which shall be documented in the resident's record: (II)

(1) Resident's incompatibility with or disturbance to other roommates.

(2) For the welfare of the resident or other residents of the facility.

(3) For medical, nursing or psychosocial reasons, as judged by the primary care provider, nurse or social worker in the case of a facility which groups residents by medical, nursing or psychosocial needs.

(4) To allow a new admission to the facility that would otherwise not be possible due to separation of roommates by sex.

(5) In the case of a resident whose source of payment was previously private, but who now is eligible for Title XIX (Medicaid) assistance, the resident may be transferred from a private room to a semiprivate room or from one semiprivate room to another.

(6) Reasonable and necessary administrative decisions regarding the use and functioning of the building.

b. Unreasonable and unjustified reasons for changing a resident's room without the concurrence of the resident or responsible party include:

(1) Change from private pay status to Title XIX, except as outlined in subparagraph 58.40(12)*"a"*(5). (II)

(2) As punishment or behavior modification, except as specified in subparagraph 58.40(12)*"a"*(1). (II)

(3) Discrimination on the basis of race or religion. (II)

c. If intrafacility relocation is necessary for reasons outlined in paragraph 58.40(12)*"a,"* the resident shall be notified at least 48 hours prior to the transfer and the reason therefor shall be explained. The responsible party shall be notified as soon as possible. The notification shall be documented in the resident's record and signed by the resident or responsible party. (II)

d. If emergency relocation is required in order to protect the safety or health of the resident or other residents, the notification requirements may be waived. The conditions of the emergency shall be documented. The family or responsible party shall be notified immediately or as soon as possible of the condition that necessitates emergency relocation, and such notification shall be documented. (II)

e. A transfer to a part of a facility that has a different license must be handled the same way as a transfer to another facility and not as an intrafacility transfer. (II, III)

[**ARC 1752C**, IAB 12/10/14, effective 1/14/15]

481—58.41(135C) Residents' rights. Each resident shall be encouraged and assisted throughout the resident's period of stay, to exercise rights as a resident and as a citizen and may voice grievances and recommend changes in policies and services to administrative staff or to outside representatives of the resident's choice, free from interference, coercion, discrimination, or reprisal. (II)

58.41(1) The facility shall provide ongoing opportunities for residents to be aware of and to exercise their rights as residents. Residents shall be kept informed of issues or pending decisions of the facility that affect them and their views shall be solicited prior to action. (II)

58.41(2) The facility shall implement a written procedure for registering and resolving grievances and recommendations by residents or their responsible party. The procedure shall ensure protection of the resident from any form of reprisal or intimidation. The written procedure shall include:

a. Designation of an employee responsible for handling grievances and recommendations. (II)

b. A method of investigating and assessing the validity of a grievance or recommendation. (II)

c. Methods of resolving grievances. (II)

d. Methods of recording grievances and actions taken. (II)

58.41(3) The facility shall post in a prominent area the name, telephone number, and address of the ombudsman, survey agency, local law enforcement agency, and certified volunteer long-term care ombudsman and the text of Iowa Code section 135C.46 to provide to residents a further course of redress. (II)

[**ARC 1205C**, IAB 12/11/13, effective 1/15/14]

481—58.42(135C) Financial affairs—management. Each resident who has not been assigned a guardian or conservator by the court may manage the resident's own personal financial affairs, and to the extent, under written authorization by the resident that the facility assists in management, the management shall be carried out in accordance with Iowa Code section 135C.24. (II)

58.42(1) The facility shall maintain a written account of all residents' funds received by or deposited with the facility. (II)

58.42(2) An employee shall be designated in writing to be responsible for resident accounts. (II)

58.42(3) The facility shall keep on deposit personal funds over which the resident has control in accordance with Iowa Code section 135C.24(2). Should the resident request these funds, they shall be given to the resident on request with receipts maintained by the facility and a copy to the resident. In the case of a confused or intellectually disabled resident, the resident's responsible party shall designate a method of disbursing the resident's funds. (II)

58.42(4) If the facility makes financial transactions on a resident's behalf, the resident must receive or acknowledge that the resident has seen an itemized accounting of disbursements and current balances at least quarterly. A copy of this statement shall be maintained in the resident's financial or business record. (II)

58.42(5) A resident's personal funds shall not be used without the written consent of the resident or the resident's guardian. (II)

58.42(6) A resident's personal funds shall be returned to the resident when the funds have been used without the written consent of the resident or the resident's guardian. The department may report findings that resident funds have been used without written consent to the audits division or the local law enforcement agency, as appropriate. (II)

[**ARC 0766C**, IAB 5/29/13, effective 7/3/13]

481—58.43(135C) Resident abuse prohibited. Each resident shall receive kind and considerate care at all times and shall be free from mental, physical, sexual, and verbal abuse, exploitation, neglect, and physical injury. Each resident shall be free from chemical and physical restraints except as follows: when authorized in writing by a physician for a specified period of time; when necessary in an emergency to protect the resident from injury to the resident or to others, in which case restraints may be authorized by designated professional personnel who promptly report the action taken to the physician; and in the case of an intellectually disabled individual when ordered in writing by a physician and authorized by a designated qualified intellectual disabilities professional for use during behavior modification sessions. Mechanical supports used in normative situations to achieve proper body position and balance shall not be considered to be a restraint. (II)

58.43(1) Mental abuse includes, but is not limited to, humiliation, harassment, and threats of punishment or deprivation. (II)

58.43(2) Physical abuse includes, but is not limited to, corporal punishment and the use of restraints as punishment. (II)

58.43(3) Drugs such as tranquilizers may not be used as chemical restraints to limit or control resident behavior for the convenience of staff. (II)

58.43(4) Physicians' orders are required to utilize all types of physical restraints and shall be renewed at least quarterly. (II) Physical restraints are defined as the following:

Type I—the equipment used to promote the safety of the individual but is not applied directly to their person. Examples: divided doors and totally enclosed cribs.

Type II—the application of a device to the body to promote safety of the individual. Examples: vest devices, soft-tie devices, hand socks, geriatric chairs.

Type III—the application of a device to any part of the body which will inhibit the movement of that part of the body only. Examples: wrist, ankle or leg restraints and waist straps.

58.43(5) Physical restraints are not to be used to limit resident mobility for the convenience of staff and must comply with life safety requirements. If a resident's behavior is such that it may result in injury to the resident or others and any form of physical restraint is utilized, it should be in conjunction with a treatment procedure(s) designed to modify the behavioral problems for which the resident is restrained, or as a last resort, after failure of attempted therapy. (I, II)

58.43(6) Each time a Type II or III restraint is used documentation on the nurse's progress record shall be made which includes type of restraint and reasons for the restraint and length of time resident was restrained. The documentation of the use of Type III restraint shall also include the time of position change. (II)

58.43(7) Each facility shall implement written policies and procedures governing the use of restraints which clearly delineate at least the following:

a. Physicians' orders shall indicate the specific reasons for the use of restraints. (II)

b. Their use is temporary and the resident will not be restrained for an indefinite amount of time. (I, II)

c. A qualified nurse shall make the decision for the use of a Type II or Type III restraint for which there shall be a physician's order. (II)

d. A resident placed in a Type II or III restraint shall be checked at least every 30 minutes by appropriately trained staff. No form of restraint shall be used or applied in such a manner as to cause injury or the potential for injury and provide a minimum of discomfort to resident restrained. (I, II)

e. Reorders are issued only after the attending physician reviews the resident's condition. (II)

f. Their use is not employed as punishment, for the convenience of the staff, or as a substitute for supervision or program. (I, II)

g. The opportunity for motion and exercise shall be provided for a period of not less than ten minutes during each two hours in which Type II and Type III restraints are employed, except when resident is sleeping. However, when resident awakens, this shall be provided. This shall be documented each time. A check sheet may serve this purpose. (I, II)

h. Locked restraints or leather restraints shall not be permitted except in life-threatening situations. Straight jackets and secluding residents behind locked doors shall not be employed. (I, II)

i. Nursing assessment of the resident's need for continued application of a Type III restraint shall be made every 12 hours and documented on the nurse's progress record. Documentation shall include the type of restraint, reason for the restraint and the circumstances. Nursing assessment of the resident's need for continued application of either a Type I or Type II restraint and nursing evaluation of the resident's physical and mental condition shall be made every 30 days and documented on the nurse's progress record. (II)

j. A divided door equipped with a securing device that may be readily opened by personnel shall be considered an appropriate means of temporarily confining a resident in the resident's room. (II)

k. Divided doors shall be of the type that when the upper half is closed the lower section shall close. (II)

l. Methods of restraint shall permit rapid removal of the resident in the event of fire or other emergency. (I, II)

m. The facility shall provide orientation and ongoing education programs in the proper use of restraints.

58.43(8) In the case of an intellectually disabled individual who participates in a behavior modification program involving use of restraints or aversive stimuli, the program shall be conducted only with the informed consent of the individual's parent or responsible party. Where restraints are employed, an individualized program shall be developed by the interdisciplinary team with specific methodologies for monitoring its progress. (II)

a. The resident's responsible party shall receive a written account of the proposed plan of the use of restraints or aversive stimuli and have an opportunity to discuss the proposal with a representative(s) of the treatment team. (II)

b. The responsible party must consent in writing prior to the use of the procedure. Consent may also be withdrawn in writing. (II)

58.43(9) Allegations of dependent adult abuse. Allegations of dependent adult abuse shall be reported and investigated pursuant to Iowa Code chapter 235E and 481—Chapter 52. (I, II, III)

58.43(10) and **58.43(11)** Rescinded IAB 12/11/13, effective 1/15/14.

This rule is intended to implement Iowa Code sections 135C.14, 235B.3(1), and 235B.3(11).

[**ARC 0766C**, IAB 5/29/13, effective 7/3/13; **ARC 1204C**, IAB 12/11/13, effective 1/15/14]

481—58.44(135C) Resident records. Each resident shall be ensured confidential treatment of all information contained in the resident's records, including information contained in an automatic data bank. The resident's written consent shall be required for the release of information to persons not otherwise authorized under law to receive it. (II)

58.44(1) The facility shall limit access to any medical records to staff and consultants providing professional service to the resident. This is not meant to preclude access by representatives of state and federal regulatory agencies. (II)

58.44(2) Similar procedures shall safeguard the confidentiality of residents' personal records, e.g., financial records and social services records. Only those personnel concerned with the financial affairs of the residents may have access to the financial records. This is not meant to preclude access by representatives of state and federal regulatory agencies. (II)

58.44(3) The resident, or the resident's responsible party, shall be entitled to examine all information contained in the resident's record and shall have the right to secure full copies of the record at reasonable cost upon request, unless the physician determines the disclosure of the record or section thereof is contraindicated in which case this information will be deleted prior to making the record available to the resident or responsible party. This determination and the reasons for it must be documented in the resident's record. (II)

481—58.45(135C) Dignity preserved. The resident shall be treated with consideration, respect, and full recognition of dignity and individuality, including privacy in treatment and in care for personal needs. (II)

58.45(1) Staff shall display respect for residents when speaking with, caring for, or talking about them, as constant affirmation of their individuality and dignity as human beings. (II)

58.45(2) Schedules of daily activities shall allow maximum flexibility for residents to exercise choice about what they will do and when they will do it. Residents' individual preferences regarding such things as menus, clothing, religious activities, friendships, activity programs, entertainment, sleeping and eating, also times to retire at night and arise in the morning shall be elicited and considered by the facility. (II)

58.45(3) Residents shall be examined and treated in a manner that maintains the privacy of their bodies. A closed door or a drawn curtain shall shield the resident from passersby. People not involved in the care of the residents shall not be present without the resident's consent while the resident is being examined or treated. (II)

58.45(4) Privacy of a resident's body also shall be maintained during toileting, bathing, and other activities of personal hygiene, except as needed for resident safety or assistance. (II)

58.45(5) Staff shall knock and be acknowledged before entering a resident's room unless the resident is not capable of a response. This shall not apply in emergency conditions. (II)

481—58.46(135C) Resident work. No resident may be required to perform services for the facility, except as provided by Iowa Code sections 35D.14 and 347B.5. (II)

58.46(1) Residents may not be used to provide a source of labor for the facility against their will. Physician's approval is required for all work programs. (I, II)

58.46(2) If the plan of care requires activities for therapeutic or training reasons, the plan for these activities shall be professionally developed and implemented. Therapeutic or training goals must be clearly stated and measurable and the plan shall be time limited and reviewed at least quarterly. (II)

58.46(3) Residents who perform work for the facility must receive remuneration unless the work is part of their approved training program. Persons on the resident census performing work shall not be used to replace paid employees in fulfilling staffing requirements. (II)

481—58.47(135C) Communications. Each resident may communicate, associate, and meet privately with persons of the resident's choice, unless to do so would infringe upon the rights of other residents, and may send and receive personal mail unopened. (II)

58.47(1) Subject to reasonable scheduling restrictions, visiting policies and procedures shall permit residents to receive visits from anyone they wish. Visiting hours shall be posted. (II)

58.47(2) Reasonable, regular visiting hours shall not be less than 12 hours per day and shall take into consideration the special circumstances of each visitor. A particular visitor(s) may be restricted by the facility for one of the following reasons:

a. The resident refuses to see the visitor(s). (II)

b. The resident's physician documents specific reasons why such a visit would be harmful to the resident's health. (II)

c. The visitor's behavior is unreasonably disruptive to the functioning of the facility (this judgment must be made by the administrator and the reasons shall be documented and kept on file). (II)

58.47(3) Decisions to restrict a visitor are reviewed and reevaluated: each time the medical orders are reviewed by the physician; at least quarterly by the facility's staff; or at the resident's request. (II)

58.47(4) Space shall be provided for residents to receive visitors in reasonable comfort and privacy. (II)

58.47(5) Telephones consistent with ANSI standards (405.1134(c)) shall be available and accessible for residents to make and receive calls with privacy. Residents who need help shall be assisted in using the telephone. (II)

58.47(6) Arrangements shall be made to provide assistance to residents who require help in reading or sending mail. (II)

58.47(7) Residents shall be permitted to leave the facility and environs at reasonable times unless there are justifiable reasons established in writing by the attending physician, qualified intellectual disabilities professional or facility administrator for refusing permission. (II)

58.47(8) Residents shall not have their personal lives regulated beyond reasonable adherence to meal schedules, bedtime hours, and other written policies which may be necessary for the orderly management of the facility and as required by these rules. However, residents shall be encouraged to participate in recreational programs. (II)

[**ARC 0766C**, IAB 5/29/13, effective 7/3/13]

481—58.48(135C) Resident activities. Each resident may participate in activities of social, religious, and community groups at the resident's discretion unless contraindicated for reasons documented by the attending physician or qualified intellectual disabilities professional as appropriate in the resident's record. (II)

58.48(1) Residents who wish to meet with or participate in activities of social, religious, or other community groups in or outside of the facility shall be informed, encouraged, and assisted to do so. (II)

58.48(2) All residents shall have the freedom to refuse to participate in these activities. (II)

[**ARC 0766C**, IAB 5/29/13, effective 7/3/13]

481—58.49(135C) Resident property. Each resident may retain and use personal clothing and possessions as space permits and provided such use is not otherwise prohibited by these rules. (II)

58.49(1) Residents shall be permitted to keep reasonable amounts of personal clothing and possessions for their use while in the facility. The personal property shall be kept in a safe location which is convenient to the resident. (II)

58.49(2) Residents shall be advised, prior to or at the time of admission, of the kinds and amounts of clothing and possessions permitted for personal use, and whether the facility will accept responsibility for maintaining these items, e.g., cleaning and laundry. (II)

58.49(3) Any personal clothing or possessions retained by the facility for the resident during the resident's stay shall be identified and recorded on admission and a record placed on the resident's chart. The facility shall be responsible for secure storage of the items, and they shall be returned to the resident promptly upon request or upon discharge from the facility. (II)

58.49(4) A resident's personal property shall not be used without the written consent of the resident or the resident's guardian. (II)

58.49(5) A resident's personal property shall be returned to the resident when it has been used without the written consent of the resident or the resident's guardian. The department may report findings that a resident's property has been used without written consent to the local law enforcement agency, as appropriate. (II)

481—58.50(135C) Family visits. Each resident, if married, shall be ensured privacy for visits by the resident's spouse; if both are residents in the facility, they shall be permitted to share a room if available. (II)

58.50(1) The facility shall provide for needed privacy in visits between spouses. (II)

58.50(2) Spouses who are residents in the same facility shall be permitted to share a room, if available, unless one of their attending physicians documents in the medical record those specific reasons why an arrangement would have an adverse effect on the health of the resident. (II)

58.50(3) Family members shall be permitted to share a room, if available, if requested by both parties, unless one of their attending physicians documents in the medical record those specific reasons why such an agreement would have an adverse effect on the health of the resident. (II)

481—58.51(135C) Choice of physician and pharmacy. Each resident shall be permitted free choice of a physician and a pharmacy, if accessible. The facility may require the pharmacy selected to utilize a drug distribution system compatible with the system currently used by the facility.

A facility shall not require the repackaging of medications dispensed by the Veterans Administration or an institution operated by the Veterans Administration for the purpose of making the drug distribution system compatible with the system used by the facility. (II)

481—58.52(135C) Incompetent resident.

58.52(1) Each facility shall provide that all rights and responsibilities of the resident devolve to the resident's responsible party when a resident is adjudicated incompetent in accordance with state law or, in the case of a resident who has not been adjudicated incompetent under the laws of the state, in accordance with 42 CFR 483.10. This subrule is not intended to limit the authority of any individual acting pursuant to Iowa Code chapter 144A. (II)

58.52(2) The fact that a resident has been adjudicated incompetent does not absolve the facility from advising the resident of these rights to the extent the resident is able to understand them. The facility shall also advise the responsible party, if any, and acquire a statement indicating an understanding of residents' rights. (II)

481—58.53(135C) County care facilities. In addition to Chapter 58 licensing rules, county care facilities licensed as nursing facilities must also comply with department of human services rules, 441—Chapter 37. Violation of any standard established by the department of human services is a Class II violation pursuant to 481—56.2(135C).

481—58.54(73GA,ch 1016) Special unit or facility dedicated to the care of persons with chronic confusion or a dementing illness (CCDI unit or facility).

58.54(1) A nursing facility which chooses to care for residents in a distinct part shall obtain a license for a CCDI unit or facility. In the case of a distinct part, this license will be in addition to its ICF license. The license shall state the number of beds in the unit or facility. (III)

a. Application for this category of care shall be submitted on a form provided by the department. (III)

b. Plans to modify the physical environment shall be submitted to the department. The plans shall be reviewed based on the requirements of 481—Chapter 61. (III)

58.54(2) A statement of philosophy shall be developed for each unit or facility which states the beliefs upon which decisions will be made regarding the CCDI unit or facility. Objectives shall be developed for each CCDI unit or facility as a whole. The objectives shall be stated in terms of expected results. (II, III)

58.54(3) A résumé of the program of care shall be submitted to the department for approval at least 60 days before a separate CCDI unit or facility is opened. A new résumé of the program of care shall be submitted when services are substantially changed. (II, III)

The résumé of the program of care shall:

a. Describe the population to be served; (II, III)

b. State philosophy and objectives; (II, III)

c. List admission and discharge criteria; (II, III)

d. Include a copy of the floor plan; (II, III)

e. List the titles of policies and procedures developed for the unit or facility; (II, III)

f. Propose a staffing pattern; (II, III)

g. Set out a plan for specialized staff training; (II, III)

h. State visitor, volunteer, and safety policies; (II, III)

i. Describe programs for activities, social services and families; (II, III) and

j. Describe the interdisciplinary care planning team. (II, III)

58.54(4) Separate written policies and procedures shall be implemented in each CCDI unit or facility. There shall be:

a. Admission and discharge policies and procedures which state the criteria to be used to admit residents and the evaluation process which will be used. These policies shall require a statement from the attending physician agreeing to the placement before a resident can be moved into a CCDI unit or facility. (II, III)

b. Safety policies and procedures which state the actions to be taken by staff in the event of a fire, natural disaster, emergency medical or catastrophic event. Safety procedures shall also explain steps to be taken when a resident is discovered to be missing from the unit or facility and when hazardous cleaning materials or potentially dangerous mechanical equipment is being used in the unit or facility. The facility shall identify its method for security of the unit or facility and the manner in which the effectiveness of the security system will be monitored. (II, III)

c. Program and service policies and procedures which explain programs and services offered in the unit or facility including the rationale. (III)

d. Policies and procedures concerning staff which state minimum numbers, types and qualifications of staff in the unit or facility. (II, III)

e. Policies about visiting which suggest times and ensure the residents' rights to free access to visitors. (II, III)

f. Quality assurance policies and procedures which list the process and criteria which will be used to monitor and to respond to risks specific to the residents. This shall include, but not be limited to, drug use, restraint use, infections, incidents and acute behavioral events. (II, III)

58.54(5) Preadmission assessment of physical, mental, social and behavioral status shall be completed to determine whether the applicant meets admission criteria. This assessment shall be completed by a registered nurse and a staff social worker or social work consultant and shall become part of the permanent record upon admission of the resident. (II, III)

58.54(6) All staff working in a CCDI unit or facility shall have training appropriate to the needs of the residents. (II, III)

a. Upon assignment to the unit or facility, everyone working in the unit or facility shall be oriented to the needs of people with chronic confusion or dementing illnesses. They shall have special training appropriate to their job description within 30 days of assignment to the unit or facility. (II, III) The orientation shall be at least six hours. The following topics shall be covered:

(1) Explanation of the disease or disorder; (II, III)

(2) Symptoms and behaviors of memory-impaired people; (II, III)

(3) Progression of the disease; (II, III)

(4) Communication with CCDI residents; (II, III)

(5) Adjustment to care facility residency by the CCDI unit or facility residents and their families; (II, III)

(6) Inappropriate and problem behavior of CCDI unit or facility residents and how to deal with it; (II, III)

(7) Activities of daily living for CCDI residents; (II, III)

(8) Handling combative behavior; (II, III) and

(9) Stress reduction for staff and residents. (II, III)

b. Licensed nurses, certified aides, certified medication aides, social services personnel, housekeeping and activity personnel shall have a minimum of six hours of in-service training annually. This training shall be related to the needs of CCDI residents. The six-hour training shall count toward the required annual in-service training. (II, III)

58.54(7) There shall be at least one nursing staff person on a CCDI unit at all times. (I, II, III)

58.54(8) The CCDI unit or facility license may be revoked, suspended or denied pursuant to Iowa Code chapter 135C and Iowa Administrative Code 481—Chapter 50.

This rule is intended to implement 1990 Iowa Acts, chapter 1016.

481—58.55(135C) Another business or activity in a facility. A facility is allowed to have another business or activity in a health care facility or in the physical structure of the facility, if the other business or activity meets the requirements of applicable state and federal laws, administrative rules, and federal regulations.

To obtain the approval of the department and the state fire marshal, the facility must submit to the department a written request for approval which identifies the service(s) to be offered by the business and addresses the factors outlined in paragraphs *"a"* through *"f"* of subrule 58.55(1). (I, II, III)

58.55(1) The following factors will be considered by the department in determining whether a business or activity will interfere with the use of the facility by residents, interfere with services provided to residents, or be disturbing to residents:

a. Health and safety risks for residents;

b. Noise created by the proposed business or activity;

c. Odors created by the proposed business or activity;

d. Use of the facility's corridors or rooms as thoroughfares to the business or activity in regard to safety and disturbance of residents and interference with delivery of services;

e. Proposed staffing for the business or activity; and

f. Sharing of services and staff between the proposed business or activity and the facility.

58.55(2) Approval of the state fire marshal shall be obtained before approval of the department will be considered.

58.55(3) A business or activity conducted in a health care facility or in the same physical structure as a health care facility shall not reduce space, services or staff available to residents below minimums required in these rules and 481—Chapter 61. (I, II, III)

481—58.56(135C) Respite care services. Respite care services means an organized program of temporary supportive care provided for 24 hours or more to a person in order to relieve the usual caregiver of the person from providing continual care to the person. A nursing facility which chooses to

provide respite care services must meet the following requirements related to respite services and must be licensed as a nursing facility.

58.56(1) A nursing facility certified as a Medicaid nursing facility or Medicare skilled nursing facility must meet all Medicaid and Medicare requirements including CFR 483.12, admission, transfer and discharge rights.

58.56(2) A nursing facility which chooses to provide respite care services is not required to obtain a separate license or pay a license fee.

58.56(3) Rule 481—58.40(135C) regarding involuntary discharge or transfer rights, does not apply to residents who are being cared for under a respite care contract.

58.56(4) Pursuant to rule 481—58.13(135C), the facility shall have a contract with each resident in the facility. When the resident is there for respite care services, the contract shall specify the time period during which the resident will be considered to be receiving respite care services. At the end of that period, the contract may be amended to extend that period of time. The contract shall specifically state the resident may be involuntarily discharged while being considered as a respite care resident. The contract shall meet other requirements under 481—58.13(135C), except the requirements under subrule 58.13(7).

58.56(5) Respite care services shall not be provided by a health care facility to persons requiring a level of care which is higher than the level of care the facility is licensed to provide.

481—58.57(135C) Training of inspectors.

58.57(1) Subject to the availability of funding, all nursing facility inspectors shall receive 12 hours of annual continuing education in gerontology, wound care, dementia, falls, or a combination of these subjects.

58.57(2) An inspector shall not be personally liable for financing the training required under subrule 58.57(1).

58.57(3) The department shall consult with the collective bargaining representative of the inspector in regard to the training required under this rule.

[**ARC 8433B**, IAB 12/30/09, effective 2/3/10]

These rules are intended to implement Iowa Code sections 10A.202, 10A.402, 135C.6(1), 135C.14, 135C.25, 135C.32, 135C.36 and 227.4 and 1990 Iowa Acts, chapter 1016.

[Filed 8/6/76, Notice 4/19/76—published 8/23/76, effective 9/27/76]
[Filed without Notice 10/4/76—published 10/20/76, effective 11/24/76]
[Filed emergency 12/21/76—published 1/12/77, effective 1/12/77]
[Filed without Notice 2/4/77—published 2/23/77, effective 3/30/77]
[Filed 8/18/77, Notice 3/9/77—published 9/7/77, effective 10/13/77]
[Filed emergency 9/30/77—published 10/19/77, effective 9/30/77]
[Filed without Notice 10/14/77—published 11/2/77, effective 12/8/77]
[Filed 1/20/78, Notice 12/14/77—published 2/8/78, effective 3/15/78]
[Filed 5/26/78, Notice 3/8/78—published 6/14/78, effective 7/19/78]
[Filed 7/7/78, Notice 5/31/78—published 7/26/78, effective 9/1/78]
[Filed 10/13/78, Notice 9/6/78—published 11/1/78, effective 12/7/78]
[Filed 11/9/78, Notice 6/28/78—published 11/29/78, effective 1/3/79]
[Filed emergency 11/22/78—published 12/13/78, effective 1/3/79]
[Filed 5/20/82, Notice 12/23/81—published 6/9/82, effective 7/14/82]
[Filed without Notice 7/16/82—published 8/4/82, effective 9/8/82]
[Filed 3/11/83, Notice 1/5/83—published 3/30/83, effective 5/4/83]
[Filed 1/10/86, Notice 11/6/85—published 1/29/86, effective 3/5/86][1]
[Filed 5/16/86, Notice 1/1/86—published 6/4/86, effective 7/9/86]
[Filed emergency 7/1/86—published 7/16/86, effective 7/1/86][2]
[Filed 6/27/86, Notice 3/26/86—published 7/16/86, effective 8/20/86]
[Filed emergency 9/19/86—published 10/8/86, effective 9/19/86]
[Filed 2/6/87, Notice 10/22/86—published 2/25/87, effective 4/1/87]

[Filed 2/6/87, Notice 11/5/86—published 2/25/87, effective 4/1/87]
[Filed 3/12/87, Notice 1/28/87—published 4/8/87, effective 5/13/87]
[Filed emergency 6/25/87—published 7/15/87, effective 7/1/87]
[Filed 10/26/87, Notice 8/26/87—published 11/18/87, effective 12/23/87]
[Filed 2/5/88, Notice 10/7/87—published 2/24/88, effective 3/30/88]◊
[Filed 4/28/88, Notice 12/16/87—published 5/18/88, effective 6/22/88]
[Filed 5/26/88, Notice 4/20/88—published 6/15/88, effective 7/20/88]
[Filed 9/30/88, Notice 8/24/88—published 10/19/88, effective 11/23/88]◊
[Filed 1/5/89, Notice 10/5/88—published 1/25/89, effective 3/1/89]
[Filed 6/23/89, Notice 5/17/89—published 7/12/89, effective 8/16/89]
[Filed 7/20/89, Notice 6/14/89—published 8/9/89, effective 9/13/89]
[Filed 8/16/89, Notices 4/19/89, 7/12/89—published 9/6/89, effective 10/11/89]
[Filed emergency 5/11/90—published 5/30/90, effective 5/11/90]
[Filed 3/14/91, Notice 9/19/90—published 4/3/91, effective 5/8/91]
[Filed emergency 5/10/91—published 5/29/91, effective 5/10/91]
[Filed emergency 7/17/91—published 8/7/91, effective 7/19/91]
[Filed 1/31/92, Notice 11/13/91—published 2/19/92, effective 7/1/92]
[Filed 3/12/92, Notice 12/11/91—published 4/1/92, effective 5/6/92]
[Filed 1/15/93, Notice 11/25/92—published 2/3/93, effective 3/10/93]
[Filed 3/11/94, Notice 9/15/93—published 3/30/94, effective 5/4/94]
[Filed 5/16/95, Notice 3/15/95—published 6/7/95, effective 7/12/95]
[Filed 7/11/97, Notice 4/23/97—published 7/30/97, effective 9/3/97]
[Filed emergency 7/25/97—published 8/13/97, effective 7/25/97]
[Filed emergency 11/14/97—published 12/3/97, effective 11/14/97]
[Filed 11/14/97, Notice 8/13/97—published 12/3/97, effective 1/7/98]
[Filed 3/31/98, Notice 12/3/97—published 4/22/98, effective 5/27/98]
[Filed 7/9/98, Notice 4/22/98—published 7/29/98, effective 9/2/98]
[Filed 1/21/99, Notice 10/7/98—published 2/10/99, effective 3/17/99]
[Filed 11/12/99, Notice 10/6/99—published 12/1/99, effective 1/5/00]
[Filed 7/17/03, Notice 6/11/03—published 8/6/03, effective 9/10/03]
[Filed 1/15/04, Notice 10/1/03—published 2/4/04, effective 3/10/04]
[Filed 1/15/04, Notice 12/10/03—published 2/4/04, effective 3/10/04]
[Filed 3/12/04, Notice 1/7/04—published 3/31/04, effective 5/5/04]
[Filed 3/12/04, Notice 2/4/04—published 3/31/04, effective 5/5/04]
[Filed 9/9/04, Notice 8/4/04—published 9/29/04, effective 11/3/04]
[Filed 7/13/05, Notice 6/8/05—published 8/3/05, effective 9/7/05]
[Filed 9/20/06, Notice 8/2/06—published 10/11/06, effective 11/15/06]
[Filed 11/15/06, Notice 10/11/06—published 12/6/06, effective 1/10/07]◊
[Filed 7/9/08, Notice 1/30/08—published 7/30/08, effective 9/3/08]
[Filed ARC 8433B (Notice ARC 8190B, IAB 10/7/09), IAB 12/30/09, effective 2/3/10]
[Filed ARC 0663C (Notice ARC 0513C, IAB 12/12/12), IAB 4/3/13, effective 5/8/13]
[Filed ARC 0766C (Notice ARC 0601C, IAB 2/6/13), IAB 5/29/13, effective 7/3/13]
[Filed ARC 0903C (Notice ARC 0776C, IAB 5/29/13), IAB 8/7/13, effective 9/11/13]
[Filed ARC 1048C (Notice ARC 0923C, IAB 8/7/13), IAB 10/2/13, effective 11/6/13]
[Filed ARC 1050C (Notice ARC 0907C, IAB 8/7/13), IAB 10/2/13, effective 11/6/13]
[Filed ARC 1205C (Notice ARC 1082C, IAB 10/2/13), IAB 12/11/13, effective 1/15/14]
[Filed ARC 1204C (Notice ARC 1083C, IAB 10/2/13), IAB 12/11/13, effective 1/15/14]
[Filed ARC 1398C (Notice ARC 1313C, IAB 2/5/14), IAB 4/2/14, effective 5/7/14]
[Filed ARC 1752C (Notice ARC 1648C, IAB 10/1/14), IAB 12/10/14, effective 1/14/15]

◊ Two or more ARCs

1 Effective date of 470—58.15(2)*"c"* delayed 70 days by the Administrative Rules Review Committee, IAB 2/26/86.

Effective date of 470—58.15(2)*"c"* delayed until the expiration of 45 calendar days into the 1987 session of the General Assembly pursuant to Iowa Code section 17A.8(9), IAB 6/4/86.

[2] See IAB, Inspections and Appeals Department.

CHAPTER 62
RESIDENTIAL CARE FACILITIES FOR PERSONS WITH MENTAL ILLNESS (RCF/PMI)

481—62.1(135C) Definitions. For the purposes of these rules, the following terms shall have the meaning indicated in this chapter. The definitions set out in Iowa Code section 135C.1 shall be considered incorporated verbatim in the rules. The use of the words "shall" and "must" indicate these standards are mandatory.

"Academic services" means those activities provided to assist a person to acquire general information and skills which establish the basis for subsequent acquisition and application of knowledge.

"Age appropriate" means those activities, settings, and personal appearance and possessions commensurate with the person's chronological age.

"Chronic mental illness" means a persistent mental or emotional disorder that seriously impairs an adult's functioning relative to such primary aspects of daily living as personal relations, living arrangements, or employment.

"Commission" means the mental health and mental retardation commission.

"Community living training services" are those activities provided to assist a person to acquire or sustain the knowledge and skills essential to independent functioning to the person's maximum potential in the physical and social environment. These services may focus on the following areas:

1. Independent living skills means those skills necessary to sustain oneself in the physical environment and are essential to the management of one's personal property and business. This includes self-advocacy skills.
2. Socialization skills which include self-awareness and self-control, social responsiveness, group participation, social amenities, and interpersonal skills.
3. Communication skills which include expressive and receptive skills in verbal and nonverbal language including reading and writing.
4. Leisure time and recreational skills which include the skills necessary for a person to use leisure time in a manner which is satisfying and constructive to the person.
5. Parenting skills which include those skills necessary to meet the needs of the person's child. This service is designed to assist the person with mental illness to acquire or sustain the skills necessary for parenting.

"Department" means the Iowa department of inspections and appeals.

"Dependent adult abuse" is as defined in rule 481—52.1(235E).

"Diagnosis" means the investigation and analysis of the cause or nature of a person's condition, situation, or problem.

"Direct care staff" means those staff persons who provide a homelike environment for the residents and assist or supervise the resident in meeting the goals in the resident's program plan.

"Evaluation services" means those activities designed to identify a person's current functioning level and those factors which are barriers to maintaining the current level or achieving a higher level of functioning.

"Exploitation" means the act or process of taking unfair advantage of a resident, or the resident's physical or financial resources, for one's own personal or pecuniary profit by the use of undue influence, harassment, duress, deception, false representation, or false pretenses.

"Goals" means general statements of attainable expected accomplishments to be achieved in meeting identified needs.

"Incident" means all accidental, purposeful, or other occurrences within the facility or on the premises affecting residents, visitors, or employees whether there is apparent injury or where hidden injury may have occurred.

"Individual program plan (IPP)" means a written plan for the provision of services to the resident that is developed and implemented using an interdisciplinary process, that is based on the resident's functional status, strengths and needs, and that identifies service activities designed to enable a person

to maintain or move toward independent functioning. The plan identifies a continuum of development and outlines progressive steps and anticipated outcomes of services.

"Informed consent" means an agreement by a person, or by the person's legally authorized representative, based upon an understanding of:

1. A full explanation of the procedures to be followed including an identification of those that are and are not experimental,
2. A description of the attendant discomforts, risks, and benefits to be expected,
3. A disclosure of appropriate alternative procedures that would be advantageous for the person.

"Interdisciplinary process" means an approach to assessment, individual program planning, and service implementation in which planning participants function as a team. Each participant utilizing the skills, competencies, insights and perspectives provided by the participant's training and experience focuses on identifying the service needs of the resident and the resident's family. The purpose of the process is for participants to review and discuss, face-to-face, all information and recommendations and to reach decisions as a team. Participants share all information and recommendations, and develop as a team a single, integrated, individual program plan to meet the resident's and, when appropriate, the resident's family's needs.

"Interdisciplinary team" means the group of persons who develop a single, integrated, individual program plan to meet a resident's needs for services. The interdisciplinary team consists of, at a minimum, the resident, the resident's legal guardian, if applicable, the resident's advocate if desired by the resident, a referral agency representative, other appropriate staff members, other providers of services, and other persons relevant to resident's needs.

"Least restrictive environment" means the environment in which the interventions in the lives of people with mental illness can be carried out with a minimum of limitation, intrusion, disruption, and departure from commonly accepted patterns of living.

It is the environment which allows residents to participate, to the maximum extent possible, in everyday life and to have control over the decisions that affect them. It is an environment that provides needed supports which do not interfere with personal liberty and do not unduly interfere with a person's access to the normal events of life.

"Legal services" means those activities designed to assist the person in exercising constitutional and legislatively enacted rights.

"Level of functioning" means a person's current physiological and psychological status and current academic, community living, self-care, and vocational skills.

"Long-term residential care facility for persons with mental illness (RCF/PMI)" means a residential setting to maintain or improve community living skills to reach maximum potential for independent living and to prevent movement to a more restrictive setting.

"Mechanical restraint" means a device applied to a person's limbs, head, or body which restricts a person's movement and includes but is not limited to leather straps, leather cuffs, camisoles, or handcuffs.

"Mental abuse" means, but is not limited to, humiliation, harassment, and threats of punishment or deprivation.

"Mental illness" means a substantial disorder of thought or mood which significantly impairs judgment, behavior, or the capacity to recognize reality or the ability to cope with the ordinary demands of life. Mental disorders include the organic and functional psychoses, neuroses, personality disorders, alcoholism and drug dependence, behavioral disorders and other disorders as defined by the current edition of American Psychiatric Association Diagnostic and Statistical Manual of Mental Disorders.

"Normalization" means helping persons, in accordance with their needs and preference, to achieve a lifestyle that is consistent with the norms and patterns of general society and in ways which incorporate the age-appropriate and least restrictive principles.

"Objectives" means specific, time-limited, and measurable statements showing outcomes or accomplishments necessary to progress toward the goal.

"Physical abuse" means, but is not limited to, corporal punishment and the use of restraints as punishment.

"Physical injury" means damage to any bodily tissue to the extent the tissue must undergo a healing process in order to be restored to a sound and healthy condition. It may also mean damage to the extent the bodily tissue cannot be restored to a sound and healthy condition, or results in the death of the resident whose bodily tissue sustained the damage.

"Physical or physiological treatment" means those activities designed to prevent, halt, control, relieve, or reverse symptoms or conditions which interfere with the physical or physiological functioning of the human body.

"Physical restraint" means a technique involving the use of one or more of a staff person's arms, legs, hands or other body areas to restrict or control the movements of a resident. This does not include the use of mechanical restraint.

"Physician" means a person licensed to practice medicine and surgery, osteopathy and surgery, osteopathy, or chiropractic under the laws of this state; but a physician licensed as a physician and surgeon shall be designated as a "physician" or "surgeon"; a person licensed as an osteopath and surgeon shall be designated as an "osteopathic physician" or "osteopathic surgeon"; a person designated as an osteopath shall be designated as an "osteopathic physician"; and a person licensed as a chiropractor shall be designated as a "chiropractor."

"Primary care provider" means any of the following who provide primary care and meet certification standards:

1. A physician who is a family or general practitioner or an internist.
2. An advanced registered nurse practitioner.
3. A physician assistant.

"Program" means a set of related resources and services directed to the accomplishment of a fixed set of goals and objectives for any of the following:

1. Special target populations,
2. The population of a specified geographic area(s),
3. A specified purpose, and
4. A person.

"Psychotherapeutic treatment" means those activities designed to assist a person in the identification or modification of beliefs, emotions, attitudes, or behaviors in order to maintain or improve the person's functioning in response to the physical, emotional and social environment.

"Qualified mental health professional (QMHP)" means a person who:

Is a psychiatrist, psychologist, social worker, psychiatric nurse or mental health counselor; or

Is a doctor of medicine or osteopathic medicine or has at least a master's degree or its equivalent with coursework focusing on diagnosis and evaluation and psychotherapeutic treatment of mental health problems and mental illness.

Equivalent means at least 32 semester hours of graduate level study in the following areas:

1. Psychology (normal and abnormal)
2. Assessment (psychological and physiological)
3. Growth, development, and personality
4. Learning theory
5. Counseling theory and technique (group dynamics)
6. Human behavior
7. Sociology
8. Interpersonal relations
9. Change
10. Systems theory
11. Interdisciplinary team process
12. Organizational theory
13. Planning

These persons must have two years of documented supervised experience in providing mental health services; or

Is employed by a community mental health center or mental health service provider accredited by the commission and has less than a master's degree but at least a bachelor's degree and sufficient education and experience as determined by the chief administrative officer of the community mental health center, with the approval of the commission with coursework and experience focusing on diagnosis and evaluation and treatment of persons with mental health problems and mental illness.

All persons must hold a current license when required by Iowa law.

1. *"Psychiatrist"* means a doctor of medicine or osteopathic medicine and surgery who is certified by the American Board of Psychiatry and Neurology or who is eligible for certification.

2. *"Psychologist"* means a person who is licensed to practice psychology in the state of Iowa, or is certified by the Iowa department of education as a school psychologist, or is eligible for certification, or meets the requirements for eligibility for a license to practice psychology in the state of Iowa that were effective prior to July 1, 1985.

3. *"Social worker"* means a person who is licensed to practice social work in the state of Iowa, or who is eligible for licensure.

4. *"Psychiatric nurse"* means a person who meets the requirements of certified psychiatric-mental health nurse practitioner pursuant to 655—Chapter 7, Iowa Administrative Code, or is eligible for certification.

5. *"Mental health counselor"* means a person who is certified or eligible for certification as a mental health counselor by the National Academy of Certified Clinical Mental Health Counselors.

"Resident" means a person who has been admitted to the facility to receive care and services.

"Seclusion" means the isolation of the resident in a locked room which cannot be opened by the resident.

"Self-care training services" means those activities provided to assist a person to acquire or sustain the knowledge, habits, and skills essential to the daily needs of the person. The activities focus on personal hygiene, general health maintenance, mobility skills, and other activities of daily living.

"Service" means a set of interrelated activities provided to a resident pursuant to the IPP.

"Sexual abuse" means, but is not limited to, the exposing of pubes to a resident, the exposure of a resident's genitals, pubes, breasts or buttocks for sexual satisfaction, fondling or touching the inner thigh, groin, buttocks, anus or breast of a resident or the clothing covering these areas, sexually suggestive comments or remarks made to a resident, a genital to genital or oral to genital contact or the commission of a sexual offense under Iowa Code chapter 709 or Iowa Code section 726.2.

"Short-term transitional residential care facility for persons with mental illness" means a transitional setting to move the person toward independent living by helping the person gain mastery of independent living skills.

"Support services" means those activities provided to or on behalf of a person in the areas of personal care and assistance and property maintenance in order to allow a person to live in the least restrictive environment.

"Transportation services" means those activities designed to assist a person to travel from one place to another to obtain services or carry out life's activities.

"Verbal abuse" means, but is not limited to, the use of derogatory terms or names, undue voice volume and rude comments, orders, or responses to residents.

"Vocational training services" means those activities designed to familiarize a person with production or employment requirements and to maintain or develop the person's ability to function in a work setting. This service includes programming which allows or promotes the development of skills, attitudes, and personal attributes appropriate to the work setting.

"Work" means any activity during which a resident provides goods or services for wages.

"Written, in writing or recorded" means that an account or entry is made in a permanent form.

[**ARC 1204C**, IAB 12/11/13, effective 1/15/14; **ARC 1752C**, IAB 12/10/14, effective 1/14/15]

481—62.2(135C) Application for license.

62.2(1) *Initial application and licensing.* In order to obtain an initial license for a residential care facility for persons with mental illness, the applicant must meet all of the rules, regulations, and standards

contained in Iowa Code chapter 135C, and Iowa Administrative Code 481—Chapters 60 and 62, and submit an application to the department which states the type and category of license for which the facility is applying.

a. Submit a résumé of care with a narrative which includes the following information:

(1) The purpose of the facility.

(2) A description of the target population and limitations on resident eligibility.

(3) An identification and description of the services the facility will provide which shall minimally include specific and measurable goals and objectives for each of the services to be made available by the facility and a description of the resources needed to provide each of the services including staff, physical facilities and funds.

(4) A description of the human services system available in the area, including, but not limited to, social, public health, visiting nurse, vocational training, employment services, sheltered living arrangements, and services of private agencies.

(5) A description of working relationships with the human services agencies when applicable, which shall include at a minimum:

1. A description of how the facility will coordinate with the human services to facilitate continuity of care and coordination of services to residents; and

2. A description of how the facility will coordinate with those agencies to identify unnecessary duplication of services and plan for development and coordination of needed services.

b. Submit a floor plan of each floor of the facility drawn on 8½- x 11-inch paper showing room areas in proportion, room dimensions, room numbers for all rooms, including bathroom; and designation of the use to which room will be put and window and door location;

c. Submit a photograph of the front and side elevation of the facility;

d. Submit the statutory fee for a residential care facility license;

e. Show evidence of a certificate signed by the state fire marshal or deputy state fire marshal as to compliance with fire safety rules.

62.2(2) *Renewal application or change of ownership.* In order to obtain a renewal or change of ownership license of the residential care facility to serve persons with mental illness the applicant must:

a. Submit to the department the completed application form 30 days prior to annual license renewal or change of ownership date of the residential care facility license.

b. Submit the statutory license fee for a residential care facility for persons with mental illness with the application for renewal or change of ownership.

c. Have an approved current certificate signed by the state fire marshal or deputy state fire marshal as to compliance with fire safety rules.

d. Submit documentation of review of résumé of care pursuant to 62.2(1)*"a"* and a copy of any revisions to the plan.

This rule is intended to implement Iowa Code sections 135C.7 and 135C.9.

481—62.3(135C) Licenses for distinct parts.

62.3(1) Separate licenses may be issued for distinct parts which are clearly identifiable parts of a health care facility, containing contiguous rooms in a separate wing or building or on a separate floor of the facility and which provide care and services of separate categories.

62.3(2) The following requirements shall be met for a separate licensing of a distinct part:

a. The distinct part shall serve only residents who require the category of care and services immediately available to them within that part. (III)

b. The distinct part shall meet all the standards, rules, and regulations pertaining to the category for which a license is being sought.

c. The distinct part must be operationally and financially feasible.

d. A separate personal care staff with qualifications appropriate to the care and services being rendered must be regularly assigned and working in the distinct part under responsible management. (III)

e. Separately licensed distinct parts may have certain services such as management, building maintenance, laundry and dietary in common with each other.

62.3(3) Licenses are issued to the person or governmental unit which has responsibility for the operation of the facility and authority to comply with all applicable statutes, rules or regulations.

The person or governmental unit must be the owner of the facility or, if the facility is leased, the lessee.

This rule is intended to implement Iowa Code sections 135C.6(1) and 135C.6(2).

481—62.4(135C) Variances. Variances from these rules may be granted by the director of the department:

1. When the need for a variance has been established consistent with the résumé of care or the resident's individual program plan.
2. When there is no danger to the health, safety, welfare, or rights of any resident.
3. The variance will apply only to a specific residential care facility for the mentally ill.
4. Variances shall be reviewed at the time of each licensure survey by the department to see if the need for the variance is still acceptable.

62.4(1) To request a variance, the licensee must:

a. Apply in writing on a form provided by the department;

b. Cite the rule or rules from which a variance is desired;

c. State why compliance with the rule or rules cannot be accomplished;

d. Explain how the variance is consistent with the résumé of care or the individual program plan;

e. Demonstrate that the requested variance will not endanger the health, safety, welfare, or rights of any resident.

62.4(2) Upon receipt of a request for variance, the director shall:

a. Examine the rule from which the variance is requested;

b. Evaluate the requested variance against the requirement of the rule to determine whether the request is necessary to meet the needs of the residents;

c. Examine the effect of the requested variance on the health, safety, or welfare of the residents;

d. Consult with the applicant to obtain additional written information if required.

62.4(3) Based upon this information, approval of the variance will be either granted or denied within 120 days of receipt.

481—62.5(135C) General requirements.

62.5(1) The license shall be valid and be posted in each facility so the public can see it easily. (III)

62.5(2) The license shall be valid only for the premises and person named on the license and is not transferable.

62.5(3) The posted license shall accurately reflect the current status of the residential care facility for persons with mental illness. (III)

62.5(4) Licenses expire one year after the date of issuance or as indicated on the license.

62.5(5) There shall be no more beds erected than are stipulated on the license. (II, III)

62.5(6) Each citation or a copy of each citation issued by the department for a class I or class II violation shall be prominently posted by the facility in plain view of the residents, visitors, and persons inquiring about placement in the facility. The citation or copy of the citation shall remain posted until the violation is corrected to the satisfaction of the department. (III)

This rule is intended to implement Iowa Code section 135C.8.

481—62.6(135C) Notification required by the department. The department shall be notified:

Within 48 hours, by letter, of any reduction or loss of personal care or dietary staff lasting more than seven days which places the staff ratio below that required for licensing. No additional residents shall be admitted until the minimum staff requirements are achieved. (II, III)

Within 30 days of any proposed change in the résumé of care for the RCF/PMI. (II, III)

Thirty days before addition, alteration, or new construction is begun in the residential care facility or on the premises; (III)

Thirty days in advance of closure of the residential care facility for persons with mental illness; (III)

Within two weeks of any change of administrator; (II, III)

Within 30 days when any change in the category of license is sought. (III)

Prior to the purchase, transfer, assignment, or lease of a residential care facility the licensee shall:

1. Inform the department in writing of pending sale, transfer, assignment, or lease of the facility; (III)

2. Inform the department in writing of the name and address of the prospective purchaser, transferee, assignee, or lessee at least 30 days before the sale, transfer, assignment, or lease is completed; (III)

3. Submit a written authorization to the department permitting the department to release information of whatever kind from the department's files concerning the licensee's residential care facility to the named prospective purchaser, transferee, assignee, or lessee. (III)

After the authorization has been submitted to the department, the department shall upon request send or give copies of all recent licensure surveys and any other pertinent information relating to the facility's licensure status to the prospective purchaser, transferee, assignee or lessee. Costs for copies requested shall be paid by the prospective purchaser, transferee, assignee or lessee. No information personally identifying any resident shall be provided to prospective purchaser, transferee, assignee or lessee. (II, III)

This rule is intended to implement Iowa Code sections 135C.6(3) and 135C.16(2).

481—62.7(135C) Administrator. Each residential care facility for persons with mental illness shall have one person in charge, duly approved by the department or acting in a provisional capacity in accordance with these rules. (II, III)

62.7(1) The administrator shall be at least 21 years of age and shall meet at least one of the following conditions:

a. Be a licensed nursing home administrator, or a certified residential care administrator in Iowa. These individuals must have at least two years' experience in direct care or supervision of persons with mental illness, (II, III) or

b. Be a qualified mental health professional (QMHP) with at least one year of experience in an administrative capacity in a health care facility, (II, III) or

c. Have completed a one-year educational training program approved by the department with emphasis on serving the needs of persons with mental illness, and two years' experience in direct care or supervision of persons with mental illness. (II, III)

d. Those individuals currently employed as administrators on the effective date of these rules (March 30, 1988) shall not be required to meet the above criteria during their employment in the current facility.

62.7(2) The administrator shall be responsible for no more than 150 beds in total if the administrator is an administrator of more than one facility. (II, III)

a. The distance between the two farthest facilities shall be no greater than 50 miles. (II, III)

b. An administrator of more than one facility must designate an administrative staff person in each facility who shall be responsible for directing programs in the facility during the administrator's absence. (II, III)

62.7(3) The administrative staff person shall be designated in writing and immediately available to the facility on a 24-hour basis when the administrator is absent and residents are in the facility. (II, III)

The person(s) designated shall:

a. Have at least two years' experience or training in a supervisory or direct care position in a mental health setting; (II, III)

b. Be knowledgeable of the operation of the facility; (II, III)

c. Have access to records concerned with the operation of the facility; (II, III)

d. Be capable of carrying out administrative duties and of assuming administrative responsibilities; (II, III)

e. Be at least 21 years of age; (III)

f. Be empowered to act on behalf of the licensee during the administrator's absence concerning the health, safety, and welfare of the residents; (II, III)

g. Have training to carry out assignments and take care of emergencies and sudden illnesses of residents. (II, III)

62.7(4) If an administrator serves more than one facility, a written plan shall be developed and available for review and approval by the department designating regular and specific times the administrator will be available to meet with the staff and residents to provide direction and supervision of resident care and services. (II, III)

62.7(5) The licensee may be the approved administrator providing the requirements set forth in these rules are met. (III)

62.7(6) When a facility has been unable to replace the administrator, through no fault of its own, a provisional administrator meeting the qualifications of the administrative staff person may be appointed on a temporary basis by the licensee to assume the administrative responsibilities for the facility. This person shall not serve more than three months. The department must be notified before the appointment of the provisional administrator. (III)

A facility applying for initial licensing shall not have a provisional administrator. (III)

This rule is intended to implement Iowa Code section 135C.14(2).

481—62.8(135C) Administration.

62.8(1) The licensee shall:

a. Be responsible for the overall operation of the RCF/PMI. (III)

b. Be responsible for compliance with all applicable laws and with the rules of the department. (II, III)

c. Establish written policies, which shall be available for review by the department or other agencies designated by Iowa Code section 135C.16(3), for the operation of the RCF/PMI including but not limited to: (III)

1. Personnel (III)
2. Admission (III)
3. Evaluation services (II, III)
4. Programming and individual program plan (II, III)
5. Crisis intervention (II, III)
6. Discharge or transfer (III)
7. Medication management (II)
8. Resident property (II, III)
9. Financial affairs (II, III)
10. Records (III)
11. Health and safety (II, III)
12. Nutrition (III)
13. Physical facilities and maintenance (III)
14. Care review (III)
15. Resident rights (II, III)

d. Furnish statistical information concerning the operation of the facility to the department within 30 days of request. (III)

62.8(2) The administrator shall be responsible for the implementation of procedures to support the policies established by the licensee. (III)

This rule is intended to implement Iowa Code section 135C.14.

481—62.9(135C) Personnel.

62.9(1) The personnel policies and procedures shall include the following requirements: (III)

a. Written job descriptions for all employees or agreements for all consultants, which include duties and responsibilities; education, experience, or other requirements, and supervisory relationships. (III)

b. Annual performance evaluation of all employees and consultants which is dated and signed by the employee or consultant and the supervisor. (III)

c. Personnel records which are current, accurate, complete, and confidential to the extent allowed by law. The record shall contain documentation of how the employee's or consultant's education and experience are relevant to the position for which hired. (III)

d. Roles, responsibilities, and limitation of student interns and volunteers. (III)

e. An orientation program for all newly hired employees and consultants which includes an introduction to the facility's personnel policies and procedures, and a discussion of the facility's safety plan. (II, III)

f. A plan for a continuing education program with a minimum of eight in-service programs per year for all employees which shall include a written, individualized staff development plan for each employee. This includes, but is not limited to, the administrator, department heads, and direct care staff. The plan shall take into consideration the needs of the facility as identified in the résumé of care. The plan shall ensure that each employee has the opportunity to develop and enhance skills and to broaden and increase knowledge contributing to effective resident care, including but not limited to: (II, III)

(1) First aid. (II, III)

(2) Human needs and behavior. (II, III)

(3) Problems and needs of persons with mental illness. (II, III)

(4) Medication. (II, III)

(5) Crisis intervention. (II)

(6) Delivery of services in accordance with the principles of normalization. (III)

(7) Wellness. (III)

(8) Fire safety, disaster, and tornado preparation. (II, III)

g. Equal opportunity and affirmative action employment practices. (III)

h. Procedures to be used when disciplining an employee. (III)

i. Appropriate dress and personal hygiene for staff and residents. (III)

62.9(2) The facility shall require regular health examinations for all personnel, and examinations shall be required at the commencement of employment and thereafter at least every four years. The examination shall include, at a minimum, the health status of the employee. Screening and testing for tuberculosis shall be conducted pursuant to 481—Chapter 59. (III)

a. No person shall be allowed to provide services in a facility if the person has a disease:

(1) Which is transmissible through required workplace contact, (I, II, III)

(2) Which presents a significant risk of infecting others, (I, II, III)

(3) Which presents a substantial possibility of harming others, and (I, II, III)

(4) For which no reasonable accommodation can eliminate the risk. (I, II, III)

Refer to Guidelines for Infection Control in Hospital Personnel, Centers for Disease Control, U.S. Department of Health and Human Services, PB85-923402 to determine (1), (2), (3) and (4).

b. There shall be written policies for emergency medical care for employees in case of sudden illness or accident. These policies shall include the administrative individuals to be contacted. (III)

c. Health certificates for all employees shall be available for review by the department. (III)

62.9(3) Staffing. The facility shall establish, subject to approval of the department, the numbers and qualifications of the staff required in an RCF/PMI using as its criteria the services being offered as indicated on the résumé of care and as required for implementation of individual program plans. (II, III)

a. Personnel in an RCF/PMI shall provide 24-hour coverage for residential care services. Personnel shall be up and dressed at all times in facilities over 15 beds. In facilities with 15 or less beds, personnel shall be up and dressed when residents are awake. (II, III)

b. The policies and procedures shall provide for staff accessibility during normal sleeping hours in facilities with 15 beds or less. (I)

c. Direct care staff shall be present in the facility unless all residents are involved in activities away from the facility. The policies and procedures shall provide for an on-call staff person to be available when residents and staff are absent from the facility. (II, III)

(1) The on-call staff person shall be designated in writing.

(2) Residents shall be informed of how to call the on-call person.

d. The staffing plan shall ensure that at least one qualified direct care staff is on duty to carry out and implement the individual program plans. (II, III)

e. The RCF/PMI shall provide for services of a qualified mental health professional by direct employment or contract and whose responsibilities shall include, but not be limited to: (II, III)

(1) Approval of each resident's individual program plan; (II, III)

(2) Monitoring the implementation of each resident's individual program plan; (II, III)

(3) Recording each resident's progress; (II, III)

(4) Participation in a periodic review of each individual program plan pursuant to 62.12(4)*"a"* and *"b."* (II, III)

f. Each residential care facility with over 15 beds shall employ a person to direct the activity program both inside and outside the facility in accordance with each resident's individual program plan. (III)

g. Staff for the activity program shall be provided on a minimum basis of 45 minutes per licensed bed per week:

(1) The activity coordinator shall have completed the activity coordinator's orientation course approved by the department within six months of beginning employment or have comparable training and experience as approved by the department. (III)

(2) The activity coordinator shall attend workshops or educational programs which relate to activity programming. These shall total a minimum of ten contact hours per year. (III)

(3) There shall be a written plan for personnel coverage when the activity coordinator is absent during scheduled working hours. (III)

h. The activity coordinator shall have access to all residents' records excluding financial records; (III)

i. Responsibilities of the activity coordinator shall include:

(1) Coordinating all activities, including volunteer or auxiliary activities and religious services. (III)

(2) Keeping all necessary records including attendance, individual resident progress notes at least quarterly, and monthly calendars prepared one month in advance. (III)

(3) Coordinating the activity program with all other services in the facility. (III)

(4) Participating in the in-service training program in the facility. This shall include attending as well as presenting sessions. (III)

62.9(4) Personnel record.

a. A personnel record shall be kept for each employee. (III)

b. The record shall include the employee's:

1. Name and address, (III)
2. Social security number, (III)
3. Date of birth, (III)
4. Date of employment, (III)
5. References, (III)
6. Position in the facility, (III)
7. Job description, (III)
8. Documentation of experience and education, (III)
9. Staff development plan, (III)
10. Annual performance evaluation, (II, III)
11. Documentation of disciplinary action, (II, III)
12. Date and reason for discharge or resignation, (III)
13. Current physical examination. (III)

62.9(5) Employee criminal record checks, child abuse checks and dependent adult abuse checks and employment of individuals who have committed a crime or have a founded abuse. The facility shall comply with the requirements found in Iowa Code section 135C.33 as amended by 2013 Iowa Acts, Senate File 347, and rule 481—50.9(135C) related to completion of criminal record checks, child abuse checks, and dependent adult abuse checks and to employment of individuals who have committed a crime or have a founded abuse. (I, II, III)

This rule is intended to implement Iowa Code sections 135C.14(2) and 135C.14(6).

[**ARC 0663C**, IAB 4/3/13, effective 5/8/13; **ARC 0903C**, IAB 8/7/13, effective 9/11/13; **ARC 1205C**, IAB 12/11/13, effective 1/15/14]

481—62.10(135C) General admission policies. There shall be admission policies which address the following:

1. No resident shall be admitted or retained who is in need of greater services than the facility can provide. (II, III)

2. Residents shall be admitted only on a written order signed by a physician certifying that the individual requires no more than personal care and supervision and does not require nursing care. (II, III)

3. A preplacement visit shall be completed prior to admission, except in case of an emergency admission or readmission, to familiarize the applicant with the facility and services offered. The policies and procedures may allow for waiving the requirement at the request of a person seeking admission when the completion of the visit would create a hardship for the person seeking admission. If the distance to be traveled makes it impossible to complete the visit in an eight-hour day, this may be considered to create a hardship. (III)

4. Prior to admission of an applicant, the facility shall obtain sufficient information to determine if its program is appropriate and adequate to meet the person's needs. (III)

5. Admission criteria shall include but not be limited to age, sex, diagnosis, from the American Psychiatric Association Diagnostic and Statistical Manual of Mental Disorders, substance abuse, dual diagnosis and criteria that are consistent with the résumé of care. (III)

6. Each facility shall maintain a waiting list with selection priorities identified. (III)

7. No RCF/PMI may admit more residents than the number of beds for which it is licensed. (II, III)

8. There shall be a written, organized orientation program for all residents which shall be planned and implemented to resolve or reduce personal, family, business, and emotional problems that may interfere with the health care, recovery, and rehabilitation of the individual and which shall be available for review by the department. (III)

9. Infants and children under the age of 18 shall not be admitted to an RCF/PMI for adults unless given prior written approval by the department. A distinct part of an RCF/PMI, segregated from the adult section, may be established based on a résumé of care submitted by the licensee or applicant which is commensurate with the needs of the residents of the health care facility and has received the department's review and approval. (III)

This rule is intended to implement Iowa Code sections 135C.3 and 135C.23.

481—62.11(135C) Evaluation services.

62.11(1) Each resident admitted shall have had a physical examination prior to admission and annually thereafter. (II, III)

a. If the resident is admitted directly from a hospital, a copy of the hospital admission physical and discharge summary may be part of the record in lieu of an additional physical examination. (II, III)

b. The record of the admission physical examination shall portray the current medical status of the resident and shall include the resident's name, sex, age, medical history, physical examination, diagnosis, statement of chief complaints, and results of any diagnostic procedure. (II, III)

c. Screening and testing for tuberculosis shall be conducted pursuant to 481—Chapter 59. (II, III)

62.11(2) Evaluation services shall be provided to each resident. An annual evaluation of each resident shall be completed no later than 12 months from the date of the last available evaluation. For

residents who are on leave from a state mental health institution, the institution shall be responsible for the completion of the evaluation. The facility shall ensure the completion of the evaluation of all other residents. The annual evaluation shall identify physical health and current level of functioning and need for services. (II, III)

62.11(3) The portion of the evaluation to identify the resident's physical health shall:

a. Result in identification of current illness and disabilities and recommendations for physical and physiological treatment and services. (II, III)

b. Include an evaluation of the resident's ability for health maintenance. (III)

c. Be performed by a medical doctor or doctor of osteopathic medicine who holds a current license to practice medicine in the state of Iowa. If the evaluation is completed out of Iowa, it must be by a physician who holds a current license in the state in which the evaluation is performed. (II, III)

62.11(4) The portion of the evaluation to identify the resident's current functioning level and need for services shall:

a. Identify the resident's level of functioning and need for services in each of the following areas: self-care, community living skills, psychotherapeutic treatment, vocational skills, academic skills. (II, III)

b. Be of sufficient detail to determine the appropriateness of placement according to the skills and needs of the resident. (II, III)

c. Be made without regard to the availability of services. (III)

d. Be performed by a QMHP, in consultation with the interdisciplinary team. (II, III)

e. If an evaluation is available from the referral source, the evaluation shall be secured by the facility prior to the admission of the applicant. (III)

f. If an evaluation is not available, or does not contain all the required information, the facility shall ensure an evaluation to the extent necessary to determine if the applicant meets the criteria for admission. For those admitted, the remainder of the evaluation shall be performed prior to the development of an individual program plan. (III)

g. Results of all evaluations shall be in writing and maintained in the resident's record. Evaluations subsequent to the initial evaluation shall be performed in sufficient detail to determine changes in the resident's physical health, skills and need for services. (II, III)

62.11(5) A narrative social history shall be completed for each resident within 30 days of admission and approved by the qualified mental health professional prior to the development of the IPP. (III)

a. When the social history was secured from another provider, the information contained shall be reviewed within 30 days of admission. The date of the review, signature of the staff reviewing the history and a summary of significant changes in the information shall be entered in the resident's record. (III)

b. An annual review of the information contained within the social history shall be incorporated into the individual program plan progress note. (III)

c. The social history shall minimally address the following areas:

1. Referral source and reason for admission, (II, III)
2. Legal status, (II, III)
3. A description of previous living arrangements, (III)
4. A description of previous services received and summary of current service involvements, (II, III)
5. A summary of significant medical conditions including, but not limited to, illnesses, hospitalizations, past and current drug therapies, and special diets, (II, III)
6. Substance abuse history, (II, III)
7. Work history, (III)
8. Educational history, (III)
9. Relationship with family, significant others, and other support systems, (III)
10. Cultural and ethnic background and religious affiliation, (II, III)
11. Hobbies and leisure time activities, (III)
12. Likes, dislikes, habits, and patterns of behavior, (II, III)

13. Impressions and recommendations.

This rule is intended to implement Iowa Code section 135C.14(7).

[**ARC 0663C**, IAB 4/3/13, effective 5/8/13]

481—62.12(135C) Programming.

62.12(1) Individual program plan. An individual program plan (IPP) for each resident shall be developed by an interdisciplinary team. Services to the resident shall be appropriate to address the short-term transitional or long-term residential needs of the resident. The resident or the resident's legal guardian has the ultimate authority to accept or reject the plan unless otherwise determined by the court. The IPP shall be approved and implementation monitored by the QMHP. (II, III)

a. The IPP shall be based on the individual service plan of the referring agency, if available, the information contained in the social history, the need for services identified in the evaluation, and any other pertinent information. (III)

b. The facility shall assist the resident in obtaining access to academic, community living skills training, legal, self-care training, support, transportation, treatment, and vocational training services to the resident as needed. These services may be provided by the facility or obtained from other providers. (III)

c. Services to the resident shall be provided in the least restrictive environment and shall incorporate the principle of normalization. (III)

d. If needed services are not available and accessible, the facility shall document the actions which were taken to locate and access or deliver those services. The documentation shall include the identification of the type of needs which will not be met due to the lack of available services. (III)

e. The IPP shall be developed within 30 days following admission to the facility and renewed at least annually. (II, III)

f. The IPP shall be in writing, dated, signed by the interdisciplinary team members, and maintained in the resident's record. (III)

g. Written notice of the meeting to develop an IPP shall be sent to all persons to be included in the interdisciplinary team conference in advance of the scheduled meeting. (III)

62.12(2) The IPP shall include the following:

1. Goals, (III)
2. Objectives, (III)
3. The specific service(s), including medication counseling, to be provided to achieve the objectives, the person(s) or agency(ies) responsible for providing the service(s), and the date of initiation and anticipated duration of service(s). (III)

62.12(3) The IPP shall state the evaluation procedure for determining if objectives are achieved which shall include the incorporation of a continuous process for review and revision. (III)

62.12(4) There shall be a review of the IPP by relevant staff, the resident, and appropriate others at least semiannually. (II, III)

a. The review shall include the development of a written report which addresses the following: summary of the resident's progress toward objectives; the need for continued services and any recommendation concerning alternative services or living arrangements; and any recommended change in guardianship or conservatorship status. The report shall reflect those involved in the review and the date of the review, and shall be maintained in the resident's record. (II, III)

b. The review shall be approved by the qualified mental health professional. (III)

62.12(5) There shall be procedures for recording the activities of each service provider toward assisting the resident in achieving the objectives in the IPP and the resident's response which shall include a mechanism for coordination with all service providers. (III)

a. An entry into the resident's record shall be made by staff whenever possible at the time of service provision but no later than seven days from service provision. (III)

b. Entries shall be dated and signed by the person providing the service. (III)

c. When the service includes ongoing activities occurring more than once a week, a summarized entry may be made weekly by staff in the resident's record. (III)

d. Entries shall be written in terms of behavioral observations and specific activities. Entries that involve subjective interpretations of a resident's behavior or progress shall be clearly identified and shall be supplemented with the behavioral observations which served as the basis of the interpretation. (III)

This rule is intended to implement Iowa Code section 135C.14.

481—62.13(135C) Crisis intervention.

62.13(1) There shall be written policies and procedures concerning crisis intervention. (II) These policies and procedures shall be:

a. Directed to maximizing the growth and development of the individual by incorporating a hierarchy of available alternative methods that emphasize positive approaches; (II, III)

b. Available in each program area and living unit; (II, III)

c. Available to individuals and their families; and (II, III)

d. Developed with the participation, as appropriate, of individuals served. (II, III)

62.13(2) Corporal punishment and verbal abuse (shouting, screaming, swearing, name- calling, or any other activity that would be damaging to an individual's self-respect) are prohibited by written policy. (II)

62.13(3) Medication shall not be used as punishment, for the convenience of staff, or as a substitute for a program. Direct care staff shall monitor residents on medication and notify the physician if a resident is too sedated to participate in IPP. (I, II)

62.13(4) Residents shall not be subjected to mechanical restraint. (I, II)

62.13(5) There shall be written policies that define the uses of seclusion and physical restraints, designate the staff member(s) who may authorize its use, and establish a mechanism for monitoring and controlling its use. (I, II) Temporary physical restraint and temporary seclusion of residents shall be used only under the following conditions: (I, II)

a. An emergency to prevent injury to the resident or to others; or (I, II)

b. For crisis intervention but shall not be used for punishment, for the convenience of staff or as a substitution for supervision or program; (I, II) and

c. Seclusion may only be used in an RCF/PMI if a variance is granted. When a seclusion room is used, it shall meet the standards set out in 481—subrule 61.5(12). (I, II)

62.13(6) The physician and QMHP shall be notified immediately of the resident's need for placement in seclusion and a time-limited order for seclusion obtained from the physician. The order shall be for no more than one hour at a time. If the resident is placed in seclusion longer than one hour, the resident shall be visited and evaluated by the physician or qualified mental health professional before a continuation of the seclusion order can be obtained. If the evaluation is conducted by a QMHP, the physician shall be notified of the resident's condition and the physician shall see the resident within 24 hours of each incident of seclusion and sign the seclusion order. (I, II)

62.13(7) If orders for seclusion remain in force for more than a total of 3 hours in a 24-hour period, the facility shall make arrangements for immediate transfer of the resident to a higher level of care. (I, II)

62.13(8) Standing or PRN orders for seclusion are prohibited. (I, II)

62.13(9) Written documentation of the above information shall be kept as a part of each resident's record and the administrator shall be responsible for maintaining a daily record of seclusion usage which shall be kept available for review by the department. (II, III)

62.13(10) Written documentation shall be kept of each incident of seclusion to minimally include: (II)

a. Explanation of less restrictive measures implemented prior to use of seclusion, (I, II)

b. Record of visual observation of the resident every ten minutes or more frequently if needed, (I)

c. Description of the resident's activity at the time of observation to include verbal exchange and behavior, (I, II)

d. Description of safety procedures taken (removal of dangerous objects, etc.), (I)

e. Record of vital signs including blood pressure, pulse and respiration unless contraindicated by resident behavior and reasons documented, (I, II)

f. Record of intake of food and fluid, (II, III)

g. Record of rest room use, (II, III)

h. Record of numbers of hours and minutes in seclusion. (II)

62.13(11) The facility shall provide training by qualified professionals to the staff on physical restraint and seclusion theory and techniques. (I)

a. The facility shall keep a record of above training for review by the department and shall include attendance. (II, III)

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

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

This rule is intended to implement Iowa Code section 135C.14.

481—62.14(135C) Discharge or transfer. Procedures for the discharge or transfer of the resident shall be established and followed: (II, III)

62.14(1) *Discharge plan.* The decision to discharge a person and the plan for doing so shall be established through the participation of the resident, members of the interdisciplinary team and other resource personnel as appropriate for the welfare of the individual. (II, III)

a. Discharge planning shall begin within 30 days of admission and be carried out in accordance with the IPP. (II, III)

b. As changes occur in a resident's physical or mental condition, necessitating services or care which cannot be adequately provided by the facility, the resident shall be transferred promptly to another appropriate facility pursuant to 62.10(1)*"a."* (I, II)

c. Notification shall be made to the resident's family, the resident's legal representative, primary care provider, and sponsoring agency, if any, prior to transfer or discharge of any resident. (III)

d. Proper arrangements shall be made for the welfare of the resident prior to the transfer or discharge in the event of an emergency or inability to reach the resident's family or the resident's legal representative. (III)

e. The licensee shall not refuse to discharge or transfer a resident when directed by the primary care provider, resident, legal representative, or court. (II, III)

f. Advance notification by telephone shall be made to the receiving facility prior to the transfer of any resident. (III)

g. When a resident is transferred or discharged, the current evaluation and treatment plan and progress notes for the last 30 days, as set forth in these rules, shall accompany the resident. (II, III)

h. Prior to the transfer or discharge of a resident to another health care facility, arrangements to provide for continuity of care shall be made with the facility to which the resident is being sent. (II, III)

i. A discharge or transfer authorization and summary shall be prepared for each resident who has been discharged or transferred from the facility and shall be disseminated to appropriate persons to ensure continuity of care and in accordance with the requirements to ensure confidentiality. (II, III)

j. A transfer to a part of a facility that has a different license must be handled the same way as a transfer to another facility, and not as an intrafacility transfer.

62.14(2) *Intrafacility transfer.* Residents shall not be moved from room to room within a health care facility arbitrarily. (I, II)

a. Involuntary relocation may occur only to implement goals and objectives in the IPP and in the following situations:

(1) Incompatibility with or behavior disturbing to roommates, as documented in the residents' records; (I, II)

(2) To allow a new admission to the facility which would otherwise not be possible due to separation of roommates by sex; (II, III)

(3) Reasonable and necessary administrative decisions regarding the use and functioning of the building. (II, III)

b. Unreasonable and unjustified reasons for changing a resident's room without the concurrence of the resident or legal guardian include:

(1) Punishment or behavior modification. (II)

(2) Discrimination on the basis of race or religion. (II)

c. If intrafacility relocation is necessary for reasons outlined in paragraph *"a,"* the resident shall be notified at least 48 hours prior to the transfer and the reason shall be explained. The legal guardian shall be notified as soon as possible. The notification shall be documented in the resident's record and signed by the resident or legal guardian. (II)

d. If emergency relocation is required to protect the safety or health of the resident or other residents, the notification requirements may be waived. The conditions of the emergency shall be documented. The family and legal guardian shall be notified immediately, or as soon as possible, of the condition requiring emergency relocation and the notification shall be documented. (II)

e. A transfer to a part of a facility that has a different license must be handled in the same way as a transfer to another facility and not as an intrafacility transfer. (II, III)

62.14(3) *Involuntary discharge or transfer permitted.* A facility may involuntarily discharge or transfer a resident for only one of the following reasons:

a. Medical reasons, based on the resident's needs and determined and documented in the resident's record by the primary care provider;

b. The resident's social, emotional or physical well-being or that of other residents, as documented by the administrator or designee with specific information to support the determination that the resident's continued presence in the facility would adversely affect the resident's own well-being or that of other residents;

c. Due to action pursuant to Iowa Code chapter 229; or

d. Nonpayment for the resident's stay, as described in the admission agreement for the resident's stay. (I, II, III)

62.14(4) *Involuntary transfer or discharge—written notice.* Involuntary transfer or discharge of a resident from a facility shall be preceded by a written notice to the resident or the resident's family or resident's legal representative. (II, III)

a. The notice shall contain all of the following information:

(1) The stated reason for the proposed transfer or discharge. (II)

(2) The effective date of the proposed transfer or discharge. (II)

(3) A statement, in not less than 12-point type, that reads as follows:

> You have a right to appeal the facility's decision to transfer or discharge you. If you think you should not have to leave this facility, you may request a hearing, in writing or verbally, with the Iowa department of inspections and appeals (hereinafter referred to as "department") within 7 days after receiving this notice. You have a right to be represented at the hearing by an attorney or any other individual of your choice. If you request a hearing, it will be held no later than 14 days after the department's receipt of your request and you will not be transferred before a final decision is rendered. In emergency circumstances, provision may be made for extension of the 14-day requirement upon request to the department designee. If you lose the hearing, you will not be transferred before the expiration date of either (1) 30 days following your receipt of the original notice of the discharge or transfer, or (2) no sooner than 5 days following final decision of such hearing, including the exhaustion of all appeals, whichever occurs later. To request a hearing or receive further information, call the department at (515)281-4115, or you may write to the department to the attention of: Administrator, Division of Health Facilities, Iowa Department of Inspections and Appeals, Lucas State Office Building, Des Moines, Iowa 50319. (II)

b. The notice shall be personally delivered to the resident and a copy placed in the resident's record. A copy shall also be transmitted to the department, the resident's legal representative, primary care provider, and the person or agency responsible for the resident's placement, maintenance, and care

in the facility. The notice shall indicate that copies have been transmitted to the required parties by using the abbreviation "cc:" and listing the names of all parties to whom copies were sent. (II)

c. The notice required by paragraph 62.14(4)*"a"* shall be provided at least 30 days in advance of the proposed transfer or discharge unless one of the following occurs:

(1) An emergency transfer or discharge is mandated by the resident's health care needs and is in accordance with the written orders and medical justification of the primary care provider. Emergency transfers or discharges may also be mandated in order to protect the health, safety, or well-being of other residents and staff. (II)

(2) The transfer or discharge is subsequently agreed to by the resident or the resident's legal representative, and notification is given to the legal representative, the resident's primary care provider, and the person or agency responsible for the resident's placement, maintenance, and care in the facility. (II)

d. A hearing requested pursuant to this subrule shall be held in accordance with subrule 62.14(6).

62.14(5) *Involuntary transfer or discharge—emergency transfer or discharge.* In the case of an emergency transfer or discharge, the resident must be given a written notice prior to or within 48 hours following the transfer or discharge. (II, III)

a. A copy of this notice must be placed in the resident's file. The notice must contain all of the following information:

(1) The stated reason for the transfer or discharge. (II)

(2) The effective date of the transfer or discharge. (II)

(3) A statement, in not less than 12-point type, that reads:

> You have a right to appeal the facility's decision to transfer or discharge you on an emergency basis. If you think you should not have to leave this facility, you may request a hearing, in writing or verbally, with the Iowa department of inspections and appeals within 7 days after receiving this notice. You have the right to be represented at the hearing by an attorney or any other individual of your choice. If you request a hearing, it will be held no later than 14 days after the department's receipt of your request. You may be transferred or discharged before the hearing is held or before a final decision is rendered. If you win the hearing, you have the right to be transferred back into the facility. To request a hearing or receive further information, call the department at (515)281-4115, or write to the department to the attention of: Administrator, Division of Health Facilities, Department of Inspections and Appeals, Lucas State Office Building, Des Moines, Iowa 50319-0083. (II)

b. The notice shall be personally delivered to the resident, and a copy shall be placed in the resident's record. A copy shall also be transmitted to the department, the resident's legal representative, the resident's primary care provider, and the person or agency responsible for the resident's placement, maintenance, and care in the facility. The notice shall indicate that copies have been transmitted to the required parties by using the abbreviation "cc:" and listing the names of all parties to whom copies were sent.

c. A hearing requested pursuant to this subrule shall be held in accordance with subrule 62.14(6).

62.14(6) *Involuntary transfer or discharge—hearing.*

a. Request for hearing.

(1) The resident must request a hearing within 7 days of receiving written notice.

(2) The request must be made to the department, either in writing or verbally.

b. The hearing shall be held no later than 14 days after the department's receipt of the request unless either party requests an extension due to emergency circumstances.

c. Except in the case of an emergency discharge or transfer, a request for a hearing shall stay a transfer or discharge pending a final decision, including the exhaustion of all appeals. (II)

d. The hearing shall be heard by a department of inspections and appeals administrative law judge pursuant to Iowa Code chapter 17A and 481—Chapter 10. The hearing shall be public unless the resident or representative requests in writing that the hearing be closed. In a determination as to whether a

transfer or discharge is authorized, the burden of proof by a preponderance of evidence rests on the party requesting the transfer or discharge.

e. Notice of the date, time, and place of the hearing shall be sent by certified mail or delivered in person to the facility, the resident and the resident's legal representative not later than 5 full business days after the department's receipt of the request. The notice shall also inform the facility and the resident or the resident's legal representative that they have a right to appear at the hearing in person or be represented by an attorney or other individual. The appeal shall be dismissed if neither party is present or represented at the hearing. If only one party appears or is represented, the hearing shall proceed with one party present.

f. The administrative law judge's written decision shall be sent by certified mail to the facility, resident, and resident's legal representative within 10 working days after the hearing has been concluded.

62.14(7) *Nonpayment.* If nonpayment is the basis for involuntary transfer or discharge, the resident shall have the right to make full payment up to the date that the discharge or transfer is to be made and then shall have the right to remain in the facility. (II)

62.14(8) *Discussion of involuntary transfer or discharge.* Within 48 hours after notice of involuntary transfer or discharge has been received by the resident, the facility shall discuss the involuntary transfer or discharge with the resident, the resident's legal representative, and the person or agency responsible for the resident's placement, maintenance, and care in the facility. (II)

a. The facility administrator or other appropriate facility representative serving as the administrator's designee shall provide an explanation and discussion of the reasons for the resident's involuntary transfer or discharge. (II)

b. The content of the explanation and discussion shall be summarized in writing, shall include the names of the individuals involved in the discussion, and shall be made part of the resident's record. (II)

c. The provisions of this subrule do not apply if the involuntary transfer or discharge has already occurred pursuant to subrule 62.14(5) and emergency notice is provided within 48 hours.

62.14(9) *Involuntary discharge or transfer—transfer or discharge planning.*

a. The facility shall develop a plan to provide for the orderly and safe transfer or discharge of each resident to be transferred or discharged. (II)

b. To minimize the possible adverse effects of the involuntary transfer, the resident shall receive counseling services by the sending facility before the involuntary transfer and by the receiving facility after the involuntary transfer. Counseling shall be documented in the resident's record. (II)

c. The counseling requirement in paragraph 62.14(9)*"b"* does not apply if the discharge has already occurred pursuant to subrule 62.14(5) and emergency notice is provided within 48 hours.

d. Counseling, if required, shall be provided by a licensed mental health professional as defined in Iowa Code section 228.1(6). (II)

e. The health care facility that receives a resident who has been involuntarily transferred shall immediately formulate and implement a plan of care which takes into account possible adverse effects the transfer may cause. (II)

62.14(10) *Transfer upon revocation of license or voluntary closure.* Residents shall not have the right to a hearing to contest an involuntary discharge or transfer resulting from the revocation of the facility's license by the department of inspections and appeals. In the case of the voluntary closure of a facility, a period of 30 days must be allowed for an orderly transfer of residents to other facilities.

This rule is intended to implement Iowa Code section 135C.14(8).

[**ARC 1205C**, IAB 12/11/13, effective 1/15/14; **ARC 1752C**, IAB 12/10/14, effective 1/14/15]

481—62.15(135C) Medication management.

62.15(1) Medications shall be prescribed on an individual basis by one who is authorized by Iowa law to prescribe. (I, II)

a. Medication orders shall be correctly implemented by qualified personnel. (II)

b. Qualified staff shall ensure that residents are able to take their own medication. (I, II)

c. Each physician order allowing a resident to take their own medications shall specify whether this self-medication shall be without supervision or under the supervision of qualified staff as defined in 62.15(2). (I, II)

62.15(2) Drug administration.

a. A properly trained person shall be charged with the responsibility of administering nonparenteral medications.

b. The individual shall have knowledge of the purpose of the drugs, their dangers, and contraindications.

c. This person shall be a licensed nurse or physician or shall have successfully completed a department-approved medication aide course or passed a department-approved medication aide challenge examination administered by an area community college.

d. Prior to taking a department-approved medication aide course, the individual shall:

(1) Successfully complete an approved residential aide course, nurse aide course, nurse aide training and testing program or nurse aide competency examination;

(2) Be employed in the same facility for at least six consecutive months prior to the start of the medication aide course. This requirement is not subject to waiver.

(3) Have a letter of recommendation for admission to the medication aide course from the employing facility.

e. A person who is a nursing student or a graduate nurse may take the challenge examination in place of taking a medication aide course. This individual shall do all of the following before taking the medication aide challenge examination:

(1) Complete a clinical or nursing theory course within six months before taking the challenge examination;

(2) Successfully complete a nursing program pharmacology course within one year before taking the challenge examination;

(3) Provide to the community college a written statement from the nursing program's pharmacology or clinical instructor indicating the individual is competent in medication administration.

f. A person who has written documentation of certification as a medication aide in another state may become a medication aide in Iowa by successfully completing a department-approved nurse aide competency examination and a medication aide challenge examination.

The requirements of paragraph *"d"* of this subrule do not apply to this individual.

g. Unit dose medication shall remain in the identifiable unit dose package until given to the resident. (II)

h. Medications that are not contained in unit dose packaging shall be set up and administered by the same person and must be administered within one hour of preparation. (II)

i. The person administering medications must observe and check to make sure the resident swallows oral medications and must record the date, time, amount and name of each medication given. (II)

j. Injectable medications shall be administered as permitted by Iowa law by a qualified nurse, physician, pharmacist, or physician assistant (PA).

k. Residents certified by their physician as capable of injecting their own insulin may do so. Insulin may be administered pursuant to *"j"* above or as otherwise authorized by the resident's physician. Authorization by the physician shall:

(1) Be in writing,

(2) Be maintained in the resident's record,

(3) Be renewed quarterly,

(4) Include the name of the individual authorized to administer the insulin,

(5) Include documentation by the physician that the authorized person is qualified to administer insulin to that resident.

l. Current and accurate records must be kept on the receipt and disposition of all Schedule II drugs. (II, III)

62.15(3) For each resident who is taking medication with or without supervision there shall be documentation on the individual's record to include:

a. Name of resident, (II, III)

b. Name of drug, dose, and schedule, (II, III)

c. Method of administration, (II, III)

d. Drug allergies and adverse reactions, (I, II)

e. Special precautions, (I, II)

f. Documentation of resident's continuing ability to administer own medication. (I, II)

62.15(4) Medication counseling shall be provided for all residents in accordance with the IPP on an ongoing basis and as part of discharge planning unless contraindicated in writing by the physician with reasons and pursuant to 62.12(2)*"c."* (II, III)

Each resident shall be given verbal and written information about all medications the resident is currently using, including over-the-counter medications. A suggested reference is "USPDI, Advice for the Patient." (II, III)

The information shall include:

a. Name, reason for, and amount of medication to be taken; (II)

b. Time medication is to be taken and the reason that schedule was established; (II)

c. Possible benefits, risks and side effects of each medication including over-the-counter medications; (II)

d. The names of people in the community qualified to answer questions about medications. (II, III)

e. A list of available resources or agencies which may assist the resident to obtain medication after discharge. (III)

62.15(5) Drug storage.

a. Residents who have been certified in writing by the physician as capable of taking their own medications may retain these medications in their bedrooms. Individual locked storage shall be utilized. (II, III)

b. Drug storage for residents who are unable to take their own medications and require supervision shall meet the following requirements:

(1) Adequate size cabinet with lock which can be used for storage of drugs, solutions, and prescriptions. A locked drug cart may be used. (II, III)

(2) A bathroom shall not be used for drug storage. (II, III)

(3) The drug storage cabinet shall be kept locked when not in use. (II, III)

(4) The drug storage cabinet key shall be in the possession of the employee charged with the responsibility of administering medication. (III)

(5) Medications requiring refrigeration which are stored in a common refrigerator shall be kept in a locked box properly labeled, and separated from food and other items. (III)

(6) Drugs for external use shall be stored separately from drugs for internal use. External medications are those to be applied to the outside of the body and include but are not limited to salves, ointments, gels, pastes, soaps, baths, and lotions. Internal medications are those to be applied inside the body or ingested and include but are not limited to oral and injectable medications, eye drops, ear drops and suppositories. Also, eye drops and ear drops shall be separated from each other as well as from other internal and external medications. (II, III)

(7) All potent, poisonous, or caustic materials shall be stored in a separate room from the medications. (II, III)

(8) Inspection of the condition of stored drugs shall be made by the administrator and a licensed pharmacist not less than once every three months. The inspection shall be verified by a report signed by the administrator and the pharmacist and filed with the administrator. The report shall include, but need not be limited to, certifying absence of the following: expired drugs, deteriorated drugs, improper labeling, drugs for which there is no current order, and drugs improperly stored. (III)

(9) Double-locked storage of Schedule II drugs shall not be required under single unit package drug distribution systems in which the quantity stored does not exceed a seven-day supply and a missing

dose can be readily detected but must be kept in a locked medication cabinet. Quantities in excess of a seven-day supply must be double-locked. (II)

c. Bulk supplies of prescription drugs shall not be kept. (III)

62.15(6) Drug safeguards.

a. All labels on medications must be legible. If labels are not legible, the medication shall be sent back to the dispenser as defined in Iowa Code section 147.107 for relabeling. (II, III)

b. The medication for each resident shall be kept or stored in the original dispensed containers. (II, III)

c. The facility shall adopt policies and procedures for the destruction of unused prescription drugs for residents who have died. The policies and procedures shall include, but not be limited to, the following: (III)

(1) Drugs shall be destroyed by the person in charge in the presence of the administrator or the administrator's designee;

(2) Notation of the destruction shall be made in the resident's chart, with signatures of the persons involved in the destruction;

(3) The manner in which the drugs are disposed of shall be identified (i.e., incinerator, sewer, landfill). (II, III)

d. The facility shall also adopt policies and procedures for the disposal of controlled substances dispensed to residents whose administration has been discontinued by the prescriber. These policies and procedures shall include, but not be limited to, the following:

(1) Procedures for obtaining a release from the resident;

(2) The manner in which the drugs were destroyed and by whom, including witnesses to the destruction;

(3) Mechanisms for recording the destruction;

(4) Procedures to be used when the resident or the conservator or guardian refuses to grant permission for destruction. (II, III)

e. The facility shall adopt policies and procedures for the disposal of unused discontinued medication. The procedures shall include but not be limited to:

(1) A specified time after which medication must be destroyed, sent back to the dispenser or placed in long-term storage;

(2) Procedures for obtaining permission of the resident, or the conservator or guardian;

(3) Procedures to be used when the resident or conservator or guardian refuses to grant permission for disposal;

(4) Unused discontinued medication shall be locked and shall be separate from current medication. (II, III)

f. All medication orders which do not specifically indicate the number of doses to be administered or the length of time the drug is to be administered shall be stopped automatically after a given time period. The automatic stop order may vary for different types of drugs. The facility, in consultation with a physician or pharmacist serving the home, shall institute policies and provide procedures. These shall be provided to all prescribers and pharmacists serving the facility and conveniently located for personnel administering medications. (III)

g. Residents shall not keep any prescription medication in their possession unless the attending physician has certified in writing on the resident's medical record that the resident is mentally and physically capable of doing so. Over-the-counter medications may be maintained provided they are in a locked container and pursuant to subrule 62.16(5). (I, II)

h. No prescription drugs shall be administered to a resident without a written order signed by a person qualified to prescribe the medication and renewed quarterly. (II)

i. Prescription drugs shall be reordered only with the permission of the attending prescriber. (II, III)

j. No medications prescribed for one resident may be administered to or allowed in the possession of another. (II)

k. Residents on prescribed medication may maintain over-the-counter medication pursuant to 62.15(6)*"g"* unless contraindicated by the physician. The facility shall request this information from the physician and document in the resident's record. (II)

62.15(7) Each facility shall have policies and procedures established to govern the administration of prescribed medications to residents on leave from the facility. (III)

a. Medication may be issued to residents who will be on leave from a facility for less than 24 hours. Non-child-resistant containers may be used. Each container may hold only one medication. A label on each container shall indicate the date, the resident's name, the facility, the medication, its strength, dose, and time of administration.

b. Medication for residents on leave from a facility longer than 24 hours shall be obtained in accordance with requirements established by the Iowa board of pharmacy examiners.

c. Medication distributed as above may be issued only by facility personnel responsible for administering medication.

62.15(8) Each RCF/PMI that administers controlled substances shall obtain annually a registration issued by the board of pharmacy pursuant to Iowa Code section 124.302(1). (III)

This rule is intended to implement Iowa Code section 135C.14.

[**ARC 1050C**, IAB 10/2/13, effective 11/6/13]

481—62.16(135C) Resident property.

62.16(1) The admission of a resident does not give the facility or any employee of the facility the right to manage, use, or dispose of any property of the resident except with the written authorization of the resident or the resident's legal guardian. (II, III)

62.16(2) The admission of a resident shall not grant the RCF/PMI the authority or responsibility to manage the personal affairs of the resident except as may be necessary for the resident's safety and for safe and orderly management of the residential care facility as required by these rules and in accordance with the IPP. (III)

62.16(3) An RCF/PMI shall provide for the safekeeping of personal effects, funds, and other property of its residents. The facility may require that items of exceptional value or which would convey unreasonable responsibilities to the licensee be removed from the premises of the facility for safekeeping. (III)

62.16(4) Resident's funds held by the RCF/PMI shall be in a trust account and kept separate from funds of the facility. (III)

62.16(5) No administrator, employee or representative thereof shall act as guardian, trustee, or conservator for any resident or the resident's property, unless the resident is related to the person acting as guardian within the third degree of consanguinity. (III)

62.16(6) If a facility is a county care facility and upon the verified petition of the county board of supervisors, the district court may appoint the administrator of a county care facility as conservator or guardian or both of a resident of that county care facility without fee. The administrator may establish either separate or common bank accounts for cash funds of these residents. (III)

This rule is intended to implement Iowa Code section 135C.24.

481—62.17(135C) Financial affairs. Each resident who has not been assigned a guardian or conservator by the court may manage the resident's personal financial affairs, and to the extent, under written authorization by the resident that the facility assists in management, the management shall be carried out in accordance with Iowa Code section 135C.24. (II)

62.17(1) The facility shall maintain a written account of all the resident's funds received by or deposited with the facility. (II)

a. An employee shall be designated in writing to be responsible for resident accounts. (II)

b. The facility shall keep on deposit personal funds over which the resident has control.

c. If the resident requests these funds, they shall be given to the resident with a receipt maintained by the facility and a copy to the resident. If a conservator or guardian has been appointed for the resident, the conservator or guardian shall designate the method of disbursing the resident's funds. (II)

d. If the facility makes a financial transaction on a resident's behalf, the resident or the resident's legal guardian or conservator must receive or acknowledge having seen an itemized accounting of disbursements and current balances at least quarterly. A copy of this statement shall be maintained in the resident's financial or business record. (II)

e. A resident's personal funds shall not be used without the written consent of the resident or the resident's guardian. (II)

f. A resident's personal funds shall be returned to the resident when the funds have been used without the written consent of the resident or the resident's guardian. The department may report findings that resident funds have been used without written consent to the audits division or the local law enforcement agency, as appropriate. (II)

62.17(2) Contracts. There shall be a written contract between the facility and each resident which meets the following requirements:

a. State the base rate or scale per day or per month, the services included, and the method of payment; (III)

b. Contain a complete schedule of all offered services for which a fee may be charged in addition to the base rate; (III)

c. Stipulate that no further additional fees shall be charged for items not contained in complete schedule of services as set forth in subrule 62.17(2); (III)

d. State the method of payment of additional charges; (III)

e. Contain an explanation of the method of assessment of additional charges and an explanation of the method of periodic reassessment, if any, resulting in charging the additional charges; (III)

f. State that additional fees may be charged to the resident for nonprescription drugs, other personal supplies, and services by a barber, beautician, etc. (III)

g. Contain an itemized list of those services, with the specific fee the resident will be charged and method of payment, as related to the resident's current condition, based on the program assessment at the time of admission, which is determined in consultation with the administrator. (III)

h. Include the total fee to be charged initially to the specific resident. (III)

i. State the conditions whereby the facility may make adjustments to its overall fees for residential care as a result of changing costs. (III) Furthermore, the contract shall provide that the facility shall give:

(1) Written notification to the resident and responsible party, when appropriate, of changes in the overall rates of both base and additional charges at least 30 days prior to the effective date of changes; (III)

(2) Notification to the resident and payor when appropriate, of changes in additional charges based on a change in the resident's condition. Notification must occur prior to the date the revised additional charges begin. If notification is given orally, subsequent written notification must also be given within a reasonable time, not to exceed one week, listing specifically the adjustments made; (III)

(3) State the terms of agreement in regard to refund of all advance payments, in the event of transfer, death, or voluntary or involuntary discharge. (III)

j. State the terms of agreement concerning the holding and charging for a bed when a resident is hospitalized or leaves the facility temporarily for recreational or therapeutic reasons. The terms shall contain a provision that the bed will be held at the request of the resident or the resident's legal representative.

(1) The facility shall ask the resident or legal representative if they want the bed held. This request shall be made before the resident leaves or within 48 hours after the resident leaves. The inquiry and the response shall be documented. (II)

(2) The facility shall reserve the bed when requested for as long as payments are made in accordance with the contract. (II)

k. State the conditions under which the involuntary discharge or transfer of a resident would be effected; (III)

l. State the conditions of voluntary discharge or transfer; (III)

m. Set forth any other matters deemed appropriate by the parties to the contract. No contract or any provision shall be drawn or construed so as to relieve any health care facility of any requirement or obligation imposed upon it by this chapter or any standards or rules in force pursuant to this chapter; (III)

62.17(3) Each party shall receive a copy of the signed contract. (III)

This rule is intended to implement Iowa Code sections 135C.24 and 135C.23(1).

481—62.18(135C) Records.

62.18(1) *Resident record.* The licensee shall keep a permanent record about each resident with all entries current, dated, and signed. (II) The record shall include:

a. Name and previous address of resident; (III)

b. Birth date, sex, and marital status of resident; (III)

c. Church affiliation; (III)

d. Physician's name, telephone number, and address; (III)

e. Dentist's name, telephone number, and address; (III)

f. Name, address and telephone number of next of kin or legal representative; (III)

g. Name, address and telephone number of the person to be notified in case of emergency; (III)

h. Funeral director, telephone number, and address; (III)

i. Pharmacy name, telephone number, and address; (III)

j. Results of evaluation pursuant to 62.11(135C); (III)

k. Certification by the physician that the resident requires no more than personal care and supervision, but does not require nursing care; (III)

l. Physician's orders for medication and treatments shall be in writing and signed by the physician quarterly; diet orders shall be renewed yearly; (III)

m. A notation of yearly or other visits to physician or other professionals, all consultation reports and progress notes; (III)

n. Any change in the resident's condition; (II, III)

o. A notation describing the resident's condition on admission, transfer, and discharge; (III)

p. In the event of a resident's death, notations in the resident's record shall include the date and time of the resident's death, the circumstances of the resident's death, the disposition of the resident's body, and the date and time that the resident's family and physician were notified of the resident's death; (III)

q. A copy of instructions given to the resident, legal representative, or facility in the event of discharge or transfer; (III)

r. Disposition of personal property; (III)

s. Copy of IPP pursuant to 62.12(1); (III)

t. Progress notes pursuant to 62.12(4) and 62.12(5). (III)

62.18(2) *Confidentiality of resident records.* The facility shall have policies and procedures providing that each resident shall be ensured confidential treatment of all information, including information contained in an automatic data bank. The resident's or the resident's legal guardian's written informed consent shall be required for the release of information to persons not otherwise authorized under law to receive it. (II)

A release of information form shall be used which includes to whom the information shall be released, the reason for the information being released, how the information is to be used, and the period of time for which the release is in effect. A third party, not requesting the release, shall witness the release of information form. (II)

a. The facility shall limit access to any resident records to staff and consultants providing professional service to the resident. Information shall be made available to staff only to the extent that the information is relevant to the staff person's responsibilities and duties. (II)

Only those personnel concerned with financial affairs of the residents may have access to the financial information. This is not meant to preclude access by representatives of state or federal regulatory agencies. (II)

b. The resident, or the resident's legal guardian, shall be entitled to examine all information and shall have the right to secure full copies of the record at reasonable cost upon request, unless the physician or QMHP determines the disclosure of the record or section is contraindicated in which case this information will be deleted prior to making the record available to the resident. This determination and the reasons for it must be documented in the resident's record by the physician or qualified mental health professional in collaboration with the resident's interdisciplinary team. (II)

62.18(3) *Incident records.*

a. Each RCF/PMI shall maintain an incident record report and shall have available incident report forms. (II, III)

b. The report of every incident shall be in detail on a printed incident report form. (II, III)

c. The person in charge at the time of the incident shall oversee the preparation and sign the report. (III)

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

62.18(4) *Retention of records.*

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

b. When the facility ceases to operate, the resident's record shall be released to the facility to which the resident is transferred. If no transfer occurs, the record shall be released to the individual's physician. (III)

This rule is intended to implement Iowa Code section 135C.24.

481—62.19(135C) Health and safety.

62.19(1) *Physician.* Each resident shall have a designated licensed physician who may be called when needed. (III)

62.19(2) *Emergency care.* The facility shall have written policies and procedures for emergency medical or psychiatric care to include:

a. A written agreement with a hospital or psychiatric facility or documentation of attempt to obtain a written agreement for the timely admission of a resident who, in the opinion of the attending physician, requires inpatient services; (II, III)

b. Provisions consistent with Iowa Code chapter 229; (II, III)

c. Immediate notification by the person in charge to the physician or QMHP, as appropriate, of any accident, injury or adverse change in the resident's condition. (I, II)

62.19(3) *First-aid kit.* A first-aid emergency kit shall be available on each floor in every facility. (II, III)

62.19(4) *Infection control.* Each facility shall have a written and implemented infection control program addressing the following:

a. Techniques for hand washing consistent with Guidelines for Handwashing and Hospital Control, 1985, Centers for Disease Control, U.S. Department of Health and Human Services, PB85-923404; (I, II, III)

b. Techniques for handling of blood, body fluids, and body wastes consistent with Guideline for Isolation Precautions in Hospitals, Centers for Disease Control, U.S. Department of Health and Human Services, PB96-138102; (I, II, III)

c. Dressings, soaks, or packs; (I, II, III)

d. Infection identification; (I, II, III)

e. Resident care procedures to be used when there is an infection present consistent with Guideline for Isolation Precautions in Hospitals, Centers for Disease Control, U.S. Department of Health and Human Services, PB96-138102; (I, II, III)

f. Sanitation techniques for resident care equipment; (I, II, III)

g. Techniques for sanitary use and reuse of feeding syringes and single-resident use and reuse of urine collection bags; (I, II, III)

h. Techniques for use and disposal of needles, syringes, and other sharp instruments consistent with Guideline for Isolation Precautions in Hospitals, Centers for Disease Control, U.S. Department of Health and Human Services, PB96-138102; (I, II, III)

CDC Guidelines may be obtained from the U.S. Department of Commerce, Technology Administration, National Technical Information Service, 5285 Port Royal Rd., Springfield, Virginia 22161 (1-800-553-6847).

62.19(5) *Aseptic techniques.* If a resident needs any of the treatment or devices on the list below, written and implemented procedures regarding aseptic techniques shall be followed.

a. Intravenous or central line catheter consistent with Guideline for Prevention of Intravascular Device Related Infections, Centers for Disease Control, U.S. Department of Health and Human Services, PB97-130074, (I, II, III)

b. Urinary catheter, (I, II, III)

c. Respiratory suction, oxygen or humidification, (I, II, III)

d. Decubitus care, (I, II, III)

e. Tracheostomy, (I, II, III)

f. Nasogastric or gastrostomy tubes, (I, II, III)

g. Sanitary use and reuse of feeding syringes and single-resident use and reuse of urine collection bags. (I, II, III)

62.19(6) *Dental services.* Personnel shall assist residents to obtain regular and emergency dental services and provide necessary transportation. Dental services shall be performed only on the request of the resident or legal guardian. The resident's physician shall be advised of the resident's dental problems. (III)

62.19(7) *Safe environment.* The licensee of an RCF/PMI is responsible for the provision and maintenance of a safe environment for residents and personnel. (I, II) The RCF/PMI shall meet the fire and safety rules and regulations as promulgated by the state fire marshal. (I, II)

62.19(8) *Disaster.* The licensee shall have a written emergency plan to be followed in the event of fire, tornado, explosion, or other emergency. (II, III)

a. The plan shall be posted. (II, III)

b. Training shall be provided to ensure that all employees and residents are knowledgeable of the emergency plan. The training shall be documented. (II, III)

c. Residents shall be permitted to smoke only in posted areas where proper facilities are provided. Smoking by residents considered to be careless shall be prohibited except under direct supervision and in accordance with the IPP. (II, III)

62.19(9) *Safety precautions.* The facility shall take reasonable measures to ensure the safety of residents and shall involve the residents in learning the safe handling of household supplies and equipment in accordance with the policies and procedures established by the facility. (II)

a. All potent, poisonous, or caustic materials shall be plainly labeled and stored in a specific locked, well-illuminated cabinet, closet, or storeroom and made accessible only to authorized persons. (I, II)

b. Residents shall have access to storage areas for cleaning and laundry supplies as appropriate to the activities being performed unless contraindicated in their IPP. (I, II)

62.19(10) *Hazards.* Entrances, exits, steps, and outside steps and walkways shall be kept free from ice, snow, and other hazards. (II, III)

62.19(11) *Laundry.* All soiled linens shall be collected in and transported to the laundry room in closed, leakproof laundry bags or covered, impermeable containers. (III)

a. Except for related activities, the laundry room shall not be used for other purposes. (III)

b. Resident's personal laundry shall be marked with an identification unless the resident is responsible for doing the resident's own laundry as indicated in the individual program plan. (III)

c. There shall be an adequate supply of clean, stain-free linens so that each resident shall have at least three washcloths, hand towels, and bath towels. (III)

d. Each bed shall be provided with clean, stain-free, washable bedspreads and sufficient lightweight serviceable blankets. A complete change of bed linens shall be available for each bed. (III)

62.19(12) *Supplies, equipment, and storage.*

a. Each facility shall provide a variety of supplies and equipment of a nature calculated to fit the needs and interests of the residents. These may include: books (standard and large print), magazines, newspapers, radio, television, bulletin boards, board game, game equipment, songbooks, cards, craft supplies, record player, movie projector, piano, and outdoor equipment. Supplies and equipment shall be appropriate to the chronological age of the residents. (III)

b. Storage shall be provided for recreational equipment and supplies. (III)

This rule is intended to implement Iowa Code section 135C.14(1).

481—62.20(135C) Nutrition.

62.20(1) There shall be policies and procedures written and implemented for dietary staffing.

a. The person responsible for planning menus and monitoring the kitchens in each facility shall have completed training, approved by the department, in sanitation and food preparation. (III)

b. In facilities licensed for over 15 beds, food service personnel shall be on duty during a 12-hour span extending from the preparation of breakfast through supper. (III)

c. There shall be written work schedules and time schedules covering each type of job in the food service department for facilities over 15 beds. These work and time schedules shall be posted or kept in a notebook which is available for use in the food service area. (III)

62.20(2) Nutrition and menu planning.

a. Residents shall be encouraged to the maximum extent possible to participate in meal planning, shopping, and in preparing and serving the meal and cleaning up. The facility shall be responsible for helping residents become knowledgeable of what constitutes a nutritionally adequate diet. (III)

b. Menus shall be planned and served to meet nutritional needs of residents in accordance with the physician's diet orders which shall be renewed yearly. Menus shall be planned and served to include foods and amounts necessary to meet the recommended daily dietary allowances of the Food and Nutrition Board of the National Research Council, National Academy of Sciences. (II) Other foods shall be included to meet energy requirements (calories) to add to the total nutrients and variety of meals. (III)

c. At least three meals or their equivalent shall be made available to each resident daily, consistent with those times normally existing in the community. (II, III)

(1) There shall be no more than a 14-hour span between the substantial evening meal and breakfast. (III)

(2) To the extent medically possible, bedtime nourishments, containing a protein source, shall be offered routinely to all residents. Special nourishments shall be available when ordered by the physician. (II, III)

d. Menus shall include a variety of foods prepared in various ways. The same menus shall not be repeated on the same day of the following week. (III)

e. If modified diets are ordered by the physician, the person responsible for writing the menus shall have completed department-approved training in simple therapeutic diets and a copy of a modified diet manual approved by the department and written within the past five years shall be available in the facility. (II, III)

f. Therapeutic diets shall be served accurately. (II)

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

h. Records of menus as served shall be filed and maintained for 30 days and shall be available for review by departmental personnel. When substitutions are necessary, they shall be of similar nutritive value and recorded on the menu or in a notebook. (III)

i. A file of tested recipes adjusted to the number of people to be fed in the facility shall be maintained. (III)

62.20(3) Dietary storage, food preparation, service.

a. The use of foods from salvaged, damaged, or unlabeled containers is prohibited. (II, III)

b. No perishable food shall be allowed to stand at room temperature any longer than is required to prepare and serve. (II, III)

c. Canning of food is prohibited. The facility may freeze fruits, vegetables, and meats provided strict sanitary procedures are followed and in accordance with recommendations in the "Food Service Manual" revised 1976, U.S. Department of Health, Education, and Welfare, Public Health Service, U.S. Government Printing Office, Washington, D.C. (II)

d. Supplies of staple foods for a minimum of a one-week period and of perishable foods for a minimum of a three-day period shall be maintained on the premises. (III)

e. If family-style service is used, all leftover prepared food that has been on the table shall be safely handled. (III)

f. Poisonous compounds shall not be kept in food storage or preparation areas except for a sanitizing agent which shall be kept in a locked cabinet. (II, III)

62.20(4) Sanitation in food preparation area.

a. The facility shall develop and implement policies and procedures to address sanitation, meal preparation and service in accordance with recommendations in the food service sanitation manual pursuant to 62.20(2)*"c,"* and which shall be used as the established, nationally recognized reference for establishing and determining satisfactory compliance with the department's food service and sanitation rules. (III)

b. Residents shall be allowed in the food preparation area in accordance with their IPP. (III)

c. In facilities licensed for over 15 beds, the kitchen shall not be used for serving meals to residents, food service personnel, or other staff. (III)

d. All appliances and work areas shall be kept clean and sanitized. (III)

e. There shall be written procedures established for cleaning all work and serving areas in facilities over 15 beds and a schedule of duties to be performed daily shall be posted in each food area. (III)

f. The food service area shall be located so it will not be used as a passageway by residents, guests, or nonfood service staff in facilities over 15 beds. (III)

g. Dirty linen shall not be carried through the food service area unless it is in sealed, leakproof containers. (III)

h. Mops, scrub pails, and other cleaning equipment used in the resident areas shall not be stored or used in the dietary area. (III)

62.20(5) Hygiene of food service personnel.

a. In the event food service employees are assigned duties outside the dietetic service, these duties shall not interfere with sanitation, safety, or time required for dietetic work assignments. (II, III)

b. Employees shall wear clean, washable uniforms that are not used for duties outside the food service area in facilities over 15 beds. (III)

c. Hairnets shall be worn by all food service personnel in facilities over 15 beds and effective hair restraints in facilities less than 15 beds. (III)

d. Persons handling food shall use correct hand-washing and food-handling techniques as identified in the food service sanitation manual. (III)

e. Persons handling dirty dishes shall not handle clean dishes without washing their hands. (III)

This rule is intended to implement Iowa Code section 135C.14.

481—62.21(135C) Physical facilities and maintenance.

62.21(1) *Housekeeping.* The facility shall have written procedures for daily and weekly cleaning (III) to include but need not be limited to:

a. All rooms including furnishings, all corridors, storage areas, linen closets, attics, and basements shall be kept in a clean, orderly condition, free of unserviceable furniture and equipment or accumulations of refuse. (III)

b. All resident bedrooms, including furnishings, shall be cleaned and sanitized before use by another resident. (III)

c. Polishes used on floors shall provide a slip-resistant finish. (III)

62.21(2) *Equipment.* Housekeeping and maintenance personnel shall be provided with well-constructed and properly maintained equipment appropriate to the function for which it is to be used. (III)

a. All facilities shall be provided with clean and sanitary storage for cleaning equipment, supplies, and utensils. In facilities over 15 beds a janitor's closet shall be provided. It shall be equipped with water for filling scrub pails and a janitor's sink for emptying scrub pails. A hallway or corridor shall not be used for storage of equipment. (III)

b. Sufficient numbers of noncombustible trash containers, which have covers, shall be available. (III)

c. All containers for trash shall be watertight, rodent-proof, and have tight-fitting covers and shall be thoroughly cleaned each time a container is emptied. (III)

d. All wastes shall be properly disposed of in compliance with the local ordinances and state codes. (III)

62.21(3) *Bedrooms.*

a. Each resident shall be provided with a bed, substantially constructed and in good repair. Roll-away beds, metal cots, or folding beds are not acceptable. (III)

b. Each bed shall be equipped with the following: casters or glides; clean springs in good repair; a clean, comfortable, well-constructed mattress approximately 5 inches thick and standard in size for the bed; and clean, comfortable pillows of average bed size. (III)

c. There shall be a comfortable chair, either a rocking chair or arm chair, per resident bed. The resident's personal wishes shall be considered and documented. (III)

d. There shall be drawer space for each resident's clothing. In a multiple bedroom, drawer space shall be assigned each resident. (III)

e. There shall be a bedside table with a drawer and a reading lamp for each resident.

f. All furnishings and equipment shall be durable, cleanable, and appropriate to their function. (III)

g. All resident areas shall be decorated, painted, and furnished to provide a homelike atmosphere and in a manner which is age and culture appropriate. (III)

h. Upholstery materials shall be moisture- and soil-resistant, except on furniture which is provided by the resident and is the property of the resident. (III)

i. Beds and other furnishings shall not obstruct free passage to and through doorways. (III)

j. Beds shall not be placed with the side of the bed against a radiator or in close proximity to it unless the radiator is covered to protect the resident from contact with it or from excessive heat. (III)

62.21(4) *Bath and toilet facilities.* All lavatories shall have nonreusable towels and an available supply of soap. (III)

62.21(5) *Dining and living rooms.*

a. Every facility shall have a dining room and a living room easily accessible to all residents. (III)

b. Dining rooms and living rooms shall at no time be used as bedrooms. (III)

c. Dining rooms and living rooms shall be available for use by residents at appropriate times to allow social, diversional, individual, and group activities. (III)

d. A combination dining room and living room may be permitted if the space requirements of a multipurpose room as provided in 481—subrule 60.6(2) are met. (III)

e. Living rooms shall be suitably furnished and maintained for the use of residents and their visitors and may be used for recreational activities. (III)

f. Dining rooms shall be furnished with dining tables and chairs appropriate to the size and function of the facility. These rooms and furnishings shall be kept clean and sanitary. (III)

62.21(6) *Family and employee accommodations.*

a. The residents' bedrooms shall not be occupied by employees, family members of employees, or family members of the licensee. (III)

b. In facilities where the total occupancy of family, employees, and residents is five or less, one toilet and one tub or shower is the minimum requirement. (III)

c. In all health care facilities, if the family or employees live within the facility, living quarters shall be required for the family or employees separate from areas provided for residents. (III)

62.21(7) *Animals.* Animals shall be allowed within the facility with written approval of the department and under controlled conditions. (III)

62.21(8) *Maintenance.* Each facility shall establish a maintenance program to ensure continued maintenance of the facility, to promote good housekeeping procedures, and to ensure sanitary practices throughout the facility. In facilities over 15 beds, this program shall be in writing and be available for review by the department. (III)

a. The buildings, furnishing, and grounds shall be maintained in a clean, orderly condition and be in good repair. (III)

b. The buildings and grounds shall be kept free of flies, other insects, rodents, and their breeding areas. (III)

62.21(9) *Buildings, furnishings, and equipment.*

a. Battery-operated, portable emergency lights in good working condition shall be available at all times, at a ratio of one light per employee on duty from 6 p.m. to 6 a.m. (III)

b. All windows shall be supplied with curtains and shades or drapes which are kept in good repair. (III)

c. Wherever glass sliding doors or transparent panels are used, they shall be marked conspicuously and decoratively. (III)

62.21(10) *Water supply.* Every facility shall have an adequate water supply from an approved source. A municipal source of water shall be considered as meeting this requirement. (III) Private sources of water to a facility shall be tested annually and the report submitted with the annual application for license. (III)

a. A bacterially unsafe source of water shall be grounds for denial, suspension, or revocation of license. (III)

b. The department may require testing of private sources of water to a facility at its discretion in addition to the annual test. The facility shall supply reports of tests as directed by the department. (III)

This rule is intended to implement Iowa Code section 135C.14.

481—62.22(135C) Care review committee. Rescinded **ARC 1205C**, IAB 12/11/13, effective 1/15/14.

481—62.23(135C) Residents' rights in general.

62.23(1) Each facility shall ensure that policies and procedures are written and implemented which include, at a minimum, all of the following provisions subrules (62.23(2) to 62.23(22)) and which govern all areas of service provided to staff, residents, their families or legal representatives and shall be available to the public and shall be reviewed annually. (II)

62.23(2) Grievances. Written policies and procedures shall include a method for submitting grievances and recommendations by residents or their responsible party and for ensuring a response and disposition by the facility. The written procedure shall ensure protection of the resident from any form of reprisal or intimidation and shall include:

a. An employee or an alternate designated to be responsible for handling grievances and recommendations; (II) and

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

62.23(3) Informed of rights. Policies and procedures shall include a provision that each resident shall be fully informed of the resident's rights and responsibilities as a resident and of all rules governing resident conduct and responsibilities. This information must be provided upon admission, or in the case of residents already in the facility, upon the facility's adoption or amendment of residents' rights policies and be posted in locations accessible to all residents. (II)

a. The facility shall make known to residents what they may expect from the facility and its staff, and what is expected from residents. The facility shall communicate these expectations during the period of not more than two weeks before or five days after admission. The communication shall be in writing,

e.g., in a separate handout or brochure describing the facility, and interpreted verbally, e.g., as part of a preadmission interview, resident counseling, or in individual or group orientation sessions following admission. (II)

b. Resident's rights and responsibilities shall be presented in language understandable to the resident. If the facility serves residents who are not English-speaking or are deaf, steps shall be taken to translate the information into a foreign or sign language. In the case of blind residents, either Braille or a recording shall be provided. Residents shall be encouraged to ask questions about their rights and responsibilities and these questions shall be answered. (II)

c. A statement shall be signed by the resident and legal guardian, if applicable, indicating an understanding of these rights and responsibilities, and the statement shall be maintained in the record. The statement shall be signed no later than five days after admission, and a copy of the signed statement shall be given to the resident or legal guardian. (II)

d. All residents, next of kin, or legal guardian shall be advised within 30 days following changes made in the statement of residents' rights and responsibilities. Appropriate means shall be used to inform non-English-speaking, deaf or blind residents of changes. (II)

62.23(4) Informed of health condition. Each resident or legal guardian shall be fully informed by a physician of the resident's health and medical condition unless medically contraindicated as documented by a physician in the resident's record. (II)

62.23(5) Research. The resident or legal guardian shall make the decision as whether to participate in experimental research and then only upon written informed consent. (II, III)

Any clinical investigation involving residents must be under the sponsorship of an institution with a human subjects review board functioning in accordance with the requirement of Public Law 93-348, as implemented by Part 46 of Title 45 of the Code of Federal Regulations, as amended to December 1, 1981 (45 CFR 46). (III)

62.23(6) Resident work. Services performed by the resident for the facility shall be in accordance with the IPP. (II)

a. Residents shall not be used to provide a source of labor for the facility against the resident's will. Physician's approval is required for all work programs and must be renewed yearly. (II, III)

b. If the individual program plan requires activities for therapeutic or training reasons, the plan for these activities must be professionally developed and implemented. Therapeutic or training goals must be clearly stated and measurable and the plan shall be time-limited and reviewed at least quarterly. (II)

c. A resident engaged in work programs in the RCF/PMI shall be paid wages commensurate with wage and hour regulations for comparable work and productivity. (II)

d. The resident shall have the right to employment options commensurate with training and skills. (II)

62.23(7) Residents performing work shall not be used to replace paid employees in fulfilling staffing requirements. (II)

62.23(8) Encouragement to exercise rights. Each resident shall be encouraged and assisted throughout the resident's period of stay, to exercise resident and citizen rights and may voice grievances and recommend changes in policies and services to administrative staff or to outside representatives of the resident's choice, free from interference, coercion, discrimination, or reprisal. (II)

62.23(9) Posting of names. The facility shall post in a prominent area the name, telephone number, and address of the survey agency, the local law enforcement agency and the protection and advocacy agency designated pursuant to Iowa Code section 135C.2(4) and the text of Iowa Code section 135C.46 to provide to residents another course of redress. (II)

62.23(10) Dignity preserved. Each resident shall be treated with consideration, respect, and full recognition of the resident's dignity and individuality, including privacy in treatment and in care of personal needs. (II)

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

b. Schedules of daily activities shall allow maximum flexibility for residents to exercise choice about what they will do and when they will do it. Residents' individual preferences regarding such things

as menus, clothing, religious activities, friendships, activity programs, entertainment, sleeping, eating, and times to retire at night and arise in the morning shall be elicited and considered by the facility. The facility shall make every effort to match nonsmokers with other nonsmokers. (II)

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

d. Privacy for each person shall be maintained when residents are being taken to the toilet or being bathed and while they are being helped with other types of personal hygiene, except as needed for resident safety or assistance. (II)

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

62.23(11) Communications. Each resident may communicate, associate, and meet privately with persons of the resident's choice, unless to do so would infringe upon the rights of other residents. Each resident may send and receive personal mail unopened unless prohibited in the IPP which has explicit approval of the resident or legal guardian. (II)

62.23(12) Visiting hours. Subject to reasonable scheduling restrictions, visiting policies and procedures shall permit residents to receive visits from anyone they wish. Visiting hours shall be posted. (II)

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

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

(2) The visit would not be in accordance with the IPP. (II)

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

Reasons for denial of visitation shall be documented in the resident's records. (II)

b. Decisions to restrict a visitor are reevaluated at least quarterly by the QMHP or at the resident's request. (II)

62.23(13) Privacy. Space shall be provided for residents to receive visitors in comfort and privacy. (II)

62.23(14) Telephone calls. Telephones consistent with ANSI standards 42 CFR 405.1134(c) (10-1-86) shall be available and accessible for residents to make and receive calls with privacy. Residents who need help shall be assisted in using the telephone. (II)

62.23(15) Arrangements shall be made to provide assistance to residents who require help in reading or sending mail. (II)

62.23(16) Residents shall be permitted to leave the facility and environs at reasonable times unless there are justifiable reasons established in writing by the attending physician, QMHP, or facility administrator for refusing permission. (II)

62.23(17) Residents shall not have their personal lives regulated beyond reasonable adherence to meal schedules, bedtime hours, and other written policies which may be necessary for the orderly management of the facility and as required by these rules; however, residents shall be encouraged to participate in recreational programs. (II)

62.23(18) Resident activities. Each resident may participate in activities of social, religious, and community groups as desired unless contraindicated for reasons documented by the attending physician or qualified mental health professional, as appropriate, in the resident's record. (II)

Residents who wish to meet with or participate in activities of social, religious or community groups in or outside the facility shall be informed, encouraged, and assisted to do so. (II)

62.23(19) Resident property. Each resident may retain and use personal clothing and possessions as space permits and provided use is not otherwise prohibited in these rules. (II)

a. Residents shall be permitted to keep reasonable amounts of personal clothing and possessions for their use while in the facility. The personal property shall be kept in a secure location which is convenient to the resident. (II)

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

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

d. A resident's personal property shall not be used without the written consent of the resident or the resident's guardian. (II)

e. A resident's personal property shall be returned to the resident when it has been used without the written consent of the resident or the resident's guardian. The department may report findings that a resident's property has been used without written consent to the local law enforcement agency, as appropriate. (II)

62.23(20) Sharing rooms. Residents, including spouses staying in the same facility, shall be permitted to share a room, if available, if requested by both parties, unless contraindicated in the IPP and when the reasons for denial are documented in the resident's record. (II)

62.23(21) Choice of physician and pharmacy. Each resident shall be permitted free choice of a physician and a pharmacy. The facility may require the pharmacy selected to use a drug distribution system compatible with the system currently used by the facility. (II)

62.23(22) Incompetent residents.

a. Each facility shall provide that all rights and responsibilities of the resident devolve to the resident's legal guardian when a resident is adjudicated incompetent in accordance with state law or, in the case of a resident who has not been adjudicated incompetent under the laws of the state, in accordance with 42 CFR 483.10. This paragraph is not intended to limit the authority of any individual acting pursuant to Iowa Code chapter 144A. (II)

b. The fact that a resident has been adjudicated incompetent does not absolve the facility from advising the resident of these rights to the extent the resident is able to understand them. The facility shall also advise the legal guardian, if any, and acquire a statement indicating an understanding of resident's rights. (II)

62.23(23) Resident abuse prohibited. Each resident shall receive kind and considerate care at all times and shall be free from physical, sexual, mental and verbal abuse, exploitation, neglect, and physical injury. (I, II)

62.23(24) Allegations of dependent adult abuse. Allegations of dependent adult abuse shall be reported and investigated pursuant to Iowa Code chapter 235E and 481—Chapter 52. (I, II, III)

62.23(25) Rescinded IAB 12/11/13, effective 1/15/14.

This rule is intended to implement Iowa Code sections 135C.14 and 135C.24 and Iowa Code chapter 235E.

[**ARC 1205C**, IAB 12/11/13, effective 1/15/14; **ARC 1204C**, IAB 12/11/13, effective 1/15/14]

481—62.24(135C) County care facilities. In addition to Chapter 62 licensing rules, county care facilities licensed as residential care facilities for persons with mental illness must also comply with department of human services rules, 441—Chapter 37. Violation of any standard established by the department of human services is a class II violation pursuant to 481—56.2(135C).

This rule is intended to implement Iowa Code section 227.4.

481—62.25(135C) Another business or activity in a facility. A facility is allowed to have another business or activity in a health care facility or in the same physical structure of the facility, if the other business or activity is under the control of and is directly related to and incidental to the operation of the health care facility, or the business or activity is approved by the department and the state fire marshal.

To obtain the approval of the department and the state fire marshal, the facility must submit to the department a written request for approval which identifies the service(s) to be offered by the business and addresses the factors outlined in paragraphs *"a"* through *"j"* of this rule. (I, II, III)

62.25(1) The following factors will be considered by the department in determining whether a business or activity will interfere with the use of the facility by residents, interfere with services provided to residents, or be disturbing to residents:

a. Health and safety risks for residents;

b. Compatibility of the proposed business or activity with the facility program;

c. Noise created by the proposed business or activity;

d. Odors created by the proposed business or activity;

e. Use of entrances and exits for the business or activity in regard to safety and disturbance of residents and interference with delivery of services;

f. Use of the facility's corridors or rooms as thoroughfares to the business or activity in regard to safety and disturbance of residents and interference with delivery of services;

g. Proposed staffing for the business or activity;

h. Sharing of services and staff between the proposed business or activity and the facility;

i. Facility layout and design; and

j. Parking area utilized by the business or activity.

62.25(2) Approval of the state fire marshal shall be obtained before approval of the department will be considered.

62.25(3) A business or activity conducted in a health care facility or in the same physical structure as a health care facility shall not reduce space, services or staff available to residents below minimums required in these rules and 481—Chapter 60. (I, II, III)

This rule will become effective July 1, 1992.

481—62.26(135C) Respite care services. Respite care services means an organized program of temporary supportive care provided for 24 hours or more to a person in order to relieve the usual caregiver of the person from providing continual care to the person. A facility which chooses to provide respite care services must meet the following requirements related to respite care services and must be licensed as a health care facility.

62.26(1) A facility which chooses to provide respite care services is not required to obtain a separate license or pay a license fee.

62.26(2) Rules regarding involuntary discharge or transfer rights do not apply to residents who are being cared for under a respite care contract.

62.26(3) The facility shall have a contract with each resident in the facility. When the resident is there for respite care services, the contract shall specify the time period during which the resident will be considered to be receiving respite care services. At the end of that period, the contract may be amended to extend that period of time. The contract shall specifically state the resident may be involuntarily discharged while being considered as a respite care resident. The contract shall meet other requirements for contracts between a health care facility and resident, except the requirements concerning the holding and charging for a bed when a resident is hospitalized or leaves the facility temporarily for recreational or therapeutic reasons.

62.26(4) Respite care services shall not be provided by a facility to persons requiring a level of care which is higher than the level of care the facility is licensed to provide.

These rules are intended to implement Iowa Code sections 135C.2(6), 135C.4, 135C.6(1) to 135C.6(3), 135C.7, 135C.8, 135C.14, 135C.16(2), 135C.23 to 135C.25, 135C.31, 135C.36, and 227.4.

[Filed 2/5/88, Notice 10/7/87—published 2/24/88, effective 3/30/88]
[Filed 5/26/88, Notice 4/20/88—published 6/15/88, effective 7/20/88]
[Filed 9/30/88, Notice 8/24/88—published 10/19/88, effective 11/23/88]
[Filed 12/9/88, Notices 8/24/88, 10/5/88—published 12/28/88, effective 2/1/89]
[Filed 4/14/89, Notice 2/8/89—published 5/3/89, effective 6/7/89]
[Filed 6/23/89, Notice 5/17/89—published 7/12/89, effective 8/16/89]
[Filed 7/20/89, Notice 6/14/89—published 8/9/89, effective 9/13/89]
[Filed 8/16/89, Notices 4/19/89, 7/12/89—published 9/6/89, effective 10/11/89]
[Filed 3/14/91, Notice 9/19/90—published 4/3/91, effective 5/8/91]

[Filed 1/31/92, Notice 11/13/91—published 2/19/92, effective 7/1/92]
[Filed 3/12/92, Notice 12/11/91—published 4/1/92, effective 5/6/92]
[Filed 1/15/93, Notice 11/25/92—published 2/3/93, effective 3/10/93]
[Filed 5/16/95, Notice 3/15/95—published 6/7/95, effective 7/12/95]
[Filed 11/30/95, Notice 9/13/95—published 12/20/95, effective 1/24/96]
[Filed 7/11/97, Notice 4/23/97—published 7/30/97, effective 9/3/97]
[Filed emergency 7/25/97—published 8/13/97, effective 7/25/97]
[Filed emergency 11/14/97—published 12/3/97, effective 11/14/97]
[Filed 11/14/97, Notice 8/13/97—published 12/3/97, effective 1/7/98]
[Filed 3/31/98, Notice 12/3/97—published 4/22/98, effective 5/27/98]
[Filed 7/9/98, Notice 4/22/98—published 7/29/98, effective 9/2/98]
[Filed 1/15/04, Notice 10/1/03—published 2/4/04, effective 3/10/04]
[Filed 1/15/04, Notice 12/10/03—published 2/4/04, effective 3/10/04]
[Filed 9/20/06, Notice 8/2/06—published 10/11/06, effective 11/15/06]
[Filed ARC 0663C (Notice ARC 0513C, IAB 12/12/12), IAB 4/3/13, effective 5/8/13]
[Filed ARC 0903C (Notice ARC 0776C, IAB 5/29/13), IAB 8/7/13, effective 9/11/13]
[Filed ARC 1050C (Notice ARC 0907C, IAB 8/7/13), IAB 10/2/13, effective 11/6/13]
[Filed ARC 1205C (Notice ARC 1082C, IAB 10/2/13), IAB 12/11/13, effective 1/15/14]
[Filed ARC 1204C (Notice ARC 1083C, IAB 10/2/13), IAB 12/11/13, effective 1/15/14]
[Filed ARC 1752C (Notice ARC 1648C, IAB 10/1/14), IAB 12/10/14, effective 1/14/15]

CHAPTER 63
RESIDENTIAL CARE FACILITIES FOR THE INTELLECTUALLY DISABLED

[Prior to 7/15/87, Health Department[470] Ch 63]

481—63.1(135C) Definitions. For the purpose of these rules, the following terms shall have the meaning indicated in this chapter. The definitions set out in Iowa Code section 135C.1 shall be considered to be incorporated verbatim in the rules. The use of the words "shall" and "must" indicate those standards are mandatory. The use of the words "should" and "could" indicate those standards are recommended.

"Accommodation" means the provision of lodging, including sleeping, dining, and living areas.

"Administrator" means a person who administers, manages, supervises, and is in general administrative charge of a residential care facility for the intellectually disabled, whether or not such individual has an ownership interest in such facility, and whether or not the functions and duties are shared with one or more individuals.

"Alcoholic" means a person in a state of dependency resulting from excessive or prolonged consumption of alcoholic beverages as defined in Iowa Code section 125.2.

"Ambulatory" means a person who immediately and without aid of another, is physically and mentally capable of traveling a normal path to safety, including the ascent and descent of stairs.

"Basement" means that part of a building where the finish floor is more than 30 inches below the finish grade.

"Board" means the regular provision of meals.

"Communicable disease" means a disease caused by the presence of virus or microbial agents within a person's body, which agents may be transmitted either directly or indirectly to other persons.

"Department" means the state department of inspections and appeals.

"Distinct part" means a clearly identifiable area or section within a residential care facility for the intellectually disabled, consisting of at least a residential unit, wing, floor, or building containing contiguous rooms.

"Drug addiction" means a state of dependency, as medically determined, resulting from excessive or prolonged use of drugs as defined in Iowa Code chapter 124.

"Interdisciplinary team" means persons drawn from, or representing such of the professions, disciplines, or services required for the care of the resident.

"Medication" means any drug including over-the-counter substances ordered and administered under the direction of the physician.

"Nonambulatory" means a person who immediately and without the aid of another is not physically and mentally capable of traveling a normal path to safety, including the ascent and descent of stairs.

"Personal care" means assistance with the activities of daily living which the recipient can perform only with difficulty. Examples are help in getting in and out of bed, assistance with personal hygiene and bathing, help with dressing and feeding, and supervision over medications which can be self-administered.

"Primary care provider" means any of the following who provide primary care and meet certification standards:

1. A physician who is a family or general practitioner or an internist.
2. An advanced registered nurse practitioner.
3. A physician assistant.

"Program of care" means all services being provided for a resident in a health care facility.

"Qualified intellectual disabilities professional" means a psychologist, physician, registered nurse, educator, social worker, physical or occupational therapist, speech therapist or audiologist who meets the educational requirements for the profession, as required in the state of Iowa, and having one year's experience working with the intellectually disabled.

"Rate" means that daily fee charged for all residents equally and shall include the cost of all minimum services required in these regulations.

"Responsible party" means the person who signs or cosigns the admission agreement required in 481—63.14(135C) or the resident's guardian or conservator if one has been appointed. In the event that a resident has neither a guardian, conservator nor person who signed or cosigned the resident's admission agreement, the term "responsible party" shall include the resident's sponsoring agency, e.g., the department of social services, Veterans Administration, religious groups, fraternal organizations, or foundations that assume responsibility and advocate for their client patients and pay for their health care.

"Restraints" means the measures taken to control a resident's physical activity for the resident's own protection or for the protection of others.

[**ARC 0765C**, IAB 5/29/13, effective 7/3/13; **ARC 1752C**, IAB 12/10/14, effective 1/14/15]

481—63.2(135C) Variances. Variances from these rules may be granted by the director of the department of inspections and appeals for good and sufficient reason when the need for variance has been established; no danger to the health, safety, or welfare of any resident results; alternate means are employed or compensating circumstances exist and the variance will apply only to an individual residential care facility for the intellectually disabled. Variances will be reviewed at the discretion of the director of the department of inspections and appeals.

63.2(1) To request a variance, the licensee must:

a. Apply for variance in writing, on a form provided by the department;

b. Cite the rule or rules from which a variance is desired;

c. State why compliance with the rule or rules cannot be accomplished;

d. Explain alternate arrangement or compensating circumstances which justify the variance;

e. Demonstrate that the requested variance will not endanger the health, safety, or welfare of any resident.

63.2(2) Upon receipt of a request for variance, the director of the department of inspections and appeals will:

a. Examine the rule from which variance is requested to determine that the request is necessary and reasonable;

b. If the request meets the above criteria, evaluate the alternate arrangements or compensating circumstances against the requirement of the rules;

c. Examine the effect of the requested variance on the health, safety, or welfare of the residents;

d. Consult with the applicant if additional information is required.

63.2(3) Based upon these studies, approval of the variance will be either granted or denied within 120 days of receipt.

[**ARC 0765C**, IAB 5/29/13, effective 7/3/13]

481—63.3(135C) Application for licensure.

63.3(1) Initial application and licensing. In order to obtain an initial residential care facility for the intellectually disabled license for a residential care facility for the intellectually disabled which is currently licensed, the applicant must:

a. Meet all of the rules, regulations, and standards contained in 481—Chapters 60 and 63;

b. Submit a letter of intent and a written résumé of the resident care program and other services provided which reflect the services indicated in individualized programs of care for each resident for departmental review and approval;

c. Make application at least 30 days prior to the change of ownership of the facility on forms provided by the department;

d. Submit a floor plan of each floor of the facility drawn on 8½- × 11-inch paper showing room areas in proportion, room dimensions, room numbers for all rooms, including bathrooms, and designation of the use to which each room will be put and window and door location;

e. Submit a photograph of the front and side elevation of the facility;

f. Submit the statutory fee for a residential care facility for the intellectually disabled for which licensure application is made;

g. Comply with all other local statutes and ordinances in existence at the time of licensure;

h. Have a certificate signed by the state fire marshal or deputy state fire marshal as to compliance with fire safety rules and regulations.

63.3(2) In order for a facility not currently licensed as a residential care facility for the intellectually disabled to obtain an initial license as a residential care facility for the intellectually disabled, the applicant must:

a. Meet all of the rules, regulations, and standards contained in 481—Chapters 60 and 63 (exceptions noted in 60.3(2) shall not apply);

b. Submit a letter of intent and a written résumé of the resident care program and other services provided for departmental review and approval;

c. Make application at least 30 days prior to the proposed opening date of the facility on forms provided by the department;

d. Submit a floor plan of each floor of the residential care facility for the intellectually disabled, drawn on 8½- × 11-inch paper showing room areas in proportion, room dimensions, room numbers for all rooms, including bathrooms, and designation of the use to which the room will be put and window and door locations;

e. Submit a photograph of the front and side elevation of the residential care facility for the intellectually disabled;

f. Submit the statutory fee for a residential care facility for the intellectually disabled;

g. Comply with all other local statutes and ordinances in existence at the time of licensure;

h. Have a certificate signed by the state fire marshal or deputy state fire marshal as to compliance with fire safety rules and regulations.

63.3(3) Renewal application. In order to obtain a renewal of the residential care facility for the intellectually disabled license, the applicant must:

a. Submit the completed application form 30 days prior to annual license renewal date of residential care facility for the intellectually disabled license;

b. Submit the statutory license fee for a residential care facility for the intellectually disabled with the application for renewal;

c. Have an approved current certificate signed by the state fire marshal or deputy state fire marshal as to compliance with fire safety rules and regulations;

d. Submit appropriate changes in the résumé to reflect any changes in the resident care program and other services.

63.3(4) Deemed status.

a. The department shall recognize, in lieu of its own inspection, the comparable inspection and inspection findings of the Accreditation Council for Service for Mentally Retarded and Other Developmentally Disabled Persons (AC—MR/DD), if the department is given copies of all requested materials relating to the comparable inspection process, is notified of the scheduled comparable inspection not less than 30 days in advance of the inspection, and is given the opportunity to monitor the comparable inspection. The department may verify the findings of 10 percent of the comparable inspections, selected annually on a random basis, in order to ensure compliance with minimum residential care standards established pursuant to this chapter.

b. The above accreditation will be accepted in lieu of the department's yearly licensure inspection for each year of the AC—MR/DD accreditation period up to two years.

63.3(5) Licenses are issued to the person or governmental unit which has responsibility for the operation of the facility and authority to comply with all applicable statutes, rules or regulations.

The person or governmental unit must be the owner of the facility or, if the facility is leased, the lessee.

This rule is intended to implement Iowa Code sections 135C.6(1) and 135C.9.

[**ARC 0765C**, IAB 5/29/13, effective 7/3/13]

481—63.4(135C) General requirements.

63.4(1) The license shall be displayed in a conspicuous place in the facility which is viewed by the public. (III)

63.4(2) The license shall be valid only in the possession of the licensee to whom it is issued.

63.4(3) The posted license shall accurately reflect the current status of the residential care facility for the intellectually disabled. (III)

63.4(4) Licenses expire one year after the date of issuance, or as indicated on the license.

63.4(5) Each citation or a copy of each citation issued by the department for a class I or class II violation shall be prominently posted by the facility in plain view of the residents, visitors, and persons inquiring about placement in the facility. The citation or copy of the citation shall remain posted until the violation is corrected to the satisfaction of the department. (III)

[**ARC 0765C**, IAB 5/29/13, effective 7/3/13]

481—63.5(135C) Notifications required by the department. The department shall be notified:

63.5(1) Within 48 hours, by letter, of any reduction or loss of personal care or dietary staff lasting more than seven days which places the staffing ratio below that required for licensing. No additional residents shall be admitted until the minimum staffing requirements are achieved; (III)

63.5(2) Of any proposed change in the residential care facility for the intellectually disabled's functional operation or addition or deletion of required services; (III)

63.5(3) Thirty days before addition, alteration, or new construction is begun in the residential care facility for the intellectually disabled, or on the premises; (III)

63.5(4) Thirty days in advance of closure of the residential care facility for the intellectually disabled; (III)

63.5(5) Within two weeks of any change in administrator; (III)

63.5(6) When any change in the category of license is sought; (III)

63.5(7) Prior to the purchase, transfer, assignment, or lease of a residential care facility for the intellectually disabled, the licensee shall:

a. Inform the department of the pending sale, transfer, assignment, or lease of the facility; (III)

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

c. Submit a written authorization to the department permitting the department to release all information of whatever kind from the department's files concerning the licensee's residential care facility for the intellectually disabled to the named prospective purchaser, transferee, assignee, or lessee; (III)

63.5(8) Pursuant to the authorization submitted to the department by the licensee prior to the purchase, transfer, assignment, or lease of a residential care facility for the intellectually disabled, the department shall upon request, send or give copies of all recent licensure surveys and of any other pertinent information relating to the facility's licensure status to the prospective purchaser, transferee, assignee, or lessee; costs for such copies shall be paid by the prospective purchaser.

[**ARC 0765C**, IAB 5/29/13, effective 7/3/13]

481—63.6(135C) Witness fees. Rescinded IAB 3/30/94, effective 5/4/94. See 481—subrule 50.6(4).

481—63.7(135C) Licenses for distinct parts.

63.7(1) Separate licenses may be issued for distinct parts of a health care facility which are clearly identifiable, containing contiguous rooms in a separate wing or building or on a separate floor of the facility and which provide care and services of separate categories.

63.7(2) The following requirements shall be met for a separate licensing of a distinct part:

a. The distinct part shall serve only residents who require the category of care and services immediately available to them within that part; (III)

b. The distinct part shall meet all the standards, rules, and regulations pertaining to the category for which a license is being sought;

c. A distinct part must be operationally and financially feasible;

d. A separate staff with qualifications appropriate to the care and services being rendered must be regularly assigned and working in the distinct part under responsible management; (III)

e. Separately licensed distinct parts may have certain services such as management, building maintenance, laundry, and dietary in common with each other.

481—63.8(135C) Administrator. Each residential care facility for the intellectually disabled shall have one person in charge, duly approved by the department or acting in a provisional capacity in accordance with these regulations. (III)

63.8(1) The administrator shall be at least 18 years of age and shall have a high school diploma or equivalent. (III) In addition this person shall meet at least one of the following conditions:

a. Be a licensed nursing home administrator who is also a qualified intellectual disabilities professional; (III) or

b. Be a qualified intellectual disabilities professional with at least one year of experience in an administrative capacity in a health care facility; (III) or

c. Have completed a one-year educational training program approved by the department for residential care facility for the intellectually disabled. (III)

63.8(2) The administrator may act as an administrator for not more than two residential care facilities for the intellectually disabled. (II)

a. The distance between the two facilities shall be no greater than 50 miles. (II)

b. The administrator shall spend the equivalent of three full eight-hour days per week in each facility. (II)

c. The administrator may be responsible for no more than 150 beds in total if the administrator is an administrator of more than one facility. (II)

63.8(3) The licensee may be the approved administrator providing the licensee meets the requirements as set forth in these regulations and devotes the required time to administrative duties. Residency in the facility does not in itself meet the requirement. (III)

63.8(4) A provisional administrator may be appointed on a temporary basis by the residential care facility for the intellectually disabled licensee to assume the administrative responsibilities for a residential care facility for the intellectually disabled for a period not to exceed six months when, through no fault of its own, the home has lost its administrator and has not been able to replace the administrator, provided the department has been notified prior to the date of the administrator's appointment. (III)

63.8(5) In the absence of the administrator, a responsible person shall be designated in writing to the department to be in charge of the facility. (III) The person designated shall:

a. Be knowledgeable of the operation of the facility; (III)

b. Have access to records concerned with the operation of the facility; (III)

c. Be capable of carrying out administrative duties and of assuming administrative responsibilities; (III)

d. Be at least 18 years of age; (III)

e. Be empowered to act on behalf of the licensee during the administrator's absence concerning the health, safety, and welfare of the residents; (III)

f. Have had training to carry out assignments and take care of emergencies and sudden illnesses of residents. (III)

63.8(6) The licensee shall:

a. Assume the responsibility for the overall operation of the residential care facility for the intellectually disabled; (III)

b. Be responsible for compliance with all applicable laws and with the rules of the department; (III)

c. Establish written policies, which shall be available for review, for the operation of the residential care facility for the intellectually disabled. (III)

63.8(7) The administrator shall:

a. Be responsible for the selection and direction of competent personnel to provide services for the resident care program; (III)

b. Be responsible for the arrangement for all department heads to annually attend a minimum of ten contact hours of educational programs to increase skills and knowledge needed for the position; (III)

c. Be responsible for a monthly in-service educational program for all employees and to maintain records of programs and participants; (III)

d. Make available the residential care facility for the intellectually disabled payroll records for departmental review as needed. (III)

[**ARC 0765C**, IAB 5/29/13, effective 7/3/13]

481—63.9(135C) General policies.

63.9(1) There shall be written personnel policies in facilities of more than 15 beds to include hours of work, and attendance at educational programs. (III)

63.9(2) There shall be a written job description developed for each category of worker in facilities. The job description shall include title of job, job summary, age range, qualifications (formal education and experience), skills needed, physical requirements, and responsibilities. (III)

63.9(3) There shall be written personnel policies for each facility. Personnel policies shall include the following requirements:

a. Employees shall have a physical examination before employment. (I, II, III)

b. Employees shall have a physical examination at least every four years. (I, II, III)

c. Screening and testing for tuberculosis shall be conducted pursuant to 481—Chapter 59. (I, II, III)

63.9(4) Health certificates for all employees shall be available for review. (III)

63.9(5) Rescinded IAB 10/19/88, effective 11/23/88.

63.9(6) There shall be written policies for emergency medical care for employees and residents in case of sudden illness or accident which includes the individual to be contacted in case of emergency. (III)

63.9(7) The facility shall have a written agreement with a hospital for the timely admission of a resident who, in the opinion of the attending physician, requires hospitalization. (III)

63.9(8) The residential care facility for the intellectually disabled shall have established policies concerning the control, investigation, and prevention of infections within the facility. (III)

63.9(9) Each facility licensed as a residential care facility for the intellectually disabled shall provide an organized continuous 24-hour program of care commensurate with the needs of the residents of the home and under the direction of an administrator whose combined training and supervisory experience is such as to ensure adequate and competent care. (III)

63.9(10) Each facility shall have a written and implemented infection control program addressing the following:

a. Techniques for hand washing consistent with Guidelines for Handwashing and Hospital Control, 1985, Centers for Disease Control, U.S. Department of Health and Human Services, PB85-923404; (I, II, III)

b. Techniques for handling of blood, body fluids, and body wastes consistent with Guideline for Isolation Precautions in Hospitals, Centers for Disease Control, U.S. Department of Health and Human Services, PB96-138102; (I, II, III)

c. Dressings, soaks, or packs; (I, II, III)

d. Infection identification; (I, II, III)

e. Resident care procedures to be used when there is an infection present consistent with Guideline for Isolation Precautions in Hospitals, Centers for Disease Control, U.S. Department of Health and Human Services, PB96-138102; (I, II, III)

f. Sanitation techniques for resident care equipment; (I, II, III)

g. Techniques for sanitary use and reuse of feeding syringes and single-resident use and reuse of urine collection bags; (I, II, III)

h. Techniques for use and disposal of needles, syringes, and other sharp instruments consistent with Guideline for Isolation Precautions in Hospitals, Centers for Disease Control, U.S. Department of Health and Human Services, PB96-138102; (I, II, III)

CDC Guidelines may be obtained from the U.S. Department of Commerce, Technology Administration, National Technical Information Service, 5285 Port Royal Rd., Springfield, Virginia 22161 (1-800-553-6847).

63.9(11) Aseptic techniques. If a resident needs any of the treatments or devices on the list below, written and implemented procedures regarding aseptic techniques shall be followed.

a. Intravenous or central line catheter consistent with Guideline for Prevention of Intravascular Device Related Infections, Centers for Disease Control, U.S. Department of Health and Human Services, PB97-130074, (I, II, III)

b. Urinary catheter, (I, II, III)

c. Respiratory suction, oxygen or humidification, (I, II, III)

d. Decubitus care, (I, II, III)

e. Tracheostomy, (I, II, III)

f. Nasogastric or gastrostomy tubes, (I, II, III)

g. Sanitary use and reuse of feeding syringes and single-resident use and reuse of urine collection bags. (I, II, III)

63.9(12) Prior to the removal of a deceased resident/patient from a facility, the funeral director or person responsible for transporting the body shall be notified by the facility staff of any special precautions that were followed by the facility having to do with the mode of transmission of a known or suspected communicable disease. (III)

[**ARC 0663C**, IAB 4/3/13, effective 5/8/13; **ARC 0765C**, IAB 5/29/13, effective 7/3/13]

481—63.10 Rescinded, effective 7/14/82.

481—63.11(135C) Personnel.

63.11(1) *General qualifications.*

a. No person with a current record of habitual alcohol intoxication or addiction to the use of drugs shall serve in a managerial role of a residential care facility for the intellectually disabled. (II)

b. No person under the influence of alcohol or intoxicating drugs shall be permitted to provide services in a residential care facility for the intellectually disabled. (II)

c. No person shall be allowed to provide services in a facility if the person has a disease:

(1) Which is transmissible through required workplace contact, (I, II, III)

(2) Which presents a significant risk of infecting others, (I, II, III)

(3) Which presents a substantial possibility of harming others, and (I, II, III)

(4) For which no reasonable accommodation can eliminate the risk. (I, II, III)

Refer to Guidelines for Infection Control in Hospital Personnel, Centers for Disease Control, U.S. Department of Health and Human Services, PB85-923402 to determine (1), (2), (3) and (4).

d. Reserved.

e. Individuals with either physical or mental disabilities may be employed for specific duties, but only if that disability is unrelated to that individual's ability to perform the duties of the job. (III)

63.11(2) *Supervision and staffing.*

a. The department shall establish on an individual facility basis the numbers and qualifications of the staff required in a residential care facility for the intellectually disabled, using as its criteria the services being offered as indicated on the résumé program of care and, as required for individual care plans, the needs of the resident. (II, III)

b. Personnel in a residential care facility for the intellectually disabled shall provide 24-hour coverage for residential care services for the intellectually disabled. Personnel shall be up and dressed at all times in facilities with more than 15 beds. In facilities with 15 or fewer beds, personnel shall be up and dressed when residents are awake. (II, III)

c. Direct care staff shall be present in the facility unless all residents are involved in activities away from the facility. (II, III)

d. Physician's orders shall be implemented by qualified personnel. (II, III)

63.11(3) *Employee criminal record checks, child abuse checks and dependent adult abuse checks and employment of individuals who have committed a crime or have a founded abuse.* The facility shall comply with the requirements found in Iowa Code section 135C.33 as amended by 2013 Iowa Acts, Senate File 347, and rule 481—50.9(135C) related to completion of criminal record checks, child abuse checks, and dependent adult abuse checks and to employment of individuals who have committed a crime or have a founded abuse. (I, II, III)
[**ARC 0765C**, IAB 5/29/13, effective 7/3/13; **ARC 0903C**, IAB 8/7/13, effective 9/11/13]

481—63.12(135C) Resident care and personal services.

63.12(1) Beds shall be made daily and adjusted as necessary. A complete change of linen shall be made at least once a week and more often if necessary. (III)

63.12(2) Residents shall receive sufficient supervision so that their personal cleanliness is maintained. (II, III)

63.12(3) Residents shall have clean clothing as needed to present a neat appearance, be free of odors, and to be comfortable. Clothing shall be appropriate to their activities and to the weather. (III)

63.12(4) Rescinded, effective 7/14/82.

63.12(5) Residents shall be encouraged to leave their rooms and make use of the recreational room or living room of the facility. (III)

63.12(6) Residents shall not be required to pass through another's bedroom to reach a bathroom, living room, dining room, corridor, or other common areas of the facility. (III)

63.12(7) Rescinded, effective 7/14/82.

63.12(8) Uncontrollable residents shall be transferred or discharged from the facility in accordance with contract arrangements and requirements of Iowa Code chapter 135C. (II, III)

63.12(9) Residents shall be required to bathe at least twice a week. (II, III)

481—63.13(135C) Admission, transfer, and discharge.

63.13(1) *General admission policies.*

a. No resident who is in need of greater services than the facility can provide shall be admitted or retained in a residential care facility for the intellectually disabled. (II, III)

b. No residential care facility for the intellectually disabled shall admit more residents than the number of beds for which it is licensed. (II, III)

c. There shall be no more beds erected than is stipulated on the license. (II, III)

d. There shall be no more beds erected in a room than its size and other characteristics will permit. (II, III)

e. The admission of a resident to a residential care facility for the intellectually disabled shall not give the facility or any employee of the facility the right to manage, use, or dispose of any property of the resident except with the written authorization of the resident or the resident's legal representative. (III)

f. The admission of a resident shall not grant the residential care facility for the intellectually disabled the authority or responsibility to manage the personal affairs of the resident except as may be necessary for the safety of the resident and safe and orderly management of the residential care facility for the intellectually disabled as required by these rules. (III)

g. A residential care facility for the intellectually disabled shall provide for the safekeeping of personal effects, funds, and other property of its residents. The facility may require that items of exceptional value or which would convey unreasonable responsibilities to the licensee be removed from the premises of the facility for safekeeping. (III)

h. Rescinded, effective 7/14/82.

i. Funds or properties received by the residential care facility for the intellectually disabled, belonging to or due a resident, expendable for the resident's account, shall be trust funds. (III)

j. Infants and children under the age of 16 shall not be admitted to health care facilities for adults unless given prior written approval by the department. A distinct part of a health care facility, segregated from the adult section, may be established based on a program of care submitted by the licensee or

applicant which is commensurate with the needs of the residents of the health care facility and has received the department's review and approval. (III)

k. No health care facility, and no owner, administrator, employee or representative thereof shall act as guardian, trustee, or conservator for any resident's property, unless such resident is related to the person acting as guardian within the third degree of consanguinity. (III)

l. Upon the verified petition of the county board of supervisors, the district court may appoint the administrator of a county care facility as conservator or guardian or both of a resident of such county care facility. Such administrator shall serve as conservator or guardian or both without fee. The administrator may establish either separate or common bank accounts for cash funds of such resident wards. (III)

63.13(2) *Discharge or transfer.*

a. Prior notification shall be made to the next of kin, legal representative, attending physician, and sponsoring agency, if any, prior to transfer or discharge of any resident. (III)

b. Proper arrangements shall be made by the residential care facility for the intellectually disabled for the welfare of the resident prior to transfer or discharge in the event of an emergency or inability to reach the next of kin or legal representative. (III)

c. The licensee shall not refuse to discharge or transfer a resident when the physician, family, resident, or legal representative requests such transfer or discharge. (II, III)

d. Advance notification by telephone will be made to the receiving facility prior to the transfer of any resident. (III)

e. When a resident is transferred or discharged, the appropriate record as set forth in 63.17(1) of these rules will accompany the resident. (II, III)

f. Prior to the transfer or discharge of a resident to another health care facility, arrangements to provide for continuity of care shall be made with the facility to which the resident is being sent. (II, III)
[**ARC 0765C**, IAB 5/29/13, effective 7/3/13]

481—63.14(135C) Contracts. Each party shall receive a copy of the signed contract. Each contract for residents shall:

63.14(1) State the base rate or scale per day or per month, the services included, and the method of payment; (III)

63.14(2) Contain a complete schedule of all offered services for which a fee may be charged in addition to the base rate. (III) Furthermore, the contract shall:

a. Stipulate that no further additional fees shall be charged for items not contained in complete schedule of services as set forth in subrule 63.14(2); (III)

b. State the method of payment of additional charges; (III)

c. Contain an explanation of the method of assessment of such additional charges and an explanation of the method of periodic reassessment, if any, resulting in changing such additional charges; (III)

d. State that additional fees may be charged to the resident for nonprescription drugs, other personal supplies, and services by a barber, beautician, etc. (III)

63.14(3) Contain an itemized list of those services, with the specific fee the resident will be charged and method of payment, as related to the resident's current condition, based on a preadmission evaluation assessment which is determined in consultation with the administrator; (III)

63.14(4) Include the total fee to be charged initially to the resident; (III)

63.14(5) State the conditions whereby the facility may make adjustments to its overall fees for resident care as a result of changing costs. (III) Furthermore, the contract shall provide that the facility shall give:

a. Written notification to the resident or responsible party, when appropriate, of changes in the overall rates of both base and additional charges at least 30 days prior to effective date of such changes; (III)

b. Notification to the resident or responsible party, when appropriate, of changes in additional charges, based on a change in the resident's condition. Notification must occur prior to the date such revised additional charges begin. If notification is given orally, subsequent written notification must also

be given within a reasonable time, not to exceed one week, listing specifically the adjustments made; (III)

63.14(6) State the terms of agreement in regard to refund of all advance payments in the event of transfer, death, voluntary or involuntary discharge; (III)

63.14(7) State the terms of agreement concerning the holding and charging for a bed when a resident is hospitalized or leaves the facility temporarily for recreational or therapeutic reasons. The terms shall contain a provision that the bed will be held at the request of the resident or the resident's responsible party:

a. The facility shall ask the resident or responsible party if they want the bed held. This request shall be made before the resident leaves or within 48 hours after the resident leaves. The inquiry and the response shall be documented; (II)

b. The facility shall reserve the bed when requested for as long as the resident can ensure payment in accordance with the contract; (II)

63.14(8) State the conditions under which the involuntary discharge or transfer of a resident would be effected; (III)

63.14(9) State the conditions of voluntary discharge or transfer; (III)

63.14(10) Set forth any other matters deemed appropriate by the parties to the contract. No contract or any provision thereof shall be drawn or construed so as to relieve any health care facility of any requirement or obligation imposed upon it by this chapter or any standards or rules in force pursuant to this chapter. (III)

481—63.15(135C) Physical examinations.

63.15(1) Each resident in a residential care facility for the intellectually disabled shall have a designated licensed physician, who may be called when needed. (III)

63.15(2) Each resident admitted to a residential care facility for the intellectually disabled shall have had a physical examination prior to admission. (II, III)

a. If the resident is admitted directly from a hospital, a copy of the hospital admission physical and discharge summary may be a part of the record in lieu of an additional physical examination. A record of the examination, signed by the physician, shall be a part of the resident's record. (II, III)

b. The record of the admission physical examination and medical history shall portray the current medical status of the resident and shall include the resident's name, sex, age, medical history, physical examination, diagnosis, statement of chief complaints, and results of any diagnostic procedures. (II, III)

c. Screening and testing for tuberculosis shall be conducted pursuant to 481—Chapter 59. (II, III)

63.15(3) Arrangements shall be made to have a physician available to furnish medical care in case of emergency. (II, III)

63.15(4) Rescinded, effective 7/14/82.

63.15(5) The person in charge shall immediately notify the physician of any accident, injury, or adverse change in the resident's condition. (I, II, III)

63.15(6) Each resident shall be visited by or shall visit the resident's physician at least annually. The year period shall be measured from the date of admission and is not to include preadmission physicals. Any required physician task or visit in a residential care facility for the intellectually disabled may also be performed by an advanced registered nurse practitioner, clinical nurse specialist, or physician assistant who is working in collaboration with the physician. (III)

63.15(7) Residents shall be admitted to a residential care facility for the intellectually disabled only on a written order signed by a physician certifying that the individual being admitted requires no more than personal care and supervision but does not require nursing care. (III)

This rule is intended to implement Iowa Code section 135C.23(2).

[**ARC 0663C**, IAB 4/3/13, effective 5/8/13; **ARC 0765C**, IAB 5/29/13, effective 7/3/13]

481—63.16(135C) Dental services.

63.16(1) The residential care facility for the intellectually disabled personnel shall assist residents to obtain regular and emergency dental services. (III)

63.16(2) Transportation arrangements shall be made when necessary for the resident to be transported to the dentist's office. (III)

63.16(3) Dental services shall be performed only on the request of the resident, responsible relative, or legal representative. The resident's physician shall be advised of the resident's dental problems. (III)

63.16(4) All dental reports or progress notes shall be included in the clinical record. (III)

63.16(5) Personal care staff shall assist the resident in carrying out dentist's recommendations. (III)

63.16(6) Dentists shall be asked to participate in the in-service program of the facility. (III)

[**ARC 0765C**, IAB 5/29/13, effective 7/3/13]

481—63.17(135C) Records.

63.17(1) *Resident record.* The licensee shall keep a permanent record on all residents admitted to a residential care facility for the intellectually disabled with all entries current, dated, and signed. (III) The record shall include:

a. Name and previous address of resident; (III)

b. Birth date, sex, and marital status of resident; (III)

c. Church affiliation; (III)

d. Physician's name, telephone number, and address; (III)

e. Dentist's name, telephone number, and address; (III)

f. Name, address, and telephone number of next of kin or legal representative; (III)

g. Name, address, and telephone number of person to be notified in case of emergency; (III)

h. Mortician's name, telephone number, and address; (III)

i. Pharmacist's name, telephone number, and address; (III)

j. Physical examination and medical history; (III)

k. Certification by the physician that the resident requires no more than personal care and supervision, but does not require nursing care; (III)

l. Physician's orders for medication, treatment, and diet in writing and signed by the physician; (III)

m. A notation of yearly or other visits to physician or other professional services; (III)

n. Any change in the resident's condition; (II, III)

o. If the physician has certified that the resident is capable of taking prescribed medications, the resident shall be required to keep the administrator advised of current medications, treatments, and diet. The administrator shall keep a listing of medication, treatments, and diet prescribed by the physician for each resident; (III)

p. If the physician has certified that the resident is not capable of taking prescribed medication, it must be administered by a qualified person of the facility. A qualified person shall be defined as either a registered or licensed practical nurse or an individual who has completed the state-approved training course in medication administration; (II)

q. Medications administered by an employee of the facility shall be recorded on a medication record by the individual who administers the medication; (II, III)

r. A notation describing condition on admission, transfer, and discharge; (III)

s. In the event of a resident's death, notations in the resident's record shall include the date and time of the resident's death, the circumstances of the resident's death, the disposition of the resident's body, and the date and time that the resident's family and physician were notified of the resident's death; (III)

t. A copy of instructions given to the resident, legal representative, or facility in the event of discharge or transfer; (III)

u. Disposition of valuables. (III)

63.17(2) *Incident record.*

a. Each residential care facility for the intellectually disabled shall maintain an incident record report and shall have available incident report forms. (III)

b. Report of incidents shall be in detail on a printed incident report form. (III)

c. The person in charge at the time of the incident shall oversee the preparation and sign the incident report. (III)

d. The report shall cover all accidents where there is apparent injury or where hidden injury may have occurred. (III)

e. The report shall cover all accidents or unusual occurrences within the facility or on the premises affecting residents, visitors, or employees. (III)

f. A copy of the incident report shall be kept on file in the facility. (III)

63.17(3) *Retention of records.*

a. Records shall be retained in the facility for five years following termination of services. (III)

b. Records shall be retained within the facility upon change of ownership. (III)

c. Rescinded, effective 7/14/82.

d. When the facility ceases to operate, the resident's record shall be released to the facility to which the resident is transferred. If no transfer occurs, the record shall be released to the individual's physician. (III)

63.17(4) *Reports to the department.* The licensee shall furnish statistical information concerning the operation of the facility to the department on request. (III)

63.17(5) *Personnel record.*

a. An employment record shall be kept for each employee consisting of the following information: name and address of employee, social security number of employee, date of birth of employee, date of employment, experience and education, references, position in the home, date and reason for discharge or resignation. (III)

b. The personnel records shall be made available for review upon request by the department. (III)

[**ARC 0765C**, IAB 5/29/13, effective 7/3/13]

481—63.18(135C) Drugs.

63.18(1) *Drug storage.*

a. Residents who have been certified in writing by the physician as capable of taking their own medications may retain these medications in their bedroom but locked storage must be provided. (III)

b. Drug storage for residents who are unable to take their own medications and require supervision shall meet the following requirements:

(1) A cabinet with a lock shall be provided which can be used for storage of drugs, solutions, and prescriptions; (III)

(2) A bathroom shall not be used for drug storage; (III)

(3) The drug storage cabinet shall be kept locked; (III)

(4) Schedule II drugs, as defined by Iowa Code chapter 124, shall be kept in a locked box within the locked medication cabinet; (II)

(5) The medicine cabinet key shall be in the possession of the employee charged with the responsibility of administering medications; (II, III)

(6) Medications requiring refrigeration shall be kept in a refrigerator and separated from food and other items; (III)

(7) Drugs for external use shall be stored separately from drugs for internal use; (III)

(8) All potent, poisonous, or caustic materials shall be stored separately from drugs. They shall be plainly labeled and stored in a specific, well-illuminated cabinet, closet, or storeroom and made accessible only to authorized persons; (I, II)

(9) The drug cabinet shall have a work counter, both the counter and cabinet shall be well-lighted; (III)

(10) Running water shall be available in the room in which the medicine cabinet is located or in an adjacent room; (III)

(11) Inspection of drug storage condition shall be made by the administrator and a registered pharmacist not less than once every three months. The inspection shall be verified by a report signed by the administrator and the pharmacist and filed with the administrator. The report shall include, but not

be limited to, certifying absence of the following: expired drugs, deteriorated drugs, improper labeling, drugs for which there is no current physician's order, and drugs improperly stored. (III)

c. Bulk supplies of prescription drugs shall not be kept in a residential care facility for the intellectually disabled unless a licensed pharmacy is established in the facility under the direct supervision and control of a pharmacist. (III)

63.18(2) *Drug safeguards.*

a. All prescribed medications shall be clearly labeled indicating the resident's full name, physician's name, prescription number, name and strength of drug, dosage, directions for use, date of issue, and name and address and telephone number of pharmacy or physician issuing the drug. Where unit dose is used, prescribed medications shall, as a minimum, indicate the resident's full name, physician's name, name and strength of drug, and directions for use. Standard containers shall be utilized for dispensing drugs. Paper envelopes shall not be considered standard containers. (III)

b. Medication containers having soiled, damaged, illegible or makeshift labels shall be returned to the issuing pharmacist, pharmacy, or physician for relabeling or disposal. (III)

c. The medications of each resident shall be kept or stored in the originally received containers. (II, III)

d. When a resident is discharged or leaves the facility, the unused prescription shall be sent with the resident or with a legal representative only upon the written order of a physician. (III)

e. Unused prescription drugs prescribed for residents who have died shall be destroyed by the person in charge with a witness and notation made on the resident's record, or, if a unit dose system is used, such drugs shall be returned to the supplying pharmacist. (III)

f. Prescriptions shall be refilled only with the permission of the attending physician. (II, III)

g. No medications prescribed for one resident may be administered to or allowed in the possession of another resident. (II)

h. Instructions shall be requested of the Iowa board of pharmacy examiners concerning disposal of unused Schedule II drugs prescribed for residents who have died or for whom the Schedule II drug was discontinued. (III)

i. There shall be a formal routine for the proper disposal of discontinued medications within a reasonable but specified time. These medications shall not be retained with the resident's current medications. Discontinued drugs shall be destroyed by the responsible person with a witness and notation made to that effect or returned to the pharmacist for destruction or resident credit. Drugs listed under the Schedule II drugs shall be disposed of in accordance with the provisions of the Iowa board of pharmacy examiners. (II, III)

j. All medication orders which do not specifically indicate the number of doses to be administered or the length of time the drug is to be administered shall be stopped automatically after a given time period. The automatic stop order may vary for different types of drugs. The personal physician of the resident, in conjunction with the pharmacist, shall institute these policies and provide procedures for review and endorsement. (II, III)

k. No resident shall be allowed to keep in the resident's possession any medications unless the attending physician has certified in writing on the resident's medical record that the resident is mentally and physically capable of doing so. (II)

l. No medications or prescription drugs shall be administered to a resident without a written order signed by the attending physician. (II)

m. Each facility shall establish a policy cooperating with a licensed pharmacist to govern distributing prescribed medication to residents who are on leave from a facility. (III)

(1) Medication may be issued to residents who will be on leave from a facility for less than 24 hours. Notwithstanding the prohibition against paper envelopes in 63.18(2)*"a,"* non-child-resistant containers may be used. Each container may hold only one medication. A label on each container shall indicate the date, the resident's name, the facility, the medication, its strength, dose, and time of administration.

(2) Medication for residents on leave from a facility longer than 24 hours shall be obtained in accordance with requirements established by the Iowa board of pharmacy examiners.

(3) Medication distributed as above may be issued only by facility personnel responsible for administering medication.

63.18(3) *Drug administration.*

a. A properly trained person shall be charged with the responsibility of administering nonparenteral medications.

b. The individual shall have knowledge of the purpose of the drugs, their dangers, and contraindications.

c. This person shall be a licensed nurse or physician or shall have successfully completed a department-approved medication aide course or passed a department-approved medication aide challenge examination administered by an area community college.

d. Prior to taking a department-approved medication aide course, the individual shall:

(1) Successfully complete an approved residential aide course, nurse aide course, nurse aide training and testing program or nurse aide competency examination;

(2) Be employed in the same facility for at least six consecutive months prior to the start of the medication aide course. This requirement is not subject to waiver.

(3) Have a letter of recommendation for admission to the medication aide course from the employing facility.

e. A person who is a nursing student or a graduate nurse may take the challenge examination in place of taking a medication aide course. This individual shall do all of the following before taking the medication aide challenge examination:

(1) Complete a clinical or nursing theory course within six months before taking the challenge examination;

(2) Successfully complete a nursing program pharmacology course within one year before taking the challenge examination;

(3) Provide to the community college a written statement from the nursing program's pharmacology or clinical instructor indicating the individual is competent in medication administration.

f. In an RCF/ID facility licensed for 15 or fewer beds, a person who has successfully completed a state-approved medication manager course may administer medications.

g. A person who has written documentation of certification as a medication aide in another state may become a medication aide in Iowa by successfully completing a department-approved nurse aide competency examination and a medication aide challenge examination.

The requirements of paragraph *"d"* of this subrule do not apply to this individual.

h. Unless the unit dose system is used, the person assigned the responsibility of medication administration must complete the procedure by personally preparing the dose, observing the actual act of swallowing the oral medication, and charting the medication. (II) In facilities where the unit dose system is used, the person assigned the responsibility must complete the procedure by observing the actual act of swallowing the medication and charting the medication. Medications shall be prepared on the same shift of the same day they are administered, (II) unless the unit dose system is used.

i. Injectable medications shall be administered as permitted by Iowa law by a qualified nurse, physician, pharmacist, or physician assistant (PA).

j. Residents certified by their physician as capable of injecting their own insulin may do so. Insulin may be administered pursuant to *"i"* above or as otherwise authorized by the resident's physician. Authorization by the physician shall:

(1) Be in writing,

(2) Be maintained in the resident's record,

(3) Be renewed quarterly,

(4) Include the name of the individual authorized to administer the insulin,

(5) Include documentation by the physician that the authorized person is qualified to administer insulin to that resident.

k. An individual inventory record shall be maintained for each Schedule II drug prescribed for each resident. (II)

[**ARC 0765C**, IAB 5/29/13, effective 7/3/13; **ARC 1050C**, IAB 10/2/13, effective 11/6/13]

481—63.19(135C) Dietary.

63.19(1) *Dietary staffing.*

a. In facilities licensed for over 15 beds, persons in charge of meal planning and food preparation shall complete the home study course on sanitation and food preparation offered by the department. (III)

b. In facilities licensed for over 15 beds, food service personnel shall be on duty during a 12-hour span extending from the preparation of breakfast through supper. (III)

c. There shall be written work schedules and time schedules covering each type of job in the food service department. These work and time schedules shall be posted or kept in a notebook which is available for use in the food service area in facilities over 15 beds. (III)

63.19(2) *Nutrition and menu planning.*

a. Menus shall be planned and followed to meet nutritional needs of residents in accordance with the physician's orders. (II)

b. Menus shall be planned and served to include foods and amounts necessary to meet the recommended daily dietary allowances of the food and nutrition board of the National Research Council, National Academy of Sciences. (II) Recommended daily dietary allowances are:

(1) Milk—two or more cups served as beverage or used in cooking;

(2) Meat group—two or more servings of meat, fish, poultry, eggs, cheese or equivalent; at least four to five ounces edible portion per day;

(3) Vegetable and fruit group—four or more servings (two cups). This shall include a citrus fruit or other fruit and vegetable important for vitamin C daily, a dark green or deep yellow vegetable for vitamin A at least every other day, and other fruits and vegetables, including potatoes;

(4) Bread and cereal group—four or more servings of whole-grain, enriched or restored;

(5) Foods other than those listed will usually be included to meet daily energy requirements (calories) to add to the total nutrients and variety of meals.

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

(1) There shall be no more than a 14-hour span between substantial evening meal and breakfast. (II, III)

(2) To the extent medically possible, bedtime nourishments shall be offered routinely to all residents. Special nourishments shall be available when ordered by physician. (II, III)

d. Menus shall include a variety of foods prepared in various ways. The same menu shall not be repeated on the same day of the following week. (III)

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

f. Records of menus as served shall be filed and maintained for 30 days and shall be available for review by departmental personnel. When substitutions are necessary, they shall be of similar nutritive value and recorded on the menu or in a notebook. (III)

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

63.19(3) *Dietary storage, food preparation, and service.*

a. All food and drink shall be clean, wholesome, free from spoilage, and safe for human consumption. (II, III)

b. The use of food from salvaged, damaged, or unlabeled containers shall be prohibited. (III)

c. All perishable or potentially hazardous food shall be stored at safe temperatures of 45°F (7°C) or below, or 140°F (60°C) or above. (III)

d. No perishable food shall be allowed to stand at room temperature any longer than is required to prepare and serve. (III)

e. Supplies of staple foods for a minimum of a one-week period and or perishable foods for a minimum of a two-day period shall be maintained on the premises. Minimum food portion requirements for a low-cost plan shall conform to information supplied by the nutrition section of the department of health. (II, III)

f. Table service shall be attractive. Dishes shall be free of cracks, chips, and stains. (III)

g. If family-style service is used, all leftover prepared food that has been on the table shall be properly handled. (III)

h. Poisonous compounds shall not be kept in food storage or preparation areas. (II)

63.19(4) *Sanitation in food preparation area.*

a. "Food Service Sanitation Manual," revised 1976, U.S. Department of Health, Education, and Welfare, Public Health Service, U.S. Government Printing Office, Washington, D.C., shall be used as the established, nationally recognized reference for establishing and determining satisfactory compliance with food service sanitation.

b. Residents shall not be allowed in the food preparation area, unless indicated in their individualized care plans. (III)

c. In facilities licensed for over 15 beds, the kitchen shall not be used for serving meals to residents, food service personnel, or other staff. (III)

d. All foods, while being stored, prepared, displayed, served, or transported shall be protected against contamination from dust, flies, rodents, and other vermin. (II, III)

e. Food shall be protected from unclean utensils and worn surfaces, unnecessary handling, coughs and sneezes, flooding, drainage, and overhead leakage. (II, III)

f. All appliances and work areas shall be kept clean. (III)

g. There shall be written procedures established for cleaning all work and serving areas in facilities over 15 beds. (III)

h. A schedule for duties to be performed daily shall be posted in each food area. (III)

i. All cooking stoves in facilities of 15 or more beds shall be provided with a properly sized exhaust system and hood to eliminate excess heat, moisture, and odors from the kitchen. (III)

j. Spillage and breakage shall be cleaned up immediately. (III)

k. All garbage not mechanically disposed of shall be kept in nonabsorbent, cleanable containers pending disposal. All filled containers shall be covered and stored in a sanitary manner. (III)

l. The food service area shall be located so it will not be used as a passageway by residents, guests, or nonfood service staff. (III)

m. The walls, ceilings, and floors of all rooms in which food is prepared and served shall be in good repair, smooth, washable, and shall be kept clean. (III)

n. There shall be no washing, ironing, sorting, or folding of laundry in the food service area. Dirty linen shall not be carried through the food service area unless it is in sealed, leakproof containers. (III)

o. Ice shall be stored and handled in such a manner as to prevent contamination. Ice scoops should be sanitized daily and kept in a clean container. (III)

p. There shall be no animals or birds in the food preparation area. (III)

q. No dishes or cooking utensils shall be towel dried. (III)

r. In facilities of over 15 beds directions for the dishwashing procedure shall be posted and available to all kitchen personnel. (III)

s. If there is a dishwashing machine, it must provide a wash temperature of 140°F (60°C) to 160°F (71°C) and a rinse temperature of 170°F (70°C) to 180°F (82°C). (III)

t. The washing and sanitizing of dishes and utensils shall meet approved sanitation procedures and practices. In facilities of 15 or more beds, a mechanical dishwashing machine or three-compartment sink shall be used for washing dishes; a booster heater for the third compartment or sanitizing agent shall be used. (III)

u. All dishes, silverware, and cooking utensils shall be stored above the floor in a sanitary manner, in a clean, dry place protected from flies, splashes, dust, and other contaminants. (III)

v. Procedures for washing and handling dishes shall be followed in order to protect the welfare of the residents and employees. Persons handling dirty dishes shall not handle clean dishes without washing their hands. (III)

w. Dishes, silverware, and cooking utensils shall be properly cleaned by prerinsing or scraping, washing, sanitizing, and air-drying. (III)

63.19(5) *Hygiene of food service personnel.*

a. Food service personnel shall be free of communicable diseases and practice hygienic food-handling techniques. In the event food service employees are assigned duties outside the dietetic service, these duties shall not interfere with sanitation, safety, or time required for dietetic work assignments. Personnel recovering from a diagnosed intestinal infection shall submit a report from their physician showing freedom from infection before returning to work in the food service department. (II, III)

b. Staff employees who are full-time food service personnel shall wear clean, washable uniforms that are not used for duties outside the food service area. In all facilities, employees shall wear clean, washable clothing when in the food service area. (III)

c. Hairnets shall be worn by all staff food service personnel. Total enclosure of facial hair shall be provided for staff personnel. (III)

d. Clean aprons and hairnets shall be available for use by other personnel in emergency situations. (III)

e. Persons handling food shall be knowledgeable of good hand-washing techniques. A hand-wash sink shall be provided in or adjacent to the food service area. Continuous on-the-job training on sanitation shall be encouraged. (III)

f. The use of tobacco shall be prohibited in the kitchen. (III)

63.19(6) *Food and drink.* All food and drink consumed within the facility shall be clean and wholesome and comply with local ordinances and applicable provisions of state and federal laws. (II, III)

481—63.20(135C) Orientation program.

63.20(1) The administrator or designee shall be responsible for developing a written, organized orientation program for all residents. (III)

63.20(2) The program shall be planned and implemented to resolve or reduce personal, family, business, and emotional problems that may interfere with the medical or health care, recovery, and rehabilitation of the individual. (III)

481—63.21(135C) Individualized program of care.

63.21(1) The individualized program of care, including specific goals and regular evaluation of progress, shall incorporate the social services, psychological, educational activities, and medical needs of the residents, and shall be designed by an interdisciplinary team. (II)

63.21(2) Each residential care facility for the intellectually disabled shall provide an organized resident activity program for the group and for the individual resident which shall include suitable activities for evenings and weekends. (III)

a. The activity program shall be designed to meet the needs and interests of each resident and to assist residents in continuing normal activities within limitations set by the resident's physician. This shall include helping residents continue in their individual interests or hobbies. (III)

b. The program shall include individual goals for each resident. (III)

c. The activity program shall include both group and individual activities. (III)

d. Residents shall be encouraged, but not forced, to participate in the activity program. (III)

63.21(3) Coordination of activities program.

a. Each residential care facility for the intellectually disabled with over 15 beds shall employ a person to direct the activities program. (III)

b. Staffing for the activity program shall be provided on the minimum basis of 45 minutes per licensed bed per week. (II, III)

c. The activity coordinator shall have completed the activity coordinators' orientation course offered through the department within six months of employment or have comparable training and experience as approved by the department. (III)

d. The activity coordinator shall attend workshops or educational programs which relate to activity programming. These shall total a minimum of ten contact hours per year. These programs shall be approved by the department. (III)

e. There shall be a written plan for personnel coverage when the activity coordinator is absent during scheduled working hours. (III)

63.21(4) Duties of activity coordinator. The activity coordinator shall:

a. Have access to all residents' records excluding financial records; (III)

b. Coordinate all activities, including volunteer or auxiliary activities and religious services; (III)

c. Keep all necessary records including:

(1) Attendance; (III)

(2) Individual resident progress notes recorded at regular intervals (at least every three months). (III)

(3) Monthly calendars, prepared in advance. (III)

d. Coordinate the activity program with all other services in the facility; (III)

e. Participate in the in-service training program in the facility. This shall include attending as well as presenting sessions. (III)

63.21(5) Supplies, equipment, and storage.

a. Each facility shall provide a variety of supplies and equipment of a nature calculated to fit the needs and interests of the residents. (III) These may include: books (standard and large print), magazines, newspapers, radio, television, and bulletin boards. Also appropriate would be box games, game equipment, songbooks, cards, craft supplies, record player, movie projector, piano, outdoor equipment, etc.

b. Storage shall be provided for recreational equipment and supplies. (III)

c. Locked storage should be available for potentially dangerous items such as scissors, knives, and toxic materials. (III)

[**ARC 0765C**, IAB 5/29/13, effective 7/3/13]

481—63.22(135C) Care review committee. Rescinded **ARC 1205C**, IAB 12/11/13, effective 1/15/14.

481—63.23(135C) Safety. The licensee of a residential care facility for the intellectually disabled shall be responsible for the provision and maintenance of a safe environment for residents and personnel. (III)

63.23(1) *Fire safety.*

a. All residential care facilities for the intellectually disabled shall meet the fire safety rules and regulations as promulgated by the state fire marshal. (I, II)

b. The size and condition of the facility and needs of the residents shall be taken into consideration in evaluating safety precautions and practices.

63.23(2) *Safety duties of administrator.* The administrator shall have a written emergency plan to be followed in the event of fire, tornado, explosion, or other emergency which shall be rehearsed at least quarterly. (III)

a. The plan shall be available for review upon request. (III)

b. In-service shall be provided to ensure that all employees are knowledgeable of the emergency plan. (III)

63.23(3) *Resident safety.*

a. Residents shall be permitted to smoke only where proper facilities are provided. Smoking shall not be permitted in bedrooms. Smoking by residents considered to be careless shall be prohibited except when the resident is under direct supervision. (II, III)

b. Smoking is prohibited in all rooms where oxygen is being administered or in rooms where oxygen is stored. (II, III)

c. Whenever full or empty tanks of oxygen are being used or stored, they shall be securely supported in an upright position. (II, III)

d. Smoking shall be permitted only in designated areas. (II, III)

e. Residents shall receive adequate supervision to ensure against hazards from themselves, others, or elements in the environment. (II, III)

63.23(4) *Restraints.*

a. Residents shall not be kept behind locked doors.

b. Temporary seclusion of residents shall be used only in an emergency to prevent injury to the resident or to others pending transfer to appropriate placements.

c. A divided door equipped with a securing device that may be readily opened by personnel shall be considered an appropriate means of temporarily confining a resident in the resident's room.

d. Divided doors shall be of such type that when the upper half is closed the lower section shall close.

[**ARC 0765C**, IAB 5/29/13, effective 7/3/13]

481—63.24(135C) Housekeeping.

63.24(1) Written procedures shall be established and implemented for daily and weekly cleaning schedules. (III)

63.24(2) Each resident unit shall be cleaned on a routine schedule. (III)

63.24(3) All rooms, corridors, storage areas, linen closets, attics, and basements shall be kept in a clean, orderly condition, free of unserviceable furniture and equipment and accumulations of refuse. (III)

63.24(4) A hallway or corridor shall not be used for storage of equipment. (III)

63.24(5) All odors shall be kept under control by cleanliness and proper ventilation. (III)

63.24(6) Clothing worn by personnel shall be clean and washable. (III)

63.24(7) Housekeeping and maintenance personnel shall be provided with well-constructed and properly maintained equipment appropriate to the function for which it is to be used. (III)

63.24(8) All furniture, bedding, linens, and equipment shall be cleaned periodically and before use by another resident. (III)

63.24(9) Polishes used on floors shall provide a nonslip finish. (III)

63.24(10) Throw or scatter rugs shall not be permitted. (III)

63.24(11) Entrances, exits, steps, and outside walkways shall be kept free from ice, snow, and other hazards. (II, III)

63.24(12) Cleaning agents, bleaches, insecticides, or any other poisonous, dangerous, or flammable materials shall not be accessible to residents except as indicated in individualized programs of care. (II, III)

63.24(13) Sufficient numbers of noncombustible trash containers, which have covers, shall be available. (III)

481—63.25(135C) Maintenance.

63.25(1) Each facility shall establish a maintenance program to ensure the continued maintenance of the facility, to promote good housekeeping procedures, and to ensure sanitary practices throughout the facility. In facilities over 15 beds, this program shall be established in writing and available for review by the department. (III)

63.25(2) The building, grounds, and other buildings shall be maintained in a clean, orderly condition and in good repair. (III)

63.25(3) Draperies and furniture shall be clean and in good repair. (III)

63.25(4) Cracks in plaster, peeling wallpaper or paint, and tears or splits in floor coverings shall be promptly repaired or replaced in a professional manner. (III)

63.25(5) The electrical systems, including appliances, cords, and switches, shall be maintained to guarantee safe functioning and comply with the National Electrical Code. (III)

63.25(6) All plumbing fixtures shall function properly and comply with the state plumbing code. (III)

63.25(7) Yearly inspections of the heating and cooling systems shall be made to guarantee safe operation. (III)

63.25(8) The building, grounds, and other buildings shall be kept free of breeding areas for flies, other insects, and rodents. (III)

63.25(9) The facility shall be kept free of flies, other insects, and rodents. (III)

63.25(10) Janitor closet.

a. Facilities shall be provided with storage for cleaning equipment, supplies, and utensils. (III)

b. Mops, scrub pails, and other cleaning equipment used in the resident areas shall not be stored or used in the dietary area. (III)

c. In facilities licensed for over 15 beds, a janitor's closet shall be provided. It shall be equipped with water for filling scrub pails and janitor's sink for emptying scrub pails. (III)

481—63.26(135C) Laundry.

63.26(1) All soiled linens shall be collected in and transported to the laundry room in closed, leakproof laundry bags or covered, impermeable containers. (III)

63.26(2) Except for related activities, the laundry room shall not be used for other purposes. (III)

63.26(3) Procedures shall be written for the proper handling of wet, soiled, and contaminated linens. (III)

63.26(4) Residents' personal laundry shall be marked with an identification. (III)

63.26(5) Bed linens, towels, washcloths, and residents' clothing shall be clean and stain-free. (III)

63.26(6) If laundry is done in the facility, the following shall be provided:

a. A clean, dry, well-lighted area to accommodate a washer and dryer of adequate size to serve the needs of the facility. (III)

b. In facilities of over 15 beds, the laundry room shall be divided into separate areas, one for sorting soiled linen and one for sorting and folding clean linen. (III)

481—63.27(135C) Garbage and waste disposal.

63.27(1) All garbage shall be gathered, stored, and disposed of in a manner that will not permit transmission of disease, create a nuisance, or provide a breeding or feeding place for vermin or insects. (III)

63.27(2) All containers for refuse shall be watertight, rodent-proof, and have tight-fitting covers. (III)

63.27(3) All containers shall be thoroughly cleaned each time the containers are emptied. (III)

63.27(4) All wastes shall be properly disposed of in compliance with local ordinances and state codes. (III)

63.27(5) Special provision shall be made for the disposal of soiled dressings and similar items in a safe, sanitary manner. (III)

481—63.28(135C) Buildings, furnishings, and equipment.

63.28(1) *Buildings—general requirements.*

a. For purposes of computation of usable floor space in bedrooms and other living areas of the facility, that part of the room having no less than 7 feet of ceiling height shall be used. Usable floor space may include irregularities in the rooms such as alcoves and offsets with approval of the department. Usable floor space shall not include space needed for corridor door swings or wardrobes being used as a substitute for closet space. (III)

b. Battery-operated, portable emergency lights in good working condition shall be available at all times, at a ratio of one light per one employee on duty from 6 p.m. to 6 a.m. (III)

c. All windows shall be supplied with curtains and shades or drapes which are kept clean and in good repair. (III)

d. Light fixtures shall be so equipped to prevent glare and to prevent hazards to the residents. (III)

e. Exposed heating pipes, hot water pipes, or radiators in rooms and areas used by residents and within reach of residents shall be covered or protected to prevent injury or burns to residents. (II, III)

f. All fans located within 7 feet of the floor shall be protected by screen guards of not more than ¼-inch mesh. (III)

g. Whenever glass sliding doors or transparent panels are used, they shall be marked conspicuously. (III)

h. The facility shall meet the equivalent requirements of the appropriate group occupancy of the state building code. (III)

i. No part of any room shall be enclosed, subdivided, or partitioned unless such part is separately lighted and ventilated and meets such other requirements as its usage and occupancy dictates, except closets used for the storage of resident's clothing. (III)

j. All stairways in resident-occupied areas shall have substantial handrails on both sides. (III)

k. Each stairway shall have protective barriers. (III)

l. Screens of 16 mesh per square inch shall be provided at all hold-open openings. (III)

m. Screen doors shall swing outward and be self-closing. At the discretion of the state fire marshal, screens for fire doors may swing in. (III)

n. All resident rooms shall have a door. (III)

o. All rooms in resident-occupied areas shall have general lighting switched at the entrance to each room. (III)

63.28(2) *Furnishings and equipment.*

a. All furnishings and equipment shall be durable, cleanable, and appropriate to its function and in accordance with the department's approved program of care. (III)

b. All resident areas shall be decorated, painted, and furnished to provide a homelike atmosphere. (III)

c. Upholstery materials shall be moisture- and soil-resistant, except on furniture provided by the resident and the property of the resident. (III)

d. Night lights may be required in corridors, at stairways, attendant's stations and resident's bedrooms, and hazardous areas with no less than 1 foot-candle throughout the area at all times. (III)

63.28(3) *Dining and living rooms.*

a. Every facility over 15 beds shall have a dining room and a living room easily accessible to all residents. (III)

b. Dining rooms and living rooms shall at no time be used as bedrooms. (III)

c. Dining rooms and living rooms shall be available for use by residents at appropriate times to provide periods of social and diversional individual and group activities. (III)

d. A combination dining room and living room may be permitted if the space requirements of a multipurpose room as provided in 63.28(3)*"e"* of the rules are met. (III)

e. Multipurpose rooms. When space is provided for multipurpose dining and activities and recreational purposes, the area shall total at least 30 square feet per licensed bed for the first 100 beds and 27 square feet per licensed bed for all beds in excess of 100. An open area of sufficient size shall be provided to permit group activities such as religious meetings or presentation of demonstrations or entertainment. (III)

f. Living rooms.

(1) Living rooms shall be maintained for the use of residents and their visitors and may be used for recreational activities. (III)

(2) Living rooms shall be suitably furnished. (III)

(3) When space is provided to be used only for activities and recreational purposes, the area shall be at least 15 square feet per licensed bed. At least 50 percent of the required area must be in one room. (III)

g. Dining rooms.

(1) Dining rooms shall be furnished with dining tables and chairs appropriate to the size and function of the facility. These rooms and furnishings shall be kept clean and sanitary. (III)

(2) When space is provided to be used only for dining, the area shall total at least 15 square feet per licensed bed. (III)

63.28(4) *Bedrooms.*

a. Each resident shall be provided with a standard, single, or twin bed, substantially constructed and in good repair. Rollaway beds, metal cots, or folding beds are not acceptable. (III)

b. Each bed shall be equipped with the following: casters or glides; clean springs in good repair; a clean, comfortable, well-constructed mattress approximately five inches thick and standard in size for the bed; clean, comfortable pillows of average bed size. (III)

c. Each resident shall have a bedside table with a drawer to accommodate personal possessions. (III)

d. There shall be a comfortable bedside chair per resident bed. The resident's personal wishes shall be considered. (III)

e. There shall be drawer space for each resident's clothing. In a multiple bedroom, drawer space shall be assigned each resident. (III)

f. Walls, ceilings, and floors shall have easily cleanable surfaces and shall be kept clean and in good repair. (III)

g. Beds and other furnishings shall not obstruct free passage to and through doorways. (III)

h. There shall be a wardrobe or closet in each resident's room. Minimum clear dimensions shall be 1 foot 10 inches deep by 1 foot 8 inches wide with full hanging space and provide a clothes rod and shelf. In a multiple bedroom, closet or wardrobe space shall be assigned each resident sufficient for the resident's needs. (III)

i. Beds shall not be placed with the head of the bed in front of a window or radiator. (III)

j. Beds shall not be placed in such a manner that the side of the bed is against the radiator or in close proximity to it unless it is covered so as to protect the resident from contact with it or from excessive heat. (III)

k. Reading lamps shall be provided each resident in the resident's room. (III)

l. Each room shall have sufficient accessible mirrors to serve residents' needs. (III)

m. Usable floor space of a room shall be no less than 8 feet in any major dimension. (III)

n. Bedrooms shall have a minimum of 80 square feet of usable floor space per bed. (III)

o. There shall be no more than four residents per room. (III)

p. Each resident room shall be provided with light and ventilation by means of a window or windows with an area equal to one-eighth of the total floor area. The windows shall be openable. (III)

63.28(5) *Bath and toilet facilities.*

a. Provision shall be made for bars to hold individual towels and washcloths. (III)

b. In facilities of over 15 beds all lavatories shall have paper towel dispensers and an available supply of soap. (III)

c. Minimum numbers of toilet and bath facilities shall be one lavatory, one toilet for each five residents, and one tub or shower for each ten residents or fraction thereof. (III)

d. There shall be a minimum of one bathroom with tub or shower, toilet stool and lavatory on each floor in multistory buildings for facilities licensed for over 15 beds. Separate toilets for the sexes shall be provided. (III)

e. Grab bars shall be provided at all toilet stools, tubs, and showers. Grab bars, accessories, and anchorage shall have sufficient strength to sustain a deadweight of 250 pounds for five minutes. (III)

f. Each toilet room shall have a door. (III)

g. All toilet, bath, and shower facilities shall be supplied with adequate safety devices appropriate to the needs of the individual residents. Raised toilet seats shall be available for residents who are aged or infirm. (III)

h. Toilet and bath facilities shall have an aggregate outside window area of at least 4 square feet. Facilities having a system of mechanical ventilation are exempt from this regulation. (III)

i. Every facility shall provide a toilet with grab bars and lavatory for the public and staff. (III)

63.28(6) *Heating.* A centralized heating system capable of maintaining a minimum temperature of 78°F (26°C) shall be provided. Portable units or space heaters are prohibited from being used in the facility except in an emergency. (III)

63.28(7) *Water supply.*

a. Every facility shall have an adequate water supply from an approved source. A municipal source of supply shall be considered as meeting this requirement. (III)

b. Private sources of supply shall be tested annually and the report submitted with the annual application for license. (III)

c. A bacterially unsafe source of supply shall be grounds for denial, suspension, or revocation of license. (III)

d. The department may require testing of private sources of supply at its discretion in addition to the annual test. The facility shall supply reports of such tests as directed by the department. (III)

e. Hot and cold running water under pressure shall be available in the facility. (III)

f. Prior to construction of a new facility or new water source, private sources of supply shall be surveyed and shall comply with the requirements of the department. (III)

63.28(8) *Sewage system.*

a. Sewage shall be collected and disposed of in a manner approved by the department. Disposal into a municipal system will be considered as meeting this requirement. (III)

b. Private sewage systems shall conform to the rules and regulations of the department of environmental quality, state health department, and the natural resources council. (III)

c. Every facility shall have an interior plumbing system complete with flushing device. (III)

63.28(9) *Attendant's station.* In facilities over 15 beds, an attendant's station with a minimum of 40 square feet shall be provided which is centrally located in the resident area and shall have a well-lighted desk with the necessary equipment for the keeping of required records and supplies. (III)

481—63.29(135C) Family and employee accommodations.

63.29(1) Children under 14 years of age shall not be allowed into the service areas in facilities of more than 15 beds. (III)

63.29(2) The residents' bedrooms shall not be occupied by employees, family members of employees, or family members of the licensee. (III)

63.29(3) In facilities where the total occupancy of family, employees, and residents is five or less, one toilet and one tub or shower shall be the minimum requirement. (III)

63.29(4) In facilities where the total occupancy of family, employees, and residents is more than five, separate bathing and toilet facilities shall be required for the family or employees distinct from such areas provided for residents. (III)

63.29(5) In facilities of more than 15 beds, if the family or employees live within the facility, separate living quarters and recreation facilities shall be required for the family or employees distinct from such areas provided for residents. (III)

481—63.30(135C) Animals. No animals shall be allowed within the facility except with written approval of the department and under controlled conditions. (III)

481—63.31(135C) Environment and grounds.

63.31(1) A residential care facility for the intellectually disabled shall be constructed in a neighborhood free from excessive noise, dirt, polluted or odorous air, or similar disturbances. (III)

63.31(2) There shall be an area available for outdoor activities calculated at 25 square feet per licensed bed. (III) Open-air porches may be included in meeting such requirement.

[**ARC 0765C**, IAB 5/29/13, effective 7/3/13]

481—63.32(135C) Supplies.

63.32(1) *Linen supplies.*

a. There shall be an adequate supply of linen so that each resident shall have at least three washcloths, hand towels, and bath towels per week. (III)

b. A complete change of bed linens shall be available in the linen storage area for each bed. (III)

c. Sufficient lightweight, clean, serviceable blankets shall be available. All blankets shall be laundered as often as necessary for cleanliness and freedom from odors. (III)

d. Each bed shall be provided with clean, washable bedspreads. There shall be a supply available when changes are necessary. (III)

e. Uncrowded and convenient storage shall be provided for linens, pillows, and bedding. (III)

63.32(2) *First-aid kit.* A first-aid emergency kit shall be available on each floor in every facility. (II, III)

63.32(3) *General supplies.*

a. All equipment shall be properly cleaned and sanitized before use by another resident. (III)

b. Clean and sanitary storage shall be provided for equipment and supplies. (III)

481—63.33(135C) Residents' rights in general.

63.33(1) Each facility shall ensure that policies and procedures are written and implemented which include, at a minimum, all of the following provisions subrules (63.33(2) to 63.33(6)) and which govern all areas of service provided by the facility. These policies and procedures shall be available to staff, residents, their families or legal representatives and the public and shall be reviewed annually. (II)

63.33(2) Policies and procedures regarding the admission, transfer, and discharge of residents shall ensure that:

a. Only those persons are accepted whose needs can be met by the facility directly or in cooperation with community resources or other providers of care with which it is affiliated or has contracts. (II)

b. As changes occur in residents' physical or mental condition, necessitating services or care which cannot be adequately provided by the facility, they are transferred promptly to other appropriate facilities. (II)

63.33(3) Policies and procedures regarding the use of chemical and physical restraints shall define the use of restraints and identify the individual who may authorize the application of physical restraints in emergencies, and describe the mechanism for monitoring and controlling their use. (II)

63.33(4) Policies and procedures shall include a method for submitting complaints and recommendations by residents or their responsible party and for ensuring a response and disposition by the facility. (II)

63.33(5) Policies and procedures shall include provisions governing access to, duplication of, and dissemination of information from the residents' records. (II)

63.33(6) Policies and procedures shall include a provision that each resident shall be fully informed of the resident's rights and responsibilities as a resident and of all rules governing resident conduct and responsibilities. The information must be provided upon admission or in the case of residents already in the facility upon the facility's adoption or amendment of resident right policies.

a. The facility shall make known to residents what they may expect from the facility and its staff, and what is expected from them. The facility shall communicate these expectations during the period of not more than two weeks before or five days after admission. The communication shall be in writing, e.g., in a separate handout or brochure describing the facility, and interpreted verbally, e.g., as part of a preadmission interview, resident counseling, or in individual or group orientation sessions following admission. (II)

b. Residents' rights and responsibilities shall be presented in language understandable to the resident. If the facility serves residents who are non-English-speaking or deaf, steps shall be taken to translate the information into a foreign or sign language. In the case of blind residents, either Braille or a recording shall be provided. Residents shall be encouraged to ask questions about their rights and responsibilities and these questions shall be answered. (II)

c. A statement shall be signed by the resident, or responsible party, indicating an understanding of these rights and responsibilities, and shall be maintained in the record. The statement shall be signed no later than five days after admission, and a copy of the signed statement shall be given to the resident or responsible party, if applicable. In the case of an intellectually disabled resident, the signature shall be witnessed by a person not associated with or employed by the facility. The witness may be a parent, guardian, Medicaid agency representative, etc. (II)

d. In order to ensure that residents continue to be aware of these rights and responsibilities during their stay, a written copy shall be prominently posted in a location that is available to all residents. (II)

e. All residents shall be advised within 30 days following changes made in the statement of residents' rights and responsibilities. Appropriate means shall be utilized to inform non-English-speaking, deaf, or blind residents of such changes. (II)

63.33(7) Each resident or responsible party shall be fully informed in a contract as required in rule 481—63.14(135C), prior to or at the time of admission and during the resident's stay, of services available in the facility, and of related charges not covered by the facility's basic per diem rate. (II)

63.33(8) Each resident or responsible party shall be fully informed by a physician of the resident's health and medical condition unless medically contraindicated (as documented by a physician in the resident's record). Each resident shall be afforded the opportunity to participate in the planning of the resident's total care and medical treatment, which may include, but is not limited to, nursing care, nutritional care, rehabilitation, restorative therapies, activities, and social work services. Each resident only participates in experimental research conducted under the U.S. Department of Health and Human Services' protection from research risks policy and then only upon the resident's informed written consent. Each resident has the right to refuse treatment except as provided by Iowa Code chapter 229. In the case of a confused or intellectually disabled individual, the responsible party shall be informed by the physician of the resident's medical condition and be afforded the opportunity to participate in the planning of the resident's total care and medical treatment, to be informed of the medical condition, and to refuse to participate in experimental research. (II)

a. The requirement that residents shall be informed of their conditions, involved in the planning of their care, and advised of any significant changes in either, shall be communicated to every physician responsible for the medical care of residents in the facility. (II)

b. The administrator or designee shall be responsible for working with attending physicians in the implementation of this requirement. (II)

c. If the physician determines or in the case of a confused or intellectually disabled resident the responsible party determines that informing the resident of the resident's condition is contraindicated, this decision and reasons for it shall be documented in the resident's record by the physician. (II)

d. Any clinical investigation involving residents must be under the sponsorship of an institution with a human subjects review board functioning in accordance with the requirements of Public Law 93-348, as implemented by Part 46 of Title 45 of the Code of Federal Regulations, as amended December 1, 1981 (45 CFR 46). A resident being considered for participation in experimental research must be fully informed of the nature of the experiment, e.g., medication, treatment, and understand the possible consequences of participating or not participating. The resident's (or responsible party's) written informed consent must be received prior to participation. (II)

[**ARC 0765C**, IAB 5/29/13, effective 7/3/13]

481—63.34(135C) Involuntary discharge or transfer.

63.34(1) *Involuntary discharge or transfer permitted.* A facility may involuntarily discharge or transfer a resident for only one of the following reasons:

a. Medical reasons;

b. The resident's welfare or that of other residents;

c. Nonpayment for the resident's stay, as described in the contract for the resident's stay; or

d. Due to action pursuant to Iowa Code chapter 229. (I, II, III)

63.34(2) *Medical reasons.* Medical reasons for transfer or discharge shall be based on the resident's needs and shall be determined and documented in the resident's record by the primary care provider. Transfer or discharge may be required in order to provide a different level of care to the resident. (II)

63.34(3) *Welfare of a resident.* Welfare of a resident or that of other residents refers to a resident's social, emotional, or physical well-being. A resident may be transferred or discharged because the resident's behavior poses a continuing threat to the resident (e.g., suicidal) or to the well-being of other residents or staff (e.g., the resident's behavior is incompatible with other residents' needs and rights). Written documentation that the resident's continued presence in the facility would adversely affect the resident's own welfare or that of other residents shall be made by the administrator or designee and shall include specific information to support this determination. (II)

63.34(4) *Involuntary discharge or transfer prohibited—payment source.* A resident shall not be transferred or discharged solely because the cost of the resident's care is being paid under Iowa Code chapter 249A or because the resident's source of payment is changing from private support to payment under Iowa Code chapter 249A. (I, II)

63.34(5) *Notice.* Involuntary transfer or discharge of a resident from a facility shall be preceded by a written notice to the resident and the responsible party. (II, III)

a. The notice shall contain all of the following information:

(1) The stated reason for the proposed transfer or discharge. (II)

(2) The effective date of the proposed transfer or discharge. (II)

(3) A statement, in not less than 12-point type, that reads as follows:

> You have a right to appeal the facility's decision to transfer or discharge you. If you think you should not have to leave this facility, you may request a hearing, in writing or verbally, with the Iowa department of inspections and appeals (hereinafter referred to as "department") within 7 days after receiving this notice. You have a right to be represented at the hearing by an attorney or any other individual of your choice. If you request a hearing, it will be held no later than 14 days after the department's receipt of your request and you will not be transferred before a final decision is rendered. Extension of the 14-day requirement may be permitted in emergency circumstances upon request to the department's designee. If you lose the hearing, you will not be transferred before the expiration of either (1) 30 days following your receipt of the original notice of the discharge or transfer, or (2) no sooner than 5 days following final decision of such hearing, including the exhaustion of all appeals, whichever occurs later. To request a hearing or receive further information, call the department at (515)281-4115, or write to the department to the attention of: Administrator, Division of Health Facilities, Department of Inspections and Appeals, Lucas State Office Building, Des Moines, Iowa 50319-0083. (II)

b. The notice shall be personally delivered to the resident, and a copy shall be placed in the resident's record. A copy shall also be transmitted to the department, the resident's responsible party, the resident's primary care provider, and the person or agency responsible for the resident's placement, maintenance, and care in the facility. The notice shall indicate that copies have been transmitted to the required parties by using the abbreviation "cc:" and listing the names of all parties to whom copies were sent.

c. The notice required by paragraph 63.34(5)*"a"* shall be provided at least 30 days in advance of the proposed transfer or discharge unless one of the following occurs:

(1) An emergency transfer or discharge is mandated by the resident's health care needs and is in accordance with the written orders and medical justification of the primary care provider. Emergency transfers or discharges may also be mandated in order to protect the health, safety, or well-being of other residents and staff from the resident being transferred. (II)

(2) The transfer or discharge is subsequently agreed to by the resident or the resident's responsible party, and notification is given to the responsible party, the resident's primary care provider, and the person or agency responsible for the resident's placement, maintenance, and care in the facility.

d. A hearing requested pursuant to this subrule shall be held in accordance with subrule 63.34(7).

63.34(6) *Emergency transfer or discharge.* In the case of an emergency transfer or discharge, the resident must be given a written notice prior to or within 48 hours following the transfer or discharge. (II, III)

a. A copy of this notice shall be placed in the resident's file. The notice shall contain all of the following information:

(1) The stated reason for the transfer or discharge. (II)

(2) The effective date of the transfer or discharge. (II)

(3) A statement, in not less than 12-point type, that reads as follows:

You have a right to appeal the facility's decision to transfer or discharge you on an emergency basis. If you think you should not have to leave this facility, you may request a hearing, in writing or verbally, with the Iowa department of inspections and appeals (hereinafter referred to as "department") within 7 days after receiving this notice. You have a right to be represented at the hearing by an attorney or any other individual of your choice. If you request a hearing, it will be held no later than 14 days after the department's receipt of your request. You may be transferred or discharged before the hearing is held or before a final decision is rendered. If you win the hearing, you have the right to be transferred back into the facility. To request a hearing or receive further information, call the department at (515)281-4115, or write to the department to the attention of: Administrator, Division of Health Facilities, Department of Inspections and Appeals, Lucas State Office Building, Des Moines, Iowa 50319-0083. (II)

b. The notice shall be personally delivered to the resident, and a copy shall be placed in the resident's record. A copy shall also be transmitted to the department; the resident's responsible party; the resident's primary care provider; and the person or agency responsible for the resident's placement, maintenance, and care in the facility. The notice shall indicate that copies have been transmitted to the required parties by using the abbreviation "cc:" and listing the names of all parties to whom copies were sent.

c. A hearing requested pursuant to this subrule shall be held in accordance with subrule 63.34(7).

63.34(7) *Hearing.*

a. Request for hearing.

(1) The resident must request a hearing within 7 days of receipt of written notice.

(2) The request must be made to the department, either in writing or verbally.

b. The hearing shall be held no later than 14 days after the department's receipt of the request unless either party requests an extension due to emergency circumstances.

c. Except in the case of an emergency discharge or transfer, a request for a hearing shall stay a transfer or discharge pending a final decision, including the exhaustion of all appeals. (II)

d. The hearing shall be heard by a department of inspections and appeals administrative law judge pursuant to Iowa Code chapter 17A and 481—Chapter 10. The hearing shall be public unless the resident or representative requests in writing that the hearing be closed. In a determination as to whether a transfer or discharge is authorized, the burden of proof by a preponderance of the evidence rests on the party requesting the transfer or discharge.

e. Notice of the date, time, and place of the hearing shall be sent by certified mail or delivered in person to the facility, the resident, and the responsible party not later than 5 full business days after the department's receipt of the request. The notice shall also inform the facility and the resident or the responsible party that they have a right to appear at the hearing in person or be represented by an attorney or other individual. The appeal shall be dismissed if neither party is present or represented at the hearing. If only one party appears or is represented, the hearing shall proceed with one party present.

f. The administrative law judge's written decision shall be sent by certified mail to the facility, resident, and responsible party within 10 working days after the hearing has been concluded.

63.34(8) *Nonpayment.* If nonpayment is the basis for involuntary transfer or discharge, the resident shall have the right to make full payment up to the date that the discharge or transfer is to be made and then shall have the right to remain in the facility. (II)

63.34(9) *Discussion of involuntary transfer or discharge.* Within 48 hours after notice of involuntary transfer or discharge has been received by the resident, the facility shall discuss the involuntary transfer or discharge with the resident, the resident's responsible party, and the person or agency responsible for the resident's placement, maintenance, and care in the facility. (II)

a. The facility administrator or other appropriate facility representative serving as the administrator's designee shall provide an explanation and discussion of the reasons for the resident's involuntary transfer or discharge. (II)

b. The content of the explanation and discussion shall be summarized in writing, shall include the names of the individuals involved in the discussion, and shall be made part of the resident's record. (II)

c. The provisions of this subrule do not apply if the involuntary transfer or discharge has already occurred pursuant to subrule 63.34(6) and emergency notice is provided within 48 hours.

63.34(10) *Transfer or discharge planning.*

a. The facility shall develop a plan to provide for the orderly and safe transfer or discharge of each resident to be transferred or discharged. (II)

b. To minimize the possible adverse effects of the involuntary transfer, the resident shall receive counseling services by the sending facility before the involuntary transfer and by the receiving facility after the involuntary transfer. Counseling shall be documented in the resident's record. (II)

c. The counseling requirement in paragraph 63.34(10)*"b"* does not apply if the discharge has already occurred pursuant to subrule 63.34(6) and emergency notice is provided within 48 hours.

d. Counseling, if required, shall be provided by a licensed mental health professional as defined in Iowa Code section 228.1(6). (II)

e. The health care facility that receives a resident who has been involuntarily transferred shall immediately formulate and implement a plan of care which takes into account possible adverse effects the transfer may cause. (II)

63.34(11) *Transfer upon revocation of license or voluntary closure.* Residents shall not have the right to a hearing to contest an involuntary discharge or transfer resulting from the revocation of the facility's license by the department of inspections and appeals. In the case of the voluntary closure of a facility, a period of 30 days must be allowed for an orderly transfer of residents to other facilities.

63.34(12) *Intrafacility transfer.*

a. Residents shall not be arbitrarily relocated from room to room within a licensed health care facility. (I, II) Involuntary relocation may occur only in the following situations, which shall be documented in the resident's record: (II)

(1) A resident's incompatibility with or disturbance to other roommates.

(2) For the welfare of the resident or other residents of the facility.

(3) For medical, nursing or psychosocial reasons, as judged by the primary care provider, nurse or social worker in the case of a facility which groups residents by medical, nursing or psychosocial needs.

(4) To allow a new admission to the facility that would otherwise not be possible due to separation of roommates by sex.

(5) In the case of a resident whose source of payment was previously private but who now is eligible for Title XIX (Medicaid) assistance, the resident may be transferred from a private room to a semiprivate room or from one semiprivate room to another.

(6) Reasonable and necessary administrative decisions regarding the use and functioning of the building.

b. Unreasonable and unjustified reasons for changing a resident's room without the concurrence of the resident or responsible party include:

(1) Change from private pay status to Title XIX, except as outlined in subparagraph 63.34(12)*"a"*(5). (II)

(2) As punishment or behavior modification, except as specified in subparagraph 63.34(12)*"a"*(1). (II)

(3) Discrimination on the basis of race or religion. (II)

c. If intrafacility relocation is necessary for reasons outlined in paragraph 63.34(12)*"a,"* the resident shall be notified at least 48 hours prior to the transfer and the reason therefor shall be explained. The responsible party shall be notified as soon as possible. The notification shall be documented in the resident's record and signed by the resident or responsible party. (II)

d. If emergency relocation is required in order to protect the safety or health of the resident or other residents, the notification requirements may be waived. The conditions of the emergency shall be documented. The family or responsible party shall be notified immediately or as soon as possible of the condition that necessitates emergency relocation and such notification shall be documented. (II)

e. A transfer to a part of a facility that has a different license must be handled the same way as a transfer to another facility and not as an intrafacility transfer. (II, III)

[**ARC 1205C**, IAB 12/11/13, effective 1/15/14; **ARC 1752C**, IAB 12/10/14, effective 1/14/15]

481—63.35(135C) Resident rights. Each resident shall be encouraged and assisted throughout the resident's period of stay, to exercise the resident's rights as a resident and as a citizen and may voice grievances and recommend changes in policies and services to administrative staff or to outside representatives of the resident's choice, free from interference, coercion, discrimination, or reprisal. (II)

63.35(1) The facility shall provide ongoing opportunities for residents to be aware of and to exercise their rights as residents. Residents shall be kept informed of issues or pending decisions of the facility that affect them and their views shall be solicited prior to action. (II)

63.35(2) The facility shall implement a written procedure for registering and resolving grievances and recommendations by residents or their responsible party. The procedure shall ensure protection of the resident from any form of reprisal or intimidation. The written procedure shall include:

a. Designation of an employee responsible for handling grievances and recommendations. (II)

b. A method of investigating and assessing the validity of a grievance or recommendation. (II)

c. Methods of resolving grievances. (II)

d. Methods of recording grievances and actions taken. (II)

63.35(3) The facility shall post in a prominent area the name, telephone number, and address of the ombudsman, survey agency and local law enforcement agency and the text of Iowa Code section 135C.46 to provide to residents a further course of redress. (II)

[**ARC 1205C**, IAB 12/11/13, effective 1/15/14]

481—63.36(135C) Financial affairs—management. Each resident, who has not been assigned a guardian or conservator by the court, may manage personal financial affairs, and to the extent, under written authorization by the resident that the facility assists in management, the management shall be carried out in accordance with Iowa Code section 135C.24. (II)

63.36(1) The facility shall maintain a written account of all residents' funds received by or deposited with the facility. (II)

63.36(2) An employee shall be designated in writing to be responsible for resident accounts. (II)

63.36(3) The facility shall keep on deposit personal funds over which the resident has control in accordance with Iowa Code section 135C.24(2). Should the resident request these funds, they shall be given to the resident on request with receipts maintained by the facility and a copy to the resident. In the case of a confused or intellectually disabled resident, the resident's responsible party shall designate a method of disbursing the resident's funds. (II)

63.36(4) If the facility makes financial transactions on a resident's behalf, the resident must receive or acknowledge having seen an itemized accounting of disbursements and current balances at least quarterly. A copy of this statement shall be maintained in the resident's financial or business record. (II)

63.36(5) A resident's personal funds shall not be used without the written consent of the resident or the resident's guardian. (II)

63.36(6) A resident's personal funds shall be returned to the resident when the funds have been used without the written consent of the resident or the resident's guardian. The department may report findings that resident funds have been used without written consent to the audits division or the local law enforcement agency, as appropriate. (II)

[**ARC 0765C**, IAB 5/29/13, effective 7/3/13]

481—63.37(135C) Resident abuse prohibited. Each resident shall receive kind and considerate care at all times and shall be free from mental, physical, sexual, and verbal abuse, exploitation, neglect, and physical injury. Each resident shall be free from chemical and physical restraints, except in an emergency for the shortest amount of time necessary to protect the resident from injury to the resident or to others, pending the immediate transfer to an appropriate facility. The decision to use restraints on an emergency basis shall be made by the designated charge person, who shall promptly report the action taken to the physician, and the reasons for using restraints shall be documented in the resident's record. Mechanical supports used in normative situations to achieve proper body position and balance shall not be considered to be a restraint. (II)

63.37(1) Mental abuse includes, but is not limited to, humiliation, harassment, and threats of punishment or deprivation. (II)

63.37(2) Physical abuse includes, but is not limited to, corporal punishment and the use of restraints as punishment. (II)

63.37(3) Drugs such as tranquilizers may not be used as chemical restraints to limit or control resident behavior for the convenience of staff or as a substitute for program. (II)

63.37(4) Allegations of dependent adult abuse. Allegations of dependent adult abuse shall be reported and investigated pursuant to Iowa Code chapter 235E and 481—Chapter 52. (I, II, III)

63.37(5) and **63.37(6)** Rescinded IAB 12/11/13, effective 1/15/14.

This rule is intended to implement Iowa Code sections 135C.14 and 135C.24 and Iowa Code chapter 235E.

[**ARC 1204C**, IAB 12/11/13, effective 1/15/14]

481—63.38(135C) Resident records. Each resident shall be ensured confidential treatment of all information contained in the resident's records, including information contained in an automatic data bank. The resident's written consent shall be required for the release of information to persons not otherwise authorized under law to receive it. (II)

63.38(1) The facility shall limit access to any medical records to staff and consultants providing professional service to the resident. This is not meant to preclude access by representatives of state and federal regulatory agencies. (II)

63.38(2) Similar procedures shall safeguard the confidentiality of residents' personal records, e.g., financial records and social services records. Only those personnel concerned with the financial affairs of the residents may have access to the financial records. This is not meant to preclude access by representatives of state and federal regulatory agencies. (II)

63.38(3) The resident, or the resident's responsible party, shall be entitled to examine all information contained in the resident's record and shall have the right to secure full copies of the record at reasonable cost upon request, unless the physician determines the disclosure of the record or section thereof is contraindicated in which case this information will be deleted prior to making the record available to the resident or responsible party. This determination and the reasons for it must be documented in the resident's record. (II)

481—63.39(135C) Dignity preserved. The resident shall be treated with consideration, respect, and full recognition of the resident's dignity and individuality, including privacy in treatment and in care for the resident's personal needs. (II)

63.39(1) Staff shall display respect for residents when speaking with, caring for, or talking about them, as constant affirmation of their individuality and dignity as human beings. (II)

63.39(2) Schedules of daily activities shall allow maximum flexibility for residents to exercise choice about what they will do and when they will do it. Residents' individual preferences regarding such things as menus, clothing, religious activities, friendships, activity programs, entertainment, sleeping and eating, also times to retire at night and arise in the morning shall be elicited and considered by the facility. (II)

63.39(3) Residents shall be examined and treated in a manner that maintains the privacy of their bodies. A closed door or a drawn curtain shall shield the resident from passersby. People not involved in the care of the residents shall not be present without the resident's consent while the resident is being examined or treated. (II)

63.39(4) Privacy of a resident's body also shall be maintained during toileting, bathing, and other activities of personal hygiene, except as needed for resident safety or assistance. (II)

63.39(5) Staff shall knock and be acknowledged before entering a resident's room unless the resident is not capable of a response. This shall not apply under emergency conditions. (II)

481—63.40(135C) Resident work. No resident may be required to perform services for the facility, except as provided by Iowa Code sections 35D.14 and 347B.5. (II)

63.40(1) Residents may not be used to provide a source of labor for the facility against their will. Physician's approval is required for all work programs. (I, II)

63.40(2) If the plan of care requires activities for therapeutic or training reasons, the plan for these activities shall be professionally developed and implemented. Therapeutic or training goals must be clearly stated and measurable and the plan shall be time-limited and reviewed at least quarterly. (II)

63.40(3) Residents who perform work for the facility must receive remuneration unless such work is part of their approved training program. Persons on the resident census performing work shall not be used to replace paid employees in fulfilling staff requirements. (II)

481—63.41(135C) Communications. Each resident may communicate, associate, and meet privately with persons of the resident's choice, unless to do so would infringe upon the rights of other residents, and may send and receive personal mail unopened. (II)

63.41(1) Subject to reasonable scheduling restrictions, visiting policies and procedures shall permit residents to receive visits from anyone they wish. Visiting hours shall be posted. (II)

63.41(2) Reasonable, regular visiting hours shall not be less than 12 hours per day and shall take into consideration the special circumstances of each visitor. A particular visitor(s) may be restricted by the facility for one of the following reasons:

a. The resident refuses to see the visitor. (II)

b. The resident's physician documents specific reasons why such a visit would be harmful to the resident's health. (II)

c. The visitor's behavior is unreasonably disruptive to the functioning of the facility (this judgment must be made by the administrator and the reasons shall be documented and kept on file). (II)

63.41(3) Decisions to restrict a visitor are reviewed and reevaluated: each time the medical orders are reviewed by the physician; at least quarterly by the facility's staff; or at the resident's request. (II)

63.41(4) Space shall be provided for residents to receive visitors in reasonable comfort and privacy. (II)

63.41(5) Telephones consistent with ANSI standards (405.1134(c)) shall be available and accessible for residents to make and receive calls with privacy. Residents who need help shall be assisted in using the telephone. (II)

63.41(6) Arrangements shall be made to provide assistance to residents who require help in reading or sending mail. (II)

63.41(7) Residents shall be permitted to leave the facility and environs at reasonable times unless there are justifiable reasons established in writing by the attending physician, qualified intellectual disabilities professional or facility administrator for refusing permission. (II)

63.41(8) Residents shall not have their personal lives regulated beyond reasonable adherence to meal schedules, bedtime hours, and other written policies which may be necessary for the orderly management of the facility and as required by these rules. However, residents shall be encouraged to participate in recreational programs. (II)

[**ARC 0765C**, IAB 5/29/13, effective 7/3/13]

481—63.42(135C) Resident activities. Each resident may participate in activities of social, religious, and community groups at the resident's discretion unless contraindicated for reasons documented by the attending physician or qualified intellectual disabilities professional as appropriate in the resident's record. (II)

63.42(1) Residents who wish to meet with or participate in activities of social, religious, or other community groups in or outside of the facility shall be informed, encouraged, and assisted to do so. (II)

63.42(2) All residents shall have the freedom to refuse to participate in these activities. (II)

[**ARC 0765C**, IAB 5/29/13, effective 7/3/13]

481—63.43(135C) Resident property. Each resident may retain and use personal clothing and possessions as space permits and provided such use is not otherwise prohibited by these rules. (II)

63.43(1) Residents shall be permitted to keep reasonable amounts of personal clothing and possessions for their use while in the facility. The personal property shall be kept in a safe location which is convenient to the resident. (II)

63.43(2) Residents shall be advised, prior to or at the time of admission, of the kinds and amounts of clothing and possessions permitted for personal use, and whether the facility will accept responsibility for maintaining these items, e.g., cleaning and laundry. (II)

63.43(3) Any personal clothing or possessions retained by the facility for the resident during the resident's stay shall be identified and recorded on admission and a record placed on the resident's chart. The facility shall be responsible for secure storage of such items, and they shall be returned to the resident promptly upon request or upon discharge from the facility. (II)

63.43(4) A resident's personal property shall not be used without the written consent of the resident or the resident's guardian. (II)

63.43(5) A resident's personal property shall be returned to the resident when it has been used without the written consent of the resident or the resident's guardian. The department may report findings that a resident's property has been used without written consent to the local law enforcement agency, as appropriate. (II)

481—63.44(135C) Family visits. Each resident, if married, shall be ensured privacy for visits by the resident's spouse; if both are residents in the facility, they shall be permitted to share a room, if possible. (II)

63.44(1) The facility shall provide for needed privacy in visits between spouses. (II)

63.44(2) Spouses who are residents in the same facility shall be permitted to share a room, if available, unless one of their attending physicians documents in the medical record those specific reasons why an arrangement would have an adverse effect on the health of the resident. (II)

63.44(3) Family members shall be permitted to share a room, if available, if requested by both parties, unless one of their attending physicians documents in the medical record those specific reasons why such an arrangement would have an adverse effect on the health of the resident. (II)

481—63.45(135C) Choice of physician. Each resident shall be permitted free choice of a physician and a pharmacy, if accessible. The facility may require the pharmacy selected to utilize a drug distribution system compatible with the system currently used by the facility. (II)

481—63.46(135C) Incompetent resident.

63.46(1) Each facility shall provide that all rights and responsibilities of the resident devolve to the resident's responsible party when a resident is adjudicated incompetent in accordance with state law or, in the case of a resident who has not been adjudicated incompetent under the laws of the state, in accordance with 42 CFR 483.10. This subrule is not intended to limit the authority of any individual acting pursuant to Iowa Code chapter 144A. (II)

63.46(2) The fact that a resident has been adjudicated incompetent does not absolve the facility from advising the resident of these rights to the extent the resident is able to understand them. The facility shall also advise the responsible party, if any, and acquire a statement indicating an understanding of residents' rights. (II)

481—63.47(135C) Specialized license for three- to five-bed facilities. The specialized license is for residential care facilities which serve persons with intellectual disabilities, chronic mental illness and other developmental disabilities having five or fewer residents as specified in Iowa Code section 225C.26. The facility is exempt from Iowa Code section 135.63. For this specialized license, all rules of 481—Chapter 63 apply except those which are deleted or amended, as indicated in subsequent rules.

63.47(1) The provider may apply for a specialized license from the department of inspections and appeals. Before the license is granted, the provider shall meet all of the following requirements:

a. Compliance with program requirements pursuant to Iowa Code chapter 135C and administrative rules relating to residential care facilities adopted by the state board of health, or

standards adopted by the Accreditation Council for Services for Persons with Mental Retardation and Other Developmental Disabilities (1984). The program of care shall emphasize an age-appropriate and least restrictive program.

b. The facility shall be located in areas zoned for single- or multiple-family housing, or be located in an unincorporated area, and shall be constructed in compliance with applicable local housing codes and rules adopted for this classification of license by the state fire marshal. (II, III)

c. The facility shall be appropriately accessible to residents who have disabilities. (II, III)

d. Written plans shall demonstrate that the facility meets the needs of the residents pursuant to individual program plans meeting age-appropriate and least restrictive program requirements. (II)

e. Written plans shall demonstrate the residents have reasonable access to employment for job-related training, education, generic community resources, or integrated opportunities to promote community interaction. (II)

f. Unless documented as appropriate within the residents' individual program plans, populations with primary diagnosis of chronic mental illness or intellectual disability/developmental disability may not be residents of the same specialized license facility. (II, III)

63.47(2) The housing for persons with intellectual disabilities, chronic mental illness, and other developmental disabilities, developed pursuant to this rule shall be eligible for funding utilized by licensed residential care facilities for the intellectually disabled.

63.47(3) Rescinded IAB 6/27/90, effective 8/1/90.

63.47(4) Rescinded IAB 6/27/90, effective 8/1/90.

63.47(5) The director of the department of inspections and appeals shall appoint a specialized license committee not to exceed nine members. This committee shall monitor the program rules and procedures adopted for this classification of license.

63.47(6) All conditions and criteria in 481—Chapter 63 apply to the specialized license with the exception of the following deletions: 481—63.7(135C), 63.8(2)*"b,"*63.8(7)*"b,"*63.13(1)*"l,"*63.18(1)*"b"*(9), 63.19(1)*"a," "b," "c,"*63.19(2)*"c"*(1), *"e," "g,"*63.19(4)*"a," "b," "c," "g," "h," "i," "l," "n," "p," "q," "r," "t,"*63.19(5)*"b," "c," "d,"*63.21(1), (2), (3)*"a"* to *"e,"* (4)*"a," "b," "c"*(1) to (3), *"d," "e,"*63.21(5)*"c,"*63.23(3)*"c,"*63.23(4)*"c," "d,"*63.24(1), (7), (10), 63.25(10)*"b,"*63.26(1) to (4), (6)*"b,"* 63.27(3) to (5), 63.28(1)*"a," "b," "f," "g," "k," "l," "m," "o,"*63.28(2)*"c,"*63.28(3)*"a," "d," "e," "f"*(3), *"g"*(2), 63.28(5)*"b," "i,"*63.28(9), 63.29(1), (4), (5), 63.33(6)*"d."*

63.47(7) The following rules in Chapter 63 are amended for this specialized license as follows:

1. 63.3(1)*"a"* and 63.3(2)—Delete all references to 481—Chapter 60.
2. 63.8(1)*"a"*—Add "or qualified mental health professional (III)" after "qualified intellectual disabilities professional". (III)
3. 63.8(2)—Add "For purposes of the specialized license, the administrator may act as an administrator for not more than three residential care facilities for the intellectually disabled, chronic mentally ill, and developmentally disabled." (II)
4. 63.9(1)—Add "For purposes of the specialized license there shall be written personnel policies in all facilities to include hours of work and attendance at the education program." (III)
5. 63.11(1)*"a"*—Delete the words "a managerial role of" in line 2.
6. 63.11(2)*"b"*—Delete the second sentence and "with 15 or less beds" in the third sentence.
7. 63.14(5)*"b"*—Add "or guardian" after "resident" in the first line.
8. 63.17(1)—Add a new paragraph: "v. Current Individual Program Plans (IPP)".
9. 63.17(5)*"a"*—Add "For the specialized license, a job description shall be in the individual's personnel file." (III)
10. 63.19(2)*"b"*—Delete from the end "Recommended daily dietary allowances are:" Also delete subparagraphs (1) to (5).
11. 63.19(2)*"f"*—Delete the second sentence.
12. 63.19(3)*"e"*—Delete "for a minimum of a one-week period" in the first line.
13. 63.19(4)*"m"*—Delete "smooth, washable," in the second line.
14. 63.19(4)*"o"*—Delete the second sentence.

15. 63.19(4)*"s"*—Add "and rinse" after "wash" in the first line and then delete the rest of the sentence after "(60°C)".

16. 63.19(4)*"w"*—Change "or" to "and" in the first line and delete ",washing, sanitizing, and air-drying".

17. 63.19(5)*"b"*—Delete the second sentence.

18. 63.19(5)*"f"*—Add "during food preparation" after "kitchen".

19. 63.24(9)—Change "nonslip" to "slip-resistant" in the first sentence.

20. 63.25(1)—Delete the second sentence.

21. 63.28(1)*"j"*—Change "on both sides" in the first line to "on at least one side".

22. 63.28(4)*"n"*—Change to read "Bedrooms shall have a minimum of 60 square feet for double, 80 square feet for single, and 100 square feet physical (wheelchair)." (III)

23. 63.28(4)*"o"*—Change "four" to "two".

24. 63.28(5)*"c"*—Amend to read: "Minimum numbers of toilets and bath facilities shall be one for each five residents." (III)

25. 63.28(5)*"d"*—Amend to read: "There shall be a minimum of one bathroom with tub or shower, toilet stool, and lavatory on each floor in the multistory buildings." (III)

26. 63.28(5)*"e"*—Amend to read: "Grab bars shall be provided as needed." (III)

27. 63.33(8)—Change any reference of "responsible party" to "legal guardian".

28. 63.33(8)*"c"*—Delete "in the case of a confused or intellectually disabled resident". Change any reference of "responsible party" to "legal guardian".

29. 63.33(8)*"d"*—Change any reference of "responsible party" to "legal guardian".

30. 63.46(1)—Change any reference of "responsible party" to "legal guardian" and delete the rest of the paragraph after "state law".

63.47(8) "Qualified mental health professional" is a person who:

a. Holds a master's degree from an accredited educational institution with coursework relevant to the position for which the person is hired;

b. Has at least two years' relevant experience supervised by a qualified mental health professional in assessing mental health problems and needs of persons in providing appropriate mental health services for those persons;

c. Holds a current Iowa license when required by Iowa licensure law.

63.47(9) "Intellectual disabilities" as used in this chapter shall also include the chronically mentally ill and the developmentally disabled for purposes of this specialized license.

a. For the specialized license, "persons with intellectual disabilities" means persons with significantly subaverage general intellectual functioning existing concurrently with deficits in adaptive behavior, manifested during the developmental period.

(1) "General intellectual functioning" is defined as the results obtained by assessment with one or more of the individually administered general intelligence tests developed for the purpose of assessing intellectual functioning;

(2) "Significantly subaverage functioning" is defined as approximately 70 IQ or below;

(3) "Adaptive behavior" is defined as the effectiveness or degree with which individuals meet the standards of personal independence and social responsibility expected for age and cultural group;

(4) "Developmental period" is defined as the period of time between conception and the eighteenth birthday.

b. For the specialized license, "persons with developmental disabilities" means persons with a severe, chronic disability which:

(1) Is attributable to mental or physical impairment, or a combination of physical and mental impairments;

(2) Is manifested before the person attains the age of 22;

(3) Is likely to continue indefinitely;

(4) Results in substantial functional limitations in three or more of the following areas of life activity; self-care, receptive and expressive language, learning, mobility, self-direction, capacity for independent living and economic self-sufficiency; and

(5) Reflects the person's need for a combination and sequence of services which are of lifelong or extended duration.

c. For the specialized license, "persons with chronic mental illness" means adults aged 18 or older, with persistent mental or emotional disorders that seriously impair their functioning relative to such primary aspects of daily living as personal relations, living arrangement or employment. Persons with chronic mental illness typically meet at least one of the following criteria:

(1) Have undergone psychiatric treatment more intensive than outpatient care more than once in a lifetime (e.g., emergency services, alternative home care, partial hospitalization or in-patient hospitalization);

(2) Have experienced a single episode of continuous, structured supportive residential care other than hospitalization.

In addition, such persons typically meet at least two of the following criteria, on a continuing or intermittent basis for at least two years:

1. Are unemployed, or employed in a sheltered setting, or have markedly limited skills and a poor work history;

2. Require financial assistance for out-of-hospital maintenance and may be unable to procure this assistance without help;

3. Show severe inability to establish or maintain a personal social support system;

4. Require help in basic living skills;

5. Exhibit inappropriate social behavior which results in demand for intervention by the mental health or judicial system.

In atypical instances chronically mentally ill persons may vary from the above criteria.

63.47(10) For the specialized license, there shall be implemented an individual program plan (IPP) of goals and objectives for each resident developed using evaluations, assessments and progress reports. (II)

63.47(11) For the specialized license, "age-appropriate" shall mean activities, settings, personal appearance and possessions commensurate with the person's chronological age.

63.47(12) For the specialized license, "least restrictive" shall mean the availability to the person of programs, services and settings that give the greatest opportunity for human development and to associate with and become part of the general society.

63.47(13) "Individual program plan" shall be a written plan for the provision of services to the person and, when appropriate, to the person's family, that is developed and implemented, using an interdisciplinary process, which identifies the person's and, when appropriate, the person's family's functional status, strengths, and needs, and service activities designed to enable a person to maintain or move toward independent functioning. The plan is developed in accordance with the developmental model, which is a service approach that recognizes and assumes the potential for positive change, growth, and sequential development in all people. (II)

a. An individual program plan shall be developed and implemented for each individual accepted for service, regardless of the individual's chronological age or developmental level. (I, II)

b. The interdisciplinary team shall develop the plan. (II) For the purpose of the specialized license, the team shall include:

(1) The person, the person's legal guardian, and the person's family unless the family's participation is contrary to the wishes of the adult person who has not been legally determined to be incompetent; (II, III)

(2) The service coordinator or case manager; (II, III)

(3) All current service providers; and (II, III)

(4) Other persons whose appropriateness may be identified through the diagnosis and evaluation or current reevaluation. (III)

c. The person or the person's legal guardian has the ultimate authority to accept or reject the plan unless otherwise determined by court. (III)

d. The resident and the facility retain the rights of appeal and due process from the interdisciplinary team decisions. (II, III)

63.47(14) Goals and objectives shall be stated separately and a time frame shall be specified for their achievement. (II, III)

a. Each individual enrolled shall have an individual program plan. (II)

b. The initial individual program plan shall be developed within 30 calendar days after the individual is enrolled in this service. (II)

c. The individual program shall be developed by an appropriately constituted interdisciplinary team. (II)

d. The individual program plan shall state specific objectives to reach identified goals and shall identify the individuals responsible for implementation. (II, III)

e. Goals and objectives shall be stated separately. (II, III)

f. Goals and objectives shall be assigned projected evaluation completion dates and shall be reviewed at least annually. (II, III)

g. Goals and objectives shall be expressed in behavioral terms that provide measurable indices of progress. (II)

h. Goals and objectives shall be sequenced with a developmental progression appropriate to the individual. (II, III)

i. Goals and objectives of the individual program plans shall be assigned priorities by the interdisciplinary team and implemented with documentation of needed resources. (II, III)

j. The individual program plan shall be written in terms that are understandable to all concerned. (II, III)

63.47(15) Where implementation is a shared responsibility, the individual program plan shall identify the agencies or persons responsible for delivering the services required. (III)

63.47(16) A review of the individual program plan shall be made at least quarterly by a member or members of the individual's interdisciplinary team, as determined by the team, in order to ensure the continuing implemented appropriateness of the plan and any necessary action to be initiated. (II)

a. Problems or changes that call for review of the individual program plan by the team shall be indicated. (II)

b. The team shall be convened at least annually to review the individual program plan where problems or changes that call for review by the team are indicated. (II, III)

c. The team review shall assess the individual's response to activities designed to achieve the objective stated in the individual program plan. (II, III)

d. The team review shall modify activities or objectives as necessary. (II, III)

e. The team review shall determine the services that are needed. (II, III)

f. The team review shall include consideration of the advisability of continued enrollment or alternative placements. (II, III)

[**ARC 0765C**, IAB 5/29/13, effective 7/3/13]

481—63.48(135C) County care facilities. Rescinded **ARC 0765C**, IAB 5/29/13, effective 7/3/13.

481—63.49(135C) Another business or activity in a facility. A facility is allowed to have another business or activity in a health care facility or in the same physical structure of the facility, if the other business or activity is under the control of and is directly related to and incidental to the operation of the health care facility, or the business or activity is approved by the department and the state fire marshal.

To obtain the approval of the department and the state fire marshal, the facility must submit to the department a written request for approval which identifies the service(s) to be offered by the business and addresses the factors outlined in paragraphs *"a"* through *"j"* of this rule. (I, II, III)

63.49(1) The following factors will be considered by the department in determining whether a business or activity will interfere with the use of the facility by residents, interfere with services provided to residents, or be disturbing to residents:

a. Health and safety risks for residents;

b. Compatibility of the proposed business or activity with the facility program;

c. Noise created by the proposed business or activity;

d. Odors created by the proposed business or activity;

e. Use of entrances and exits for the business or activity in regard to safety and disturbance of residents and interference with delivery of services;

f. Use of the facility's corridors or rooms as thoroughfares to the business or activity in regard to safety and disturbance of residents and interference with delivery of services;

g. Proposed staffing for the business or activity;

h. Sharing of services and staff between the proposed business or activity and the facility;

i. Facility layout and design; and

j. Parking area utilized by the business or activity.

63.49(2) Approval of the state fire marshal shall be obtained before approval of the department will be considered.

63.49(3) A business or activity conducted in a health care facility or in the same physical structure as a health care facility shall not reduce space, services or staff available to residents below minimums required in these rules and 481—Chapter 60. (I, II, III)

481—63.50(135C) Respite care services. Respite care services means an organized program of temporary supportive care provided for 24 hours or more to a person in order to relieve the usual caregiver of the person from providing continual care to the person. A facility which chooses to provide respite care services must meet the following requirements related to respite care services and must be licensed as a health care facility.

63.50(1) A facility which chooses to provide respite care services is not required to obtain a separate license or pay a license fee.

63.50(2) Rules regarding involuntary discharge or transfer rights do not apply to residents who are being cared for under a respite care contract.

63.50(3) The facility shall have a contract with each resident in the facility. When the resident is there for respite care services, the contract shall specify the time period during which the resident will be considered to be receiving respite care services. At the end of that period, the contract may be amended to extend that period of time. The contract shall specifically state the resident may be involuntarily discharged while being considered as a respite care resident. The contract shall meet other requirements for contracts between a health care facility and resident, except the requirements concerning the holding and charging for a bed when a resident is hospitalized or leaves the facility temporarily for recreational or therapeutic reasons.

63.50(4) Respite care services shall not be provided by a facility to persons requiring a level of care which is higher than the level of care the facility is licensed to provide.

These rules are intended to implement Iowa Code sections 10A.202, 10A.402, 135C.1, 135C.2(5), 135C.2(6), 135C.6(1), 135C.14(3), 135C.14(5), 135C.14(8), 135C.25, 135C.25(3), 135C.36, 227.4, 235B.1(6), and 235B.1(11) and 1988 Iowa Acts, chapter 1239.

[Filed 8/18/77, Notice 2/23/77—published 9/7/77, effective 10/13/77]
[Filed without Notice 10/14/77—published 11/2/77, effective 12/8/77]
[Filed 1/20/78, Notice 12/14/77—published 2/8/78, effective 3/15/78]
[Filed 7/7/78, Notice 5/31/78—published 7/26/78, effective 9/1/78]
[Filed 10/13/78, Notice 9/6/78—published 11/1/78, effective 12/7/78]
[Filed 11/9/78, Notice 6/28/78—published 11/29/78, effective 1/3/79]
[Filed emergency 11/22/78—published 12/13/78, effective 1/3/79]
[Filed 5/20/82, Notice 12/23/81—published 6/9/82, effective 7/14/82]
[Filed 1/10/86, Notice 11/6/85—published 1/29/86, effective 3/5/86][1]
[Filed 5/15/86, Notice 2/26/86—published 6/4/86, effective 7/9/86]
[Filed 5/16/86, Notice 1/1/86—published 6/4/86, effective 7/9/86]
[Filed emergency 7/1/86—published 7/16/86, effective 7/1/86][2]
[Filed emergency 9/19/86—published 10/8/86, effective 9/19/86]
[Filed emergency after Notice 3/12/87, Notice 12/31/86—published 4/8/87, effective 3/12/87]
[Filed 3/12/87, Notice 1/25/87—published 4/8/87, effective 5/13/87]

[Filed emergency 6/25/87—published 7/15/87, effective 7/1/87]
[Filed 2/5/88, Notice 10/7/87—published 2/24/88, effective 3/30/88][◊]
[Filed 4/28/88, Notice 12/16/87—published 5/18/88, effective 6/22/88]
[Filed 5/26/88, Notice 4/20/88—published 6/15/88, effective 7/20/88]
[Filed 9/30/88, Notice 8/24/88—published 10/19/88, effective 11/23/88][3]
[Filed 12/9/88, Notices 8/24/88, 10/5/88—published 12/28/88, effective 2/1/89]
[Filed 6/23/89, Notice 5/17/89—published 7/12/89, effective 8/16/89]
[Filed 7/20/89, Notice 6/14/89—published 8/9/89, effective 9/13/89]
[Filed 8/16/89, Notices 4/19/89, 7/12/89—published 9/6/89, effective 10/11/89]
[Filed 6/8/90, Notice 1/10/90—published 6/27/90, effective 8/1/90]
[Filed 7/17/90, Notice 5/2/90—published 8/8/90, effective 9/12/90]
[Filed 3/14/91, Notice 9/19/90—published 4/3/91, effective 5/8/91]
[Filed emergency 5/10/91—published 5/29/91, effective 5/10/91]
[Filed 1/31/92, Notice 11/13/91—published 2/19/92, effective 3/25/92][4]
[Filed 3/12/92, Notice 12/11/91—published 4/1/92, effective 5/6/92]
[Filed 3/11/94, Notice 9/15/93—published 3/30/94, effective 5/4/94]
[Filed 5/16/95, Notice 3/15/95—published 6/7/95, effective 7/12/95]
[Filed 11/30/95, Notice 9/13/95—published 12/20/95, effective 1/24/96]
[Filed 1/21/97, Notice 8/14/96—published 2/12/97, effective 3/19/97]
[Filed 7/11/97, Notice 4/23/97—published 7/30/97, effective 9/3/97]
[Filed emergency 7/25/97—published 8/13/97, effective 7/25/97]
[Filed emergency 11/14/97—published 12/3/97, effective 11/14/97]
[Filed 11/14/97, Notice 8/13/97—published 12/3/97, effective 1/7/98]
[Filed 3/31/98, Notice 12/3/97—published 4/22/98, effective 5/27/98]
[Filed 7/9/98, Notice 4/22/98—published 7/29/98, effective 9/2/98]
[Filed 1/15/04, Notice 10/1/03—published 2/4/04, effective 3/10/04]
[Filed 1/15/04, Notice 12/10/03—published 2/4/04, effective 3/10/04]
[Filed 9/20/06, Notice 8/2/06—published 10/11/06, effective 11/15/06]
[Filed 7/9/08, Notice 1/30/08—published 7/30/08, effective 9/3/08]
[Filed ARC 0663C (Notice ARC 0513C, IAB 12/12/12), IAB 4/3/13, effective 5/8/13]
[Filed ARC 0765C (Notice ARC 0600C, IAB 2/6/13), IAB 5/29/13, effective 7/3/13]
[Filed ARC 0903C (Notice ARC 0776C, IAB 5/29/13), IAB 8/7/13, effective 9/11/13]
[Filed ARC 1050C (Notice ARC 0907C, IAB 8/7/13), IAB 10/2/13, effective 11/6/13]
[Filed ARC 1205C (Notice ARC 1082C, IAB 10/2/13), IAB 12/11/13, effective 1/15/14]
[Filed ARC 1204C (Notice ARC 1083C, IAB 10/2/13), IAB 12/11/13, effective 1/15/14]
[Filed ARC 1752C (Notice ARC 1648C, IAB 10/1/14), IAB 12/10/14, effective 1/14/15]

◊ Two or more ARCs

1 Effective date of 63.15(2)*"a"* and *"b"* delayed 70 days by the Administrative Rules Review Committee, IAB 2/26/86. Effective date of 63.15(2)*"a"* and *"b"* delayed until the expiration of 45 calendar days into the 1987 session of the General Assembly pursuant to Iowa Code section 17A.8(9), IAC 6/4/86.

2 See IAB, Inspections and Appeals Department.

3 Two ARCs

4 Rule 481—63.49(135C), effective 7/1/92.

CHAPTER 64
INTERMEDIATE CARE FACILITIES FOR THE INTELLECTUALLY DISABLED*

481—64.1 Rescinded IAB 7/26/89, effective 7/7/89.

481—64.2(135C) Variances. Variances from these rules may be granted by the director of the department of inspections and appeals for good and sufficient reason when the need for variance has been established; no danger to the health, safety, or welfare of any resident results; alternate means are employed or compensating circumstances exist and the variance will apply only to an individual intermediate care facility for the intellectually disabled. Variances will be reviewed at the discretion of the director of the department of inspections and appeals.

64.2(1) To request a variance, the licensee must:

a. Apply for variance in writing on a form provided by the department;

b. Cite the rule or rules from which a variance is desired;

c. State why compliance with the rule or rules cannot be accomplished;

d. Explain alternate arrangements or compensating circumstances which justify the variance;

e. Demonstrate that the requested variance will not endanger the health, safety, or welfare of any resident.

64.2(2) Upon receipt of a request for variance, the director of the department of inspections and appeals will:

a. Examine the rule from which variance is requested to determine that the request is necessary and reasonable;

b. If the request meets the above criteria, evaluate the alternate arrangements or compensating circumstances against the requirement of the rules;

c. Examine the effect of the requested variance on the health, safety, or welfare of the residents;

d. Consult with the applicant if additional information is required.

64.2(3) Based upon these studies, approval of the variance will be either granted or denied within 120 days of receipt.

[**ARC 0764C**, IAB 5/29/13, effective 7/3/13]

481—64.3(135C) Application for license.

64.3(1) Initial application. In order to obtain an initial intermediate care facility for the intellectually disabled license for an intermediate care facility for the intellectually disabled which is currently licensed, the applicant must:

a. Submit a letter of intent and a written résumé of the resident care program and other services provided for departmental review and approval;

b. Make application at least 30 days prior to the change of ownership of the facility on forms provided by the department;

c. Submit a floor plan of each floor of the intermediate care facility, drawn on 8½- × 11-inch paper showing room areas in proportion, room dimensions, room numbers for all rooms, including bathrooms, and designation of the use to which room will be put and window and door location;

d. Submit a photograph of the front and side elevation of the intermediate care facility for the intellectually disabled;

e. Submit the statutory fee for an intermediate care facility for the intellectually disabled license;

f. Meet all of the rules, regulations and standards contained in 481—Chapter 64.

g. Comply with federal, state, and local laws, codes, and regulations pertaining to health and safety, including procurement, dispensing, administration, safeguarding and disposal of medications and controlled substances; building, construction, maintenance and equipment standards; sanitation; communicable and reportable diseases; and postmortem procedures;

*See Interpretive Guidelines at end hereof

h. Have a certificate signed by the state fire marshal or deputy state fire marshal as to compliance with fire safety rules and regulations.

64.3(2) In order to obtain an initial intermediate care facility for the intellectually disabled license for a facility not currently licensed as an intermediate care facility for the intellectually disabled, the applicant must:

**a.* Meet all of the rules, regulations, and standards contained in 481—Chapters 61 and 64; exceptions noted in 481—subrule 61.1(2) shall not apply;

*Nullified by 1989 Iowa Acts, SJR 10

b. Submit a letter of intent and a written résumé of the resident care program and other services provided for departmental review and approval;

c. Make application at least 30 days prior to the proposed opening date of the facility on forms provided by the department;

d. Submit a floor plan of each floor of the intermediate care facility for the intellectually disabled, drawn on 8½- × 11-inch paper showing room areas in proportion, room dimensions, room numbers for all rooms, including bathrooms, and designation of the use to which the rooms will be put and window and door locations;

e. Submit a photograph of the front and side elevation of the intermediate care facility for the intellectually disabled;

f. Submit the statutory fee for an intermediate care facility for the intellectually disabled;

g. Comply with federal, state, and local laws, codes, and regulations pertaining to health and safety, including procurement, dispensing, administration, safeguarding and disposal of medications and controlled substances; building, construction, maintenance and equipment standards; sanitation; communicable and reportable diseases; and postmortem procedures;

h. Have a certificate signed by the state fire marshal or deputy state fire marshal as to compliance with fire safety rules and regulations.

64.3(3) Renewal application. In order to obtain a renewal of the intermediate care facility for the intellectually disabled license, the applicant must:

a. Submit the completed application form 30 days prior to annual license renewal date of intermediate care facility for the intellectually disabled license;

b. Submit the statutory license fee for an intermediate care facility for the intellectually disabled with the application for renewal;

c. Have an approved current certificate signed by the state fire marshal or deputy state fire marshal as to compliance with fire safety rules and regulations;

d. Submit appropriate changes in the résumé to reflect any changes in the resident care program or other services.

64.3(4) Licenses are issued to the person or governmental unit which has responsibility for the operation of the facility and authority to comply with all applicable statutes, rules or regulations.

The person or governmental unit must be the owner of the facility or, if the facility is leased, the lessee.

[**ARC 0764C**, IAB 5/29/13, effective 7/3/13]

481—64.4(135C) General requirements.

64.4(1) The license shall be displayed in a conspicuous place in the facility which is viewed by the public. (III)

64.4(2) The license shall be valid only in the possession of the licensee to whom it is issued.

64.4(3) The posted license shall accurately reflect the current status of the intermediate care facility for the intellectually disabled. (III)

64.4(4) Licenses expire one year after the date of issuance or as indicated on the license.

64.4(5) Each citation or a copy of each citation issued by the department for a Class I or Class II violation shall be prominently posted by the facility in plain view of the residents, visitors, and persons inquiring about placement in the facility. The citation or copy of the citation shall remain posted until the violation is corrected to the satisfaction of the department. (III)

64.4(6) The facility shall have in effect a transfer agreement with one or more hospitals sufficiently close to the facility to make feasible the transfer between them of residents and their records. (III) Any facility which does not have such an agreement in effect but has attempted in good faith to enter into such an agreement with a hospital shall be considered to have such an agreement so long as it is in the public interest and essential to ensuring intermediate care facility for the intellectually disabled services for eligible persons in the community.

64.4(7) A resident's personal funds and property shall not be used without the written consent of the resident or the resident's guardian. (II)

64.4(8) A resident's personal funds and property shall be returned to the resident when the funds or property have been used without the written consent of the resident or the resident's guardian. The department may report findings that funds or property have been used without written consent to the audits division or the local law enforcement agency, as appropriate. (II)

64.4(9) A properly trained person shall be charged with the responsibility of administering non-parenteral medications.

a. The individual shall have knowledge of the purpose of the drugs, their dangers, and contraindications.

b. This person shall be a licensed nurse or physician or shall have successfully completed a department-approved medication aide course or passed a department-approved medication aide challenge examination administered by an area community college.

c. A person who is a nursing student or a graduate nurse may take the challenge examination in place of taking a medication aide course. This individual shall do all of the following before taking the medication aide challenge examination:

(1) Complete a clinical or nursing theory course within six months before taking the challenge examination;

(2) Successfully complete a nursing program pharmacology course within one year before taking the challenge examination;

(3) Provide to the community college a written statement from the nursing program's pharmacology or clinical instructor indicating the individual is competent in medication administration.

(4) Successfully complete a department-approved nurse aide competency evaluation.

d. A person who has written documentation of certification as a medication aide in another state may become a medication aide in Iowa by successfully completing a department-approved nurse aide competency examination and a medication aide challenge examination.

[**ARC 0764C**, IAB 5/29/13, effective 7/3/13]

481—64.5(135C) Notifications required by the department. The department shall be notified:

64.5(1) Within 48 hours, by letter, any reduction or loss of direct care professional or dietary staff lasting more than seven days which places the staffing ratio of the intermediate care facility for the intellectually disabled below that required for licensing. No additional residents shall be admitted until the minimum staffing requirements are achieved; (III)

64.5(2) Of any proposed change in the intermediate care facility for the intellectually disabled's functional operation or addition or deletion of required services; (III)

64.5(3) Thirty days before addition, alteration, or new construction is begun in the intermediate care facility for the intellectually disabled, or on the premises; (III)

64.5(4) Thirty days in advance of closure of the intermediate care facility for the intellectually disabled; (III)

64.5(5) Within two weeks of any change in administrator; (III)

64.5(6) When any change in the category of license is sought; (III)

64.5(7) Prior to the purchase, transfer, assignment, or lease of an intermediate care facility for the intellectually disabled, the licensee shall:

a. Inform the department of the pending sale, transfer, assignment, or lease of the facility; (III)

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

c. Submit a written authorization to the department permitting the department to release all information of whatever kind from the department's files concerning the licensee's intermediate care facility for the intellectually disabled to the named prospective purchaser, transferee, assignee, or lessee. (III)

64.5(8) Pursuant to the authorization submitted to the department by the licensee prior to the purchase, transfer, assignment, or lease of an intermediate care facility for the intellectually disabled, the department shall, upon request, send or give copies of all recent licensure surveys and of any other pertinent information relating to the facility's licensure status to the prospective purchaser, transferee, assignee, or lessee; costs for such copies shall be paid by the prospective purchaser.

[**ARC 0764C**, IAB 5/29/13, effective 7/3/13]

481—64.6(135C) Veteran eligibility.

64.6(1) Within 30 days of a resident's admission to a health care facility receiving reimbursement through the medical assistance program under Iowa Code chapter 249A, the facility shall ask the resident or the resident's personal representative whether the resident is a veteran and shall document the response. If the facility determines that the resident is a potential veteran, the facility shall report the resident's name along with the names of the resident's spouse and any dependent children, as well as the name of the contact person for this information, to the Iowa department of veterans affairs. Where appropriate, the facility may also report such information to the Iowa department of human services.

64.6(2) If a resident is eligible for benefits through the United States Department of Veterans Affairs or other third-party payor, the facility first shall seek reimbursement from the identified payor source before seeking reimbursement from the medical assistance program established under Iowa Code chapter 249A.

64.6(3) The provisions of this rule shall not apply to the admission of an individual as a resident to a state mental health institute for acute psychiatric care. (II, III)

481—64.7(135C) Licenses for distinct parts.

64.7(1) Separate licenses may be issued for distinct parts of a health care facility which are clearly identifiable, containing contiguous rooms in a separate wing or building or on a separate floor of the facility and which provide care and services of separate categories.

64.7(2) The following requirements shall be met for a separate licensing of a distinct part:

a. The distinct part shall serve only residents who require the category of care and services immediately available to them within that part; (III)

b. The distinct part shall meet all the standards, rules, and regulations pertaining to the category for which a license is being sought;

c. The distinct part must be operationally and financially feasible;

d. A separate staff with qualifications appropriate to the care and services being rendered must be regularly assigned and working in the distinct part under responsible management; (III)

e. Separately licensed distinct parts may have certain services such as management, building maintenance, laundry, and dietary in common with each other.

481—64.8 to **64.16** Rescinded IAB 7/26/89, effective 7/7/89.

481—64.17(135C) Contracts. Each party shall receive a copy of the signed contract. (III) Each contract for residents shall:

64.17(1) State the rate or scale per day or per month for services included in the rate or scale and method of payment; (III)

64.17(2) Contain a complete schedule of all offered services for which a fee may be charged in addition to the base rate. (III) Furthermore, the contract shall:

a. Stipulate that no further additional fees shall be charged for items not contained in complete schedule of services as set forth in this subrule; (III)

b. State the method of payment of additional charges; (III)

c. Contain an explanation of the method of assessment of such additional charges and an explanation of the method of periodic reassessment, if any, resulting in changing such additional charges; (III)

d. State that additional fees may be charged to the resident for nonprescription drugs, other personal supplies, and services by a barber, beautician, etc.; (III)

64.17(3) Contain an itemized list of those services, with the specific fee the resident will be charged and method of payment, as related to the resident's current condition, based on a preadmission evaluation assessment which is determined in consultation with the administrator; (III)

64.17(4) Include the total fee per day to be charged to the resident; (III)

64.17(5) State the conditions whereby the facility may make adjustments to its overall fees for resident care as a result of changing costs. (III) Furthermore, the contract shall provide that the facility shall give:

a. Written notification to the resident, or responsible party when appropriate, of changes in the overall rates of both base and additional charges, at least 30 days prior to effective date of such changes; (III)

b. Notification to the resident, or responsible party when appropriate, of changes in charges, based on a change in the resident's condition. Notification must occur prior to the date such revised charges begin. If notification is given orally, subsequent written notification must also be given within a reasonable time, not to exceed one week, listing specifically the adjustments made; (III)

64.17(6) State the terms of agreement in regard to refund of all advance payments in the event of transfer, death, voluntary or involuntary discharge; (III)

64.17(7) State the terms of agreement concerning the holding and charging for a bed in the event of temporary absence of the resident; such terms shall include, at a minimum, the following provisions:

a. If a resident has a temporary absence from a facility for medical treatment, the facility shall ask the resident or responsible party if they wish the bed held open. This shall be documented in the resident's record including the response. Upon request of the resident/responsible party, the facility shall hold the bed open for at least ten days during the resident's absence and the facility shall receive payment for the absent period in accordance with provisions of the contract. (II)

b. If a resident has a temporary absence from a facility for therapeutic reasons as approved by a physician or qualified intellectual disabilities professional, the facility shall ask if the resident or responsible party wishes that the bed be held open. This request shall be documented in the resident's record, including the response. The bed shall be held open at least 30 days per year, and the facility shall receive payment for the absent periods in accordance with the provisions of the contract. The required holding during temporary absences for therapeutic reasons is limited to 30 days per year. (II)

c. For Title XIX residents the department of social services shall continue funding for the temporary absence as provided under paragraphs *"a"* and *"b"* and in accordance with department of social services guidelines.

d. Private pay residents shall have a negotiated rate stated in the signed contract relating to these provisions. (II)

64.17(8) State the conditions under which the involuntary discharge or transfer of a resident would be effected; (III)

64.17(9) State the conditions of voluntary discharge or transfer; (III)

64.17(10) Set forth any other matters deemed appropriate by the parties to the contract. No contract or any provision thereof shall be drawn or construed so as to relieve any facility of any requirement or obligation imposed upon it by this chapter or any standards or rules in force pursuant to this chapter. (III)

[**ARC 0764C**, IAB 5/29/13, effective 7/3/13]

481—64.18(135C) Records.

64.18(1) *Resident record.* The licensee shall keep a permanent record about each resident, with all entries current, dated, and signed. (II) The record shall include:

a. Name and previous address of resident; (III)

b. Birth date, sex, and marital status of resident; (III)

c. Church affiliation of resident; (III)

d. Physician's name, telephone number, and address; (III)

e. Dentist's name, telephone number, and address; (III)

f. Name, address, and telephone number of resident's next of kin or legal representative; (III)

g. Name, address, and telephone number of the person to be notified in case of emergency; (III)

h. Funeral director's telephone number and address; (III)

i. Pharmacy's name, telephone number and address; (III)

j. Certification by the physician that the resident requires no higher level of care than the facility is licensed to provide; (III)

k. Physician's orders for medication and treatments in writing, which shall be signed by the physician quarterly, and diet orders, which shall be renewed yearly; (III)

l. A notation of the resident's yearly or other visits to physician or other professionals and all consultation reports and progress notes; (III)

m. Documentation describing any change in the resident's condition; (II, III)

n. A notation describing the resident's condition on admission, transfer, and discharge; (III)

o. In the event of a resident's death, notations in the resident's record shall include the date and time of the resident's death, the circumstances of the resident's death, the disposition of the resident's body, and the date and time that the resident's family and physician were notified of the resident's death; (III)

p. A copy of instructions given to the resident, the resident's legal representative, or receiving facility in the event of the resident's discharge or transfer; (III) and

q. Disposition of personal property. (III)

64.18(2) *Confidentiality of resident records.* The facility shall have policies and procedures providing that each resident shall be ensured confidential treatment of all information, including information contained in an automated data bank. The resident's or the resident's legal guardian's written informed consent shall be required for the release of information to persons not otherwise authorized under law to receive it. (II)

A release of information form shall be used which includes to whom the information shall be released, the reason for the release of the information, how the information is to be used, and the period of time for which the release is in effect. A third party not requesting the release shall witness the signing of the release of information form. (II)

a. The facility shall limit access to any resident records to staff and consultants providing professional service to the resident. Information shall be made available to staff only to the extent that the information is relevant to the staff person's responsibilities and duties. (II)

Only those personnel concerned with financial affairs of the residents may have access to the financial information. This paragraph is not meant to preclude access by representatives of state or federal regulatory agencies. (II)

b. The resident, or the resident's legal guardian, shall be entitled to examine all information and shall have the right to secure full copies of the record at reasonable cost upon request, unless the physician or qualified mental health professional determines the disclosure of the record or certain information contained in the record is contraindicated in which case the information will be deleted before the record is made available to the resident. This determination and the reasons for it must be documented in the resident's record by the physician or qualified mental health professional in collaboration with the resident's interdisciplinary team. (II)

64.18(3) *Incident records.* Each facility shall maintain an incident record report and shall have available incident report forms. (II, III)

a. The report of every incident shall be in detail on a printed incident report form. (II, III)

b. The person in charge at the time of the incident shall oversee the preparation of the report and sign the report. (III)

c. The facility shall maintain a copy of the incident report as part of the facility's administrative records and shall make the record available for review. (III)

64.18(4) *Retention of records.* A resident's records shall be retained in the facility for five years following termination of services to the resident even when there is a change of ownership of the facility. (III)

When the facility ceases to operate, the resident's records shall be released to the receiving facility. If no transfer occurs, the records shall be released to the resident's physician. (III)

481—64.19 to **64.32** Reserved.

481—64.33(135C) Allegations of dependent adult abuse.

64.33(1) *Allegations of dependent adult abuse.* Allegations of dependent adult abuse shall be reported and investigated pursuant to Iowa Code chapter 235E and 481—Chapter 52. (I, II, III)

64.33(2) *Separation of accused abuser and victim.* Upon a claim of dependent adult abuse of a resident being reported, the administrator of the facility shall separate the victim and accused abuser immediately and maintain the separation until the department's abuse investigation is completed and an abuse determination is made. (I, II)

[**ARC 1204C**, IAB 12/11/13, effective 1/15/14]

481—64.34(135C) Employee criminal record checks, child abuse checks and dependent adult abuse checks and employment of individuals who have committed a crime or have a founded abuse. The facility shall comply with the requirements found in Iowa Code section 135C.33 as amended by 2013 Iowa Acts, Senate File 347, and rule 481—50.9(135C) related to completion of criminal record checks, child abuse checks, and dependent adult abuse checks and to employment of individuals who have committed a crime or have a founded abuse. (I, II, III)

[**ARC 0903C**, IAB 8/7/13, effective 9/11/13]

481—64.35(135C) Care review committee. Rescinded **ARC 1205C**, IAB 12/11/13, effective 1/15/14.

481—64.36(135C) Involuntary discharge or transfer.

64.36(1) *Involuntary discharge or transfer permitted.* A facility may involuntarily discharge or transfer a resident for only one of the following reasons:

a. Medical reasons;

b. The resident's welfare or that of other residents;

c. Nonpayment for the resident's stay, as described in the contract for the resident's stay;

d. Due to action pursuant to Iowa Code chapter 229;

e. By reason of negative action by the Iowa department of human services; or

f. By reason of negative action by the quality improvement organization (QIO). (I, II, III)

64.36(2) *Medical reasons.* Medical reasons for transfer or discharge shall be based on the resident's needs and shall be determined and documented in the resident's record by the primary care provider. Transfer or discharge may be required in order to provide a different level of care to the resident. (II)

64.36(3) *Welfare of a resident.* Welfare of a resident or that of other residents refers to a resident's social, emotional, or physical well-being. A resident may be transferred or discharged because the resident's behavior poses a continuing threat to the resident (e.g., suicidal) or to the well-being of other residents or staff (e.g., the resident's behavior is incompatible with other residents' needs and rights). Written documentation that the resident's continued presence in the facility would adversely affect the resident's own welfare or that of other residents shall be made by the administrator or designee and shall include specific information to support this determination. (II)

64.36(4) *Involuntary discharge or transfer prohibited—payment source.* A resident shall not be transferred or discharged solely because the cost of the resident's care is being paid under Iowa Code chapter 249A or because the resident's source of payment is changing from private support to payment under Iowa Code chapter 249A. (I, II)

64.36(5) *Notice.* Involuntary transfer or discharge of a resident from a facility shall be preceded by a written notice to the resident and the responsible party. (II, III)

a. The notice shall contain all of the following information:

(1) The stated reason for the proposed transfer or discharge. (II)
(2) The effective date of the proposed transfer or discharge. (II)
(3) A statement, in not less than 12-point type, that reads as follows:

> You have a right to appeal the facility's decision to transfer or discharge you. If you think you should not have to leave this facility, you may request a hearing, in writing or verbally, with the Iowa department of inspections and appeals (hereinafter referred to as "department") within 7 days after receiving this notice. You have a right to be represented at the hearing by an attorney or any other individual of your choice. If you request a hearing, it will be held no later than 14 days after the department's receipt of your request and you will not be transferred before a final decision is rendered. Extension of the 14-day requirement may be permitted in emergency circumstances upon request to the department's designee. If you lose the hearing, you will not be transferred before the expiration of either (1) 30 days following your receipt of the original notice of the discharge or transfer, or (2) no sooner than 5 days following final decision of such hearing, including the exhaustion of all appeals, whichever occurs later. To request a hearing or receive further information, call the department at (515)281-4115, or write to the department to the attention of: Administrator, Division of Health Facilities, Department of Inspections and Appeals, Lucas State Office Building, Des Moines, Iowa 50319-0083. (II)

b. The notice shall be personally delivered to the resident, and a copy shall be placed in the resident's record. A copy shall also be transmitted to the department, the resident's responsible party, the resident's primary care provider, and the person or agency responsible for the resident's placement, maintenance, and care in the facility. The notice shall indicate that copies have been transmitted to the required parties by using the abbreviation "cc:" and listing the names of all parties to whom copies were sent.

c. The notice required by paragraph 64.36(5)*"a"* shall be provided at least 30 days in advance of the proposed transfer or discharge unless one of the following occurs:

(1) An emergency transfer or discharge is mandated by the resident's health care needs and is in accordance with the written orders and medical justification of the primary care provider. Emergency transfers or discharges may also be mandated in order to protect the health, safety, or well-being of other residents and staff from the resident being transferred. (II)

(2) The transfer or discharge is subsequently agreed to by the resident or the resident's responsible party, and notification is given to the responsible party, the resident's primary care provider, and the person or agency responsible for the resident's placement, maintenance, and care in the facility.

(3) The discharge or transfer is the result of a final, nonappealable decision by the department of human services or the QIO.

d. A hearing requested pursuant to this subrule shall be held in accordance with subrule 64.36(7).

64.36(6) *Emergency transfer or discharge.* In the case of an emergency transfer or discharge, the resident must be given a written notice prior to or within 48 hours following the transfer or discharge. (II, III)

a. A copy of this notice shall be placed in the resident's file. The notice shall contain all of the following information:

(1) The stated reason for the transfer or discharge. (II)
(2) The effective date of the transfer or discharge. (II)
(3) A statement, in not less than 12-point type, that reads as follows:

You have a right to appeal the facility's decision to transfer or discharge you on an emergency basis. If you think you should not have to leave this facility, you may request a hearing, in writing or verbally, with the Iowa department of inspections and appeals (hereinafter referred to as "department") within 7 days after receiving this notice. You have a right to be represented at the hearing by an attorney or any other individual of your choice. If you request a hearing, it will be held no later than 14 days after the department's receipt of your request. You may be transferred or discharged before the hearing is held or before a final decision is rendered. If you win the hearing, you have the right to be transferred back into the facility. To request a hearing or receive further information, call the department at (515)281-4115, or write to the department to the attention of: Administrator, Division of Health Facilities, Department of Inspections and Appeals, Lucas State Office Building, Des Moines, Iowa 50319-0083. (II)

b. The notice shall be personally delivered to the resident, and a copy shall be placed in the resident's record. A copy shall also be transmitted to the department, the resident's responsible party, the resident's primary care provider, and the person or agency responsible for the resident's placement, maintenance, and care in the facility. The notice shall indicate that copies have been transmitted to the required parties by using the abbreviation "cc:" and listing the names of all parties to whom copies were sent.

c. A hearing requested pursuant to this subrule shall be held in accordance with subrule 64.36(7).

64.36(7) *Hearing.*

a. Request for hearing.

(1) The resident must request a hearing within 7 days of receipt of written notice.

(2) The request must be made to the department, either in writing or verbally.

b. The hearing shall be held no later than 14 days after the department's receipt of the request unless either party requests an extension due to emergency circumstances.

c. Except in the case of an emergency discharge or transfer, a request for a hearing shall stay a transfer or discharge pending a final decision, including the exhaustion of all appeals. (II)

d. The hearing shall be heard by a department of inspections and appeals administrative law judge pursuant to Iowa Code chapter 17A and 481—Chapter 10. The hearing shall be public unless the resident or representative requests in writing that the hearing be closed. In a determination as to whether a transfer or discharge is authorized, the burden of proof by a preponderance of the evidence rests on the party requesting the transfer or discharge.

e. Notice of the date, time, and place of the hearing shall be sent by certified mail or delivered in person to the facility, the resident, and the responsible party not later than five full business days after the department's receipt of the request. The notice shall also inform the facility and the resident or the responsible party that they have a right to appear at the hearing in person or be represented by an attorney or other individual. The appeal shall be dismissed if neither party is present or represented at the hearing. If only one party appears or is represented, the hearing shall proceed with one party present.

f. The administrative law judge's written decision shall be sent by certified mail to the facility, resident, and responsible party within 10 working days after the hearing has been concluded.

g. If the basis for an involuntary transfer or discharge is the result of a negative action by the Iowa department of human services or the QIO, an appeal shall be filed with those entities as appropriate. Continued payment shall be consistent with rules of those entities.

64.36(8) *Nonpayment.* If nonpayment is the basis for involuntary transfer or discharge, the resident shall have the right to make full payment up to the date that the discharge or transfer is to be made and then shall have the right to remain in the facility. (II)

64.36(9) *Discussion of involuntary transfer or discharge.* Within 48 hours after notice of involuntary transfer or discharge has been received by the resident, the facility shall discuss the involuntary transfer or discharge with the resident, the resident's responsible party, and the person or agency responsible for the resident's placement, maintenance, and care in the facility. (II)

a. The facility administrator or other appropriate facility representative serving as the administrator's designee shall provide an explanation and discussion of the reasons for the resident's involuntary transfer or discharge. (II)

b. The content of the explanation and discussion shall be summarized in writing, shall include the names of the individuals involved in the discussion, and shall be made part of the resident's record. (II)

c. The provisions of this subrule do not apply if the involuntary transfer or discharge has already occurred pursuant to subrule 64.36(6) and emergency notice is provided within 48 hours.

64.36(10) *Transfer or discharge planning.*

a. The facility shall develop a plan to provide for the orderly and safe transfer or discharge of each resident to be transferred or discharged. (II)

b. To minimize the possible adverse effects of the involuntary transfer, the resident shall receive counseling services by the sending facility before the involuntary transfer and by the receiving facility after the involuntary transfer. Counseling shall be documented in the resident's record. (II)

c. The counseling requirement in paragraph 64.36(10)*"b"* does not apply if the discharge has already occurred pursuant to subrule 64.36(6) and emergency notice is provided within 48 hours.

d. Counseling, if required, shall be provided by a licensed mental health professional as defined in Iowa Code section 228.1(6). (II)

e. The health care facility that receives a resident who has been involuntarily transferred shall immediately formulate and implement a plan of care which takes into account possible adverse effects the transfer may cause. (II)

64.36(11) *Transfer upon revocation of license or voluntary closure.* Residents shall not have the right to a hearing to contest an involuntary discharge or transfer resulting from the revocation of the facility's license by the department of inspections and appeals. In the case of the voluntary closure of a facility, a period of 30 days must be allowed for an orderly transfer of residents to other facilities.

64.36(12) *Intrafacility transfer.*

a. Residents shall not be arbitrarily relocated from room to room within a licensed health care facility. (I, II) Involuntary relocation may occur only in the following situations, which shall be documented in the resident's record: (II)

(1) A resident's incompatibility with or disturbance to other roommates.

(2) For the welfare of the resident or other residents of the facility.

(3) For medical, nursing or psychosocial reasons, as judged by the primary care provider, nurse or social worker in the case of a facility which groups residents by medical, nursing or psychosocial needs.

(4) To allow a new admission to the facility that would otherwise not be possible due to separation of roommates by sex.

(5) In the case of a resident whose source of payment was previously private, but who now is eligible for Title XIX (Medicaid) assistance, the resident may be transferred from a private room to a semiprivate room or from one semiprivate room to another.

(6) Reasonable and necessary administrative decisions regarding the use and functioning of the building.

b. Unreasonable and unjustified reasons for changing a resident's room without the concurrence of the resident or responsible party include:

(1) Change from private pay status to Title XIX, except as outlined in subparagraph 64.36(12)*"a"*(5). (II)

(2) As punishment or behavior modification, except as specified in subparagraph 64.36(12)*"a"*(1). (II)

(3) Discrimination on the basis of race or religion. (II)

c. If intrafacility relocation is necessary for reasons outlined in paragraph 64.36(12)*"a,"* the resident shall be notified at least 48 hours prior to the transfer and the reason therefor shall be explained. The responsible party shall be notified as soon as possible. The notification shall be documented in the resident's record and signed by the resident or responsible party. (II)

d. If emergency relocation is required in order to protect the safety or health of the resident or other residents, the notification requirements may be waived. The conditions of the emergency shall be

documented. The family or responsible party shall be notified immediately or as soon as possible of the condition that necessitates emergency relocation, and such notification shall be documented. (II)

e. A transfer to a part of a facility that has a different license must be handled the same way as a transfer to another facility and not as an intrafacility transfer. (II, III)

[**ARC 1205C**, IAB 12/11/13, effective 1/15/14; **ARC 1752C**, IAB 12/10/14, effective 1/14/15]

481—64.37 to **64.58** Rescinded IAB 7/26/89, effective 7/7/89.

481—64.59(135C) County care facilities. Rescinded **ARC 0764C**, IAB 5/29/13, effective 7/3/13.

481—64.60(135C) Federal regulations adopted—conditions of participation. Regulations in 42 CFR Part 483, Subpart D, Sections 410 to 480 effective October 3, 1988, are adopted by reference and incorporated as part of these rules. A copy of these regulations is available on request from the Health Facilities Division, Department of Inspections and Appeals, Lucas State Office Building, Des Moines, Iowa 50319.

Classification of violations is I, II, and III, determined by the division using the provisions in 481—Chapter 56, "Fining and Citations," to enforce a fine to cite a facility.

This rule is intended to implement Iowa Code section 135C.2(3).

481—64.61(135C) Federal regulations adopted—rights. Regulations in 42 CFR Part 483, Subpart B, Sections 10, 12, 13, and 15 effective August 1, 1989, are adopted by reference and incorporated as part of these rules. Section 10 governs resident rights; Section 12, admission, transfer or discharge rights; Section 13, resident behavior and facility practices; and Section 15, quality of life. Classification of violations for all of these regulations is I and II. A copy is available on request from the Health Facilities Division, Department of Inspections and Appeals, Lucas State Office Building, Des Moines, Iowa 50319.

NOTE: The federal interpretive guidelines are printed immediately following 481—Chapter 64.

This rule is intended to implement Iowa Code section 135C.14(8).

481—64.62(135C) Another business or activity in a facility. A facility is allowed to have another business or activity in a health care facility or in the same physical structure of the facility, if the other business or activity is under the control of and is directly related to and incidental to the operation of the health care facility, or the business or activity is approved by the department and the state fire marshal.

To obtain the approval of the department and the state fire marshal, the facility must submit to the department a written request for approval which identifies the service(s) to be offered by the business and addresses the factors outlined in paragraphs *"a"* through *"j"* of this rule. (I, II, III)

64.62(1) The following factors will be considered by the department in determining whether a business or activity will interfere with the use of the facility by residents, interfere with services provided to residents, or be disturbing to residents:

a. Health and safety risks for residents;

b. Compatibility of the proposed business or activity with the facility program;

c. Noise created by the proposed business or activity;

d. Odors created by the proposed business or activity;

e. Use of entrances and exits for the business or activity in regard to safety and disturbance of residents and interference with delivery of services;

f. Use of the facility's corridors or rooms as thoroughfares to the business or activity in regard to safety and disturbance of residents and interference with delivery of services;

g. Proposed staffing for the business or activity;

h. Sharing of services and staff between the proposed business or activity and the facility;

i. Facility layout and design; and

j. Parking area utilized by the business or activity.

64.62(2) Approval of the state fire marshal shall be obtained before approval of the department will be considered.

64.62(3) A business or activity conducted in a health care facility or in the same physical structure as a health care facility shall not reduce space, services or staff available to residents below minimums required in these rules. (I, II, III)

481—64.63(135C) Respite care services. Respite care services means an organized program of temporary supportive care provided for 24 hours or more to a person in order to relieve the usual caregiver of the person from providing continual care to the person. A facility which chooses to provide respite care services must meet the following requirements related to respite care services and must be licensed as a health care facility.

64.63(1) A facility which chooses to provide respite care services is not required to obtain a separate license or pay a license fee.

64.63(2) Rules regarding involuntary discharge or transfer rights do not apply to residents who are being cared for under a respite care contract.

64.63(3) The facility shall have a contract with each resident in the facility. When the resident is there for respite care services, the contract shall specify the time period during which the resident will be considered to be receiving respite care services. At the end of that period, the contract may be amended to extend that period of time. The contract shall specifically state the resident may be involuntarily discharged while being considered as a respite care resident. The contract shall meet other requirements for contracts between a health care facility and resident, except the requirements concerning the holding and charging for a bed when a resident is hospitalized or leaves the facility temporarily for recreational or therapeutic reasons.

64.63(4) Respite care services shall not be provided by a facility to persons requiring a level of care which is higher than the level of care the facility is licensed to provide.

These rules are intended to implement Iowa Code sections 10A.202, 10A.402, 135C.2(6), 135C.6(1), 135C.14, 135C.14(8), 135C.25, 135C.25(3), 135C.32, 135C.36, 227.4, 235B.1(6), and 235B.3(11).

[Filed 8/18/77, Notice 2/23/77—published 9/7/77, effective 10/13/77]
[Filed without Notice 10/14/77—published 11/2/77, effective 12/8/77]
[Filed 1/20/78, Notice 12/14/77—published 2/8/78, effective 3/15/78]
[Filed 5/26/78, Notice 3/8/78—published 6/14/78, effective 7/19/78]
[Filed 7/7/78, Notice 5/31/78—published 7/26/78, effective 9/1/78]
[Filed 10/13/78, Notice 9/6/78—published 11/1/78, effective 12/7/78]
[Filed 11/9/78, Notice 6/28/78—published 11/29/78, effective 1/3/79]
[Filed 5/20/82, Notice 12/23/81—published 6/9/82, effective 7/14/82]
[Filed 3/11/83, Notice 1/5/83—published 3/30/83, effective 5/4/83]
[Filed 1/10/86, Notice 11/6/85—published 1/29/86, effective 3/5/86]
[Filed 5/16/86, Notice 1/1/86—published 6/4/86, effective 7/9/86]
[Filed emergency 7/1/86—published 7/16/86, effective 7/1/86][1]
[Filed emergency 9/19/86—published 10/8/86, effective 9/19/86]
[Filed 2/6/87, Notice 10/22/86—published 2/25/87, effective 4/1/87]
[Filed emergency 6/25/87—published 7/15/87, effective 7/1/87]
[Filed 2/5/88, Notice 10/7/87—published 2/24/88, effective 3/30/88]◊
[Filed 4/28/88, Notice 12/16/87—published 5/18/88, effective 6/22/88]
[Filed 5/26/88, Notice 4/20/88—published 6/15/88, effective 7/20/88]
[Filed 9/30/88, Notice 8/24/88—published 10/19/88, effective 11/23/88][2]
[Filed 6/23/89, Notice 5/17/89—published 7/12/89, effective 8/16/89]
[Filed emergency 7/7/89—published 7/26/89, effective 7/7/89]
[Filed emergency 3/16/90—published 4/4/90, effective 3/16/90]
[Filed 1/16/91, Notice 11/28/90—published 2/6/91, effective 3/13/91]
[Filed 3/14/91, Notice 9/19/90—published 4/3/91, effective 5/8/91]
[Filed 1/31/92, Notice 11/13/91—published 2/19/92, effective 7/1/92]
[Filed 3/12/92, Notice 12/11/91—published 4/1/92, effective 5/6/92]
[Filed 5/16/95, Notice 3/15/95—published 6/7/95, effective 7/12/95]

[Filed 11/30/95, Notice 9/13/95—published 12/20/95, effective 1/24/96]
[Filed 1/21/97, Notice 8/14/96—published 2/12/97, effective 3/19/97]
[Filed 7/11/97, Notice 4/23/97—published 7/30/97, effective 9/3/97]
[Filed emergency 7/25/97—published 8/13/97, effective 7/25/97]
[Filed emergency 11/14/97—published 12/3/97, effective 11/14/97]
[Filed 11/14/97, Notice 8/13/97—published 12/3/97, effective 1/7/98]
[Filed 3/31/98, Notice 12/3/97—published 4/22/98, effective 5/27/98]
[Filed 1/15/04, Notice 12/10/03—published 2/4/04, effective 3/10/04]
[Filed 3/12/04, Notice 1/7/04—published 3/31/04, effective 5/5/04]
[Filed 9/20/06, Notice 8/2/06—published 10/11/06, effective 11/15/06][2]
[Filed 11/15/06, Notice 10/11/06—published 12/6/06, effective 1/10/07]
[Filed ARC 0764C (Notice ARC 0599C, IAB 2/6/13), IAB 5/29/13, effective 7/3/13]
[Filed ARC 0903C (Notice ARC 0776C, IAB 5/29/13), IAB 8/7/13, effective 9/11/13]
[Filed Without Notice ARC 0906C, IAB 8/7/13, effective 11/6/13]
[Filed ARC 1205C (Notice ARC 1082C, IAB 10/2/13), IAB 12/11/13, effective 1/15/14]
[Filed ARC 1204C (Notice ARC 1083C, IAB 10/2/13), IAB 12/11/13, effective 1/15/14]
[Filed ARC 1752C (Notice ARC 1648C, IAB 10/1/14), IAB 12/10/14, effective 1/14/15]

◊ Two or more ARCs
[1] See IAB, Inspections and Appeals Department.
[2] Two ARCs

INTERPRETIVE GUIDELINES*

These guidelines are included in the Iowa Administrative Code pursuant to Iowa Code section 135C.2(3)*"d"* and are not subject to the rule-making provisions in Iowa Code sections 17A.4 and 17A.5.

440.150(c) The statutory and regulatory use of the word "institution" includes settings that serve four or more people with mental retardation and/or related conditions.

See §435.1009 for definition of "persons with related conditions."

The presence or absence of an individual requiring a medical care plan, as defined at W320, is not salient in the determination of whether a facility is eligible to participate in the ICF/MR program.

483.410(a)(1) The responsibility for direction includes areas such as health, safety, sanitation, maintenance and repair, and utilization and management of staff, especially when problems in these areas are of a serious or recurrent nature. Condition level deficiencies (other than the Governing Body Condition) or repeat, pervasive patterns of deficiencies at the Standard level may be an indication that the governing body is not providing sufficient operating direction over the facility. When a pattern of serious or repeated deficiencies is identified during the survey, interview the administrator or review the minutes of governing body meetings, if available, to determine whether or not the governing body has identified and addressed the problem.

Staff who have been trained, but are not implementing programs or are inappropriately deployed (e.g., there are enough staff but they are assigned to duties like record keeping which prevents them from delivering needed services), may indicate a failure of the governing body to adequately direct the staff's activities.

483.410(b) Licenses, permits, and approvals of the facility must be available to you upon request. Current reports of inspections by State and/or local health authorities are on file, and notations are made of action taken by the facility to correct deficiencies.

Some State or local laws are more stringent or prescriptive than the Federal Medicaid requirement on the same issue. Failure of the facility to meet a Federal (i.e., non- Medicare or Medicaid), State or local law may be cited only when the authority having jurisdiction (AHJ) has both made a determination of non-compliance and has taken a final adverse action.

An adverse action is defined as any procedure that goes beyond the approval of a plan of correction, such as a civil money penalty, ban on admissions, denial of payment, or loss of license, and is not under appeal by the provider. The AHJ is the public official(s) having authority to make a determination of noncompliance, and is responsible for signing correspondence notifying the facility of the adverse action.

If you believe you have identified a situation indicating the provider may not be in compliance with a Federal, State or local law, refer that information to the AHJ for follow-up action. If a final adverse action results, then the facility could be found to not meet §483.410(b).

483.410(c)(1) The structure and content of the individual's record must be an accurate, functional representation of the actual experience of the individual in the facility. This should be identified through interviews with staff and, when possible, with individuals being served, as well as through observations.

The regulations do not specify that all information about an individual be located in the individual program plan (IPP) document, only that information explicitly identified in the regulations. The regulations do not prescribe the manner, form or where in the individual's record this information is to be recorded.

483.410(c)(2) "Keep confidential" means safeguarding the content of information including video, audio, and/or computer stored information from unauthorized disclosure without the specific informed consent of the individual, parent of a minor child, or legal guardian, and consistent with the advocate's right of access, as required in the Developmental Disabilities Act. Facility staff and consultants, hired to provide services to the individual, should have access to only that portion of information that is necessary to provide effective responsive services to the individual.

*Editor's Note: Verbatim from federal regulations—neither the Department nor the Administrative Code Editors have attempted to correct inconsistencies in numbering, spelling or grammar.

Confidentiality applies to both central records and information kept at dispersed locations. If there is information considered too confidential to place in the record used by all staff (e.g., identification of the family's financial assets, sensitive medical data), it may be retained in a secure place in the facility (e.g., social worker's locked desk). A notation must be made in the record of the location of confidential information (e.g., "Family information is available from the social worker").

The sharing of individual specific information with members of the "specially constituted committee" required by §483.450(f)(3), who are not affiliated with the agency, does not violate an individual's right to have information about him or her kept confidential. The committee needs to know relevant information to function properly.

The facility is allowed the flexibility to work out arrangements with its members to maintain confidentiality.

483.410(c)(3) Although one facet of the requirement is that the facility must decide how this is to be accomplished (i.e., policies and procedures), the surveyor's primary focus should be on the second part of the requirement, i.e., the facility's implementation or "outcome" that consent is obtained prior to the release of any individual information (e.g., records, photographs, interviews, or other means of exposure to public view or identification).

The following guidance is provided to assist in determining whether informed consent for release of information is adequate:

1. Was the confidential information to be released specifically identified?
2. Was the person or agency to whom the information was to be released identified to the consenting party?
3. Was the consent time-limited (i.e., include the date the consent was given, and the date which the specific consent would be invalid)?
4. Was the person giving consent legally able to give consent?

Information regarding an individual's HIV status may not be released without specific consent and may not be in the record if that consent has not been given. Staff are expected to use universal precautions when dealing with all individuals, therefore, it is unnecessary to routinely share information about HIV status with all staff. Under some conditions, knowledge may be shared with those directly involved in the care of infected persons. Surveyors should be familiar with State law requirements.

483.410(c)(4) In cases in which facilities have created the option for an individual's record to be maintained by computer, rather than hard copy, electronic signatures are acceptable.

Given the large number of entries that are made in individual's records, this requirement is cited only when a systemic problem is identified.

483.410(c)(6) "Appropriate" means those parts of each individual's record most likely (or known) to be needed by the residential staff to carry out the individual's active treatment program in the unit, to alert staff to health risks and other aspects of medical treatment, to support the psychosocial needs of the individual, and anything else necessary to the staff's ability to work on behalf of the individual.

483.410(d)(1) Federal statute (P.L. 94-142) requires all school-aged children to receive a free and appropriate school education. Therefore, a written agreement between ICFs/MR and public schools is not necessary.

483.410(d)(2)(ii) Outside providers of day services would not have to meet certain requirements relating to physical environment under §§483.470 (a)-(g), (j), and (k) unless that source also provides living quarters for ICF/MR individuals. Outside sources must, of course, meet any applicable State and local requirements.

The facility's responsibility includes assuring that any restrictive techniques proposed for use by outside service providers are used only when warranted and with the required safeguards and approvals.

483.410(d)(3) "Assure" means that the facility's staff actively participate with staff in outside programs in the assessment process and in development of objectives and intervention strategies. For example, if a public school is implementing a manual communication system with an individual, the direct care staff in the individual's living unit should have instructions to implement the program in the residential environment. Likewise, if the facility is implementing a behavior management program

for the individual, it should be shared with and implemented as needed by the outside program. This communication is often difficult, but nevertheless essential to the provision of active treatment.

483.410(d)(4) Even though the facility's premises may be rented from a landlord, the facility must ensure that the requirements for physical environment are met, either through arrangement with the landlord or through the facility's own services.

483.420 A citation of W127 or W150, which require that individuals are not subjected to verbal, sexual, or psychological abuse or punishment, is sufficient justification that the facility has failed to comply with the most fundamental of protections and, therefore, does not comply with this Condition of Participation.

483.420(a) "Ensure" means that the facility actively asserts the individual's rights and does not wait for him or her to claim a right. This obligation exists even when the individual is less than fully competent and requires that the facility is actively engaged in activities which result in the pro-active assertion of the individual's rights, e.g., guardianship, advocacy, training programs, use of specially constituted committee, etc.

483.420(a)(1) The obligation to inform requires that the facility present information in a manner and form which can be understood, e.g., use of print materials, specialized programs to inform individuals who are deaf or blind, use of interpreters, etc.

483.420(a)(2) The term "attendant risks of treatment" refers to all treatment, including medical treatment. An individual who refuses a particular treatment (e.g., a behavior control, seizure control medication or a particular intervention strategy) must be offered information about acceptable alternatives to the treatment being refused, if acceptable alternatives are available. The individual's preference about alternatives should be elicited and considered in deciding on the course of treatment. If the individual also refuses the alternative treatment, or if no alternative exists to the treatment refused, the facility must consider the effect this refusal may have on other individuals, the individual himself or herself and the facility, and if it can continue to treat the individual consistent with these regulations. Thus, every effort must be made to assist the individual to understand and cooperate in the legitimate exercise of the IPP.

An individual being considered for participation in experimental research must be fully informed of the nature of the experiment (e.g., medication, treatment) and understand the possible consequences of participating or not participating. The individual's written consent must be received prior to participation. For an individual who is a minor or who has been adjudicated as incompetent, the written informed consent of parents of the minor or the legal guardian is required.

The determination as to whether the individual was sufficiently "informed" is based on the following:

1. Was the individual aware of the proposed program or treatment, the procedures to be followed, and the identification of the person who will perform the treatment activity?
2. Was the individual aware of the intended outcome or benefits of the proposed program or treatment?
3. Was the individual aware of the possible risks, including side effects and attendant discomfort of the proposed program or treatment, and the steps to be taken to minimize risk?
4. Was the individual aware of the ramifications if he or she decided not to participate, and of the alternatives to the proposed activity, particularly alternatives offering less risk or adverse effects?
5. Did the individual participate voluntarily? Did the individual have the opportunity to have questions about the activity answered?
6. Was the information about the activity presented in language that could be readily understood by the individual?

Additionally, for experimental, invasive or potentially harmful treatment, activities or procedures for which written informed consent is recommended, if not otherwise required by State or Federal law:

1. Was the consent time-limited (i.e., include the date the consent was signed and the date it becomes invalid)?
2. Did the individual realize that consent to participate could be withdrawn at any time without risk of punitive action?
3. Was the person who gave consent the legally appropriate party to do so for the individual?

483.420(a)(3) The facility must ensure protection of the individual from any form of reprisal or intimidation as a result of a complaint or grievance reported by an individual.

As long as there are no decisions or circumstances which require action by a legally-appointed surrogate, a spokesperson or advocate could assist the individual in exercising his or her rights as a citizen of the United States and as a person residing in the facility. Some examples might include assisting the individual to express his/her needs, wants and interests, to utilize community resources or to file a complaint. A spokesperson might also express opinions regarding situations in which consent by the beneficiary, parent of a minor, or legal guardian is required in order to bring to the attention of the facility potential concerns or problems.

The extent to which any person can act on behalf of another individual who has been assessed as needing a guardian, however, is entirely dependent upon the needs of the individual client and upon the laws and regulations of the State in which that individual resides. The facility and surveyor must be familiar with the laws and regulations of the State in which the facility is located. It is inappropriate for the facility to unofficially delegate the individual's rights to others (e.g., parents, family, advocacy groups, etc.). To the extent that the individual is able to make decisions for himself or herself, it is inappropriate to delegate the person's rights to others.

Individuals who need guardianship or advocacy, and do not have this need addressed, are not prepared to exercise their rights as citizens of the United States. The facility's failure to ensure guardianship or advocacy for those who need it should be cited. Further deficiencies may also be cited under W123, W124, W143, and W263, depending upon the survey findings.

483.420(a)(4) Since the use of money is a right, determine if the facility demonstrated, based on objective data, that the individual was unable to be taught how to use money before the decision was made to restrict that right.

483.420(a)(5) The facility is responsible to organize itself in such a manner that it proactively assures individuals are free from serious and immediate threat to their physical and psychological health and safety. Citing of this requirement indicates that there is a high probability that abuse to individuals could occur at any time, or already has occurred and may well occur again, if the individuals are not effectively protected from the serious physical or psychological harm or injury, or if the threat is not removed. A citation of this requirement, therefore, must result in a determination of Condition level non-compliance due to immediate and serious threat. Cross reference W122 for additional guidance.

"Threat," as used in this guideline, is any condition/situation which could cause or result in severe, temporary or permanent injury or harm to the mental or physical condition of individuals, or in their death.

"Abuse" refers to the ill-treatment, violation, revilement, malignment, exploitation and/or otherwise disregard of an individual, whether purposeful, or due to carelessness, inattentiveness, or omission of the perpetrator.

"Physical abuse" refers to any physical motion or action, (e.g., hitting, slapping, punching, kicking, pinching, etc.) by which bodily harm or trauma occurs. It includes use of corporal punishment as well as the use of any restrictive, intrusive procedure to control inappropriate behavior for purposes of punishment. Observe individuals to see if they are bruised, cut, burned (cigarettes, etc.).

"Verbal abuse" refers to any use of oral, written or gestured language by which abuse occurs. This includes pejorative and derogatory terms to describe persons with disabilities.

"Psychological abuse" includes, but is not limited to, humiliation, harassment, and threats of punishment or deprivation, sexual coercion, intimidation, whereby individuals suffer psychological harm or trauma.

Individuals must not be subjected to abuse by anyone (including, but not limited to, facility staff, consultants or volunteers, staff of other agencies serving the individual, family members or legal guardians, friends, other individuals, or themselves).

Since many individuals residing in ICFs/MR are unable to communicate feelings of fear, humiliation, etc., the assumption must be made that any actions that would usually be viewed as psychologically or verbally abusive by a member of the general public, is also viewed as abusive by the individual residing in the ICF/MR, regardless of that individual's perceived ability to comprehend the nature of the incident.

The facility must take whatever action is necessary to protect the individuals residing there. For example, if a facility is forced by court order or arbitration rulings to retain or reinstate an employee believed to be abusive, the facility may need to take other measures (such as assigning the employee to an area where there is no contact with beneficiaries, providing increased supervision and additional training for the employee, appealing the arbitration or court decision or pursuing formal criminal charges) in order to ensure beneficiary safety.

483.420(a)(6) The chronic use of restraints may indicate one or more of the following: the individual's developmental and/or behavioral needs are not being met and the appropriateness of placement should be questioned; staff behavior may be prompting behaviors in individuals which result in the chronic use of physical restraints and drugs to control behavior; staff may have inadequate training and/or experience to provide active treatment and employ preventive measures that reduce the levels of behaviors judged to require physical restraints and drugs to control behavior; and restraints may be applied to behaviors which are, in fact, not threatening to the health and welfare of the individual or other individuals and staff.

483.420(a)(7) The facility must have a method of arranging for privacy of visits between individuals with significant relationships, if they do not both reside at the facility.

483.420(a)(7) The facility must examine and treat individuals in a manner that maintains the privacy of their bodies. Only employees directly involved in the treatment are present when treatments are given. Some method or mechanism which ensures privacy (such as a closed door, a drawn curtain or systematically implemented training for an individual to use their own methods) must be employed to shield the individual from passers-by. People not involved in the care of the individual should not be present without their consent while they are being examined or treated.

If an individual requires assistance during toileting, bathing, and other personal hygiene activities, staff should assist, giving utmost attention to the individual's need for privacy. There is no prohibition, however, on staff to work with individuals of the opposite sex.

Exercise special attention to ensure that your behavior, during onsite observations in the individual's home, does not violate an individual's right to privacy during treatment and care of personal needs.

483.420(a)(8) "Work," as used in the regulation, means any directed activity, or series of related activities which results in benefit to the economy of the facility or in a contribution to its maintenance, or in the production of a salable product. In deciding whether a particular activity constitutes "work" as defined above, the key determinant is if an individual was unavailable to perform the particular activity or function, would the facility be required to hire additional full or part-time staff (or pay overtime to existing staff) in order to properly maintain the facility or to provide necessary care services to individuals, in order to carry out its assigned mission?

Individuals are not to be used to provide a source of labor for a facility against their will or in opposition to the objectives of the IPP.

Seriously question any situation in which an individual is observed or reported to be "volunteering" to do real work that benefits the facility, or its maintenance without compensation. Interview such individuals to determine if they have given informed consent to such practices and understand that by providing employable services they are able to be compensated. This does not preclude an individual from helping out a friend or being kind to others. Self-care activities related to the care of one's own person are not considered "work" for purposes of compensation.

Regular participation in the domiciliary activities of maintaining one's own immediate household or residential living unit which can lead to the individual's greater functional ability to perform independent household tasks is also not considered "work" for the facility. Shared duties are common and appropriate. Included in, but not limited to, these domiciliary tasks are:

- Meal planning, food purchasing, food preparation, table setting, serving, dishwashing, etc.;
- Household cleaning, laundry;
- Clothes repair;
- Light yard and house maintenance (painting, simple carpentry, etc.); and
- General household shopping, including clothing.

In general, participation in any household task which promotes greater independent functioning (and which the individual has not yet learned) is permitted as long as tasks are included in the IPP in written behavioral and measurable terms. This participation must be supervised, and indices of performance should be available. No task may be performed for the convenience of staff (e.g., supervising individuals, running personal errands) or which has no relationship to the individual's IPP.

As individuals become widely competent and independent in household tasks, they must not be used in those capacities and represented as "in training" and serious consideration should be given to the individual's potential for even less restrictive residential environments. (See also §§483.440(a)(2) and (b)(1).) However, it is acceptable for individuals to engage in household tasks which are in common with other individuals, all sharing the total household tasks commonly shared in nuclear family units. The test in this regard is:

The expectation is that tasks are the general responsibility of the individual, and that the duties rotate to the maximum extent possible; and/or

The individual can assume control in performing the responsibility given (e.g., John has until Thursday at 8 p.m. to clean the living and dining rooms), thereby adding to the development of internal controls and assumption of responsibility by individuals.

Work performed by the individual which no other individual is required or expected to do, or is not a regular part of running the household, must be compensated.

"Compensated" means the receipt of money or other forms of negotiable compensation for work (including work performed in an occupational training program) which is available to the individual, to be used at his or her discretion in determining the benefits to be derived therefrom.

"Prevailing wage" refers to the wage paid to non-disabled workers in nearby industry or the surrounding community for essentially the same type, quality and quantity of work or work requiring comparable skills.

A working individual must be paid at least the prevailing minimum wage except when an appropriate certificate has been obtained by the facility in accordance with current regulations and guidelines issued under the Fair Labor Standards Act, as amended.

Any individual performing work, as defined above, must be compensated in direct proportion to his or her productivity as measured in work equivalents of a regular employee's output. For example, if an individual's productivity for a particular work activity or function is determined to be 30 percent of normal output for an average non-disabled worker, and the prevailing wage is $4.00 an hour, then the individual should be compensated in money at a rate of one dollar and twenty cents per hour (.30 x $4.00 =$1.20). If a piece rate can be determined for a particular job, an individual is paid based on the number of pieces he or she produces. An individual's pay is not dependent on the production of other individuals when he or she works in a group.

When the individual's active treatment program includes assignment to occupational or vocational training or work, specific work objectives of anticipated progress should be included in the IPP along with reasons for the assignments. If the training of individuals on particular occupational activities or functions involves "real work" to be accomplished for the facility, the individuals must be compensated based on ability. For example, if in the process of work training activities involved with learning to clean a floor, the floor for a particular building is cleaned and does not require further janitorial cleanup, then the individual must be compensated for this activity.

483.420(a)(9) Space must be provided for individuals to receive visitors in reasonable comfort and privacy.

483.420(a)(9) Assistance must be provided to individuals who require help in reading or sending mail. Refer to W145.

483.420(a)(11) Outdoor and out of home activities are planned for all individuals on a regular basis.

483.420(a)(12) All individual possessions regardless of their apparent value to others must be treated with respect, for what they are and for what they may represent to the individual. The facility should encourage individuals to use or display possessions of his or her choice in a culturally normative manner. Appropriate personal possessions includes personal care and hygiene items. Individuals should not be without personal possessions because of the behavior of others with whom they live. If a method

for identifying personal effects is used, it should be inconspicuous and in a manner that will assist the individual to identify them.

"Appropriate" clothing means a supply of clothing that is sufficient, in good repair, accounts for a variety of occasions and seasons, and appropriate to age, size, gender, and level of activity. Modification or adaptation of clothing fasteners should be considered based on the needs of an individual with a physical disability to be independent.

As appropriate, each individual's active treatment program maximizes opportunities for choice and self-direction with regard to choosing and shopping for clothing which enhances his or her appearance, and selecting daily clothing in accordance with age, sex and cultural norms. Individuals are permitted to keep personal clothing and possessions for their use while in the facility. Determine how the facility both ensures the safety of personal possessions while at the same time providing individual access to them when the individual chooses.

Individuals are provided the opportunity, encouraged, and trained to use age-appropriate materials. The term "age-appropriate" refers to anything that reinforces recognition of the individual as a person of a certain chronological age. The facility's environment must be furnished with materials and activities that will enhance opportunities for growth. Determine whether the failure of an individual to achieve functional, adaptive skills, or to have opportunities to make informed choices, or to achieve any positive outcomes is a result of the constant use of materials or participation in activities that are age-inappropriate.

483.420(b)(1)(i) A "full and complete accounting for personal funds" does not need to document accounting for incidental expenses or "pocket money," funds a capable individual handles without assistance, funds dispensed to an individual under a program to train the individual in money management, and funds that are not entrusted to the facility (e.g., funds paid directly to the individual's representative payee).

483.420(b)(1)(ii) Although prudent to do so, there is no Federal requirement to maintain individuals' personal funds in financial institutions in interest bearing accounts, or in accounts separate from other individual accounts. However, if the facility elects to pool individuals' funds in an interest bearing account, including common trust accounts, it is expected to know the interest separately accrued by each individual, as part of its required accounting of funds. Interest accumulated to an individual's account belongs to the individual, not the facility.

483.420(b)(2) Parents or other family members should not have automatic access to the financial records of adult individuals. It is not necessary that a facility be required to furnish an annual financial statement to the individual or the individual's family, since the facility is already required to make the financial record available at any time upon request. The individual, in turn, is free to choose to make his or her financial record available to anyone else.

483.420(c)(1) "Unobtainable," as used in this standard, means that the facility has made a bonafide effort to seek parental or guardian participation in the process, even though the effort may ultimately be unsuccessful (for example, the parent may be impossible to locate or may prove unwilling or unable to participate).

"Inappropriate" as used in this standard means that the parent or legal guardian's behavior is so disruptive or uncooperative that others cannot effectively participate; the individual does not wish his or her parent to participate, and the individual is competent to make this decision; or there is strong evidence that the parent or guardian is not acting on the individual's behalf or in the individual's best interest. In the case of the latter, determine what the facility has done to bring effective resolution to the problem.

483.420(c)(2) Where possible, randomly select a family or guardian to validate the quality, nature and frequency of the communications between the facility and families or guardians (but only with their consent). There is no requirement that each contact with family and friends be documented.

483.420(c)(3) Any limitations of visitors are recorded by the interdisciplinary team with reason and time limits given. Decisions to restrict a visitor must be reviewed and re-evaluated each time the IPP is reviewed or at the individual's request. If you find broad restrictions, review general facility access policies.

The facility should have arrangements available to provide privacy for families and others when visiting with individuals.

483.420(c)(5) It is not acceptable for a facility to sponsor or allow individuals to take a particular type of trip that is contraindicated. For example, in the situation of an individual subject to abuse by a parent, the facility obviously is not required to permit such a trip. However, as with any right that may need to be modified or limited, the individual should be provided with the least restrictive and most appropriate alternative available.

483.420(c)(6) "Significant" incidents or changes in the individual's condition refers to any type of occurrence or event, that is perceived to have some level of importance to the individual, family or guardian. Examples include, but are not limited to, allegations of mistreatment, psychological trauma experienced by the individual, loss or change of a program service or staff person, entry or placement in new programs or agencies, day-to-day events on which family members express interest to be informed, etc.

483.420(d)(1) "Mistreatment" as used in this standard, includes behavior or facility practices that result in any type of individual exploitation such as financial, sexual, or criminal.

"Neglect" means failure to provide goods or services necessary to avoid physical or psychological harm.

See W127 for definitions related to "abuse."

483.420(d)(1)(i) See W127, Facility Practices, as related specifically to staff of the facility.

A citation of this requirement indicates that abuse to an individual by staff of the facility is highly likely to occur or has already occurred and may well occur again if the individual is not effectively protected. A citation of this requirement, therefore, must result in Condition-level non-compliance due to immediate and serious threat. Cross reference W122 and W127.

483.420(d)(1)(ii) Cross-reference W465.

483.420(d)(1)(iii) This regulation applies to the hiring of new employees on or after October 3, 1988. The facility is required to screen potential employees for a prior employment history of child or client abuse, neglect or mistreatment, as well as for any conviction based on those offenses. The abuse, neglect or mistreatment must be directed toward a child or an individual who is a client (resident, patient) in order for the prohibition of employment to apply.

This requirement also applies to acts of abuse, neglect or mistreatment committed by a current ICF/MR employee outside the jurisdiction of the ICF/MR (e.g., in the community or in another health care facility). A substantiated allegation of abuse, neglect or mistreatment which occurred after October 3, 1988, (regardless of the date of the person's employment in the ICF/MR), and which resulted in the termination of that person's employment from another health care facility, becomes a part of the person's employment history and the ICF/MR is prohibited from continuing to employ the individual. For example, an individual who abused a resident in a nursing facility and as a result, is barred from employment in the nursing home setting would also be prohibited from employment in the ICF/MR. While facilities are not required to periodically screen existing employees, if the facility becomes aware that such action has been taken against an employee, the facility is required to prohibit continued employment. This is also true of any conviction in a court of law for child or client (resident, patient) abuse, neglect or mistreatment. Therefore, conviction for abusing one's own child is also a reason employment would be prohibited.

The definition of "mistreatment" under the guideline at W153 includes financial exploitation. Therefore, if an employee was convicted or had a prior employment history of theft of an individual's funds, that would also be a reason employment would be prohibited.

Access other information, as appropriate, including information contained in "closed" records, in order to adequately evaluate compliance.

483.420(d)(2) The facility is responsible for reporting any injuries of unknown origin and any allegations of mistreatment to an individual residing in the facility regardless of who is the perpetrator (e.g., facility staff, parents, legal guardians, volunteer staff from outside agencies serving the individual, neighbors, or other individuals, etc.).

483.420(d)(3) The facility is responsible for investigating all injuries of unknown origin and must prevent further potential abuse while the investigation is in progress.

483.420(d)(4) Some States require that allegations of abuse must be reported to the police. CMS cannot regulate the activities of the police. However, if the police take longer than five working days for their investigation, the facility is still required to complete an internal investigation report of findings within the five day timeframe. "Working days" means Monday through Friday, excluding State and Federal holidays.

483.420(d)(4) This requirement refers to corrective action taken based upon findings of investigations of incidents which have occurred within the jurisdiction of the facility. It requires that the seriousness of infractions be weighed in the determination of what action is necessary by the facility to correct the situation appropriately. In cases of abuse, neglect or mistreatment by staff, where extenuating circumstances exist and dependent on the nature of the infraction, a remedy that is consistent with appropriate progressive disciplinary measures may be acceptable. When the intentional action or inaction of a staff person has resulted in abuse, neglect or mistreatment which poses a serious and immediate threat to individuals' health and safety, termination of employment is the only acceptable corrective action.

Appropriate corrective action is also required for findings of abuse, neglect or mistreatment by other individuals residing in the facility, staff of outside agencies, parents or any other person, and for injuries to individuals resulting from controllable environmental factors.

Appropriate corrective action is defined as that action which is reasonably likely to prevent the abuse, neglect, mistreatment or injury from recurring.

When an employee appeals a finding of abuse by the facility, whether through arbitration or in a court of law, the decision of the arbitrator or the court of law is then considered the final finding. If the arbitrator found that the charges lacked substance, the allegation would be considered unsubstantiated. The facility, however, is still required to ensure that individuals residing in the facility are not subjected to physical, verbal, sexual or psychological abuse or punishment by W127.

An arbitrator may find that the allegation of abuse is substantiated, but impose a lesser penalty than that which was sought by the facility. For example, the facility may seek termination of employment as the appropriate corrective action but the arbitrator determines that a 10 day suspension is more appropriate. The facts of the situation will have to be evaluated by the surveyor and a judgment made regarding appropriateness. Therefore, while the facility is permitted by the regulation to exercise judgment regarding appropriate corrective action, the surveyor must also exercise judgment and may determine that the corrective action is NOT reasonably likely to prevent the abuse from recurring.

483.430(a) View the person serving in the QMRP role as pivotal to the adequacy of the program the individual receives, since it is this role that is intended to ensure that the individual receives those services and interventions necessary by competent persons capable of delivering them. The paramount importance of having persons competent to judge and supervise active treatment issues cannot be overstated.

An individual's IPP may be coordinated and monitored by more than one QMRP or by other staff persons who perform the QMRP duties. There must, however, be one QMRP who is assigned primary responsibility and accountability for the individual's IPP and the QMRP function.

The regulations do not specify if the person designated as QMRP must do the duties of a QMRP exclusively, or is allowed to perform other professional staff duties in addition. The facility has the flexibility to allocate staff resources in whatever manner it believes is necessary as long as it ensures that the QMRP function is performed effectively for each individual.

The test of whether the number of QMRPs is adequate rests with the ability of the facility to provide the services described in §483.430(a) in an effective manner. The number will vary depending on such factors as the number of individuals the facility serves, the complexity of needs manifested by these individuals, the number, qualifications and competencies of additional professional staff members, and whether or not other duties are assigned to the QMRP function.

483.430(b)(1) For an active treatment program to be responsive to the individual's unique needs, there must be a foundation of competent professional knowledge that can be drawn upon in the implementation

of the interdisciplinary team process. Individuals with developmental deficits will require initial, temporary, or ongoing services from professional staff, knowledgeable about contemporary care practices associated with these areas. A special mention needs to be made that individuals should not be provided with services that are not needed (e.g., if an individual is basically healthy and not on medication, then the individual should not be provided extensive health and health-related services).

The needs identified in the initial comprehensive functional assessment, as required in §483.440(c)(3)(v), should guide the team in deciding if a particular professional's further involvement is necessary and, if so, to what extent professional involvement must continue on a direct or indirect basis.

Since such needed professional expertise may fall within the purview of multiple professional disciplines, based on overlapping training and experience, determine if the facility's delivery of professional services is adequate by the extent to which individuals' needs are aggressively and competently addressed. Some examples in which professional expertise may overlap include:

- Physical development and health: nurse (routine medical or nursing care needs that do not interfere with participation in other programs); physician, physician assistant, nurse practitioner (acute major medical intervention, or the treatment of chronic medical needs which will be dependent upon an individual's success or failure in other treatment programs).
- Nutritional status: nurse (routine nutritional needs that do not affect participation in other programs); nutritionist or dietitian (chronic health problems related to nutritional deficiencies, modified or special diets).
- Sensorimotor development: physical educators, adaptive physical educators, recreation therapists, (routine motor needs involving varying degrees of physical fitness or dexterity); special educators or other visual impairment specialists (specialized mobility training and orientation needs); occupational therapist, physical therapist, physiatrist (specialized fine and gross motor needs caused by muscular, neuromuscular, or physical limitations, and which may require the therapeutic use of adaptive equipment or adapted augmentative communication devices to increase functional independence); dietitians to increase specialized fine and gross motor skills in eating.
- Affective (emotional) development: special educators, social workers, psychologists, psychiatrists, mental health counselors, rehabilitation counselors, behavior therapists, behavior management specialists.
- Speech and language (communication) development: speech-language pathologists, special educators for people who are deaf or hearing impaired.
- Auditory functioning: audiologists (basic or comprehensive audiologic assessment and use of amplification equipment); speech-language pathologists (like audiologists, may perform aural rehabilitation); special educators for individuals who are hearing impaired.
- Cognitive development: teacher (if required by law, i.e., school aged children, or if pursuit of GED is indicated), psychologist, speech-language pathologist.
- Vocational development: vocational educators, occupational educators, occupational therapists, vocational rehabilitation counselors, or other work specialists (if development of specific vocational skills or work placement is indicated).
- Social Development: teachers, professional recreation staff, social workers, psychologists (specialized training needs for social skill development).
- Adaptive behaviors or independent living skills: Special educators, occupational therapists.

483.430(b)(1) There are some individuals in ICFs/MR who can often have their needs effectively met without having direct contact with professional staff on a daily basis. The intent of the requirement is not to require that professionals work directly with individuals on a daily basis, but only as often as an individual's needs indicate that professional contact is necessary. The amount and degree of direct care that professionals must provide will depend on the needs of the individual and the ability of other staff to train and direct individuals on a day-to-day basis.

483.430(b)(2) If there is sufficient evidence that para- and non-professional staff demonstrate the needed competencies to carry through with intervention strategies, you may be satisfied there is sufficient professional staff to carry out the active treatment program. However, if the professional's expertise is

not demonstrable at the para- and non-professional staff level, question both the numbers of professional staff and the effectiveness of the transdisciplinary training of para- and non-professional staff.

483.430(b)(3) "Participate" means providing input through whatever means is necessary to ensure that the individual's IPP is responsive to the individual's needs. The purpose of the interdisciplinary team process is to provide team members with the opportunity to review and discuss information and recommendations relevant to the individual's needs, and to reach decisions as a team, rather than individually, on how best to address those needs. Therefore, determine whether or not there is a pattern of active treatment based on professional participation in the process.

Without a negative outcome to demonstrate that professional involvement in any aspect of the active treatment process (e.g., comprehensive functional assessment, IPP development, program implementation, etc.) was insufficient or inaccurate, the facility is allowed the flexibility to use its resources in a manner that works in behalf of the client, in accordance with the regulations.

483.430(b)(4) "Participate" means both seeking out self-training and provision of training to others.

483.430(b)(5)(i)-(ix) The introductory phrase "to be designated as…" means that a provider is allowed to represent him or herself as a professional provider in that discipline, only if the provider meets State licensing requirements, or if the particular discipline does not fall under State licensure requirements, the provider meets the qualifications specified in §§483.430(b)(5)(i)-(ix). A person who is not qualified, for example, as a social worker, may not be referred to as a social worker per se. Nevertheless, such a person may be able to provide social services in an ICF/MR if there is no conflict with State law, and as long as the individuals' needs are met.

483.430(b)(5)(ix) The Commission on Dietetic Accreditation of the American Dietetic Association is the organization to whom the American Dietetic Association delegates this responsibility.

483.430(b)(5)(x) The intent for including a "human services professional" category is to expand the number and types of persons who could qualify as QMRPs, while still maintaining acceptable professional standards.

"Human services field" includes all the professional disciplines stipulated in §§483.430(a)(3)(i)(ii) and §§483.430(b)(5)(i)-(ix), as well as any related academic disciplines associated with the study of: human behavior (e.g., psychology, sociology, speech communication, gerontology etc.), human skill development (e.g., education, counseling, human development), humans and their cultural behavior (e.g., anthropology), or any other study of services related to basic human care needs (e.g., rehabilitation counseling), or the human condition (e.g., literature, the arts).

An individual with a "bachelors degree in a human services field" means an individual who has received: at least a bachelor's degree from a college or university (master and doctorate degrees are also acceptable) and has received academic credit for a major or minor coursework concentration in a human services field, as defined above. Although a variety of degrees may satisfy the requirements, majors such as geology and chemical engineering are not acceptable.

Taking into consideration a facility's needs, the types of training and coursework that a person has completed, and the intent of the regulation, the facility and you can exercise wide latitude of judgment to determine what constitutes an acceptable "human services" professional. Again, the key concern is the demonstrated competency to do the job.

483.430(c)(1) Volunteers may provide supplementary services. The facility may not rely on volunteers to fill required staff positions and perform direct care services.

Examine closely the adequacy of staffing when individuals served are engaged in the care, training, treatment or supervision of other individuals, either as part of training, "volunteer work," or normal daily routines. (See W131-W132 for additional interpretation of productive work done as a "volunteer" or as part of the individual's active treatment program.) The test of adequacy is whether or not there is sufficient staff to accomplish the job in the absence of the individual's work. Work done as part of an active treatment training program requires that the staff are monitoring and teaching new skills as part of the IPP.

483.430(c)(2) The test of adequacy about "awake" staffing is how well the facility has organized itself to detect and react to potential emergencies, such as fire, injuries, health emergencies described in the

medical care plan (e.g., aspiration, cardiac or respiratory failure, uncontrolled seizures) and behavioral crises described in the IPP.

483.430(c)(3) The intent of the regulation is that at all times a staff person is in a position to help if individual needs arise. For purposes of this provision, "on duty" staff need not be awake during normal bedtime hours.

Facilities sending some or all of the individuals to out of home or off grounds active treatment programs for a majority of the day need not provide a full complement of direct care staff in the residence during their absence. However, a minimum of one staff person must be on duty, if even one individual is present.

483.430(c)(4) "Support staff" include all personnel hired by the facility that are not either direct care staff or professional staff. For example, support staff include, but are not limited to, secretaries, clerks, housekeepers, maintenance and laundry personnel.

Direct care staff should be utilized at their highest level of competence, but they may assume other roles as long as their ability to exercise their primary direct care duties is not diluted. For example, direct care staff may serve as aides in a training program during the hours individuals are away from the living unit.

483.430(d)(1) "Sufficient" direct care staff means the number of staff, over and above the ratios specified in §483.430(d)(3), necessary to implement active treatment, as dictated by the individual's active treatment needs.

Do not look at numbers alone. The facility is responsible for organizing and evaluating its individual appointments, programming schedules, activities, materials, equipment, grouping assignments and available staff in such a way that maximizes benefit to the individual. During the course of the onsite survey, you should be able to observe behavioral evidence of such organization. Evaluate this data in light of the success or failure observed relevant to providing active treatment, and come to a judgment about the adequacy of the facility's staffing.

483.430(d)(2) "Direct care staff" are those personnel whose daily responsibility it is to manage, supervise and provide direct care to individuals in their residential living units. This staff could include professional staff (e.g., registered nurses, social workers) or other support staff, if their primary assigned daily shift function is to provide management, supervision and direct care of individuals' daily needs (e.g., bathing, dressing, feeding, toileting, recreation and reinforcement of active treatment objectives) in their living units. However, professional staff who simply work with individuals in a living unit on a periodic basis cannot be included. Also, supervisors of direct care staff can be counted only if they share in the actual work of the direct care of individuals. Supervisors whose principal assigned function is to supervise other staff cannot be included.

483.430(d)(3) The minimum ratios in this standard indicate the minimum number of direct-care staff that must be present and on duty, 24 hours a day, 365 days a year, for each discrete living unit. It does not include anyone functioning as direct care staff. For example, to calculate the minimum number of living unit staff that must be present and on duty in a discrete living unit serving 16 individuals with multiple disabilities: divide the number of individuals "16," by the number corresponding to the regulation "3.2," the result equals "5." Therefore, the facility must determine how many staff it must hire to ensure that at least 5 staff will be able to be present and on duty during the 24 hour period in which those individuals are present.

Using the living unit described above, "calculated over all shifts in a 24-hour period" means that there are present and on duty every day of the year: one direct care staff for each eight individuals on the first shift (1:8), one direct care staff for each eight individuals on the second shift (1:8), and one direct care staff for each 16 individuals on the third shift (1:16). Therefore, there are five (5) direct care staff present and on duty for each twenty-four hour day, for 16 individuals. The same calculations are made for the other ratios, whichever applies. Determine if absences of staff for breaks and meals results in a pattern of prolonged periods in which present and on-duty staff do not meet the ratios.

483.430(e)(2) View in-service training as a dynamic growth process. It is predicated on the view that all levels of staff can share competencies which enable the individual to benefit from the consistent, wide-spread application of the interventions required by the individual's particular needs.

In the final analysis, the adequacy of the in-service training program is measured in the demonstrated competencies of all levels of staff relevant to the individual's unique needs as well as in terms of the "affective" characteristics of the caregivers and the personal quality of their relationships with the individuals. Observe the staff's knowledge by observing the outcomes of good transdisciplinary staff development (i.e., in the principles of active treatment) in such recommended competencies as:

- Respect, dignity, and positive regard for individuals (e.g., how staff refers to individuals, refer to W150);
- Use of behavioral principles in training interactions between staff and individuals;
- Use of developmental programming principles and techniques, e.g., functional training techniques, task analysis, and effective data keeping procedures;
- Use of accurate procedures regarding abuse detection and prevention, restraints, medications, individual safety, emergencies, etc.;
- Use of adaptive mobility and augmentative communication devices and systems to help individuals achieve independence in basic self-help skills; and
- Use of positive behavior intervention programming.

483.430(e)(3) Observe staff interactions with individuals to see if the specific interventions, techniques and strategies to change inappropriate behavior outlined in the sampled individual's program plans are correctly implemented. In the absence of implementation, investigate further to determine if there was a justifiable reason for not implementing an intervention (e.g., the plan was revised, the specific situation demanded a different approach, the conditions for use of a particular technique were not present, etc.). When staff are unable to demonstrate how to correctly implement an intervention, or are unable to explain when and how the intervention is to be implemented, inadequate training is evident.

483.430(e)(4) Observe whether or not staff are competent and knowledgeable about the needs, programs and progress of each sampled individual with whom they are assigned to work. Staff should be able to demonstrate in practice the results of training for the individuals for whom they are responsible. See guidelines at §483.430(e)(3).

483.440(a)(1) "Continuous" is defined to mean the competent interaction of staff with individuals served at all times, whenever the need arises or opportunities present, in both formal and informal settings.

Verify that active treatment is identifiable during formal and informal interactions between staff and individuals served. The performance of the individual should reflect the success, if any, of interventions being applied or the need to alter the intervention procedures.

The ICF/MR ensures that each individual receives active treatment daily regardless of whether or not an outside resource(s) is used for programming (e.g., public school, day habilitation center, senior day services program, sheltered workshop, supported employment).

Those "active" interventions necessary to prevent or decelerate regression are considered to be part of the overall active treatment program. For example, if the application of a specific stimulation technique to the area of the mouth of an individual with severe physical and medical disabilities, decelerates the individual's rate of reliance on tube feedings, and helps the individual retain ability to take food by mouth, then this intervention is considered to be a component of active treatment for the individual.

Active treatment for elderly individuals may increasingly need to focus on interventions and activities which promote physical wellness and fitness, socialization and tasks that stress maintaining coordination skills and reducing the rate of loss of skills that accompanies the physical aspects of the aging process. Attending a senior center may be a justifiable part of an active treatment program for an elderly person.

Active treatment is the sum total of the major components of the active treatment process or loop which make up the requirements under this Condition of Participation (i.e., assessment, individual program planning, implementation, program documentation, program monitoring and change). It defines the primary nature of the services which must be provided by a facility (and received by its clients) in order to make it eligible under the law to be "certified" as an ICF/MR. Active treatment results in the positive outcomes identified by the Condition-level compliance principles. Surveyors must examine and evaluate all negative findings related to active treatment, and if determined to be significant, those findings should be cited at the salient tag numbers related to each of the components

of the active treatment process. When review of those deficiencies leads to the conclusion that active treatment is not being received, then this standard and the explicit statutory requirement for active treatment at §1905(d)(2) of the Social Security Act are not met. A determination of noncompliance with this requirement, therefore, must also result in a determination of noncompliance at the Condition of Participation level for Active Treatment Services and at §440.150(c), tag number W100.

Although the active treatment process must be identifiable in documentation, it must be observable in daily practice. Determine how the ICF/MR accomplishes (or fails to accomplish) an environment of competence that enables active treatment to occur.

483.440(a)(2) The regulations define the target population eligible for the ICF/MR benefit, by defining the services that are required for a facility to provide in order for it to qualify as an ICF/MR and receive Federal Financial Participation (FFP). At the front end, one of the "required services" is training in basic fundamental skills. The type of skills described in W242, by their very nature, target a population who have significant deficits in growth and development.

The presence of any group of individuals (court-ordered or not), could call into question the overall nature of the services provided by the ICF/MR. Individuals displaying some or all of the characteristics described in the Interpretive Guideline at §483.440(b)(1), do not "need active treatment services" or ICF/MR level of care, and are not appropriately placed. Agencies which provide residential services to persons with mental retardation do not qualify automatically for participation in Medicaid as ICFs/MR. Although the facility may be providing services to meet the needs of these types of individuals, the services provided by the facility do not meet the regulatory definition of "active treatment."

Furthermore, if the primary purpose of the facility is no longer to provide services to persons with mental retardation or related conditions who are in need of active treatment, then the facility does not meet the statutory requirement at §1905(d) of the Social Security Act and the regulatory definition of an ICF/MR, and therefore cannot be certified. A determination of noncompliance with this requirement, therefore, must result in a determination of noncompliance at the Condition of Participation level and at §440.150(c).

Conversely, if the overall facility meets the definition of an ICF/MR, the law does tolerate the presence of a few individuals for whom payment cannot be claimed. If an entity must serve both people who are generally independent and people who are in need of active treatment, then the entity may need to consider establishing a distinct part ICF/MR to serve those individuals who are in need of active treatment.

Negative findings about active treatment with regard to generally independent clients may be in conflict with level of care determinations made by State inspection of care (IOC) teams. Bring these negative active treatment findings to the attention of the IOC agency within the State for appropriate disposition of Medicaid ICF/MR certification. (See also W198, if the negative findings involve newly admitted individuals.)

There are some individuals who need the help of an ICF/MR to continue to function independently because they have learned to depend upon the programmatic structure it provides. The fact that they are not yet independent, even though they can be, makes it appropriate for them to receive active treatment services directed at achieving needed and possible independence.

483.440(b)(1) Individuals with the following characteristics do not necessarily require a continuous active treatment program in order to function or to achieve optimal independence. Review closely to what extent the ICF/MR serves individuals, who in the aggregate:

- Are independent without aggressive and consistent training;
- Are usually able to apply skills learned in training situations to other settings and environments;
- Are generally able to take care of most of their personal care needs, make known to others their basic needs and wants, and understand simple commands;
- Are capable of working at a competitive wage level without support, and to some extent, are able to engage appropriately in social interactions;
- Are engaged in productive work within the facility which is done at an acceptable level of independence (i.e., not done as part of a training program to teach the individual new skills);

- Are able usually, to conduct themselves appropriately when allowed to have time away from the facility's premises; and
- Do not require the range of professional services or interventions in order to make progress.

Based on the order of a court, the ICF/MR may be required to admit individuals who do not need active treatment. Although CMS has no jurisdiction to prevent the courts from ordering the placements of such individuals into institutions certified as ICFs/MR, the individuals, by definition, would be ineligible to be classified by Medicaid for the ICF/MR benefit. To the extent that the placement of these court-ordered individuals does not interfere with the ability of the ICF/MR to provide active treatment for its individuals, the facility's overall certification is not affected.

483.440(b)(2) No admission should be regarded as permanent. Readmission of an individual to the ICF/MR falls under the same requirements as initial admission.

In the absence of State regulations designating the person(s) authorized to approve admission (e.g., State or Regional Admissions Committees), the decision to admit an individual to the ICF/MR is based on the findings of an interdisciplinary team, including a QMRP.

Occasionally, emergency admissions of individuals may occur without benefit of a preliminary evaluation having been conducted prior to admission. For purposes of §483.440(b)(2) and consistent with §456.370(a), this requirement will be considered as "met" at such time that an evaluation is conducted which supports the need for an individual's placement in the ICF/MR. Refer to W210.

483.440(b)(3) The facility must decide, based on objective data, whether or not needs can be met. In some cases, the facility may be required to meet the "reasonable accommodation" requirement of the Americans with Disabilities Act. Failure to admit individuals merely because they have a particular medical condition may constitute a civil rights violation. All such instances should be reported to the Office of Civil Rights for investigation.

483.440(b)(4)(i) "Transfer" means the temporary movement of an individual between facilities, the temporary movement from the ICF/MR to a psychiatric or medical hospital for medical reasons, the permanent movement of an individual between living units of the same facility, or the permanent movement of an entire facility (including individuals served, staff and records) to a new location. "Discharge" means the permanent movement of an individual to another facility or setting which operates independently from the ICF/MR. Moving an individual for "good cause" means for any reason that is in the best interest of the individual.

483.440(b)(4)(ii) The family and the individual should be involved in any decision to move an individual, since this decision generally, should be part of a team process that includes the individual or guardian. If an individual has an advocate, the advocate should participate in the decision-making process.

483.440(b)(5)(ii) The discharge plan required by 42 CFR 456.380 and the post-discharge plan of care are the same. The regulations require only one discharge plan which meets the requirements.

483.440(c)(1) There is no "correct" number of individuals who comprise the interdisciplinary team. The regulation also does not specify the professional disciplines which make up the interdisciplinary team. Based upon outcomes, assess whether the expertise available to the team was appropriate to meet the needs of the individual.

The facility must make every effort to coordinate the IEP or program plan from an outside day program with the IPP process. This may result in a single IEP/IPP document, but there is no requirement for the IPP to be one document. The "collective" IPP must contain the information required under the regulations, and observation should confirm integration of the IPP across the various settings.

Negative answers to the following probes may indicate a lack of input from appropriate team members. Evaluate findings for systemic lack of input by a particular team member, lack of communication among team members, or lack of team effort and cooperation.

483.440(c)(2) Meetings should be scheduled and conducted to facilitate the participation of all members of the team, but especially the individual, unless he or she is clearly unable or unwilling, the individual's parents (except in the case of a competent adult who does not desire them to do so) or the individual's guardian or legal representative. The ICF/MR is expected to pursue aggressively the attendance of all relevant participants at the team meeting, (e.g., a conference call with a consultant during deliberations meets this requirement). Question routine "unscheduled" absences by individuals, guardians and

particular disciplines or consultants, and determine the impact on effectiveness and responsiveness of the IPP to meet the individual's needs.

483.440(c)(3) "Accurate" assessments refer to assessment data that are current, relevant and valid, and that the skills, abilities, and training needs identified by the assessment correspond to the individual's actual status. Additionally, for assessment data to be accurate, the cultural background and experience of the individual must be reflected in the choice, administration and interpretation of the evaluation(s) used. A few examples of appropriate adaptations might be: specialized equipment, use of an interpreter, use of manual communication, tests designed to measure performance in the presence of visual disability, etc.

The contents of assessments or the particular assessment which must be used are not specified. A nursing assessment, for example, would not need to reference all domains, or a psychiatric or psychological evaluation would not necessarily have to be based on a particular "tool." Similarly, the results of the comprehensive assessment are not required to be written into a narrative report(s). Verify that the tests, evaluations, etc. that comprise the comprehensive functional assessment, yield data that are accurate, reflect the current status and needs of the individual, and can serve as a functional basis for an IPP to be developed.

483.440(c)(3) The active treatment assessment process should be sensitive to the behaviors of individuals throughout their life span. For example, infants and toddlers are expected to engage in more play-related, exploratory activities, adolescents are expected to engage in activities of increasingly greater responsibility in preparation for adulthood, adults are expected to support themselves or at least be engaged in training or education activities toward that end, and elderly citizens, are expected to choose whichever form of productive activity meets their needs and interests (employment, handiwork, pursuit of leisure, etc.) for as long as they are able.

483.440(c)(3)(i) In the presence of a diagnoses (medical or otherwise), evaluation data must be available to support the determination.

483.440(c)(3)(ii-iii) The comprehensive functional assessment (CFA) may be a report synthesizing the results of salient assessments or a series of reports. If individual reports are utilized, the complete diagnostic work-up or problem list identified by others is not required to be repeated unless it is relevant to the particular assessment. Findings are recorded in terms that facilitate clear communication across disciplines. Diagnoses or imprecise terms and phrases (including, but not limited to, "grade level," "age level," "developmental level," "good attending skills," and "poor motor ability") in the absence of specific terms, are not acceptable.

Assessment of the behavior assumed to be maladaptive should include analyses of the potential causes, such as lack of exposure to positive models and teaching strategies, lack of ability to communicate needs and desires, lack of success experiences, a history of punishing experiences, presence of a physiological condition, or other environmental or social conditions which may elicit or sustain the behavior.

Specific "developmental" strengths and needs describe what the individual "can" and cannot do.

483.440(c)(3)(iv) In the presence of significant developmental deficits, it is not acceptable for the comprehensive evaluation to identify that a particular professional therapy or treatment is not needed. To meet the requirement for "need for service," the assessment must identify the course of specific interventions recommended to meet the individual's needs in lieu of direct professional therapy or treatment.

483.440(c)(3)(v) The facility must assess in developmental areas, but not by professional disciplines unless the functional assessment shows a need for a full professional evaluation. Findings relative to the domains required under §483.440(c)(3)(v) include, but are not limited to:

483.440(c)(3)(v) 1. Physical development and health. Physical development includes the individual's developmental history, results of the physical examination conducted by a licensed physician, physician assistant, or nurse practitioner, health assessment data (including a medication and immunization history), which may be compiled by a nurse, and skills normally associated with the monitoring and supervision of one's own health status, and administration and or scheduling of one's own medical treatments. When indicated by physical examination results, consultations by specialists are provided

or obtained. The need for advance directives or do not resuscitate (DNR) orders may be assessed on a case-by-case basis, as part of this area by individuals qualified to do so.

483.440(c)(3)(v) 2. Nutritional status. Nutritional status includes determination of appropriateness of diet, adequacy of total food intake, and the skills associated with eating, (including chewing, sucking and swallowing disorders), food service practices, and monitoring and supervision of one's own nutritional status.

483.440(c)(3)(v) 3. Sensorimotor development. Sensory development includes the development of perceptual skills that are involved in observing the environment and making sense of it. Motor development includes those behaviors that primarily involve: muscular, neuromuscular, or physical skills and varying degrees of physical dexterity. Because sensory and motor development are intimately related, and because activities in these areas are functionally inseparable, attention to these two aspects of bodily activity is often combined in the concept of sensorimotor development. Assessment data identify the extent to which corrective, orthotic, prosthetic, or support devices would impact on functional status.

483.440(c)(3)(v) 4. Affective (Emotional) development. Affective or emotional development includes the development of behaviors that relate to one's interests, attitudes, values, and emotional expressions.

483.440(c)(3)(v) 5. Speech and language (communication) development. Communication development refers to the development of both verbal and nonverbal and receptive and expressive communication skills. Assessment data identify the appropriate intervention strategy to be applied, and which, if any, augmentative or assistive devices will improve communication and functional status.

483.440(c)(3)(v) 6. Auditory functioning. Auditory functioning refers to the extent to which a person can hear and to the maximum use of residual hearing if a hearing loss exists and whether or not the individual will benefit from the use of amplification, including a hearing aid or a program of amplification. An individual's treatment might need to include being desensitized to tolerate the use of a hearing aid or assistive listening device to prevent the device from being rejected or destroyed. Assessment may include teaching techniques for conducting the assessment or the use of electrophysiologic techniques.

483.440(c)(3)(v) 7. Cognitive development. Cognitive development refers to the development of those processes by which information received by the senses is stored, recovered, and used. It includes the development of the processes and abilities involved in memory, reasoning and problem solving.

483.440(c)(3)(v) 8. Social Development. Social development refers to the formation of those self-help, recreation and leisure, and interpersonal skills that enable an individual to establish and maintain appropriate roles and fulfilling relationships with others.

483.440(c)(3)(v) 9. Adaptive behaviors or independent living skills. Adaptive behavior refers to the effectiveness or degree with which individuals meet the standards of personal independence and social responsibility expected of their age and cultural group. Independent living skills include, but are not limited to, such things as meal preparation, doing laundry, bed-making, and budgeting. Assessment may be performed by anyone trained to do so. Standardized tests are not required. Standardized adaptive behavior scales which identify all or predominantly all "developmental needs" are not sufficient enough to meet this requirement, but can serve as a basis for screening.

483.440(c)(3)(v) 10. Vocational (prevocational) development, "as applicable." Vocational development refers to work interests, work skills, work attitudes, work-related behaviors, and present and future employment options. The determination of whether or not a vocational assessment is "applicable" is typically based on age (adolescents or adults more than likely require this type of assessment).

483.440(c)(4) The presence of a comprehensive list of behaviorally stated needs is acceptable for this portion of the requirement. "Comprehensive" means that objectives are stated for the needs identified in each domain included in the comprehensive functional assessment.

Objectives may address services to be provided, learning/treatment needs, adaptive equipment, etc., §§483.440(c)(4)(i)-(v) regulate requirements for current IPP training objectives (as opposed to staff, service, or long term objectives).

Validate that the needs identified by the team are appropriate for the individual based upon review of the comprehensive functional assessment data, observations, and interviews with the individual and staff.

483.440(c)(4) To organize objectives into a planned sequence the ICF/MR must consider the outcomes it projects for the individual in the long term. For example, if the long term objective is for the individual to travel independently in the community, the planned sequence may involve training the individual to recognize traffic signs, cross a street safely, and to obtain help when needed if lost or an emergency arises. Interview staff to discover the purpose to be achieved upon completion of the objective. For example, does staff know why an individual is taught to stack rings?

483.440(c)(4)(i) "Single" behavioral outcome means that for each discrete behavior that the team intends the individual to learn a separate objective is assigned. (For example, "Mary will bake a cake and clean the oven" are two separate behaviors and, therefore, should be stated in two separate objectives.) Performance of a series of separate behaviors could constitute a single behavioral outcome when appropriate for the individual. For example, completing a hygiene routine of face washing, tooth-brushing and hair-combing is one behavioral outcome when the individual is able to perform each of those skills, but needs to learn to complete the entire routine each morning.

483.440(c)(4)(ii) The "projected date of completion" for an IPP objective is not the same as a "review" date. For each objective assigned priority, the team should assign a projected date (month and year) by which it believes the individual will have learned the new skill, based on all of the assessment data. This date triggers the team to evaluate continuously whether or not the individual's progress or learning curve is sufficient to warrant a revision to the training program. There is no requirement to identify an implementation date for each objective in the plan.

483.440(c)(4)(iii) "Behavioral" terms include only those behaviors which are "individual" rather than "staff" oriented and those that any person would agree can be seen or heard. Determine if all staff who work with the individual can define the exact same outcome on which to measure the individual's performance. "Measurable indices of performance" are the quantifiable criteria to use in determining successful achievement of the objective. Criteria include various measurements of intensity and duration. For example, "M. will walk ten feet, with her tripod walker, for 5 consecutive days."

483.440(c)(4)(iv) To organize an objective in an appropriate progression, the ICF/MR must consider the person's current functional abilities and project what steps, methods and strategies are likely to be effective in achieving the objective. Baseline data are one means of establishing an appropriate starting point for an objective. Objectives must be adapted based upon the person's functional abilities. For example, if the objective is to learn to put on shoes independently and the person does not have the manual dexterity to tie shoe laces, then the objective could include the use of slip-on shoes or shoes with velcro closures in order to facilitate the person learning this skill.

483.440(c)(4)(v) After all the training objectives have been established as required by W227, the IPP identifies those objectives which the team considers to be most important, or which need to be implemented before others can be accomplished, and then assigns them priority. Some examples of assigning priority include, but are not limited to, rank ordering (most important to least important), assignment of "priority" or "non-priority," etc.

483.440(c)(5) The written training program refers only to those objectives to which the team has assigned priority status for formal implementation.

483.440(c)(5)(iii) This may or may not be the same person who implements the program. There is no requirement to identify who implements the program.

483.440(c)(5)(iv) The facility must determine the type of data necessary to judge an individual's progress on an objective, and describe that data collection method in the written training program. The facility determines what data to collect, but the system chosen must yield accurate measurement of the criteria stated in the individual's IPP objectives. For example, if the criteria in the individual's IPP objective specified some behavior to be measured by "accuracy," or "successes out of opportunities," then it would not be acceptable for the prescribed data collection method to record "level of prompt."

Methods of data collection on IPP training programs should be based on the total (including direct care) facility's staff analysis and observations of an individual's behavior. Examples of a few data

collection systems include, but are not limited to, level of prompt, successful trials completed out of opportunities given, frequency counts, frequency sampling, etc. The facility should collect data with enough frequency and enough content that it can measure appropriately the individual's performance toward the targeted IPP objective.

483.440(c)(6)(iii) The receipt of training targeted toward amelioration of these most basic skill deficit areas is a critical component of the active treatment program needed by individuals who are eligible for the ICF/MR benefit, and therefore, is a required ICF/MR service. Some ADL skills overlap with each other (e.g., personal hygiene, oral hygiene, grooming and bathing). It is acceptable for the interdisciplinary team to set priorities within these overlapping skills. It must be clear, however, that the facility has organized its services to emphasize training in these areas. This will be seen not only in the IPP, but also in the competent interaction of staff with individuals, in both formal and informal settings. This basic skill training defines the nature of ICF/MR services. To the extent that individuals demonstrate that they increasingly do not need the types of services described in this requirement, and increasingly correspond to the characteristics of clients described at W197 such that the "overall" nature of the facility services would not be required to provide the type of emphasis described at W242, question the appropriateness of the individual's placement in an ICF/MR and/or the certification of the facility as an ICF/MR (see W197 and W198).

"Training" as used in this regulation means:

Aggressive implementation of a systematic program of formal and informal techniques (competent interactions);

Continuously targeted toward the individual achieving the measurable behavioral level of skill competency specified in IPP objectives;

Conducted in all applicable settings; and

Conducted by all personnel involved with the client.

"Developmental incapability" is a decision to be made by the interdisciplinary team based on its assessment of the individual's developmental strengths and needs. For example, there is ample evidence that even individuals with the most severe physical and mental disabilities can be toilet trained. Recognition is given to the fact that some individuals, however, have insufficient sensory and neuromuscular control ever to be totally independent in toileting skills. For most of this group, there are intermediate steps which can be achieved, including toilet scheduling, in which the individual is able to be trained to a schedule of elimination with needed assistance from staff. The intent of the toileting part of this regulation is met if there is evidence that the individual has been provided an aggressive, well organized, and well executed toilet training program in the past and that the team determines the individual's "developmental incapability."

483.440(c)(6)(iv) Mechanical devices used to support an individual's proper body position or alignment may be essential to prevent contractures and deformities, but the staff should be sensitive to the fact that mechanical supports may restrict movement and the individual should not be in the supports all the time or as a substitute for programs or therapy which may reduce the dependency on the support. Some supports allow movement and provide opportunity for more increased functioning. Some examples of devices used as mechanical supports include splints, wedges, bolsters, lap trays, etc.

Wheelchairs are not generally used to position or align the body and would not alone constitute a mechanical support. However, adaptations to wheelchairs which do position or align the body would have to be specified according to this requirement. Adaptations to a wheelchair which facilitate correct body alignment by inhibiting reflexive, involuntary motor activity are also mechanical supports.

483.440(c)(6)(v) With the exception of those individuals who are acutely ill (such as those who are hospitalized or incapacitated by a short term illness), all individuals should be out of bed and outside their bedroom area as long as possible each day, and in proper body alignment at all times. This is a necessity in order to prevent regression, contractures, and deformities and to provide sensory stimulation.

Question patterns of bed rest "orders" or "scheduled" bed rest as a routine part of an individual's program. A nap period of an hour, for example, is not "bed rest." However, if the ICF/MR, as a general pattern of scheduling, expects an individual to be one - two hours in bed in the morning, one - two hours in bed in the afternoon, and an 8:00 p.m. bedtime in the evening, for example, then the practice becomes

"bed rest," and the intent of the regulation will more than likely not be met. Question seriously large amounts of time during which a resident is confined to bed.

483.440(c)(6)(vi) Due to the basic underlying importance "choice" plays in the quality of one's life, the ICF/MR should maximize daily activities for its individuals in such a way that varying degrees of decision-making can be practiced as skills are acquired. Examples of some activities leading toward responsibility for one's own self-management include, but are not limited to, choosing housing or roommates, choosing clothing to purchase or wear, choosing what to eat, making and keeping appointments, and choosing from an array of appropriate activities. Interview staff to determine how attitudes and activities of the team and consultants facilitate or impede individual choice.

Choices can be made by all individuals. The type of choices the person makes may vary from very simple to more complex, depending upon individual abilities. Look at choices in the context of the individuals served by the facility.

483.440(d)(1) For an individual newly admitted to the ICF/MR, the time period between admission and the 30 day interdisciplinary team meeting should be primarily for purposes of assisting the individual to become adjusted and acclimated to his or her new living environment and completing the functional assessment. During this time period the facility should also be providing those services and activities determined during the pre-admission assessment as essential to the individual's daily functioning. In order to be able to produce the comprehensive assessment, the facility must evaluate the individual's status in as many naturally occurring, functional environments as possible.

It must be clear that the active treatment program received by the individual is internally consistent and not simply a series of disconnected formal intervention applications within certain scheduled intervals.

The criteria of what constitutes a "sufficient number and frequency of interventions" are based on the individual's assessment and the progress the individual makes toward achieving IPP objectives.

Whether "structure" must be imposed by staff or whether the individual can direct his or her own activities for a period of time (without direct staff observation) is based on the individual's ability to engage in constructive, age-appropriate, adaptive behavior (without engaging in maladaptive behavior to self or others). Be certain that an individual's time in the home or living unit is maximized toward the further development and refinement (including self-initiation) of appropriate skills, including, but not limited to, leisure and recreation.

For the active treatment process to be effective, the overall pattern of interaction between staff and individuals must be accountable to the comprehensive functional assessment and the IPP process. During the overall observation of individuals, you should be able to track that: the individual's comprehensive assessment identified the specific developmental need or strength justifying the activity, technique or interaction; in the case of a "need," the team projected a measurable objective or target to address it; and the technique, interaction, or activity which is observed, produced the desired target, produced a close approximation of the target, or was modified based on the individual's response.

483.440(d)(2) The active treatment schedule directs the intensity of the daily work of the staff and the individuals in implementation of the IPP in both informal and formal training activities. To the extent possible, the schedule provides a range of options, rather than a fixed regimen. Individuals should have opportunities to choose activities and to engage in them as independently and freely as possible. Staff routines and schedules should be supportive of this goal and result in the presence of reasonable choices by individuals. Investigate any pattern of staff action or scheduling which results routinely in all or the majority of individuals engaging in the same activity or routine at the same time. For example, everyone is out of bed, awake and dressed before staff on the third shift go home, or everyone goes to bed before the third shift arrives.

The active treatment schedule is not required to be posted.

While the facility should have the individual's schedule from the day program, there is no requirement that this schedule and the residential schedule be merged into one document.

483.440(d)(3) The facility is responsible for ensuring that during staff time spent with individuals, the staff member is able to provide needed interventions or reinforce acquired skills in accordance with the

IPP. This is one of the ways the ICF/MR implements continuous active treatment. "All" staff includes direct care staff.

The activities of the ICF/MR are coordinated with other habilitative and training activities in which the individual may participate outside of the ICF/MR, and vice versa.

483.440(e)(1) Data collection is evidence of individual performance and should not be taken constantly as evidence for surveyors that "treatments" occurred. "Data" are defined to be performance information collected and reported in numerical or quantifiable form on training objectives assigned priority in the IPP.

Data are those performance measurements recorded at the time the treatment, procedure, intervention or interaction occurs with the individual. They should be located in a place accessible to staff who conduct training.

483.440(e)(2) See also §483.410(c) Client Records.

483.440(f)(1)(i) - (iv) The interval within which IPP reviews are conducted is determined by the facility. However, the facility's review system must be sufficiently responsive to ensure that the IPP is reviewed whenever the conditions specified in §§483.440(f)(1)(i-iv) occur. Information relevant to IPP changes should be recorded as changes occur.

483.440(f)(2) For the "annual" review to meet the requirement, it must be completed by at least the 365th day after the last review. The ICF/MR may be required to conduct reviews at more frequent intervals by other, more stringent regulations (e.g., 90 day reviews required by §456.380(6)(c), State regulation, etc.). The facility's failure to comply with these other, more stringent regulations would NOT be cited under this requirement. Refer cases of suspected non-compliance to the authority having jurisdiction for the regulations in question.

483.440(f)(2) The review of the CFA applies to all evaluations conducted for an individual, unless otherwise specified in the regulation (e.g., annual physical examination). It is not required that each assessment be completely redone each year. It is required that at least annually the assessment(s) be updated when changes occur so as to accurately reflect the individual's current status. Systematic behaviorally stated data become part of the comprehensive functional evaluation of the individual.

483.440(f)(2) Look for IPPs that are unchanged from one year to the next, for priority skills and behaviors that are deferred or ignored for one reason or the other, and for informal, vague, and programmatically worthless statements in the review (such as "John did better this year - he wasn't as upset most of the time like he used to be"). If the ICF/MR has not been providing the individual with a systematic, behaviorally-oriented active treatment program during the year, the review will be incapable of making systematic, behaviorally-oriented statements about progress and change. If you find problem behaviors which do not decrease significantly, relatively frequent usage of restraint or other intrusive restrictive procedures, a "plateauing" (e.g., reaches partial desired performance, but does not improve over time and staff does not reassess) of skills development, or any other signs of "sameness" year after year, questions should be raised about the extent to which the ICF/MR is providing active treatment, the adequacy of IPPs, staff training, etc., particularly, if many individuals' annual reviews reveal these characteristics.

483.440(f)(3) Depending on its size, complexity and available resources, the ICF/MR may establish one multi-purpose committee to serve it for all advisory functions, or it may establish separate single-purpose committees. The facility's human rights committee may be shared among other agencies or the ICF/MR may utilize a human rights committee established by another governing body, e.g., a county or a statewide group, as long as all pertinent regulatory requirements are met.

The regulation does not specify the professional credentials of the "qualified persons who have either experience or training in contemporary practices to change inappropriate client behavior." There is no requirement that any specific disciplines, such as nurse, physician or pharmacist be members of the committee.

The intent of including "persons with no ownership or controlling interest" on the committee is to assure that, in addition to having no financial interest in the facility, at least one member is an impartial outsider in that he/she would not have an "interest" represented by any other of the required members or the facility itself. Staff and consultants employed by the facility or at another facility under the same governing body cannot fulfill this role.

Although occasional absences from committee meetings are understandable, patterns of absence by the required membership of the committee is not acceptable. At least a quorum of committee members must review, approve and monitor the programs which involve risk to client rights and protections. Depending upon the size of the facility and the number of individuals who need intrusive or restrictive techniques as a part of active treatment programs, more than one specially constituted committee may be needed to effectively meet the intent of the regulation. The facility is responsible to organize itself in a manner which permits the timely review of proposed programs.

483.440(f)(3)(i) Each individual program developed to decrease inappropriate behavior and which involves potential risk to rights and protections must be reviewed and approved by the committee prior to the program's implementation. Some examples of programs requiring review include, but are not limited to, programs incorporating usage of restraints, aversive conditioning, any medication used to modify behavior, contingent denial of any right or "earning" of a right as part of a behavior shaping strategy, and behavioral consequences involving issues of client dignity. There is no requirement for the committee to function as a peer review for technical or clinical adequacy of plans submitted for approval. The purpose is to assure that each individual's rights are protected through use of a group of outside individuals who are not invested in the maintenance of facility practices. The committee reviews the context by which each program is recommended, and then evaluates whether the program's level of intrusiveness is warranted. The committee should consider factors such as whether less intrusive methods have been attempted and whether the severity of behavior outweighs the risks of the proposed program.

The committee need not reapprove a program when revisions are made, as long as those revisions are in accordance with the approved plan. For example, if the physician changes the dosage of a medication in accordance with the drug treatment component of the active treatment plan to which the legally authorized person has given consent and which has already been approved by the committee, then there is no need for the committee or the legally authorized person to reapprove the plan. (See also W263.) Generally, this would also apply if the medication was changed to another within the same therapeutic class or family. Reapproval would be needed, however, if the reason for the change was the individual's strong untoward response to the original medication. Due to the differences in side effects and potential adverse response between drugs of a different class, reapproval would also be required if the new medication was from a different therapeutic class or family of drugs.

483.440(f)(3)(ii) Informed consent consists of permission by the legally responsible party after having been informed of the specific issue, treatment or procedure; the individual's specific status with regard to the issue, treatment or procedure; the attendant risks and benefits; alternative forms of treatment; the right to refuse treatment and the consequences of that refusal. Informed consent implies that the person who is to give consent is competent to evaluate the decision requiring consent.

For children up to the age of 18 the parent (natural guardian) or legally appointed guardian must give consent for him or her. At the age of 18, however, children become adults and are assumed to be competent unless otherwise determined by a court.

For individuals who are minors or who are clearly incompetent, but have no appointed legal guardian, informed consent for use of restrictive programs, practices or procedures must be obtained from the legal guardian, parent or someone or some agency designated by the State, in accordance with State law, to act as the representative of the individual's interests. Become familiar with the statutes of the State in which the ICF/MR is located to determine who or what mechanism is designated to give informed consent in such circumstances. Verify whether or not consent was obtained in accordance with law. Additionally, under these circumstances, the facility is required to identify those individuals, and expected to advocate for them by demonstrating continuing efforts to obtain timely adjudication of the individual's legal status.

The committee must ensure that the informed and voluntary consent of the individual, parent of a minor, legal guardian, or the person or organization designated by the State is obtained prior to each of the following circumstances: the involvement of the individual in research activities, or implementation of programs or practices that could abridge or involve risks to individual protections or rights.

Informed consent should be specific, separate ("blanket" consents are not allowed), and in writing. In case of unplanned events requiring immediate action, verbal consent may be obtained, however, it should be authenticated in writing as soon as reasonably possible.

483.440(f)(3)(iii) The function of the committee is not limited to the review, approval and monitoring of restrictive behavior management practices. Examples of individual rights issues that might be reviewed by the committee, in addition to behavior management, include, but are not limited to, research proposals involving individuals, abuse, neglect and mistreatment of individuals, allegations dealing with theft of an individual's personal property or funds, damage to an individual's goods or denial of other individual rights, individual grievances, visitation procedures, guardianship/advocacy issues, rights training programs, confidentiality issues, advance directives/DNR orders, etc.

483.450(a)(1) "Conduct between staff and clients" refers to the language, actions, discipline, rules, order, and other types of interactions exchanged between staff and individuals or imposed upon individuals by staff during an individual's daily experiences and which affect the quality of an individual's life.

While the regulation requires the development of written policies and procedures, the primary survey emphasis should be placed on the latter aspect of the regulation, i.e., implementation of those policies and procedures. Observations of interactions between staff and individuals should confirm that, to the maximum extent possible, individuals are provided with opportunities for growth and self-determination.

Individual's dignity is respected by staff and their behavior is within the context of any rules of conduct which have been established.

483.450(a)(1)(iii) "Client conduct" refers to any behavior, choice, action, or activity in which an individual may choose to engage alone or with others. The policy or "house rules" include(s), for example: allowable individual conduct (e.g., swearing or cursing, freedom of choice in religion, consumption of alcohol, smoking, sexual relations), reasonable locations where this conduct may or may not occur, and parameters for decision-making when an individual's choice conflicts with the group's choice (e.g., consensus, voting, taking turns, negotiation of differences).

"House rules" on the other hand, may not authorize staff or other individuals served to use a "laundry list" of discipline techniques to control an individual's inappropriate behavior, without regard to individualized need. If it is determined that staff must use a technique or intervention, then its use must be incorporated into an individual program plan that meets all applicable requirements specified in §483.450(b)-(e). Refer to W123.

483.450(b)(1) Use of items, procedures, or systems which are potentially stigmatizing to the individual or otherwise would represent a substantial departure from the behavior of comparable peers without disabilities, to control or prevent inappropriate behavior, falls under this requirement as well. (For example, requiring an individual to live in a locked residence and not providing the individual with a key, using a high crib with bedrails for an adult who gets out of bed at night and wanders or upsets other individuals, requiring an individual who strips off his clothes at inappropriate times to wear a jumpsuit turned backwards, or other odd usages of fashion.)

483.450(b)(1)(iii) You should see clear evidence to justify the use of a more restrictive technique. This requirement does not take away the team's discretion to use technology which represents reasonable standards of good practice, but it does require that there be evidence that justifies any decision not to use a positive or less restrictive technique first. Based on extraordinary circumstances resulting in an emergency, a facility may need to use a more restrictive method of intervention to protect the individual and others from harm than is consistent with the hierarchy it has established. This regulation does not prohibit a facility from using good judgment in this situation.

The surveyor should assess the use of emergency restrictive interventions to assure that the facility could not have reasonably anticipated the behavior, and verify that the team has reviewed the individual program plan for its adequate attention to the problem precipitating the emergency measure.

The facility is not required to justify discontinuing the use of a more restrictive technique before initiating a less restrictive technique, since the intent of the regulation is to use the most positive, least intrusive technique possible.

483.450(b)(5) Ongoing authorization for "programs" or "programmatic usages" of restrictive techniques, in the absence of evidence to justify such usage, constitutes a "standing" or "as needed program" to control inappropriate behavior, and are therefore not permitted.

483.450(c)(1) The use of time-out rooms is effective only if the individual does not like to be removed from an activity or from people. Look for patterns of frequent, lengthy time-out usage which often indicates that the environment is not reinforcing to the individual (i.e., the activities in and of themselves are not engaging, and/or the scheduled activities are potentially engaging yet the schedule is not implemented). If the individual who is in a time-out room engages in self-abuse, becomes incontinent or shows other signs of illness, staff should immediately discontinue the procedure and intervene.

Verify whether or not anyone standing or lying in any position, in any part of the time-out room can be seen.

Key locks, latch locks, and doors that open inward without an inside doorknob are not devices or mechanisms which require constant physical pressure from a staff member to keep a door shut, and, therefore, are not permitted by the regulations.

Pressure sensitive mechanisms must allow staff to enter the room at the moment the need arises.

483.450(c)(3) A door that opens inward can potentially be held closed, either intentionally or inadvertently, by the individual in the room, thereby denying staff immediate access to the room.

483.450(d)(1)(ii) "Emergency measure" is defined as use of the least restrictive procedures and for the briefest time necessary to control severely aggressive or destructive behaviors that place the individual or others in imminent danger when those behaviors reasonably could not have been anticipated, and only as they are necessary within the context of positive behavioral programming. Examine closely how frequently "emergency measures" are employed. Repeated applications of such measures within short intervals of time, without subsequent incorporation into a written active treatment program, as required by §483.440(c), raises serious questions about the individual's receipt of active treatment and the individual's right to be free from unnecessary restraint.

483.450(d)(2) The facility determines who may authorize use of emergency restraints.

483.450(d)(2)(i) The specific 12-hour authorization and re-authorization to use or extend usage of physical restraints does not apply to restraints used as an integral part of the individual program plan or to those that qualify as a health-related protection, as defined in the regulation.

483.450(d)(2)(ii) This refers to the reporting and retrospective authorization of the emergency measure when no prior use authorization could be obtained due to the seriousness and immediacy of the event.

483.450(d)(4) The frequency of monitoring will vary according to the type and design of the device and the psychological and physical well-being of the individual. For example, an individual in four-point restraints might require constant monitoring while someone in soft mittens may require less frequent monitoring. It is also true that for some individuals, constant visual supervision would serve to reinforce the inappropriate behavior and thereby reduce the clinical effectiveness of using the restraint. However, in no case may the 30 minute time limit be extended.

"As quickly as possible" means as soon as the individual is calm or no longer a danger to self or others.

483.450(D)(6) "Motion and exercise" includes an opportunity for liquid intake and toileting, if needed by the individual.

483.450(d)(6) In the presence of a restraint being worn during sleeping hours, surveyors must determine whether it is truly the nature of the individual's behavior which warrants this significant level of intrusion, or whether it in fact is a substitute for lower staffing during night time hours. The "motion and exercise" requirement applies to all restraints which restrict the range of motion of a limb or joint. Therefore, for example, if a helmet is applied to protect a head wound during sleeping hours, and the individual's range of motion in the neck has not been affected, then this requirement does not apply.

This requirement also does not apply to cases of medical restraints that are specifically ordered for the immobilization of bones and joints during the physical healing process involved with fractures, sprains, etc. (e.g., a broken bone immobilized by a cast or splint). However, if a physical restraint was applied to an extremity to prevent an individual from removing post-operative sutures, the restraint would be required to be released every two hours for a period of not less than 10 minutes.

Even though usage of mechanical supports, defined at §483.440(c)(6)(vi), may confine the movement of an individual, W306 does not apply to such usage.

483.450(e)(1) Section 483.450(e)(1) applies to all medications, including medications prescribed to control inappropriate behavior.

Overmedication occurs for many reasons. For medications prescribed to control maladaptive behavior, the most common reasons are: the individual's maladaptive behavior may not be responsive to drugs (e.g., if an individual has a non-drug-responsive form of self injury, then use of psychotropics may simply lead up to maximum drug doses without suppressing the behavior), drug therapy may be exacerbating the behavior (e.g., if a drug-induced side effect is mistaken for agitation, then the physician may mistakenly believe that the individual is undermedicated and increase the dose), presence of polypharmacy within the same drug class may result in a drug dose that would exceed the maximum daily limit for any one drug, the individual may be receiving too frequent injections which may result in significant drug accumulation over time, and the use of daily medication plus PRN or stat (one time) doses may result in greater than the recommended daily doses being prescribed (especially since intramuscular administration may be up to four times as potent). Overmedication may also occur as a result of the interaction between drugs, whether these drugs were prescribed for control of inappropriate behavior, or for a physical or medical condition.

Administration of PRN or stat doses for periods greater than a few weeks may indicate that the individual's daily dose is sub-therapeutic, the problem will not respond to the prescribed drug or the drug is exacerbating the problem. In such instances, the surveyor should verify whether or not the drug regimen has been reassessed.

483.450(e)(2) For drugs to be an effective therapeutic tool, they must be prescribed only to the extent that they are necessary for normal medical management of the individual.

In an emergency, a physician may authorize the use of a drug to control an inappropriate behavior. However, orders for continued emergency drug usage cannot continue until the team gives approval and the drug's usage has been included in the plan. Psychotropic drug therapy may not be used outside of an active treatment program targeted to eliminate the specific behaviors which are thought to be drug responsive.

Although only a physician can prescribe medication, the decision to use medication for control of behavior must be based on input from other team members. W329 and W330 address the physician's participation in the person's individual program plan as part of the interdisciplinary team. The interdisciplinary team involvement in this decision-making process is inextricably linked to an obligation to develop and implement effective non-drug interventions that address the targeted behavior. This obligation requires constant monitoring of the non-drug interventions to determine its efficacy, and to determine whether the judicious use of drug therapy may at times be appropriate.

Individuals who receive psychoactive drugs for behaviors associated with a diagnosed mental disorder, require an active treatment program designed to reduce, ameliorate, compensate or eliminate the psychiatric symptoms. The psychiatric diagnosis must be based on a comprehensive psychiatric evaluation in which the evidence supports the conclusion of a psychiatric diagnosis as required by W212. The focus of active treatment, in this instance, would be on the mental health of the individual.

Drugs from categories other than the principle drug classes that have behavior controlling properties (e.g., antipsychotic, antianxiety, and antidepressants) are sometimes used to control inappropriate behavior. Examples include the use of propranolol (Inderal), which is classified as an antihypertensive and antianginal drug, for self-injurious behavior, and carbamazepine (Tegretol), which is an anticonvulsant, for aggression. The regulation was written to encompass any drug when its use is for purposes of controlling inappropriate behavior. This requirement does not apply to drugs, such as propranolol, when they are used to treat medical conditions. However, if their use (e.g. dose, duration, etc.) indicates that they are being used to control inappropriate behavior, the interdisciplinary team must be involved in the decision to use them, and they must be incorporated into the active treatment program plan.

In order for an individual to receive dental or medical treatment, the physician may need to prescribe a sedative as part of the normal medical management for that individual. This situation, occurring rarely,

would not require an active treatment program targeted toward elimination of the behavior. The decision to use sedation for medical appointments must be made on an individual basis, and with input from the interdisciplinary team. When the individual is regularly exhibiting behaviors that are interfering with the ability to receive routine medical and dental treatment, then use of the sedative is required to be incorporated into a specific active treatment program.

483.450(e)(4)(i) Unless the physician regularly evaluates the individual and meets with those who work most closely with the individual to review treatment progress, it will be difficult to assess whether the individual responded positively to the treatment.

Since each drug has a specific profile of side effects, potential reactions should be looked for by direct examination and questioning. It is important that everyone who works with the individual be aware of the conclusion drawn from these drug reviews.

In addition to monitoring at regular intervals, the individual should be assessed at the time the medication is changed, as well. Individuals receiving long term antipsychotic drug therapy should be examined regularly for motor restlessness, such as Parkinsonian symptoms or tardive dyskinesia.

483.450(e)(4)(ii) Planned drug withdrawals must be carefully instituted. For example, usage of antipsychotic drug therapy may not only cause tardive dyskinesia but may mask the clinical manifestations of tardive dyskinesia during treatment. This requirement applies only to drugs prescribed to modify behavior; therefore, if Thorazine is prescribed to decrease aggressive behavior, the annual drug withdrawal requirement applies. However, if Phenobarbital is prescribed to prevent seizures, or Insulin is prescribed to control diabetes, then this requirement does not apply.

In determining whether there is clinical contraindication to the annual drug withdrawal, the physician and interdisciplinary team should consider the individual's clinical history, diagnostic/behavioral status, previous reduction/discontinuation attempts, and current regimen effectiveness. The individual's current clinical status or the nature of a psychiatric illness may indicate that gradual withdrawal of the drug is unwise at this time. It is not acceptable, however, to preclude a gradual drug withdrawal for a person, including a person with a psychiatric impairment, merely because of the possibility that his or her behavior may be exacerbated. Data which shows a direct relationship between past attempts at withdrawal, and an increase in the targeted behavior or symptoms should be available to support the decision not to attempt a gradual withdrawal. This data should reflect the programmatic interventions utilized to respond to the behavior prior to determining that gradual withdrawal is contraindicated. The team should periodically re-evaluate the decision not to attempt a gradual withdrawal based on the individual's progress or other changes in clinical status.

483.460(a)(2) The use of a medical care plan is intended only for those who are so ill or so at medical risk that 24-hour licensed nursing care is essential. A medical care plan need not be developed unless the individual requires licensed nursing care around the clock. Thus, individuals with chronic, but stable health problems such as controlled epilepsy, diabetes, etc. do not require a medical care plan.

It is not required that an individual have a health deficit and/or a medical care plan in order to receive ICF/MR services. The regulation is sufficiently flexible that the entire range of individuals, from those in good physical health to those who are very medically fragile, may be served.

A medical care plan may be temporary, in that it may be established to address acute health problems and then discontinued when those problems are resolved.

483.460(a)(3) Medical services are provided as necessary to maintain an optimum level of health for each individual and to prevent disability. Medical services include evaluation, diagnosis and treatment, as needed, by individuals.

Medical services, including sources for laboratory, radiology, and other medical and remedial services available to the individual must be provided if not provided in-house. There must be a written agreement that specifies the responsibilities of the facility and outside provider. (See §483.410(a).)

483.460(a)(3)(i) This standard is intended to be an annual screening so that individuals who need further indepth examination can be identified. If hearing screens are conducted annually by speech-language pathologists or audiologists the physical exam does not need to repeat this information.

Information relevant to knowing if the individual can see or hear, and how well, is tantamount for designing an appropriate active treatment strategy responsive to need.

If an individual's vision or hearing can only be assessed through examinations conducted by specialists (e.g., comprehensive ophthalmological examinations and evoked response audiometry (ERA)), these tests need not be conducted yearly, but rather upon specialist's recommendations. In such situations determine if yearly, the team evaluates the individual's vision and hearing response behaviors for change, and makes referrals, if necessary.

483.460(a)(3)(ii) These immunization guides can be obtained from the American Academy of Pediatrics, Elk Grove, IL, telephone: (708) 228-5005, or from the Centers for Disease Control, Division of Immunization Center for Preventive Services, telephone: (404) 639-8215.

483.460(a)(3)(iii) This does not preclude screening tests available to the general public such as tests for urine sugar.

483.460(a)(3)(iv) These recommendations can be obtained from the American Academy of Pediatrics, Elk Grove Village, IL, telephone: (708) 228-5005, or the American College of Chest Physicians, Northbrook, IL, telephone: (708) 498-1400.

The American College of Chest Physicians and the American Academy of Pediatrics endorse the recommendations of the Center for Disease Control and Prevention, Guidelines for Preventing the Transmission of Tuberculosis in Health Care Facilities, (most recent edition). The facility should have in place a system appropriate to its population for the identification, reporting, investigation, and control of TB in order to prevent its transmission within the facility. This system should include policies and procedures for screening new employees, new clients, and other people who interact on a consistent basis with individuals residing in the facility; for reporting positive TB test results to the appropriate State authorities; for the investigative procedures that would be put in place should an individual or staff person test positive for TB; and for the evaluation of the effectiveness of the entire system. There should be arrangements with outside service providers, when needed, to ensure that any individual who tests positive for TB will receive appropriate medical treatment. Also, the system should address the issue of any staff member who tests positive for TB. The Occupational Health and Safety Administration (OSHA) requirements regarding exposure control plans and activities may also apply.

483.460(b)(1) During the admission process, which extends from the time the individual is admitted to the time the initial IPP is completed, a physician is required to ensure that an assessment of the individual's medical status is thoroughly considered and addressed by the team as it develops the IPP. The physician's input may be by means of written reports, evaluations, and recommendations.

42 CFR 456.380 requires that a physician must establish a written plan of care for each applicant or recipient before admission to an ICF. This is done in conjunction with the interdisciplinary team. (See §483.440(c).) The written plan of care required by §456.380 and the IPP required by §483.440(c) may be the same document, which can fulfill both requirements.

483.460(b)(2) The need for physician participation is determined by the medical needs of the individual. How the participation (whether through written report, telephone consultation, attendance at the meeting, etc.) is to be accomplished is left to the discretion of the facility.

483.460(c)(1) Unless the individual is on a medical care plan, this participation may be through a written report.

483.460(c)(2) See also W416.

483.460(c)(3)(i) A direct physical examination means a visual review of the body as well as examination of body systems that might be necessary. This includes observing for any clues (including visual, tactile, nonverbal gestures, grimaces, etc.) to detect if there is a potential for needed follow-up and monitoring. A paper review of the individual's medical record and health statistics is not a direct physical examination.

If an individual is on a medical care plan, it is not necessary to perform the quarterly direct nursing physical examination.

483.460(c)(3)(ii) The term "licensed nurse" for purposes of this requirement means a registered nurse, a licensed practical nurse or a licensed vocational nurse. A facility is allowed to use a physician, in place of a licensed nurse, although this is certainly not required.

483.460(c)(3)(iii) "On a quarterly basis" means that the examination must be performed within the month in which the end of the quarter falls. If during the course of a year, there were three examinations

conducted by a licensed nurse and one annual examination performed by a physician, each of which is performed within the month in which the end of the quarter or year falls, the intent of this requirement is met.

483.460(c)(3)(iv) The record includes the date of the exam.

483.460(c)(3)(v) Some physical findings discovered by the nurse while conducting the physical exam will not necessarily result in referral to the physician. This practice is acceptable if the nurse is acting within the scope of the Nurse Practice Act of the State in which he or she is licensed.

483.460(c)(4) This includes nursing care for individuals without a medical care plan.

483.460(c)(5)(i) Facility staff need to know what the limits of their responsibilities are with medically involved individuals, and how to teach individuals on a continuing basis how to take care of minor accidents until further care can be provided.

483.460(d)(2) In evaluating whether or not there is sufficient licensed nursing staff, evaluate the need for licensed nursing care represented by the health characteristics of the individuals served (as described in physical exam results, IPPs, and medical care plans) in relation to the competency and qualifications represented by the staff who provide care (through the onsite survey). Make a judgment about the sufficiency of nursing staff to care for this particular population.

483.460(f)(1) A "month" is defined as the interval between the date of admission and close of business of the corresponding day in the following month.

483.460(f)(2) The requirement applies to all individuals (including those without teeth), and more frequently as dictated by the individual's needs.

483.460(g) Comprehensive dental treatment might include, but is not limited to:

1. Periodic examination and diagnosis, including radiographs, when indicated and detection of all manifestations of systemic disease;
2. Elimination of infection or life hazardous oral conditions, oral cancer, or cellulitis;
3. Treatment of injuries;
4. Restoration of decayed or fractured teeth;
5. Retention or recovery of space between teeth in children, when indicated;
6. Replacement of missing permanent teeth, when indicated; and
7. Appropriate pain control procedures for optimal care of the patient.

483.460(h)(1) A "dental summary" means a brief written report of each visit to the dentist and includes any care instructions to be followed-up by facility staff as a result of treatment.

483.460(i) Emphasis is placed on the provision of the service, and not on its method of delivery. Whether the facility utilizes the unit dose, individual prescription or a combination of these systems, or whether the facility has its own pharmacy or provides the service through arrangement with a community pharmacy, the emphasis is on the accuracy of the drug distribution system and the effectiveness of the drug therapy.

483.460(j)(1) The pharmacist should review on a more frequent basis the drug regimen of individuals whose response indicates problems with drug therapy. Refer to the "Indicators for Surveyor Assessment of the Performance of Drug Regimen Reviews" as stated in Appendix N to the State Operations Manual (Pharmaceutical Service Requirements in Long Term Care Facilities) to evaluate the drug regimen review done by the pharmacist.

483.460(j)(2) The physician and interdisciplinary team must consider the report of the pharmacist and determine whether to accept or reject the recommendations in the report. The pharmacist is not required to repeatedly report the same minor irregularities which have already been considered by the physician and the interdisciplinary team, but were rejected based upon the individual's specific condition.

483.460(j)(4) Each dose of medication, whether self-administered or not, shall be properly recorded in the individual's record. The intent of this requirement is to maintain a record of drugs administered.

483.460(j)(5) This regulation does not exclude the pharmacist from the evaluation process, but the pharmacist can best determine how to expend his/her efforts most productively in service to individuals at the facility.

483.460(k)(2) A medication "error" is a discrepancy between what the physician has ordered, and what you observe during the drug pass observation. The regulation does not allow for any medication errors.

"Self administered" means administration of medications by the individual, independent of a staff person obtaining, selecting, and preparing the medications for the individual. This includes all usage forms (oral, injections and suppositories).

The individual should be trained until he/she can perform this function without error.

483.460(k)(3) "Unlicensed personnel" of the facility does not refer to the situation of individuals administering their own medication. Unlicensed personnel administer only those forms of medication which State law permits.

483.460(k)(6) Do not expect individuals served to be more knowledgeable than members of the general public in order to self-administer medication. There is no requirement for the individual to be able to state both the generic and brand names of the medication being taken, nor is it expected that the individual be able to list all potential side effects of the medication. The test of competency to self-administer is whether the individual can take the correct medication, in the correct dosage, at the correct time.

483.460(k)(7) When individuals go out of a facility for home visits, or to attend workshops or school, drugs they are taking must be packaged and labeled in accordance with State law by a responsible person approved to administer medications. Be aware whether or not there are applicable State laws which may allow packaging by someone other than the pharmacist.

The test of adequacy of packaging and labeling is whether or not other persons administering medications are able to identify the individual's medication, method of administration, contraindications, if appropriate, and administration schedule.

483.460(l)(2) "Authorized persons" must be restricted to those who administer the drugs and nursing supervisors (if any). No other personnel should have access to these keys.

483.460(l)(2) Drugs that are self-administered do not have to be double locked. The purpose for the double locking is to limit access to scheduled drugs. Since the individual is generally the only one who has access to his/her drug supply (with perhaps the exception of a facility's Director of Nursing Services, who may have access to all of the facility's drug supplies), there is no need to further limit access.

483.460(l)(3) The facility may also use the medication administration record for purposes of documenting receipt and disposition of controlled drugs. By recording the amount received, a record of the receipt and disposition, can be realized.

483.460(l)(4) Reconciliation of receipt and disposition of controlled drugs need not be done on each shift. If periodic (e.g., weekly or monthly) reconciliations indicate losses, more frequent reconciliation (daily or by shift) may need to be performed to identify and stop losses.

483.460(m)(3) If a physician discontinues a drug for a particular individual, that particular drug supply should be removed from its usual storage area. This precludes that drug from being administered to the individual in error.

483.460(n) A "laboratory service or test" is defined as any examination or analysis of materials derived from the human body for purposes of providing information for the diagnosis, prevention, or treatment of any disease or impairment of, or the assessment of the health of human beings.

483.460(n)(2) A facility performing any laboratory service or test must have applied to CMS, and received either a certificate of waiver or a certificate of registration. An application for a certificate of waiver may be made if the facility performs only those tests on the waiver list. Those tests are:

- Dipstick or Tablet Reagent Urinalysis (non-automated) for the following:
  - Bilirubin;
  - Glucose;
  - Hemoglobin;
  - Ketone;
  - Leukocytes;
  - Nitrite;
  - pH;
  - Protein;
  - Specific gravity; and
  - Urobilinogen.
- Fecal Occult blood;

- Ovulation tests - visual color comparison tests for human luteinizing hormone;
- Urine pregnancy tests - visual color comparison tests;
- Erythrocyte sedimentation rate (non-automated);
- Hemoglobin - copper sulfate (non-automated);
- Blood glucose by glucose monitoring devices cleared by the FDA specifically for home use;
- Spun microhematocrit; and
- Hemoglobin by single analyte instruments with self-contained or component features to perform specimen/reagent interaction, providing direct measurement and readout.

If the facility performs tests, other than those on the waiver list, a certificate of registration is required. These certificates are required regardless of the frequency with which the laboratory services or tests are conducted. When no tests are performed, a certificate is not needed. Facilities only collecting specimens and not performing testing do not need a certificate.

A not-for-profit or a State or local government organization may have one certificate covering all the facilities it operates (i.e., all the separately certified residences which fall under its governing body), if no more than a total of 15 types of waivered or moderately complex laboratory tests are used.

483.470(a)(1) Individuals should live in the least restrictive grouping in keeping with their level of functioning. Prime consideration in the grouping of individuals is made according to social and intellectual development, friendship patterns, and commonality of interests.

The use of "grossly different ages" is intended to ensure, for example, that very young children are not inappropriately housed together with much older individuals. Extreme differences may in some instances actually impede appropriate training and may pose a threat to the safety of younger, more vulnerable individuals.

483.470(a)(2) The surveyor should determine if the individuals' skill level, rather than the individuals' physical, sensory or medical disability, justifies the housing pattern.

483.470(b)(l)(v) An "initially certified" facility includes any facility or portion thereof that is certified for participation in Medicaid after a period of non-participation (e.g., if its certification has been terminated or voluntarily withdrawn).

Each of the three criteria specified below must exist in order for a facility to qualify as undergoing "major renovations or conversions":

- Individuals must vacate the building during the period of renovation or construction;
- No Medicaid billing takes place during the period of renovation or construction; and
- A resurvey of the building is required before individuals may return to live in the building.

Facilities with buildings which were undergoing major renovations and were not reoccupied prior to October 3, 1988, are expected to meet the floor to ceiling wall requirements. This also applies to those facilities with buildings that had plans for renovation approved prior to October 3. There is no provision in the regulation for granting waivers of this requirement.

In a facility certified prior to October 3, 1988, if the conditions which define "major renovation or conversion" are avoided during installation of walls to divide "open bay sleeping areas," it is allowable for the walls not to extend from floor to ceiling.

483.470(b)(2) The intent of the regulation is to prohibit the housing of individuals in basements that are entirely below grade. Individuals may be housed on the lower level of housing (e.g., a bi-level house), provided the window height requirements are met.

483.470(b)(3) The only acceptable reason for individuals to be housed in bedrooms serving more than four people is because the individual is in very fragile health and needs extensive life support services, such as posturing for clearing the airways, or monitoring for uncontrolled seizures. If more than four people are housed together in the same room, the number should remain small, and each individual placed in the grouping must have a high level of medical monitoring need.

Most extensive life support services, by their very nature are able to be provided by licensed personnel alone, or only under the direct visual supervision of licensed personnel. The presence of a medical care plan is not required because all such life threatening possibilities are difficult to predict. However, the greatest majority of individuals who might qualify for this variance will be on a medical care plan.

See §2140 for the documentation required for a medical variance.

483.470(b)(4)(iii) A single bedspread may be used year round, if it is appropriate for all seasons.

483.470(b)(4)(iv) "Furniture" is to be distinguished from "furnishings" (such as plants, pictures, etc.), which though encouraged as being an appropriate and desirable aspect of a normalized living environment, cannot serve as a substitute for appropriate individual furniture that can be used by the individual alone.

The facility is permitted either to provide the individual with an individualized closet or with a designated area in a shared closet. The use of central clothing bins in a facility clothing room, in the absence of required individual closet space in the bedroom, is not an acceptable practice.

483.470(c)(2) For a storage space to be determined as "suitable," it must assure the safekeeping of the individual's possessions among other things being stored.

Use of the term "accessible" does not require unrestricted access in situations where this is precluded by an active treatment program designed to eliminate inappropriate behavior, or in which the individual's interdisciplinary team determines that unrestricted access would endanger the individual or others. The surveyor should determine whether or not there is a pattern of restricted access not because of the behavior of the individual, but because of the behavior of others with whom the individual lives. This could also raise the question of inappropriate grouping of individuals due to different functioning abilities.

483.470(d)(1) "Bathing facilities appropriate in . . . design" must include provisions for a mirror and sink/tooth-brushing area.

483.470(d)(2) Gang showers and open toilets are inappropriate to the quality of life, privacy, and personal dignity of the individuals served in the facility.

Individual privacy does not preclude the assistance provided by facility staff, when necessitated by the individual's condition.

483.470(d)(3) Individuals must be under the direct supervision of staff while being trained to operate hot water temperature controls.

483.470(e)(1)(i) Since a door serves primarily to provide egress rather than to perform the ventilation and aesthetic functions of an outside window, it may not be used for room ventilation in place of a window.

483.470(e)(2)(i) A "normal comfort range" in most instances is defined as not going below a temperature of 68 degrees Fahrenheit or exceeding a temperature of 81 degrees Fahrenheit for facilities in most geographic areas of the country (primarily at the Northernmost latitudes) where that temperature is exceeded only during rare, brief episodes of unseasonably hot weather.

483.470(f)(1) "Slip-resistant" is to be distinguished from "slip-free." There is a presumption made that floors will ordinarily be dry, and when wet, appropriate precautions will be taken.

483.470(g)(2) The term "furnish" means that the facility is responsible for obtaining or purchasing these items and is responsible for making any necessary arrangements to enable the individual actually to receive them. However, if an item is available free of charge the facility would satisfy the requirement simply by making the necessary arrangements for the individual to receive them. Individuals' personal funds should not be used for these items since this is a covered service under the ICF/MR benefit.

The term "maintain in good repair" means that the facility is responsible for ensuring that these items are kept in good working order.

483.470(g)(3) A bedroom hamper can be an acceptable dirty linen storage "area" if kept odor free, consistent with the infection control requirements at §483.470(l).

483.470(i)(2)(i) All facilities, regardless of their size require actual evacuation. "Actually evacuate," as used in this standard, applies to all individuals. The drills are conducted not only to rehearse the individuals and staff for fire (see §483.470(i)(2)(v)), but for other disasters such as hurricanes, tornadoes, floods, etc. Such disasters would require the entire occupancy to be evacuated, and, therefore, the actual evacuation must be practiced, as required.

483.470(i)(3) Since live-in staff and their relief personnel are generally the same staff who work with the individuals on a round-the-clock basis, they must conduct a minimum of 4 drills a year, each of which must occur at different times within the day (24-hour period) (i.e., morning, afternoon, and night (sleep

time)), and generally when individuals are at different locations within the house. If the facility has large numbers of relief personnel, more drills may be needed to meet the intent of this requirement.

483.470(j) These standards are covered by the Life Safety Code (LSC) survey. The facility must meet the appropriate chapter of the Life Safety Code, 1985 edition.

483.470(l)(1) An "active program" includes such observable practices as: the direct care staff routinely washing their hands or changing gloves after working with an individual who has an infectious disease or working with each individual during mealtimes; the use of aseptic technique, when appropriate; an ongoing program of communicable disease control and investigation of infections; and an active training program that ensures the individuals served receive adequate prevention of transmission information and skills, according to needs.

Procedures must be followed to prevent cross-contamination, including hand washing or changing gloves at mealtimes, after providing personal care to more than one individual, or when performing other tasks among individuals which provide the opportunity for cross-contamination to occur. Facilities for hand washing must exist and be available to staff. Toothbrushes and other personal hygiene items must be stored and used in such a manner to prevent cross-contamination.

Both the OSHA and the CDC have specific requirements regarding human immunodeficiency virus (HIV), TB, and hepatitis precautions. These requirements should be incorporated into the facility's practices when relevant to the individuals residing in the facility. Concerns about OSHA violations should be referred to OSHA.

483.470(l)(3) This regulation does not require the recording or tracking of specific groups of symptoms, if a record of incidents and corrective actions related to infections is maintained. This regulation does not address the form or location of this record or direct that it be separate from the documentation required by CFR 483.410(c)(1).

483.470(l)(4) The facility should use the Recommendations for Prevention of Communicable Disease Transmission in Health Care Settings (such as preventing HIV) issued by the Centers for Disease Control, Atlanta, Georgia 30333, as well as OSHA guidelines in these areas.

A facility participating in the Medicaid program may not discriminate against individuals who are HIV-infected so long as these individuals do not (on a case-by-case basis) pose a substantial health and safety risk to others, or pose a performance problem, and are "otherwise qualified."

483.480(a)(1) "Modified and specially-prescribed" diets are defined as diets that are altered in any way to enable the individual to eat (for example, food that is chopped, pureed, etc.) or diets that are intended to correct or prevent a nutritional deficiency or health problem.

483.480(a)(5) Since the main purpose of food is to support and maintain the health of an individual, it is important that the use of food as a behavior reinforcing device (primary reinforcement) not be abused. Foods are selected to provide essential nutrients. When these foods are routinely removed and denied during the meals, without comparable replacements, the individual is at risk of consuming a diet that is not adequate to meet nutritional needs, and in violation of §483.420(d)(1)(ii), which does not allow food contributing to a nutritionally adequate diet to be used as "punishment." Likewise, the addition of high caloric reinforcers must be coordinated into the total daily diet intake.

483.480(a)(6) For suggested guidelines write to:

1. U.S. Department of Agriculture
   Human Nutrition Information Services
   Washington, D.C. 20250
2. The National Dairy Council
   Rosemont, Illinois 60028-42334

483.480(b)(l)(i) A "substantial evening meal" is defined as offering of three or more menu items at one time, one of which includes a high-quality protein such as meat, fish, eggs, or cheese. The meal represents no less than 20 percent of the day's total nutritional requirements.

483.480(b)(1)(i) A "nourishing snack" is an offering of items, single or in combination, from the daily food guide.

483.480(b)(2)(iii) The term "form," as used in this requirement, refers to food consistency (i.e., pureed, chopped, ground, etc.).

483.480(b)(3) This standard does not apply to food served in family-style dishes, unless the length of time the food is on the table or other considerations (such as individuals fingering or drooling in the food) compromise the safety and nutritive value for reuse of the food.

483.480(d)(1) For purposes of this standard, "dining areas" mean discrete eating areas located outside of bedrooms, established, furnished, and equipped for the purpose of eating meals. For purposes of this standard, provision of meals in dining areas outside of the home (such as restaurants, food vendors, etc.) may also be included.

To the maximum extent possible, individuals should be afforded the opportunity to eat routine meals (like breakfast and dinner) in dining areas that approximate those afforded to their peers without disabilities (e.g., dining areas that are a part of the living unit, rather than eating all meals in buildings exclusively established for eating purposes).

483.480(d)(2) The intent of this regulation is to afford individuals the opportunity to participate in the social experience of dining with their companions. Observe whether or not facility staff model and reinforce appropriate communication and social behavior between dining companions seated at the same table.

483.480(d)(3) Single service eating devices must be discarded after each use.

Determine if the following types of adaptive devices are made available when needed:

- Double suction cups or other devices to anchor dishes on a table or tray for individuals with major coordination problems;
- Rocking one-handed knife-fork or knife-spoon for an individual with the use of only one hand;
- Built up or extended handles or silverware for those with problems of grasp or range of motion;
- Plate guards or plates with raised rims to provide a surface against which the individual with a physical disability can push food onto a fork or a spoon;
- Flexible drinking straws;
- Spoon bent to a 90 degree angle at the bowl or a swivel spoon to assist an individual without normal wrist motions.
- Any other adaptive device deemed by the team as needed by the individual to eat more independently.

483.480(d)(4) To the maximum extent possible, staff should model appropriate mealtime behavior and conversation by sitting at the table with individuals, and, when possible, eating meals with individuals.

Mastery of the social skills involved in eating in a variety of dining areas and settings is another step to the individual's independence beyond the health aspects of nutrition and the basic skills involved in eating independently. Achieving independence will further help the individual to live in less restrictive environments. Determine to what extent individuals are exposed to out-of-the-home dining environments available to the general public (e.g., restaurants, fast-food establishments, picnics, parties, cafeterias, etc.).

Depending on the needs of the individuals and the available space it may be more effective for meals to be conducted in two different seatings or groupings.

483.480(d)(5) This applies to all individuals, including those fed by nasogastric tube or gastrostomy tube. The IPP should identify the most appropriate position for the individual to be positioned during mealtime, in relation to the placement of the food contents.

[**ARC 0906C**, IAB 8/7/13, effective 11/6/13]

CHAPTER 65
INTERMEDIATE CARE FACILITIES FOR PERSONS WITH MENTAL ILLNESS (ICF/PMI)

481—65.1(135C) Definitions. For the purposes of these rules, the following terms shall have the meaning indicated in this chapter. The definitions set out in Iowa Code section 135C.1 shall be considered incorporated verbatim in the rules. The use of the words "shall" and "must" indicate these standards are mandatory.

"Academic services" means those activities provided to assist a person to acquire general information and skills which establish the basis for subsequent acquisition and application of knowledge.

"Activity coordinator" means a person who has completed the state-approved activity coordinator's course.

"Age appropriate" means those activities, settings, and personal appearance and possessions commensurate with the person's chronological age.

"Chronic mental illness" (see the definition of "Mental illness").

"Commission" means the mental health and disability services commission.

"Community living training services" are those activities provided to assist a person to acquire or sustain the knowledge and skills essential to independent functioning to the person's maximum potential in the physical and social environment. These services may focus on the following areas:

1. Independent living skills which include those skills necessary to sustain oneself in the physical environment and are essential to the management of one's personal property and business. This includes self-advocacy skills.
2. Socialization skills which include self-awareness and self-control, social responsiveness, group participation, social amenities and interpersonal skills.
3. Communication skills which include expressive and receptive skills in verbal and nonverbal language, including reading and writing.
4. Leisure time and recreational skills which include the skills necessary for a person to use leisure time in a manner which is satisfying and constructive to the person.
5. Parenting skills which include those skills necessary to meet the needs of the person's child. This service is designed to assist the person with mental illness to acquire or sustain the skills necessary for parenting.

"Department" means the Iowa department of inspections and appeals.

"Dependent adult abuse" is as defined in rule 481—52.1(235E).

"Diagnosis" means the investigation and analysis of the cause or nature of a person's condition, situation or problem.

"Direct care staff" means those staff persons who provide a homelike environment for the residents and assist or supervise the resident in meeting the goals in the resident's program plan.

"Evaluation services" means those activities designed to identify a person's current functioning level and those factors which are barriers to maintaining the current level or achieving a higher level of functioning.

"Exploitation" means the act or process of taking unfair advantage of a resident, or the resident's physical or financial resources for one's own personal or pecuniary profit by the use of undue influence, harassment, duress, deception, false representation or false pretenses.

"Goals" means general statements of attainable expected accomplishments to be achieved in meeting identified needs.

"Incident" means all accidental, purposeful, or other occurrences within the facility or on the premises affecting residents, visitors, or employees whether there is apparent injury or where hidden injury may have occurred.

"Individual program plan (IPP)" means a written plan for the provision of services to the resident that is developed and implemented using an interdisciplinary process that is based on the resident's functional status, strengths, and needs and that identifies service activities designed to enable a person

to maintain or move toward independent functioning. The plan identifies a continuum of development and outlines progressive steps and anticipated outcomes of services.

"Informed consent" means an agreement by a person, or by the person's legally authorized representative, based upon an understanding of:

1. A full explanation of the procedures to be followed including an identification of those that are and are not experimental;
2. A description of the attendant discomforts, risks, and benefits to be expected; and
3. A disclosure of appropriate alternative procedures that would be advantageous for the person.

"Interdisciplinary process" means an approach to assessment, individual program planning, and service implementation in which planning participants function as a team. Each participant utilizing the skills, competencies, insights and perspectives provided by the participant's training and experience focuses on identifying the service needs of the resident and the resident's family. The purpose of the process is for participants to review and discuss, face-to-face, all information and recommendations and to reach decisions as a team. Participants share all information and recommendations, and develop as a team, a single, integrated individual program plan to meet the resident's needs and, when appropriate, the resident's family's needs.

"Interdisciplinary team" means the group of persons who develop a single, integrated individual program plan to meet a resident's needs for services. The interdisciplinary team consists of, at a minimum, the resident, the resident's legal guardian, if applicable, the resident's advocate, if desired by the resident, a referral agency representative, other appropriate staff members, the resident's attending psychiatrist and QMHP, other providers of services, and other persons relevant to the resident's needs.

"Least restrictive environment" means the environment in which the interventions in the lives of people with mental illness can be carried out with a minimum of limitation, intrusion, disruption, and departure from commonly accepted patterns of living.

It is the environment which allows residents to participate, to the maximum extent possible, in everyday life and to have control over the decisions that affect them. It is an environment that provides needed supports which do not interfere with personal liberty and do not unduly interfere with a person's access to the normal events of life.

"Legal services" means those activities designed to assist the person in exercising constitutional and legislatively enacted rights.

"Level of functioning" means a person's current physiological and psychological status and current academic, community living, self-care and vocational skills.

"Mechanical restraint" means a device applied to a person's limbs, head or body which restricts a person's movement and includes, but is not limited to, leather straps, leather cuffs, camisoles or handcuffs.

"Mental abuse" means, but is not limited to, humiliation, harassment, and threats of punishment or deprivation.

"Mental health counselor" means a person who is certified or eligible for certification as a mental health counselor by the National Academy of Certified Clinical Mental Health Counselors.

"Mental health, mental retardation commission" means the commission described in Iowa Code section 225C.5.

"Mental illness" means a substantial disorder of thought or mood which significantly impairs judgment, behavior, or the capacity to recognize reality or the ability to cope with the ordinary demands of life. Mental illnesses include the organic and functional psychoses, neuroses, personality disorders, alcoholism and drug dependence, behavioral disorders and other disorders as defined by the current edition of "American Psychiatric Association Diagnostic and Statistical Manual of Mental Disorders." Mental illness is chronic when it is of long duration or marked by frequent recurrences.

"Normalization" means helping persons, in accordance with their needs and preferences, to achieve a lifestyle that is consistent with the norms and patterns of general society in ways which incorporate the age-appropriate and least restrictive principles.

"Objectives" means specific, time-limited, and measurable statements showing outcomes or accomplishments necessary to progress toward the goal.

"Physical abuse" means, but is not limited to, corporal punishment and the use of restraints as punishment.

"Physical injury" means damage to any bodily tissue to the extent the tissue must undergo a healing process in order to be restored to a sound and healthy condition. It may also mean damage to the extent the bodily tissue cannot be restored to a sound and healthy condition, or results in the death of the resident whose bodily tissue sustained the damage.

"Physical or physiological treatment" means those activities designed to prevent, halt, control, relieve, or reverse symptoms or conditions which interfere with the physical or physiological functioning of the human body.

"Physical restraint" means a technique involving the use of one or more of a staff person's arms, legs, hands or other body areas to restrict or control the movements of a resident. This does not include the use of mechanical restraint.

"Physician" means a person who is currently licensed in Iowa to practice medicine and surgery, osteopathic medicine and surgery, or osteopathy.

"Primary care provider" means any of the following who provide primary care and meet certification standards:

1. A physician who is a family or general practitioner or an internist.
2. An advanced registered nurse practitioner.
3. A physician assistant.

"Program" means a set of related resources and services directed to the accomplishment of a fixed set of goals and objectives for any of the following:

1. Special target populations;
2. The population of a specified geographic area(s);
3. A specified purpose; and
4. A person.

"Psychiatric nurse" means a person who meets the requirements of certified psychiatric-mental health nurse practitioner pursuant to 655—Chapter 7, Iowa Administrative Code, or is eligible for certification.

"Psychiatrist" means a doctor of medicine or osteopathic medicine and surgery who is certified by the American Board of Psychiatry and Neurology or who is eligible for certification.

"Psychologist" means a person who is licensed to practice psychology in the state of Iowa, or is certified by the Iowa department of education as a school psychologist, or is eligible for certification.

"Psychotherapeutic treatment" means those activities designed to assist a person in the identification or modification of beliefs, emotions, attitudes, or behaviors in order to maintain or improve the person's functioning in response to the physical, emotional and social environment.

"Qualified mental health professional (QMHP)" means a person who:

1. Holds at least a master's degree in a mental health field, including but not limited to: psychology, counseling and guidance, nursing and social work; or is a doctor of medicine (M.D.) or a doctor of osteopathic medicine and surgery (D.O.); and
2. Holds a current Iowa license when required by the Iowa licensure law; and
3. Has at least two years of postdegree experience, supervised by a mental health professional, in assessing mental problems and needs of individuals and in providing appropriate mental health services for those individuals. See rule 481—65.4(135C) for variance procedures.

"Resident" means a person who has been admitted to the facility to receive care and services.

"Seclusion" means the isolation of the resident in a locked room which cannot be opened by the resident.

"Self-care training services" means those activities provided to assist a person to acquire or sustain the knowledge, habits and skills essential to the daily needs of the person. The activities focus on personal hygiene, general health maintenance, mobility skills and other activities of daily living.

"Service" means a set of interrelated activities provided to a resident pursuant to the IPP.

"Sexual abuse" means, but is not limited to, the exposing of pubes to a resident, the exposure of a resident's genitals, pubes, breasts or buttocks for sexual satisfaction, fondling or touching the inner thigh,

groin, buttocks, anus or breast of a resident or the clothing covering these areas, sexually suggestive comments or remarks made to a resident, a genital to genital or rectal, or oral to genital or rectal contact, or the commission of a sexual offense under Iowa Code chapter 709 or Iowa Code section 726.2.

"Social worker" means a person who is licensed to practice social work in the state of Iowa, or who is eligible for licensure.

"Support services" means those activities provided to or on behalf of a person in the areas of personal care and assistance and property maintenance in order to allow a person to live in the least restrictive environment.

"Transportation services" means those activities designed to assist a person to travel from one place to another to obtain services or carry out life's activities.

"Verbal abuse" means, but is not limited to, the use of derogatory terms or names, undue voice volume and rude comments, orders or responses to residents.

"Vocational training services" means those activities designed to familiarize a person with production or employment requirements and to maintain or develop the person's ability to function in a work setting. This service includes programming which allows or promotes the development of skills, attitudes and personal attributes appropriate to the work setting.

"Work" means any activity during which a resident provides goods or services for wages.

"Written, in writing or recorded" means that an account or entry is made in a permanent form.

[**ARC 0766C**, IAB 5/29/13, effective 7/3/13; **ARC 1204C**, IAB 12/11/13, effective 1/15/14; **ARC 1752C**, IAB 12/10/14, effective 1/14/15]

481—65.2(135C) Application for license. In order to obtain an initial license for an ICF/PMI, the applicant must comply with the rules and standards contained in Iowa Code chapter 135C and the standards in 481—Chapter 61. Variances from Chapter 61 regulations are allowed under rule 481—61.2(135C). An application must be submitted to the department which states the type and category of license for which the facility is applying.

65.2(1) Each application shall include:

a. A floor plan of each floor of the facility drawn on 8½- × 11-inch paper showing room areas in proportion, room dimensions, room numbers for all rooms, including bathroom, and designation of the use to which room will be put and window and door location;

b. A photograph of the front and side elevation of the facility;

c. The statutory fee for an intermediate care facility license;

d. Evidence of a certificate signed by the state fire marshal or deputy state fire marshal as to compliance with fire safety rules.

65.2(2) A résumé of care with a narrative which includes the following information shall be submitted:

a. The purpose of the facility;

b. A description of the target population and limitations on resident eligibility;

c. An identification and description of the services the facility will provide. This shall include at least specific and measurable goals and objectives for each service available in the facility and a description of the resources needed to provide each service including staff, physical facilities and funds;

d. A description of the human service system available in the area, including, but not limited to, social, public health, visiting nurse, vocational training, employment services, sheltered living arrangements, and services of private agencies; and

e. A description of working relationships with the human service agencies when applicable which shall include at least how the facility will coordinate with:

(1) The department of human services to facilitate continuity of care and coordination of services to residents; and

(2) Other agencies to identify unnecessary duplication of services and plan for development and coordination of needed services.

65.2(3) In order to obtain a renewal or change of ownership license of the ICF/PMI the applicant must:

a. Submit to the department the completed application form 30 days prior to annual license renewal or change of ownership date of the ICF/PMI license;

b. Submit the statutory license fee for an ICF/PMI with the application for renewal or change of ownership;

c. Have an approved current certificate signed by the state fire marshal or deputy state fire marshal as to compliance with fire safety rules; and

d. Submit documentation of review of résumé of care pursuant to subrule 65.2(1), paragraph *"a,"* and a copy of any revisions to the plan.

This rule is intended to implement Iowa Code sections 135C.7 and 135C.9.

[**ARC 1205C**, IAB 12/11/13, effective 1/15/14]

481—65.3(135C) Licenses for distinct parts. Separate licenses may be issued for distinct parts which are clearly identifiable parts of a health care facility, containing contiguous rooms in a separate wing or building or on a separate floor of the facility, which provide care and services of separate categories.

The following requirements shall be met for a separate licensing of a distinct part:

1. The distinct part shall serve only residents who require the category of care and services immediately available to them within that part. (III)

2. The distinct part shall meet all the standards, rules and regulations pertaining to the category for which a license is being sought.

3. The distinct part must be operationally and financially feasible.

4. A separate personal care staff with qualifications appropriate to the care and services being rendered must be regularly assigned and working in the distinct part under responsible management. (III)

5. Separately licensed distinct parts may have certain services such as management, building maintenance, laundry and dietary in common with each other.

This rule is intended to implement Iowa Code section 135C.6(2).

481—65.4(135C) Variances. Variances from these rules may be granted by the director of the department when:

1. The need for a variance has been established consistent with the résumé of care or the resident's individual program plan.

2. There is no danger to the health, safety, welfare or rights of any resident.

3. The variance will apply only to a specific intermediate care facility for the mentally ill.

Variances shall be reviewed at least at the time of each licensure survey and any other time by the department to see if the need for the variance is still acceptable.

65.4(1) To request a variance, the licensee must:

a. Apply in writing on a form provided by the department;

b. Cite the rule or rules from which a variance is desired;

c. State why compliance with the rule or rules cannot be accomplished;

d. Explain how the variance is consistent with the résumé of care or the individual program plan; and

e. Demonstrate that the requested variance will not endanger the health, safety, welfare or rights of any resident.

65.4(2) Upon receipt of a request for variance, the director will:

a. Examine the rule from which the variance is requested;

b. Evaluate the requested variance against the requirement of the rule to determine whether the request is necessary to meet the needs of the residents;

c. Examine the effect of the requested variance on the health, safety or welfare of the residents;

d. Consult with the applicant to obtain additional written information if required; and

e. Obtain approval of the Iowa mental health and disability services commission, when the request is for a variance from the requirement for qualification of a mental health professional.

65.4(3) Based upon this information, approval of the variance will be either granted or denied within 120 days of receipt.
[**ARC 0766C**, IAB 5/29/13, effective 7/3/13]

481—65.5(135C) General requirements.

65.5(1) A valid license shall be posted in each facility so the public can easily see it. (III)

65.5(2) Each license is valid only for the premises and person named on the license and is not transferable.

65.5(3) The posted license shall accurately reflect the current status of the facility. (III)

65.5(4) Each citation or a copy of each citation issued by the department for a Class I or Class II violation shall be prominently posted by the facility in plain view of the residents, visitors, and persons inquiring about placement in the facility. The citation or copy of the citation shall remain posted until the violation is corrected to the satisfaction of the department. (III)

65.5(5) Licenses expire one year after the date of issuance or as indicated on the license.

65.5(6) There shall be no more beds erected than are stipulated on the license. (II, III)

This rule is intended to implement Iowa Code section 135C.8.

481—65.6(135C) Notification required by the department. The department shall be notified within 48 hours, by letter, of any reduction or loss of personal care or dietary staff lasting more than seven days which places the staff ratio below that required for licensing. No additional residents shall be admitted until the minimum staff requirements are achieved. (II, III)

65.6(1) Other required notification and time periods are:

a. Within 30 days of any proposed change in the résumé of care for the ICF/PMI; (II, III)

b. Thirty days before addition, alteration, or new construction is begun in the ICF/PMI or on the premises; (III)

c. Thirty days before the ICF/PMI closes; (III)

d. Within two weeks of any change of administrator; (II, III) and

e. Within 30 days when any change in the category of license is sought. (III)

65.6(2) Prior to the purchase, transfer, assignment, or lease of an ICF/PMI the licensee shall:

a. Inform the department in writing of the pending sale, transfer, assignment, or lease of the facility; (III)

b. Inform the department in writing of the name and address of the prospective purchaser, transferee, assignee or lessee at least 30 days before the sale, transfer, assignment or lease is completed; (III) and

c. Submit a written authorization to the department permitting the department to release information of whatever kind from the department's files concerning the licensee's ICF/PMI to the named prospective purchaser, transferee, assignee or lessee. (III)

65.6(3) After the authorization has been submitted to the department, the department shall upon request send or give copies of all recent licensure surveys and any other pertinent information relating to the facility's licensure status to the prospective purchaser, transferee, assignee or lessee. Costs for copies requested shall be paid by the prospective purchaser, transferee, assignee or lessee. No information personally identifying any resident shall be provided to the prospective purchaser, transferee, assignee or lessee. (II, III)

This rule is intended to implement Iowa Code sections 135C.6(3) and 135C.16(2).

481—65.7(135C) Administrator. Each ICF/PMI shall have one person in charge, duly approved by the department or acting in a provisional capacity in accordance with these regulations. (II, III)

65.7(1) The administrator shall be at least 21 years of age and shall meet at least one of the following conditions:

a. Be licensed in Iowa as a nursing home administrator, or certified as a residential care administrator. No residential care facility administrator certified under a waiver from the department shall administrate an intermediate care facility for persons with mental illness. The administrator must

have at least two years' experience in direct care or supervision of people with mental illness and at least one year of experience in an administrative capacity; (II, III) or

b. Be a qualified mental health professional (QMHP) with at least one year of experience in an administrative capacity. (II, III)

If an ICF/PMI is a distinct part of a licensed health care facility, the administrator of the facility as a whole may serve as the administrator of the ICF/PMI without meeting the requirements of subrule 65.7(1), paragraph *"a"* or *"b."* When this occurs, the person in charge of the ICF/PMI distinct part shall meet the requirements of subrule 65.7(1), paragraph *"a"* or *"b."* (II, III)

65.7(2) The administrator of more than one facility shall be responsible for no more than 150 beds in total. (II, III)

a. The distance between the two farthest facilities shall be no greater than 50 miles. (II, III)

b. An administrator of more than one facility must designate an administrative staff person in each facility who shall be responsible for directing programs in the facility during the administrator's absence. (II, III)

65.7(3) The administrative staff person shall be designated in writing and immediately available to the facility on a 24-hour basis when the administrator is absent and residents are in the facility. (II, III)

The person(s) designated shall:

a. Have at least two years' experience or training in a supervisory or direct care position in a mental health setting; (II, III)

b. Be knowledgeable of the operation of the facility; (II, III)

c. Have access to records concerned with the operation of the facility; (II, III)

d. Be capable of carrying out administrative duties and of assuming administrative responsibilities; (II, III)

e. Be at least 21 years of age; (III)

f. Be empowered to act on behalf of the licensee during the administrator's absence concerning the health, safety and welfare of the residents; (II, III) and

g. Have training to carry out assignments and take care of emergencies and sudden illnesses of residents. (II, III)

65.7(4) If an administrator serves more than one facility, a written plan shall be developed, implemented and available for review by the department designating regular and specific times the administrator will be available to meet with the staff and residents to provide direction and supervision of resident care and services. (II, III)

65.7(5) When a facility has been unable to replace the administrator, through no fault of its own, a provisional administrator meeting the qualifications of the administrative staff person may be appointed on a temporary basis by the licensee to assume the administrative responsibilities for the facility. This person shall not serve more than three months without approval from the department. The department must be notified before the appointment of the provisional administrator. (III)

65.7(6) A facility applying for initial licensing shall not have a provisional administrator. (III)

This rule is intended to implement Iowa Code section 135C.14(2).

481—65.8(135C) Administration.

65.8(1) The licensee shall:

a. Be responsible for the overall operation of the ICF/PMI; (III)

b. Be responsible for compliance with all applicable laws and with the rules of the department; (II, III)

c. Establish written policies, which shall be available for review by the department or other agencies designated by Iowa Code section 135C.16(3), for the operation of the ICF/PMI including, but not limited to: (III)

(1) Personnel; (III)

(2) Admission; (III)

(3) Evaluation services; (II, III)

(4) Programming and individual program plan; (II, III)

(5) Crisis intervention; (II, III)
(6) Discharge or transfer; (III)
(7) Medication management; (II)
(8) Resident property; (II, III)
(9) Financial affairs; (II, III)
(10) Records; (III)
(11) Health and safety; (II, III)
(12) Nutrition; (III)
(13) Physical facilities and maintenance; (III)
(14) Resident rights; (II, III) and

d. Furnish statistical information concerning the operation of the facility to the department within 30 days of request. (III)

65.8(2) The administrator shall be responsible for the implementation of procedures to support the policies established by the licensee. (III)

This rule is intended to implement Iowa Code section 135C.14.

[**ARC 1205C**, IAB 12/11/13, effective 1/15/14]

481—65.9(135C) Personnel.

65.9(1) The personnel policies and procedures shall include the following requirements:

a. Written job descriptions for all employees or agreements for all consultants, which include duties and responsibilities, education, experience, or other requirements, and supervisory relationships; (III)

b. Annual performance evaluations of all employees and consultants which are dated and signed by the employee or consultant and the supervisor; (III)

c. Personnel records which are current, accurate, complete and confidential to the extent allowed by law. The record shall contain documentation of how the employee's or consultant's education and experience are relevant to the position for which they were hired; (III)

d. Roles, responsibilities, and limitation of student interns and volunteers; (III)

e. An orientation program for all newly hired employees and consultants which includes introduction to facility personnel policies and procedures and a discussion of the safety plan. Subparagraphs 65.9(1)*"f"*(3), (5) and (9) shall be included; (II, III)

f. A plan for a continuing education program with a minimum of 12 in-service programs per year. There shall be a written, individualized staff development plan implemented for each employee. The plan shall take into consideration the duties of the employee and the needs of the facility identified in the résumé of care. The plan shall ensure that each employee has the opportunity to develop and enhance skills and to broaden and increase knowledge needed to provide effective resident care including, but not limited to:

(1) First aid; (II, III)
(2) Human needs and behavior; (II, III)
(3) Problems and needs of persons with mental illness; for example, diagnosis and treatment, suicide assessment and prevention; (II, III)
(4) Medication; (II, III)
(5) Crisis intervention; for example, use of restraints and seclusion; (II)
(6) Delivery of services in accordance with the principles of normalization; (III)
(7) Infection control and wellness; (III)
(8) Fire safety, disaster, and tornado preparation; (II, III) and
(9) Resident rights. (II, III)

g. Equal opportunity and affirmative action employment practices; (III)

h. Procedures to be used when disciplining an employee; (III) and

i. Appropriate dress and personal hygiene for staff and residents. (III)

65.9(2) There shall be written personnel policies for each facility. Personnel policies shall include the following requirements:

a. Employees shall have a physical examination before employment and at least every four years after beginning employment. (III)

b. Screening and testing for tuberculosis shall be conducted pursuant to 481—Chapter 59. (I, II, III)

c. No one shall provide services in a facility if the person has a disease:

(1) Which is transmissible through required workplace contact; (I, II, III)

(2) Which presents a significant risk of infecting others; (I, II, III)

(3) Which presents a substantial possibility of harming others; (I, II, III)

(4) For which no reasonable accommodation can eliminate the risk. (I, II, III)

Refer to Guideline for Infection Control in Hospital Personnel, 1998, Centers for Disease Control, U.S. Department of Health and Human Services, to determine (1), (2), (3) and (4).

d. There shall be written policies for emergency medical care for employees in case of sudden illness or accident. These policies shall include the administrative individuals to be contacted. (III)

e. Health certificates for all employees shall be available for review by the department. (III)

65.9(3) Staffing. The facility shall establish, subject to approval of the department, the numbers and qualifications of the staff required in an ICF/PMI using as its criteria the services being offered as indicated on the résumé of care and as required for implementation of individual program plans. (II, III)

a. Direct care staff. Direct care staff shall be present in the facility unless all residents are involved in activities away from the facility. The policies and procedures shall provide for an on-call staff person to be available when residents and staff are absent from the facility. (II, III)

(1) The on-call staff person shall be designated in writing. (II, III)

(2) Residents or another responsible person shall be informed of how to contact the on-call person. (II, III)

The staffing plan shall ensure that at least one qualified direct care staff person is on duty to carry out and implement the individual program plans. (II, III)

b. Qualified mental health professional. The ICF/PMI shall, by direct employment or contract, provide for sufficient services of a qualified mental health professional to attain or maintain the highest practicable mental and psychosocial well-being of each resident. Attainment shall be determined by resident assessment and individual plans of care. (I, II, III) Responsibilities of the QMHP shall include, but not be limited to:

(1) Approval of each resident's individual program plan; (II, III)

(2) Monitoring the implementation of each resident's individual program plan, including periodic personal contact; (II, III) and

(3) Participation on each resident's interdisciplinary team. (II, III)

c. Nursing staff. Each facility shall have sufficient nursing staff to provide nursing and related services to attain or maintain the highest practical physical, mental and psychosocial well-being of each resident. Attainment shall be determined by resident assessments and individual plans of care.

(1) The director of nursing (DON) shall be a registered nurse who is employed by the facility at least 40 hours per week. This person shall have two years' experience in direct care or supervision of people with mental illness. (II, III)

(2) The facility shall provide 24-hour service by licensed nurses, including at least one registered nurse on the day tour of duty, seven days a week. (II, III)

(3) If the DON has other institutional responsibilities, a qualified registered nurse shall serve as the DON's assistant so there is the equivalent of a full-time nursing supervisor on duty. (II, III)

(4) The department shall establish, on an individual facility basis, the numbers and qualifications of the staff required in the facility using as its criteria the services being offered as indicated on the résumé of care and as required for implementation of individual program plans. (II, III)

(5) The DON shall not serve as charge nurse in a facility with an average daily total occupancy of 60 or more residents. (II, III)

(6) A waivered licensed practical nurse shall not be allowed as a charge nurse on any shift. (II, III)

(7) There shall be at least two people capable of rendering nursing service awake, dressed, and on duty at all times. (II, III)

d. Activity staff. Each ICF/PMI shall employ a recreational therapist, occupational therapist or activity coordinator to direct the activity program both inside and outside the facility in accordance with each resident's individual program plan. (III)

Staff for the activity program shall be based on the needs of the residents being served as identified on the IPP. (III)

(1) The activity program director shall attend workshops or educational programs which relate to activity programming. These shall total a minimum of ten contact hours per year. (III)

(2) Personnel coverage shall be provided when the activity program director is absent during scheduled activities. (III)

(3) The activity program director shall have access to all information about residents necessary to carry out the program. (III)

e. Responsibilities of the activity program director shall include:

(1) Coordinating all activities, including volunteer or auxiliary activities and religious services; (III)

(2) Ensuring that all records required are kept; (III)

(3) Coordinating the activity program with all other services in the facility; (III) and

(4) Participating in the in-service training program in the facility. This shall include attending as well as presenting sessions. (III)

65.9(4) Personnel record.

a. A personnel record shall be kept for each employee. (III)

b. The record shall include the employee's:

(1) Name and address, (III)

(2) Social security number, (III)

(3) Date of birth, (III)

(4) Date of employment, (III)

(5) References, (III)

(6) Position in the facility, (III)

(7) Job description, (III)

(8) Documentation of experience and education, (III)

(9) Staff development plan, (III)

(10) Annual performance evaluation, (II, III)

(11) Documentation of disciplinary action, (II, III)

(12) Date and reason for discharge or resignation, (III) and

(13) Current physical examination. (III)

65.9(5) Employee criminal record checks, child abuse checks and dependent adult abuse checks and employment of individuals who have committed a crime or have a founded abuse. The facility shall comply with the requirements found in Iowa Code section 135C.33 as amended by 2013 Iowa Acts, Senate File 347, and rule 481—50.9(135C) related to completion of criminal record checks, child abuse checks, and dependent adult abuse checks and to employment of individuals who have committed a crime or have a founded abuse. (I, II, III)

This rule is intended to implement Iowa Code sections 135C.14(2) and 135C.14(6).

[**ARC 0663C**, IAB 4/3/13, effective 5/8/13; **ARC 0903C**, IAB 8/7/13, effective 9/11/13; **ARC 1205C**, IAB 12/11/13, effective 1/15/14]

481—65.10(135C) General admission policies. There shall be admission policies which address the following:

1. No resident shall be admitted or retained who is in need of greater services than the facility can provide. (II, III)

2. Residents shall be admitted only on a written order signed by a physician. (II, III)

3. A preplacement visit shall be completed prior to admission, except in case of an emergency admission or readmission, to familiarize the applicant with the facility and services offered. The policies and procedures may allow for waiving the requirement at the request of a person seeking admission when the completion of the visit would create a hardship for the person seeking admission. If the distance to be

traveled makes it impossible to complete the visit in an eight-hour day, this may be considered to create a hardship. (III)

4. Prior to admission of an applicant, the facility shall obtain sufficient information to determine if its program is appropriate and adequate to meet the person's needs. (III)

5. Admission criteria shall include, but not be limited to, age, sex, current diagnosis from an American Psychiatric Association Diagnostic and Statistical Manual of Mental Disorders, substance abuse, dual diagnosis and criteria that are consistent with the résumé of care. (III)

6. Each facility shall maintain a waiting list with selection priorities identified. (III)

7. No ICF/PMI may admit more residents than the number of beds for which it is licensed. (II, III)

8. There shall be a written, organized orientation program for all residents which shall be planned and implemented to resolve or reduce personal, family, business, and emotional problems that may interfere with the health care, recovery, and rehabilitation of the individual and which shall be available for review by the department. (III)

9. Infants and children under the age of 18 shall not be admitted as residents to an ICF/PMI for adults unless given prior written approval by the department. A distinct part of an ICF/PMI, segregated from the adult section, may be established based on a résumé of care submitted by the licensee or applicant which is commensurate with the needs of the residents of the health care facility and has received the department's review and approval. (III)

10. Within 30 days of a resident's admission to a health care facility receiving reimbursement through the medical assistance program under Iowa Code chapter 249A, the facility shall ask the resident or the resident's personal representative whether the resident is a veteran and shall document the response. If the facility determines that the resident is a potential veteran, the facility shall report the resident's name along with the names of the resident's spouse and any dependent children, as well as the name of the contact person for this information, to the Iowa department of veterans affairs. Where appropriate, the facility may also report such information to the Iowa department of human services.

If a resident is eligible for benefits through the United States Department of Veterans Affairs or other third-party payor, the facility first shall seek reimbursement from the identified payor source before seeking reimbursement from the medical assistance program established under Iowa Code chapter 249A.

The provisions of this paragraph shall not apply to the admission of an individual as a resident to a state mental health institute for acute psychiatric care. (II, III)

This rule is intended to implement Iowa Code sections 135C.3 and 135C.23.

481—65.11(135C) Evaluation services. Each resident admitted shall have a physical examination and tuberculin test no more than 30 days before admission and a physical examination annually after that. Each annual examination shall be sufficient to ensure the resident has no physical condition which precludes living in the facility. If the resident is admitted directly from a hospital, a copy of the hospital admission physical and discharge summary may meet this requirement. (II, III)

65.11(1) In addition to the required initial physical examination, each resident shall be evaluated to identify physical health, current level of functioning and the need for services. This evaluation shall be completed within 30 days of admission and annually after that. Information from other sources may be used in the evaluation if the information meets the requirements of subrules 65.11(2) and 65.11(3). (II, III)

65.11(2) The portion of the evaluation which describes the resident's physical health shall:

a. Identify current illnesses and disabilities and include recommendations for physical and physiological treatment and services; (II, III)

b. Include a description of the resident's ability for health maintenance; (II)

c. Include a mental status examination and history of mental health and treatments; (II, III) and

d. Be performed by a physician with a valid license to practice medicine and surgery, osteopathic medicine and surgery or osteopathy in Iowa. If the evaluation is not conducted in Iowa, it must be by a physician who holds a current license in the state in which the examination is performed. If the doctor is not a psychiatrist, a psychiatrist or health service provider in psychology licensed under Iowa Code section 154B.7 shall be consulted regarding the results of the mental status examination. (II, III)

65.11(3) The portion of the evaluation which describes the resident's current functioning level and need for services shall:

a. Identify the functioning level and need for services in self-care, community living skills, psychotherapeutic treatment, vocational skills, and academic skills as appropriate; (II, III)

b. Contain sufficient detail about skills and needs to determine appropriate placement; (II, III)

c. Be made without regard to the availability of services; (III) and

d. Be performed by a QMHP, consulting with an interdisciplinary team. (III)

65.11(4) Results of all evaluations shall be in writing and maintained in resident records. After the initial evaluation, all subsequent evaluations shall contain sufficient detail to determine changes in the resident's physical and mental health, skills, and need for services. (II, III)

65.11(5) A narrative social history shall be completed for each resident within 30 days of admission. The social history shall be completed and approved by the qualified mental health professional before the IPP is developed. (III)

a. When a social history is secured from another provider, the information shall be reviewed within 30 days of admission. The date of the review and a summary of significant changes in the information shall be entered in the resident's record. The social worker who reviews the history shall sign it. (III)

b. An annual review of the social history information shall be incorporated in the individual program plan progress notes. (III)

c. The social history shall address at least the following areas:

(1) Referral source and reason for admission; (II, III)

(2) Legal status; (II, III)

(3) Previous living arrangements; (III)

(4) Services received previously and current service involvements; (II, III)

(5) Significant medical and mental health conditions including at least illnesses, hospitalizations, past and current drug therapy, and special diets; (II, III)

(6) Substance abuse history; (II, III)

(7) Work history; (III)

(8) Education history; (II)

(9) Relationship with family, significant others, and other support systems; (III)

(10) Cultural, ethnic and religious background; (II, III)

(11) Hobbies and leisure time activities; (III)

(12) Likes, dislikes, habits, and patterns of behavior; (II, III)

(13) History of aggressive or suicidal behavior; (I, II, III) and

(14) Impressions and recommendations. (II, III)

This rule is intended to implement Iowa Code section 135C.14(7).

481—65.12(135C) Individual program plan (IPP). An initial program plan shall be developed within 24 hours of admission. This plan shall be based on information gained from the resident, family, physician or referring facility. Services to be provided shall be addressed. Intervention to be provided, if and when the need arises, shall also be addressed in the IPP. The plan shall be followed until the IPP required in subrule 65.12(1) is complete. The initial plan shall be completed by a registered nurse, a qualified social worker or a QMHP. (II, III)

65.12(1) An individual program plan for each resident shall be developed by an interdisciplinary team. The resident or the resident's legal guardian has the ultimate authority to accept or reject the plan unless otherwise determined by the court. The IPP shall be approved and have implementation monitored by the QMHP. (II, III)

a. The IPP shall be based on the individual service plan of the referring agency, if available, the information contained in the social history, the need for services identified in the evaluation, and any other pertinent information. (III)

b. The facility shall assist the resident in obtaining access to academic services, community living skills training, legal services, self-care training, support services, transportation, treatment, and

vocational education as needed. These services may be provided by the facility or obtained from other providers. (III)

c. Services to the resident shall be provided in the least restrictive environment and shall incorporate the principle of normalization. (III)

d. If needed services are not available and accessible, the facility shall document the actions taken to locate and obtain those services. The documentation shall identify needs which will not be met because of the lack of available services. (III)

e. The IPP shall be developed within 30 days following admission to the facility and renewed at least annually. (II, III)

f. The IPP shall be written, dated, signed by the interdisciplinary team members, and maintained in the resident's record. (III)

g. Written notice of the meeting to develop an IPP shall be mailed or delivered to everyone included in the interdisciplinary team conference at least two weeks before the scheduled meeting. (III)

65.12(2) The IPP shall include the following:

a. Goals, (III)

b. Objectives, (III)

c. Specific services to be provided, (III)

d. People or agency responsible for providing services, (III)

e. Beginning date, (III) and

f. Anticipated duration of services. (III)

65.12(3) The IPP shall set out the procedure to be used to evaluate whether objectives are achieved. This procedure shall incorporate a process for ongoing review and revision. (III)

65.12(4) The interdisciplinary team shall review the IPP at a team meeting at least quarterly and when the resident's condition changes. (II, III)

a. The interdisciplinary team shall develop a written report which addresses:

(1) The resident's progress toward objectives; (II, III)

(2) The need for continued services; (II, III)

(3) Recommendations concerning alternative services or living arrangements; (II, III) and

(4) Any recommended change in guardianship, conservatorship or commitment status. (II, III)

b. The report shall reflect those involved in the review, the date of the review, and be maintained in the resident's record. (III)

65.12(5) There shall be procedures for recording the activities of each service provider and a mechanism to coordinate the activities of all service providers. Resident response to all activities shall be recorded. (III)

a. Staff shall create a record at the time of a service required by the IPP. If this is not possible, the record shall be written no more than seven days later. (III)

b. When the services are provided more than once a week, staff may make a monthly summarized entry in the resident's record. (III)

c. Entries shall be dated and signed by the person who provides the service. (III)

d. Entries shall be made when incidents occur. (III)

e. Entries shall be written in terms of behavioral observations and specific activities. Entries that involve subjective interpretations of a resident's behavior or progress shall be clearly identified and shall be supplemented with descriptions of behavior upon which the interpretation was based. (III)

This rule is intended to implement Iowa Code section 135C.14.

481—65.13(135C) Activity program. Each ICF/PMI shall have an organized activity program which is directed by a person qualified as required by 65.9(3)*"d."*

65.13(1) An activity program plan for the facility shall be based on needs identified in IPPs and on other interests expressed by residents. The activity program shall include leisure time management. (III)

65.13(2) Activities shall be offered at least daily during the daytime hours if residents are present, twice weekly in the evening and twice on the weekend. (III)

65.13(3) Activities offered shall be varied and shall be planned for individuals, small groups or large groups. (III)

65.13(4) Monthly calendars shall be prepared in advance and shall be kept for review by the department. Substitutions and cancellations shall be noted. (III)

65.13(5) Activities department personnel shall coordinate programs with other facility personnel. (III)

481—65.14(135C) Crisis intervention. There shall be written policies and procedures concerning crisis intervention. (II) These policies and procedures shall be:

1. Directed to maximizing the growth and development of the individual by incorporating a hierarchy of available alternative methods that emphasize positive approaches; (II, III)
2. Available in each program area and living unit; (II, III)
3. Available to individuals and their families; (II, III) and
4. Developed with the participation, as appropriate, of individuals served. (II, III)

65.14(1) Corporal punishment, physical abuse, and verbal abuse, for example, shouting, screaming, swearing, name calling, or any other activity which might damage an individual's self-respect shall be prohibited. All residents shall be treated with fairness and respect as required by rule 481—65.25(135C). (II)

65.14(2) Medication shall not be used as punishment, for the convenience of staff, or as a substitute for a program. Direct care staff shall monitor residents on medication and notify the physician if a resident is too sedated to participate in the IPP. (I, II)

481—65.15(135C) Restraint or seclusion. Physician's orders are required to use any kind of mechanical restraints or seclusion. (I, II, III) Restraints are defined as the following:

1. Type I is physical restraint which uses equipment to promote the safety of the individual. It is not applied directly to a person. Examples: divided doors and side rails.
2. Type II is mechanical restraint applied to someone's body. A device is applied to the body to promote safety of the individual. Examples: vests or soft tie devices, hand socks, geriatric chairs.
3. Type III is mechanical restraint applied to any part of the body which inhibits only the movement of that part of the body. Examples: wrist, ankle or leg restraints and waist straps.

65.15(1) Temporary restraint of residents shall be used only to prevent injury to the resident or to others. (I, II)

65.15(2) Temporary seclusion may be used:

a. To prevent injury to the resident or to others; (I, II)

b. To prevent serious disruption to the treatment program of other residents; (I, II)

c. To decrease stimulation which contributes to psychotic behavior; (I, II) and

d. When other interventions have failed. (I, II)

Restraint and seclusion shall not be used for punishment, for the convenience of staff, or as a substitution for supervision of program. Seclusion shall be used only in a department approved seclusion room. (I, II)

65.15(3) Restraints shall be stored in an area easily accessible to staff. (I, II, III) Type II and Type III restraints shall be specifically designed, manufactured, and customarily used to restrain individuals hospitalized in licensed psychiatric hospitals. Metal and plastic handcuffs, rope and makeshift devices are prohibited. (I, II)

65.15(4) Under no circumstances shall a resident be allowed to participate in the restraint of another resident. (I, II)

65.15(5) There shall be written policies that address the basic assumption and philosophy that govern the use of seclusion and physical and mechanical restraint. These shall:

a. Define the uses of seclusion and mechanical restraints; (III)

b. Designate staff who may authorize its use; (III)

c. Identify procedures to follow when implementing the policy which shall include provisions to ensure privacy and safety for restrained residents; (III) and

d. A written plan for treatment following the use of restraint or seclusion.

65.15(6) The physician and QMHP shall be notified immediately of the resident's need for placement in restraint or seclusion. An order for restraint or seclusion identifying the type, purpose and duration of use shall be obtained from the physician. If the resident is in seclusion longer than four hours, the physician and qualified mental health professional shall visit and evaluate the resident before the seclusion order is continued. If the resident is in restraint for two hours, the physician shall be called before the restraint order can be continued. If the resident is in restraint longer than four hours, the physician and QMHP shall visit and evaluate the resident before a restraint order is continued. Standing or PRN orders for seclusion or restraint are prohibited. (I, II)

65.15(7) If a resident is restrained with Type II or Type III restraints for 6 hours or secluded for 12 hours in a 24-hour period; or if the resident is secluded or restrained with Type II or Type III restraints for any amount of time in three consecutive 24-hour periods, the physician and QMHP shall visit the resident and assess the resident's need for a higher level of care. If the need for restraint or seclusion continues, the resident shall be transferred to an acute level of care. (I, II)

65.15(8) During any period of mechanical restraint or seclusion, the facility shall provide for the emotional and physical needs of the resident. (I, II)

65.15(9) The resident shall be informed of the reason for seclusion and restraint and conditions for release. The resident's guardian shall be notified when Type II or Type III restraints or seclusion is used. The facility shall also notify the resident's family or other significant person if the resident has previously signed a form granting consent to do so. (I, II, III)

65.15(10) Each resident's record shall contain all information about restraints or seclusion. The administrator shall maintain a daily record of seclusion use. This record shall be available for review by the department. (II, III)

Documentation of each incident of restraint or seclusion shall include at least:

a. Clinical assessment before the resident is secluded or restrained; (I, II)

b. Circumstances that led to seclusion or restraint; (I, II)

c. Explanation of less restrictive measures used before restraint or seclusion; (I, II)

d. Physician's order; (I, II)

e. Visual observation of the resident every 15 minutes, or more frequently if needed, to monitor general well-being including respirations, circulation, positioning and alertness as indicated; (I, II)

f. Description of the resident's activity at the time of observation to include verbal exchange and behavior; (I, II)

g. Description of safety procedures taken (removal of dangerous objects, etc.); (I, II)

h. Vital signs, including blood pressure, pulse and respiration unless contraindicated by resident behavior and reasons documented; (I, II)

i. Release of each mechanical restraint and exercise and massage every two hours; (I, II, III)

j. Record of intake of food and fluid; (I, II, III)

k. Use of toilet; (II, III) and

l. Number of hours and minutes in seclusion. (II, III)

65.15(11) The facility shall educate staff on restraint and seclusion theory and techniques. The training shall be conducted by people with experience and documented education in the appropriate use of restraint and seclusion. (II, III)

a. The facility shall keep a record of the training for review by the department and shall include attendance. (II, III)

b. Only staff who have documented training in restraint and seclusion theory and techniques shall be authorized to assist with seclusion or restraint of a resident. (I, II, III)

65.15(12) The facility shall maintain a record of the hours and minutes of each type of restraint and seclusion used on a monthly basis.

481—65.16(135C) Discharge or transfer. Procedures for the discharge or transfer of the resident shall be established and followed. (II, III)

65.16(1) *Discharge plan.* The decision to discharge a person and the plan for doing so shall be established through the participation of the resident, members of the interdisciplinary team and other resource personnel as appropriate for the welfare of the individual. (II, III)

a. Discharge planning shall begin within 30 days of admission and be carried out in accordance with the IPP. (II, III)

b. As changes occur in a resident's physical or mental condition necessitating services or care which cannot be adequately provided by the facility, the resident shall be transferred promptly to another appropriate facility pursuant to subrule 65.10(1). (II, III)

c. Notification shall be made to the next of kin, legal representative, attending physician, and sponsoring agency, if any, prior to transfer or discharge of any resident. (III)

d. Proper arrangements shall be made for the welfare of the resident prior to the transfer or discharge in the event of an emergency or inability to reach the next of kin or legal representative. (III)

e. The licensee shall not refuse to discharge or transfer a resident when directed by the physician, resident, legal representative, or court. (II, III)

f. Advanced notification by telephone shall be made to the receiving facility prior to the transfer of any resident. (III)

g. When a resident is transferred or discharged, the current evaluation and treatment plan and progress notes for the last 30 days, as set forth in these rules, shall accompany the resident. (II, III)

h. Prior to the transfer or discharge of a resident to another health care facility, arrangements to provide for continuity of care shall be made with the facility to which the resident is being sent. (II, III)

i. A discharge or transfer authorization and summary shall be prepared for each resident who has been discharged or transferred from the facility. It shall be disseminated to appropriate persons to ensure continuity of care and in accordance with the requirements to ensure confidentiality. (II, III)

j. A transfer to a part of a facility that has a different license must be handled the same way as a transfer to another facility, and not as an intrafacility transfer. (II, III)

65.16(2) *Intrafacility transfer.* Residents shall not be arbitrarily moved from room to room within a health care facility. (II, III)

a. Involuntary relocation may occur only to implement goals and objectives in the IPP and in the following situations:

(1) Incompatibility with or behavior disturbing to roommates, as documented in the residents' records; (I, II)

(2) To allow a new admission to the facility which would otherwise not be possible due to separation of roommates by sex; (II, III)

(3) Reasonable and necessary administrative decisions regarding the use and functioning of the building. (II, III)

b. Unreasonable and unjustified reasons for changing a resident's room without the concurrence of the resident or legal guardian include:

(1) Punishment or behavior modification; (II) and

(2) Discrimination on the basis of race or religion. (II, III)

c. If intrafacility relocation is necessary for reasons outlined in paragraph *"a,"* the resident shall be notified at least 48 hours prior to the transfer and the reason shall be explained. The legal guardian shall be notified as soon as possible. The notification shall be documented in the resident's record and signed by the resident or legal guardian within seven days unless documentation indicates that it was not possible to contact the legal guardian or obtain their signature. (II, III)

d. If emergency relocation is required to protect the safety or health of the resident or other residents, the notification requirements may be waived. The conditions of the emergency shall be documented. The family and legal guardian shall be notified immediately, or as soon as possible, of the condition requiring emergency relocation, and the notification shall be documented. (II, III)

e. A transfer to a part of a facility that has a different license must be handled the same way as a transfer to another facility and not as an intrafacility transfer. (II, III)

65.16(3) *Involuntary discharge or transfer permitted.* A facility may involuntarily discharge or transfer a resident for only one of the following reasons:

a. Medical reasons, based on the resident's needs and determined and documented in the resident's record by the primary care provider;

b. The resident's social, emotional or physical well-being or that of other residents, as documented by the administrator or designee with specific information to support the determination that the resident's continued presence in the facility would adversely affect the resident's own well-being or that of other residents;

c. Due to action pursuant to Iowa Code chapter 229; or

d. Nonpayment for the resident's stay, as described in the admission agreement for the resident's stay. (I, II, III)

65.16(4) *Involuntary transfer or discharge—written notice.* Involuntary transfer or discharge of a resident from a facility shall be preceded by a written notice to the resident or the resident's legal representative. (II, III)

a. The notice shall contain all of the following information:

(1) The stated reason for the proposed transfer or discharge. (II)

(2) The effective date of the proposed transfer or discharge. (II)

(3) A statement, in not less than 12-point type, that reads as follows:

> You have a right to appeal the facility's decision to transfer or discharge you. If you think you should not have to leave this facility, you may request a hearing, in writing or verbally, with the Iowa department of inspections and appeals (hereinafter referred to as "department") within 7 days after receiving this notice. You have a right to be represented at the hearing by an attorney or any other individual of your choice. If you request a hearing, it will be held no later than 14 days after the department's receipt of your request and you will not be transferred before a final decision is rendered. In emergency circumstances, provision may be made for extension of the 14-day requirement upon request to the department designee. If you lose the hearing, you will not be transferred before the expiration date of either (1) 30 days following your receipt of the original notice of the discharge or transfer, or (2) no sooner than 5 days following final decision of such hearing, including the exhaustion of all appeals, whichever occurs later. To request a hearing or receive further information, call the department at (515)281-4115 or you may write to the department to the attention of: Administrator, Division of Health Facilities, Iowa Department of Inspections and Appeals, Lucas State Office Building, Des Moines, Iowa 50319. (II)

b. The notice shall be personally delivered to the resident, and a copy shall be placed in the resident's record. A copy shall also be transmitted to the department, the resident's legal representative, primary care provider, and the person or agency responsible for the resident's placement, maintenance, and care in the facility. The notice shall indicate that copies have been transmitted to the required parties by using the abbreviation "cc:" and listing the names of all parties to whom copies were sent. (II)

c. The notice required by paragraph 65.16(4)*"a"* shall be provided at least 30 days in advance of the proposed transfer or discharge unless one of the following occurs:

(1) An emergency transfer or discharge is mandated by the resident's health care needs and is in accordance with the written orders and medical justification of the primary care provider. Emergency transfers or discharges may also be mandated in order to protect the health, safety, or well-being of other residents and staff. (II)

(2) The transfer or discharge is subsequently agreed to by the resident or the resident's legal representative, and notification is given to the legal representative, the resident's primary care provider, and the person or agency responsible for the resident's placement, maintenance, and care in the facility. (II)

d. A hearing requested pursuant to this subrule shall be held in accordance with subrule 65.16(6).

65.16(5) *Involuntary transfer or discharge—emergency transfer or discharge.* In the case of an emergency transfer or discharge, the resident must be given a written notice prior to or within 48 hours following the transfer or discharge. (II, III)

a. A copy of this notice must be placed in the resident's file. The notice must contain all of the following information:

(1) The stated reason for the transfer or discharge. (II)

(2) The effective date of the transfer or discharge. (II)

(3) A statement, in not less than 12-point type, that reads:

> You have a right to appeal the facility's decision to transfer or discharge you on an emergency basis. If you think you should not have to leave this facility, you may request a hearing, in writing or verbally, with the Iowa department of inspections and appeals (hereinafter referred to as "department") within 7 days after receiving this notice. You have a right to be represented at the hearing by an attorney or any other individual of your choice. If you request a hearing, it will be held no later than 14 days after the department's receipt of your request. You may be transferred or discharged before the hearing is held or before a final decision is rendered. If you win the hearing, you have the right to be transferred back into the facility. To request a hearing or receive further information, call the department at (515)281-4115, or write to the department to the attention of: Administrator, Division of Health Facilities, Department of Inspections and Appeals, Lucas State Office Building, Des Moines, Iowa 50319-0083. (II)

b. The notice shall be personally delivered to the resident, and a copy shall be placed in the resident's record. A copy shall also be transmitted to the department, the resident's legal representative, the resident's primary care provider, and the person or agency responsible for the resident's placement, maintenance, and care in the facility. The notice shall indicate that copies have been transmitted to the required parties by using the abbreviation "cc:" and listing the names of all parties to whom copies were sent.

c. A hearing requested pursuant to this subrule shall be held in accordance with subrule 65.16(6).

65.16(6) *Involuntary transfer or discharge—hearing.*

a. Request for hearing.

(1) The resident must request a hearing within 7 days of receiving written notice.

(2) The request must be made to the department, either in writing or verbally.

b. The hearing shall be held no later than 14 days after the department's receipt of the request unless either party requests an extension due to emergency circumstances.

c. Except in the case of an emergency discharge or transfer, a request for a hearing shall stay a transfer or discharge pending a final decision, including the exhaustion of all appeals. (II)

d. The hearing shall be heard by a department of inspections and appeals administrative law judge pursuant to Iowa Code chapter 17A and 481—Chapter 10. The hearing shall be public unless the resident or representative requests in writing that the hearing be closed. In a determination as to whether a transfer or discharge is authorized, the burden of proof by a preponderance of evidence rests on the party requesting the transfer or discharge.

e. Notice of the date, time, and place of the hearing shall be sent by certified mail or delivered in person to the facility, the resident and the resident's legal representative not later than five full business days after the department's receipt of the request. The notice shall also inform the facility and the resident or the resident's legal representative that they have a right to appear at the hearing in person or be represented by an attorney or other individual. The appeal shall be dismissed if neither party is present or represented at the hearing. If only one party appears or is represented, the hearing shall proceed with one party present.

f. The administrative law judge's written decision shall be sent by certified mail to the facility, resident, and resident's legal representative within 10 working days after the hearing has been concluded.

65.16(7) *Nonpayment.* If nonpayment is the basis for involuntary transfer or discharge, the resident shall have the right to make full payment up to the date that the discharge or transfer is to be made and then shall have the right to remain in the facility. (II)

65.16(8) *Discussion of involuntary transfer or discharge.* Within 48 hours after notice of involuntary transfer or discharge has been received by the resident, the facility shall discuss the involuntary transfer

or discharge with the resident, the resident's legal representative, and the person or agency responsible for the resident's placement, maintenance, and care in the facility. (II)

a. The facility administrator or other appropriate facility representative serving as the administrator's designee shall provide an explanation and discussion of the reasons for the resident's involuntary transfer or discharge. (II)

b. The content of the explanation and discussion shall be summarized in writing, shall include the names of the individuals involved in the discussion, and shall be made part of the resident's record. (II)

c. The provisions of this subrule do not apply if the involuntary transfer or discharge has already occurred pursuant to subrule 65.16(6) and emergency notice is provided within 48 hours.

65.16(9) *Involuntary discharge or transfer—transfer or discharge planning.*

a. The facility shall develop a plan to provide for the orderly and safe transfer or discharge of each resident to be transferred or discharged. (II)

b. To minimize the possible adverse effects of the involuntary transfer, the resident shall receive counseling services by the sending facility before the involuntary transfer and by the receiving facility after the involuntary transfer. Counseling shall be documented in the resident's record. (II)

c. The counseling requirement in paragraph 65.16(9)*"b"* does not apply if the discharge has already occurred pursuant to subrule 65.16(5) and emergency notice is provided within 48 hours.

d. Counseling, if required, shall be provided by a licensed mental health professional as defined in Iowa Code section 228.1(6). (II)

e. The health care facility that receives a resident who has been involuntarily transferred shall immediately formulate and implement a plan of care which takes into account possible adverse effects the transfer may cause. (II)

65.16(10) *Transfer upon revocation of license or voluntary closure.* Residents shall not have the right to a hearing to contest an involuntary discharge or transfer resulting from the revocation of the facility's license by the department of inspections and appeals. In the case of the voluntary closure of a facility, a period of 30 days must be allowed for an orderly transfer of residents to other facilities.

This rule is intended to implement Iowa Code section 135C.14(8).

[**ARC 1205C**, IAB 12/11/13, effective 1/15/14; **ARC 1752C**, IAB 12/10/14, effective 1/14/15]

481—65.17(135C) Medication management. Medications shall be prescribed on an individual basis by a person who is authorized by Iowa law to prescribe. (I, II)

1. Medication orders shall be correctly implemented by qualified personnel. (II)
2. Qualified staff shall ensure that residents are able to take their own medication. (I, II)
3. Each physician order allowing a resident to self-administer medications shall specify whether this self-medication shall be without supervision or under the supervision of qualified staff as defined in 65.17(2). (I, II)

65.17(1) A properly trained person shall be charged with the responsibility of administering nonparenteral medications.

a. The individual shall have knowledge of the purpose of the drugs, their dangers, and contraindications.

b. This person shall be a licensed nurse or physician or shall have successfully completed a department-approved medication aide course or passed a department-approved medication aide challenge examination administered by an area community college.

c. Prior to taking a department-approved medication aide course, the individual shall:

(1) Successfully complete an approved nurse aide course, nurse aide training and testing program or nurse aide competency examination.

(2) Be employed in the same facility for at least six consecutive months prior to the start of the medication aide course. This requirement is not subject to waiver.

(3) Have a letter of recommendation for admission to the medication aide course from the employing facility.

d. A person who is a nursing student or a graduate nurse may take the challenge examination in place of taking a medication aide course. This individual shall do all of the following before taking the medication aide challenge examination:

(1) Complete a clinical or nursing theory course within six months before taking the challenge examination;

(2) Successfully complete a nursing program pharmacology course within one year before taking the challenge examination;

(3) Provide to the community college a written statement from the nursing program's pharmacology or clinical instructor indicating the individual is competent in medication administration;

(4) Successfully complete a department-approved nurse aide competency evaluation.

e. A person who has written documentation of certification as a medication aide in another state may become a medication aide in Iowa by successfully completing a department-approved nurse aide competency examination and a medication aide challenge examination.

The requirements of paragraph *"c"* of this subrule do not apply to this individual.

f. Unit dose medication shall remain in the identifiable unit dose package until given to the resident. (II)

g. Medications that are not contained in unit dose packaging shall be set up, identified by resident name and medication name, and administered by the same person. The medications shall be administered within one hour of preparation. (II)

h. The person administering medications must observe and check to make sure the resident swallows oral medications and must record the date, time, amount and name of each medication given. (II)

i. Injectable medications shall be administered as permitted by Iowa law by a qualified nurse, physician, pharmacist, or physician assistant (PA). In the case of a resident who has been certified by the resident's physician or physician assistant (PA) as capable of taking the resident's own insulin, the resident may prepare and inject the resident's own insulin. (II)

j. Current and accurate records must be kept on the receipt and disposition of all Schedule II drugs. (II, III)

65.17(2) For each resident who is taking medication with or without supervision, there shall be documentation on the individual's record to include:

a. Name of resident; (II, III)

b. Name of drug, dose, and schedule; (II, III)

c. Method of administration; (II, III)

d. Identified drug allergies and observed adverse reactions; (I, II)

e. Special precautions for that resident; (I, II) and

f. Documentation of resident's continuing ability to administer own medication. (I, II)

65.17(3) Medication counseling shall be provided for all residents in accordance with the IPP on an ongoing basis and as part of discharge planning unless contraindicated in writing by the physician with reasons and pursuant to 65.12(2)*"c."* (II, III)

Each resident and when appropriate, a family member or other identified caregiver, shall be given verbal and written information about all medications the resident is currently using, including over-the-counter medications. A suggested reference is "USPDI, Advice for the Patient." (II, III)

The information shall include:

a. Name, reason for, and amount of medication to be taken; (II)

b. Time medication is to be taken and reason that the schedule was established; (II)

c. Possible benefits, risks and side effects of each medication, including over-the-counter medications; (II)

d. A list of resources in the community qualified to answer questions about medications; (II, III) and

e. A list of available resources or agencies which may assist the resident to obtain medication after discharge. (III)

65.17(4) Residents who have been certified in writing by the physician as capable of taking their own medications may retain these medications in a secure centralized location. Individual locked storage shall be utilized. (II, III)

a. Drug storage for residents who are unable to take their own medications and require supervision shall meet the following requirements:

(1) Adequate size cabinet with lock which can be used for storage of drugs, solutions, and prescriptions. A locked drug cart may be used. (II, III)

(2) A bathroom shall not be used for drug storage. (II, III)

(3) The drug storage cabinet shall be kept locked when not in use. (II, III)

(4) The drug storage cabinet key shall be in the possession of the employee charged with the responsibility of administering medication. (II, III)

(5) Medications requiring refrigeration which are stored in a common refrigerator shall be kept in a locked box properly labeled, and separated from food and other items. (II, III)

(6) Drugs for external use shall be stored separately from drugs for internal use. External medications are those to be applied to the outside of the body and include, but are not limited to, salves, ointments, gels, paste, soaps, baths, and lotions. Internal medications are those to be applied inside the body or ingested and include, but are not limited to, oral and injectable medications, eye drops and ointments, ear drops and ointments, and suppositories. Also, eye drops and ear drops shall be separated from each other as well as from other internal and external medications. (II, III)

(7) All potent, poisonous, or caustic materials shall be stored in a separate room from the medications. (II, III)

(8) Inspection of the condition of stored drugs shall be made by the administrator and a licensed pharmacist not less than once every three months. The inspection shall be verified by a report signed by the administrator and the pharmacist and filed with the administrator. The report shall include, but need not be limited to, certifying absence of the following: expired drugs, deteriorated drugs, improper labeling, drugs for which there is no current order, and drugs improperly stored. (III)

(9) Double-locked storage of Schedule II drugs shall not be required under single unit package drug distribution systems in which the quantity stored does not exceed a seven-day supply and a missing dose can be readily detected but must be kept in a locked medication cabinet. Quantities in excess of a seven-day supply must be double-locked. (II)

b. Bulk supplies of prescription drugs shall not be kept. (III)

65.17(5) All labels on medications must be legible. If labels are not legible, the medication shall be sent back to the dispenser as defined in Iowa Code section 147.107 for relabeling. (II, III)

a. The medication for each resident shall be kept or stored in the original dispensed containers. (II, III)

b. The facility shall adopt policies and procedures to destroy unused prescription drugs for residents who die. The policies and procedures shall include, but not be limited to, the following:

(1) Drugs shall be destroyed by the person in charge in the presence of the administrator or the administrator's designee or, if a unit dose system is used, the drugs shall be returned to the supplying pharmacist; (III)

(2) Notation of the destruction shall be made in the resident's chart, with signatures of the persons involved in the destruction; (III)

(3) The manner in which the drugs are disposed of shall be identified (i.e., incinerator, sewer, landfill). (II, III)

c. Reserved.

d. The facility shall also adopt policies and procedures for the disposal of controlled substances as defined by the Iowa board of pharmacy dispensed to residents whose administration has been discontinued by the prescriber. These policies and procedures shall include, but not be limited to, the following:

(1) Procedures for obtaining a release from the resident; (II, III)

(2) The manner in which the drugs were destroyed and by whom, including witnesses to the destruction; (II, III)

(3) Mechanisms for recording the destruction; (II, III)

(4) Procedures to be used when the resident or the conservator or guardian refuses to grant permission for destruction. (II, III)

e. The facility shall adopt policies and procedures for the disposal of unused, discontinued medication. The procedures shall include, but not be limited to:

(1) A specified time after which medication must be destroyed, sent back to the dispenser or placed in long-term storage; (II, III)

(2) Procedures for obtaining permission of the resident, or the conservator or guardian; (II, III)

(3) Procedures to be used when the resident, conservator or guardian refuses to grant permission for disposal; (II, III)

(4) Unused, discontinued medication shall be locked and shall be separate from current medication. (II, III)

f. Reserved.

g. Residents shall not keep any prescription or over-the-counter medication in their possession unless the resident has been determined to be capable of self-administration of medications. (I, II, III)

h. No prescription drugs shall be administered to a resident without a written order signed by a person qualified to prescribe the medication and renewed quarterly. (II)

i. Prescription drugs shall be reordered only with the permission of the attending prescriber. (II, III)

j. No medications prescribed for one resident may be administered to or allowed in the possession of another resident. (II)

65.17(6) Each facility shall establish policies and procedures to govern the administration of prescribed medications to residents on leave from the facility. (III)

a. Medication may be issued to residents who will be on leave from a facility for less than 24 hours. Non-child-resistant containers may be used. Each container may hold only one medication. A label on each container shall indicate the date, the resident's name, the facility, the medication, its strength, dose, and time of administration. (II, III)

b. Medication for residents on leave from a facility longer than 24 hours shall be obtained in accordance with requirements established by the Iowa board of pharmacy examiners. (II, III)

c. Medication distributed as described in this subrule may be issued only by facility personnel responsible for administering medication. (II, III)

65.17(7) Each ICF/PMI that administers controlled substances shall annually obtain a registration from the Iowa board of pharmacy examiners pursuant to Iowa Code section 204.302(1). (III)

This rule is intended to implement Iowa Code section 135C.14.

[**ARC 1050C**, IAB 10/2/13, effective 11/6/13]

481—65.18(135C) Resident property and personal affairs. The admission of a resident does not give the facility or any employee of the facility the right to manage, use, or dispose of any property of the resident except with the written authorization of the resident or the resident's legal guardian. (II, III)

65.18(1) The admission of a resident shall not grant the ICF/PMI the authority or responsibility to manage the personal affairs of the resident except as may be necessary for the resident's safety and for safe and orderly management of the facility as required by these rules and in accordance with the IPP. (III)

65.18(2) An ICF/PMI shall provide for the safekeeping of personal effects, funds, and other property of its residents. The facility may require that items of exceptional value or which would convey unreasonable responsibilities to the licensee be removed from the premises of the facility for safekeeping. (III)

65.18(3) Residents' funds held by the ICF/PMI shall be in a trust account and kept separate from funds of the facility. (III)

65.18(4) No administrator, employee or their representative shall act as guardian, trustee, or conservator for any resident or the resident's property, unless the resident is related to the person acting as guardian within the third degree of consanguinity. (III)

65.18(5) If a facility is a county care facility, upon the verified petition of the county board of supervisors, the district court may appoint, without fee, the administrator of a county care facility as conservator or guardian, or both, of a resident of such a county care facility. The administrator may establish either separate or common bank accounts for cash funds of these residents. (III)

This rule is intended to implement Iowa Code section 135C.24.

481—65.19(135C) Financial affairs. Residents who have not been assigned a guardian or conservator by the court may manage their personal financial affairs, and to the extent, under written authorization by the residents that the facility assists in management, the management shall be carried out in accordance with Iowa Code section 135C.24. (II)

65.19(1) *Written account of resident funds.* The facility shall maintain a written account of all residents' funds received by or deposited with the facility. (II)

a. An employee shall be designated in writing to be responsible for resident accounts. (II)

b. The facility shall keep on deposit personal funds over which the resident has control when requested by the resident. (II)

c. If the resident requests these funds, they shall be given to the resident with a receipt maintained by the facility and a copy to the resident. If a conservator or guardian has been appointed for the resident, the conservator or guardian shall designate the method of disbursing the resident's funds. (II)

d. If the facility makes a financial transaction on a resident's behalf, the resident or the resident's legal guardian or conservator must receive or acknowledge having seen an itemized accounting of disbursements and current balances at least quarterly. A copy of this statement shall be maintained in the resident's financial or business record. (II)

65.19(2) *Contracts.* There shall be a written contract between the facility and each resident which meets the following requirements:

a. States the base rate or scale per day or per month, the services included, and the method of payment; (III)

b. Contains a complete schedule of all offered services for which a fee may be charged in addition to the base rate; (III)

c. Stipulates that no further additional fees shall be charged for items not contained in complete schedule of services listed in this subrule; (III)

d. States the method of payment of additional charges; (III)

e. Contains an explanation of the method of assessment of additional charges and an explanation of the method of periodic reassessment, if any, resulting in changing such additional charges; (III)

f. States that additional fees may be charged to the resident for nonprescription drugs, other personal supplies, and services by a barber, beautician, etc.; (III)

g. Contains an itemized list of those services, with the specific fee the resident will be charged and method of payment, as related to the resident's current condition, based on the program assessment at the time of admission, which is determined in consultation with the administrator; (III)

h. Includes the total fee to be charged initially to the specific resident; (III)

i. States the conditions whereby the facility may make adjustments to its overall fees for residential care as a result of changing costs. (III) Furthermore, the contract shall provide that the facility shall give:

(1) Written notification to the resident and responsible party, when appropriate, of changes in the overall rates of both base and additional charges at least 30 days prior to the effective date of changes; (III)

(2) Notification to the resident and payer, when appropriate, of changes in additional charges based on a change in the resident's condition. Notification must occur prior to the date the revised additional charges begin. If notification is given orally, subsequent written notification must also be given within a reasonable time, not to exceed one week, listing specifically the adjustments made; (III) and

(3) The terms of agreement in regard to refund of all advance payments, in the event of transfer, death, or voluntary or involuntary discharge; (III)

j. States the terms of agreement concerning holding and charging for a bed in the event of temporary absence of the resident, which terms shall include, at a minimum, the following provisions:

(1) If a resident has a temporary absence from a facility for medical treatment, the facility shall hold the bed open and shall receive payment for the absent period in accordance with provisions of the contract between the resident or the legal guardian and the facility. (II)

(2) If a resident has a temporary absence from a facility in accordance with the IPP, the facility shall ask the resident and payer if they wish the bed held open. This shall be documented in the resident's record including the response. The bed shall be held open and the facility shall receive payment for the absent periods in accordance with the provisions of the contract between the resident or the legal guardian and the facility. (II)

k. States the conditions under which the involuntary discharge or transfer of a resident would be affected; (III)

l. States the conditions of voluntary discharge or transfer; (III) and

m. Sets forth any other matters deemed appropriate by the parties to the contract. No contract or any provision shall be drawn or construed so as to relieve any health care facility of any requirement or obligation imposed upon it by this chapter or any standards or rules in force pursuant to this chapter. (III)

65.19(3) *Contract—copy to party.* Each party shall receive a copy of the signed contract. (III)

65.19(4) The contract shall state the terms of agreement concerning the holding and charging for a bed when a resident is hospitalized or leaves the facility temporarily for recreational or therapeutic reasons. The terms shall contain a provision that the bed will be held at the request of the resident or the resident's legal representative.

a. The facility shall ask the resident or legal representative if they want the bed held. This request shall be made before the resident leaves or within 48 hours after the resident leaves. The inquiry and the response shall be documented. (II)

b. The facility shall reserve the bed when requested for as long as payments are made in accordance with the contract. (II)

This rule is intended to implement Iowa Code sections 135C.23(1) and 135C.24.

481—65.20(135C) Records.

65.20(1) *Resident record.* The licensee shall keep a permanent record about each resident with all entries current, dated, and signed. (II) The record shall include:

a. Name and previous address of resident; (III)

b. Birth date, sex, and marital status of resident; (III)

c. Church affiliation; (III)

d. Physician's name, telephone number, and address; (III)

e. Dentist's name, telephone number, and address; (III)

f. Name, address and telephone number of next of kin or legal representative; (III)

g. Name, address and telephone number of the person to be notified in case of emergency; (III)

h. Funeral director, telephone number, and address; (III)

i. Pharmacy name, telephone number, and address; (III)

j. Results of evaluation pursuant to rule 481—65.11(135C); (III)

k. Certification by the physician that the resident requires no higher level of care than the facility is licensed to provide; (III)

l. Physician's orders for medication and treatments in writing, signed by the physician quarterly and diet orders renewed yearly; (III)

m. A notation of yearly or other visits to physician or other professionals, all consultation reports and progress notes; (III)

n. Any change in the resident's condition; (II, III)

o. A notation describing the resident's condition on admission, transfer, and discharge; (III)

p. In the event of a resident's death, notations in the resident's record shall include the date and time of the resident's death, the circumstances of the resident's death, the disposition of the resident's

body, and the date and time that the resident's family and physician were notified of the resident's death; (III)

q. A copy of instructions given to the resident, legal representative, or facility in the event of discharge or transfer; (III)

r. Disposition of personal property; (III)

s. Copy of IPP pursuant to subrule 65.12(1); (III) and

t. Progress notes pursuant to subrules 65.12(4) and 65.12(5). (III)

65.20(2) *Confidentiality of resident records.* The facility shall have policies and procedures providing that each resident shall be ensured confidential treatment of all information, including information contained in an automatic data bank. The resident's or the resident's legal guardian's written informed consent shall be required for the release of information to persons not otherwise authorized under law to receive it. (II)

A release of information form shall be used which includes to whom the information shall be released, the reason for the information being released, how the information is to be used, and the period of time for which the release is in effect. A third party, not requesting the release, shall witness the signing of the release of information form. (II)

a. The facility shall limit access to any resident records to staff and consultants providing professional service to the resident. Information shall be made available to staff only to the extent that the information is relevant to the staff person's responsibilities and duties. (II)

Only those personnel concerned with financial affairs of the residents may have access to the financial information. This is not meant to preclude access by representatives of state or federal regulatory agencies. (II)

b. The resident, or the resident's legal guardian, shall be entitled to examine all information and shall have the right to secure full copies of the record at reasonable cost upon request, unless the physician or QMHP determines the disclosure of the record or section is contraindicated in which case this information will be deleted prior to making the record available to the resident. This determination and the reasons for it must be documented in the resident's record by the physician or qualified mental health professional in collaboration with the resident's interdisciplinary team. (II)

65.20(3) *Incident records.* Each ICF/PMI shall maintain an incident record report and shall have available incident report forms. (II, III)

a. The report of every incident shall be in detail on a printed incident report form. (II, III)

b. The person in charge at the time of the incident shall oversee the preparation and sign the report. (III)

c. A copy of the incident report shall be kept on file in the facility available for review and a part of administrative records. (III)

65.20(4) *Retention of records.* Records shall be retained in the facility for five years following termination of services to the resident even when there is a change of ownership. (III)

When the facility ceases to operate, the resident's record shall be released to the facility to which the resident is transferred. If no transfer occurs, the record shall be released to the individual's physician. (III)

This rule is intended to implement Iowa Code section 135C.24.

481—65.21(135C) Health and safety.

65.21(1) *Physician.* Each resident shall have a designated licensed physician who may be called when needed. (III)

65.21(2) *Emergency care.* Each facility shall have written policies and procedures for emergency medical or psychiatric care to include:

a. A written agreement with a hospital or psychiatric facility or documentation of attempt to obtain a written agreement for the timely admission of a resident who, in the opinion of the attending physician, requires inpatient services; (II, III)

b. Provisions consistent with Iowa Code chapter 229; (II, III) and

c. Immediate notification by the person in charge to the physician or QMHP, as appropriate, of any accident, injury or adverse change in the resident's condition. (I, II)

65.21(3) *First-aid kit.* A first-aid emergency kit shall be available on each floor in every facility. (II, III)

65.21(4) *Infection control.* Each facility shall have a written and implemented infection control program addressing the following:

a. Techniques for hand washing consistent with Guidelines for Handwashing and Hospital Control, 1985, Centers for Disease Control, U.S. Department of Health and Human Services, PB85-923404; (I, II, III)

b. Techniques for handling of blood, body fluids, and body wastes consistent with Guideline for Isolation Precautions in Hospitals, Centers for Disease Control, U.S. Department of Health and Human Services, PB96-138102; (I, II, III)

c. Decubitus care; (I, II, III)

d. Infection identification; (I, II, III)

e. Resident care procedures to be used when there is an infection present consistent with Guideline for Isolation Precautions in Hospitals, Centers for Disease Control, U.S. Department of Health and Human Services, PB96-138102; (I, II, III)

f. Sanitation techniques for resident care equipment; (I, II, III)

g. Techniques for sanitary use and reuse of enteral feeding bags, feeding syringes and urine collection bags; (I, II, III)

h. Techniques for use and disposal of needles, syringes, and other sharp instruments consistent with Guideline for Isolation Precautions in Hospitals, Centers for Disease Control, U.S. Department of Health and Human Services, PB96-138102; (I, II, III) and

i. Aseptic techniques when using:

(1) Intravenous or central line catheter consistent with Guideline for Prevention of Intravascular Device Related Infections, Centers for Disease Control, U.S. Department of Health and Human Services, PB97-130074, (I, II, III)

(2) Urinary catheter, (I, II, III)

(3) Respiratory suction, oxygen or humidification, (I, II, III)

(4) Dressings, soaks, or packs, (I, II, III)

(5) Tracheostomy, (I, II, III)

(6) Nasogastric or gastrostomy tubes, (I, II, III)

(7) Sanitary use and reuse of feeding syringes and single-resident uses and reuse of urine collection bags. (I, II, III)

CDC Guidelines may be obtained from the U.S. Department of Commerce, Technology Administration, National Technical Information Service, 5285 Port Royal Rd., Springfield, Virginia 22161 (1-800-553-6847).

65.21(5) *Disposable items.* There shall be disposable or one-time use items available with provisions for proper disposal to prevent reuse except as allowed by 65.21(4)*"g."*

65.21(6) *Infection control committee.* Each facility shall establish an infection control committee of representative professional staff responsible for overall infection control in the facility. (III)

a. The committee shall annually review and revise the infection control policies and procedures to monitor effectiveness and suggest improvement. (III)

b. The committee shall meet at least quarterly, submit reports to the administrator, and maintain minutes in sufficient detail to document its proceedings and actions. (III)

c. The committee shall monitor the health aspect and the environment of the facility. (III)

These rules are intended to implement Iowa Code sections 135C.14(3), 135C.14(5) and 135C.14(8).

65.21(7) *Dental services.* The facility shall assist residents to obtain regular and emergency dental services and provide necessary transportation. Dental services shall be performed only on the request of the resident or legal guardian. The resident's physician shall be advised of the resident's dental problems. (III)

65.21(8) *Safe environment.* The licensee of an ICF/PMI is responsible for the provision and maintenance of a safe environment for residents and personnel. (I, II) The ICF/PMI may have locked exit doors and shall meet the fire and safety rules and regulations as promulgated by the state fire marshal. (I, II)

65.21(9) *Disaster.* The licensee shall have a written emergency plan to be followed in the event of fire, tornado, explosion, or other emergency. (II, III)

a. The plan shall be posted. (II, III)

b. Training shall be provided to ensure that all employees and residents are knowledgeable of the emergency plan. The training shall be documented. (II, III)

c. Residents shall be permitted to smoke only in posted areas where proper facilities are provided. Smoking by residents considered to be careless shall be prohibited except under direct supervision and in accordance with the IPP. (II, III)

65.21(10) *Safety precautions.* The facility shall take reasonable measures to ensure the safety of residents and shall involve the residents in learning the safe handling of household supplies and equipment in accordance with the policies and procedures established by the facility. (II)

All potent, poisonous, or caustic materials shall be plainly labeled and stored in a specific locked, well-illuminated cabinet, closet, or storeroom and made accessible only to authorized persons. (I, II)

65.21(11) *Hazards.* Entrances, exits, steps, and outside steps and walkways shall be cleared of ice and snow as soon as possible, and kept free of other hazards. (II, III)

65.21(12) *Laundry.* All soiled linens shall be collected in and transported to the laundry room in closed, leakproof laundry bags or covered, impermeable containers. (III)

a. Except for related activities, the laundry room shall not be used for other purposes. (III)

b. Personal laundry shall be marked with an identification unless the residents are responsible for doing their own laundry as indicated in the individual program plan. (III)

c. There shall be an adequate supply of clean, stain-free linens so that each resident shall have at least three washcloths, hand towels, and bath towels per week. (III)

d. Each bed shall be provided with clean, stain-free washable bedspreads and sufficient lightweight serviceable blankets. A complete change of bed linens shall be available for each bed. Linens on beds shall be clean, stain-free and in good repair at all times. (III)

65.21(13) *Supplies, equipment, and storage.* Each facility shall provide a variety of supplies and equipment of a nature calculated to fit the needs and interests of the residents. These may include: books (standard and large print), magazines, newspapers, radio, television, bulletin boards, board games, game equipment, songbooks, cards, craft supplies, record player, movie projector, piano, and outdoor equipment. Supplies and equipment shall be appropriate to the chronological age of the residents. (III)

Storage shall be provided for recreational equipment and supplies. (III)

This rule is intended to implement Iowa Code section 135C.14(1).

481—65.22(135C) Nutrition. There shall be policies and procedures written and implemented for dietary staffing.

1. The person responsible for planning menus and monitoring the kitchens in each facility shall have completed training, approved by the department, in sanitation and food preparation. (III)

2. In facilities licensed for over 15 beds, food service personnel shall be on duty during a 12-hour span extending from the preparation of breakfast through supper. (III)

3. There shall be written work schedules and time schedules covering each type of job in the food service department for facilities over 15 beds. These work and time schedules shall be posted or kept in a notebook which is available for use in the food service area. (III)

65.22(1) *Nutrition and menu planning.* Residents shall be encouraged to the maximum extent possible to participate in meal planning, shopping, and in preparing and serving the meal and cleaning up. The facility shall be responsible for helping residents become knowledgeable of what constitutes a nutritionally adequate diet. (III)

a. Menus shall be planned and served to meet nutritional needs of residents in accordance with the physician's diet orders which shall be renewed yearly. Menus shall be planned and served to include

foods and amounts necessary to meet the recommended daily dietary allowances of the Food and Nutrition Board of the National Research Council, National Academy of Sciences. Other foods shall be included to meet energy requirements (calories) to add to the total nutrients and variety of meals. (II, III)

b. At least three meals or their equivalent shall be made available to each resident daily, consistent with those times normally existing in the community. (II, III)

(1) There shall be no more than a 14-hour span between the substantial evening meal and breakfast. (III)

(2) To the extent medically possible, bedtime nourishments, containing a protein source, shall be offered routinely to all residents. Special nourishments shall be available when ordered by the physician. (II, III)

c. Menus shall include a variety of foods prepared in various ways. The same menus shall not be repeated on the same day of the following week. (III)

d. If modified diets are ordered by the physician, the person responsible for writing the menus shall have completed department-approved training in simple therapeutic diets. A copy of a modified diet manual approved by the department and written within the past five years shall be available in the facility. (II, III)

e. Therapeutic diets shall be served accurately. (II, III)

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

g. Records of menus as served shall be filed and maintained for 30 days and shall be available for review by departmental personnel. When substitutions are necessary, they shall be of similar nutritive value and recorded on the menu or in a notebook. (III)

h. A file of tested recipes adjusted to the number of people to be fed in the facility shall be maintained. (III)

65.22(2) *Dietary storage, food preparation, service.* In each stage, food shall be handled with maximum care for safety and good health.

a. The use of foods from salvaged, damaged, or unlabeled containers is prohibited. (II, III)

b. No perishable food shall be allowed to stand at room temperature any longer than is required to prepare and serve. (II, III)

c. Canning food is prohibited. The facility may freeze fruits, vegetables, and meats provided strict sanitary procedures are followed and in accordance with recommendations in the "Food Service Sanitation Manual," revised 1976, U.S. Department of Health, Education, and Welfare, Public Health Service, U.S. Government Printing Office, Washington, D.C. (II)

d. Supplies of staple foods for a minimum of a one-week period and of perishable foods for a minimum of a three-day period shall be maintained on the premises. (III)

e. If family-style service is used, all leftover prepared food that has been on the table shall be safely handled. (III)

f. Poisonous compounds shall not be kept in food storage or preparation areas except for a sanitizing agent which shall be kept in a locked cabinet. (II, III)

65.22(3) *Sanitation in food preparation area.* The facility shall develop and implement policies and procedures to address sanitation, meal preparation and service in accordance with recommendations in the "Food Service Sanitation Manual" reference in 65.22(2)*"c,"* which shall be used as the established, nationally recognized reference for establishing and determining satisfactory compliance with the department's food service and sanitation rules. (III)

a. In facilities of 15 beds or fewer, residents may be allowed in the food preparation area in accordance with their IPP. (III)

b. In facilities licensed for over 15 beds, the kitchen shall not be used for serving meals to residents, food service personnel, or other staff. (III)

c. All appliances and work areas shall be kept clean and sanitary. (III)

d. There shall be written procedures established for cleaning all work and serving areas in facilities over 15 beds and a schedule of duties to be performed daily shall be posted in each food area. (III)

e. The food service area shall be located so it will not be used as a passageway by residents, guests, or nonfood service staff in facilities over 15 beds. (III)

f. Dirty linen shall not be carried through the food service area unless it is in sealed, leakproof containers. (III)

g. Mops, scrub pails, and other cleaning equipment used in the resident areas shall not be stored or used in the dietary area. (III)

65.22(4) *Hygiene of food service personnel.* If food service employees are assigned duties outside the dietetic service, these duties shall not interfere with sanitation, safety, or time required for dietetic work assignments. (II, III)

a. Employees shall wear clean, washable uniforms that are not used for duties outside the food service area in facilities over 15 beds. (III)

b. Hair nets shall be worn by all food service personnel and residents who do work in the kitchen in facilities over 15 beds and effective hair restraints in facilities with fewer than 15 beds. (III)

c. People who handle food shall use correct hand-washing and food-handling techniques as identified in the "Food Service Sanitation Manual." People who handle dirty dishes shall not handle clean dishes without washing their hands. (III)

This rule is intended to implement Iowa Code section 135C.14.

481—65.23(135C) Physical facilities and maintenance.

65.23(1) *Housekeeping.* The facility shall have written procedures for daily and weekly cleaning (III) which include, but need not be limited to:

a. All rooms including furnishings, all corridors, storage areas, linen closets, attics, and basements shall be kept in a clean, orderly condition, free of unserviceable furniture and equipment or accumulations of refuse. (III)

b. All resident bedrooms, including furnishings, shall be cleaned and sanitized before use by another resident. (III)

c. Polishes used on floors shall provide a slip-resistant finish. (III)

65.23(2) *Equipment.* Housekeeping and maintenance personnel shall be provided with well-constructed and properly maintained equipment appropriate to the function for which it is to be used. (III)

a. All facilities shall be provided with clean and sanitary storage for cleaning equipment, supplies, and utensils. In facilities over 15 beds, a janitor's closet shall be provided. It shall be equipped with water for filling scrub pails and a janitor's sink for emptying scrub pails. A hallway or corridor shall not be used for storage of equipment. (III)

b. Sufficient numbers of noncombustible trash containers, which have covers, shall be available. (III)

c. All containers for trash shall be watertight, rodent-proof, and have tight-fitting covers and shall be thoroughly cleaned each time a container is emptied. (III)

d. All wastes shall be properly disposed of in compliance with the local ordinances and state codes. (III)

65.23(3) *Bedrooms.* Each resident shall be provided with a bed, substantially constructed and in good repair. (III)

a. Rollaway beds, metal cots, or folding beds are not acceptable. (III)

b. Each bed shall be equipped with the following: casters or glides; clean springs in good repair; a clean, comfortable, well-constructed mattress approximately 5 inches thick and standard in size for the bed; and clean, comfortable pillows of average bed size. (III)

c. There shall be a comfortable chair, either a rocking chair or arm chair, per resident bed. The resident's personal wishes shall be considered and documented. (III)

d. There shall be drawer space for each resident's clothing. In a multiple bedroom, drawer space shall be assigned each resident. (III)

e. There shall be a bedside table with a drawer and a reading lamp for each resident. (III)

f. All furnishings and equipment shall be durable, cleanable, and appropriate to its function. (III)

g. All resident areas shall be decorated, painted, and furnished to provide a homelike atmosphere and in a manner which is age and culture appropriate. (III)

h. Upholstery materials shall be moisture- and soil-resistant, except on furniture which is provided and owned by the resident. (III)

i. Beds and other furnishings shall not obstruct free passage to and through doorways. (III)

j. Beds shall not be placed with the side of the bed against a radiator or in close proximity to it unless the radiator is covered to protect the resident from contact with it or from excessive heat. (III)

65.23(4) *Bath and toilet facilities.* All lavatories shall have nonreusable towels or an air dryer and an available supply of soap. (III)

65.23(5) *Dining and living rooms.* Dining rooms and living rooms shall be available for use by residents at appropriate times to allow social, diversional, individual, and group activities. (III)

a. Every facility shall have a dining room and a living room easily accessible to all residents which are never used as bedrooms. (III)

b. A combination dining room and living room may be permitted if the space requirements of a multipurpose room as provided in 481—subrule 61.6(2) are met. (III)

c. Living rooms shall be suitably furnished and maintained for the use of residents and their visitors and may be used for recreational activities. (III)

d. Dining rooms shall be furnished with dining tables and chairs appropriate to the size and function of the facility. These rooms and furnishings shall be kept clean and sanitary. (III)

65.23(6) *Family and employee accommodations.* Resident bedrooms shall not be occupied by employees, family members of employees, or family members of the licensee. (III)

a. In facilities where the total occupancy of family, employees, and residents is five or fewer, one toilet and one tub or shower is the minimum requirement. (III)

b. In all health care facilities, if the family or employees live within the facility, living quarters shall be required for the family or employees separate from areas provided for residents. (III)

65.23(7) *Pets—policies.* Any facility in which a pet is living shall implement written policies and procedures addressing the following:

a. Vaccination schedule; (III)

b. Veterinary visit schedule; (III)

c. Housing or sleeping quarters; (III) and

d. Assignment of responsibility for feeding, bathing and cleanup. (III)

65.23(8) *Maintenance.* Each facility shall establish a program to ensure continued maintenance of the facility, to promote good housekeeping procedures, and to ensure sanitary practices throughout. In facilities over 15 beds, this program shall be in writing and be available for review by the department. (III)

a. The buildings, furnishings and grounds shall be maintained in a clean, orderly condition and be in good repair. (III)

b. The buildings and grounds shall be kept free of flies, other insects, rodents, and their breeding areas. (III)

65.23(9) *Buildings, furnishings, and equipment.*

a. Battery-operated, portable emergency lights in good working condition shall be available at all times, at a ratio of one light per employee on duty from 6 p.m. to 6 a.m. (III)

b. All windows shall be supplied with curtains and shades or drapes which are kept in good repair. (III)

c. Wherever glass sliding doors or transparent panels are used, they shall be marked conspicuously and decoratively. (III)

65.23(10) *Water supply.* Every facility shall have an adequate water supply from an approved source. A municipal source of water shall be considered as meeting this requirement. Private sources of water to a facility shall be tested annually and the report submitted with the annual application for license. (III)

a. A bacterially unsafe source of water shall be grounds for denial, suspension, or revocation of license. (III)

b. The department may require testing of private sources of water to a facility at its discretion in addition to the annual test. The facility shall supply reports of tests as directed by the department. (III)

This rule is intended to implement Iowa Code section 135C.14.

481—65.24(135C) Care review committee. Rescinded **ARC 1205C**, IAB 12/11/13, effective 1/15/14.

481—65.25(135C) Residents' rights in general. Each facility shall ensure that policies and procedures are written and implemented which include at least provisions in subrules 65.25(1) to 65.25(21). These shall govern all services provided to staff, residents, their families or legal representatives. The policies and procedures shall be available to the public and shall be reviewed annually. (II)

65.25(1) *Grievances.* Written policies and procedures shall include a method for submitting grievances and recommendations by residents or their legal representatives and for ensuring a response and disposition by the facility. The written procedure shall ensure protection of the resident from any form of reprisal or intimidation and shall include:

a. An employee or an alternate designated to be responsible for handling grievances and recommendations; (II)

b. Methods to investigate and assess the validity of a grievance or recommendation; (II) and

c. Methods to resolve grievances and take action. (II)

65.25(2) *Informed of rights.* Policies and procedures shall include a provision that residents be fully informed of their rights and responsibilities as residents and of all rules governing resident conduct and responsibilities. This information must be provided upon admission, or when the facility adopts or amends residents' rights policies. It shall be posted in locations accessible to all residents. (II)

a. The facility shall make known to residents what they may expect from the facility and its staff, and what is expected from residents. The facility shall communicate these expectations during a period not more than two weeks before or later than five days after admission. The communication shall be in writing in a separate handout or brochure describing the facility. It shall be interpreted verbally, as part of a preadmission interview, resident counseling, or in individual or group orientation sessions after admission. (II)

b. Residents' rights and responsibilities shall be presented in language understandable to residents. If the facility serves residents who do not speak English or are deaf, steps shall be taken to translate the information into a foreign or sign language. Blind residents shall be provided either Braille or a recording. Residents shall be encouraged to ask questions about their rights and responsibilities. Their questions shall be answered. (II)

c. A statement shall be signed by the resident and legal guardian, if applicable, to indicate the resident understands these rights and responsibilities. The statement shall be maintained in the record. The statement shall be signed no later than five days after admission. A copy of the signed statement shall be given to the resident or legal guardian. (II)

d. All residents, next of kin, or legal guardian shall be advised within 30 days of changes made in the statement of residents' rights and responsibilities. Appropriate means shall be used to inform non-English-speaking, deaf or blind residents of changes. (II)

65.25(3) *Resident abuse prohibited.* Each resident shall receive kind and considerate care at all times and shall be free from physical, sexual, mental and verbal abuse, exploitation, neglect, and physical injury. (I, II)

65.25(4) *Allegations of dependent adult abuse.* Allegations of dependent adult abuse shall be reported and investigated pursuant to Iowa Code chapter 235E and 481—Chapter 52. (I, II, III)

65.25(5) *Report of abuse.* Rescinded IAB 12/11/13, effective 1/15/14.

65.25(6) *Informed of health condition.* Each resident or legal guardian shall be fully informed by a physician of the health and medical condition of the resident unless a physician documents reasons not to in the resident's record. (II)

65.25(7) *Research.* The resident or legal guardian shall decide whether a resident participates in experimental research. Participation shall occur only when the resident or guardian is fully informed and signs a consent form. (II, III)

Any clinical investigation involving residents must be sponsored by an institution with a human subjects review board functioning in accordance with the requirement of Public Law 93-348, as implemented by Part 46 of Title 45 of the Code of Federal Regulations, as amended December 1, 1981 (45 CFR 46). (III)

65.25(8) *Resident work.* Services performed by the resident for the facility shall be in accordance with the IPP. (II)

a. Residents shall not be used to provide a source of labor for the facility against the resident's will. Physician's approval is required for all work programs and must be renewed yearly. (II, III)

b. If the individual program plan requires activities for therapeutic or training reasons, the plan for these activities must be professionally developed and implemented. Therapeutic or training goals must be clearly stated and measurable and the plan shall be time limited and reviewed at least quarterly. (II, III)

c. A resident engaged in work programs in the ICF/PMI shall be paid wages commensurate with wage and hour regulations for comparable work and productivity. (II)

d. The resident shall have the right to employment options commensurate with training and skills. (II)

e. Residents performing work shall not be used to replace paid employees to fulfill staff requirements. (II)

65.25(9) *Encouragement to exercise rights.* Residents shall be encouraged and assisted throughout their period of stay to exercise resident and citizen rights. Residents may voice grievances and recommend changes in policies and services to administrative staff or to an outside representative of their choice free from interference, coercion, discrimination, or reprisal. (II)

65.25(10) *Posting of names.* The facility shall post in a prominent area the name, telephone number, and address of the survey agency, local law enforcement agency, administrator, members of the board of directors, corporate headquarters, and the protection and advocacy agency designated pursuant to Iowa Code section 135C.2(4) and the text of Iowa Code section 135C.46 to provide to residents another course of redress. (II)

65.25(11) *Dignity preserved.* Residents shall be treated with consideration, respect, and full recognition of their dignity and individuality, including privacy in treatment and in care of personal needs. (II)

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

b. Schedules of daily activities shall allow maximum flexibility for residents to exercise choice about what they will do and when they will do it. Residents' individual preferences regarding such things as menus, clothing, religious activities, friendships, activity programs, entertainment, sleeping, eating, and times to retire at night and arise in the morning shall be elicited and considered by the facility. The facility shall make every effort to match nonsmokers with other nonsmokers. (II)

c. Residents shall not have their personal lives regulated beyond reasonable adherence to meal schedules, bedtime hours, and other written policies which may be necessary for the orderly management of the facility and as required by these rules; however, residents shall be encouraged to participate in recreational programs. (II)

d. Residents shall be examined and treated in a manner that maintains the privacy of their bodies. A closed door shall shield the resident from passersby. People not involved in the care of a resident shall not be present without the resident's consent during examination or treatment. (II)

e. Privacy for each person shall be maintained when residents are being taken to the toilet or being bathed and while they are being helped with other types of personal hygiene, except as needed for resident safety or assistance. (II)

f. Staff shall knock and be acknowledged before entering a resident's room unless the resident is not capable of response. This does not apply under emergency conditions. (II)

65.25(12) *Communications.* Each resident may communicate, associate, and meet privately with persons of the resident's choice, unless to do so would infringe upon the rights of other residents. Each resident may send and receive personal mail unopened unless prohibited in the IPP which has

explicit approval of the resident or legal guardian. Telephones consistent with ANSI standards 42 CFR 405.1134(c) (10-1-86) shall be available and accessible for residents to make and receive calls with privacy. Residents who need help shall be assisted in using the telephone. (II)

Arrangements shall be made to provide assistance to residents who require help in reading or sending mail. (II)

65.25(13) *Visiting policies and procedures.* Subject to reasonable scheduling restrictions, visiting policies and procedures shall permit residents to receive visits from anyone they wish. Visiting hours shall be posted. (II)

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

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

(2) The visit would not be in accordance with the IPP. (II)

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

Reasons for denial of visitation shall be documented in resident records. (II)

b. Decisions to restrict a visitor shall be reevaluated at least quarterly by the QMHP or at the resident's request. (II)

c. Space shall be provided for residents to receive visitors in comfort and privacy. (II)

65.25(14) *Resident activities.* Each resident may participate in activities of social, religious, and community groups as desired unless contraindicated for reasons documented by the attending physician or qualified mental health professional, as appropriate, in the resident's record. (II)

Residents who wish to meet with or participate in activities of social, religious or community groups in or outside the facility shall be informed, encouraged, and assisted to do so. (II)

Residents shall be permitted to leave the facility and environs at reasonable times unless there are justifiable reasons established in writing by the attending physician, QMHP, or facility administrator for refusing permission. (II)

65.25(15) *Resident property.* Each resident may retain and use personal clothing and possessions as space permits and provided use is not otherwise prohibited in these rules. (II)

a. Residents shall be permitted to keep reasonable amounts of personal clothing and possessions for their use while in the facility. The personal property shall be kept in a secure location which is convenient to the resident. (II)

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

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

65.25(16) *Sharing rooms.* Residents, including spouses staying in the same facility, shall be permitted to share a room, if available, if requested by both parties, unless reasons to the contrary are in the IPP. Reasons for denial shall be documented in the resident's record. (II)

65.25(17) *Choice of physician and pharmacy.* Each resident shall be permitted free choice of a physician and a pharmacy. The facility may require the pharmacy selected to use a drug distribution system compatible with the system currently used by the facility. (II)

This rule is intended to implement Iowa Code section 135C.14 and Iowa Code chapter 235E.

[**ARC 1205C**, IAB 12/11/13, effective 1/15/14; **ARC 1204C**, IAB 12/11/13, effective 1/15/14]

481—65.26(135C) Incompetent residents. Each facility shall provide that all rights and responsibilities of incompetent residents devolve to the legal guardian when a hearing has been held and the resident is judged incompetent in accordance with state law. (II)

A facility is not absolved from advising incompetent residents of their rights to the extent the resident is able to understand them. The facility shall also advise the legal guardian, if any, and acquire a statement indicating an understanding of resident's rights. (II)

This rule is intended to implement Iowa Code sections 135C.14(8) and 135C.24.

481—65.27(135C) County care facilities. In addition to these rules, county care facilities licensed as intermediate care facilities for persons with mental illness must also comply with department of human services rules 441—Chapter 37. Violation of any standard established by the department of human services is a Class II violation pursuant to 481—56.2(135C).

This rule is intended to implement Iowa Code section 227.4.

481—65.28(135C) Violations. Classification of violations is I, II and III, determined by the division using the provisions in 481—Chapter 56, "Fining and Citations," to enforce a fine to cite a facility.

481—65.29(135C) Another business or activity in a facility. A facility is allowed to have another business or activity in a health care facility or in the same physical structure of the facility, if the other business or activity is under the control of and is directly related to and incidental to the operation of the health care facility, or the business or activity is approved by the department and the state fire marshal.

To obtain the approval of the department and the state fire marshal, the facility must submit to the department a written request for approval which identifies the service(s) to be offered by the business and addresses the factors outlined in paragraphs *"a"* through *"j"* of this rule. (I, II, III)

65.29(1) The following factors will be considered by the department in determining whether a business or activity will interfere with the use of the facility by residents, interfere with services provided to residents, or be disturbing to residents:

a. Health and safety risks for residents;

b. Compatibility of the proposed business or activity with the facility program;

c. Noise created by the proposed business or activity;

d. Odors created by the proposed business or activity;

e. Use of entrances and exits for the business or activity in regard to safety and disturbance of residents and interference with delivery of services;

f. Use of the facility's corridors or rooms as thoroughfares to the business or activity in regard to safety and disturbance of residents and interference with delivery of services;

g. Proposed staffing for the business or activity;

h. Sharing of services and staff between the proposed business or activity and the facility;

i. Facility layout and design; and

j. Parking area utilized by the business or activity.

65.29(2) Approval of the state fire marshal shall be obtained before approval of the department will be considered.

65.29(3) A business or activity conducted in a health care facility or in the same physical structure as a health care facility shall not reduce space, services or staff available to residents below minimums required in these rules and 481—Chapter 61. (I, II, III)

481—65.30(135C) Respite care services. Respite care services means an organized program of temporary supportive care provided for 24 hours or more to a person in order to relieve the usual caregiver of the person from providing continual care to the person. A facility which chooses to provide respite care services must meet the following requirements related to respite care services and must be licensed as a health care facility.

65.30(1) A facility which chooses to provide respite care services is not required to obtain a separate license or pay a license fee.

65.30(2) Rules regarding involuntary discharge or transfer rights do not apply to residents who are being cared for under a respite care contract.

65.30(3) The facility shall have a contract with each resident in the facility. When the resident is there for respite care services, the contract shall specify the time period during which the resident will be considered to be receiving respite care services. At the end of that period, the contract may be amended to extend that period of time. The contract shall specifically state the resident may be involuntarily discharged while being considered as a respite care resident. The contract shall meet other requirements for contracts between a health care facility and resident, except the requirements concerning the holding and charging for a bed when a resident is hospitalized or leaves the facility temporarily for recreational or therapeutic reasons.

65.30(4) Respite care services shall not be provided by a facility to persons requiring a level of care which is higher than the level of care the facility is licensed to provide.

These rules are intended to implement Iowa Code sections 135C.2(6), 135C.4, 135C.6(2), 135C.6(3), 135C.7, 135C.8, 135C.14, 135C.16(2), 135C.23, 135C.24, 135C.25, 135C.31, and 227.4.

[Filed 11/20/91, Notice 8/7/91—published 12/11/91, effective 1/15/92]
[Filed 3/12/92, Notice 12/11/91—published 4/1/92, effective 5/6/92]
[Filed 5/16/95, Notice 3/15/95—published 6/7/95, effective 7/12/95]
[Filed 11/30/95, Notice 9/13/95—published 12/20/95, effective 1/24/96]
[Filed 1/21/97, Notice 8/14/96—published 2/12/97, effective 3/19/97]
[Filed 7/11/97, Notice 4/23/97—published 7/30/97, effective 9/3/97]
[Filed emergency 7/25/97—published 8/13/97, effective 7/25/97]
[Filed emergency 11/14/97—published 12/3/97, effective 11/14/97]
[Filed 11/14/97, Notice 8/13/97—published 12/3/97, effective 1/7/98]
[Filed 3/31/98, Notice 12/3/97—published 4/22/98, effective 5/27/98]
[Filed 7/9/98, Notice 4/22/98—published 7/29/98, effective 9/2/98]
[Filed 1/15/04, Notice 12/10/03—published 2/4/04, effective 3/10/04]
[Filed 3/12/04, Notice 1/7/04—published 3/31/04, effective 5/5/04]
[Filed 9/20/06, Notice 8/2/06—published 10/11/06, effective 11/15/06]
[Filed 11/15/06, Notice 10/11/06—published 12/6/06, effective 1/10/07]
[Filed ARC 0663C (Notice ARC 0513C, IAB 12/12/12), IAB 4/3/13, effective 5/8/13]
[Filed ARC 0766C (Notice ARC 0601C, IAB 2/6/13), IAB 5/29/13, effective 7/3/13]
[Filed ARC 0903C (Notice ARC 0776C, IAB 5/29/13), IAB 8/7/13, effective 9/11/13]
[Filed ARC 1050C (Notice ARC 0907C, IAB 8/7/13), IAB 10/2/13, effective 11/6/13]
[Filed ARC 1205C (Notice ARC 1082C, IAB 10/2/13), IAB 12/11/13, effective 1/15/14]
[Filed ARC 1204C (Notice ARC 1083C, IAB 10/2/13), IAB 12/11/13, effective 1/15/14]
[Filed ARC 1752C (Notice ARC 1648C, IAB 10/1/14), IAB 12/10/14, effective 1/14/15]

NATURAL RESOURCE COMMISSION[571]

[Prior to 12/31/86, see Conservation Commission [290], renamed Natural Resource Commission[571] under the "umbrella" of Department of Natural Resources by 1986 Iowa Acts, chapter 1245]

TITLE I
GENERAL

CHAPTER 1
OPERATION OF NATURAL RESOURCE COMMISSION
1.1(17A,455A) Scope
1.2(17A,455A) Time of meetings
1.3(17A,455A) Place of meetings
1.4(17A,455A) Notification of meetings
1.5(17A,455A) Attendance and participation by the public
1.6(17A,455A) Quorum and voting requirements
1.7(17A,455A) Conduct of meeting
1.8(17A,455A) Minutes, transcripts, and recordings of meetings
1.9(17A,455A) Officers and duties
1.10(17A,455A) Election and succession of officers
1.11(68B) Sales of goods and services

CHAPTER 2
PUBLIC RECORDS AND FAIR INFORMATION PRACTICES
2.1(22) Adoption by reference

CHAPTER 3
SUBMISSION OF INFORMATION AND COMPLAINTS—INVESTIGATIONS
3.1(17A) Adoption by reference

CHAPTER 4
AGENCY PROCEDURE FOR RULE MAKING
4.1(17A) Adoption by reference

CHAPTER 5
PETITIONS FOR RULE MAKING
5.1(17A) Adoption by reference

CHAPTER 6
DECLARATORY RULINGS
6.1(17A) Adoption by reference

CHAPTER 7
RULES OF PRACTICE IN CONTESTED CASES
7.1(17A) Adoption by reference

CHAPTER 8
CONTRACTS FOR PUBLIC IMPROVEMENTS AND PROFESSIONAL SERVICES
8.1(17A) Adoption by reference

CHAPTER 9
Reserved

CHAPTER 10
FORFEITED PROPERTY

10.1(809) Purpose
10.2(809) Definitions
10.3(809) Jurisdiction
10.4(809) Supervisor approval
10.5(809) Disposition of general property
10.6(809) Disposition of weapons
10.7(809) Property destroyed
10.8(809) Disposition of furs

CHAPTER 11
WAIVERS OR VARIANCES FROM ADMINISTRATIVE RULES

11.1(17A) Adoption by reference
11.2(17A) Report to commission

CHAPTER 12
CONSERVATION EDUCATION

DIVISION I
RESOURCE ENHANCEMENT AND PROTECTION CONSERVATION EDUCATION PROGRAM (REAP)

12.1(455A) Purpose
12.2(455A) Conservation education program policy
12.3(455A) Conservation education program board
12.4(455A) Definitions
12.5(455A) Eligibility for funds
12.6(455A) Grant applications, general procedures
12.7(455A) Conflict of interest
12.8(455A) Criteria
12.9(455A) Grantee responsibilities
12.10(455A) Board review and approval
12.11(455A) Waivers of retroactivity
12.12(455A) Penalties
12.13(455A) Remedy
12.14(455A) Termination for convenience
12.15(455A) Termination for cause
12.16(455A) Responsibility of grantee at termination
12.17(455A) Appeals
12.18 and 12.19 Reserved

DIVISION II
RECREATION EDUCATION COURSES
PART I
VOLUNTEER INSTRUCTOR CERTIFICATION AND DECERTIFICATION PROCEDURES

12.20(321G,321I,462A,483A) Purpose
12.21(321G,321I,462A,483A) Definitions
12.22(321G,321I,462A,483A) Certified instructor application process
12.23(321G,321I,462A,483A) Requirements for instructor certification
12.24(321G,321I,462A,483A) Certified instructor responsibilities and requirements
12.25(321G,321I,462A,483A) Grounds for revocation or suspension of instructor certification
12.26(321G,321I,462A,483A) Temporary suspensions and immediate revocations of instructor certifications
12.27(321G,321I,462A,483A) Termination of certification

12.28(321G,321I,462A,483A) Compensation for instructors
12.29(321G,321I,462A,483A) Hearing rights
12.30 Reserved

PART II
RECREATION EDUCATION PROGRAMS

12.31(321I) ATV education program
12.32(321G) Snowmobile education program
12.33(462A) Boating education program
12.34(483A) Hunter safety and ethics education program
12.35(321G) Snow groomer operator education program
12.36(483A) Bow hunter education program
12.37(483A) Fur harvester education program

CHAPTER 13
PERMITS AND EASEMENTS FOR CONSTRUCTION AND RELATED ACTIVITIES ON PUBLIC LANDS AND WATERS

13.1(455A,461A,462A) Purpose
13.2(455A,461A,462A) Affected public lands and waters
13.3(455A,461A) Definitions

DIVISION I
PERMITS

13.4(455A,461A) Permits required
13.5(455A,461A) Interest in real estate
13.6(455A,461A,462A) Evaluation
13.7(455A,461A,462A) Review standards
13.8(455A,461A) Leases or easements as a condition of permits
13.9(455A,461A,462A) Permit application
13.10(455A,461A) Additional information or analysis required for permit review
13.11(455A,461A) Permit issued or denied
13.12(455A,461A) Authorized agent
13.13(455A,461A) Inspection
13.14(455A,461A) Additional information or analysis required during term of the permit
13.15(455A,461A) Violations; types of enforcement actions; citation and notice of violation
13.16(455A,461A) Removal orders
13.17(455A,461A) Civil penalties
13.18(455A,461A) Report of completion
13.19(455A,461A) Final inspection
13.20(455A,461A) Permit extensions
13.21(455A,461A) Project modifications
13.22(455A,461A) Transferability
13.23 to 13.50 Reserved

DIVISION II
LEASES AND EASEMENTS

13.51(455A,461A) Leases
13.52(455A,461A) Easements
13.53(455A,461A) Appeals

TITLE II
LICENSES, PERMITS AND CONCESSION CONTRACTS

CHAPTER 14
CONCESSIONS

14.1(461A) Definitions
14.2(461A) Advertising or notice procedure
14.3(461A) Bidding process
14.4(461A) Selection of a concessionaire
14.5(461A) Concession contract—general
14.6(461A) Dispute resolution
14.7(461A) Suspension or termination for cause
14.8(461A) Severability

CHAPTER 15
GENERAL LICENSE REGULATIONS

15.1(483A) Scope

DIVISION I
LICENSE SALES, REFUNDS AND ADMINISTRATION

15.2(483A) Definitions
15.3(483A) Form of licenses
15.4(483A) Administration fee
15.5(483A) Electronic license sales
15.6(483A) Paper license sales
15.7(483A) Lost or destroyed license blanks
15.8(483A) Refund or change requests for special deer and turkey hunting licenses and general licenses
15.9(483A) Proof of residency required
15.10(483A) Residency status determination
15.11(483A) Suspension or revocation of licenses when nonresidents obtain resident licenses
15.12 to 15.15 Reserved

DIVISION II
MULTIPLE OFFENDER AND WILDLIFE VIOLATOR COMPACT

15.16(481A,481B,482,483A,484A,484B) Multiple offenders—revocation and suspension of hunting, fishing, and trapping privileges from those persons who are determined to be multiple offenders
15.17(456A) Wildlife violator compact
15.18 to 15.20 Reserved

DIVISION III
SPECIAL LICENSES

15.21(483A) Fishing license exemption for patients of substance abuse facilities
15.22(481A) Authorization to use a crossbow for deer and turkey hunting during the bow season by handicapped individuals
15.23(483A) Free hunting and fishing license for low-income persons 65 years of age and older or low-income persons who are permanently disabled
15.24(483A) Free annual fishing license for persons who have severe physical or mental disabilities
15.25(483A) Transportation tags for military personnel on leave from active duty
15.26 to 15.40 Reserved

DIVISION IV
EDUCATION AND CERTIFICATION PROGRAMS

15.41(483A) Hunter safety and ethics education program
15.42(483A) Testing procedures
15.43(321G,462A,483A) Volunteer bow and fur harvester education instructors, snowmobile and all-terrain vehicle (ATV) safety instructors, boating safety instructors and hunter education instructors
15.44 to 15.50 Reserved

DIVISION V
LICENSE REVOCATION, SUSPENSION, AND MODIFICATION DUE TO LIABILITIES OWED TO THE STATE

15.51(272D) Purpose and use
15.52(272D) Definitions
15.53(272D) Requirements of the department
15.54(272D) No administrative appeal of the department's action
15.55(272D) District court hearing

CHAPTER 16
DOCKS AND OTHER STRUCTURES ON PUBLIC WATERS

16.1(461A,462A) Definitions

DIVISION I
PRIVATE, COMMERCIAL AND PUBLIC DOCKS

16.2(461A,462A) Scope of division and classes of permits
16.3(461A,462A) Standard requirements for all docks
16.4(461A,462A) Class I permits for standard private docks
16.5(461A,462A) Class I permits for docks permitted by Corps of Engineers
16.6(461A,462A) Class II permits for docks authorized by cities and counties that own or otherwise control shoreline property
16.7(461A,462A) Class III permits for nonstandard private docks
16.8(461A,462A) Class IV permits for commercial docks
16.9(461A,462A) Exceptions for renewal of Class III and Class IV permits for existing docks
16.10(461A,462A) Exceptions to Class III and Class IV permits for new structures
16.11 Reserved
16.12(461A,462A) Initial decision and right of appeal
16.13(461A,462A) Application forms and administrative fees
16.14 to 16.16 Reserved
16.17(461A,462A) Duration and transferability of permits; refund of application fees; suspension, modification, or revocation of permits; complaint investigation; property line location
16.18(461A,462A) Exemptions from winter removal requirement
16.19(461A,462A) General conditions of all dock permits
16.20(461A,462A) Permit criteria for rafts, platforms, or other structures
16.21 to 16.24 Reserved

DIVISION II
DOCK MANAGEMENT AREAS

16.25(461A) Designation or modification of dock management areas
16.26(461A) Procedures and policies for dock site permits and hoist or slip assignments in dock management areas
16.27(461A) Standard requirements for dock management area docks
16.28(461A) Dock management area permit restrictions and conditions
16.29(461A) Fees for docks in dock management areas
16.30(461A) Suspension, modification or revocation of dock management area permits
16.31(461A) Persons affected by DMA permit—hearing request

CHAPTER 17
BARGE FLEETING REGULATIONS

17.1(461A) Purpose
17.2(461A) Policy
17.3(461A) Applicability
17.4(461A) Definitions
17.5(461A) Barge fleeting leases
17.6(461A) Restricted areas
17.7(461A) Prohibited areas
17.8(461A) Riparian rights
17.9(461A) Standards
17.10(461A) Application
17.11(461A) Application review and approval
17.12(461A) Lease fee
17.13(461A) Renewals
17.14(461A) Disputes concerning leases
17.15(461A) Lease revocation
17.16(461A) Nonuse

CHAPTER 18
RENTAL FEE SCHEDULE FOR STATE-OWNED PROPERTY,
RIVERBED, LAKEBED, AND WATERFRONT LANDS

18.1(461A) General
18.2(461A) Table 1—Areas designated for industrial or commercial use by the natural resource commission
18.3(461A) Table 2—Areas designated for noncommercial use or use by nonprofit organizations
18.4(461A) Other fees

CHAPTER 19
SAND AND GRAVEL PERMITS

19.1(461A) Purpose
19.2(461A) Definitions
19.3(461A) Permit applications
19.4(461A) Permit conditions and operating procedures

CHAPTER 20
MANUFACTURER'S CERTIFICATE OF ORIGIN

20.1(462A) Definitions
20.2(462A) Applicability
20.3(462A) Certificate of origin—content
20.4(462A) Procedure—manufacturer
20.5(462A) Procedure—dealer
20.6(462A) Procedure—purchaser
20.7(462A) Procedure—county recorder
20.8(462A) Vessel titling

TITLE III
ASSISTANCE PROGRAMS

CHAPTER 21
AGRICULTURAL LEASE PROGRAM

21.1(456A) Purpose
21.2(456A) Definitions

21.3(456A) Agricultural lease policy
21.4(456A) Lease procedures

CHAPTER 22
WILDLIFE HABITAT ON PRIVATE LANDS PROMOTION PROGRAM AND HABITAT AND PUBLIC ACCESS PROGRAM

Part 1
WILDLIFE HABITAT ON PRIVATE LANDS PROMOTION PROGRAM

22.1(456A,483A) Purpose
22.2(456A,483A) Authority
22.3(456A,483A) Project scope
22.4(456A,483A) Availability of funds
22.5(483A) Winter habitat areas
22.6(456A,483A) Shelterbelts
22.7(456A,483A) Pheasant and quail restoration practices
22.8(456A,483A) Cost reimbursement
22.9(456A,483A) Wildlife habitat enhancement on public and private lands

Part 2
HABITAT AND PUBLIC ACCESS PROGRAM

22.10(456A,483A) Purpose and authority
22.11(456A,483A) Definitions
22.12(456A,483A) Eligibility
22.13(456A,483A) Application procedures
22.14(456A,483A) Agreements
22.15(456A,483A) Cost reimbursement

CHAPTER 23
WILDLIFE HABITAT PROMOTION WITH LOCAL ENTITIES PROGRAM

23.1(483A) Purpose and definitions
23.2(483A) Availability of funds
23.3(483A) Eligibility
23.4(483A) Project limitations
23.5(483A) Eligibility for cost-sharing assistance
23.6(483A) Application for assistance
23.7(483A) Project review and selection
23.8(483A) Commission review
23.9(483A) Grant amendments
23.10(483A) Timely commencement of projects
23.11(483A) Project period
23.12(483A) Payments
23.13(483A) Record keeping and retention
23.14(483A) Penalties

CHAPTER 24
BLUFFLANDS PROTECTION PROGRAM AND REVOLVING LOAN FUND

24.1(161A) Purpose
24.2(161A) Allocation of funds
24.3(161A) Definitions
24.4(161A) Types of acquisitions
24.5(161A) Application for loans
24.6(161A) Approval of loan applications
24.7(161A) Interest and other terms of loan agreements
24.8(161A) Eligible expenditures with loan funds

24.9(161A) Custody and management of land during loan term
24.10(161A) Loans not to exceed appraised value

CHAPTER 25
CERTIFICATION OF LAND AS NATIVE PRAIRIE OR WILDLIFE HABITAT

25.1(427) Purpose
25.2(427) Definitions
25.3(427) Restrictions
25.4(427) Maintenance
25.5(427) Certification
25.6(427) Application for exemption
25.7(427) Decertification

CHAPTER 26
RELOCATION ASSISTANCE

26.1(316) Definitions
26.2(316) Actual reasonable moving costs and related expenses
26.3(316) Replacement housing payments for homeowners
26.4(316) Replacement housing payments for tenants and certain others
26.5(316) Notice of relocation assistance advisory service
26.6(316) Preconstruction project certificate
26.7(316) Record of payment determinations and claims for benefits paid
26.8(316) Last resort housing

CHAPTER 27
LANDS AND WATERS CONSERVATION FUND PROGRAM

27.1(456A) Purpose
27.2(456A) Apportionment distribution
27.3(456A) Eligibility requirements
27.4(456A) Assistance ceiling
27.5(456A) Grant application submission
27.6(456A) Project review and selection
27.7(456A) Public participation
27.8(456A) Commission review
27.9(456A) Federal review
27.10(456A) Grant amendments
27.11(456A) Timely commencement of projects
27.12(456A) Project period
27.13(456A) Reimbursements
27.14(456A) Ineligible items
27.15(456A) Record keeping and retention

CHAPTER 28
ALL-TERRAIN VEHICLE REGISTRATION
REVENUE COST-SHARE PROGRAM

28.1(321I) Definitions
28.2(321I) Purpose and intent
28.3(321I) Distribution of funds
28.4(321I) Application procedures
28.5(321I) Review and selection committee
28.6(321I) Director's review of approved projects
28.7(321I) Project selection criteria
28.8(321I) Eligibility of projects

28.9(321I) Use of funded items
28.10(321I) Disposal of equipment, facilities or property
28.11(321I) Record keeping
28.12(321I) Sponsors bonded
28.13(321I) Items eligible for funding
28.14(321I) Competitive bids
28.15(321I) Prepayment for certain anticipated costs
28.16(321I) Expense documentation, balance payment or reimbursement
28.17(321I) Use of funds

CHAPTER 29
LOCAL RECREATION INFRASTRUCTURE GRANTS PROGRAM

29.1(8,77GA,ch1219) Purpose
29.2(8,77GA,ch1219) Definitions
29.3(8,77GA,ch1219) Eligibility requirements
29.4(8,77GA,ch1219) Assistance ceiling and cost share
29.5(8,77GA,ch1219) Minimum grant amount
29.6(8,77GA,ch1219) Grant application submission
29.7(8,77GA,ch1219) Project review and selection
29.8(8,77GA,ch1219) Rating system not used
29.9(8,77GA,ch1219) Applications not approved for funding
29.10(8,77GA,ch1219) Commission review
29.11(8,77GA,ch1219) Grant amendments
29.12(8,77GA,ch1219) Timely commencement of projects
29.13(8,77GA,ch1219) Payments
29.14(8,77GA,ch1219) Record keeping and retention
29.15(8,77GA,ch1219) Eligible projects
29.16(8,77GA,ch1219) Project life and recovery of funds
29.17(8,77GA,ch1219) Unlawful use of funds
29.18(8,77GA,ch1219) Remedy
29.19(8,77GA,ch1219) Ineligibility

CHAPTER 30
WATERS COST-SHARE AND GRANT PROGRAMS

DIVISION I
WATER RECREATION ACCESS COST-SHARE PROGRAM

30.1(452A) Title and purpose
30.2(452A) Availability of funds
30.3(452A) Eligibility of development projects
30.4(452A) Eligibility of acquisition projects
30.5(452A) Projects not eligible
30.6(452A) Waiver of retroactivity
30.7(452A) Establishing project priorities
30.8(452A) Application procedures
30.9(452A) Cost-sharing rates
30.10(452A) Joint sponsorship
30.11(452A) Control of project site
30.12(452A) Project agreements
30.13(452A) Reimbursement procedures
30.14(77GA,SF2381) Implementation of pilot program for state and local cooperative lake rehabilitation
30.15 to 30.50 Reserved

DIVISION II
WATER TRAILS DEVELOPMENT PROGRAM AND LOW-HEAD DAM PUBLIC HAZARD PROGRAM

30.51(455A,461A,462A) Definitions
30.52(455A,461A,462A) Purpose and intent
30.53(455A,461A,462A) Program descriptions
30.54(455A,461A,462A) Announcement of funding opportunity
30.55(455A,461A,462A) Grant requirements
30.56(455A,461A,462A) Application procedures
30.57(455A,461A,462A) Proposal evaluation
30.58(455A,461A,462A) Sponsor eligibility
30.59(455A,461A,462A) Project eligibility
30.60(455A,461A,462A) Cost-share requirements
30.61(455A,461A,462A) Evaluation criteria
30.62(455A,461A,462A) Disbursement of awards
30.63(455A,461A,462A) Water trails advisory committee

CHAPTER 31
PUBLICLY OWNED LAKES PROGRAM

31.1(456A) Purpose
31.2(456A) Definitions
31.3(456A) Priority of watersheds
31.4(456A) Application
31.5(456A) Application review
31.6(456A) Commission approvals

CHAPTER 32
PRIVATE OPEN SPACE LANDS

32.1(9H) Applicability
32.2(9H) Definition

CHAPTER 33
RESOURCE ENHANCEMENT AND PROTECTION PROGRAM:
COUNTY, CITY AND PRIVATE OPEN SPACES GRANT PROGRAMS

Part 1
GENERAL PROVISIONS

33.1(455A) Purpose
33.2(455A) Resource enhancement policy
33.3(455A) Definitions
33.4(455A) Restrictions
33.5(455A) Grant applications, general procedures
33.6(455A) Appraisals
33.7(455A) Groundwater hazard statements
33.8(455A) Rating systems not used
33.9(455A) Applications not selected for grants
33.10(455A) Similar development projects
33.11(455A) Commission review and approval
33.12(455A) Timely commencement and completion of projects
33.13(455A) Waivers of retroactivity
33.14(455A) Project amendments
33.15(455A) Payments
33.16(455A) Record keeping and retention
33.17(455A) Penalties
33.18 Reserved

33.19(455A) Property tax reimbursement
33.20(455A) Public hearing
33.21(455A) Conflict of interest
33.22(455A) Public communications
33.23 to 33.29 Reserved

Part 2
COUNTY GRANTS

33.30(455A) County conservation account
33.31 to 33.39 Reserved

Part 3
CITY GRANTS

33.40(455A) Competitive grants to cities
33.41 to 33.49 Reserved

Part 4
PRIVATE GRANTS

33.50(455A) Private cost-sharing program

CHAPTER 34
COMMUNITY FORESTRY
GRANT PROGRAM (CFGP)

34.1(461A) Purpose
34.2(461A) Definitions
34.3(461A) Availability of funds
34.4(461A) Eligibility of forestry development projects
34.5(461A) Eligibility of community tree planting projects
34.6(461A) Projects not eligible
34.7(461A) Eligible applicants
34.8(461A) Establishing project priorities
34.9(461A) Application procedures
34.10(461A) Requirements for funding
34.11(461A) Project agreements
34.12(461A) Reimbursement procedures

CHAPTER 35
FISH HABITAT PROMOTION FOR COUNTY CONSERVATION BOARDS

35.1(483A) Purpose and definitions
35.2(483A) Availability of funds
35.3(483A) Program eligibility
35.4(483A) Eligibility for cost-sharing assistance
35.5(483A) Application for assistance
35.6(483A) Project review and selection
35.7(483A) Commission review
35.8(483A) Grant amendments
35.9(483A) Timely commencement of projects
35.10(483A) Project period
35.11(483A) Payments
35.12(483A) Record keeping and retention
35.13(483A) Penalties

TITLE IV
RECREATIONAL VESSEL AND VEHICLE REGISTRATION AND SAFETY

CHAPTER 36
GREEN VALLEY LAKE SPECIAL WATER ACTIVITY RULES

36.1(462A)	General
36.2(462A)	Inboard boats
36.3(462A)	Racing craft
36.4(462A)	Wake
36.5(462A)	Speed
36.6(462A)	Hours
36.7(462A)	Ski zone
36.8(462A)	Traffic pattern
36.9(462A)	Designated activities in ski zone
36.10(462A)	Designated areas
36.11(462A)	Traffic
36.12(462A)	Lifesaving device
36.13(462A)	Speed
36.14(462A)	Distance from shore
36.15(462A)	Horsepower limitation

CHAPTER 37
BOATING SAFETY EQUIPMENT

37.1(462A)	Fire extinguishers
37.2(462A)	Flame arrester required
37.3 to 37.5	Reserved
37.6(462A)	Lights on vessels
37.7(462A)	Lighting requirements for sailing vessels
37.8(462A)	Sailing vessels with auxiliary power
37.9 to 37.12	Reserved
37.13(462A)	Buoyant safety equipment

CHAPTER 38
BOAT REGISTRATION AND NUMBERING

38.1(462A)	Emblem placed
38.2 to 38.5	Reserved
38.6(462A)	Procedure for application for boat registration number—content
38.7 to 38.9	Reserved
38.10(462A)	Information on certificate
38.11(462A)	Registration applied for card
38.12(462A)	Vessels in storage
38.13 and 38.14	Reserved
38.15(462A)	Numbering pattern to be used
38.16 to 38.18	Reserved
38.19(462A)	Display of number on vessel, as to size, block type and contrasting color
38.20(462A)	Special certificates for boat dealers or manufacturers
38.21(462A)	Boat dealer's annual report of vessels with expired registrations
38.22 to 38.24	Reserved
38.25(462A)	Number designating passenger capacity
38.26(462A)	Monthly reports by county recorders
38.27 to 38.29	Reserved
38.30(462A)	Boats for hire

CHAPTER 39
BOATING PASSENGER CAPACITY

39.1(462A) U.S. Coast Guard capacity rating
39.2(462A) Vessels assigned a capacity rating by the manufacturer
39.3(462A) Vessels not containing capacity rating information
39.4(462A) Incorrect registration

CHAPTER 40
BOATING SPEED AND DISTANCE ZONING

40.1(462A) Restricted areas
40.2(462A) Uniform buoy system
40.3(462A) Commission approval
40.4(462A) Right for aggrieved party to appeal
40.5(462A) Rathbun Lake, Appanoose County—zoned areas
40.6(462A) Red Rock Lake, Marion County—zoned areas
40.7(462A) Coralville Lake, Johnson County—zoned areas
40.8(462A) Saylorville Lake, Polk County—zoned areas
40.9(462A) Lake Odessa in Louisa County
40.10(462A) Mississippi River lock and dam safety zone
40.11(462A) Joyce Slough Area
40.12(462A) Swan Slough, Camanche, Iowa
40.13(462A) Massey Slough
40.14(462A) Black Hawk County waters
40.15(462A) Mitchell County waters
40.16(462A) Maquoketa River
40.17(462A) Zoning of off-channel waters of the Wapsipinicon River in Pinicon Ridge Park in Linn County
40.18(462A) Speed restrictions on Lake Manawa
40.19(462A) Zoning of Little Wall Lake
40.20(462A) Lake Icaria, Adams County—watercraft use
40.21(462A) Zoning of the Des Moines River
40.22(462A) Upper Gar Lake, Dickinson County
40.23(462A) Zoning of the Mississippi River, Guttenberg river mile 616, Clayton County
40.24(462A) Mt. Ayr City Lake (Loch Ayr)
40.25(462A) Iowa River in Iowa City, Johnson County
40.26(462A) Zoning of the Mississippi River, Dubuque, Dubuque County
40.27(462A) Zoning Harpers Slough, Harpers Ferry, Allamakee County
40.28(462A) Black Hawk Lake, Sac County—zoned areas
40.29(462A) Speed and other restrictions on Brown's Lake, Woodbury County
40.30(462A) Speed and other restrictions on Snyder Bend Lake, Woodbury County
40.31(462A) Speed restrictions on East Okoboji and West Okoboji Lakes in Dickinson County
40.32(462A) Spirit Lake, Dickinson County—zoned areas
40.33(462A) Speed restrictions on the Mississippi River, Jackson County, at Spruce Creek County Park
40.34(462A) Speed restrictions on the Mississippi River, Jackson County, at the city of Sabula
40.35(462A) Speed restrictions on the Greene Impoundment of the Shell Rock River
40.36(462A) Zoning of the Iowa River, Iowa Falls, Hardin County
40.37(462A) Zoning of Crystal Lake
40.38(462A) Five Island Lake, Palo Alto County
40.39(462A) Lost Island Lake, Palo Alto and Clay Counties
40.40(462A) Ingham Lake, Emmet County
40.41(462A) Storm Lake, Buena Vista County

40.42(462A) Raccoon River Regional Park Lake, Polk County
40.43(462A) Zoning of the Mississippi River, Bellevue, Jackson County
40.44(462A) Three Mile Lake, Union County—watercraft use
40.45(462A) Zoning of the Cedar River
40.46(462A) Zoning of Carter Lake, Pottawattamie County
40.47(462A) Zoning of the Mississippi River, McGregor, Clayton County
40.48(462A) Zoning of the Mississippi River, Marquette, Clayton County
40.49(462A) Zoning of Green Island, Jackson County
40.50(462A) Mooring of vessels on riparian property of the state of Iowa
40.51(462A) Little River Lake, Decatur County
40.52(462A) Zoning of the Mississippi River, Johnson Slough, Clayton County
40.53(462A) Zoning of the Mississippi River, Mud Lake, Dubuque County
40.54(462A) Nighttime speed limit, Dickinson County
40.55(462A) Zoning of Clear Lake, Cerro Gordo County
40.56(462A) Zoning of Mississippi River, Des Moines County, city of Burlington
40.57(462A) Zoning of Catfish Creek, Mines of Spain State Recreation Area, Dubuque County
40.58(462A) Zoning of Lake Cornelia, Wright County
40.59(462A) Zoning of lakes in Dickinson County
40.60(462A) Zoning of the Mississippi River, Clayton, Clayton County

CHAPTER 41
BOATING NAVIGATION AIDS

41.1(462A) Definitions
41.2(462A) Waterway markers
41.3(462A) Authority to place markers
41.4(462A) Maintenance of waterway markers
41.5 and 41.6 Reserved
41.7(462A) Display of waterway markers
41.8(462A) Specifications for waterway markers
41.9(462A) Waterway marking devices
41.10(462A) The diver's flag

CHAPTER 42
BOATING ACCIDENT REPORTS

42.1(462A) Accident report
42.2(462A) Procedure
42.3(462A) Contents

CHAPTER 43
MOTORBOAT NOISE

43.1(462A) Definitions
43.2(462A) Sound level limitation
43.3(462A) Serviceability

CHAPTER 44
SPECIAL EVENTS AND FIREWORKS DISPLAYS

44.1(321G,321I,461A,462A,481A) Scope
44.2(321G,321I,461A,462A,481A) Definitions

DIVISION I
SPECIAL EVENTS

44.3(321G,321I,461,462A,481A) Permit required
44.4(321G,321I,461A,462A,481A) Permit conditions
44.5(321G,321I,461A,462A,481A) Application procedures

44.6(321G,321I,462A) Alternate dates for snowmobile, boating, all-terrain vehicle, off-highway vehicle, and off-road motorcycle special events
44.7(321G,321I,461A,462A,481A) Insurance coverage
44.8(321G,321I,461A,462A,481A) Fees and exceptions
44.9(321G,461A) Structures placed on ice during a special event
44.10(462A) Boating special events—registration exemptions
44.11(462A) Mississippi River or Missouri River
44.12(321G,321I,461A,462A,481A) Other requirements and permits
44.13(321G,321I,461A,462A,481A) Authority to cancel or stop a special event
44.14(321G,321I,461A,462A,481A) Nonexclusive use of area

DIVISION II
FIREWORKS DISPLAYS

44.15(461A) Entities eligible for permits
44.16(461A) Permit conditions
44.17(461A) Application procedures
44.18(461A) Fireworks display procedures
44.19(461A) Fees
44.20(461A) Insurance
44.21(461A) Concessions

CHAPTER 45
BOAT MOTOR REGULATIONS

45.1(462A) Horsepower rating
45.2(462A) Alteration of horsepower rating
45.3(462A) Propulsion mechanism not in use
45.4(462A) Horsepower limitations on artificial lakes
45.5(462A) Artificial marshes

CHAPTER 46
ALL-TERRAIN VEHICLES, OFF-ROAD MOTORCYCLES AND
OFF-ROAD UTILITY VEHICLES

DIVISION I
REGISTRATION, RENEWAL, TITLING, DECAL PLACEMENT
AND ACCIDENT REPORTS

46.1(321I) Definitions
46.2(321I) Off-road motorcycles
46.3(321I) Off-road utility vehicles
46.4(321I) Operation on roadways, highways, streets, and snowmobile trails
46.5(321I) Registration for all-terrain vehicles and off-road motorcycles
46.6(321I) Nonresident user permits
46.7(321I) Display of registration and user permit decals
46.8(321I) Registration certificate
46.9(321I) Owner's certificate of title
46.10(321I) Procedures for application and for issuance of a vehicle identification number (VIN) for homebuilt regulated vehicles
46.11(321I) Accident report
46.12(321I) Sound level limitation
46.13 to 46.20 Reserved

DIVISION II
ALL-TERRAIN VEHICLE DEALERS

46.21(321I) Purpose
46.22(321I) Definitions

46.23(321I) Dealer's established place of business
46.24(321I) Zoning
46.25(321I) Sales tax permit
46.26(321I) Special registration certificates for manufacturers, distributors, and dealers
46.27(321I) Information provided to purchaser
46.28(321I) Right of inspection
46.29(321I) Denial or revocation
46.30 to 46.50 Reserved

DIVISION III
REGULATION OF DESIGNATED RIDING AREAS

46.51(321I) Definitions
46.52(321I) Designated riding areas
46.53(321I) Department law enforcement at designated riding areas
46.54(321I) General rules for regulated vehicle operation in designated riding areas
46.55(321I) Unauthorized vehicles
46.56(321I) Parking and unloading areas
46.57(321I) Operation with passengers
46.58(321I) Off-road utility vehicle requirements
46.59(321I) Youth operational areas
46.60(321I) Unlawful operation
46.61(321I) Alcohol prohibited
46.62(321I) Pets
46.63(321I) Camping

CHAPTER 47
SNOWMOBILES

DIVISION I
REGISTRATION, RENEWAL, TITLING, DECAL PLACEMENT
AND ACCIDENT REPORTS

47.1(321G) Definitions
47.2(321G) Operation on roadways, highways, streets and snowmobile trails
47.3(321G) Registration for snowmobiles
47.4(321G) Nonresident user permits
47.5(321G) Display of registration and user permit decals
47.6(321G) Registration certificate
47.7(321G) Owner's certificate of title
47.8(321G) Procedures for application and for issuance of a vehicle identification number (VIN) for homebuilt snowmobiles
47.9(321G) Accident report
47.10 to 47.20 Reserved

DIVISION II
SNOWMOBILE DEALERS

47.21(321G) Purpose
47.22(321G) Definitions
47.23(321G) Dealer's established place of business
47.24(321G) Zoning
47.25(321G) Sales tax permit
47.26(321G) Special registration certificates for manufacturers, distributors and dealers
47.27(321G) Information provided to purchasers
47.28(321G) Right of inspection
47.29(321G) Denial or revocation

DIVISION III
SNOWMOBILE REGISTRATION REVENUE COST-SHARE PROGRAM

47.30(321G) Definitions
47.31(321G) Purpose and intent
47.32(321G) Distribution of funds
47.33(321G) Application procedures
47.34(321G) Review and selection committee
47.35(321G) Director's review of approved projects
47.36(321G) Selection criteria
47.37(321G) Eligibility of projects
47.38(321G) Use of funded items
47.39(321G) Disposal of equipment, facilities or property
47.40(321G) Record keeping
47.41(321G) Sponsors bonded
47.42(321G) Items eligible for funding
47.43(321G) Land acquisition projects eligible for funding
47.44(321G) Competitive bids
47.45(321G) Prepayment for certain anticipated costs
47.46(321G) Expense documentation, balance payment, or reimbursement
47.47(321G) Use of funds

CHAPTER 48
INSPECTION OF PERMANENTLY MOORED VESSELS

48.1(462A) Purpose
48.2(462A) Definitions
48.3(462A) Inspection requirements
48.4(462A) Inspectors
48.5(462A) Statewide inspection contract
48.6(462A) Submission
48.7(462A) Notification to the commission

CHAPTER 49
OPERATION OF MOTOR VEHICLES IN MEANDERED
STREAMS, NAVIGABLE STREAMS AND TROUT STREAMS

49.1(462A) Purpose and intent
49.2(462A) Definitions
49.3(462A) Stream identification process
49.4(462A) Motor vehicle prohibition in meandered streams, trout streams and navigable streams
49.5(462A) Motor vehicle prohibition in meandered streams

CHAPTER 50
ALL-TERRAIN VEHICLE, OFF-ROAD MOTORCYCLE, OFF-ROAD UTILITY VEHICLE,
SNOWMOBILE AND VESSEL BONDING

50.1(321G,321I) Definitions

DIVISION I
ALL-TERRAIN VEHICLES, OFF-ROAD MOTORCYCLES,
OFF-ROAD UTILITY VEHICLES AND SNOWMOBILES

50.2(321G,321I) Bond required before issuance of title or registration
50.3 to 50.9 Reserved

DIVISION II
VESSELS

50.10(462A) Bond required before issuance of title or registration

TITLE V
MANAGEMENT AREAS AND PRACTICES

CHAPTER 51
GAME MANAGEMENT AREAS

51.1(481A) Definitions
51.2(481A) Jurisdiction
51.3(481A) Use of firearms
51.4(481A) Use of horses on game management areas
51.5(481A) Dogs prohibited—exception
51.6(481A) Use of blinds and decoys on game management areas
51.7(481A) Trapping on game management areas
51.8(481A) Motor vehicle restrictions
51.9(481A) Employees exempt
51.10(481A) Use of nontoxic shot on wildlife areas
51.11(481A) Rock climbing and rappelling
51.12(481A) Camping restrictions

CHAPTER 52
WILDLIFE REFUGES

52.1(481A) Established

CHAPTER 53
Reserved

CHAPTER 54
RESTRICTIONS ON INTRODUCTION AND REMOVAL OF PLANT LIFE

54.1(461A) Mushrooms and asparagus
54.2(461A) Fruit
54.3(461A) American ginseng
54.4(461A) Trees
54.5(461A) Aquatic plants

CHAPTER 55
NONPERMANENT STRUCTURES

55.1(461A) Ice fishing shelters

CHAPTER 56
SHOOTING SPORTS PROGRAM GRANTS

DIVISION I
DEVELOPMENT GRANTS

56.1(456A,481A) Purpose
56.2(456A,481A) Definitions
56.3(456A,481A) Eligibility requirements
56.4(456A,481A) Maximum grant amounts
56.5(456A,481A) Grant application submissions
56.6(456A,481A) Project review and selection
56.7(456A,481A) Commission review
56.8(456A,481A) Appeals
56.9(456A,481A) Grant amendments
56.10(456A,481A) Timely commencement of projects

56.11(456A,481A) Payments
56.12(456A,481A) Record keeping and retention
56.13(456A,481A) Project life and recovery of grant funds
56.14(456A,481A) Unlawful use of grant funds
56.15(456A,481A) Remedy
56.16(456A,481A) Ineligibility

DIVISION II
EQUIPMENT GRANTS

56.17(456A,481A) Purpose
56.18(456A,481A) Definitions
56.19(456A,481A) Eligibility requirements
56.20(456A,481A) Maximum grant amounts
56.21(456A,481A) Grant application submissions
56.22(456A,481A) Project review and selection
56.23(456A,481A) Commission review
56.24(456A,481A) Appeals
56.25(456A,481A) Grant amendments
56.26(456A,481A) Timely commencement of projects
56.27(456A,481A) Payments
56.28(456A,481A) Record keeping and retention
56.29(456A,481A) Project life and recovery of grant funds
56.30(456A,481A) Unlawful use of grant funds
56.31(456A,481A) Remedy
56.32(456A,481A) Ineligibility

CHAPTERS 57 to 60
Reserved

TITLE VI
PARKS AND RECREATION AREAS

CHAPTER 61
STATE PARKS, RECREATION AREAS, AND STATE FOREST CAMPING

61.1(461A) Applicability
61.2(461A) Definitions

DIVISION I
STATE PARKS AND RECREATION AREAS

61.3(461A) Centralized reservation system—operating procedures and policies
61.4(461A) Camping
61.5(461A) Rental facilities
61.6(461A) Vessel storage fees
61.7(461A) Restrictions—area and use
61.8(461A) Certain conditions of public use applicable to specific parks and recreation areas
61.9(461A) Mines of Spain hunting, trapping and firearms use
61.10(461A) After-hours fishing—exception to closing time
61.11(461A) Designated areas for after-hours fishing
61.12(461A) Vessels prohibited
61.13(461A) Severability
61.14(461A) Restore the outdoors program
61.15(461A,463C) Honey Creek Resort State Park
61.16 to 61.19 Reserved

DIVISION II
STATE FOREST CAMPING

61.20(461A) Camping areas established and marked
61.21(461A) Campground reservations
61.22(461A) Camping fees and registration
61.23(461A) Restrictions—area and use

CHAPTER 62
Reserved

CHAPTER 63
KEG BEER RULES

63.1(461A,123) Purpose
63.2(461A,123) Applicability
63.3(461A,123) Definitions
63.4(461A,123) Prohibited areas
63.5(461A,123) Procedure
63.6(461A,123) Deposit disposition
63.7(461A,123) Responsibility agreement

CHAPTER 64
METAL DETECTORS USE IN STATE AREAS

64.1(461A) Definitions
64.2(461A) Use areas
64.3(461A) Archaeological/scientific studies
64.4(461A) Found items
64.5(461A) Lost item search by owner
64.6(461A) Tools used
64.7(461A) Digging limitations and restoration
64.8(461A) Disposal of litter

CHAPTER 65
Reserved

CHAPTER 66
SAYLORVILLE MULTIUSE TRAIL

66.1(461A,481A) Applicability
66.2(456A,481A) Wildlife refuge
66.3(481A) Hunting and trapping restrictions
66.4(461A) Area use restrictions

CHAPTER 67
DEVELOPMENT AND MANAGEMENT OF RECREATION TRAILS
ON STATE FORESTS, PARKS, PRESERVES AND RECREATION AREAS

67.1(456A,461A) Applicability
67.2(456A,461A) Definitions
67.3(456A,461A) Purpose
67.4(456A,461A) Establishment of trails
67.5(456A,461A) Designation of recreation trails
67.6(456A,461A) Guidelines for trail location
67.7(456A,461A) Control of trail use
67.8(456A,461A) Use of designated trails

CHAPTERS 68 to 70
Reserved

TITLE VII
FORESTRY

CHAPTER 71
NURSERY STOCK SALE TO THE PUBLIC

71.1(456A,461A) Purpose
71.2(456A,461A) Procedures
71.3(456A,461A) Nursery stock prices

CHAPTER 72
TIMBER BUYERS

72.1(456A) Definitions
72.2(456A) Applicability of rules
72.3(456A) Forms

CHAPTER 73
FOREST AND FRUIT-TREE RESERVATIONS

73.1(427C,456A) Criteria for establishing and maintaining forest and fruit-tree reservations
73.2(427C,456A) County assessor's annual report on forest and fruit-tree reservations to the department of natural resources

CHAPTER 74
FOREST LAND ENHANCEMENT PROGRAM (FLEP)

74.1(461A) Purpose
74.2(461A) Definitions
74.3(461A) Project scope
74.4(461A) Availability of funds
74.5(461A) Forest land enhancement program areas
74.6(461A) Cost reimbursement

CHAPTER 75
Reserved

TITLE VIII
SEASONS, LIMITS, METHODS OF TAKE

CHAPTER 76
UNPROTECTED NONGAME

76.1(481A) Species

CHAPTER 77
ENDANGERED AND THREATENED PLANT AND ANIMAL SPECIES

77.1(481B) Definitions
77.2(481B) Endangered, threatened, and special concern animals
77.3(481B) Endangered, threatened, and special concern plants
77.4(481B) Exemptions

CHAPTER 78
GINSENG HARVESTING AND SALE

78.1(456A) Purpose
78.2(456A) Scope
78.3(456A) Definitions
78.4(456A) Season for legal harvest

78.5(456A) General prohibitions
78.6(456A) Ginseng permits
78.7(456A) Dealers—record keeping
78.8(456A) Dealer locations
78.9(456A) Certificates of origin
78.10(456A) Inspection
78.11(456A) Restrictions and prohibitions for harvesting wild ginseng
78.12(456A) Additional restrictions and prohibitions for wild ginseng
78.13(456A) Compliance with laws
78.14(456A) Violations of this chapter
78.15(456A) Possession
78.16(456A) Valuation
78.17(456A) Revocation of permits
78.18(456A) Reciprocity

CHAPTER 79
FISH STOCKING PROCEDURES AND FEES FOR PRIVATE WATERS
79.1(481A) Purpose
79.2(481A) Application procedures
79.3(481A) Fish stocks
79.4(481A) Fees

CHAPTER 80
SALVAGE OF FISH AND GAME
80.1(481A) Salvage
80.2(481A) Game killed by motor vehicle
80.3(481A) Confiscated fish or game

CHAPTER 81
FISHING REGULATIONS
81.1(481A) Seasons, territories, daily bag limits, possession limits, and length limits
81.2(481A) Exceptions to seasons and limits, set in 81.1(481A)
81.3(481A) Trotlines and throw lines

CHAPTER 82
COMMERCIAL FISHING
INLAND WATERS
82.1(482) Contract policy
MISSISSIPPI AND MISSOURI RIVERS
82.2(482) Commercial taking

CHAPTER 83
SCUBA AND SKIN SPEARING OF ROUGH FISH
83.1(481A) When permitted
83.2(481A) Prohibited areas
83.3(481A) Permitted equipment
83.4(481A) Prohibited equipment
83.5(481A) Diver's flag
83.6(481A) Employees exempt

CHAPTER 84
PROMISCUOUS FISHING

84.1(481A) General

CHAPTER 85
Reserved

CHAPTER 86
TURTLES

86.1(481A,482) Taking

CHAPTER 87
MUSSEL REGULATIONS

87.1(481A) Seasons, areas, methods, species, limits

CHAPTER 88
Reserved

CHAPTER 89
AQUACULTURE

89.1(481A) Approved aquaculture species
89.2(481A) Importation permit
89.3(481A) Disease-free certification

CHAPTER 90
AQUATIC INVASIVE SPECIES

90.1(456A) Definitions
90.2(456A) Aquatic invasive species
90.3(456A) Restrictions
90.4(456A) Infested waters

CHAPTER 91
WATERFOWL AND COOT HUNTING SEASONS

91.1(481A) Duck hunting
91.2(481A) Coots (split season)
91.3(481A) Goose hunting
91.4(481A) Closed areas
91.5(481A) Canada goose hunting within closed areas
91.6(481A) Youth waterfowl hunt

CHAPTER 92
MIGRATORY GAME BIRDS

92.1(481A) General
92.2(481A) Duck stamp
92.3(481A) Hunting methods
92.4(481A) Restrictions applicable to possession, tagging, and record-keeping requirements
92.5(481A) Transportation within the state or between states
92.6(481A) Wounded, live migratory game birds
92.7(481A) Harvest information program (HIP)

CHAPTER 93
COMMERCIAL USE OF CAPTIVE-REARED WATERFOWL

93.1(481A) General
93.2(481A) Required markings
93.3(481A) Definitions

93.4(484B) Marked for shooting
93.5(481A) Commercial sale of captive-reared waterfowl by a taxidermist

CHAPTER 94
NONRESIDENT DEER HUNTING

94.1(483A) Licenses
94.2(483A) Season dates
94.3(483A) Shooting hours
94.4(481A) Limits
94.5(483A) Zones open to hunting
94.6(483A) License quotas
94.7(483A) Method of take
94.8(483A) Application procedure
94.9(483A) Transportation tag
94.10(481A) Deer hunting season for severely disabled persons
94.11(481A) Harvest reporting
94.12(481A) January antlerless season

CHAPTER 95
GAME HARVEST REPORTING AND LANDOWNER-TENANT REGISTRATION

95.1(481A) Harvest reporting system
95.2(481A) Verifying eligibility for free landowner or tenant licenses

CHAPTER 96
PHEASANT, QUAIL AND GRAY (HUNGARIAN)
PARTRIDGE HUNTING SEASONS

96.1(481A) Pheasant season
96.2(481A) Gray (Hungarian) partridge season
96.3(481A) Quail season

CHAPTER 97
COMMON SNIPE, VIRGINIA RAIL AND SORA, WOODCOCK,
RUFFED GROUSE, AND DOVE HUNTING SEASONS

97.1(481A) Common snipe season
97.2(481A) Virginia rail and sora season
97.3(481A) Woodcock season
97.4(481A) Ruffed grouse season
97.5 Reserved
97.6(481A) Dove season

CHAPTER 98
WILD TURKEY SPRING HUNTING

RESIDENT WILD TURKEY SPRING HUNTING

98.1(483A) General
98.2(483A) Means and method of take
98.3(483A) Procedures to obtain licenses
98.4(483A) Transportation tag
98.5(483A) Eligibility for free landowner/tenant turkey licenses
98.6(483A) Youth spring wild turkey hunt
98.7(481A) Harvest reporting
98.8 Reserved

NONRESIDENT WILD TURKEY SPRING HUNTING

98.9(483A) General
98.10(483A) Zones open to hunting
98.11(483A) License quotas
98.12(483A) Means and method of take
98.13(483A) Application procedure
98.14(483A) Transportation tag
98.15(481A) Harvest reporting

CHAPTER 99
WILD TURKEY FALL HUNTING

99.1(481A) General
99.2(481A) Licenses
99.3(481A) Seasons
99.4(481A) Zones
99.5(481A) Quotas
99.6(481A) Daily, season, and possession bag limits
99.7(481A) Shooting hours
99.8(481A) Means and method of take
99.9(481A) Procedures to obtain licenses
99.10(481A) Transportation tag
99.11(481A) Eligibility for free landowner/tenant turkey licenses
99.12(481A) Harvest reporting

CHAPTER 100
CROW AND PIGEON REGULATIONS

100.1(481A) Crow season
100.2(481A) Pigeons

CHAPTER 101
FALCONRY REGULATIONS

101.1(481A) Falconry regulations
101.2(481A) Facilities and equipment
101.3(481A) Taking and possession provision
101.4(481A) Annual reports
101.5(481A) Other provisions
101.6(481A) Compliance

CHAPTER 102
FALCONRY REGULATIONS FOR HUNTING GAME

102.1(481A) General
102.2(481A) Migratory bird regulations
102.3(481A) Small game
102.4(481A) Means and methods of take
102.5(481A) Exclusions

CHAPTER 103
MOBILE RADIO TRANSMITTERS

103.1(481A) Definitions
103.2(481A) Falconry
103.3(481A) Hunting dogs

CHAPTER 104
WILDLIFE IMPORTATION, TRANSPORTATION AND DISEASE MONITORING

104.1(481A) Definitions
104.2(481A) Chronic wasting disease in captive cervids
104.3(481A) Chronic wasting disease in captive cervids—herd monitoring program
104.4(481A) Identification of animals
104.5(481A) Supervision of the CCWDSI program
104.6(481A) Surveillance procedures
104.7(481A) Official cervid CWD tests
104.8(481A) Investigation of CWD affected animals identified through surveillance
104.9(481A) Duration of quarantine
104.10(481A) Herd plan
104.11(481A) Identification and disposal requirements
104.12(481A) Cleaning and disinfecting
104.13(481A) Methods for obtaining certified CWD cervid herd status
104.14(481A) Recertification of CWD cervid herds
104.15(481A) Movement into a certified CWD cervid herd
104.16(481A) Movement into a monitored CWD cervid herd
104.17(481A) Recognition of monitored CWD cervid herds
104.18(481A) Recognition of certified CWD cervid herds
104.19(481A) Intrastate movement requirements
104.20(481A) Import requirements
104.21(481A) Prohibited movement of cervid carcasses
104.22(481A) Inspection

CHAPTER 105
DEER POPULATION MANAGEMENT ZONES

105.1(481A) Purpose
105.2(481A) Definitions
105.3(481A) Special deer management zones
105.4(481A) State parks and recreation areas
105.5(481A) Urban deer management zones
105.6(481A) Iowa Army Ammunition Plant (IAAP) deer management zone
105.7(481A) County park deer management zones
105.8(481A) Special deer management zones on private land

CHAPTER 106
DEER HUNTING BY RESIDENTS

106.1(481A) Licenses
106.2(481A) Season dates
106.3(481A) Shooting hours
106.4(481A) Limits
106.5(481A) Areas closed to hunting
106.6(481A) Paid deer license quotas and restrictions
106.7(481A) Method of take
106.8(481A) Procedures to obtain licenses
106.9(481A) Transportation tag
106.10(481A) Youth deer and severely disabled hunts
106.11(481A) Deer depredation management
106.12(481A) Eligibility for free landowner/tenant deer licenses
106.13(481A) Harvest reporting

CHAPTER 107
RABBIT AND SQUIRREL HUNTING

107.1(481A) Cottontail rabbit season
107.2(481A) Jackrabbit season
107.3(481A) Squirrel season

CHAPTER 108
MINK, MUSKRAT, RACCOON, BADGER, OPOSSUM, WEASEL, STRIPED SKUNK, FOX (RED AND GRAY), BEAVER, COYOTE, RIVER OTTER, BOBCAT, GRAY (TIMBER) WOLF AND SPOTTED SKUNK SEASONS

108.1(481A) Mink, muskrat and weasel
108.2(481A) Raccoon, badger, opossum and striped skunk
108.3(481A) Red and gray fox
108.4(481A) Beaver
108.5(481A) Coyote
108.6(481A) Gray (timber) wolf and spotted skunk
108.7(481A) River otter and bobcat
108.8(481A) Accidental capture of a river otter or bobcat during a closed season
108.9(481A) Trapping restrictions

CHAPTER 109
GROUNDHOG SEASON

109.1(481A) Groundhog

CHAPTER 110
TRAPPING LIMITATIONS

110.1(481A) Public roadside limitations—snares, body-gripping, and conibear type traps
110.2(481A) Snares
110.3(481A) Body-gripping and conibear type traps
110.4(481A) Foothold and leghold traps
110.5(481A) Removal of animals from traps and snares
110.6(481A) Trap tag requirements
110.7(481A) Colony traps

CHAPTER 111
SCIENTIFIC COLLECTING AND WILDLIFE REHABILITATION

111.1(481A) Definitions
111.2(481A) Scientific collector's license
111.3(481A) Wildlife salvage permit
111.4(481A) Educational project permit
111.5(481A) Wildlife rehabilitation permit
111.6(481A) Application qualifications
111.7(481A) Evaluation committee
111.8(481A) Disposition of animals
111.9(481A) General conditions for permits

CHAPTER 112
HUNTING PRESERVES

112.1(484B) Definitions
112.2(484B) Hunting preserve operator's license
112.3(484B) Land leases required
112.4(484B) Boundary signs required
112.5(484B) Fencing required—ungulates

112.6(484B) Records and annual report
112.7(484B) Game bird transportation tags
112.8(484B) Ungulate transportation tags
112.9(484B) Processed game birds
112.10(484B) Processed ungulates
112.11(484B) Health requirements—game birds and ungulates
112.12(484B) General conditions for permits

CHAPTER 113
RESTITUTION FOR POLLUTION CAUSING INJURY TO WILD ANIMALS

113.1(481A) Applicability
113.2(481A) Definitions
113.3(481A) Liability to the state
113.4(481A) Assessment
113.5(481A) Compensation

CHAPTER 114
NUISANCE WILDLIFE CONTROL

114.1(456A) Nuisance wildlife control program
114.2(456A) Definitions
114.3(456A) Nuisance wildlife control operator's permit
114.4(456A) Application requirements
114.5(456A) Nuisance wildlife control operator's guidebook
114.6(456A) Nuisance wildlife control operator's test and interview
114.7(456A) Records and record-keeping requirements
114.8(456A) Annual activity report
114.9(456A) Permit renewal
114.10(456A) Helper
114.11(456A) Capture methods and trap tagging
114.12(456A) Endangered and threatened wildlife species
114.13(456A) Special Canada goose control permits
114.14(456A) Disposition of captured nuisance wildlife
114.15(456A) General conditions for permits
114.16(456A) Permit refusal
114.17(456A) Penalties

CHAPTER 115
WHITETAIL HUNTING PRESERVES

115.1(81GA,SF206) Definitions
115.2(81GA,SF206) Hunting preserve operator's registration
115.3(81GA,SF206) Boundary signs required
115.4(81GA,SF206) Fencing required
115.5(81GA,SF206) Records and annual report
115.6(81GA,SF206) Whitetail transportation tags
115.7(81GA,SF206) Processed whitetail
115.8(81GA,SF206) Health requirements—whitetail
115.9(81GA,SF206) Chronic wasting disease testing
115.10(81GA,SF206) Positive chronic wasting disease test results
115.11(81GA,SF206) General conditions for registration

CHAPTER 116
HELP US STOP HUNGER PROGRAM ADMINISTRATION

116.1(483A) Purpose
116.2(483A) Definitions
116.3(483A) Restrictions
116.4(483A) HUSH council
116.5(483A) Duties of the department
116.6(483A) Duties of venison distributor
116.7(483A) Meat processors
116.8(483A) Partnerships with other organizations

CHAPTER 9
STATE MIGRATORY WATERFOWL, TROUT AND HABITAT STAMP DESIGN CONTESTS

Rescinded **ARC 1755C**, IAB 12/10/14, effective 1/14/15

CHAPTER 53
CONTROLLED HUNTING AREAS

[Prior to 12/31/86, Conservation Commission[290] Chs 14 and 15]

Rescinded **ARC 1755C**, IAB 12/10/14, effective 1/14/15

PUBLIC EMPLOYMENT RELATIONS BOARD[621]

[Prior to 11/5/86, Public Employment Relations Board [660]]

CHAPTER 1
GENERAL PROVISIONS

1.1(20)	Construction and severability
1.2(20)	General agency description
1.3(20)	General course and method of operation
1.4(20)	Method of obtaining information and making submissions or requests
1.5(20)	Petition for rule making
1.6(20)	Definitions
1.7(20)	Computation of time
1.8	Reserved
1.9(17A,20)	Waiver or variance of rules
1.10(20)	Agency record and files

CHAPTER 2
GENERAL PRACTICE AND HEARING PROCEDURES

2.1(20)	Hearing—time and place—administrative law judge
2.2(20)	Notice of hearing—contents
2.3(20)	Default
2.4(20)	Intervention and additional parties
2.5(20)	Continuance
2.6(20)	Appearances and conduct of parties
2.7(20)	Evidence—objections
2.8(20)	Order of procedure
2.9(20)	Amendments
2.10(20)	Briefs and arguments
2.11(20)	Sequestration of witnesses
2.12(20)	Subpoenas
2.13(20)	Form of documents and treatment of confidential or protected information
2.14(20)	Captions
2.15(20)	Service of pleadings and other papers
2.16(20)	Consolidation
2.17(20)	Prohibition against testimony of mediators, arbitrators and board employees
2.18(20)	Delivery of decisions and orders
2.19(20)	Stays of agency action
2.20(20)	Ex parte communications
2.21(20)	Transcripts of record
2.22(20)	Dismissal
2.23(20)	Informal disposition
2.24(20)	Evidence of settlement negotiations

CHAPTER 3
PROHIBITED PRACTICE PROCEEDINGS

3.1(20)	Filing of complaint
3.2(20)	Contents of complaint
3.3(20)	Clarification of complaint
3.4(20)	Service of complaint
3.5(20)	Answer to complaint
3.6(20)	Voluntary dismissal or withdrawal of complaint
3.7	Reserved

3.8(20) Investigation of complaint
3.9 to 3.11 Reserved
3.12(20) Costs of certified shorthand reporters and transcripts

CHAPTER 4
BARGAINING UNIT AND BARGAINING
REPRESENTATIVE DETERMINATION

4.1(20) General procedures
4.2(20) Unit determination
4.3(20) Bargaining representative determination (election petitions)
4.4(20) Concurrent (combined) petitions
4.5(20) Unit reconsideration
4.6(20) Amendment of unit
4.7(20) Unit clarification
4.8(20) Amendment of certification

CHAPTER 5
ELECTIONS

5.1(20) General procedures
5.2(20) Conduct of election
5.3(20) Election results—tally of ballots
5.4(20) Postelection procedures
5.5(20) Bars to an election
5.6(20) Decertification elections
5.7(20) Disclaimer
5.8(20) Destruction of ballots

CHAPTER 6
NEGOTIATIONS AND NEGOTIABILITY DISPUTES

6.1(20) Scope of negotiations
6.2(20) Consolidated negotiations
6.3(20) Negotiability disputes
6.4(20) Acceptance of proposed agreement
6.5(20) Negotiations report—filing of agreement

CHAPTER 7
IMPASSE PROCEDURES

7.1(20) General
7.2(20) Fees of neutrals
7.3(20) Mediation
7.4 Reserved
7.5(20) Binding arbitration
7.6(20) Impasse procedures after completion deadline
7.7(20) Impasse procedures for state employees

CHAPTER 8
INTERNAL CONDUCT OF EMPLOYEE ORGANIZATIONS

8.1(20) Registration report
8.2(20) Annual report
8.3(20) Bonding requirements
8.4(20) Trusteeships
8.5(20) Reports as public information
8.6(20) Filing of a complaint

CHAPTER 9
ADMINISTRATIVE REMEDIES

9.1(20) Final decisions
9.2(20) Appeals to board

CHAPTER 10
DECLARATORY ORDERS

10.1(17A,20) Who may petition
10.2(20) Contents of petition
10.3(17A,20) Caption
10.4(17A,20) Notice of petition
10.5(17A,20) Intervention
10.6(17A,20) Briefs
10.7(17A,20) Service of petitions and other papers
10.8(17A,20) Action on petition
10.9(17A,20) Refusal to issue order
10.10(17A,20) Copies of orders

CHAPTER 11
STATE EMPLOYEE APPEALS OF GRIEVANCE DECISIONS
AND DISCIPLINARY ACTIONS

11.1(19A,20) Notice of appeal rights
11.2(19A,20) Filing of appeal
11.3(19A,20) Content of the appeal
11.4(19A,20) Content of director's answer to the appeal
11.5(19A,20) Right to a hearing
11.6(19A,20) Witnesses
11.7(19A,20) Finality of decision
11.8(19A,20) Review by board
11.9(19A,20) Other rules
11.10(19A,20) Applicability

CHAPTER 12
PUBLIC RECORDS AND FAIR INFORMATION PRACTICES
(Uniform Rules)

12.1(20,22) Definitions
12.3(20,22) Requests for access to records
12.6(20,22) Procedure by which additions, dissents or objections may be entered into certain records
12.9(20,22) Disclosures without the consent of the subject
12.10(20,22) Routine use
12.11(20,22) Consensual disclosure of confidential records
12.12(20,22) Release to subject
12.13(20,22) Availability of records
12.14(20,22) Data processing systems
12.15(20,22) Applicability

CHAPTER 13
MEDIATORS

13.1(20) Scope and authority
13.2(20) Definitions
13.3(20) List and status of members
13.4(20) Mediator listing

13.5(20) Independent contractor agreement
13.6(20) Conflict of interest
13.7(20) Confidentiality
13.8(20) Complaints
13.9(20) Inactive status

CHAPTER 14
ARBITRATORS

14.1(20) Scope
14.2(20) Definitions
14.3(20) Roster and status of members
14.4(20) Fees of arbitrators
14.5(20) Arbitrator roster
14.6(20) Interest arbitrator mentorship program
14.7(20) Biography
14.8(20) Conflict of interest
14.9(20) Procedures for discipline and removal
14.10(20) Inactive status

CHAPTER 15
Reserved

CHAPTER 16
ELECTRONIC DOCUMENT MANAGEMENT SYSTEM

16.1(20) Effective date and scope
16.2(20) Definitions
16.3(20) Registration, username, and passwords
16.4(20) Mandatory electronic filing and exceptions
16.5(20) Filing of paper documents
16.6(20) Date and time of filing
16.7(20) Signatures
16.8(20) Format and redaction of electronic documents
16.9(20) Exhibits and other attachments
16.10(20) Service
16.11(20) Discovery
16.12(20) Transcripts, briefs and exhibits

CHAPTER 2
GENERAL PRACTICE AND HEARING PROCEDURES

621—2.1(20) Hearing—time and place—administrative law judge. A member of the board or an administrative law judge shall fix the time and place for all hearings. Hearings may be conducted by the board, or by one or more of its members, or by an administrative law judge designated by the board. At their discretion the board or administrative law judge may order a prehearing conference.

621—2.2(20) Notice of hearing—contents. Written notice of a contested case hearing shall be delivered by the board to all parties by ordinary mail. The notice shall include:

2.2(1) A statement of the date, time, place and nature of the hearing.

2.2(2) A statement of the legal authority and jurisdiction under which the hearing is to be held.

2.2(3) A reference to the particular sections of the statutes and rules involved.

2.2(4) A short and plain statement of the matters asserted.

621—2.3(20) Default.

2.3(1) If a party fails to appear or participate in a contested case hearing after proper service of notice, the presiding officer may, if no continuance is granted, enter a default decision or proceed with the hearing and render a decision in the absence of the party.

2.3(2) Default decisions or decisions rendered on the merits after a party has failed to appear or participate in a contested case hearing become final agency action unless, within 20 days after the mailing of the decision to the parties, a motion to vacate pursuant to subrule 2.3(3) is filed and served on all parties or, if the decision is a proposed decision within the meaning of Iowa Code section 17A.15(2), an appeal from the decision to the board on the merits is filed within the time provided by rule 621—9.2(20) or, in cases brought pursuant to Iowa Code section 19A.14, a petition for review by the board on the merits is filed within the time provided by rule 621—11.8(19A,20).

2.3(3) A motion to vacate may be filed only by a party who failed to appear for the hearing and against whom the decision was rendered. The motion must state all facts relied upon by the moving party which establish that good cause existed for that party's failure to appear. Each fact so stated must be substantiated by at least one sworn affidavit of a person with personal knowledge of each such fact, which affidavit(s) must be attached to and filed and served with the motion.

2.3(4) Properly substantiated and timely filed motions to vacate shall be granted only for good cause shown. The burden of proof as to the existence of good cause is on the moving party. Adverse parties may, within ten days of the service of the motion and supporting affidavit(s) upon them, file a response to the motion. Adverse parties shall be allowed to conduct discovery as to the issue of the existence of good cause and to present evidence on the issue prior to a ruling on the motion, if a request to do so is included in that party's response.

2.3(5) The time for the filing of an intra-agency appeal from or petition for review of a decision for which a timely motion to vacate has been filed is stayed pending the issuance of the presiding officer's ruling on the motion to vacate.

621—2.4(20) Intervention and additional parties. Any interested person may request intervention in any proceeding before the public employment relations board. An application for intervention shall be in writing, except that applications made during a hearing may be made orally to the hearing officer, and shall contain a statement of the reasons for such intervention. When an application for intervention is filed regarding a petition for bargaining representative determination, the rules set forth in 621—subrules 4.3(2), 4.4(4) and 5.1(4) shall apply.

Where necessary to achieve a more proper decision, the board or administrative law judge may, on its own motion or the motion of any party, order the bringing in of additional parties. When so ordered the board shall serve upon such additional parties all relevant pleadings, and allow such parties a reasonable time to respond thereto where appropriate.

621—2.5(20) Continuance. Hearings or proceedings on any matter may be continued by order of the board or an administrative law judge, with the reasons therefor set out in said order, and notice thereof to all parties. Parties may, upon written application to the board prior to commencement of the hearing or other proceeding, or oral application to the administrative law judge during the hearing, but not ex parte, request a continuance. A continuance may be allowed for any cause not growing out of the fault or negligence of the applicant, which satisfies the board or administrative law judge that a proper decision or result will be more nearly obtained by granting a continuance. The continuance may also be granted if agreed to by all parties and approved by the board or administrative law judge.

621—2.6(20) Appearances and conduct of parties. Any party may appear and be heard on its own behalf, or by its designated representative. Designated representatives shall file a notice of appearance with the board for each case in which they appear for a party. Filing of pleadings on behalf of a party shall be equivalent to filing a notice of appearance. All persons appearing in proceedings before the board shall conform to the standard of ethical conduct required of attorneys before the courts of the state of Iowa. If any person refuses to conform to such standards, the board may decline to permit such person to appear in any proceeding.

621—2.7(20) Evidence—objections. Rules of evidence shall be those set forth in the Administrative Procedure Act. Any objection with respect to the conduct of the hearing, including an objection to the introduction of evidence, may be stated orally or in writing, accompanied by a short statement of the grounds of such objection, and included in the record. No such objection shall be deemed waived by further participation in the hearing.

621—2.8(20) Order of procedure. The employer shall present its evidence first in unit determination hearings. The complainant shall present its evidence first and shall have the burden of proof in prohibited practice hearings. Intervenors shall follow the parties in whose behalf the intervention is made; if not made in support of a principal party, the administrative law judge shall designate at what stage such intervenors shall be heard. The order of other parties shall be determined by the administrative law judge. All parties shall be allowed cross-examination and an opportunity for rebuttal. At any stage of the hearing or after the close of the hearing but prior to decision, the board or administrative law judge may call for further evidence to be presented by the party or parties concerned.

621—2.9(20) Amendments. A petition, complaint or answer may be amended for good cause shown, but not ex parte, upon motion at any time prior to the decision. Allowance of such amendments, including those to conform to the proof, shall be within the discretion of the board or administrative law judge. The board or administrative law judge may impose terms, or grant a continuance with or without terms, as a condition of such allowance. Such motions prior to hearing shall be in writing filed with the board, and the moving party shall serve a copy thereof upon all parties by ordinary mail.

621—2.10(20) Briefs and arguments. At the discretion of the board or administrative law judge, oral arguments may be presented by the parties with such time limits as determined by the board or administrative law judge. Briefs may be filed in such order and within such time limits as set by the board or administrative law judge.

621—2.11(20) Sequestration of witnesses. Upon its own motion, or the motion of any party, the board or administrative law judge may order the sequestration of witnesses in any proceeding.

621—2.12(20) Subpoenas.

2.12(1) *Attendance of witnesses.* The board, an administrative law judge, or an arbitrator selected pursuant to Iowa Code section 20.22 shall issue subpoenas to compel the attendance of witnesses and the production of relevant records upon written application of any party filed with the agency prior to the hearing. The application shall specify the names and addresses of the witnesses or the person or party having possession of the requested documents and shall list with specificity the records or other items

sought. The requested subpoenas may be provided electronically to a registered user of the electronic document management system. A motion to quash a subpoena may be filed, and when the subpoena has been served more than seven days prior to the hearing, the motion shall be filed not less than three days prior to the hearing.

2.12(2) *Witness fees.* Witnesses shall receive from the subpoenaing party fees and expenses as are prescribed by statute for witnesses in civil actions before a district court. Witnesses may, however, waive such fees and expenses.

2.12(3) *Service of subpoenas.* Subpoenas shall be served as provided in Iowa Code section 622.63.

[**ARC 8953B**, IAB 7/28/10, effective 9/1/10; **ARC 1583C**, IAB 8/20/14, effective 9/24/14]

621—2.13(20) Form of documents and treatment of confidential or protected information.

2.13(1) *Form.* All documents which relate to any proceeding before the agency should be typewritten and bear the docket number of the proceeding to which it relates. Such documents may be single- or double-spaced at the option of the submitting party.

2.13(2) *Confidential information.* When a party files any document which contains material or a reproduction, quotation, or extensive paraphrase of confidential information as defined by 621—subrule 1.6(10), it is the responsibility of the filer to ensure that confidential information is omitted or redacted, or to certify the confidential nature of the document in the manner provided by the electronic document management system. If a document is certified as confidential, omission or redaction of the confidential information contained in the document is not required. The agency will not review filings to determine whether appropriate omissions or redactions have been made.

2.13(3) *Protected information.* When a party files any document which contains protected information as defined by 621—subrule 1.6(11), it is the responsibility of the filer to ensure that the protected information is omitted or redacted from the document before the document is filed unless the protected information is required by statute or rule to be included or is material to the proceeding. The agency will not review filings to determine whether appropriate omissions or redactions have been made.

[**ARC 1583C**, IAB 8/20/14, effective 9/24/14]

621—2.14(20) Captions. The following captions for documents other than forms provided by the board are suggested for use in practice before the board:

2.14(1) In prohibited practice proceedings:

Before the Public Employment Relations Board

XYZ, Complainant and J. Doe, Respondent	[name of document] Case No. 1234

2.14(2) In proceedings pursuant to a petition:

Before the Public Employment Relations Board

In the matter of XYZ, Public Employer and J. Doe, Petitioner	[name of document] Case No. 1234

621—2.15(20) Service of pleadings and other papers.

2.15(1) *Service—upon whom made.* Whenever under these rules nonelectronic service is required or permitted to be made upon a person or party, such service shall be as follows:

a. Upon any city, or board, commission, council or agency thereof, by serving the mayor or city clerk.

b. Upon any county, or office, board, commission or agency thereof, by serving the county auditor or the chairperson of the county board of supervisors.

c. Upon any school district, school township, or school corporation, by serving the presiding officer or secretary of its governing body.

d. Upon the state of Iowa, or board, commission, council, office or agency thereof, by serving the governor or the director of the department of administrative services.

e. Upon the state judicial department, by serving the state court administrator.

f. Upon any other governing body, by serving its presiding officer, clerk or secretary.

g. Upon an employee organization, by serving the person designated by the employee organization to receive service pursuant to 621—subrule 8.2(2) or by service upon the president or secretary of the employee organization.

h. Upon any other person, by serving that person or that person's attorney of record.

2.15(2) *Service—how made.* Except as provided in rules 621—3.4(20) and 621—5.7(20) and subrule 2.12(3) and 621—subrule 4.2(2), whenever nonelectronic service of any document is permitted or required by these rules, the service shall be sufficient if made by ordinary mail. If the document served is an initial filing in a proceeding, the serving party shall also serve with the document an agency-approved information sheet regarding mandatory electronic filing.

2.15(3) *Proof of service.* Where personal service or service by certified or ordinary mail is permitted or required by these rules, the serving party shall file the return of personal service or certified mail return receipt with the agency. Where service by ordinary mail is permitted under these rules, the serving party shall include the following or a substantially similar certificate on the original document filed with the agency:

"I hereby certify that on _____ I sent a copy of the foregoing matter to
(date)
the following parties of record or their representatives at the addresses indicated, by depositing same in a United States mail receptacle with sufficient postage affixed.

(Signed) _____"
(party or representative)

Unless excepted by 621—subrule 16.4(2), proof of service shall be filed electronically in accordance with 621—Chapter 16.

[**ARC 1583C**, IAB 8/20/14, effective 9/24/14]

621—2.16(20) Consolidation. Upon application of any party or upon its own motion, the board or an administrative law judge may consolidate for hearing any cases which involve common questions of law or fact.

621—2.17(20) Prohibition against testimony of mediators, arbitrators and board employees. Except as authorized by Iowa Code section 20.31, a mediator, arbitrator, administrative law judge, member of the board or other officer or employee of the board shall not testify on behalf of any party to a prohibited practice, representation or impasse resolution proceeding, pending in any court or before the board, with respect to any information, facts, or other matter coming to that individual's knowledge through a party or parties in an official capacity as a resolver of disputes.

[**ARC 8953B**, IAB 7/28/10, effective 9/1/10]

621—2.18(20) Delivery of decisions and orders. Decisions and orders of the board or administrative law judge shall be filed and served in accordance with 621—Chapter 16.

[**ARC 1583C**, IAB 8/20/14, effective 9/24/14]

621—2.19(20) Stays of agency action. Application for stays of agency actions must be filed with the board and served upon all interested parties pursuant to rule 621—2.15(20). The board may in its discretion and on such terms as it deems proper, grant or deny an application.

621—2.20(20) Ex parte communications.

2.20(1) Prohibited communications. Unless required for the disposition of ex parte matters specifically authorized by statute, a presiding officer in a contested case or in proceedings on a petition for declaratory order in which there are two or more parties, shall not communicate directly or indirectly with any party, representative of any party or any other person with a direct or indirect interest in such case, nor shall any such party, representative or person communicate directly or indirectly with the presiding officer concerning any issues of fact or law in that case, except upon notice and opportunity for all parties to participate. Nothing in this provision precludes the presiding officer, without such notice and opportunity for all parties to participate, from communicating with members of the agency or seeking the advice or help of persons other than those with a personal interest in, or those engaged in personally investigating, either the case under consideration or a pending factually related case involving the same parties as long as those persons do not directly or indirectly communicate to the presiding officer any ex parte communications they have received of a type that the presiding officer would be prohibited from receiving or that furnish, augment, diminish or modify the evidence in the record. The term "personally investigated" means taking affirmative steps to interview witnesses directly or to obtain documents or other information directly. The term "personally investigated" does not include general direction and supervision of assigned investigators, unsolicited receipt of information which is relayed to assigned investigators, review of another's investigative work product in the course of determining whether to initiate a proceeding or exposure to factual information while performing other agency functions, including fact-gathering for purposes other than investigation of the matter which culminates in a contested case. Factual information relevant to the merits of a contested case received by a person who later serves as a presiding officer in that case shall be disclosed if required by Iowa Code section 17A.17 as amended by 1998 Iowa Acts, chapter 1202.

2.20(2) Prohibitions on ex parte communications commence with the issuance of the notice of hearing in a contested case and with the filing of the petition in a declaratory order proceeding in which there are two or more parties, and continue for as long as the case is pending.

2.20(3) Communications with a presiding officer involving uncontested scheduling or procedural matters do not require notice or opportunity for parties to participate. Parties should notify other parties prior to initiating such contact with the presiding officer when feasible, and shall notify other parties prior to seeking to continue hearings or other deadlines.

2.20(4) Disclosure of prohibited communications. A presiding officer who receives a prohibited ex parte communication during the pendency of a contested case or proceedings on a petition for declaratory order in which there are two or more parties shall disclose to all parties and place on the record of the pending matter all such written communications, all written responses to the communication, and a memorandum stating the substance of all such oral and other communications received, all responses made and the identity of each person from whom the presiding officer received a prohibited ex parte communication. The presiding officer shall notify all parties that these matters have been placed on the record. Any party desiring to rebut the prohibited communication will be allowed the opportunity to do so upon written request filed within ten days after the giving of notice that the matters have been placed on the record.

2.20(5) If the presiding officer determines that the effect of a prohibited ex parte communication is so prejudicial that it cannot be cured by the procedure specified in subrule 2.20(4), the presiding officer shall be disqualified and the portions of the record pertaining to the communication shall be sealed by protective order.

2.20(6) Promptly after being assigned to serve as presiding officer, either individually, on a hearing panel or on an intra-agency appeal, a presiding officer shall disclose to all parties any material factual information received through ex parte communication prior to such assignment, unless the factual information has or soon will be disclosed pursuant to Iowa Code section 17A.13(2) or through discovery.

2.20(7) Sanctions for prohibited communications.

a. The agency and any party may report any violation of this rule to appropriate authorities for any disciplinary proceedings provided by law.

b. The presiding officer may render a proposed decision or, in the case of the board or a majority thereof, a final decision, imposing appropriate sanctions for violations of this rule including a decision against the offending party, censure, suspension, or revocation of the privilege to practice before the agency.

c. Alleged violations of ex parte communication prohibitions by agency personnel shall be reported to the chairperson for the possible imposition of sanctions including censure, suspension, dismissal or other disciplinary action.

621—2.21(20) Transcripts of record. Oral proceedings in all hearings shall be recorded by a certified shorthand reporter or by mechanized means. The board does not furnish transcriptions, but oral proceedings shall be transcribed at the expense of any party requesting the transcription. Arguments on motions, oral arguments on appeal to the board, and arguments made in declaratory order and expedited negotiability dispute proceedings need not be recorded.

621—2.22(20) Dismissal. The board or an administrative law judge may dismiss cases for want of prosecution if, after receiving notice by certified mail, the parties do not show good cause why the case should be retained.

621—2.23(20) Informal disposition. The board may assign an administrative law judge to assist the parties in reaching a settlement of any dispute which is the subject of an adjudicatory proceeding. However, no party shall be required to participate in mediation or settle the dispute pursuant to this rule. An administrative law judge assisting the parties under this rule shall not serve as a presiding officer in any proceeding related to the dispute. Adjudicatory proceedings may be voluntarily dismissed without consent of the board except as provided in rule 621—3.6(20) and 621—subrule 4.1(3).
[**ARC 1773C**, IAB 12/10/14, effective 1/14/15]

621—2.24(20) Evidence of settlement negotiations. Evidence of proposed offers of settlement of a contested case or a proceeding that may culminate in a contested case shall be inadmissible at the hearing thereon.
[**ARC 1773C**, IAB 12/10/14, effective 1/14/15]

These rules are intended to implement Iowa Code chapter 20.

[Filed 3/4/75]
[Filed 10/29/76, Notice 9/22/76—published 11/17/76, effective 12/22/76]
[Filed 10/26/77, Notice 9/21/77—published 11/16/77, effective 12/21/77]
[Filed 2/3/78, Notice 12/28/77—published 2/22/78, effective 3/29/78]
[Filed 11/7/80, Notice 9/17/80—published 11/26/80, effective 12/31/80]
[Filed 10/22/82, Notice 9/15/82—published 11/10/82, effective 12/15/82]
[Filed emergency 7/23/85—published 8/14/85, effective 7/23/85]
[Filed 10/9/86, Notice 8/27/86—published 11/5/86, effective 12/10/86]
[Filed 2/1/89, Notice 12/28/88—published 2/22/89, effective 3/30/89]
[Filed 4/15/99, Notice 3/10/99—published 5/5/99, effective 7/1/99]
[Filed Without Notice ARC 8953B, IAB 7/28/10, effective 9/1/10]
[Filed ARC 1583C (Notice ARC 1507C, IAB 6/25/14), IAB 8/20/14, effective 9/24/14]
[Filed ARC 1773C (Notice ARC 1670C, IAB 10/15/14), IAB 12/10/14, effective 1/14/15]

CHAPTER 3
PROHIBITED PRACTICE PROCEEDINGS

621—3.1(20) Filing of complaint. A complaint that any public employer, public employee or employee organization has committed a prohibited practice within the meaning of Iowa Code section 20.10(1), that any public employer or the employer's designated representative has committed a prohibited practice within the meaning of Iowa Code section 20.10(2), or that any public employee, employee organization, person, union or organization or its agents have committed a prohibited practice within the meaning of Iowa Code section 20.10(3) may be filed with the agency by any person, employee organization or public employer with standing within 90 days following the alleged commission of the prohibited practice.
[**ARC 1773C**, IAB 12/10/14, effective 1/14/15]

621—3.2(20) Contents of complaint. The complaint, which may utilize the form available from the board's Web site, shall be in writing, shall be signed by the complainant or its designated representative, and shall include the following:

3.2(1) The name, address, telephone number and e-mail address of the complainant, and, if filed by the complainant's designated representative, the name, title, telephone number and e-mail address of that representative.

3.2(2) The name and address of the respondent(s) alleged to have committed the prohibited practice.

3.2(3) A clear and concise statement of the facts constituting the alleged prohibited practice, including the names of the individuals involved in the alleged act(s), the date(s) and place(s) of the alleged act(s), and the specific subsection(s) and paragraph(s) of Iowa Code section 20.10 alleged to have been violated.
[**ARC 1773C**, IAB 12/10/14, effective 1/14/15]

621—3.3(20) Clarification of complaint. Although compliance with technical rules of pleading is not required, the agency may, on either its own motion or motion of the respondent, require the complainant to make the complaint more specific.
[**ARC 1773C**, IAB 12/10/14, effective 1/14/15]

621—3.4(20) Service of complaint. The complainant shall, within a reasonable time following the filing of a complaint, serve all named respondents with a copy of the complaint in the manner of an original notice or by certified mail, return receipt requested, together with an agency-approved information sheet regarding mandatory electronic filing. Such service shall be upon the person(s) designated for service by 621—subrule 2.15(1), and the complainant shall file proof thereof with the agency in accordance with 621—subrule 2.15(3) and 621—subrule 16.10(1).
[**ARC 1583C**, IAB 8/20/14, effective 9/24/14; **ARC 1773C**, IAB 12/10/14, effective 1/14/15]

621—3.5(20) Answer to complaint.

3.5(1) *Filing and service.* Within ten days of service of a complaint, the respondent(s) shall file with the agency an answer to the complaint. The answer shall be signed by the respondent(s) or its designated representative. The answer shall be served through the electronic document management system unless the respondent is exempted from electronic filing in the proceeding, in which case service shall be in accordance with 621—subrules 2.15(2) and 2.15(3), and upon the person who signed the complaint being answered.

3.5(2) *Extension of time to answer.* The parties may agree to an extension of the time to answer and shall inform the agency of their agreement, or the board may, upon application and good cause shown, extend the time to answer.

3.5(3) *Contents of answer.* The answer shall specifically admit or deny each allegation of the complaint and may set forth additional facts deemed to constitute a defense. If the respondent is without knowledge sufficient to make an admission or denial concerning an allegation, the answer shall so state and such statement shall operate as a denial. Admissions or denials may be made to all or part of an allegation but shall fairly meet the substance of the allegation. Additional facts set forth in the answer shall be deemed denied by the complainant.

3.5(4) *Admission by failure to answer.* If the respondent fails to file a timely answer, such failure may be deemed by the board to constitute an admission of the material facts alleged in the complaint and a waiver of a hearing.
[**ARC 1773C**, IAB 12/10/14, effective 1/14/15]

621—3.6(20) Voluntary dismissal or withdrawal of complaint. At any time prior to the issuance of a proposed decision (or final decision if heard originally by the board), a complaint or any part thereof may be voluntarily dismissed by the complainant. Following the issuance of a proposed decision, but before the proposed decision becomes the agency's final decision, complaints may be withdrawn only with the consent of the board and upon conditions the board deems proper.
[**ARC 1773C**, IAB 12/10/14, effective 1/14/15]

621—3.7(20) Amendment of complaint or answer. Rescinded **ARC 1773C**, IAB 12/10/14, effective 1/14/15.

621—3.8(20) Investigation of complaint. The board or its designee may conduct a preliminary investigation of the allegations of any complaint. In conducting such investigation, the board may require the complainant and respondent to furnish evidence, including affidavits and other documents if appropriate. If a review of the evidence shows that the complaint has no basis in fact, the complaint may be dismissed with prejudice by the board and the parties notified. Administrative law judges involved in investigations under this rule shall not act as presiding officers in any proceeding related to the prohibited practice complaint.
[**ARC 1773C**, IAB 12/10/14, effective 1/14/15]

621—3.9 Rescinded, effective December 22, 1976.

621—3.10(20) Informal disposition. Rescinded **ARC 1773C**, IAB 12/10/14, effective 1/14/15.

621—3.11(20) Evidence of settlement negotiations. Rescinded **ARC 1773C**, IAB 12/10/14, effective 1/14/15.

621—3.12(20) Costs of certified shorthand reporters and transcripts.

3.12(1) *Initial payment.* The agency will arrange for a certified shorthand reporter to report the contested case hearing and request that an original transcript of the hearing be prepared by the reporter for the agency's use. The agency initially shall pay the reporter's reasonable compensation for reporting the hearing and producing the agency-requested transcript.

3.12(2) *Taxation as costs.* The cost of reporting and of the agency-requested transcript shall be taxed as costs against the nonprevailing party or parties although the presiding officer, or the board on appeal or review of a proposed decision and order, may apportion such costs in another manner if appropriate under the circumstances.

3.12(3) *Payment of taxed costs.* Following final agency action in a case, the agency will prepare and serve a bill of costs upon the party or parties against whom the costs have been taxed. Those parties shall, within 30 days of such service, remit to the agency the amount specified in the bill of costs. Sums remitted to the agency shall be considered repayment receipts as defined in Iowa Code section 8.2.
[**ARC 1773C**, IAB 12/10/14, effective 1/14/15]

These rules are intended to implement Iowa Code chapter 20.

[Filed 3/4/75]
[Filed 10/29/76, Notice 9/22/76—published 11/17/76, effective 12/22/76]
[Filed 10/26/77, Notice 9/21/77—published 11/16/77, effective 12/21/77]
[Filed 11/7/80, Notice 9/17/80—published 11/26/80, effective 12/31/80]
[Filed emergency 7/23/85—published 8/14/85, effective 7/23/85]
[Filed 10/9/86, Notice 8/27/86—published 11/5/86, effective 12/10/86]
Filed 2/1/89, Notice 12/28/88—published 2/22/89, effective 3/30/89]
[Filed 12/16/93, Notice 11/10/93—published 1/5/94, effective 2/9/94]

[Filed ARC 1583C (Notice ARC 1507C, IAB 6/25/14), IAB 8/20/14, effective 9/24/14]
[Filed ARC 1773C (Notice ARC 1670C, IAB 10/15/14), IAB 12/10/14, effective 1/14/15]

PUBLIC HEALTH DEPARTMENT[641]

Rules of divisions under this department "umbrella" include Professional Licensure[645], Dental Board[650], Medical Board[653], Nursing Board[655] and Pharmacy Board[657]

CHAPTER 1
REPORTABLE DISEASES, POISONINGS AND CONDITIONS, AND QUARANTINE AND ISOLATION

1.1(139A) Definitions
1.2(139A) Purpose and authority

REPORTABLE COMMUNICABLE AND INFECTIOUS DISEASES

1.3(139A,141A) Reportable communicable and infectious diseases
1.4(135,139A) Reporting of reportable communicable and infectious diseases

REPORTABLE POISONINGS AND CONDITIONS—NONCOMMUNICABLE

1.5(139A,135) Reportable poisonings and conditions
1.6(135,139A) Reporting poisonings and conditions

INVESTIGATION

1.7(135,139A) Investigation of reportable diseases

ISOLATION AND QUARANTINE

1.8(139A) Isolation and quarantine
1.9(135,139A) Quarantine and isolation
1.10 and 1.11 Reserved
1.12(135,137,139A) Quarantine and isolation—model rule for local boards
1.13(135,139A) Area quarantine

SPECIFIC NONCOMMUNICABLE CONDITIONS

1.14(139A) Cancer
1.15(144) Congenital and inherited disorders
1.16(139A) Agriculturally related injury

CONFIDENTIALITY

1.17(139A,22) Confidentiality

CHAPTER 2
HEPATITIS PROGRAMS

VIRAL HEPATITIS PROGRAM—VACCINATIONS AND TESTING

2.1(135) Definitions
2.2(135) Purpose
2.3(135) Exposure risks for hepatitis C virus
2.4(135) Information for public distribution
2.5(135) Hepatitis vaccination and testing program
2.6 to 2.8 Reserved

HEPATITIS C AWARENESS PROGRAM—VETERANS

2.9(135) Definitions
2.10(135) Purpose
2.11(135) Awareness materials
2.12(135) Awareness information
2.13(135) Resources for hepatitis follow-up and treatment

CHAPTER 3
EARLY HEARING DETECTION AND INTERVENTION

EARLY HEARING DETECTION AND INTERVENTION (EHDI) PROGRAM

3.1(135) Definitions
3.2(135) Purpose
3.3(135) Goal and outcomes
3.4(135) Program components
3.5(135) Screening the hearing of all newborns
3.6(135) Procedures required of birthing hospitals
3.7(135) Procedures required of birth centers
3.8(135) Procedures to ensure that children born in locations other than a birth center or birthing hospital receive a hearing screening
3.9(135) Reporting hearing screening results and information to the department
3.10(135) Conducting and reporting screening results and diagnostic audiologic assessments to the department
3.11(135) Sharing of information and confidentiality
3.12 Reserved
3.13(135) Procedure to accommodate parental objection
3.14(135) Civil/criminal liability
3.15 and 3.16 Reserved

HEARING AIDS AND AUDIOLOGIC SERVICES FUNDING PROGRAM

3.17(83GA,HF811) Eligibility criteria
3.18(83GA,HF811) Covered services
3.19(83GA,HF811) Application procedures
3.20(83GA,HF811) Hearing aids and audiologic services funding wait list
3.21(83GA,HF811) Reimbursement of providers
3.22(83GA,HF811) Appeals

CHAPTER 4
CENTER FOR CONGENITAL AND INHERITED DISORDERS

4.1(136A) Program overview
4.2(136A) Definitions
4.3(136A) Iowa newborn screening program (INSP)
4.4(136A) Iowa maternal prenatal screening program (IMPSP)
4.5(136A) Regional genetic consultation service (RGCS)
4.6(136A) Neuromuscular and other related genetic disease program (NMP)
4.7(136A) Iowa registry for congenital and inherited disorders (IRCID)
4.8(135) Iowa's early hearing detection and intervention program
4.9 and 4.10 Reserved

CENTER FOR CONGENITAL AND INHERITED DISORDERS ADVISORY COMMITTEE (CIDAC)

4.11(136A) Purpose
4.12(136A) Duties of the committee
4.13(136A) Membership
4.14(136A) Meetings

CHAPTER 5
MATERNAL DEATHS

5.1(135) Reporting of maternal deaths
5.2(135) Ascertainment of maternal deaths
5.3(135) Reviewing of maternal deaths

CHAPTER 6
Reserved

CHAPTER 7
IMMUNIZATION AND IMMUNIZATION EDUCATION: PERSONS ATTENDING ELEMENTARY OR SECONDARY SCHOOLS, LICENSED CHILD CARE CENTERS OR INSTITUTIONS OF HIGHER EDUCATION

7.1(139A)	Definitions
7.2(139A)	Persons included
7.3(139A)	Persons excluded
7.4(139A)	Required immunizations
7.5(139A)	Required education
7.6(139A)	Proof of immunization
7.7(139A)	Provisional enrollment
7.8(139A)	Records and reporting
7.9(139A)	Providing immunization services
7.10(139A)	Compliance
7.11(22)	Statewide registry
7.12(22)	Release of immunization and health screening information

CHAPTER 8
IOWA CARE FOR YOURSELF (IA CFY) PROGRAM

8.1(135)	Definitions
8.2(135)	Components of the Iowa care for yourself (IA CFY) program
8.3(135)	Participant eligibility criteria
8.4(135)	Participant application procedures for IA CFY program services
8.5(135)	Priority for program expenditures
8.6(135)	Right to appeal
8.7(135)	Verification for the breast or cervical cancer treatment (BCCT) option of Medicaid

CHAPTER 9
OUTPATIENT DIABETES EDUCATION PROGRAMS

9.1(135)	Scope
9.2(135)	Definitions
9.3(135)	Powers and duties
9.4(135)	Application procedures for American Diabetes Association-recognized and American Association of Diabetes Educators-accredited programs
9.5(135)	Renewal procedures for American Diabetes Association-recognized and American Association of Diabetes Educators-accredited programs
9.6(135)	Application procedures for programs not recognized by the American Diabetes Association or accredited by the American Association of Diabetes Educators
9.7(135)	Diabetes program management for programs not recognized by the American Diabetes Association or accredited by the American Association of Diabetes Educators
9.8(135)	Program staff for programs not recognized by the American Diabetes Association or accredited by the American Association of Diabetes Educators
9.9(135)	Renewal application procedures for programs not recognized by the American Diabetes Association or accredited by the American Association of Diabetes Educators
9.10(135)	Annual report
9.11(135)	Enforcement
9.12(135)	Complaints

9.13(135) Appeal process
9.14(135) Formal contest

CHAPTER 10
IOWA GET SCREENED: COLORECTAL CANCER PROGRAM

10.1(135) Purpose
10.2(135) Definitions
10.3(135) Components of the Iowa get screened (IGS): colorectal cancer program
10.4(135) Medical advisory board
10.5(135) Participant eligibility criteria
10.6(135) Participant application procedures for IGS program services
10.7(135) Priority for program expenditures
10.8(135) Right to appeal
10.9(135) Colorectal cancer treatment

CHAPTER 11
HUMAN IMMUNODEFICIENCY VIRUS (HIV) INFECTION AND ACQUIRED IMMUNE DEFICIENCY SYNDROME (AIDS)

11.1(139A,141A) Definitions
11.2(141A) HIV testing—obtaining consent—voluntary HIV-related tests for adults who are not pregnant
11.3(139A,141A) HIV testing—obtaining consent—voluntary HIV-related tests for minors who are not pregnant
11.4(141A) HIV testing—obtaining consent—voluntary HIV-related tests for pregnant women
11.5(141A) HIV test results—post-test counseling
11.6(141A) Reporting of diagnoses and HIV-related tests, events, and conditions to the department
11.7(141A) Penalties
11.8(141A) Immunity
11.9 and 11.10 Reserved

TRAINING PROGRAMS

11.11(135) Purpose
11.12 to 11.14 Reserved

PARTNER NOTIFICATION SERVICES AND DIRECT NOTIFICATION OF AN IDENTIFIABLE THIRD PARTY

11.15(139A,141A) Purpose
11.16(139A,141A) Definitions
11.17(139A,141A) Partner notification services by the department
11.18(141A) Direct notification of an identifiable third party by a physician or the department
11.19 and 11.20 Reserved

CARE PROVIDERS EXPOSED TO CONTAGIOUS OR INFECTIOUS DISEASES

11.21(139A) Purpose
11.22(139A) Definitions
11.23(139A,141A) Exposures in non-clinical settings
11.24(139A,141A) Exposures in clinical settings
11.25(139A) Immunity
11.26(139A) Duty to test
11.27 to 11.29 Reserved

HIV-RELATED TEST FOR CONVICTED OR ALLEGED SEXUAL-ASSAULT OFFENDERS AND VICTIMS

11.30(915) Purpose
11.31(915) Definitions
11.32(915) HIV-related test—convicted or alleged sexual assault offender

11.33(915) Medical examination costs
11.34(915) Testing, reporting, and counseling—penalties
11.35 to 11.39 Reserved

AIDS DRUG ASSISTANCE PROGRAM (ADAP)

11.40(141A) Definitions
11.41(141A) Purpose
11.42(141A) Ensuring payer of last resort
11.43(141A) Eligibility requirements
11.44(141A) Enrollment process
11.45(141A) Discontinuation of services
11.46(141A) Distribution requirements
11.47(141A) ADAP waiting list
11.48(141A) Appeals
11.49(141A) Confidentiality

CHAPTER 12
APPROVAL OF CONFIRMATORY LABORATORIES FOR
PRIVATE SECTOR DRUG-FREE WORKPLACE TESTING

12.1(730) Purpose
12.2(730) Definitions
12.3(730) Powers and duties
12.4(730) Application procedures and requirements
12.5(730) Requirements of laboratory personnel involved in confirmatory testing for alcohol or other drugs, or their metabolites
12.6(730) Quality assurance program and procedure manual requirements
12.7(730) Analytical quality control
12.8(730) Sample security and confidentiality of test results
12.9(730) Confirmatory testing
12.10(730) Documentation of the confirmatory testing process
12.11(730) Reporting of confirmed positive test results to the medical review officer
12.12(730) Reporting requirements to department
12.13(730) Approval, renewal, and inspection fees
12.14(730) Renewal
12.15(730) Reciprocity
12.16(730) Changes during approval periods
12.17(730) Enforcement
12.18(730) Denial, suspension, modification or revocation of approval
12.19(730) Restoration of approval
12.20(730) Appeals process
12.21(730) Complaints

CHAPTER 13
Reserved

CHAPTER 14
WATER TREATMENT SYSTEMS

14.1(714) Purpose
14.2(714) Applicability
14.3(714) Definitions
14.4(714) Performance testing
14.5(714) Third-party testing agencies
14.6(714) Registration

14.7(714) Label and manufacturer's performance data sheet
14.8(714) Consumer information pamphlet
14.9(714) Sales of water treatment systems
14.10(714) Treatment of records
14.11(714) Penalties

CHAPTER 15
SWIMMING POOLS AND SPAS

15.1(135I) Applicability
15.2(135I) Scope
15.3(135I) Definitions and abbreviations

SWIMMING POOLS

15.4(135I) Swimming pool operations
15.5(135I) Construction and reconstruction

ADMINISTRATION

15.6(135I) Enforcement
15.7(135I) Variances
15.8(135I) Penalties
15.9(135I) Registration
15.10(135I) Training courses
15.11(135I) Swimming pool/spa operator qualifications
15.12(135I) Fees
15.13(135I) 28E agreements
15.14(135I) Application denial or partial denial—appeal
15.15 to 15.50 Reserved

SPAS

15.51(135I) Spa operations
15.52(135I) Construction and reconstruction

CHAPTERS 16 to 19
Reserved

CHAPTER 20
COMMUNITY WATER FLUORIDATION GRANT PROGRAM

20.1(135) Purpose
20.2(135) Definitions
20.3(135) Applications
20.4(135) Review and rating of applications
20.5(135) Project contracts
20.6(135) Implementation procedures
20.7(135) Reimbursement
20.8(135) Termination
20.9(135) Appeals

CHAPTER 21
CENTRAL REGISTRY FOR
BRAIN AND SPINAL CORD INJURIES

21.1(135) Purpose
21.2(135) Definitions
21.3(135) Reportable injuries
21.4(135) Who reports and under what circumstances
21.5(135) Method and frequency of reporting

21.6(135) Confidentiality
21.7(135) Quality assurance

CHAPTER 22
PRACTICE OF TATTOOING

22.1(135) Purpose
22.2(135) Definitions
22.3(135) General provisions
22.4(135) Sanitation and infection control
22.5(135) Equipment
22.6(135) Procedures
22.7(135) Permit issuance and renewal
22.8(135) Establishment permit requirements
22.9(135) Tattoo artist permit requirements
22.10(135) Temporary establishment permit requirements
22.11(135) Mobile unit permit requirements
22.12(135) Agreements
22.13(135) Inspection requirements
22.14(135) Tattoo inspector qualifications
22.15(135) Client records
22.16(135) Enforcement
22.17(135) Adverse actions and the appeal process

CHAPTER 23
PLUMBING AND MECHANICAL SYSTEMS BOARD—LICENSEE PRACTICE

23.1(105) Definitions
23.2(105) Duties of all licensees, specialty licensees, and certificate holders
23.3(105) Contractor license
23.4(105) Master license
23.5(105) Journeyperson license
23.6(105) Apprentice license
23.7(105) Specialty licenses and certifications
23.8(105) Inactive license

CHAPTER 24
PRIVATE WELL TESTING, RECONSTRUCTION, AND
PLUGGING—GRANTS TO COUNTIES

24.1(135) Applicability
24.2(135) Definitions
24.3(135) Eligibility
24.4(135) Goal and objectives
24.5(135) Eligible grant costs
24.6(135) Ineligible grant costs
24.7(135) Performance requirements
24.8(135) Contents of grant application
24.9(135) Grant application submission
24.10(135) Multicounty grant applications
24.11(135) Grant period
24.12(135) Record keeping and retention
24.13(135) Grant amendments
24.14(135) Termination or forfeiture of grant funds

CHAPTER 25
STATE PLUMBING CODE

25.1(105) Adoption
25.2(105) Applicability
25.3(105) Fuel gas piping
25.4(105) Amendments to Uniform Plumbing Code
25.5(105) Backflow prevention with containment

CHAPTER 26
BACKFLOW PREVENTION ASSEMBLY TESTER REGISTRATION

26.1(135K) Applicability
26.2(135K) Definitions
26.3(135K) Registration required
26.4(135K) Backflow prevention assembly tester training
26.5(135K) Registration
26.6(135K) Standards of conduct
26.7(135K) Penalty
26.8(135K) Denial, suspension or revocation

CHAPTER 27
PLUMBING AND MECHANICAL SYSTEMS BOARD—ADMINISTRATIVE AND REGULATORY AUTHORITY

27.1(17A,105) Definitions
27.2(17A,105) Purpose of board
27.3(17A,105) Organization of board and proceedings
27.4(17A,105) Official communications
27.5(17A,105) Office hours
27.6(21) Public meetings

CHAPTER 28
PLUMBING AND MECHANICAL SYSTEMS BOARD—LICENSURE FEES

28.1(105) Fees
28.2(105) Annual review of fee schedule

CHAPTER 29
PLUMBING AND MECHANICAL SYSTEMS BOARD—APPLICATION, LICENSURE, AND EXAMINATION

29.1(105) Definitions
29.2(105) Available licenses and general requirements
29.3(105) Medical gas piping certification
29.4(105) Minimum qualifications for licensure
29.5(105) General requirements for application for licensure
29.6(105) Examination
29.7(105) License renewal
29.8(105) License reissue
29.9(105) Waiver from examination for military service

CHAPTER 30
CONTINUING EDUCATION FOR PLUMBING AND MECHANICAL SYSTEMS PROFESSIONALS

30.1(105) Definitions
30.2(105) Continuing education requirements
30.3(105) Continuing education programs/activities

30.4(105) Course instructor(s)
30.5(105) Compliance review of continuing education requirements
30.6(105) Continuing education exemptions
30.7(105) Continuing education extensions
30.8(105) Continuing education reporting requirements

CHAPTER 31
PLUMBING AND MECHANICAL SYSTEMS BOARD—WAIVERS OR VARIANCES FROM ADMINISTRATIVE RULES

31.1(17A,105,272C) Definitions
31.2(17A,105,272C) Scope of chapter
31.3(17A,105,272C) Applicability of chapter
31.4(17A,105,272C) Criteria for waiver or variance
31.5(17A,105,272C) Filing of petition
31.6(17A,105,272C) Content of petition
31.7(17A,105,272C) Additional information
31.8(17A,105,272C) Notice
31.9(17A,105,272C) Hearing procedures
31.10(17A,105,272C) Ruling
31.11(17A,105,272C) Public availability
31.12(17A,105,272C) Summary reports
31.13(17A,105,272C) Cancellation of a waiver
31.14(17A,105,272C) Violations
31.15(17A,105,272C) Defense
31.16(17A,105,272C) Judicial review

CHAPTER 32
PLUMBING AND MECHANICAL SYSTEMS BOARD—LICENSEE DISCIPLINE

32.1(105,272C) Definitions
32.2(105,272C) Grounds for discipline
32.3(105,272C) Method of discipline
32.4(272C) Discretion of board
32.5(105) Civil penalties
32.6(105,272C) Collection of delinquent civil penalties and discipline-related debts

CHAPTER 33
PLUMBING AND MECHANICAL SYSTEMS BOARD—CONTESTED CASES

33.1(17A,105,272C) Scope and applicability
33.2(17A,105,272C) Definitions
33.3(17A) Time requirements
33.4(17A,272C) Probable cause
33.5(17A,272C) Informal settlement
33.6(17A) Statement of charges
33.7(17A) Requests for contested case proceeding
33.8(105) Legal representation
33.9(17A,105,272C) Presiding officer in a disciplinary contested case
33.10(17A) Presiding officer in a nondisciplinary contested case
33.11(17A) Disqualification
33.12(17A) Consolidation—severance
33.13(17A) Pleadings
33.14(17A) Service and filing
33.15(17A) Discovery
33.16(17A,272C) Subpoenas in a contested case

33.17(17A) Motions
33.18(17A) Withdrawals
33.19(17A) Intervention
33.20(17A) Telephone proceedings
33.21(17A) Prehearing conferences
33.22(17A) Continuances
33.23(272C) Settlement agreements
33.24(17A) Hearing procedures
33.25(17A) Evidence
33.26(17A) Default
33.27(17A) Ex parte communication
33.28(17A) Recording costs
33.29(17A) Interlocutory appeals
33.30(17A,272C) Decisions
33.31(17A,272C) Client notification
33.32(17A,272C) Application for rehearing
33.33(17A) Stays of board actions
33.34(17A) No factual dispute contested cases
33.35(17A) Emergency adjudicative proceedings
33.36(17A,105,272C) License denial
33.37(17A,105,272C) Denial of application to renew license
33.38(105,272C) Recovery of hearing fees and expenses
33.39(17A) Judicial review
33.40(17A,272C) Reinstatement

CHAPTER 34
PLUMBING AND MECHANICAL SYSTEMS BOARD—COMPLAINTS AND INVESTIGATIONS
34.1(272C) Complaints
34.2(272C) Report of malpractice claims or actions or disciplinary actions
34.3(272C) Report of acts or omissions
34.4(272C) Investigation of complaints or reports
34.5(17A,272C) Issuance of investigatory subpoenas
34.6(272C) Peer review committees
34.7(17A) Appearance

CHAPTER 35
PLUMBING AND MECHANICAL SYSTEMS BOARD—LICENSURE OF NONRESIDENT APPLICANT—RECIPROCITY
35.1(105) Definition
35.2(105) Reciprocity agreements
35.3(105) Application by reciprocity

CHAPTER 36
PLUMBING AND MECHANICAL SYSTEMS BOARD—PETITIONS FOR RULE MAKING
36.1(17A) Petition for rule making
36.2(17A) Briefs
36.3(17A) Inquiries
36.4(17A) Board consideration

CHAPTER 37
PHYSICAL PROTECTION OF CATEGORY 1 AND CATEGORY 2 QUANTITIES OF RADIOACTIVE MATERIAL

GENERAL PROVISIONS

37.1(136C) Purpose and scope
37.2 to 37.4 Reserved
37.5(136C) Definitions
37.6 Reserved
37.7(136C) Communications
37.8 to 37.10 Reserved
37.11(136C) Specific exemptions
37.12 to 37.20 Reserved

BACKGROUND INVESTIGATIONS AND ACCESS CONTROL PROGRAM

37.21(136C) Personnel access authorization requirements for category 1 or category 2 quantities of radioactive material
37.22 Reserved
37.23(136C) Access authorization program requirements
37.24 Reserved
37.25(136C) Background investigations
37.26 Reserved
37.27(136C) Requirements for criminal history records checks of individuals granted unescorted access to category 1 or category 2 quantities of radioactive material
37.28 Reserved
37.29(136C) Relief from fingerprinting, identification, and criminal history records checks and other elements of background investigations for designated categories of individuals permitted unescorted access to certain radioactive materials
37.30 Reserved
37.31(136C) Protection of information
37.32 Reserved
37.33(136C) Access authorization program review
37.34 to 37.40 Reserved

PHYSICAL PROTECTION REQUIREMENTS DURING USE

37.41(136C) Security program
37.42 Reserved
37.43(136C) General security program requirements
37.44 Reserved
37.45(136C) LLEA coordination
37.46 Reserved
37.47(136C) Security zones
37.48 Reserved
37.49(136C) Monitoring, detection, and assessment
37.50 Reserved
37.51(136C) Maintenance and testing
37.52 Reserved
37.53(136C) Requirements for mobile devices
37.54 Reserved
37.55(136C) Security program review
37.56 Reserved
37.57(136C) Reporting of events
37.58 to 37.70 Reserved

PHYSICAL PROTECTION IN TRANSIT

37.71(136C) Additional requirements for transfer of category 1 and category 2 quantities of radioactive material
37.72 Reserved
37.73(136C) Applicability of physical protection of category 1 and category 2 quantities of radioactive material during transit
37.74 Reserved
37.75(136C) Preplanning and coordination of shipment of category 1 or category 2 quantities of radioactive material
37.76 Reserved
37.77(136C) Advance notification of shipment of category 1 quantities of radioactive material
37.78 Reserved
37.79(136C) Requirements for physical protection of category 1 and category 2 quantities of radioactive material during shipment
37.80 Reserved
37.81(136C) Reporting of events
37.82 to 37.100 Reserved

RECORDS

37.101(136C) Form of records
37.102 Reserved
37.103(136C) Record retention
37.104 Reserved
37.105(136C) Inspections

CHAPTER 38
GENERAL PROVISIONS FOR RADIATION MACHINES
AND RADIOACTIVE MATERIALS

38.1(136C) Purpose and scope
38.2(136C) Definitions
38.3(136C) Exemptions from the regulatory requirements
38.4(136C) General regulatory requirements
38.5 Reserved
38.6(136C) Prohibited uses
38.7(136C) Communications
38.8(136C) Fees
38.9(136C) Administrative enforcement actions
38.10(136C) Deliberate misconduct

CHAPTER 39
REGISTRATION OF RADIATION MACHINE FACILITIES, LICENSURE OF RADIOACTIVE MATERIALS AND TRANSPORTATION OF RADIOACTIVE MATERIALS

39.1(136C) Purpose and scope
39.2(136C) Definitions
39.3(136C) Requirements for registration of X-ray and other electronic machines that produce radiation
39.4(136C) Requirements for licensing of radioactive materials
39.5(136C) Transportation of radioactive material

CHAPTER 40
STANDARDS FOR PROTECTION AGAINST RADIATION

GENERAL PROVISIONS

40.1(136C) Purpose and scope
40.2(136C) Definitions
40.3(136C) Implementation
40.4 to 40.9 Reserved

RADIATION PROTECTION PROGRAMS

40.10(136C) Radiation protection programs
40.11 to 40.14 Reserved

OCCUPATIONAL DOSE LIMITS

40.15(136C) Occupational dose limits for adults
40.16(136C) Compliance with requirements for summation of external and internal doses
40.17(136C) Determination of external dose from airborne radioactive material
40.18(136C) Determination of internal exposure
40.19(136C) Determination of prior occupational dose
40.20(136C) Planned special exposures
40.21(136C) Occupational dose limits for minors
40.22(136C) Dose equivalent to an embryo/fetus
40.23 to 40.25 Reserved

RADIATION DOSE LIMITS FOR INDIVIDUAL MEMBERS OF THE PUBLIC

40.26(136C) Dose limits for individual members of the public
40.27(136C) Compliance with dose limits for individual members of the public

RADIOLOGICAL CRITERIA FOR LICENSE TERMINATION

40.28(136C) Radiological criteria for license termination
40.29(136C) Radiological criteria for unrestricted use
40.30(136C) Criteria for license termination under restricted conditions
40.31(136C) Alternate criteria for license termination

TESTING FOR LEAKAGE OR CONTAMINATION OF SEALED SOURCES

40.32(136C) Testing for leakage or contamination of sealed sources
40.33 to 40.35 Reserved

SURVEYS AND MONITORING

40.36(136C) Surveys and monitoring—general
40.37(136C) Conditions requiring individual monitoring of external and internal occupational dose
40.38 to 40.41 Reserved

CONTROL OF EXPOSURE FROM EXTERNAL SOURCES IN RESTRICTED AREAS

40.42(136C) Control of access to high radiation areas
40.43(136C) Control of access to very high radiation areas
40.44(136C) Control of access to very high radiation areas—irradiators
40.45 to 40.47 Reserved

RESPIRATORY PROTECTION AND CONTROLS TO RESTRICT INTERNAL EXPOSURE IN RESTRICTED AREAS

40.48(136C) Use of process or other engineering controls
40.49(136C) Use of other controls
40.50(136C) Use of individual respiratory protection equipment
40.51 to 40.53 Reserved

STORAGE AND CONTROL OF LICENSED OR REGISTERED SOURCES OF RADIATION

40.54	Reserved
40.55(136C)	Security and control of licensed or registered sources of radiation
40.56(136C)	Control of sources of radiation not in storage
40.57 to 40.59	Reserved

PRECAUTIONARY PROCEDURES

40.60(136C)	Caution signs
40.61(136C)	Posting requirements
40.62(136C)	Exceptions to posting requirements
40.63(136C)	Labeling containers and radiation machines
40.64(136C)	Exemptions to labeling requirements
40.65(136C)	Procedures for receiving and opening packages
40.66 to 40.69	Reserved

WASTE DISPOSAL

40.70(136C)	General requirements
40.71(136C)	Method for obtaining approval of proposed disposal procedures
40.72(136C)	Disposal by release into sanitary sewerage
40.73(136C)	Treatment or disposal by incineration
40.74(136C)	Disposal of specific wastes
40.75(136C)	Transfer for disposal and manifests
40.76(136C)	Compliance with environmental and health protection regulations
40.77(136C)	Disposal of certain by-product material
40.78 and 40.79	Reserved

RECORDS

40.80(136C)	General provisions
40.81(136C)	Records of radiation protection programs
40.82(136C)	Records of surveys
40.83(136C)	Records of tests for leakage or contamination of sealed sources
40.84(136C)	Records of prior occupational dose
40.85(136C)	Records of planned special exposures
40.86(136C)	Records of individual monitoring results
40.87(136C)	Records of dose to individual members of the public
40.88(136C)	Records of waste disposal
40.89(136C)	Records of testing entry control devices for very high radiation areas
40.90(136C)	Form of records
40.91 to 40.94	Reserved

REPORTS

40.95(136C)	Reports of stolen, lost, or missing licensed or registered sources of radiation
40.96(136C)	Notification of incidents
40.97(136C)	Reports of exposures, radiation levels, and concentrations of radioactive material exceeding the constraints or limits
40.98(136C)	Reports of planned special exposures
40.99(136C)	Reports of transactions involving nationally tracked sources
40.100(136C)	Reports of individual monitoring
40.101(136C)	Notifications and reports to individuals
40.102(136C)	Reports of leaking or contaminated sealed sources
40.103 and 40.104	Reserved

ADDITIONAL REQUIREMENTS

40.105(136C) Vacating premises
40.106 to 40.109 Reserved

NOTICES, INSTRUCTIONS, AND REPORTS TO WORKERS; INSPECTIONS

40.110(136C) Posting of notices to workers
40.111(136C) Instructions to workers
40.112(136C) Notifications and reports to individuals
40.113(136C) Presence of representatives of licensees or registrants and workers during inspection
40.114(136C) Consultation with workers during inspections
40.115(136C) Requests by workers for inspections
40.116(136C) Inspections not warranted—informal review
40.117(136C) Employee protection

CHAPTER 41
SAFETY REQUIREMENTS FOR THE USE OF
RADIATION MACHINES AND CERTAIN USES
OF RADIOACTIVE MATERIALS

41.1(136C) X-rays in the healing arts
41.2(136C) Use of radionuclides in the healing arts
41.3(136C) Therapeutic use of radiation machines
41.4 and 41.5 Reserved
41.6(136C) X-ray machines used for screening and diagnostic mammography
41.7(136C) X-ray machines used for stereotactically guided breast biopsy

CHAPTER 42
PERMIT TO OPERATE IONIZING RADIATION PRODUCING MACHINES
OR ADMINISTER RADIOACTIVE MATERIALS

42.1(136C) Purpose
42.2(136C) Definitions
42.3(136C) Exemptions

PERMIT APPLICATION AND RENEWAL

42.4(136C) Permit application and renewal
42.5(136C) Permit to practice as a general radiologic technologist
42.6(136C) Permit to practice as a general nuclear medicine technologist
42.7(136C) Permit to practice as a radiation therapist
42.8(136C) Permit to practice as a radiologist assistant
42.9(136C) Permit to practice as a limited radiologic technologist with categories of chest, spine, extremities, shoulder, pediatric
42.10(136C) Permit to practice as an X-ray equipment operator in either podiatric radiography or bone densitometry
42.11 Reserved
42.12(136C) Closed classification or category permits
42.13(136C) Combining permits for an individual qualifying for permits in more than one classification
42.14 to 42.17 Reserved

PERMIT HOLDER SUBMISSION OF CONTINUING EDUCATION

42.18(136C) Submission of proof of completion of continuing education by permit holder to meet continuing education requirements to renew or reinstate a permit
42.19 and 42.20 Reserved

ADMINISTRATIVE ITEMS AND GROUNDS FOR DISCIPLINARY ACTION

42.21(136C) Administrative items
42.22(136C) Rules of conduct, self-reporting requirements, and enforcement actions for all permit holders
42.23(136C) Procedures for demand for information, notice of proposed action, and orders for penalties, suspensions, revocations, and civil penalties for all individuals under this chapter
42.24 and 42.25 Reserved

DEPARTMENT APPROVAL OF CONTINUING EDUCATION ACTIVITIES

42.26(136C) Department approval of continuing education activities
42.27 to 42.29 Reserved

FORMAL EDUCATION

42.30(136C) Requirements for formal education
42.31(136C) Standards for formal education for limited radiologic technologists
42.32(136C) Standards for formal education for X-ray equipment operators in podiatric radiography
42.33(136C) Standards for formal education for X-ray equipment operators in bone densitometry

CHAPTER 43
MINIMUM REQUIREMENTS FOR RADON TESTING AND ANALYSIS

43.1(136B) Purpose and scope
43.2(136B) Definitions
43.3(136B) General provisions
43.4(136B) Application for certification
43.5(136B) Revocation of certification
43.6(136B) Reporting requirements
43.7(136B) Training and continuing education programs
43.8(136B) Exemptions
43.9(136B) Enforcement
43.10(136B) Penalties
43.11(136B) Persons exempted from certification

CHAPTER 44
MINIMUM REQUIREMENTS FOR RADON MITIGATION

44.1(136B) Purpose and scope
44.2(136B) Definitions
44.3(136B) General provisions
44.4(136B) Application for credentialing
44.5(136B) Revocation of credentialing
44.6(136B) Additional record-keeping requirements
44.7(136B) Continuing education
44.8(136B) Exemptions
44.9(136B) Enforcement
44.10(136B) Penalties

CHAPTER 45
RADIATION SAFETY REQUIREMENTS FOR INDUSTRIAL RADIOGRAPHIC OPERATIONS

45.1(136C) General requirements for industrial radiography operations
45.2(136C) Radiation safety requirements for the use of radiation machines in industrial radiography

45.3(136C) Radiation safety requirements for use of sealed sources of radiation in industrial radiography
45.4(136C) Radiation safety requirements for the use of particle accelerators for nonhuman use
45.5(136C) Radiation safety requirements for analytical X-ray equipment
45.6(136C) Radiation safety requirements for well-logging, wireline service operations and subsurface tracer studies

CHAPTER 46
MINIMUM REQUIREMENTS FOR TANNING FACILITIES
46.1(136D) Purpose and scope
46.2(136D) Definitions
46.3(136D) Exemptions
46.4(136D) Permits and fees
46.5(136D) Construction and operation of tanning facilities
46.6(136D) Inspections, violations and injunctions

CHAPTERS 47 to 49
Reserved

CHAPTER 50
ORAL HEALTH
50.1(135) Purpose
50.2(135) Definitions
50.3(135) Dental director responsibilities
50.4(135) Oral health bureau functions
50.5(135) Funding

CHAPTER 51
DENTAL SCREENING
51.1(135) Purpose
51.2(135) Definitions
51.3(135) Persons included
51.4(135) Persons excluded
51.5(135) Dental screening components
51.6(135) Dental screening providers
51.7(135) Time line for valid dental screening
51.8(135) Proof of dental screening
51.9(135) Dental screening documentation
51.10(135) Assuring dental screening services
51.11(135) Records
51.12(135) Reporting
51.13(135) Iowa's dental screening database
51.14(135) Release of dental screening information
51.15(135) Referral requirements
51.16(135) Provider training

CHAPTERS 52 to 54
Reserved

CHAPTER 55
ADVISORY COUNCIL ON BRAIN INJURIES
55.1(135) Definitions
55.2(135) Mission of council
55.3(135) Council established

55.4(135) Officers
55.5(135) Duties of the council
55.6(135) Meetings
55.7(135) Minutes
55.8(135) Task forces
55.9(135) Expenses of advisory council members

CHAPTER 56
BRAIN INJURY SERVICES PROGRAM

56.1(135) Definitions
56.2(135) Purpose
56.3(135) Waiver-eligible component
56.4(135) Cost-share component
56.5(135) Application process
56.6(135) Service providers and reimbursement
56.7(135) Available services/service plan
56.8(135) Redetermination
56.9(135) Appeal rights

CHAPTER 57
PLUMBING AND MECHANICAL SYSTEMS BOARD—
DECLARATORY ORDERS

57.1(17A) Petition for declaratory order
57.2(17A) Notice of petition
57.3(17A) Intervention
57.4(17A) Briefs
57.5(17A) Inquiries
57.6(17A) Service and filing of petitions and other papers
57.7(17A) Consideration
57.8(17A) Action on petition
57.9(17A) Refusal to issue order
57.10(17A) Contents of declaratory order—effective date
57.11(17A) Copies of orders
57.12(17A) Effect of a declaratory order

CHAPTER 58
PLUMBING AND MECHANICAL SYSTEMS BOARD—
AGENCY PROCEDURE FOR RULE MAKING

58.1(17A) Applicability
58.2(17A) Advice on possible rules before notice of proposed rule adoption
58.3(17A) Public rule-making docket
58.4(17A) Notice of proposed rule making
58.5(17A) Public participation
58.6(17A) Regulatory analysis
58.7(17A) Fiscal impact statement
58.8(17A) Time and manner of rule adoption
58.9(17A) Variance between adopted rule and published notice of proposed rule adoption
58.10(17A) Exemptions from public rule-making procedures
58.11(17A) Concise statement of reasons
58.12(17A) Contents, style, and form of rule
58.13(17A) Agency rule-making record
58.14(17A) Filing of rules
58.15(17A) Effectiveness of rules prior to publication

58.16(17A) General statements of policy
58.17(17A) Review by agency of rules

CHAPTER 59
PLUMBING AND MECHANICAL SYSTEMS BOARD—FAIR INFORMATION PRACTICES AND PUBLIC RECORDS

59.1(17A,22) Definitions
59.2(17A,22) Statement of policy
59.3(17A,22) Requests for access to records
59.4(17A,22) Access to confidential records
59.5(17A,22) Requests for treatment of a record as a confidential record and its withholding from examination
59.6(17A,22) Procedure by which additions, dissents, or objections may be entered into certain records
59.7(17A,22) Consent to disclosure by the subject of a confidential record
59.8(17A,22) Notice to suppliers of information
59.9(17A,22) Disclosures without the consent of the subject
59.10(17A,22) Routine use
59.11(17A,22) Consensual disclosure of confidential records
59.12(17A,22) Release to subject
59.13(17A,22) Availability of records
59.14(17A,22) Personally identifiable information
59.15(17A,22) Other groups of records routinely available for public inspection
59.16(17A,22) Applicability

CHAPTER 60
PLUMBING AND MECHANICAL SYSTEMS BOARD—NONCOMPLIANCE REGARDING CHILD SUPPORT, NONPAYMENT OF STATE DEBT, AND NONCOMPLIANCE REGARDING STUDENT LOAN REPAYMENT

60.1(252J) Child support noncompliance
60.2(272D) Nonpayment of state debt
60.3(261) Student loan repayment noncompliance

CHAPTER 61
STATE MECHANICAL CODE

61.1(105) Definitions
61.2(105) Adoption by reference
61.3(105) Hospitals and health care facilities
61.4(105) Enforcement

CHAPTERS 62 to 66
Reserved

CHAPTER 67
BLOOD LEAD TESTING

67.1(135) Purpose
67.2(135) Definitions
67.3(135) Persons included
67.4(135) Persons excluded
67.5(135) Blood lead testing requirement
67.6(135) Time line for valid blood lead testing
67.7(135) Proof of blood lead testing
67.8(135) Referral requirements

67.9(135) Blood lead testing documentation
67.10(135) Records
67.11(135) Provider training

CHAPTER 68
CONTROL OF LEAD-BASED PAINT HAZARDS

68.1(135) Applicability
68.2(135) Definitions
68.3(135) Elevated blood lead (EBL) inspections required
68.4(135) Refusal of admittance
68.5(135) Lead hazard reduction required
68.6(135) Retaliation prohibited
68.7(135) Enforcement
68.8(135) Hearings
68.9(135) Variances
68.10(135) Injunction
68.11(135) Effective date

CHAPTER 69
RENOVATION, REMODELING, AND REPAINTING—
LEAD HAZARD NOTIFICATION PROCESS

69.1(135) Applicability
69.2(135) Definitions
69.3(135) Notification required in target housing
69.4(135) Notification required in multifamily housing
69.5(135) Emergency renovation, remodeling, or repainting in target housing
69.6(135) Certification of attempted delivery in target housing
69.7(135) Notification required in child-occupied facilities
69.8(135) Emergency renovation, remodeling, or repainting in child-occupied facilities
69.9(135) Certification of attempted delivery for child-occupied facilities
69.10(135) Subcontracts
69.11(135) Exemption
69.12(135) Record-keeping requirements
69.13(135) Compliance inspections
69.14(135) Enforcement
69.15(135) Waivers

CHAPTER 70
LEAD-BASED PAINT ACTIVITIES

70.1(135) Applicability
70.2(135) Definitions
70.3(135) Lead professional certification
70.4(135) Course approval and standards
70.5(135) Certification, interim certification, and recertification
70.6(135) Work practice standards for lead professionals conducting lead-based paint activities in target housing and child-occupied facilities
70.7(135) Firms
70.8 Reserved
70.9(135) Compliance inspections
70.10(135) Denial, suspension, or revocation of certification; denial, suspension, revocation, or modification of course approval; and imposition of penalties
70.11(135) Waivers

CHAPTER 71
EMERGENCY INFORMATION SYSTEM ON PESTICIDES FOR USE BY HEALTH CARE PROVIDERS DURING MEDICAL EMERGENCIES

71.1(139A) Scope
71.2(139A) Definitions
71.3(139A) Operation of EIS

CHAPTER 72
CHILDHOOD LEAD POISONING PREVENTION PROGRAM

72.1(135) Definitions
72.2(135) Approved programs
72.3(135) Level of funding
72.4(135) Appeals

CHAPTER 73
SPECIAL SUPPLEMENTAL NUTRITION PROGRAM FOR WOMEN, INFANTS, AND CHILDREN (WIC)

73.1(135) Program explanation
73.2(135) Adoption by reference
73.3(135) Availability of rules
73.4(135) Certain rules exempted from public participation
73.5(135) Definitions
73.6(135) Staffing of contract agencies
73.7(135) Certification of participants
73.8(135) Food delivery
73.9(135) Food package
73.10(135) Education
73.11(135) Health services
73.12(135) Appeals and fair hearings—local agencies and vendors
73.13(135) Right to appeal—participant
73.14(135) State monitoring of contract agencies
73.15(135) Migrant services
73.16(135) Civil rights
73.17(135) Audits
73.18(135) Reporting
73.19(135) Program violation
73.20(135) Data processing
73.21(135) Outreach
73.22(135) Caseload management
73.23(135) Grant application procedures for contract agencies
73.24(135) Participant rights

CHAPTER 74
FAMILY PLANNING SERVICES

74.1(135) Program explanation
74.2(135) Adoption by reference
74.3(135) Rule coverage
74.4(135) Definitions
74.5(135) Grant application procedures for contract agencies
74.6(135) Funding levels for contract agencies
74.7(135) Agency performance
74.8(135) Reporting

74.9(135) Fiscal management
74.10(135) Audits
74.11(135) Denial, suspension, revocation, or reduction of contracts with contract agencies
74.12(135) Right to appeal—contract agency

CHAPTER 75
STATEWIDE OBSTETRICAL AND
NEWBORN INDIGENT PATIENT CARE PROGRAM

75.1(255A) Definitions
75.2(255A) Covered services
75.3(255A) Quota assignment
75.4(255A) Eligibility criteria
75.5(255A) Application procedures
75.6(255A) Reimbursement of providers
75.7(255A) Reassignment of county quotas
75.8(255A) Appeals and fair hearings

CHAPTER 76
MATERNAL AND CHILD HEALTH PROGRAM

76.1(135) Program overview
76.2(135) Adoption by reference
76.3(135) Rule coverage
76.4(135) Definitions
76.5(135) MCH services
76.6(135) Client eligibility criteria
76.7(135) Client application procedures for MCH services
76.8(135) Right to appeal—client
76.9(135) Grant application procedures for community-based contract agencies
76.10(135) Funding levels for community-based contract agencies
76.11(135) Contract agency performance
76.12(135) Reporting
76.13(135) Fiscal management
76.14(135) Audits
76.15 Reserved
76.16(135) Denial, suspension, revocation or reduction of contracts with contract agencies
76.17(135) Right to appeal—contract agency
76.18 to 76.20 Reserved

MATERNAL AND CHILD HEALTH ADVISORY COUNCIL

76.21(135) Purpose
76.22(135) Mission
76.23(135) Membership
76.24(135) Officers
76.25(135) Duties of the council
76.26(135) Meetings
76.27(135) Executive committee
76.28(135) Committees

CHAPTER 77
LOCAL BOARDS OF HEALTH

77.1(137) Purpose
77.2(137) Definitions
77.3(137) Local boards of health—roles and responsibilities

77.4(137) Local boards of health—Iowa public health standards
77.5(137) Organization of local boards of health
77.6(137) Operation of local boards of health
77.7(137) Expenses of local board of health members
77.8(137) District boards of health
77.9(137) Approval of district board of health formation
77.10(137) Denial of district board of health formation
77.11(137) Adding to a district board of health
77.12(137) Withdrawal from a district board of health

CHAPTERS 78 and 79
Reserved

CHAPTER 80
LOCAL PUBLIC HEALTH SERVICES
80.1(135) Purpose
80.2(135) Definitions
80.3(135) Local public health services state grant
80.4(135) Billing services to the local public health services state grant
80.5(135) Right to appeal
80.6(135) Case management
80.7(135) Local board of health services
80.8(135) Local public health services
80.9(135) Public health nursing services
80.10(135) Home care aide services

CHAPTER 81
GENERAL RULES FOR MIGRATORY LABOR CAMPS
81.1(138) Shelters
81.2(138) Water supply
81.3(138) Waste disposal
81.4(138) Bathing facilities
81.5(138) Central dining facilities
81.6(138) Safety and fire

CHAPTER 82
OFFICE OF MINORITY AND MULTICULTURAL HEALTH
82.1(135) Purpose
82.2(135) Definitions
82.3(135) Responsibilities of the office of minority and multicultural health
82.4(135) Advisory council

CHAPTERS 83 and 84
Reserved

CHAPTER 85
LOCAL SUBSTITUTE MEDICAL DECISION-MAKING BOARDS
85.1(135) Purpose
85.2(135) Definitions
85.3(135) Appointment of local boards
85.4(135) Filing an application
85.5(135) Notification of patient and review of application
85.6(135) Panel appointment and procedures
85.7(135) Panel determination of need for surrogate decision making

85.8(135) Panel determination regarding proposed medical care decision
85.9(135) Right of appeal
85.10(135) Records and reports
85.11(135) Liability

CHAPTER 86
PLACES WHERE DEAD HUMAN BODIES ARE PREPARED
FOR BURIAL OR ENTOMBMENT

86.1(156) Purpose
86.2(156) Definitions
86.3(156) Licensing
86.4(156) Public access areas
86.5(156) Preparation room
86.6(156) Crematorium chambers
86.7(156) Inspection fees

CHAPTER 87
HEALTHY FAMILIES IOWA (HFI)

87.1(135) Purpose
87.2(135) Definitions
87.3(135) Applicant eligibility
87.4(135) Participant eligibility
87.5(135) Program requirements
87.6(135) Contractor assurance
87.7(135) Applicant appeal process
87.8(135) Participant right to appeal

CHAPTER 88
VOLUNTEER HEALTH CARE PROVIDER PROGRAM

88.1(135) Purpose
88.2(135) Definitions
88.3(135) Eligibility for the volunteer health care provider program
88.4(135) Sponsor entity and protected clinic
88.5(135) Covered health care services
88.6(135) Defense and indemnification
88.7(135) Term of agreement
88.8(135) Reporting requirements and duties
88.9(135) Revocation of agreement
88.10(135) Procedure for revocation of agreement
88.11(135) Effect of suspension or revocation
88.12(135) Protection denied
88.13(135) Board notice of disciplinary action
88.14(135) Effect of eligibility protection
88.15(135) Reporting by a protected clinic or sponsor entity

CHAPTER 89
DECISION-MAKING ASSISTANCE PROGRAM
AND PARENTAL NOTIFICATION OF INTENT
TO TERMINATE A PREGNANCY THROUGH ABORTION

89.1(135L) Title
89.2(135L) Purpose and scope
89.3(135L) Definitions
89.4 to 89.10 Reserved

DECISION-MAKING ASSISTANCE PROGRAM

89.11(135L) Purpose
89.12(135L) Initial appointment of a pregnant minor with a licensed physician from whom an abortion is sought and certification procedure for the decision-making assistance program
89.13 to 89.20 Reserved

NOTIFICATION PROCESS

89.21(135L) Notification of parent prior to the performance of abortion on a pregnant minor
89.22(135L) Exceptions to notification of parent
89.23(135L) Physician compliance
89.24 and 89.25 Reserved
89.26(135L) Fraudulent practice

CHAPTER 90
IOWA CHILD DEATH REVIEW TEAM

90.1(135) Purpose
90.2(135) Definitions
90.3(135) Agency
90.4(135) Membership
90.5(135) Officers
90.6(135) Meetings
90.7(135) Expenses of team members
90.8(135) Team responsibilities
90.9(135) Liaisons
90.10(135) Confidentiality and disclosure of information
90.11(135) Immunity and liability

CHAPTER 91
IOWA DOMESTIC ABUSE DEATH REVIEW TEAM

91.1(135) Purpose
91.2(135) Definitions
91.3(135) Agency
91.4(135) Membership
91.5(135) Officers
91.6(135) Meetings
91.7(135) Expenses of team members
91.8(135) Team duties and responsibilities
91.9(135) Liaisons
91.10(135) Confidentiality and disclosure of information
91.11(135) Immunity and liability

CHAPTER 92
IOWA FATALITY REVIEW COMMITTEE

92.1(135) Purpose
92.2(135) Definitions
92.3(135) Committee
92.4(135) Formation of the committee
92.5(135) Committee protocol for review
92.6(135) Content of report
92.7(135) Consultation with county attorney
92.8(135) Supplemental report

92.9(135) Confidentiality and disclosure of information
92.10(135) Immunity and liability

CHAPTER 93
MANDATORY REPORTER TRAINING CURRICULA

93.1(135) Purpose
93.2 and 93.3 Reserved
93.4(135) Duties
93.5(135) Standards for approval of curricula
93.6(135) Process for application review and approval
93.7(135) Process for appeal

CHAPTER 94
CHILD PROTECTION CENTER GRANT PROGRAM

94.1(135) Scope and purpose
94.2(135) Definitions
94.3(135) Goals
94.4(135) Review process
94.5(135) Eligibility and criteria
94.6(135) Appeals

CHAPTER 95
VITAL RECORDS: GENERAL ADMINISTRATION

95.1(144) Definitions
95.2(144) Vital records and statistics
95.3(144) Forms—property of department
95.4(144) Information by others
95.5(144) Handling of vital records
95.6(144) Fees
95.7(144) General public access of vital records in the custody of the county registrar
95.8(144) Direct tangible interest in and entitlement to a vital record
95.9(144) Search and issuance of a certified copy of a vital record
95.10(144) Search and issuance for genealogy or family history
95.11(144) Registrars' responsibility for maintenance of confidentiality
95.12(144) Disclosure of data
95.13(144) Preparation of certified copies
95.14(144) Cancellation of fraudulent records
95.15(144) Unlawful acts
95.16(144) Enforcement assistance

CHAPTER 96
BIRTH REGISTRATION

96.1(144) Definitions
96.2(144) Forms—property of department
96.3(144) Standard birth registration—up to seven days
96.4(144) Standard birth registration—seven days to one year
96.5(144) Birthing institutions
96.6(144) Non-birthing institutions
96.7(144) Non-institution birth
96.8(144) Gestational surrogate arrangement birth registration
96.9(144) Foundling birth registration
96.10(144) Newborn safe haven registration
96.11(144) Birth registration following a foreign-born adoption

96.12(144) Birth registration fees
96.13(144) Fee collection
96.14(144) Waivers
96.15(144) Fee deposit
96.16(144) Responsibilities of institutions
96.17(144) Responsibility for births occurring in non-institutions and non-birthing institutions
96.18(144) Delayed birth registration—one year or more after event

CHAPTER 97
DEATH REGISTRATION AND DISPOSITION OF DEAD HUMAN BODIES

97.1(144) Definitions
97.2(144) Forms—property of department
97.3(144) Standard registration of death—up to one year
97.4(144) Standard registration of fetal death—up to one year
97.5(144) Preparation of the certificate of death or fetal death
97.6(144) Medical certification of death
97.7(144) Medical certification of fetal death
97.8(144) Medical certifier
97.9(144) Report of autopsy findings
97.10(144) Extension of time
97.11(144) Removal of a dead human body or fetus
97.12(144) Burial-transit permit
97.13(144) Transportation and disposition of a dead human body or fetus
97.14(144) Disinterment permits
97.15(144) Delayed death registration—one year or more after event
97.16(144) Registration of presumptive death
97.17(144) Release or final disposition of a dead human body or fetus by an institution
97.18(144) Additional record by funeral director

CHAPTER 98
MARRIAGE REGISTRATION

98.1(144,595) Definitions
98.2(144,595) Forms—property of department
98.3(144,595) Standard registration of marriage—up to one year
98.4(144,595) Application for a license to marry in Iowa
98.5(144,595) License to marry
98.6(144, 595) Certificate of marriage
98.7(144,595) Delayed registration of marriage—one year or more after date of event
98.8(144,595) Dissolution of marriage or annulment

CHAPTER 99
VITAL RECORDS MODIFICATIONS

99.1(144) Definitions
99.2(144) Forms—property of department
99.3(144) Forms used in the establishment of new records
99.4(144) Corrections of minor error in vital record—within one year of event
99.5(144) Amendment of certificate of live birth to add first or middle given name—within one year of event
99.6(144) Amendment of vital record—one year or more after the event
99.7(144) Method of amendment of vital records
99.8(144) Correction or amendment of same item more than once
99.9(144) Other amendments to certificate of live birth
99.10(144) Correction or amendment to medical certification of cause of death

99.11(144) Correction or amendment to a certificate of marriage
99.12(144) Correction to a report of dissolution of marriage or annulment
99.13(144) Minimum information required to establish a new certificate of live birth
99.14(144) Establishment of new certificate of live birth following adoption
99.15(144) Establishment of new certificate of live birth following a birth by gestational surrogate arrangement
99.16(144) Certificate of live birth following voluntary paternity affidavit
99.17(144) Certificate of live birth following court determination of paternity
99.18(144) Certificate of live birth following recision of paternity affidavit or disestablishment of paternity
99.19(144) Certificate of live birth following court-ordered change of name
99.20(144) Certificate of live birth following sex designation change

CHAPTER 100
VITAL RECORDS REGISTRIES AND REPORTS
100.1(144) Definitions
100.2(144) Forms—property of department
100.3(144) Declaration of paternity registry established
100.4(144) Mutual consent voluntary adoption registry established
100.5(144) Statistical report of termination of pregnancy report

CHAPTERS 101 to 107
Reserved

CHAPTER 108
MEDICAL RESIDENCY TRAINING STATE MATCHING GRANTS PROGRAM
108.1(135) Scope and purpose
108.2(135) Definitions
108.3(135) Eligibility criteria
108.4(135) Amount of grant
108.5(135) Review process

CHAPTER 109
PRESCRIPTION DRUG DONATION REPOSITORY PROGRAM
109.1(135M) Definitions
109.2(135M) Purpose
109.3(135M) Eligibility criteria for program participation by medical facilities and pharmacies
109.4(135M) Standards and procedures for accepting donated prescription drugs and supplies
109.5(135M) Standards and procedures for inspecting and storing donated prescription drugs and supplies
109.6(135M) Standards and procedures for dispensing donated prescription drugs and supplies
109.7(135M) Eligibility criteria for individuals to receive donated prescription drugs and supplies
109.8(135M) Forms and record keeping
109.9(135M) Handling fee
109.10(135M) List of drugs and supplies program will accept
109.11(135M) Exemption from disciplinary action, civil liability and criminal prosecution
109.12 and 109.13 Reserved
109.14(135M) Prescription drug donation repository in disaster emergencies

CHAPTER 110
CENTER FOR RURAL HEALTH AND PRIMARY CARE

110.1(135) Purpose and scope
110.2(135) Definitions
110.3(135) Responsibilities of the center
110.4(135) Advisory committee to the center for rural health and primary care
110.5(135) Organization
110.6(135) Meetings
110.7 to 110.10 Reserved

PRIMECARRE COMMUNITY GRANT PROGRAM

110.11(135) Purpose
110.12 to 110.15 Reserved

PRIMECARRE PRIMARY CARE PROVIDER COMMUNITY SCHOLARSHIP PROGRAM

110.16(135) Purpose
110.17 to 110.20 Reserved

PRIMECARRE PRIMARY CARE PROVIDER LOAN REPAYMENT PROGRAM

110.21(135) Purpose

CHAPTER 111
IOWA NEEDS NURSES NOW INFRASTRUCTURE ACCOUNT

111.1(135) Scope and purpose
111.2(135) Definitions
111.3(135) Eligibility and criteria
111.4(135) Review process
111.5(135) Performance standards
111.6(135) Appeals

CHAPTER 112
BIOLOGICAL AGENT RISK ASSESSMENT

112.1(135) Purpose
112.2(135) Definitions
112.3(135) Biosecurity council established
112.4(135) Biological agent risk assessment
112.5(135) Requests for biological agent information
112.6(135) Exceptions

CHAPTER 113
PUBLIC HEALTH RESPONSE TEAMS

113.1(135) Definitions
113.2(135) Purpose
113.3(135) Sponsor agency
113.4(135) Public health response team members
113.5(135) Public health response team
113.6(135) Legal and other protections
113.7(135) Reporting requirements and duties

CHAPTER 114
PREPAREDNESS ADVISORY COMMITTEE

114.1(135) Definitions
114.2(135) Purpose

114.3(135) Appointment
114.4(135) Membership
114.5(135) Officers
114.6(135) Meetings
114.7(135) Subcommittees
114.8(135) Expenses of preparedness advisory committee voting members
114.9(135) Gender balance

CHAPTERS 115 to 123
Reserved

CHAPTER 124
INTERAGENCY COORDINATING COUNCIL
FOR THE STATE MEDICAL EXAMINER

124.1(691) Purpose
124.2(691) Membership
124.3(691) Meetings
124.4(691) Duties
124.5(691) Minutes

CHAPTER 125
ADVISORY COUNCIL FOR THE STATE MEDICAL EXAMINER

125.1(691) Purpose
125.2(691) Membership
125.3(691) Meetings
125.4(691) Duties
125.5(691) Minutes

CHAPTER 126
STATE MEDICAL EXAMINER

126.1(144,331,691) Definitions
126.2 Reserved
126.3(691) Fees for autopsies and related services and reimbursement for related expenses
126.4(691) Fees for tissue recovery

CHAPTER 127
COUNTY MEDICAL EXAMINERS

127.1(144,331,691) Definitions
127.2(331,691) Duties of medical examiners—jurisdiction over deaths which affect the public interest
127.3(331,691) Autopsies
127.4(331,691) Fees
127.5(144,331,691) Death certificates—deaths affecting the public interest
127.6(331,691) Cremation
127.7(331,691) County medical examiner investigators
127.8(331,691) Deputy county medical examiners
127.9(331,691) Failure to comply with rules
127.10(331,691,22) Confidentiality
127.11(331,691,670) Indemnification

CHAPTERS 128 and 129
Reserved

CHAPTER 130
EMERGENCY MEDICAL SERVICES ADVISORY COUNCIL

130.1(147A) Definitions
130.2(147A) Purpose
130.3(147A) Appointment
130.4(147A) Absences
130.5(147A) Officers
130.6(147A) Meetings
130.7(147A) Subcommittees
130.8(147A) Expenses of advisory council members
130.9(147A) Gender balance

CHAPTER 131
EMERGENCY MEDICAL SERVICES—PROVIDER EDUCATION/TRAINING/CERTIFICATION

131.1(147A) Definitions
131.2(147A) Emergency medical care providers—requirements for enrollment in training programs
131.3(147A) Emergency medical care providers—authority
131.4(147A) Emergency medical care providers—certification, renewal standards, procedures, continuing education, and fees
131.5(147A) Training programs—standards, application, inspection and approval
131.6(147A) Continuing education providers—approval, record keeping and inspection
131.7(147A) Complaints and investigations—denial, citation and warning, probation, suspension, or revocation of emergency medical care personnel certificates or renewal
131.8(147A) Complaints and investigations—denial, citation and warning, probation, suspension, or revocation of training program approval or renewal
131.9(147A) Reinstatement of certification
131.10(147A) Certification denial
131.11(147A) Emergency adjudicative proceedings
131.12(147A) Complaints, investigations and appeals

CHAPTER 132
EMERGENCY MEDICAL SERVICES—SERVICE PROGRAM AUTHORIZATION

132.1(147A) Definitions
132.2(147A) Authority of emergency medical care provider
132.3 to 132.6 Reserved
132.7(147A) Service program—authorization and renewal procedures, inspections and transfer or assignment of certificates of authorization
132.8(147A) Service program levels of care and staffing standards
132.9(147A) Service program—off-line medical direction
132.10(147A) Complaints and investigations—denial, citation and warning, probation, suspension or revocation of service program authorization or renewal
132.11 to 132.13 Reserved
132.14(147A) Temporary variances
132.15(147A) Transport options for fully authorized EMT-P, PS, and paramedic service programs

CHAPTER 133
WHITE FLASHING LIGHT AUTHORIZATION

133.1(321) Definitions
133.2(321) Purpose
133.3(321) Application

133.4(321) Approval, denial, probation, suspension and revocation of authorization
133.5(321) Appeal of denial, probation, or revocation of authorization

CHAPTER 134
TRAUMA CARE FACILITY CATEGORIZATION
AND VERIFICATION

134.1(147A) Definitions
134.2(147A) Trauma care facility categorization and verification
134.3(147A) Complaints and investigations and appeals—denial, citation and warning, probation, suspension, and revocation of verification as a trauma care facility

CHAPTER 135
TRAUMA TRIAGE AND TRANSFER PROTOCOLS

135.1(147A) Definitions
135.2(147A) Trauma triage and transfer protocols
135.3(147A) Offenses and penalties

CHAPTER 136
TRAUMA REGISTRY

136.1(147A) Definitions
136.2(147A) Trauma registry
136.3(147A) Offenses and penalties

CHAPTER 137
TRAUMA EDUCATION AND TRAINING

137.1(147A) Definitions
137.2(147A) Initial trauma education for Iowa's trauma system
137.3(147A) Continuing trauma education for Iowa's trauma system
137.4(147A) Offenses and penalties

CHAPTER 138
TRAUMA SYSTEM EVALUATION QUALITY IMPROVEMENT COMMITTEE

138.1(147A) Definitions
138.2(147A) System evaluation quality improvement committee (SEQIC)

CHAPTER 139
IOWA LAW ENFORCEMENT EMERGENCY CARE PROVIDER

139.1(147A) Definitions
139.2(147A) Authority of Iowa law enforcement emergency care provider
139.3(147A) Iowa law enforcement emergency care providers—requirements for enrollment in training programs
139.4(147A) Iowa law enforcement emergency care providers—certification, renewal standards and procedures, and fees
139.5(147A) Iowa law enforcement training programs
139.6(147A) Law enforcement AED service program authorization

CHAPTER 140
EMERGENCY MEDICAL SERVICES SYSTEM DEVELOPMENT GRANTS FUND

140.1(135) Definitions
140.2(135) Purpose
140.3(135) County EMS associations
140.4(135) County EMS system development grants

CHAPTER 141
LOVE OUR KIDS GRANT

141.1(321) Definitions
141.2(321) Purpose
141.3(321) Funding limitations
141.4(321) Use of funds
141.5(321) Application process
141.6(321) Application denial or partial denial—appeal

CHAPTER 142
OUT-OF-HOSPITAL DO-NOT-RESUSCITATE ORDERS

142.1(144A) Definitions
142.2(144A) Purpose
142.3(144A,147A) Responsibilities of the department
142.4(144A,147A) EMS providers
142.5(144A) Guidelines for non-EMS health care providers, patients, and organizations
142.6(144A) Revocation of the out-of-hospital do-not-resuscitate order
142.7(144A) Personal wishes of family members or other individuals who are not authorized to act on the patient's behalf
142.8(144A) Transfer of patients
142.9(144A) Application to existing orders

CHAPTER 143
AUTOMATED EXTERNAL DEFIBRILLATOR PROGRAM

AUTOMATED EXTERNAL DEFIBRILLATOR GRANT PROGRAM

143.1(135) Purpose
143.2(135) Definitions
143.3(135) Application process
143.4(135) Early defibrillation program
143.5(135) Review process
143.6(135) Appeals
143.7 to 143.9 Reserved

AUTOMATED EXTERNAL DEFIBRILLATOR MAINTENANCE

143.10(135) Purpose
143.11(135) Definition
143.12(135) AED maintenance
143.13 to 143.15 Reserved

FIRE DEPARTMENT RESPONSE WITH AUTOMATED EXTERNAL DEFIBRILLATOR

143.16(147A) Purpose
143.17(147A) Definitions
143.18(147A) Local fire department AED service registration

CHAPTER 144
EMERGENCY MEDICAL SERVICES—AIR MEDICAL SERVICE PROGRAM AUTHORIZATION

144.1(147A) Definitions
144.2(147A) Authority of emergency medical care provider
144.3(147A) Air ambulance service program—authorization and renewal procedures, inspections and transfer or assignment of certificates of authorization
144.4(147A) Service program levels of care and staffing standards
144.5(147A) Air ambulance service program—off-line medical direction

144.6(147A) Complaints and investigations—denial, citation and warning, probation, suspension or revocation of service program authorization or renewal
144.7(147A) Temporary variances
144.8(147A) Transport options for air medical services

CHAPTERS 145 to 149
Reserved

CHAPTER 150
IOWA REGIONALIZED SYSTEM OF PERINATAL HEALTH CARE

150.1(135,77GA,ch1221) Purpose and scope
150.2(135,77GA,ch1221) Definitions
150.3(135,77GA,ch1221) Perinatal guidelines advisory committee
150.4(135,77GA,ch1221) Categorization and selection of level of care designation
150.5(135,77GA,ch1221) Recommendation by the statewide perinatal care program
150.6(135,77GA,ch1221) Level I hospitals
150.7(135,77GA,ch1221) Level II hospitals
150.8(135,77GA,ch1221) Level II regional centers
150.9(135,77GA,ch1221) Level II regional neonatology centers
150.10(135,77GA,ch1221) Level III centers
150.11(135,77GA,ch1221) Grant or denial of certificate of verification; and offenses and penalties
150.12(135,77GA,ch1221) Prohibited acts
150.13(135,77GA,ch1221) Construction of rules

CHAPTER 151
TOBACCO USE PREVENTION AND CONTROL
COMMUNITY PARTNERSHIP INITIATIVE

151.1(142A) Scope
151.2(142A) Community partnership areas
151.3(142A) Community partnerships
151.4(142A) Application requirements for community partnerships
151.5(142A) Performance indicators
151.6(142A) Application deadline
151.7(142A) Distribution of funding
151.8(142A) Gifts

CHAPTER 152
TOBACCO USE PREVENTION AND CONTROL FUNDING PROCESS

152.1(78GA,HF2565) Scope and purpose
152.2(78GA,HF2565) Funding
152.3(78GA,HF2565) Appeals

CHAPTER 153
SMOKEFREE AIR

153.1(82GA,HF2212) Purpose and scope
153.2(82GA,HF2212) Definitions
153.3(82GA,HF2212) Prohibition of smoking
153.4(82GA,HF2212) Areas where smoking not regulated
153.5(82GA,HF2212) Duties of employers, owners, operators, managers, and persons having custody or control of a public place, place of employment, area declared nonsmoking pursuant to 2008 Iowa Acts, House File 2212, section 5, or outdoor areas where smoking is prohibited
153.6(82GA,HF2212) Duties of other state agencies and political subdivisions

153.7(82GA,HF2212) Leases
153.8(82GA,HF2212) Complaints and enforcement
153.9(82GA,HF2212) Limitation of rules

CHAPTER 154
MEDICAL CANNABIDIOL ACT REGISTRATION CARD PROGRAM

154.1(85GA,SF2360) Definitions
154.2(85GA,SF2360) Neurologist recommendation—medical use of cannabidiol
154.3(85GA,SF2360) Cannabidiol registration card—application and issuance to patient
154.4(85GA,SF2360) Cannabidiol registration card—application and issuance to primary caregiver
154.5(85GA,SF2360) Tamperproofing
154.6(85GA,SF2360) Denial and cancellation
154.7(85GA,SF2360) Appeal
154.8(85GA,SF2360) Duplicate card
154.9(85GA,SF2360) Renewal
154.10(85GA,SF2360) Confidentiality
154.11(85GA,SF2360) Agreement with department of transportation

CHAPTER 155
LICENSURE STANDARDS FOR SUBSTANCE ABUSE AND PROBLEM GAMBLING TREATMENT PROGRAMS

155.1(125,135) Definitions
155.2(125,135) Licensing
155.3(125,135) Type of licenses
155.4(125,135) Nonassignability; program closure
155.5(125,135) Application procedures
155.6(125,135) Application review
155.7(125,135) Inspection of licensees
155.8(125,135) Licenses—renewal
155.9(125,135) Corrective action plan
155.10(125,135) Grounds for denial of initial license
155.11(125,135) Suspension, revocation, or refusal to renew a license
155.12(125,135) Contested case hearing
155.13(125,135) Rehearing application
155.14(125,135) Judicial review
155.15(125,135) Reissuance or reinstatement
155.16(125,135) Complaints and investigations
155.17 Reserved
155.18(125,135) Deemed status
155.19(125,135) Funding
155.20(125,135) Inspection
155.21(125,135) General standards for all treatment programs
155.22(125,135) Inpatient, residential, and halfway house safety
155.23(125,135) Specific standards for inpatient, residential, and halfway house service
155.24(125,135) Specific standards for inpatient, residential, and halfway house services for juveniles
155.25(125,135) Specific standards for assessment and evaluation programs
155.26 to 155.34 Reserved
155.35(125,135) Specific standards for opioid treatment programs

TUBERCULOSIS (TB) SCREENING:
HEALTH CARE WORKERS AND RESIDENTS

155.36(125,135) Purpose
155.37(125,135) Definitions
155.38(125,135) Tuberculosis screening of staff and residents

CHAPTER 156
LICENSURE STANDARDS FOR SUBSTANCE ABUSE TREATMENT PROGRAMS
IN CORRECTIONAL FACILITIES

156.1(125) Definitions
156.2(125) Inspection
156.3(125) General standards for all correctional substance abuse treatment programs

CHAPTER 157
STANDARDS FOR SUBSTANCE ABUSE TREATMENT AND
ASSESSMENT PROGRAMS AND THE OPERATING A MOTOR VEHICLE
WHILE INTOXICATED (OWI) LAW

157.1(125) Definitions
157.2(125) Screening, evaluation, treatment, and drinking drivers course
157.3(125) Screening, evaluation, treatment, and drinking drivers course completion
157.4(125) Cost of evaluation and treatment
157.5(125) Timeliness
157.6(125) Confidentiality
157.7(125) Records
157.8(125) Reciprocity

CHAPTER 158
REGIONS FOR SUBSTANCE ABUSE PREVENTION AND TREATMENT

158.1(125) Service areas established
158.2(125) Request for a change in service areas
158.3(125) Application
158.4(125) Notification of affected parties
158.5(125) Public hearing
158.6(125) Proposed decision
158.7(125) Change during term of contract
158.8(125) State board of health review
158.9(125) State board of health decision

CHAPTERS 159 to 169
Reserved

CHAPTER 170
ORGANIZATION OF THE DEPARTMENT

170.1(17A,135) Definitions
170.2(17A,135) Mission
170.3(17A,136) State board of health
170.4(17A,135) Director of the department of public health
170.5(17A,135) Deputy director
170.6(17A,135) Executive team
170.7(17A,135) Administrative divisions of the department
170.8(17A) Central office
170.9(17A) Business hours
170.10(17A) Submission of materials
170.11(17A) Requests for information

CHAPTER 171
PETITIONS FOR RULE MAKING

171.1(17A) Petition for rule making
171.2(17A) Briefs
171.3(17A) Inquiries
171.4(17A) Department consideration

CHAPTER 172
DECLARATORY ORDERS

172.1(17A) Petition for declaratory order
172.2(17A) Notice of petition
172.3(17A) Intervention
172.4(17A) Briefs
172.5(17A) Inquiries
172.6(17A) Service and filing of petitions and other papers
172.7(17A) Consideration
172.8(17A) Action on petition
172.9(17A) Refusal to issue order
172.10(17A) Contents of declaratory order—effective date
172.11(17A) Copies of orders
172.12(17A) Effect of a declaratory order

CHAPTER 173
CONTESTED CASES

173.1(17A) Scope and applicability
173.2(17A) Definitions
173.3(17A) Time requirements
173.4(17A) Requests for contested case proceeding
173.5(17A) Notice of hearing
173.6(17A) Presiding officer
173.7(17A) Waiver of procedures
173.8(17A) Telephone proceedings
173.9(17A) Disqualification
173.10(17A) Consolidation—severance
173.11(17A) Pleadings
173.12(17A) Service and filing of pleadings and other papers
173.13(17A) Discovery
173.14(17A,135) Subpoenas
173.15(17A) Motions
173.16(17A) Prehearing conference
173.17(17A) Continuances
173.18(17A) Withdrawals
173.19(17A) Intervention
173.20(17A) Hearing procedures
173.21(17A) Evidence
173.22(17A) Default
173.23(17A) Ex parte communication
173.24(17A) Recording costs
173.25(17A) Interlocutory appeals
173.26(17A) Final decision
173.27(17A) Appeals and review
173.28(17A) Applications for rehearing

173.29(17A) Stays of department actions
173.30(17A) No factual dispute contested cases
173.31(17A) Emergency adjudicative proceedings

CHAPTER 174
AGENCY PROCEDURE FOR RULE MAKING
(Uniform Rules)

174.3(17A) Public rule-making docket
174.4(17A) Notice of proposed rule making
174.5(17A) Public participation
174.6(17A) Regulatory flexibility analysis
174.11(17A) Concise statement of reasons
174.13(17A) Agency rule-making record

CHAPTER 175
FAIR INFORMATION PRACTICES AND PUBLIC RECORDS

175.1(17A,22) Definitions
175.2(17A,22) Statement of policy
175.3(17A,22) Requests for access to records
175.4(17A,22) Access to confidential records
175.5(17A,22) Requests for treatment of a record as a confidential record and its withholding from examination
175.6(17A,22) Procedure by which additions, dissents, or objections may be entered into certain records
175.7(17A,22) Consent to disclosure by the subject of a confidential record
175.8(17A,22) Notice to suppliers of information
175.9(17A,22) Disclosures without the consent of the subject
175.10(17A,22) Routine use
175.11(17A,22) Consensual disclosure of confidential records
175.12(17A,22) Release to subject
175.13(17A,22) Availability of records
175.14(17A,22) Personally identifiable information
175.15(17A,22) Other groups of records
175.16(17A,22) Data processing systems
175.17(17A,22) Applicability

CHAPTER 176
CRITERIA FOR AWARDS OR GRANTS

176.1(135,17A) Purpose
176.2(135,17A) Definitions
176.3(135,17A) Exceptions
176.4(135,17A) Requirements
176.5(135,17A) Review process (competitive applications only)
176.6 Reserved
176.7(135,17A) Public notice of available funds
176.8(135,17A) Appeals

CHAPTER 177
HEALTH DATA

177.1(76GA,ch1212) Purpose
177.2(76GA,ch1212) Definitions
177.3(76GA,ch1212) Description of data to be submitted
177.4(76GA,ch1212) Department studies

177.5(76GA,ch1212) Fees
177.6(76GA,ch1212) Patient confidentiality
177.7(76GA,ch1212) Department contracting
177.8(76GA,ch1212) Address and specification for data submissions

CHAPTER 178
VARIANCES AND WAIVERS OF PUBLIC HEALTH
ADMINISTRATIVE RULES

178.1(17A,135) Waivers
178.2(17A,135) Sample petition for waiver

CHAPTERS 179 to 185
Reserved

CHAPTER 186
GOVERNMENTAL PUBLIC HEALTH ADVISORY BODIES

186.1(135A) Purpose
186.2(135A) Definitions
186.3(135A) Roles and responsibilities of advisory bodies
186.4(135A) Officers
186.5(135A) Members of advisory bodies
186.6(135A) Meetings
186.7(135A) Conflict of interest
186.8(135A) Subcommittees

CHAPTERS 187 to 190
Reserved

CHAPTER 191
ADVISORY BODIES OF THE DEPARTMENT

191.1(135) Definitions
191.2(135) Purpose
191.3(135) Appointment
191.4(135) Officers
191.5(135) Meetings
191.6(135) Subcommittees
191.7(135) Expenses of advisory body members
191.8(135) Gender balance

CHAPTER 192
CHILD SUPPORT NONCOMPLIANCE

192.1(252J) Definitions
192.2(252J) Issuance or renewal of a license—denial
192.3(252J) Suspension or revocation of a license
192.4(17A,22,252J) Sharing of information

CHAPTER 193
IMPAIRED PRACTITIONER REVIEW COMMITTEE

193.1(272C) Definitions
193.2(272C) Purpose
193.3(272C) Composition of the committee
193.4(272C) Eligibility
193.5(272C) Terms of participation in the impaired practitioner recovery program

193.6(272C) Limitations
193.7(272C) Confidentiality

CHAPTER 194
NONPAYMENT OF STATE DEBT

194.1(272D) Definitions
194.2(272D) Issuance or renewal of a license—denial
194.3(272D) Suspension or revocation of a license
194.4(272D) Sharing of information

CHAPTER 195
STUDENT LOAN DEFAULT/NONCOMPLIANCE WITH AGREEMENT
FOR PAYMENT OF OBLIGATION

195.1(261) General definitions
195.2(261) Issuance or renewal of a license—denial
195.3(261) Suspension or revocation of a license
195.4(17A,22,261) Sharing of information

CHAPTER 196
MILITARY SERVICE AND VETERAN RECIPROCITY

196.1(85GA,ch1116) Definitions
196.2(85GA,ch1116) Military education, training, and service credit
196.3(85GA,ch1116) Veteran reciprocity

CHAPTERS 197 to 200
Reserved

CHAPTER 201
ORGANIZED DELIVERY SYSTEMS

LICENSURE AND REGULATION

201.1(135,75GA,ch158) Purpose and scope
201.2(135,75GA,ch158) Definitions
201.3(135,75GA,ch158) Application
201.4(135,75GA,ch158) Governing body
201.5(135,75GA,ch158) Service area/geographic access
201.6(135,75GA,ch158,78GA,ch41) Provider network and contracts; treatment and services
201.7(135,75GA,ch158) Complaints
201.8(135,75GA,ch158) Accountability
201.9(135,75GA,ch158) Reporting
201.10(135,75GA,ch158) Evaluation
201.11(135,75GA,ch158) Annual report
201.12(135,75GA,ch158) Finance and solvency
201.13(135,75GA,ch158) Investment
201.14(135,75GA,ch158) Rating practices
201.15(135,75GA,ch158) Name
201.16(135,75GA,ch158) Change in organizational documents or control
201.17(135,75GA,ch158) Appeal
201.18(135,78GA,ch41) External review
201.19 Reserved

ANTITRUST

201.20(135,75GA,ch158) Purpose
201.21(135,75GA,ch158) Definitions
201.22(135,75GA,ch158) Scope

201.23(135,75GA,ch158) Application
201.24(135,75GA,ch158) Notice and comment
201.25(135,75GA,ch158) Procedure for review of applications
201.26(135,75GA,ch158) Criteria for decision
201.27(135,75GA,ch158) Decision
201.28(135,75GA,ch158) Appeal
201.29(135,75GA,ch158) Supervision after approval
201.30(135,75GA,ch158) Revocation

CHAPTER 202
CERTIFICATE OF NEED PROGRAM

202.1(135) Definitions
202.2(135) Letter of intent
202.3(135) Determination of reviewability
202.4(135) Submission of application
202.5(135) Organizational procedures
202.6(135) Public hearing on application
202.7(135) Summary review
202.8(135) Extension of review time
202.9(135) Rehearing of certificate of need decision
202.10(135) Status reports to affected persons
202.11(135) Finality
202.12(135) Project progress reports
202.13(135) Request for extension of certificate
202.14(135) Application changes after approval
202.15(135) Sanctions
202.16(135) Reporting requirements

CHAPTER 203
STANDARDS FOR CERTIFICATE OF NEED REVIEW

203.1(135) Acute care bed need
203.2(135) Cardiac catheterization and cardiovascular surgery standards
203.3(135) Radiation therapy or radiotherapy standards
203.4(135) Computerized tomography standards
203.5(135) Long-term care
203.6(135) Bed need formula for mentally retarded
203.7(135) End-stage renal disease standards
203.8(135) Financial and economic feasibility
203.9(135) Obstetrical services and neonatal intensive care unit standards
203.10(135) Designated pediatric units standards
203.11(135) Designated inpatient substance abuse treatment unit standards
203.12(135) Magnetic resonance imaging services standards
203.13(135) Positron emission tomography services standards

CHAPTERS 204 and 205
Reserved

CHAPTER 206
IOWA HEALTH INFORMATION NETWORK

206.1(135) Scope and applicability
206.2(135) Definitions
206.3(135) Policy development and governance
206.4(135) Monitoring and audit

206.5(135) Consumer participation in the Iowa health information network
206.6(135) Security incidents, breaches
206.7(135) Health information audit

CHAPTER 4
CENTER FOR CONGENITAL AND INHERITED DISORDERS
[Prior to 7/29/87, Health Department[470]]

641—4.1(136A) Program overview. The center for congenital and inherited disorders within the department of public health provides administrative oversight to the following: Iowa newborn screening program, Iowa maternal prenatal screening program, regional genetic consultation service, neuromuscular and related genetic disease program, Iowa registry for congenital and inherited disorders, and Iowa early hearing detection and intervention program.

4.1(1) *Advisory committee.* The center for congenital and inherited disorders advisory committee represents the interests of the people of Iowa and assists in the development of programs that ensure the availability of and access to quality genetic and genomic health care services by all residents. The committee advises the director of the department of public health regarding issues related to genetics and hereditary and congenital disorders and makes recommendations about the design and implementation of the center's programs.

4.1(2) *Genetics coordinator.* The state genetics coordinator assigned within the department provides administrative oversight to the center for congenital and inherited disorders program within Iowa.

4.1(3) *Title V.* The center for congenital and inherited disorders has an association with the state Title V maternal child health program to promote comprehensive services for women, infants and children.
[**ARC 0664C**, IAB 4/3/13, effective 5/8/13; **ARC 1747C**, IAB 12/10/14, effective 1/14/15]

641—4.2(136A) Definitions. For the purposes of this chapter, the following definitions shall apply:

"Anonymized specimen" means a specimen that cannot be traced back to or linked with the particular individual from whom the specimen was obtained.

"Attending health care provider" means the licensed physician, nurse practitioner, certified midwife or physician assistant providing care to an infant at birth.

"Birthing facility" means a private or public facility licensed pursuant to Iowa Code chapter 135B that has a licensed obstetric unit or is licensed to provide obstetric services.

"Center" means the center for congenital and inherited disorders within the Iowa department of public health.

"Central laboratory" means the state hygienic laboratory (SHL), which is designated as the screening laboratory to perform testing and reporting for the Iowa newborn screening and Iowa maternal prenatal screening programs.

"Central registry" means the Iowa registry for congenital and inherited disorders (IRCID).

"Committee" means the congenital and inherited disorders advisory committee (CIDAC).

"Consulting physician" means a physician designated by the center for congenital and inherited disorders to interpret screen results and provide consultation to a licensed health care provider.

"Critical congenital heart disease" or *"CCHD"* means the presence of one or more specific heart lesions: hypoplastic left heart syndrome, pulmonary atresia, tetralogy of Fallot, total anomalous pulmonary venous return, transposition of the great arteries, tricuspid atresia, and truncus arteriosus.

"Department" means the Iowa department of public health.

"Director" means the director of the Iowa department of public health.

"Discharge" means a release of an infant from a hospital or birth center.

"Early ACCESS" means Iowa's Individuals with Disabilities Education Act (IDEA), Part C, program for infants and toddlers. Early ACCESS is a statewide, comprehensive, interagency system of integrated early intervention services that supports eligible children and their families as defined in 281—Chapter 120.

"Early hearing detection and intervention program" means Iowa's newborn hearing screening and follow-up program which ensures that all newborns and toddlers with hearing loss are identified as early as possible and provided with timely and appropriate audiological, educational and medical intervention and family support.

"Follow-up program" means the services provided to follow up on an abnormal screening result.

"Guardian" means a person who is not the parent of a minor child, but who has legal authority to make decisions regarding life or program issues for the child.

"Health care provider" means a licensed physician, nurse practitioner, certified nurse midwife, registered nurse, or physician assistant providing medical care to an individual.

"Iowa maternal prenatal screening program" or *"IMPSP"* means a program that provides a screening test designed to identify women with an increased risk of having a baby with a congenital or inherited disorder or women at risk of developing a problem later in pregnancy.

"Newborn critical congenital heart disease (CCHD) screening" means the screening of newborns for seven targeted heart conditions (hypoplastic left heart syndrome, pulmonary atresia, tetralogy of Fallot, total anomalous pulmonary venous return, transposition of the great arteries, tricuspid atresia, and truncus arteriosus) using pulse oximetry or other means to detect blood oxygen saturation levels.

"Primary health care provider" means a licensed physician, physician assistant, nurse practitioner, or certified nurse midwife providing ongoing primary medical care to a patient.

"Receiving facility" means the facility receiving an infant from a birthing facility.

"Residual maternal prenatal serum screening specimen" means the portion of the specimen that may be left over after all necessary activities of the Iowa maternal prenatal screening program are completed.

"Residual newborn screening specimen" means the portion of the dried blood spot specimen that may be left over after all activities necessary for the Iowa newborn screening program are completed.

"Specialty genetics provider" means a geneticist, genetic nurse, or genetic counselor.

"State hygienic laboratory" or *"SHL"* means the designated central testing laboratory.

"Transferring facility" means the birthing facility that transfers the infant to another facility.

[**ARC 7981B**, IAB 7/29/09, effective 9/2/09; **ARC 0664C**, IAB 4/3/13, effective 5/8/13; **ARC 1747C**, IAB 12/10/14, effective 1/14/15]

641—4.3(136A) Iowa newborn screening program (INSP). This program provides comprehensive newborn screening services for hereditary and congenital disorders for the state.

4.3(1) *Newborn screening policy.*

a. All newborns and infants born in the state of Iowa shall be screened for all congenital and inherited disorders specified by the center and approved by the state board of health.

b. As new disorders are recognized and new technologies and tests become available, the center shall follow protocols developed by the department in regard to the addition of disorders to or the deletion of disorders from the screening panel. The state board of health shall provide final approval for the addition of disorders to or the deletion of disorders from the screening panel.

c. The center may monitor individuals identified as having a genetic or metabolic disorder for the purpose of conducting public health surveillance or intervention and for determining whether early detection, treatment, and counseling lead to the amelioration or avoidance of the adverse outcomes of the disorder. Birthing facilities and health care providers shall provide patient data and records to the center upon request to facilitate the monitoring. Any identifying information provided to the center shall remain confidential pursuant to Iowa Code section 22.7(2).

d. For purposes of newborn screening, the department shall collect newborn screening specimens and data, test the specimens for disorders on the universal screening panel, conduct follow-up on abnormal screening results, conduct quality improvement and quality assurance activities, and store specimens for a time period determined by policies established by the CIDAC and the department.

4.3(2) *Newborn blood spot screening procedure for facilities and providers.*

a. *Educating parent or guardian.* Before a specimen from an infant is obtained, a parent or guardian shall be informed of the type of specimen, how it is obtained, the nature of the disorders for which the infant is being screened, the consequences of treatment and nontreatment, and the retention, use and disposition of residual specimens.

b. *Refusal of screening.* Should a parent or guardian refuse the screening, said refusal shall be documented in the infant's medical record, and the parent or guardian shall sign the refusal of screening form. The birthing facility or attending health care provider shall submit the signed refusal of screening form to the central laboratory within six days of the refusal. The birthing facility or attending health care

provider may submit refusal forms via the courier service established for the transportation of newborn screening specimen collection forms.

c. *Collection of specimens.* A filter paper blood specimen shall be collected from the infant between 24 to 48 hours after the infant's birth. A specimen shall not be collected from an infant less than 24 hours after birth except as follows:

(1) A blood specimen must be collected before any initial transfusion, even if the infant is less than 24 hours old.

(2) A blood specimen must be collected before the infant leaves the hospital, whether by discharge or by transfer to another hospital, even if the infant is less than 24 hours old.

d. *Submission of specimens.* All specimens shall be delivered via courier service or, if courier service is not available, forwarded by first-class mail or other appropriate means within 24 hours after collection to the SHL.

e. *Informed consent for the release of residual specimens for research use.* The department shall establish policies and procedures, including an informed consent for release of specimens for research, to allow a parent or guardian the ability to provide informed consent prior to the release of the newborn's residual newborn screening specimen for research purposes. The parent or guardian, birthing facility or attending health care provider shall submit the informed consent form to the central laboratory pursuant to established policy and procedure. The informed consent procedure shall apply to all specimens collected on or after January 1, 2016. For specimens collected prior to January 1, 2016, a parent or guardian may send a letter stating that the newborn's specimen is not to be released for research purposes. This letter shall include the parent's or guardian's name, the newborn's name at birth, and the newborn's date of birth. The letter of notice shall be sent to the State Hygienic Laboratory at Newborn Screening Program, State Hygienic Laboratory, 2220 S. Ankeny Blvd., Ankeny, Iowa 50023-9093.

4.3(3) *Primary health care provider responsibility.*

a. The health care provider shall ensure that infants under the provider's care are screened.

b. Procedures for specimen collection for newborn blood spot screening shall be followed in accordance with 4.3(2).

c. A physician or other health care professional who undertakes primary pediatric care of an infant delivered in Iowa shall arrange for the newborn screening if a newborn screening result is not in the infant's medical record.

4.3(4) *Birthing facility.* The birthing facility shall ensure that all infants receive newborn screening.

a. Designee. Each birthing facility shall designate an employee to be responsible for the newborn screening program in that institution.

b. Procedures for specimen collection for newborn screening shall be followed in accordance with 4.3(2).

c. Transfer. The following shall apply if an infant is transferred:

(1) If an infant is transferred within the hospital for acute care, the newborn nursery shall notify the acute care unit of the status of the newborn screening. The acute care unit shall then be responsible for the status of the newborn screening prior to discharge of the infant.

(2) If the infant is transferred to another facility within the state, the facility shall notify the receiving facility of the status of the newborn screening. The receiving facility shall then be responsible for completion of the newborn screening prior to discharge of the infant.

d. Discharge. Each birthing facility shall collect a newborn screening specimen on every infant prior to discharge, including under the following circumstances:

(1) The infant is discharged or transferred to another facility before the infant is 24 hours old.

(2) The infant is born with a condition that is incompatible with life.

(3) The infant has received a transfusion.

e. Notification. The birthing facility shall report the newborn screening results to the health care provider who has undertaken ongoing primary pediatric care of the infant.

4.3(5) *SHL responsibility.* The SHL shall:

a. Contract with a courier service to provide transportation and delivery of newborn screening specimens.

b. Contact all birthing facilities to inform them of the courier schedule.

c. Process specimens within 24 hours of receipt.

d. Notify the submitting health care provider, birthing facility, or drawing laboratory of an unacceptable specimen and the need for another specimen.

e. Report a presumptive positive screen result within 24 hours to the consulting physician or the physician's designee.

f. Distribute specimen collection forms, specimen collection procedures, refusal of newborn screening forms, and other materials to drawing laboratories, birthing facilities, and health care providers.

g. Report normal and abnormal screening results to the submitting facility or provider.

h. Submit a written annual report of the previous calendar year to the center by July 1of each year. This report shall include:

(1) Number of infants screened,

(2) Number of repeat screens,

(3) Number of presumptive positive results by disorder,

(4) Number of rejected specimens,

(5) Number of waivers,

(6) Results of quality assurance testing including any updates to the INSP quality assurance policies, and

(7) Screening and educational activity details.

i. In collaboration with the program consulting physicians, submit a proposed budget and narrative justification for the upcoming state fiscal year by January 31 of each year.

j. Act as fiscal agent for program expenditures encompassing the analytical, technical, administrative, educational, and follow-up costs for the screening program.

k. Submit a fiscal expenditures report to the center within 90 days after the end of the state fiscal year.

4.3(6) *Follow-up program responsibility.* Follow-up programs shall be available for all individuals identified by the newborn screening as having an abnormal screen result.

a. The follow-up activities shall include care coordination, consultation, recommendations for treatment when indicated, case management, education and quality assurance.

b. The follow-up programs shall submit a written annual report of the previous calendar year by July 1 of each year. The report shall include:

(1) The number of presumptive positive results and confirmed positive results by disorder,

(2) Number of confirmed cases receiving follow-up,

(3) A written summary of educational and follow-up activities.

c. In collaboration with the SHL, the follow-up programs shall submit a proposed budget and narrative justification for the upcoming fiscal year to the center by January 31 of each year.

d. The follow-up programs shall submit a fiscal expenditures report to the center within 90 days of the end of the state fiscal year.

4.3(7) *Sharing of information and confidentiality.* Reports, records, and other information collected by or provided to the Iowa newborn screening program relating to an infant's newborn screening results and follow-up information are confidential records pursuant to Iowa Code sections 22.7 and 136A.7. INSP data may be retained indefinitely.

a. Personnel of the program shall maintain the confidentiality of all information and records used in the review and analysis of newborn screening and follow-up, including information that is confidential under Iowa Code chapter 22 or any other provisions of state law.

b. The program shall not release confidential information except to the following persons and entities, under the following conditions:

(1) The parent or guardian of an infant or child or the adult individual for whom the report is made.

(2) A primary health care provider, birthing facility, or submitting laboratory.

(3) A representative of a state or federal agency, to the extent that the information is necessary to perform a legally authorized function of that agency or the department. The state or federal agency will

be subject to confidentiality regulations which are the same as or more stringent than those in the state of Iowa.

(4) A researcher, upon documentation of parental consent obtained by the researcher, and only to the extent that the information is necessary to perform research authorized by the department.

4.3(8) *Retention, use and disposition of residual newborn screening specimens.*

a. A newborn screening specimen collection form consists of a filter paper containing the dried blood spots (DBS) specimen and the attached requisition that contains information about the infant and birthing facility or drawing laboratory. The DBS specimen can be separated from the information contained in the requisition form. The INSP is the custodian of the specimens and related data for purposes of newborn screening, quality improvement and quality assurance activities.

(1) The residual DBS specimen shall be held for five years in a locked area at the SHL.

(2) The residual DBS specimen shall be stored for the first year at −70 degrees C.

(3) After one year, the residual DBS specimen shall be archived for four additional years at room temperature.

(4) The residual DBS specimen shall be incinerated after completion of the retention period.

b. The program shall not release a residual newborn screening specimen except to the following persons and entities:

(1) The parent or guardian of the infant or the individual adult upon whom the screening was performed.

(2) A health care provider acting on behalf of the patient.

(3) A medical examiner authorized to conduct an autopsy on a child or an investigation into the death of a child.

(4) A researcher for research purposes, under the terms and conditions provided in this rule.

(5) The newborn screening program, for operations as provided in this rule.

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

(1) Investigators shall submit proposals to use residual newborn screening specimens to the center. Any intended use of the requested specimens as part of the research study must be clearly delineated in the proposal.

(2) Before research can commence, proposals shall be approved by the researcher's institutional review board, the congenital and inherited disorders advisory committee, and the department.

(3) Research on anonymized or identifiable residual newborn screening specimens shall be allowed only in instances where research would further: newborn screening activities; the health of an infant or child for whom no other specimens are available or readily attainable; general medical knowledge for existing public health surveillance activities; public health purposes; or medical knowledge to advance the public health.

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

e. Prohibited uses. A residual newborn screening specimen shall not be released to any person or entity for commercial purposes or law enforcement purposes or to establish a database for forensic identification.

4.3(9) *Newborn screening for critical congenital heart disease.* All newborns and infants born in Iowa shall receive newborn screening for CCHD, by pulse oximetry or other means in accordance with subparagraph 4.3(9)*"b"*(3). The purpose of newborn screening for CCHD is to identify newborns with structural heart defects usually associated with hypoxia in the newborn period which could

have significant morbidity or mortality early in life with the closing of the ductus arteriosus or other physiological changes early in life.

a. Newborn CCHD screening procedure for providers and facilities.

(1) Educating parent or guardian. Before newborn screening for CCHD on an infant is conducted, a parent or guardian shall be informed of the type of screening, how it is performed, the nature of the disorders for which the infant is being screened, and the follow-up procedure for an abnormal screen result.

(2) Refusal. Should a parent or guardian refuse the screening, said refusal shall be documented in the infant's medical record, and the parent or guardian shall sign the refusal of screening form. The birthing facility or attending health care provider shall submit the signed refusal form to the central laboratory within six days of the refusal. The birthing facility or attending health care provider may submit refusal forms via the courier service established for the transportation of newborn screening specimen collection forms.

b. Newborn CCHD screening for newborns in low-risk or intermediate nurseries or out-of-hospital births.

(1) Screening should not begin until the newborn is at least 24 hours of age, or as late as possible if earlier discharge is planned, and should be completed on the second day of life.

(2) Screening shall be conducted using pulse oximeters or other means in accordance with subparagraph 4.3(9)*"b"*(3). Pulse oximeters shall:

1. Be motion tolerant;
2. Report functional oxygen saturation;
3. Be validated in low-perfusion conditions;
4. Be cleared by the Food and Drug Administration (FDA) for use on newborns; and
5. Have a 2 percent root-mean-square accuracy.

Disposable or reusable probes may be used. Reusable probes must be appropriately cleaned between uses according to manufacturer's instructions.

(3) Newborn CCHD screening shall be conducted by pulse oximetry or other means in accordance with the most recently published guidelines, algorithms, and protocols as outlined by the American Academy of Pediatrics, the American College of Cardiology Foundation and the American Heart Association, or subsequent guidance by the organizations listed in this subparagraph. Materials are available on the CCID Web page at http://idph.state.ia.us/genetics/newborn_screening.asp.

c. Newborn CCHD screening for high-risk newborns in neonatal intensive care settings (NICU). Until such time that an evidence-based protocol for CCHD screening in infants discharged from the NICU is available, the attending health care provider shall conduct a comprehensive examination of the newborn to screen the infant for CCHD prior to discharge.

d. Primary health care provider responsibility. The health care provider shall ensure that infants under the provider's care are screened.

e. Reporting results of newborn CCHD screening. At such time as the CCHD reporting system is implemented, results of newborn CCHD screening shall be reported in a manner consistent with other newborn screening (formerly referenced as metabolic screening) reporting.

4.3(10) *INSP and IMPSP fees.*

a. The department shall annually review and determine the fee to be charged for all activities associated with the INSP and the IMPSP. The review and fee determination shall be completed at least one month prior to the beginning of the fiscal year. The newborn screening fee is $122.

b. The department shall include as part of the INSP fee an amount determined by the committee and department to fund the provision of special medical formula and foods for eligible individuals with inherited diseases of amino acids and organic acids who are identified through the programs.

c. Funds collected through newborn screening fees shall be used for newborn screening program activities only.

d. Funds collected through maternal prenatal screening fees shall be used for maternal prenatal screening activities only.

e. In order to support newborn and maternal prenatal screening activities, the department shall authorize the expenditure and exchange of newborn screening and maternal prenatal screening funds between the SHL (as designated fiscal agent) and the department.

f. Upon department approval of proposed budgets, a portion of INSP and IMPSP fees shall be distributed to the department to support the percent of effort of the executive officer of the center for congenital and inherited disorders (CCID).

4.3(11) *Special medical formula and foods program.*

a. A special medical formula and foods program for individuals with inherited diseases of amino acids and organic acids who are identified through the Iowa newborn screening program is provided by the University of Iowa.

b. Payments received from clients based on third-party payment, sliding fee scales and donations shall be used to support the administration of and the purchase of special medical formula and foods.

c. The funding allocation from the Iowa newborn screening program fee will be used as the funder of last resort after all other available funding options have been pursued by the special medical formula and foods program.

d. Provisions of special medical formula and foods through this funding allocation shall be available to an individual only after the individual has shown that all benefits from third-party payers including, but not limited to, health insurers, health maintenance organizations, Medicare, Medicaid, WIC and other government assistance programs have been exhausted. In addition, a full fee and a sliding fee scale shall be established and used for those persons able to pay all or part of the cost. Income and resources shall be considered in the application of the sliding fee scale. Individuals whose income is at or above 185 percent of the federal poverty level shall be charged a fee for the provision of special medical formula and foods. Placement of individuals on the sliding fee scale shall be determined and reviewed at least annually.

e. The SHL shall act as the fiscal agent.

f. The University of Iowa Hospitals and Clinics under the control of the state board of regents shall not receive indirect costs from state funds appropriated for this program.

[**ARC 7981B**, IAB 7/29/09, effective 9/2/09; **ARC 0664C**, IAB 4/3/13, effective 5/8/13; **ARC 1747C**, IAB 12/10/14, effective 1/14/15]

641—4.4(136A) Iowa maternal prenatal screening program (IMPSP). This program provides comprehensive maternal prenatal screening services for the state.

4.4(1) *Maternal screening policy.* It shall be the policy of the state of Iowa that all pregnant women are offered maternal prenatal screening. The Iowa maternal prenatal screening program provides a risk assessment for open neural tube defects, ventral wall defects, Down syndrome, and Trisomy 18.

a. If a patient desires this screening test, her health care provider shall direct that a specimen be drawn and submitted to the SHL.

b. As new technologies and tests become available, the center shall follow protocols developed by the department with regard to the addition of disorders to or the deletion of disorders from the screening program.

4.4(2) *Maternal screening procedure.*

a. *Collection of specimens.* A serum or clotted blood specimen shall be collected from the patient within the appropriate gestational range indicated by the requested screen.

b. *Processing of specimens.* The SHL shall test specimens within three working days of receipt.

c. *Reporting of abnormal results.* Abnormal screen results shall be reported within 24 hours to the consulting physician or the physician's designee who shall then notify the primary health care provider. On the next working day, this initial report shall be followed by a written report to the primary health care provider.

4.4(3) *Consulting physician responsibility.* A consulting physician shall be designated by the center in collaboration with the SHL to provide interpretation of screen results and consultation to the submitting health care provider. This physician shall provide consultation for abnormal screen results, assist with questions about management of identified cases, provide education and assist with quality assurance measures. The screening program, with assistance from the consulting physician, shall:

a. In collaboration with the SHL, submit a proposed budget and narrative justification for the upcoming fiscal year to the center by January 31 of each year, and

b. Submit a written annual report of the previous calendar year to the center by July 1 of each year. The report shall include:

(1) Number of women screened,

(2) Number of repeat screens,

(3) Number of abnormal results by disorder,

(4) Number of rejected specimens,

(5) Results of quality assurance testing, and

(6) Screening and educational activity details.

4.4(4) *SHL responsibility.* The SHL shall:

a. Contract with a courier service to provide transportation and delivery of maternal prenatal serum specimens.

b. Contact all entities submitting specimens to inform them of the courier's schedule.

c. Test specimens within three working days of receipt.

d. Distribute specimen collection kits and other materials to health care provider offices and drawing facilities as required.

e. Inform the submitting health care provider or drawing facility of an unacceptable specimen and request another specimen.

f. Provide educational materials concerning specimen collection procedures.

g. Have available for review a written quality assurance program covering all aspects of its screening activity.

h. Act as a fiscal agent for program charges encompassing the analytical, technical, administrative, educational and follow-up costs for the screening program.

4.4(5) *IMPSP fee determination.* The department shall annually review and determine the fee to be charged for all activities associated with the IMPSP. The review and determination of the fee shall be completed at least one month prior to the beginning of the fiscal year.

4.4(6) *Sharing of information and confidentiality.* Reports, records, and other information collected by or provided to the IMPSP relating to a patient's maternal prenatal screening results and follow-up information are confidential records pursuant to Iowa Code section 22.7.

a. Personnel of the program shall maintain the confidentiality of all information and records used in the review and analysis of maternal serum screening and follow-up, including information that is confidential under Iowa Code chapter 22 or any other provisions of state law.

b. The program shall not release confidential information except to the following persons and entities, under the following conditions:

(1) The patient for whom the report is made.

(2) A primary health care provider or submitting laboratory.

(3) A representative of a state or federal agency, to the extent that the information is necessary to perform a legally authorized function of that agency or the department. The state or federal agency will be subject to confidentiality regulations which are the same as or more stringent than those in the state of Iowa.

(4) A researcher, upon documentation of patient consent obtained by the researcher, and only to the extent that the information is necessary to perform research authorized by the department and the state board of health.

4.4(7) *Retention, use and disposition of residual maternal prenatal screening specimens.*

a. A maternal serum screening specimen collection consists of laboratory tubes with maternal serum and associated information about the patient, health care provider, or drawing laboratory.

(1) The residual serum specimens shall be held for a specified period of time in a locked area at the SHL in accordance with SHL policy and procedures.

(2) Reserved.

b. Research use.

(1) Investigators shall submit proposals to use residual serum specimens to the center. Any intent to utilize information associated with the requested specimens as part of the research study must be clearly delineated in the proposal.

(2) Before research can commence, proposals shall be approved by the researcher's institutional review board, the congenital and inherited disorders advisory committee, and the department.

(3) Personally identifiable residual specimens or records shall not be disclosed without documentation of informed patient consent obtained by the researcher.

(4) Research on anonymized or identifiable residual specimens shall be allowed in instances where research would further maternal prenatal screening activities or general medical knowledge for existing public health surveillance activities.

[**ARC 7981B**, IAB 7/29/09, effective 9/2/09; **ARC 0664C**, IAB 4/3/13, effective 5/8/13]

641—4.5(136A) Regional genetic consultation service (RGCS). This program provides comprehensive genetic and genomic services statewide through outreach clinics.

4.5(1) *Provision of comprehensive genetic and genomic services.* The department shall contract with the division of medical genetics within the department of pediatrics at the University of Iowa to provide genetic and genomic health care and education outreach services for individuals and families within Iowa. The contractor shall provide annual reports to the department as specified in the contract.

4.5(2) *Clinical services.* The services provided may include, but are not limited to: diagnostic evaluations, confirmatory testing, consultation by board-certified geneticists, genetic counseling, medical case management, and referral to appropriate agencies.

4.5(3) The University of Iowa Hospitals and Clinics under the control of the state board of regents shall not receive indirect costs from state funds appropriated for this program.

[**ARC 0664C**, IAB 4/3/13, effective 5/8/13]

641—4.6(136A) Neuromuscular and other related genetic disease program (NMP). This program provides comprehensive services statewide for individuals and families with neuromuscular disorders through outreach clinics and statewide, active surveillance for selected neuromuscular disorders.

4.6(1) Provision of comprehensive services. The department shall contract with the department of pediatrics at the University of Iowa to provide neuromuscular health care, case management and education outreach services for individuals and families within Iowa. The contractor shall provide annual reports to the department as specified in the contract.

4.6(2) Clinical services. The services provided may include, but are not limited to: diagnostic evaluations, confirmatory testing, physical therapy, consultation by board-certified neurologists, genetic counseling, medical case management, supportive services and referral to appropriate agencies.

4.6(3) The University of Iowa Hospitals and Clinics under the control of the state board of regents shall not receive indirect costs from state funds appropriated for this program.

[**ARC 7981B**, IAB 7/29/09, effective 9/2/09; **ARC 1747C**, IAB 12/10/14, effective 1/14/15]

641—4.7(136A) Iowa registry for congenital and inherited disorders (IRCID). This program provides active statewide surveillance for congenital and inherited disorders. These disorders may include birth defects, neuromuscular disorders, metabolic disorders, and all stillbirths. The program also may conduct active statewide surveillance of live births without a reportable congenital or inherited disorder to serve as controls for epidemiological surveys. Surveillance activities for specific congenital and inherited disorders will be conducted for the period of time that adequate financial support is available.

4.7(1) *Definitions.*

a. Birth defects shall be defined as any major structural abnormality or metabolic disorder that may adversely affect a child's health and development. The abnormality or disorder must be diagnosed or its signs and symptoms must be recognized within the first two years of life.

b. Neuromuscular disorders shall be defined as Duchenne, Becker, congenital, distal, Emery-Dreifuss, fascioscapulohumeral, limb-girdle, myotonic, and oculopharyngeal muscular dystrophies.

c. Rescinded IAB 4/3/13, effective 5/8/13.

d. Stillbirths shall be defined as an unintended fetal death occurring after a gestational period of 20 completed weeks or an unintended fetal death of a fetus with a weight of 350 or more grams. Stillbirth is synonymous with fetal death.

e. A reportable congenital or inherited disorder occurring in a miscarriage or pregnancy may be included in the IRCID.

4.7(2) *Surveillance policy.*

a. Congenital disorders, including birth defects, occurring in Iowa are reportable conditions, and records of these disorders shall be abstracted pursuant to 641—1.3(139A) and maintained in the IRCID. Congenital disorders surveillance shall be performed in order to determine the occurrence and trends of such disorders, to determine co-occurring conditions and treatments through annual follow-up abstraction, to conduct thorough and complete epidemiological surveys to identify environmental and genetic risk factors for congenital disorders, to contribute to prevention strategies, and to assist in the planning for and provision of services to children with congenital disorders and their families.

b. Records for neuromuscular disorders shall be abstracted pursuant to 641—1.3(139A) and maintained in the IRCID. Neuromuscular disorders surveillance for individuals of all ages shall be performed in order to determine the occurrence and trends of the selected neuromuscular disorders, to determine co-occurring conditions and treatments through annual follow-up abstraction, to conduct thorough and complete epidemiological surveys through annual long-term follow-up, and to assist in the planning for and provision of services to individuals with selected neuromuscular disorders and their families.

c. Rescinded IAB 4/3/13, effective 5/8/13.

d. Stillbirths occurring in Iowa are reportable conditions, and records of these stillbirths shall be abstracted pursuant to 641—1.3(139A) and maintained in the IRCID. Stillbirth surveillance shall be performed in order to determine the occurrence and trends of stillbirths, to conduct thorough and complete epidemiological surveys to identify environmental and genetic risk factors for stillbirths, and to assist in the planning for and provision of services to prevent stillbirths.

4.7(3) *IRCID activities.*

a. The center shall establish an agreement with the University of Iowa to implement the activities of the IRCID.

b. The IRCID shall use the birth defects, neuromuscular disorders, metabolic disorders, and stillbirth coding schemes developed by the Centers for Disease Control and Prevention (CDC).

c. The IRCID staff shall review hospital records, clinical charts, physician's records, vital records, prenatal records, and fetal death evaluation protocols pursuant to 641—1.3(139A), information from the INSP, RGCS, NMP, and the IMPSP, and any other information that the IRCID deems necessary and appropriate for congenital and inherited disorders surveillance.

4.7(4) *Department responsibility.*

a. When a live infant's medical records are ascertained by the IRCID, the department or its designee shall inform the parent or legal guardian by letter that this information has been collected and provide the parent or guardian with information about services for which the child and family may be eligible.

b. The center and the IRCID shall annually release aggregate medical and epidemiological information to medical personnel and appropriate state and local agencies for the planning and monitoring of services for children with congenital or inherited disorders and their families.

4.7(5) *Confidentiality and disclosure of information.* Reports, records, and other information collected by or provided to the IRCID relating to a person known to have or suspected of having a congenital or inherited disorder are confidential records pursuant to Iowa Code sections 22.7 and 136A.7.

a. Personnel of the IRCID and the department shall maintain the confidentiality of all information and records used in the review and analysis of congenital or inherited disorders, including information which is confidential under Iowa Code chapter 22 or any other provisions of state law.

b. IRCID staff are authorized pursuant to 641—1.3(139A) to gather all information relevant to the review and analysis of congenital or inherited disorders. This information may include, but is not limited to, hospital records, physician's records, clinical charts, vital records, prenatal records, fetal death evaluation protocols, information from the INSP, RGCS, NMP, and the IMPSP, and any other information that the IRCID deems necessary and appropriate for congenital and inherited disorders surveillance. IRCID staff are permitted to review hospital records, clinical charts, physician's records, vital records, and prenatal records, information from the INSP, RGCS, NMP, and IMPSP and any other information that the IRCID deems necessary and appropriate for live births without a reportable congenital or inherited disorder to serve as controls for epidemiological surveys.

c. No individual or organization providing information to the IRCID in accordance with this rule shall be deemed or held liable for divulging confidential information.

4.7(6) *Access to information in the IRCID.* The IRCID and the department shall not release confidential information except to the following, under the following conditions:

a. The parent or guardian of an infant or child for whom the report is made and who can demonstrate that the parent or guardian has received the notification letter.

b. An Early ACCESS service coordinator or an agency under contract with the department to administer the children with special health care needs program, upon receipt of written consent from the parent or guardian of the infant or child.

c. A local health care provider, upon receipt of written consent from the parent or guardian of the infant or child.

d. A representative of a federal agency, to the extent that the information is necessary to perform a legally authorized function of that agency or the department. The information provided shall not include the personal identifiers of an infant or child with a reportable congenital or inherited disorder.

e. Researchers, in accordance with the following:

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

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

f. A representative of a state agency, to the extent that the information is necessary to perform a legally authorized function of that agency or the department. The state agency will be subject to confidentiality regulations that are the same as or more stringent than those in the state of Iowa.

[**ARC 7981B**, IAB 7/29/09, effective 9/2/09; **ARC 0664C**, IAB 4/3/13, effective 5/8/13]

641—4.8(135) Iowa's early hearing detection and intervention program. The goal of universal hearing screening of all newborns and infants in Iowa is the early detection of hearing loss to allow children and their families the earliest possible opportunity to obtain appropriate early intervention services. All newborns and infants born in Iowa, except those born with a condition that is incompatible with life, shall be screened for hearing loss. Early hearing detection and intervention programming and services will be provided pursuant to 641—Chapter 3.

[**ARC 1747C**, IAB 12/10/14, effective 1/14/15]

641—4.9 and **4.10** Reserved.

CENTER FOR CONGENITAL AND INHERITED DISORDERS ADVISORY COMMITTEE (CIDAC)

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

[**ARC 0664C**, IAB 4/3/13, effective 5/8/13]

641—4.12(136A) Duties of the committee. CIDAC shall perform the following duties:

4.12(1) Make recommendations about the design and implementation of the center's programs, including but not limited to:

a. The Iowa newborn screening program;

b. The regional genetics consultation service;

c. The maternal prenatal screening program;

d. The neuromuscular and related genetic disorders program; and

e. The Iowa registry for congenital and inherited disorders.

4.12(2) Support the development of special projects and conferences regarding genetic and genomic health care services and issues.

4.12(3) Advocate for quality genetic and genomic health care services for all residents in the state of Iowa.

[**ARC 0664C**, IAB 4/3/13, effective 5/8/13]

641—4.13(136A) Membership. Membership will be comprised of representatives of professional groups, agencies, legislators, parents, consumers, and professional health care providers.

4.13(1) CIDAC shall be comprised of regular, ex officio, and honorary members.

a. Potential regular members are considered from interest groups, consumer organizations, and genetic and genomic health care service providers. Two parent representatives and two consumer representatives shall serve as regular members of CIDAC.

b. The number of regular members shall not be fewer than 15 or more than 25.

c. No more than 30 percent of regular members shall be representatives of or employed by programs that are contractors of the center for congenital and inherited disorders in the Iowa department of public health.

d. Honorary members will be comprised of two legislators, one state senator and one state representative, and others deemed appropriate by the director.

e. Ex officio members are nominated by virtue of their positions held and the organizations they represent and are appointed by the director. These members provide expert information and consultation to CIDAC.

4.13(2) Every effort will be made to have gender balance and broad geographic representation on the advisory committee.

4.13(3) The director will appoint regular and honorary committee members for three fiscal years. Reappointment of regular and honorary members shall be at the discretion of the director.

[**ARC 0664C**, IAB 4/3/13, effective 5/8/13]

641—4.14(136A) Meetings.

4.14(1) Meetings of the committee will be held as necessary and at the call of the director or the chairperson. There shall be a minimum of four meetings per year.

4.14(2) All meetings are open to the public in accordance with the open meetings law, Iowa Code chapter 21.

4.14(3) A majority of the total number of regular members (50 percent plus one member) shall constitute a quorum. There must be a quorum of the regular members in attendance at a meeting for action to be taken.

4.14(4) Action can be taken by a vote of the regular members. Ex officio and honorary members are not eligible to vote.

4.14(5) Regular members who represent programs that are contractors of the center for congenital and inherited disorders in the department are expected to refrain from imposing undue influence on regular members and to recuse themselves from voting on issues which directly affect the operation of their programs.

4.14(6) Meeting attendance.

a. Attendance at a meeting is defined as presence at the meeting site in person, through the Iowa communications network (ICN), through webinar or web meeting, or via telephone.

b. Attendance by the regular member or the regular member's designee shall be expected at all meetings.

(1) A designee of similar standing must be able to reasonably fulfill the member's role on the committee in discussions.

(2) Designees are not eligible to vote.

c. Regular members, not designees, must attend at least two meetings per fiscal year to remain in good standing.

d. A regular member who misses more than three meetings in a fiscal year shall be deemed to have submitted a resignation.

[**ARC 0664C**, IAB 4/3/13, effective 5/8/13]

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

[Filed November 20, 1970]
[Filed 2/12/82, Notice 12/23/81—published 3/3/82, effective 4/7/82]
[Filed emergency 7/15/83—published 8/3/83, effective 7/15/83]
[Filed emergency 9/23/83—published 10/12/83, effective 9/23/83]
[Filed emergency 5/11/84—published 6/6/84, effective 5/11/84]
[Filed 11/15/85, Notice 8/14/85—published 12/4/85, effective 1/8/86]
[Filed 12/8/86, Notice 9/24/86—published 12/31/86, effective 2/4/87]
[Filed emergency 7/10/87—published 7/29/87, effective 7/10/87]
[Filed 11/30/87, Notice 10/21/87—published 12/16/87, effective 1/20/88]
[Filed 1/10/92, Notice 8/7/91—published 2/5/92, effective 3/11/92]
[Filed emergency 7/14/95 after Notice 6/7/95—published 8/2/95, effective 7/14/95]
[Filed 9/14/01, Notice 8/8/01—published 10/3/01, effective 11/7/01]
[Filed 9/11/02, Notice 8/7/02—published 10/2/02, effective 11/6/02]
[Filed 9/12/03, Notice 8/6/03—published 10/1/03, effective 11/5/03]
[Filed 7/16/04, Notice 6/9/04—published 8/4/04, effective 9/8/04]
[Filed emergency 7/13/05 after Notice 5/25/05—published 8/3/05, effective 7/13/05]
[Filed emergency 7/27/06 after Notice 6/21/06—published 8/16/06, effective 7/27/06]
[Filed 9/13/07, Notice 8/1/07—published 10/10/07, effective 11/14/07]
[Filed ARC 7981B (Notice ARC 7791B, IAB 5/20/09), IAB 7/29/09, effective 9/2/09]
[Filed ARC 0664C (Notice ARC 0572C, IAB 1/23/13), IAB 4/3/13, effective 5/8/13]
[Filed ARC 1747C (Notice ARC 1471C, IAB 5/28/14; Amended Notice ARC 1567C, IAB 8/6/14), IAB 12/10/14, effective 1/14/15]

CHAPTER 176
CRITERIA FOR AWARDS OR GRANTS

641—176.1(135,17A) Purpose. The department provides funds to a variety of entities throughout the state for the support of public health programs. The department considers that all funds are subject to competition pursuant to Iowa Code statutes and Iowa Administrative Code rules governing service contracts.

641—176.2(135,17A) Definitions. For the purpose of these rules, the following definitions shall apply:

"Competitive selection process" means the competitive selection application process engaged in by the department to compare applicant qualifications, terms, conditions and pricing for services to purchase services based on quality, performance, and prices of equal or similar services in order to meet the objective of purchasing services based on quality, performance, or price or any combination thereof.

"Continuation application" means the application process for subsequent years within a project period following a competitive selection process.

"Department" means the Iowa department of public health.

"Project" means the activities or program(s) funded by the department.

"Project period" means the period of time which the department intends to support the project without requiring the recompetition for funds. The project period is specified within the competitive selection application and may extend to six years.

"Service delivery area" means the defined geographic area for delivery of project services. Competitive applications shall not fragment existing integrated service delivery within the defined geographic area.

641—176.3(135,17A) Exceptions. Exceptions to these rules are as follows:

1. New funds (including pilot studies and demonstration grants) that become available for new services.
2. Federal or private funding agency specified a sole source.
3. An organization failed to meet conditions and performance standards specified in the contract awards.
4. Mutual agreement among department and contract organizations.

641—176.4(135,17A) Requirements. The following shall be included in all competitive selection applications made available by the department:

1. Funding source.
2. Project period.
3. Services to be delivered.
4. Service delivery area.
5. Funding purpose.
6. Funding restrictions.
7. Funding formula (if any).
8. Matching requirements (if any).
9. Reporting requirements.
10. Performance criteria (experience of applicant in administering similar contracts).
11. Description of eligible applicants.
12. Need for letters of support or other materials (if applicable).
13. Application due date.
14. Anticipated date of award.
15. Eligibility guidelines for those receiving the service or product and the source of those guidelines, including fees or sliding fee scales (if applicable).
16. Target population to be served (if applicable).
17. Evaluation process and criteria.

18. Appeal process.
19. Contractual terms.
20. Business organization.

641—176.5(135,17A) Review process (competitive applications only). The review process to be followed in determining the amount of funds to be approved for award of a contract shall be described in the competitive selection application. The review criteria and the point allocation for each criterion shall also be described in the competitive selection application.

The review committee membership shall be determined by the bureau chief, with oversight from the respective division director. The review committee members shall allocate points per review criterion in conducting the review.

In the event applications for the service delivery area receive an equal number of points, a second review may be conducted by two management employees and one nonmanagement employee as designated by the respective division director.
[**ARC 1750C**, IAB 12/10/14, effective 1/14/15]

641—176.6(135,17A) Opportunity for review and comment. Rescinded IAB 1/30/08, effective 3/5/08.

641—176.7(135,17A) Public notice of available funds. The department shall post all competitive selection documents on the department of management's IowaGrants Web site at www.IowaGrants.gov for the duration of the application period.
[**ARC 1750C**, IAB 12/10/14, effective 1/14/15]

641—176.8(135,17A) Appeals.

176.8(1) *Appeal.* Letters of intent and applications received by the department after the due date and time stated in the competitive selection application will be rejected and will not be reviewed by the department, and a notice will be sent to the applicant. An applicant may appeal the denial of a timely submitted application. The appeal shall be submitted in writing within ten business days of receipt of notification of the adverse decision. The appeal shall be addressed to the contract administrator cited in the competitive selection application guidance, Department of Public Health, Lucas State Office Building, Des Moines, Iowa 50319-0075. In the event of an appeal, the department will continue working with the applicant awarded funding pending the outcome of the appeal.

176.8(2) *Contested case.* 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 (DIA) pursuant to the administrative rules adopted by DIA regarding transmission of cases.

176.8(3) *Hearing.* Parties shall receive notice of the hearing in advance. The administrative law judge shall schedule the time, place, and date of the hearing so that the hearing is held as expeditiously as possible. The hearing shall be conducted according to the procedural rules for contested case hearings found at 481—Chapter 10.

176.8(4) *Decision of administrative law judge.* The administrative law judge's decision shall be issued within 60 days from the date of the hearing. The administrative law judge's proposed decision shall be served by certified mail, return receipt requested, or delivered by personal service. The proposed decision and order becomes the department's final decision without further proceedings 10 days after it is received by the aggrieved party unless an appeal to the director is filed by either of the parties as provided in subrule 176.8(5) or the director serves notice on the parties of the director's intent to review the decision.

176.8(5) *Appeal to director.* Any appeal to the director for review of a proposed decision shall be in writing and submitted to the director by electronic mail; delivered 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 and the other parties. A request for appeal shall include the specific grounds for appeal.

176.8(6) *Record of hearing.* Upon receipt of an appeal request, the administrative law judge shall prepare a 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. All statements of matters officially noticed;

d. All questions and offers of proof, objections, and rulings thereon;

e. All proposed findings and exceptions; and

f. The proposed decision and order of the administrative law judge.

176.8(7) *Decision of director.* Upon receipt of a properly filed appeal, the director shall establish a briefing schedule and, at the discretion of the director, an opportunity for oral argument. An appeal to the director shall be based on the record made at the hearing. The director may reverse or modify any finding of fact if a preponderance of the evidence will support a determination to reverse or modify such a finding, or may reverse or modify any conclusion of law the director finds to be in error. The decision and order of the director shall be issued within 90 days of the date of the receipt of the appeal and delivered by certified mail, return receipt requested, or by personal service, and becomes the department's final decision upon receipt by the aggrieved party.

176.8(8) *Exhausting administrative remedies.* It is not necessary to file an application for rehearing to exhaust administrative remedies when appealing to the director or the district court as provided in Iowa Code section 17A.19.

176.8(9) *Judicial review.* The aggrieved party to the final decision of the department who has exhausted all administrative remedies may petition for judicial review of that action pursuant to Iowa Code chapter 17A. Petitions for judicial review shall be filed within 30 days after the decision becomes final. The party who appeals a final agency action to district court shall pay the costs of the preparation of a transcript of the contested case hearing for the district court.

176.8(10) *Applicability of rule.* This rule governs the appeal process for a competitive selection process if the specific administrative rules of the relevant program do not contain a process for appeal.
[**ARC 1750C**, IAB 12/10/14, effective 1/14/15]

These rules are intended to implement Iowa Code chapters 17A and 135.

[Filed 3/13/92, Notice 1/8/92—published 4/1/92, effective 5/6/92]
[Filed 11/5/92, Notice 9/30/92—published 11/25/92, effective 12/30/92]
[Filed 9/17/99, Notice 6/16/99—published 10/6/99, effective 11/10/99]
[Filed 1/10/02, Notice 11/28/01—published 2/6/02, effective 3/13/02]
[Filed 1/10/08, Notice 11/21/07—published 1/30/08, effective 3/5/08]
[Filed ARC 1750C (Notice ARC 1656C, IAB 10/1/14), IAB 12/10/14, effective 1/14/15]

CHAPTER 196
MILITARY SERVICE AND VETERAN RECIPROCITY

641—196.1(85GA,ch1116) Definitions.

"Department" means the department of public health.

"License" means a license, certification, registration, permit, approval, renewal, or other similar authorization issued to a person by a licensing authority which evidences the granting of authority to engage in a profession, occupation, or business.

"Licensing authority" means a board, commission, or any other entity of the department which has authority within this state to suspend or revoke a license or deny the renewal or issuance of a license authorizing a person to engage in a business, occupation, or profession.

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

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

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

[**ARC 1749C**, IAB 12/10/14, effective 1/14/15]

641—196.2(85GA,ch1116) Military education, training, and service credit. A military service applicant may apply for credit for verified military education, training, or service toward any experience or educational requirement for licensure by submitting a military service application form to the licensing authority.

196.2(1) The application may be submitted with an application for licensure or examination, or prior to applying for licensure or to take an examination. No fee is required with submission of an application for military service credit.

196.2(2) The applicant shall identify the experience or educational licensure requirement to which the credit would be applied if granted. Credit shall not be applied to an examination requirement.

196.2(3) The applicant shall provide documents, military transcripts, a certified affidavit, or forms that verify completion of the relevant military education, training, or service, which may include, when applicable, the applicant's Certificate of Release or Discharge from Active Duty (DD Form 214) or Verification of Military Experience and Training (VMET) (DD Form 2586).

196.2(4) Upon receipt of a completed military service application, the licensing authority shall promptly determine whether the verified military education, training, or service will satisfy all or any part of the identified experience or educational qualifications for licensure.

196.2(5) The licensing authority shall grant credit requested in the application in whole or in part if the licensing authority determines that the verified military education, training, or service satisfies all or part of the experience or educational qualifications for licensure.

196.2(6) The licensing authority shall inform the military service applicant in writing of the credit, if any, given toward an experience or educational qualification for licensure or explain why no credit was granted. The applicant may request reconsideration upon submission of additional documentation or information.

196.2(7) A military service applicant who is aggrieved by the licensing authority's decision may request a contested case (administrative hearing) and may participate in a contested case by telephone. A request for a contested case shall be made within 30 days of issuance of the licensing authority's decision. The provisions of 641—Chapter 173 shall apply, except that no fees or costs shall be assessed against the military service applicant in connection with a contested case conducted pursuant to this subrule.

196.2(8) The licensing authority shall grant or deny the military service application prior to ruling on the application for licensure. The applicant shall not be required to submit any fees in connection with the licensure application unless the licensing authority grants the military service application. If

the licensing authority does not grant the military service application, the applicant may withdraw the licensure application or request that the licensure application be placed in pending status for up to one year or as mutually agreed. The withdrawal of a licensure application shall not preclude subsequent applications supported by additional documentation or information.
[**ARC 1749C**, IAB 12/10/14, effective 1/14/15]

641—196.3(85GA,ch1116) Veteran reciprocity.

196.3(1) A veteran with an unrestricted license in another jurisdiction may apply for licensure in Iowa through reciprocity. A veteran must pass any examinations required for licensure to be eligible for licensure through reciprocity and will be given credit for examinations previously passed when consistent with the licensing authority's laws and rules on examination requirements. A fully completed application for licensure submitted by a veteran under this subrule shall be given priority and shall be expedited.

196.3(2) Such an application shall contain all of the information required of all applicants for licensure who hold unrestricted licenses in other jurisdictions and who are applying for licensure by reciprocity, including, but not limited to, completion of all required forms, payment of applicable fees, disclosure of criminal or disciplinary history, and, if applicable, a criminal history background check. The applicant shall use the same forms as any other applicant for licensure by reciprocity and shall additionally provide such documentation as is reasonably needed to verify the applicant's status as a veteran under Iowa Code section 35.1(2).

196.3(3) Upon receipt of a fully completed licensure application, the licensing authority shall promptly determine if the professional or occupational licensing requirements of the jurisdiction where the veteran is licensed are substantially equivalent to the licensing requirements in Iowa. The licensing authority shall make this determination based on information supplied by the applicant and such additional information as the licensing authority may acquire from the applicable jurisdiction. As relevant to the license at issue, the licensing authority may consider the following factors in determining substantial equivalence: scope of practice, education and coursework, degree requirements, experience, and examinations required for licensure.

196.3(4) The licensing authority shall promptly grant a license to the veteran if the veteran is licensed in the same or similar profession in another jurisdiction whose licensure requirements are substantially equivalent to those required in Iowa, unless the applicant is ineligible for licensure based on other grounds, for example, the applicant's disciplinary or criminal background.

196.3(5) If the licensing authority determines that the licensure requirements in the jurisdiction in which the veteran is licensed are not substantially equivalent to those required in Iowa, the licensing authority shall promptly inform the veteran of the additional experience, education, or examinations required for licensure in Iowa. Unless the applicant is ineligible for licensure based on other grounds, such as disciplinary or criminal background, or the issuance of a provisional license is inconsistent with the licensing authority's enabling statute, the following shall apply:

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

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

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

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

196.3(6) A veteran who is aggrieved by the licensing authority's decision to deny an application for a reciprocal license or a provisional license or is aggrieved by the terms under which a provisional license will be granted may request a contested case (administrative hearing) and may participate in a contested case by telephone. A request for a contested case shall be made within 30 days of issuance of the licensing authority's decision. The provisions of 641—Chapter 173 shall apply, except that no fees or costs shall be assessed against the veteran in connection with a contested case conducted pursuant to this subrule.

[**ARC 1749C**, IAB 12/10/14, effective 1/14/15]

These rules are intended to implement 2014 Iowa Acts, chapter 1116, section 34.

[Filed ARC 1749C (Notice ARC 1646C, IAB 10/1/14), IAB 12/10/14, effective 1/14/15]

CHAPTERS 197 to 199
Reserved

CHAPTER 200
STANDARDS COMMITTEE PROCEDURES—CHANGES IN STANDARDS
FOR THE STATE HEALTH PLAN
Rescinded IAB 5/30/90, effective 7/4/90

CHAPTER 202
CERTIFICATE OF NEED PROGRAM
[Prior to 7/29/87, Health Department[470] Ch 202]

641—202.1(135) Definitions. For purposes of this chapter, the following definitions apply:

"Acute care category of bed usage," as the term applies in Iowa Code section 135.63(2)*"k,"* shall be the same as the acute care categories listed in the state survey section of the American Hospital Association Annual Survey of Hospitals.

"Any expenditure in excess of five hundred thousand dollars," as defined in Iowa Code section 135.61(18)*"e,"* means new capital expenditures and new personnel necessary to operate the service for a year.

"Any mobile health service with a value in excess of one million five hundred thousand dollars," as defined in Iowa Code section 135.61(18)*"l,"* means the value of all equipment used to provide the service, including the trailer. The party providing the equipment shall be the applicant regardless of the location of that party.

"Appropriate geographic service area," as the term applies to defining affected persons in Iowa Code section 135.61(1)*"c,"* shall be defined as follows:

1. For applications regarding hospitals, hospitals located in the same county and in Iowa counties contiguous to the county wherein the applicant hospital's proposed project will be located.
2. For applications regarding health care facilities, other health care facilities located in the same county and in Iowa counties contiguous to the county wherein the applicant's proposed health care facility will be located.
3. For applications sponsored by other than the hospitals or health care facilities specified in paragraphs "1" and "2," those providers within the same county who offer similar service or might logically be viewed as potential providers of such service.

"Bed capacity" shall be defined as follows:

1. For hospitals, bed capacity is defined as the total facility licensed beds as reported on the state survey section of the American Hospital Association Annual Survey of Hospitals.
2. For health care facilities, bed capacity is defined as a facility's licensed bed capacity according to the department of inspections and appeals.

"Cardiac catheterization service," as the term applies to a new or changed institutional health service in Iowa Code section 135.61(18)*"m"*(1), means the initiation or expansion of this service.

"Consumers served by a new institutional health service" means those consumers residing in the service area as determined by the department.

"Long-term (acute) care hospital," for purposes of these rules, means a hospital that has been approved to participate in the Title XVIII (Medicare) program as a long-term care hospital-prospective payment system hospital (LTCH-PPS) in accordance with 42 CFR Part 412.

"Open heart surgical service," as the term applies to new or changed institutional health service in Iowa Code section 135.61(18)*"m"*(2), means the initiation or expansion of this service.

"Organized outpatient health facility," as defined in Iowa Code section 135.61(20), shall include, but not be limited to, the following types of facilities:

1. Community mental health centers; and
2. Comprehensive outpatient rehabilitation facilities (CORFs) certified by Medicare.

"Organ transplantation service," as the term applies to a new or changed institutional health service in Iowa Code section 135.61(18)*"m"*(3), means the initiation or expansion of this service. Each type of organ transplant shall be considered separately.

"Permanent change in bed capacity of an institutional health facility" means a change which is intended to be effective for one year or more.

1. A conversion of a long-term acute care hospital or a rehabilitation hospital as defined by federal regulations to a general acute care hospital or to a different type of specialty hospital is a permanent change in bed capacity and requires a certificate of need.

2. A hospital which has deleted beds pursuant to Iowa Code section 135.63(2)*"g"* for the purpose of receiving designation as a critical access hospital may reestablish the deleted beds at a later time without obtaining a certificate of need, provided that the number of beds reestablished does not exceed the number of beds maintained prior to the deletion as reported on the bed reduction form.

"Physical facility," as the term applies in Iowa Code section 135.61(18)*"f,"* means a separately licensed facility.

"Private offices and private clinics of an individual physician, dentist, or other practitioner or group of health care providers." The meaning of this term as used in Iowa Code section 135.63(2)*"a"* shall be determined by looking at factors which include, but are not limited to:

1. The type of health care service delivered;
2. The control and supervision of medical judgment in the care of and treatment of patients;
3. The control and supervision of professional assistants, including nurses, physician assistants, and technicians; and
4. The ownership and maintenance of medical records of patients.

"Radiation therapy service applying ionizing radiation for the treatment of malignant disease using megavoltage external beam equipment," as the term applies to new or changed institutional health service in Iowa Code section 135.61(18)*"m"*(4), means the initiation or expansion of this service.

"Rehabilitation hospital," for the purposes of these rules, means a hospital that has been approved to participate in the Title XVIII (Medicare) program as an inpatient rehabilitation facility-prospective payment system hospital (IRF-PPS) in accordance with 42 CFR Part 412.23(b), 412.25 or 412.29.

"Relocation of an institutional health facility," as the term applies to new or changed institutional health service in Iowa Code section 135.61(18)*"b,"* means the replacement of a facility located in one county with a facility located in another county.

"Value in excess of one million five hundred thousand dollars," as used in Iowa Code section 135.61(18)*"g," "h," "i"* and *"j,"* means the value of the equipment including any applicable sales tax, delivery charge and installation charge.

[**ARC 1748C**, IAB 12/10/14, effective 1/14/15]

641—202.2(135) Letter of intent.

202.2(1) Before applying for a certificate of need, the sponsor of a proposed new institutional health service or changed institutional health service shall submit a letter of intent to the department. The letter of intent shall contain the following:

a. A brief description of the proposed project;

b. The project's location;

c. The project's estimated cost (site costs, land improvements, facility costs, movable equipment and financing costs); and

d. An explanation of how the project will be financed.

202.2(2) The letter shall be submitted as soon as possible after the initiation of the applicant's planning process and in any case not less than 30 calendar days before applying for a certificate of need and before substantial expenditures are made. This 30-day waiting period shall begin upon the department's receipt of the applicant's letter of intent.

202.2(3) The department shall make available on the certificate of need Web page located on the department's Web site, www.idph.state.ia.us, all criteria and standards which are pertinent to an application.

202.2(4) A letter of intent received by the department shall be valid for a period of one year from the date of receipt by the department. The sponsor may renew the validity of a letter of intent by providing written notification to the department prior to the one-year expiration date.

[**ARC 1748C**, IAB 12/10/14, effective 1/14/15]

641—202.3(135) Determination of reviewability. A sponsor of a proposed project may submit a written request for a determination of reviewability as to whether the project requires a certificate of need.

202.3(1) The request should include sufficient details of the proposed project and cite the sections of the Iowa Code that the sponsor relies upon to assert the project is not reviewable.

202.3(2) Upon receipt of a written request from the sponsor of a project, the department shall determine if a proposed project requires a certificate of need under Iowa Code sections 135.61 to 135.83. The department may request additional information about the project to make the determination.

a. If it is determined that a certificate of need is required, the sponsor shall be notified by the department and the request for nonreviewability shall be considered the letter of intent for purposes of subrule 202.2(2).

b. If it is determined that a certificate of need is not required, the sponsor shall be notified by the department and the determination of nonreviewability shall be placed on the next agenda of the state health facilities council for consideration.

c. The notification to the sponsor of the results of the department's review of the request shall include specific Iowa Code citations relied upon to support the determination.

[**ARC 1748C**, IAB 12/10/14, effective 1/14/15]

641—202.4(135) Submission of application.

202.4(1) Application form.

a. A sponsor of a proposed project for a new or changed institutional health service shall submit to the department an application for certificate of need by using the appropriate application form found on the certificate of need Web page located on the department's Web site, www.idph.state.ia.us. All information requested in the application form will be required in the absence of a waiver by the department.

b. An original application and six copies thereof shall be sent to the Certificate of Need Program, Iowa Department of Public Health, Lucas State Office Building, Des Moines, Iowa 50319-0075. An electronic copy of the application and all attachments shall also be submitted.

c. The department shall establish and maintain files on each application.

202.4(2) Application fee. The application shall be accompanied by a fee equivalent to three-tenths of 1 percent of the anticipated cost of the project. There shall be a minimum fee of $600 and a maximum fee of $21,000.

a. The fee shall be based on the total cost of the project, which shall include site costs, land improvements, facility costs, movable equipment and financing costs.

b. The fee for leased or donated new institutional health services shall be calculated in the same manner as if the new institutional health services were purchased.

(1) The leased equipment fee shall be based on total value of the lease, plus sales tax, delivery and installation.

(2) The lease of space includes the cost of a one-year-lease payment for the space in addition to other costs associated with the project.

(3) Financing costs shall not be applicable on leases or cash purchases.

c. The fee shall be remitted by check made payable to the Treasurer, State of Iowa, and addressed to Iowa Department of Public Health—Certificate of Need, Lucas State Office Building, Des Moines, Iowa 50319-0075.

d. The application fee will be refunded by the department for any application which is voluntarily withdrawn from the review process in the following amounts:

(1) If an application is voluntarily withdrawn within 30 calendar days after submission, 75 percent of the fee shall be refunded;

(2) If an application is voluntarily withdrawn more than 30 but within 60 calendar days after submission, 50 percent of the fee shall be refunded;

(3) If an application is withdrawn voluntarily more than 60 calendar days after submission, 25 percent of the application fee shall be refunded.

e. The department shall refund the proper amount within 30 calendar days of the applicant's voluntary withdrawal.

f. An applicant for a new or changed institutional health service offered or developed by an intermediate care facility for persons with an intellectual disability or for persons with a mental illness is exempt from payment of the application fee.

g. For purposes of this subrule and Iowa Code section 135.63(1), the term "submission" shall mean the day the application is received by the department.

202.4(3) Determination of completeness.

a. The department shall send written notice to the applicant within 15 business days of receipt of the application if the application has been accepted as complete or otherwise state in said notice what information is needed to make the application complete.

b. An application shall be deemed "accepted" once the department has determined it to be complete and the fees defined in 202.4(2)*"a"* are paid in full.

202.4(4) Promptly after an application is accepted, the department shall provide written notification to all affected persons defined in Iowa Code section 135.61(1)*"c"* and *"d"* which are identified on the department of inspections and appeals Web site or by the applicant, as provided in Iowa Code section 135.66(2). The department shall notify other affected persons by posting such notification to the certificate of need Web page located on the department's Web site, www.idph.state.ia.us. The notice and the Web page shall identify deadlines for the submission of written materials as provided in 202.6(2).

202.4(5) Written analysis of application.

a. The department shall provide a written report evaluating the application against all applicable criteria specified in Iowa Code section 135.64.

b. All reports shall be provided to council members and to the applicant prior to the health facilities' council meeting at which the application is to be heard.

[**ARC 1748C**, IAB 12/10/14, effective 1/14/15]

641—202.5(135) Organizational procedures.

202.5(1) The presence of four members of the council shall constitute a quorum.

202.5(2) The chairperson and all other council members present shall cast votes or abstain, as the case may be, on all council action. No proxy votes shall be allowed.

202.5(3) A vote of a majority of those present shall be necessary to take action on any motion before the council. A tie vote shall mean no action on the motion.

202.5(4) The council shall, at the first meeting after July 1 of each odd-numbered year, elect a vice-chairperson, who shall perform the duties of the chairperson in the absence of the chairperson, when the chairperson has a conflict of interest or when the chairperson so directs.

202.5(5) The department shall notify the public and affected parties of the council meeting agenda utilizing the certificate of need Web page located on the department's Web site, www.idph.state.ia.us.

202.5(6) A council member shall refrain from participating in an application review process if the member:

a. Has a personal bias or prejudice concerning the applicant;

b. Has acted as counsel to the applicant or a competitor of the applicant in the same or adjoining county within the past two years;

c. Has a financial interest in the outcome of the application process or any other significant personal interest that could be substantially affected by the outcome of the case;

d. Has a spouse or relative within the third degree of relationship that (1) is affiliated with or represents the applicant or a competitor of the applicant in the same or adjoining county; (2) has a known financial or significant personal interest which could be substantially affected by the outcome of the application process; or (3) is likely to testify on behalf of the applicant or an affected person at public hearing; or

e. Has any other legally sufficient cause to refrain from participating in the application review process.

[**ARC 1748C**, IAB 12/10/14, effective 1/14/15]

641—202.6(135) Public hearing on application. Public hearings conducted pursuant to Iowa Code section 135.66(3)*"b"* are not contested cases. Judicial review pursuant to Iowa Code section 17A.19 of final agency decisions under Iowa Code section 135.69 shall be treated as other agency action.

202.6(1) The council shall use the following meeting format:

a. Announcement of application under review.

b. Presentation of department report.

c. Applicant presentation.

d. Affected persons' presentation.

e. Applicant's rebuttal.

f. Council discussion, motion and final decision.

202.6(2) The notice of an accepted application issued pursuant to Iowa Code section 135.66(2) shall inform the applicant and affected persons of the deadlines for the submission to the department of written statements or other materials. These deadlines will also be posted on the certificate of need Web page on the department's Web site, www.idph.state.ia.us.

a. Written submissions received by the department after the deadlines established in this notice shall not be considered by the department or the council unless submitted at the public hearing solely to support oral testimony or upon a showing of good cause.

b. Applicants and affected persons shall submit all written materials electronically. If electronic submission is not possible, then an original and six copies must be submitted.

202.6(3) The applicant, affected persons, or their designated representatives shall be given the opportunity to make oral presentations to the council. Other interested persons may be given the opportunity to make oral presentations to the council.

202.6(4) Oral testimony that simply duplicates material received in writing will not be heard. The applicant and affected persons shall present only one witness for each issue raised unless permission is requested and granted by the chairperson.

202.6(5) All questions to an applicant or affected person presenting oral testimony shall be directed from the council or council staff unless permission is requested and granted by the chairperson. Persons making oral presentations to the council are not expected to be placed under oath.

202.6(6) The council may designate technical consultants or experts to assist in its activities as defined by the council.

[**ARC 1748C**, IAB 12/10/14, effective 1/14/15]

641—202.7(135) Summary review. Pursuant to Iowa Code section 135.67, an applicant requesting a summary review shall abide by the following procedures:

202.7(1) If an applicant desires to request a summary review of its application for a certificate of need, it shall submit a written request for summary review, an original application and six copies thereof to the Certificate of Need Program, Iowa Department of Public Health, Lucas State Office Building, Des Moines, Iowa 50319-0075. An electronic copy of the application and all attachments shall also be submitted. The applicant is not required to submit a letter of intent pursuant to Iowa Code section 135.65 prior to submitting a written request for a summary review.

202.7(2) The eligibility of an application for summary review pursuant to Iowa Code section 135.67 shall not mandate or require such review. The department will make the decision as to whether an application will be reviewed in the summary review process.

202.7(3) Upon receipt of a written request for summary review, an application, and the fee required by 202.3(2)*"a,"* the department shall notify the applicant in writing within 15 calendar days if the application is complete and if a summary review will be granted.

202.7(4) If an application is deemed incomplete, the department shall state specifically in writing what information is needed to make the application complete.

202.7(5) If the department notifies the applicant that a summary review will not be performed, this decision is binding on the applicant and the application will be entered into the formal review process on the date of written notice that such application will not be reviewed summarily.

202.7(6) A summary review of an application for a certificate of need shall be completed within 60 calendar days of the acceptance of an application by the department.

202.7(7) At any time during the summary review process, an application may be withdrawn without prejudice from the process. The applicant may then submit the application for a formal 90-day review.
[**ARC 1748C**, IAB 12/10/14, effective 1/14/15]

641—202.8(135) Extension of review time.

202.8(1) A formal review of an application for a certificate of need pursuant to Iowa Code section 135.66 may be extended by the department on the basis of any of the following criteria:

a. In order to review competing applications simultaneously;

b. In the case of technologically innovative equipment, to obtain additional information necessary to evaluate the proposal. The department shall specify in writing such additional information as necessary;

c. At the request of the applicant;

d. At the request of at least two members of the state health facilities council in order to allow additional time for deliberation on all evidence present. The council shall specify the time of the delay and the date on which the final decision will be rendered.

202.8(2) An extension by the department made pursuant to subrule 202.8(1) shall in no case be more than 60 calendar days beyond the time a decision is required under Iowa Code section 135.69 unless the applicant and department agree.

202.8(3) Where none of the provisions of 202.8(1) are applicable and where an application will be automatically denied because of the expiration of time required by Iowa Code section 135.69 for the issuance of a written decision by the council, the department shall notify the applicant of the likelihood of an automatic denial and shall ask the applicant to request in writing an extension of the review time. Where an extension is so requested, the application shall be heard at the next regularly scheduled meeting of the council or at any time agreeable to the applicant and the department.

641—202.9(135) Rehearing of certificate of need decision.

202.9(1) The applicant or any affected person who has participated or sought unsuccessfully to participate in the formal review procedure prescribed in Iowa Code section 135.66 may, for good cause shown, file an application for rehearing in writing with the department stating the specific grounds therefor and the relief sought, within 20 calendar days after the date of the issuance of the final decision on an application for certificate of need.

202.9(2) Grounds for rehearing include, but are not limited to:

a. New significant, relevant information which was unavailable at the date of the hearing;

b. Significant changes in factors or circumstances relied upon by the council in reaching its decision;

c. Demonstration that the council has materially failed to follow its adopted procedures in reaching its decision; or

d. Such other bases as the council determines constitute good cause.

202.9(3) An application for rehearing shall be deemed to have been denied unless the council grants the application in writing within 20 calendar days after its filing.

202.9(4) If the application for rehearing is granted, the council may issue an order modifying the initial final order, or may set the matter for consideration at a subsequent meeting date. If public hearing is granted on the application for rehearing, notice shall be provided ten calendar days prior to hearing to the person applying for rehearing, the applicant and other affected persons upon request pursuant to 202.10(135).

202.9(5) The council shall issue the final decision on rehearing, stating the basis for its decision, within 30 calendar days after the application for rehearing was granted or 30 calendar days after public hearing on rehearing, whichever is later.

202.9(6) If a rehearing is not requested or an affected party remains dissatisfied after the request for rehearing, an appeal may be taken in the manner provided by Iowa Code chapter 17A. A request for rehearing is not required prior to appeal under Iowa Code section 17A.19.

641—202.10(135) Status reports to affected persons. Affected persons are entitled to status reports from the department while a formal application review is in progress pursuant to Iowa Code section 135.68. The department shall maintain a log of all requests for written status reports by affected persons. Affected persons who request written status reports must submit their name and address in a written request (by letter, fax, or E-mail) to the department, identifying the specific information requested, which may include notification of the council's final decision, any application for rehearing, or the filing of a petition for judicial review. The formal process does not preclude informal contacts with department staff for verbal status reports. Copies of the council's final decision, an application for rehearing, a petition for judicial review, or any other public record will be provided upon request and payment of the department's per page fee for copies as described in 641—175.3(7).

641—202.11(135) Finality. The certificate of need application process is continuous beginning with submission of a letter of intent or request for waiver of a letter of intent through issuance of a final decision by the council subject to judicial review under Iowa Code chapter 17A.

202.11(1) The following stages of the process are intermediate and subject to judicial review only to the extent they meet criteria for intermediate review under Iowa Code section 17A.19.

a. A decision by the department pursuant to 641—202.3(135) that a proposed project does not require a certificate of need;

b. A decision by the department to waive submission of the letter of intent and substitute summary review; and

c. The rejection of an application by the department which fails to provide all information required under Iowa Code section 135.63, subsection 1.

202.11(2) The following stages of the process are final decisions subject to judicial review as final agency action under Iowa Code section 17A.19:

a. A decision by the department to disallow summary review;

b. A decision by the council that a proposed project does not require a certificate of need;

c. A decision by the council to approve or deny an application;

d. The council's final ruling on an application for rehearing; and

e. A decision by the council to revoke a certificate of need pursuant to 641—202.13(135).

[**ARC 1748C**, IAB 12/10/14, effective 1/14/15]

641—202.12(135) Project progress reports. The department shall maintain an effective follow-up program to ensure that applicants make timely progress on each approved application.

202.12(1) The sponsor of an approved application shall submit a progress report using the form available on the certificate of need Web page on the department's Web site, www.idph.state.ia.us, to the department six months after approval at hearing.

202.12(2) Progress reports shall fully identify the project and indicate the current status of the project in descriptive terms. The reports shall also reflect an amended project schedule if necessary.

[**ARC 1748C**, IAB 12/10/14, effective 1/14/15]

641—202.13(135) Request for extension of certificate.

202.13(1) A request by the applicant for an extension of a certificate of need must be filed with the department using the form available on the certificate of need Web page on the department's Web site, www.idph.state.ia.us, no later than 30 days prior to the expiration of the certificate of need.

202.13(2) A request for extension shall fully identify the project and indicate the current status of the project in descriptive terms.

202.13(3) Any affected persons shall have the right to submit to the department in writing, or orally at the council meeting at which the extension request is considered, information which may be relevant to the question of granting an extension.

202.13(4) When an extension has been requested, the council shall approve or deny the request at a meeting of the council preceding the expiration of the certification. The certificate of need may be revoked by the council at the end of the certification period for insufficient progress in developing the project.

202.13(5) If the extension is denied, the applicant shall have the right to appeal under the provisions of Iowa Code section 135.70.

[**ARC 1748C**, IAB 12/10/14, effective 1/14/15]

641—202.14(135) Application changes after approval.

202.14(1) Once a project has been approved by the council, no changes that vary from or alter the number of approved beds, the approved services or the approved cost by an amount indicated in 202.14(2) shall be made unless requested by the applicant and approved by the council. Requests shall be made in writing and filed with the department.

202.14(2) An increase in the actual cost of the project over and above that originally approved shall automatically generate a rereview by the council if the increase exceeds the originally approved amount by:

a. Fifteen percent for projects up to $999,999.99;

b. Twelve percent for projects from $1,000,000.00 to $4,999,999.99;

c. Eight percent for projects $5,000,000.00 and over.

An increase in the approved cost that falls below the above percentages shall be reported to the department.

202.14(3) Failure to notify and receive permission of the council to change the project as originally approved may result in the imposition of sanctions provided in Iowa Code section 135.73. The council may make a recommendation to the department regarding the imposition of a sanction and the amount of the fine to be imposed.

641—202.15(135) Sanctions. Hearings to determine class I or class II violations pursuant to Iowa Code section 135.73 shall be conducted in accordance with the department's procedural rules for contested cases found at 641—Chapter 173.

641—202.16(135) Reporting requirements. For the purposes of the annual reports and data compilation required in Iowa Code sections 135.75 and 135.78, the department will utilize the AHA Annual Survey of Hospitals with the state survey addendum for hospitals and the cost reports for health care facilities submitted to the Medicaid enterprise of the department of human services.

[**ARC 1748C**, IAB 12/10/14, effective 1/14/15]

These rules are intended to implement Iowa Code sections 135.61 to 135.79 and 135.83.

[Filed emergency 7/26/78—published 8/23/78, effective 7/26/78]
[Filed emergency 7/25/79—published 8/22/79, effective 7/25/79]
[Filed emergency 11/14/79—published 12/12/79, effective 11/14/79]
[Filed emergency 12/6/79 after Notice 8/8/79—published 12/26/79, effective 12/26/79]
[Filed 2/1/80, Notice 8/8/79—published 2/20/80, effective 3/26/80]
[Filed emergency 5/20/80—published 6/11/80, effective 5/20/80]
[Filed 1/15/82, Notice 12/9/81—published 2/3/82, effective 3/10/82]◊
[Filed emergency 9/14/82—published 9/29/82, effective 9/29/82]◊
[Filed emergency 11/17/82 after Notice 9/29/82—published 12/8/82, effective 12/8/82]
[Filed 5/15/86, Notice 4/9/86—published 6/4/86, effective 7/11/86]
[Filed emergency 7/10/87—published 7/29/87, effective 7/10/87]◊◊
[Filed 9/13/91, Notice 8/7/91—published 10/2/91, effective 11/6/91]
[Filed 9/14/92, Notice 8/5/92—published 9/30/92, effective 11/4/92]
[Filed emergency 7/11/97 after Notice 6/4/97—published 7/30/97, effective 7/11/97]
[Filed 11/16/04, Notice 8/4/04—published 12/8/04, effective 1/12/05]
[Filed 1/13/05, Notice 12/8/04—published 2/2/05, effective 3/9/05]
[Filed 3/11/05, Notice 2/2/05—published 3/30/05, effective 5/4/05]

[Filed ARC 1748C (Notice ARC 1655C, IAB 10/1/14), IAB 12/10/14, effective 1/14/15]

◊ Two or more ARCs

CHAPTER 204
UNIFORM REPORTING REQUIREMENTS

[Prior to 7/29/87, Health Department[470]Ch204]

Rescinded **ARC 1748C**, IAB 12/10/14, effective 1/14/15

CHAPTER 205
Reserved

BEHAVIORAL SCIENTISTS

CHAPTER 31 LICENSURE OF MARITAL AND FAMILY THERAPISTS AND MENTAL HEALTH COUNSELORS

CHAPTER 32 CONTINUING EDUCATION FOR MARITAL AND FAMILY THERAPISTS AND MENTAL HEALTH COUNSELORS

CHAPTER 33 DISCIPLINE FOR MARITAL AND FAMILY THERAPISTS AND MENTAL HEALTH COUNSELORS

CHAPTER 31
LICENSURE OF MARITAL AND FAMILY THERAPISTS AND MENTAL HEALTH COUNSELORS

[Prior to 1/30/02, see 645—Chapter 30]

645—31.1(154D) Definitions. For purposes of these rules, the following definitions shall apply:

"ACA" means the American Counseling Association.

"Active license" means a license that is current and has not expired.

"AMFTRB" means the Association of Marital and Family Therapy Regulatory Boards.

"Board" means the board of behavioral science.

"CCE" means the Center for Credentialing and Education, Inc.

"Course" means three graduate semester credit hours.

"CRCC" means the Commission on Rehabilitation Counselor Certification.

"Department" means the department of public health.

"Grace period" means the 30-day period following expiration of a license when the license is still considered to be active. In order to renew a license during the grace period, a licensee is required to pay a late fee.

"Inactive license" means a license that has expired because it was not renewed by the end of the grace period. The category of "inactive license" may include licenses formerly known as lapsed, inactive, delinquent, closed, or retired.

"Licensee" means any person licensed to practice as a marital and family therapist or mental health counselor in the state of Iowa.

"License expiration date" means September 30 of even-numbered years.

"Licensure by endorsement" means the issuance of an Iowa license to practice mental health counseling or marital and family therapy to an applicant who is or has been licensed in another state.

"Mandatory training" means training on identifying and reporting child abuse or dependent adult abuse required of marital and family therapists and mental health counselors who are mandatory reporters. The full requirements on mandatory reporting of child abuse and the training requirements are found in Iowa Code section 232.69. The full requirements on mandatory reporting of dependent adult abuse and the training requirements are found in Iowa Code section 235B.16.

"Mental health setting" means a behavioral health setting where an applicant is providing mental health services including the diagnosis, treatment, and assessment of emotional and mental health disorders and issues.

"NBCC" means the National Board for Certified Counselors.

"Reactivate" or *"reactivation"* means the process as outlined in rule 645—31.16(17A,147,272C) by which an inactive license is restored to active status.

"Reciprocal license" means the issuance of an Iowa license to practice mental health counseling or marital and family therapy to an applicant who is currently licensed in another state which has a mutual agreement with the Iowa board of behavioral science to license persons who have the same or similar qualifications to those required in Iowa.

"Reinstatement" means the process as outlined in 645—11.31(272C) by which a licensee who has had a license suspended or revoked or who has voluntarily surrendered a license may apply to have the license reinstated, with or without conditions. Once the license is reinstated, the licensee may apply for active status.

"Temporary license" means a license to practice martial and family therapy or mental health counseling under direct supervision of a qualified supervisor as determined by the board by rule to fulfill the postgraduate supervised clinical experience requirement in accordance with this chapter.
[**ARC 9547B**, IAB 6/1/11, effective 7/6/11]

645—31.2(154D) Requirements for permanent and temporary licensure. The following criteria shall apply to licensure:

31.2(1) The applicant shall complete a board-approved application. Application forms may be obtained from the board's Web site (http://www.idph.state.ia.us/licensure) or directly from the board office. All applications shall be sent to the Board of Behavioral Science, Professional Licensure Division, Fifth Floor, Lucas State Office Building, Des Moines, Iowa 50319-0075.

31.2(2) The applicant shall complete the application form according to the instructions contained in the application. If the application is not completed according to the instructions, the application will not be reviewed by the board.

31.2(3) Each application shall be accompanied by the appropriate fees payable to the Board of Behavioral Science. The fees are nonrefundable.

31.2(4) No application will be considered by the board until official copies of academic transcripts sent directly from the school to the board of behavioral science have been received by the board or an equivalency evaluation completed by the Center for Credentialing and Education, Inc. (CCE) has been received by the board. The applicant shall present proof of meeting the educational requirements. Documentation of such proof shall be on file in the board office with the application and include one of the following:

a. For licensure as a marital and family therapist, an official transcript verifying completion of a marital and family therapy program accredited by the Commission on Accreditation for Marriage and Family Therapy Education (COAMFTE) as defined in subrule 31.4(1) or an equivalency evaluation of the applicant's educational credentials completed by CCE as defined in subrule 31.4(2).

b. For licensure as a mental health counselor, an official transcript verifying completion of a mental health counseling program accredited by the Council on Accreditation of Counseling and Related Educational Programs (CACREP) as defined in subrule 31.6(1) or an equivalency evaluation of the applicant's educational credentials completed by CCE as defined in subrule 31.6(2).

31.2(5) The candidate for permanent licensure shall have the examination score sent directly from the testing service to the board. The candidate for temporary licensure must successfully complete the examination before the temporary license is issued.

31.2(6) The candidate for permanent licensure shall submit the required attestation of supervision forms documenting clinical experience as required in rule 645—31.5(154D) for marital and family therapy and rule 645—31.7(154D) for mental health counseling.

31.2(7) The candidate for temporary licensure for the purpose of fulfilling the postgraduate supervised clinical experience requirement must submit the Supervised Clinical Experience: Approval and Attestation form to the board and receive approval of the candidate's supervisor(s) prior to licensure. The temporary licensee must notify the board immediately in writing of any proposed change in supervisor(s) and obtain approval of any change in supervisor(s). Within 30 days of completion of the supervised clinical experience, the attestation of the completed supervised experience must be submitted to the board office.

31.2(8) A temporary license for the purpose of fulfilling the postgraduate supervised clinical experience requirement is valid for three years and may be renewed at the discretion of the board.

31.2(9) A licensee who was issued an initial permanent license within six months prior to the renewal shall not be required to renew the license until the renewal date two years later.

31.2(10) Submitting complete application materials. An application for a temporary or permanent license will be considered active for two years from the date the application is received. If the applicant does not submit all materials within this time period or if the applicant does not meet the requirements for the license, the application shall be considered incomplete. An applicant whose application is filed

incomplete must submit a new application, supporting materials, and the application fee. The board shall destroy incomplete applications after two years.

[**ARC 8152B**, IAB 9/23/09, effective 10/28/09; **ARC 0777C**, IAB 6/12/13, effective 7/17/13; **ARC 1758C**, IAB 12/10/14, effective 1/14/15]

645—31.3(154D) Examination requirements. The following criteria shall apply to the written examination(s):

31.3(1) In order to qualify for licensing, the applicant:

a. For a marital and family therapist license shall take and pass the Association of Marital and Family Therapy Regulatory Board (AMFTRB) Examination in Marital and Family Therapy.

b. For a mental health counselor license shall take and pass the National Counselor Examination of the NBCC, or the National Clinical Mental Health Counselor Examination of the NBCC, or the Certified Rehabilitation Counselor Examination of the CRCC.

31.3(2) Examination information will be provided when the applicant has been approved to take the examination.

31.3(3) The board will notify the applicant in writing of examination results.

31.3(4) Persons determined by the board not to have performed satisfactorily may apply for reexamination.

31.3(5) The passing score on the written examination shall be the passing point criterion established by the appropriate national testing authority at the time the test was administered.

645—31.4(154D) Educational qualifications for marital and family therapists. The applicant must complete the required semester credit hours, or equivalent quarter hours, of graduate level coursework in each of the content areas identified in 31.4(2); no course may be used more than once. The applicant must present proof of completion of the following educational requirements for licensure as a marital and family therapist:

31.4(1) *Accredited program.* Applicants must present with the application an official transcript verifying completion of a master's degree of 60 semester hours (or 80 quarter hours or equivalent) or a doctoral degree in marital and family therapy from a program accredited by the Commission on Accreditation for Marriage and Family Therapy Education (COAMFTE) from a college or university accredited by an agency recognized by the United States Department of Education. Applicants who entered a program of study prior to July 1, 2010, must present with the application an official transcript verifying completion of a master's degree of 45 semester hours or the equivalent; or

31.4(2) *Content-equivalent program.* Applicants must present an official transcript verifying completion of a master's degree of 60 semester hours (or 80 quarter hours or equivalent) or a doctoral degree in a mental health, behavioral science, or a counseling-related field from a college or university accredited by an agency recognized by the United States Department of Education, which is content-equivalent to a graduate degree in marital and family therapy. Applicants who entered a program of study prior to July 1, 2010, must present with the application an official transcript verifying completion of a master's degree of 45 semester hours or the equivalent. After March 31, 2009, graduates from non-COAMFTE-accredited marital and family therapy programs shall provide an equivalency evaluation of their educational credentials by the Center for Credentialing and Education, Inc. (CCE), Web site http://cce-global.org. The professional curriculum must be equivalent to that stated in these rules. Applicants shall bear the expense of the curriculum evaluation. In order to qualify as a "content-equivalent" degree, a graduate transcript must document:

a. At least 9 semester hours or the equivalent in each of the three areas listed below:

(1) Theoretical foundations of marital and family therapy systems. Any course which deals primarily in areas such as family life cycle; theories of family development; marriage or the family; sociology of the family; families under stress; the contemporary family; family in a social context; the cross-cultural family; youth/adult/aging and the family; family subsystems; individual, interpersonal relationships (marital, parental, sibling).

(2) Assessment and treatment in family and marital therapy. Any course which deals primarily in areas such as family therapy methodology; family assessment; treatment and intervention methods;

overview of major clinical theories of marital and family therapy, such as communications, contextual, experiential, object relations, strategic, structural, systemic, transgenerational.

(3) Human development. Any course which deals primarily in areas such as human development; personality theory; human sexuality. One course must be psychopathology.

b. At least 3 semester hours or the equivalent in each of the two areas listed below:

(1) Ethics and professional studies. Any course which deals primarily in areas such as professional socialization and the role of the professional organization; legal responsibilities and liabilities; independent practice and interprofessional cooperation; ethical issues in marital and family counseling; and family law.

(2) Research. Any course which deals primarily in areas such as research design, methods, statistics; research in marital and family studies and therapy.

If the applicant has taught a graduate-level course as outlined above at a college or university accredited by an agency recognized by the United States Department of Education or the Council on Professional Accreditation, that course will be credited toward the course requirements.

c. A graduate-level clinical practicum in marital and family therapy of at least 300 clock hours is required for all applicants.

[**ARC 7673B**, IAB 4/8/09, effective 4/30/09; **ARC 9547B**, IAB 6/1/11, effective 7/6/11]

645—31.5(154D) Clinical experience requirements for marital and family therapists.

31.5(1) The supervised clinical experience shall:

a. Be a minimum of two years or the equivalent of full-time, postgraduate supervised professional work experience in marital and family therapy.

b. Be completed following completion of the practicum, internship, and all graduate coursework, with the exception of the thesis.

c. Include successful completion of at least 3,000 hours of marital and family therapy that shall include at least 1,500 hours of direct client contact and 200 hours of clinical supervision. Applicants who entered a program of study prior to July 1, 2010, shall include successful completion of 200 hours of clinical supervision concurrent with 1,000 hours of marital and family therapy conducted in person with couples, families and individuals.

d. Include a minimum of 25 percent of all clinical supervision in person. Up to 75 percent of all supervision may be completed by electronic means with no more than 50 percent completed by telephone. Supervision by electronic means is acceptable if:

(1) The first two meetings are face-to-face and in person; and

(2) The system utilized is a confidential, interactive, secure, real-time system that provides for visual and audio interaction between the licensee and the supervisor.

e. Include in the 200 hours of clinical supervision at least 100 hours of individual supervision.

f. Follow and maintain a plan throughout the supervisory period established by the supervisor and the licensee. Such a plan must be kept by the licensee for a period of five years following receipt of the permanent license and must be submitted to the board upon request. The plan for supervision shall include:

(1) The name, license number, date of licensure, address, telephone number, and e-mail address (when available) of the supervisor;

(2) The name, license number, address, telephone number, and e-mail address (when available) of supervisee;

(3) Employment setting in which experience will occur;

(4) The nature, duration and frequency of supervision;

(5) The number of hours of supervision per month;

(6) The supervisor/licensees type (individual/group) and mode (face-to-face/electronic) of supervision;

(7) The methodology for secure transmission of case information;

(8) The beginning date of supervised professional practice and estimated date of completion;

(9) The goals and objectives for the supervised professional practice; and

(10) The signatures of the supervisor and licensee, and the dates of signatures.

g. Have only supervised clinical contact credited for this requirement.

31.5(2) To meet the requirements of the supervised clinical experience:

a. The supervisee must:

(1) Meet with the supervisor for a minimum of four hours per month;

(2) Offer documentation of supervised hours signed by the supervisor;

(3) Compute part-time employment on a prorated basis for the supervised professional experience;

(4) Have the background, training, and experience that is appropriate to the functions performed;

(5) Have supervision that is clearly distinguishable from personal psychotherapy and is contracted in order to serve professional/vocational goals;

(6) Have individual supervision that shall be in person with no more than one supervisor to two supervisees;

(7) Have group supervision that may be completed with up to ten supervisees and a supervisor; and

(8) Not participate in the following activities which are deemed unacceptable for clinical supervision:

1. Peer supervision, i.e., supervision by a person of equivalent, but not superior, qualifications, status, and experience.

2. Supervision, by current or former family members, or any other person, in which the nature of the personal relationship prevents, or makes difficult, the establishment of a professional relationship.

3. Administrative supervision, e.g., clinical practice performed under administrative rather than clinical supervision of an institutional director or executive.

4. A primarily didactic process wherein techniques or procedures are taught in a group setting, classroom, workshop, or seminar.

5. Consultation, staff development, or orientation to a field or program, or role-playing of family interrelationships as a substitute for current clinical practice in an appropriate clinical situation.

b. The supervisor shall:

(1) Be an Iowa-licensed marital and family therapist with a minimum of three years of clinical experience following licensure; or

(2) Be a supervisor or supervisor candidate approved by the American Association for Marriage and Family Therapy Commission on Supervision; or

(3) Be licensed under Iowa Code chapter 147 and have a minimum of three years of full-time professional work experience, including experience in marital and family therapy, as approved by the board; and

(4) Meet a minimum of four hours per month with the supervisee; and

(5) Provide training that is appropriate to the functions to be performed; and

(6) Ensure that therapeutic work is completed under the professional supervision of a supervisor; and

(7) Not supervise any marital and family therapy or permit the supervisee to engage in any therapy which the supervisor cannot perform competently.

31.5(3) An applicant who has obtained American Association for Marriage and Family Therapy (AAMFT) clinical membership is considered to have met the clinical experience requirements of rule 645—31.5(154D). The applicant shall request that proof of current clinical membership be sent directly from AAMFT to the board.

[**ARC 7673B**, IAB 4/8/09, effective 4/30/09; **ARC 8152B**, IAB 9/23/09, effective 10/28/09; **ARC 9547B**, IAB 6/1/11, effective 7/6/11; **ARC 0777C**, IAB 6/12/13, effective 7/17/13]

645—31.6(154D) Educational qualifications for mental health counselors. The applicant must complete three semester credit hours, or equivalent quarter hours, of graduate level coursework in each of the content areas identified in 31.6(2); no course may be used to fulfill more than one content area. The applicant must present proof of completion of the following educational requirements for licensure as a mental health counselor:

31.6(1) *Accredited program.* Applicants must present with the application an official transcript verifying completion of a master's degree of 60 semester hours (or equivalent quarter hours) or a doctoral degree in counseling with emphasis in mental health counseling from a mental health counseling program accredited by the Council on Accreditation of Counseling and Related Educational Programs (CACREP) from a college or university accredited by an agency recognized by the United States Department of Education. Applicants who entered a program of study prior to July 1, 2010, must present with the application an official transcript verifying completion of a master's degree of 45 semester hours or the equivalent; or

31.6(2) *Content-equivalent program.* Applicants must present an official transcript verifying completion of a master's degree or a doctoral degree from a college or university accredited by an agency recognized by the United States Department of Education which is content-equivalent to a master's degree in counseling with emphasis in mental health counseling. Graduates from non-CACREP accredited mental health counseling programs shall provide an equivalency evaluation of their educational credentials by the Center for Credentialing and Education, Inc. (CCE), Web site http://cce-global.org. The professional curriculum must be equivalent to that stated in these rules. Applicants shall bear the expense of the curriculum evaluation.

a. The degree of an applicant who entered a program of study prior to July 1, 2012, will be considered "content-equivalent" if the degree includes 45 semester hours (or equivalent quarter hours) and successful completion of graduate-level coursework in each of the areas in subparagraphs (1) to (12). If the applicant has taught a graduate-level course in any of the areas in subparagraphs (1) to (12) at a college or university accredited by an agency recognized by the United States Department of Education, that course may be credited toward the coursework requirement.

(1) Counseling theories. Studies that provide an understanding of counseling theories, utilize personal and environmental data in the mental health counseling process, and investigate procedures that are appropriate to various counseling theories and specific settings.

(2) Supervised counseling practicum. A graduate-level clinical supervised counseling practicum in a mental health setting in which students must complete supervised practicum experiences that total a minimum of 100 clock hours over a minimum ten-week academic term. The practicum provides for the development of counseling skills under supervision. The student's practicum includes all of the following:

1. At least 40 hours of direct service with actual clients that contributes to the development of counseling skills;

2. Weekly interaction with an average of 1 hour per week of individual or triadic supervision throughout the practicum by a program faculty member, a student supervisor, or a site supervisor who is working in biweekly consultation with a program faculty member in accordance with the supervision contract;

3. An average of 1½ hours per week of group supervision that is provided on a regular schedule throughout the practicum by a program faculty member or a student supervisor; and

4. Evaluation of the student's counseling performance throughout the practicum, including documentation of a formal evaluation after the student completes the practicum.

(3) Human growth and development. Studies that provide an understanding of the nature and needs of individuals at all developmental levels. Studies in this area include, but are not limited to, the following:

1. Theories of human development across the life span;

2. Major theories of personality development; and

3. Human behavior, including an understanding of developmental crises, disability, psychopathology, and cultural factors as they affect both normal and abnormal behavior.

(4) Social and cultural foundations. Studies that provide an understanding of issues and trends in a multicultural and diverse society. Studies in this area include, but are not limited to, the following:

1. Multicultural and pluralistic trends, including characteristics and concerns of diverse groups;

2. Attitudes and behavior based on factors such as age, race, religious preference, physical disability, sexual orientation, ethnicity and culture, gender, socioeconomic status, and intellectual ability; and

3. Individual and group interventions with diverse populations.

(5) Helping relationships. Studies that provide an understanding of counseling and consultation processes. Studies in this area include, but are not limited to, the following:

1. Helping skills and counseling and consultation theories, including coverage of relevant research and factors considered in applications;

2. Counselor or consultant characteristics and behaviors that influence helping processes, including gender and ethnicity differences, verbal and nonverbal behaviors and personal characteristics, orientations, and skills; and

3. Client or consultee characteristics and behaviors that influence helping processes, including gender and ethnicity differences, verbal and nonverbal behaviors and personal characteristics, traits, capabilities, life circumstances, and developmental levels.

(6) Groups. Studies that provide an understanding of group development, dynamics, counseling theories, and group counseling methods and skills. Studies in this area include, but are not limited to, the following:

1. Principles of group dynamics, including group process components, developmental stage theories, and group members' roles and behaviors;

2. Group leadership styles and approaches, including characteristics of various types of group leaders and leadership styles;

3. Theories of group counseling, including commonalities, distinguishing characteristics, and pertinent research and literature; and

4. Group counseling methods, including group counselor orientations and behaviors, ethical considerations, appropriate selection criteria and methods, and methods of evaluation of effectiveness.

(7) Career and lifestyle development. Studies that provide an understanding of career development and the interrelationships among work, family, and other life factors. Studies in this area include, but are not limited to, the following:

1. Career development theories and decision-making models;

2. Career, avocational, educational and labor market sources, print media, computer-assisted career guidance, and computer-based career information;

3. Career development program planning;

4. Interrelationships among work, family, and other life factors such as multicultural and gender issues, as related to career development;

5. Career and educational placement, follow-up and evaluation; and

6. Assessment instruments relevant to career planning and decision making.

(8) Diagnosis and assessment treatment procedures. Studies that provide an understanding of individual and group approaches to assessment and evaluation. Studies in this area include, but are not limited to, the following:

1. Theoretical and historical bases for assessment techniques and methods of interpretation of appraisal data and information;

2. Types of educational and psychological appraisal as appropriate to the helping process;

3. Validity, including evidence for establishing content, construct, and empirical validity;

4. Reliability, including methods of establishing stability and internal and equivalence reliability;

5. Major appraisal methods, including environmental assessment, performance assessment, individual and group test and inventory methods, behavioral observations, and computer-managed and computer-assisted methods;

6. Psychometric statistics, including types of test scores, measures of central tendency, indices of variability, standard errors and correlations; and

7. Gender, ethnicity, language, disability, and cultural factors related to the assessment and evaluation of individuals and groups.

(9) Research and program evaluation. Studies that provide an understanding of types of research methods, basic statistics, and ethical and legal considerations in research. Studies in this area include, but are not limited to, the following:

1. Basic types of research methods, including qualitative, quantitative-descriptive, and quantitative-descriptive-experimental designs;
2. Basic statistics, including both univariate and bivariate hypothesis testing;
3. Uses of computers for data management and analyses; and
4. Ethical and legal considerations in research.

(10) Professional orientation. Studies that provide an understanding of all aspects of professional functioning, including history, roles, organizational structures, ethics, standards, and credentialing. Studies in this area include, but are not limited to, the following:

1. History of the helping professions, including significant factors and events;
2. Professional roles and functions, including similarities with and differences from other types of professionals;
3. Professional organizations (primarily ACA, its divisions, and its branches), including membership benefits, activities, services to members, and current emphases;
4. Ethical standards of the ACA and their evolution, legal issues, and applications to various professional activities (e.g., appraisal and group work);
5. Professional preparation standards and their evolution and current applications; and
6. Professional credentialing, including certification, licensure, and accreditation practices and standards, and the effects of public policy on these issues.

(11) Supervised counseling internship that provides an opportunity for the trainee to perform under supervision a variety of activities that a regularly employed staff member in a setting would be expected to perform. A regularly employed staff member is defined as a person occupying the professional role to which the trainee is aspiring. The internship follows a supervised practicum experience. A three-semester-hour internship includes the following:

1. A minimum of 120 hours of direct service with clientele appropriate to the program of study;
2. A minimum of 1 hour per week of individual supervision, throughout the internship, usually performed by the on-site supervisor; and
3. A minimum of 1½ hours per week of group supervision, throughout the internship, usually performed by a program faculty member supervisor.

(12) Psychopathology. Studies that provide an understanding of the description, classification and diagnosis of behavior disorders and dysfunction. Studies in this area include, but are not limited to, the following:

1. Study of cognitive, behavioral, physiological and interpersonal mechanisms for adapting to change and to stressors;
2. Role of genetic, physiological, cognitive, environmental and interpersonal factors and their interactions on development of the form, severity, course and persistence of the various types of disorders and dysfunction;
3. Research methods and findings pertinent to the description, classification, diagnosis, origin, and course of disorders and dysfunction;
4. Theoretical perspectives relevant to the origin, development, and course and outcome for the forms of behavior disorders and dysfunction; and
5. Methods of intervention or prevention used to minimize and modify maladaptive behaviors, disruptive and distressful cognition, or compromised interpersonal functioning associated with various forms of maladaptation.

b. The degree of an applicant who entered a program of study on or after July 1, 2012, will be considered "content-equivalent" if the degree includes 60 semester hours (or equivalent quarter hours) and successful completion of graduate-level coursework in each of the areas in subparagraphs (1) to (12). If the applicant has taught a graduate-level course in any of the areas in subparagraphs (1) to (12) at a college or university accredited by an agency recognized by the United States Department of Education, that course may be credited toward the coursework requirement.

(1) Professional orientation and ethical practice. Studies that provide an understanding of all of the following aspects of professional functioning:

1. History and philosophy of the counseling profession, including mental health counseling;

2. Professional roles, functions, and relationships of the mental health counselor with other human services providers, including strategies for interagency/interorganization collaboration and communication;

3. Counselors' roles and responsibilities as members of an interdisciplinary emergency management response team during a local, regional, or national crisis, disaster or other trauma-causing event;

4. Self-care strategies appropriate to the counselor role;

5. Counseling supervision models, practices, and processes;

6. Professional organizations (i.e., primarily ACA, its divisions, branches, and affiliates), including membership benefits, activities, services to members, and current emphases;

7. Professional credentialing, including certification, licensure, and accreditation practices and standards, and the effects of public policy on these issues;

8. The role and process of the professional mental health counselor advocating on behalf of the profession;

9. Advocacy processes needed to address institutional and social barriers that impede access, equity, and success for clients; and

10. Ethical standards of ACA and related entities, and applications of ethical and legal considerations in professional counseling.

(2) Social and cultural diversity. Studies that provide an understanding of the cultural context of relationships, issues, and trends in a multicultural and diverse society including all of the following:

1. Multicultural and pluralistic trends, including characteristics and concerns within and among diverse groups nationally and internationally;

2. Attitudes, beliefs, understandings, and acculturative experiences, including specific experiential learning activities designed to foster students' understanding of self and culturally diverse clients;

3. Theories of multicultural counseling, identity development, and social justice;

4. Individual, couple, family, group, and community strategies for working with and advocating for diverse populations, including multicultural competencies;

5. Counselors' roles in developing cultural self-awareness, promoting cultural social justice, advocacy, and conflict resolution and other culturally supported behaviors that promote optimal wellness and growth of the human spirit, mind or body; and

6. Counselors' roles in eliminating biases, prejudices, and processes of intentional and unintentional oppression and discrimination.

(3) Human growth and development. Studies that provide an understanding of the nature and needs of persons at all developmental levels and in multicultural contexts, including all of the following:

1. Theories of individual and family development and transitions across the life span;

2. Theories of learning and personality development including current understandings about neurobiological behavior;

3. Effects of crises, disasters, and other trauma-causing events on persons of all ages;

4. Theories and models of individual, cultural, couple, family, and community resilience;

5. A general framework for understanding exceptional abilities and strategies for differentiated interventions;

6. Human behavior, including an understanding of developmental crises, disability, psychopathology, and situational and environmental factors that affect both normal and abnormal behavior;

7. Theories and etiology of addictions and addictive behaviors, including strategies for prevention, intervention, and treatment; and

8. Strategies for facilitating optimum development over the life span.

(4) Career development. Studies that provide an understanding of career development and related life factors, including all of the following:

1. Career development theories and decision-making models;
2. Career, avocational, educational, occupational and labor market information resources and career information systems;
3. Career development program planning, organization, implementation, administration, and evaluation;
4. Interrelationships among and between work, family, and other life roles and factors including the role of multicultural issues in career development;
5. Career and educational planning, placement, follow-up, and evaluation;
6. Assessment instruments and techniques relevant to career planning and decision making; and
7. Career counseling processes, techniques, and resources, including those applicable to specific populations.

(5) Helping relationships. Studies that provide an understanding of counseling processes in a multicultural society, including all of the following:

1. An orientation to wellness and prevention as desired counseling goals;
2. Counselor characteristics and behaviors that influence helping processes;
3. An understanding of essential interviewing and counseling skills;
4. Counseling theories that provide the student with a model(s) to conceptualize client presentation and select appropriate counseling interventions. Students shall be exposed to models of counseling that are consistent with current professional research and practice in the field so that they can begin to develop a personal model of counseling;
5. A systems perspective that provides an understanding of family and other systems theories and major models of family and related interventions;
6. A general framework for understanding and practicing consultation; and
7. Crisis intervention and suicide prevention models, including the use of psychological first-aid strategies.

(6) Group work. Studies that provide both theoretical and experiential understanding of group purpose, development, dynamics, theories, methods, skills, and other group approaches in a multicultural society, including all of the following:

1. Principles of group dynamics, including group process components, developmental stage theories, group members' roles and behaviors, and therapeutic factors of group work;
2. Group leadership or facilitation styles and approaches, including characteristics of various types of group leaders and leadership styles;
3. Theories of group counseling, including commonalties, distinguishing characteristics, and pertinent research and literature;
4. Group counseling methods, including group counselor orientations and behaviors, appropriate selection criteria and methods, and methods of evaluation of effectiveness; and
5. Experiences in which students participate as group members in a small group activity, approved by the program, for a minimum of 10 clock hours over the course of one academic term.

(7) Assessment. Studies that provide an understanding of individual and group approaches to assessment and evaluation in a multicultural society, including the following:

1. Historical perspectives concerning the nature and meaning of assessment;
2. Basic concepts of standardized and nonstandardized testing and other assessment techniques including norm-referenced and criterion-referenced assessment, environmental assessment, performance assessment, individual and group test and inventory methods, and behavioral observations;
3. Statistical concepts, including scales of measurement, measures of central tendency, indices of variability, shapes and types of distributions, and correlations;
4. Reliability (i.e., theory of measurement error, models of reliability, and the use of reliability information);
5. Validity (i.e., evidence of validity, types of validity, and the relationship between reliability and validity);

6. Social and cultural factors related to the assessment and evaluation of individuals, groups, and specific populations;

7. Ethical strategies for selecting, administering, and interpreting assessment and evaluation instruments and techniques in counseling; and

8. An understanding of general principles and methods of case conceptualization, assessment, or diagnoses of mental and emotional status.

(8) Research and program evaluation. Studies that provide an understanding of research methods, statistical analysis, needs assessment, and program evaluation, including all of the following:

1. The importance of research in advancing the counseling profession;

2. Research methods such as qualitative, quantitative, single-case designs, action research, and outcome-based research;

3. Statistical methods used in conducting research and program evaluation;

4. Principles, models, and applications of needs assessment, program evaluation, and use of findings to effect program modifications;

5. Use of research to inform evidence-based practice; and

6. Ethical and culturally relevant strategies for interpreting and reporting the results of research and program evaluation studies.

(9) Diagnosis and treatment planning. Studies that provide an understanding of individual and group approaches to assessment and evaluation in a multicultural society. Studies in this area include, but are not limited to, the following:

1. The principles of the diagnostic process, including differential diagnosis, and the use of current diagnostic tools, such as the current edition of the Diagnostic and Statistical Manual;

2. The established diagnostic criteria for mental or emotional disorders that describe treatment modalities and placement criteria within the continuum of care;

3. The impact of co-occurring substance use disorders on medical and psychological disorders;

4. The relevance and potential biases of commonly used diagnostic tools as related to multicultural populations;

5. The appropriate use of diagnostic tools, including the current edition of the Diagnostic and Statistical Manual, to describe the symptoms and clinical presentation of clients with mental or emotional impairments;

6. The ability to conceptualize accurate multi-axial diagnoses of disorders presented by clients and discuss the differential diagnosis with collaborating professionals; and

7. The ability to differentiate between diagnosis and developmentally appropriate reactions during crises, disasters, and other trauma-causing events.

(10) Psychopathology. Studies that provide an understanding of emotional and mental disorders experienced by persons of all ages, characteristics of disorders, and common nosologies of emotional and mental disorders utilized within the U.S. health care system for diagnosis and treatment planning. Studies in this area include, but are not limited to, the following:

1. Study of cognitive, behavioral, physiological and interpersonal mechanisms for adapting to change and to stressors;

2. Role of genetic, physiological, cognitive, environmental and interpersonal factors and their interactions on development of the form, severity, course and persistence of the various types of disorders and dysfunction;

3. Research methods and findings pertinent to the description, classification, diagnosis, origin, and course of disorders and dysfunction;

4. Theoretical perspectives relevant to the origin, development, and course and outcome for the forms of behavior disorders and dysfunction; and

5. Methods of intervention or prevention used to minimize and modify maladaptive behaviors, disruptive and distressful cognition, or compromised interpersonal functioning associated with various forms of maladaptation.

(11) Practicum. A graduate-level clinical supervised counseling practicum in a mental health setting in which students must complete supervised practicum experiences that total a minimum of 100

clock hours over a minimum ten-week academic term. The practicum provides for the development of counseling skills under supervision. The student's practicum includes all of the following:

1. At least 40 hours of direct service with actual clients that contributes to the development of counseling skills;

2. Weekly interaction with an average of 1 hour per week of individual or triadic supervision throughout the practicum by a program faculty member, a student supervisor, or a site supervisor who is working in biweekly consultation with a program faculty member in accordance with the supervision contract;

3. An average of 1½ hours per week of group supervision that is provided on a regular schedule throughout the practicum by a program faculty member or a student supervisor; and

4. Evaluation of the student's counseling performance throughout the practicum including documentation of a formal evaluation after the student completes the practicum.

(12) Internship. A graduate-level clinical supervised counseling internship in a mental health setting that requires students to complete a supervised internship of 600 clock hours that is begun after the student's successful completion of the practicum. The internship is intended to reflect the comprehensive work experience of a professional counselor appropriate to clinical mental health counseling. The internship provides an opportunity for the student to perform, under supervision, a variety of counseling activities that a mental health counselor is expected to perform. The student's internship includes all of the following:

1. At least 240 hours of direct service with clientele, including experience leading groups;

2. Weekly interaction that averages 1 hour per week of individual supervision or triadic supervision throughout the internship, usually performed by the on-site supervisor;

3. An average of 1½ hours per week of group supervision, provided on a regular schedule throughout the internship, usually performed by a program faculty member supervisor;

4. The opportunity for the student to become familiar with a variety of professional activities in addition to direct service (e.g., record keeping, supervision, information and referral, in-service and staff meetings);

5. The opportunity for the student to develop program-appropriate audio/video recordings for use in supervision or to receive live supervision of the student's interactions with clients;

6. The opportunity for the student to gain supervised experience in the use of a variety of professional resources such as assessment instruments, technologies, print and nonprint media, professional literature, and research; and

7. Evaluation of the student's counseling performance throughout the internship including documentation of a formal evaluation by a program faculty member in consultation with the site supervisor after the student completes the internship.

31.6(3) *Foreign-trained marital and family therapists or mental health counselors.* Foreign-trained marital and family therapists or mental health counselors shall:

a. Provide an equivalency evaluation of their educational credentials by the following: International Educational Research Foundations, Inc., Credentials Evaluation Service, P.O. Box 3665, Culver City, CA 90231-3665; telephone (310)258-9451; Web site www.ierf.org or E-mail at info@ierf.org. The professional curriculum must be equivalent to that stated in these rules. A candidate shall bear the expense of the curriculum evaluation.

b. Provide a notarized copy of the certificate or diploma awarded to the applicant from a mental health counselor program in the country in which the applicant was educated.

c. Receive a final determination from the board regarding the application for licensure.

[**ARC 7673B**, IAB 4/8/09, effective 4/30/09; **ARC 9547B**, IAB 6/1/11, effective 7/6/11; **ARC 1758C**, IAB 12/10/14, effective 1/14/15]

645—31.7(154D) Clinical experience requirements for mental health counselors.

31.7(1) The supervised clinical experience shall:

a. Be a minimum of two years or the equivalent of full-time, postgraduate supervised professional work experience in mental health counseling.

b. Be completed following completion of the practicum, internship, and all graduate coursework, with the exception of the thesis.

c. Include successful completion of at least 3,000 hours of mental health counseling that shall include at least 1,500 hours of direct client contact and 200 hours of clinical supervision. Applicants who entered a program of study prior to July 1, 2010, shall include successful completion of 200 hours of clinical supervision concurrent with 1,000 hours of mental health counseling conducted in person with couples, families and individuals.

d. Include a minimum of 25 percent of all clinical supervision in person. Up to 75 percent of all supervision may be completed by electronic means with no more than 50 percent completed by telephone. Supervision by electronic means is acceptable if:

(1) The first two meetings are face-to-face and in person; and

(2) The system utilized is a confidential, interactive, secure, real-time system that provides for visual and audio interaction between the licensee and the supervisor.

e. Include in the 200 hours of clinical supervision at least 100 hours of individual supervision.

f. Follow and maintain a plan throughout the supervisory period established by the supervisor and the licensee. Such a plan must be kept by the licensee for a period of five years following receipt of the permanent license and must be submitted to the board upon request. The plan for supervision shall include:

(1) The name, license number, date of licensure, address, telephone number, and e-mail address (when available) of the supervisor;

(2) The name, license number, address, telephone number, and e-mail address (when available) of supervisee;

(3) Employment setting in which experience will occur;

(4) The nature, duration and frequency of supervision;

(5) The number of hours of supervision per month;

(6) The supervisor/licensees type (individual/group) and mode (face-to-face/electronic) of supervision;

(7) The methodology for secure transmission of case information;

(8) The beginning date of supervised professional practice and estimated date of completion;

(9) The goals and objectives for the supervised professional practice; and

(10) The signatures of the supervisor and licensee, and the dates of signatures.

g. Have only supervised clinical contact credited for this requirement.

31.7(2) To meet the requirements of the supervised clinical experience:

a. The supervisee must:

(1) Meet with the supervisor a minimum of four hours per month;

(2) Offer documentation of supervised hours signed by the supervisor;

(3) Compute part-time employment on a prorated basis for the supervised professional experience;

(4) Have the background, training, and experience that are appropriate to the functions performed;

(5) Have supervision that is clearly distinguishable from personal counseling and is contracted in order to serve professional/vocational goals;

(6) Have individual supervision that shall be in person with no more than one supervisor to two supervisees;

(7) Have group supervision that may be completed with up to ten supervisees and a supervisor; and

(8) Not participate in the following activities which are deemed unacceptable for clinical supervision:

1. Peer supervision, i.e., supervision by a person of equivalent, but not superior, qualifications, status, and experience.

2. Supervision, by current or former family members, or any other person, in which the nature of the personal relationship prevents, or makes difficult, the establishment of a professional relationship.

3. Administrative supervision, e.g., clinical practice performed under administrative rather than clinical supervision of an institutional director or executive.

4. A primarily didactic process wherein techniques or procedures are taught in a group setting, classroom, workshop, or seminar.

5. Consultation, staff development, or orientation to a field or program, or role-playing of family interrelationships as a substitute for current clinical practice in an appropriate clinical situation.

b. The supervisor:

(1) May be a licensed mental health counselor in Iowa with at least three years of postlicensure clinical experience; or

(2) Shall be approved by the National Board for Certified Counselors (NBCC) as a supervisor; or

(3) May be an alternate supervisor who possesses qualifications equivalent to a licensed mental health counselor with at least three years of postlicensure clinical experience, including mental health professionals licensed to practice independently; and

(4) Shall meet a minimum of four hours per month with the supervisee; and

(5) Shall provide training that is appropriate to the functions to be performed; and

(6) Shall ensure that therapeutic work is done under the professional supervision of a supervisor; and

(7) Shall not supervise any mental health counselor or permit the supervisee to engage in any therapy which the supervisor cannot perform competently.

31.7(3) Rescinded IAB 7/6/05, effective 8/10/05.

31.7(4) An applicant who has obtained Certified Clinical Mental Health Counselor status with the National Board for Certified Counselors (NBCC) is considered to have met the clinical experience requirements of rule 645—31.7(154D). The applicant shall ensure that proof of current certified clinical mental health counselor status be sent directly from NBCC to the board.

[**ARC 7673B**, IAB 4/8/09, effective 4/30/09; **ARC 8152B**, IAB 9/23/09, effective 10/28/09; **ARC 9547B**, IAB 6/1/11, effective 7/6/11; **ARC 0777C**, IAB 6/12/13, effective 7/17/13]

645—31.8(154D) Licensure by endorsement. An applicant who has been a licensed marriage and family therapist or mental health counselor under the laws of another jurisdiction may file an application for licensure by endorsement with the board office.

31.8(1) The board may receive by endorsement any applicant from the District of Columbia or another state, territory, province or foreign country who:

a. Submits to the board a completed application;

b. Pays the licensure fee;

c. Shows evidence of licensure requirements that are similar to those required in Iowa;

d. Provides official transcripts sent directly from the school to the board verifying completion of a master's degree of 45 hours or equivalent if the applicant entered a program of study prior to July 1, 2010, or verifying completion of a master's degree of 60 hours or equivalent if the applicant entered a program of study on or after July 1, 2010, or the appropriate doctoral degree. After March 31, 2009, graduates from a non-CACREP-accredited mental health counselor program or a non-COAMFTE-accredited marital and family therapy program shall provide an equivalency evaluation of their educational credentials by the Center for Credentialing and Education, Inc. (CCE), Web site http://cce-global.org. The professional curriculum must be equivalent to that stated in these rules. Applicants shall bear the expense of the curriculum evaluation;

e. Supplies satisfactory evidence of the candidate's qualifications in writing on the prescribed forms by the candidate's supervisors. If verification of clinical experience is not available, the board may consider submission of documentation from the state in which the applicant is currently licensed or equivalent documentation of supervision;

f. Provides verification(s) of license(s) from every jurisdiction in which the applicant has been licensed, sent directly from the jurisdiction(s) to the board office. Web-based verification may be substituted for verification direct from the jurisdiction's board office if the verification provides:

(1) Licensee's name;

(2) Date of initial licensure;

(3) Current licensure status; and

(4) Any disciplinary action taken against the license; and

g. Has the examination score sent directly from the testing service to the board.

31.8(2) In lieu of meeting the requirements of paragraphs 31.8(1)*"d"* and *"e,"* applicants who meet the qualifications below may instead submit documentation demonstrating how each of the qualifications below is satisfied:

a. The applicant has been licensed as a mental health counselor or a marital and family therapist in another state for at least five years at the independent level (independent level means the highest level of licensure in the field offered by the particular state);

b. The applicant has been practicing under the independent license in a clinical mental health or marital and family therapy counseling setting for at least five years;

c. The applicant possesses a master's degree or higher in mental health counseling or marital and family therapy; and

d. The applicant does not have any past or pending disciplinary action from any state licensing boards related to any mental health counseling or marital and family therapy license currently or previously held by the applicant.

[**ARC 7673B**, IAB 4/8/09, effective 4/30/09; **ARC 0777C**, IAB 6/12/13, effective 7/17/13; **ARC 1758C**, IAB 12/10/14, effective 1/14/15]

645—31.9(147) Licensure by reciprocal agreement. Rescinded IAB 1/14/09, effective 2/18/09.

645—31.10(147) License renewal.

31.10(1) The biennial license renewal period for a license to practice marital and family therapy or mental health counseling shall begin on October 1 of an even-numbered year and end on September 30 of the next even-numbered year. The licensee is responsible for renewing the license prior to its expiration. Failure of the licensee to receive notice from the board does not relieve the licensee of the responsibility for renewing the license.

31.10(2) An individual who was issued an initial license within six months of the license renewal date will not be required to renew the license until the subsequent renewal two years later.

31.10(3) A licensee seeking renewal shall:

a. Meet the continuing education requirements of rule 645—32.2(272C) and the mandatory reporting requirements of subrule 31.10(4). A licensee whose license was reactivated during the current renewal compliance period may use continuing education credit earned during the compliance period for the first renewal following reactivation; and

b. Submit the completed renewal application and renewal fee before the license expiration date.

c. An individual who was issued a license within six months of the license renewal date will not be required to renew the license until the next renewal two years later.

31.10(4) Mandatory reporter training requirements.

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

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

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

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

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

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

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

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

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

31.10(5) Upon receiving the information required by this rule and the required fee, board staff shall administratively issue a two-year license and shall send the licensee a wallet card by regular mail. In the event the board receives adverse information on the renewal application, the board shall issue the renewal license but may refer the adverse information for further consideration or disciplinary investigation.

31.10(6) A person licensed to practice as a marital and family therapist or mental health counselor shall keep the person's license certificate and wallet card displayed in a conspicuous public place at the primary site of practice.

31.10(7) Late renewal. The license shall become late when the license has not been renewed by the expiration date on the wallet card. The licensee shall be assessed a late fee as specified in 645—subrule 5.3(3). To renew a late license, the licensee shall complete the renewal requirements and submit the late fee within the grace period.

31.10(8) Inactive license. A licensee who fails to renew the license by the end of the grace period has an inactive license. A licensee whose license is inactive continues to hold the privilege of licensure in Iowa, but may not practice mental health counseling or marital and family therapy in Iowa until the license is reactivated. A licensee who practices mental health counseling or marital and family therapy in the state of Iowa with an inactive license may be subject to disciplinary action by the board, injunctive action pursuant to Iowa Code section 147.83, criminal sanctions pursuant to Iowa Code section 147.86, and other available legal remedies.

[**ARC 9547B**, IAB 6/1/11, effective 7/6/11]

645—31.11(272C) Exemptions for inactive practitioners. Rescinded IAB 7/6/05, effective 8/10/05.

645—31.12(147) Licensee record keeping.

31.12(1) A licensee shall maintain sufficient, timely, and accurate documentation in client records.

31.12(2) For purposes of this rule, "client" means the individual, couple, family, or group to whom a licensee provides direct clinical services.

31.12(3) A licensee's records shall reflect the services provided, facilitate the delivery of services, and ensure continuity of services in the future.

31.12(4) Clinical services. A licensee who provides clinical services in any employment setting, including private practice, shall:

a. Store records in accordance with state and federal statutes and regulations governing record retention and with the guidelines of the licensee's employer or agency, if applicable. If no other legal provisions govern record retention, a licensee shall store all client records for a minimum of seven years after the date of the client's discharge or death, or, in the case of a minor, for three years after the client reaches the age of majority under state law or seven years after the date of the client's discharge or death, whichever is longer.

b. Maintain timely records that include subjective and objective data, an assessment, a treatment plan, and any revisions to the assessment or plan made during the course of treatment.

c. Provide the client with reasonable access to records concerning the client. A licensee who is concerned that a client's access to the client's records could cause serious misunderstanding or harm to the client shall provide assistance in interpreting the records and consultation with the client regarding the records. A licensee may limit a client's access to the client's records, or portions of the records, only in exceptional circumstances when there is compelling evidence that such access would cause serious harm to the client. Both the client's request for access and the licensee's rationale for withholding some or all of a record shall be documented in the client's records.

d. Take steps to protect the confidentiality of other individuals identified or discussed in any records to which a client is provided access.

31.12(5) Electronic record keeping. The requirements of this rule apply to electronic records as well as to records kept by any other means. When electronic records are kept, the licensee shall ensure that a duplicate hard-copy record or a backup, unalterable electronic record is maintained.

31.12(6) Correction of records.

a. *Hard-copy records.* Original notations shall be legible, written in ink, and contain no erasures or whiteouts. If incorrect information is placed in the original record, it must be crossed out with a single, nondeleting line and be initialed and dated by the licensee.

b. *Electronic records.* If a record is stored in an electronic format, the record may be amended with a signed addendum attached to the record.

31.12(7) Confidentiality and transfer of records. Marital and family therapists or mental health counselors shall preserve the confidentiality of client records in accordance with their respective rules of conduct and with federal and state law. Upon receipt of a written release or authorization signed by the client, the licensee shall furnish such therapy records, or copies of the records, as will be beneficial for the future treatment of that client. A fee may be charged for duplication of records, but a licensee may not refuse to transfer records for nonpayment of any fees. A written request may be required before transferring the record(s).

31.12(8) Retirement, death or discontinuance of practice.

a. If a licensee is retiring or discontinuing practice and is the owner of a practice, the licensee shall notify in writing all active clients and, upon knowledge and agreement of the clients, shall make reasonable arrangements with those clients to transfer client records, or copies of those records, to the succeeding licensee.

b. Upon a licensee's death:

(1) The licensee's employer or representative must ensure that all client records are transferred to another licensee or entity that is held to the same standards of confidentiality and agrees to act as custodian of the records.

(2) The licensee's employer or representative shall notify each active client that the client's records will be transferred to another licensee or entity that will retain custody of the records and that, at the client's written request, the records will be sent to the licensee or entity of the client's choice.

31.12(9) Nothing stated in this rule shall prohibit a licensee from conveying or transferring the licensee's client records to another licensed individual who is assuming a practice, provided that written notice is furnished to all clients.

645—31.13(147) Duplicate certificate or wallet card. Rescinded IAB 1/14/09, effective 2/18/09.

645—31.14(147) Reissued certificate or wallet card. Rescinded IAB 1/14/09, effective 2/18/09.

645—31.15(17A,147,272C) License denial. Rescinded IAB 1/14/09, effective 2/18/09.

645—31.16(17A,147,272C) License reactivation. To apply for reactivation of an inactive license, a licensee shall:

31.16(1) Submit a reactivation application on a form provided by the board.

31.16(2) Pay the reactivation fee that is due as specified in 645—Chapter 5.

31.16(3) Provide verification of current competence to practice mental health counseling or marital and family therapy by satisfying one of the following criteria:

a. If the license has been on inactive status for five years or less, an applicant must provide the following:

(1) Verification of the license(s) from every jurisdiction in which the applicant is or has been licensed and is or has been practicing during the time period the Iowa license was inactive, sent directly from the jurisdiction(s) to the board office. Web-based verification may be substituted for verification from a jurisdiction's board office if the verification includes:

1. Licensee's name;
2. Date of initial licensure;
3. Current licensure status; and
4. Any disciplinary action taken against the license; and

(2) Verification of completion of 40 hours of continuing education obtained within the two years immediately preceding the application for reactivation.

b. If the license has been on inactive status for more than five years, an applicant must provide the following:

(1) Verification of the license(s) from every jurisdiction in which the applicant is or has been licensed and is or has been practicing during the time period the Iowa license was inactive, sent directly from the jurisdiction(s) to the board office. Web-based verification may be substituted for verification from a jurisdiction's board office if the verification includes:

1. Licensee's name;
2. Date of initial licensure;
3. Current licensure status; and
4. Any disciplinary action taken against the license; and

(2) Verification of completion of 80 hours of continuing education obtained within the two years immediately preceding the application for reactivation.

[**ARC 0777C**, IAB 6/12/13, effective 7/17/13]

645—31.17(17A,147,272C) License reinstatement. A licensee whose license has been revoked, suspended, or voluntarily surrendered must apply for and receive reinstatement of the license in accordance with 645—11.31(272C) and must apply for and be granted reactivation of the license in accordance with 645—31.16(17A,147,272C) prior to practicing mental health counseling or marital and family therapy in this state.

645—31.18(154D) Marital and family therapy and mental health counselor services subject to regulation. Marital and family therapy and mental health counselor services provided to an individual in this state through telephonic, electronic or other means, regardless of the location of the marital and family therapy and mental health counselor, shall constitute the practice of marital and family therapy and mental health counseling and shall be subject to regulation in Iowa.

These rules are intended to implement Iowa Code chapters 17A, 147, 154D and 272C.

[Filed 6/5/92, Notice 4/15/92—published 6/24/92, effective 7/29/92]
[Filed emergency 7/31/92—published 8/19/92, effective 7/31/92]
[Filed 11/17/94, Notice 9/14/94—published 12/7/94, effective 1/11/95]
[Filed 5/2/97, Notice 3/12/97—published 5/21/97, effective 6/25/97]
[Filed 5/16/97, Notice 4/9/97—published 6/4/97, effective 7/9/97]
[Filed 8/21/98, Notice 7/15/98—published 9/9/98, effective 10/14/98]
[Filed 4/2/99, Notice 2/10/99—published 4/21/99, effective 5/26/99]
[Filed 2/1/01, Notice 10/18/00—published 2/21/01, effective 3/28/01]
[Filed 12/6/01, Notice 10/3/01—published 12/26/01, effective 1/30/02]
[Filed 3/29/02, Notice 2/20/02—published 4/17/02, effective 5/22/02]
[Filed 9/26/02, Notice 7/24/02—published 10/16/02, effective 11/20/02]
[Filed 12/12/03, Notice 10/15/03—published 1/7/04, effective 2/11/04]

[Filed 6/15/05, Notice 4/13/05—published 7/6/05, effective 8/10/05][◊]
[Filed 12/9/05, Notice 10/12/05—published 1/4/06, effective 2/8/06]
[Filed 2/10/06, Notice 1/4/06—published 3/1/06, effective 4/5/06]
[Filed 2/15/07, Notice 12/6/06—published 3/14/07, effective 4/18/07]
[Filed 12/11/08, Notice 10/22/08—published 1/14/09, effective 2/18/09][1]
[Editorial change: IAC Supplement 2/25/09]
[Filed Emergency ARC 7673B, IAB 4/8/09, effective 4/30/09]
[Filed ARC 8152B (Notice ARC 7858B, IAB 6/17/09), IAB 9/23/09, effective 10/28/09]
[Filed ARC 9547B (Notice ARC 9416B, IAB 3/9/11), IAB 6/1/11, effective 7/6/11]
[Filed ARC 0777C (Notice ARC 0679C, IAB 4/3/13), IAB 6/12/13, effective 7/17/13]
[Filed ARC 1758C (Notice ARC 1558C, IAB 7/23/14), IAB 12/10/14, effective 1/14/15]

◊ Two or more ARCs

1 February 18, 2009, effective date of amendments to 645—31.4(154D) to 645—31.8(154D), **ARC 7476B**, Items 5 to 9, delayed 70 days by the Administrative Rules Review Committee at its meeting held February 6, 2009.

PHARMACY BOARD[657]

[Prior to 2/10/88, see Pharmacy Examiners, Board of [620], renamed Pharmacy Examiners Board[657] under the "umbrella" of Public Health Department by 1986 Iowa Acts, ch 1245; renamed by 2007 Iowa Acts, Senate File 74]

CHAPTER 1
PURPOSE AND ORGANIZATION

1.1(17A) Board mission
1.2(17A,147,272C) Description and organization of board
1.3(17A,272C) Responsibilities
1.4(17A,272C) Submission of complaints and requests
1.5(17A,21) Meetings
1.6(124,147,155A) Fee for returned check
1.7(124,124B,147,155A) Overpayment of fees

CHAPTER 2
PHARMACIST LICENSES

2.1(147,155A) Licensure by examination
2.2(155A) Application for examination—requirements
2.3(147,155A) Examination fee
2.4(155A) Internship requirements
2.5(155A) College graduate certification
2.6(147) Reexamination applications and fees
2.7(147) Examination results
2.8(155A) Transfer of examination scores
2.9(147,155A) Licensure by license transfer/reciprocity
2.10(155A) Foreign pharmacy graduates
2.11(147,155A) License expiration and renewal
2.12(272C) Continuing education requirements
2.13(272C) Active and inactive license status
2.14(155A) Fees for additional license certificates
2.15(155A) Notifications to the board
2.16(235B,272C) Mandatory training for identifying and reporting abuse
2.17(272C) Continuing professional development portfolio

CHAPTER 3
PHARMACY TECHNICIANS

3.1(155A) Definitions
3.2(155A) Purpose of registration
3.3(155A) Registration required
3.4 Reserved
3.5(155A) Certification of pharmacy technicians
3.6 and 3.7 Reserved
3.8(155A) Application form
3.9(155A) Registration term and renewal
3.10(155A) Registration fee
3.11(155A) Late applications and fees
3.12(155A) Registration certificates
3.13(155A) Notifications to the board
3.14 to 3.16 Reserved
3.17(155A) Training and utilization of pharmacy technicians
3.18(147,155A) Identification of pharmacy technician
3.19 Reserved

3.20(155A) Responsibility of supervising pharmacist
3.21(155A) Delegation of functions
3.22(155A) Technical functions
3.23(155A) Tasks a pharmacy technician shall not perform
3.24(155A) New prescription drug orders or medication orders
3.25 to 3.27 Reserved
3.28(147,155A) Unethical conduct or practice
3.29(155A) Denial of registration
3.30(155A) Discipline of pharmacy technicians

CHAPTER 4
PHARMACIST-INTERNS

4.1(155A) Definitions
4.2(155A) Goal and objectives of internship
4.3(155A) 1500-hour requirements
4.4(155A) Iowa colleges of pharmacy clinical internship programs
4.5(155A) Out-of-state internship programs
4.6(155A) Registration, reporting, and authorized functions
4.7(155A) Foreign pharmacy graduates
4.8(155A) Fees
4.9(155A) Preceptor requirements
4.10(155A) Denial of pharmacist-intern registration
4.11(155A) Discipline of pharmacist-interns

CHAPTER 5
PHARMACY SUPPORT PERSONS

5.1(155A) Definitions
5.2(155A) Purpose of registration
5.3 Reserved
5.4(155A) Registration required
5.5(155A) Exempt from registration
5.6 Reserved
5.7(155A) Registration application form
5.8 Reserved
5.9(155A) Registration fee
5.10(155A) Registration renewal
5.11(155A) Late application
5.12 Reserved
5.13(155A) Registration certificates
5.14(155A) Notifications to the board
5.15(155A) Identification of pharmacy support person
5.16 Reserved
5.17(155A) Tasks a pharmacy support person shall not perform
5.18(155A) Nontechnical pharmacy support tasks
5.19 Reserved
5.20(155A) Training and utilization of pharmacy support persons
5.21(155A) Responsibility of supervising pharmacist
5.22(155A) Delegation of nontechnical functions
5.23 Reserved
5.24(155A) Denial of registration
5.25(147,155A) Unethical conduct or practice
5.26(155A) Discipline of pharmacy support persons

CHAPTER 6
GENERAL PHARMACY PRACTICE

6.1(155A) Purpose and scope
6.2(155A) Pharmacist in charge
6.3(155A) Reference library
6.4(155A) Exemption from duplicate requirements
6.5 and 6.6 Reserved
6.7(124,155A) Security
6.8(124,155A) Prescription processing documentation
6.9(124,155A) Transfer of prescription
6.10(126,155A) Prescription label requirements
6.11 and 6.12 Reserved
6.13(155A) Patient record system
6.14(155A) Patient counseling and instruction
6.15(124,126) Return of drugs and other items
6.16(124,155A) Records

CHAPTER 7
HOSPITAL PHARMACY PRACTICE

7.1(155A) Purpose and scope
7.2(155A) Pharmacist in charge
7.3(155A) Reference library
7.4 and 7.5 Reserved
7.6(124,155A) Security
7.7(155A) Verification by remote pharmacist
7.8(124,126,155A) Drug distribution and control
7.9(124,155A) Drug information
7.10(124,155A) Ensuring rational drug therapy
7.11(124,126,155A) Outpatient services
7.12(124,126,155A) Drugs in the emergency department
7.13(124,155A) Records

CHAPTER 8
UNIVERSAL PRACTICE STANDARDS

8.1(155A) Purpose and scope
8.2(155A) Pharmaceutical care
8.3(155A) Responsibility
8.4(155A) Pharmacist identification and staff logs
8.5(155A) Environment and equipment requirements
8.6(155A) Health of personnel
8.7(155A) Procurement, storage, and recall of drugs and devices
8.8(124,155A) Out-of-date drugs or devices
8.9(124,155A) Records
8.10 Reserved
8.11(147,155A) Unethical conduct or practice
8.12(126,147) Advertising
8.13(135C,155A) Personnel histories
8.14(155A) Training and utilization of pharmacy technicians or pharmacy support persons
8.15(155A) Delivery of prescription drugs and devices
8.16(124,155A) Confidential information
8.17 and 8.18 Reserved
8.19(124,126,155A) Manner of issuance of a prescription drug or medication order

8.20(155A) Valid prescriber/patient relationship
8.21(155A) Prospective drug use review
8.22 to 8.25 Reserved
8.26(155A) Continuous quality improvement program
8.27 to 8.31 Reserved
8.32(124,155A) Individuals qualified to administer
8.33(155A) Vaccine administration by pharmacists
8.34(155A) Collaborative drug therapy management
8.35(155A) Pharmacy license
8.36 to 8.39 Reserved
8.40(155A,84GA,ch63) Pharmacy pilot or demonstration research projects

CHAPTER 9
AUTOMATED MEDICATION DISTRIBUTION SYSTEMS AND TELEPHARMACY SERVICES

9.1(155A) Purpose and scope
9.2(147,155A) Definitions
9.3(147,155A) Pharmacist in charge responsibilities
9.4 Reserved
9.5(124,155A) General requirements for telepharmacy
9.6(155A) Duties of pharmacist in telepharmacy practice
9.7 to 9.9 Reserved
9.10(147,155A) Quality assurance and performance improvement
9.11(147,155A) Policies and procedures
9.12(147,155A) System, site, and process requirements
9.13(147,155A) Records
9.14 Reserved
9.15(147,155A) Decentralized unit dose AMDS
9.16(147,155A) Centralized unit dose AMDS
9.17(147,155A) Outpatient AMDS
9.18(124,155A) Remote dispensing site operations
9.19 Reserved
9.20(124,155A) Drugs at a remote dispensing site
9.21(124,155A) Record keeping

CHAPTER 10
CONTROLLED SUBSTANCES

10.1(124) Who shall register
10.2(124) Application forms
10.3(124) Registration and renewal
10.4(124) Exemptions—registration fee
10.5(124) Separate registration for independent activities; coincident activities
10.6(124) Separate registrations for separate locations; exemption from registration
10.7 to 10.9 Reserved
10.10(124,147,155A) Inspection
10.11(124) Modification or termination of registration
10.12(124) Denial, modification, suspension, or revocation of registration
10.13 and 10.14 Reserved
10.15(124,155A) Security requirements
10.16(124) Report of theft or loss
10.17(124) Accountability of stock supply
10.18(124) Disposal

10.19 and 10.20 Reserved
10.21(124,126,155A) Prescription requirements
10.22(124) Schedule II emergency prescriptions
10.23(124) Schedule II prescriptions—partial filling
10.24(124) Schedule II medication order
10.25(124) Schedule II—issuing multiple prescriptions
10.26 Reserved
10.27(124,155A) Facsimile transmission of a controlled substance prescription
10.28(124,155A) Schedule III, IV, or V refills
10.29(124,155A) Schedule III, IV, or V partial fills
10.30(124,155A) Schedule III, IV, and V medication order
10.31(124,155A) Dispensing Schedule V controlled substances without a prescription
10.32(124,155A) Dispensing products containing ephedrine, pseudoephedrine, or phenylpropanolamine without a prescription
10.33(124,155A) Schedule II perpetual inventory in pharmacy
10.34(124,155A) Records
10.35(124,155A) Physical count and record of inventory
10.36(124) Samples and other complimentary packages—records
10.37(124,126) Revision of controlled substances schedules
10.38(124) Temporary designation of controlled substances
10.39(124,126) Excluded substances
10.40(124,126) Anabolic steroid defined
10.41(124A) Designation of imitation controlled substances

CHAPTER 11
DRUGS IN EMERGENCY MEDICAL SERVICE PROGRAMS

11.1(124,147A,155A) Definitions
11.2(124,147A,155A) Responsibility
11.3(124,147A,155A) Written agreement
11.4(124,147A,155A) Termination of services
11.5 Reserved
11.6(124,147A,155A) Registration required
11.7 Reserved
11.8(124,147A,155A) Identification
11.9 Reserved
11.10(124,147A,155A) Ownership of prescription drugs
11.11(124,147A,155A) Policies and procedures
11.12 Reserved
11.13(124,147A,155A) Storage
11.14(124,147A,155A) Protocols
11.15(124,147A,155A) Administration of drugs beyond the limits of the written protocol
11.16(124,147A,155A) Administration of Schedule II controlled substances—pharmacy-based service
11.17 and 11.18 Reserved
11.19(124,147A,155A) Patient care reports
11.20(124,147A,155A) Prescription drugs in EMS programs
11.21 Reserved
11.22(124,147A,155A) Return of drugs
11.23(124,147A,155A) Out-of-date drugs or devices
11.24(124,147A,155A) Product recall
11.25 Reserved
11.26(124,147A,155A) Controlled substances records
11.27(124,147A,155A) Ordering Schedule II controlled substances—medical director-based

11.28 Reserved
11.29(124,147A,155A) Schedule II controlled substances perpetual inventory
11.30(124,147A,155A) Controlled substances annual inventory
11.31 Reserved
11.32(124,147A,155A) Destruction or disposal of controlled substances
11.33(124,147A,155A) Report of loss or theft of controlled substance
11.34(124,147A,155A) Records

CHAPTER 12
PRECURSOR SUBSTANCES

12.1(124B) Precursor substance identified
12.2(124B) Reports required
12.3(124B) Form of reports
12.4(124B) Monthly reporting option
12.5(124B) Exemptions
12.6(124B) Identification of purchaser or other recipient
12.7(124B) Permits
12.8(124B) Denial, modification, suspension, or revocation of permit

CHAPTER 13
STERILE COMPOUNDING PRACTICES

13.1(124,126,155A) Purpose and scope
13.2(124,126,155A) Definitions
13.3(155A) Responsibilities
13.4 Reserved
13.5(155A) References required
13.6(126,155A) Policies and procedures
13.7(126,155A) Labeling requirements
13.8(155A) Record requirements
13.9 Reserved
13.10(126,155A) Microbial contamination risk levels
13.11(155A) Low-risk preparations and low-risk preparations with 12-hour or less beyond-use date
13.12(155A) Medium-risk preparations
13.13(155A) High-risk preparations
13.14(155A) Immediate-use preparations
13.15(155A) Utilization of single-dose and multiple-dose containers
13.16(155A) Utilization of proprietary bag and vial systems
13.17 to 13.19 Reserved
13.20(124,155A) Sterile preparation of hazardous drugs
13.21 and 13.22 Reserved
13.23(124,155A) Verification of compounding accuracy and sterility
13.24(124,155A) Sterilization methods
13.25(155A) Media-fill testing by personnel
13.26 Reserved
13.27(124,126,155A) Physical environment requirements
13.28(155A) Cleaning, maintenance, and supplies
13.29(126,155A) Environmental monitoring requirements
13.30 Reserved
13.31(155A) Quality assurance (QA)
13.32(155A) Patient or caregiver education and training
13.33(124,155A) Storage and delivery of sterile preparations

CHAPTER 14
PUBLIC INFORMATION AND INSPECTION OF RECORDS

14.1(22,124,155A) Definitions
14.2(22,124,155A) Purpose and scope
14.3(22,124,155A) Requests for access to records
14.4(22,124,155A) Access to confidential records
14.5(22,124,155A) Requests for treatment of a record as a confidential record and its withholding from examination
14.6(22,124,155A) Procedure by which additions, dissents, or objections may be entered into certain records
14.7(22,124,155A) Consent to disclosure by the subject of a confidential record
14.8(22,124,155A) Notice to suppliers of information
14.9(22,124,155A) Disclosures without the consent of the subject
14.10(22,124,155A) Routine use
14.11(22,124,155A) Consensual disclosure of confidential records
14.12(22,124,155A) Release to subject
14.13(22,124,155A) Availability of records
14.14(22,124,155A) Personally identifiable information
14.15(22,124,155A) Other groups of records
14.16(22,124,155A) Computer

CHAPTER 15
CORRECTIONAL PHARMACY PRACTICE

15.1(155A) Purpose and scope
15.2(126,155A) Definitions
15.3(155A) Pharmacist in charge
15.4(155A) Reference library
15.5(124,155A) Security
15.6 Reserved
15.7(124,126,155A) Training and utilization of pharmacy technicians or pharmacy support persons
15.8(124,126,155A) Drug distribution and dispensing controls
15.9 Reserved
15.10(124,126,155A) Policies and procedures

CHAPTER 16
NUCLEAR PHARMACY PRACTICE

16.1(155A) Purpose and scope
16.2(155A) Definitions
16.3(155A) General requirements for qualified nuclear pharmacist
16.4(155A) General requirements for pharmacies providing radiopharmaceutical services
16.5(155A) Library
16.6(155A) Minimum equipment requirements
16.7(155A) Training and utilization of pharmacy support persons

CHAPTER 17
WHOLESALE DRUG LICENSES

17.1(155A) Definitions
17.2 Reserved
17.3(155A) Wholesale drug license
17.4(155A) Minimum qualifications
17.5(155A) Personnel
17.6(155A) Responsibility for conduct
17.7(124,155A) Distribution to authorized licensees

17.8(124,155A) Written policies and procedures
17.9(155A) Facilities
17.10(124,155A) Security
17.11(155A) Storage
17.12 Reserved
17.13(155A) Drugs in possession of representatives
17.14(155A) Examination of materials
17.15(155A) Returned, damaged, and outdated prescription drugs
17.16(124,155A) Record keeping
17.17(124,155A) Compliance with federal, state, and local laws
17.18(155A) Discipline

CHAPTER 18
CENTRALIZED PRESCRIPTION FILLING AND PROCESSING

18.1(155A) Purpose and scope
18.2(155A) Definitions
18.3(155A) General requirements
18.4 Reserved
18.5(155A) Patient notification and authorization
18.6 to 18.9 Reserved
18.10(155A) Policy and procedures
18.11 to 18.14 Reserved
18.15(155A) Records

CHAPTER 19
NONRESIDENT PHARMACY PRACTICE

19.1(155A) Definitions
19.2(155A) Application and license requirements
19.3(124,155A) Applicability of board rules
19.4 to 19.6 Reserved
19.7(155A) Confidential data
19.8(124,155A) Storage and shipment of drugs and devices
19.9(155A) Patient record system, prospective drug use review, and patient counseling
19.10(155A) Discipline

CHAPTER 20
PHARMACY COMPOUNDING PRACTICES

20.1(124,126,155A) Purpose and scope
20.2(124,126,155A) Definitions
20.3(124,126,155A) General requirements
20.4(126,155A) Organization and personnel
20.5(126,155A) Drug compounding facilities
20.6(126,155A) Sterile products and radiopharmaceuticals
20.7 Reserved
20.8(126,155A) Equipment
20.9(126,155A) Control of bulk drug substances, components, containers, and closures
20.10(124,126,155A) Drug compounding controls
20.11(126) Bulk compounding
20.12(124,126,155A) Records

CHAPTER 21
ELECTRONIC DATA IN PHARMACY PRACTICE

21.1(124,155A)	Definitions
21.2(124,155A)	System security and safeguards
21.3(124,155A)	Verifying authenticity of an electronically prepared or electronically or fax transmitted prescription
21.4(124,155A)	Automated data processing system
21.5(124,155A)	Pharmacist verification of controlled substance refills—daily printout or logbook
21.6	Reserved
21.7(124,155A)	Electronically prepared prescriptions
21.8(124,155A)	Electronic transmission of a prescription
21.9(124,155A)	Facsimile transmission (fax) of a prescription
21.10 and 21.11	Reserved
21.12(124,155A)	Prescription drug orders for Schedule II controlled substances
21.13(124,155A)	Facsimile transmission of a prescription for Schedule II controlled substances—emergency situations
21.14(124,155A)	Facsimile transmission of a prescription for Schedule II narcotic substances—parenteral
21.15(124,155A)	Facsimile transmission of Schedule II controlled substances—long-term care facility patients
21.16(124,155A)	Facsimile transmission of Schedule II controlled substances—hospice patients

CHAPTER 22
UNIT DOSE, ALTERNATIVE PACKAGING, AND EMERGENCY BOXES

22.1(155A)	Unit dose dispensing systems
22.2	Reserved
22.3(126)	Prepackaging
22.4	Reserved
22.5(126,155A)	Patient med paks
22.6	Reserved
22.7(124,155A)	Emergency/first dose drug supply
22.8	Reserved
22.9(155A)	Home health agency/hospice emergency drugs

CHAPTER 23
LONG-TERM CARE PHARMACY PRACTICE

23.1(155A)	Definitions
23.2(124,155A)	Applicability of rules
23.3(124,155A)	Freedom of choice
23.4(124,155A)	Pharmacy responsibilities
23.5(124,155A)	Emergency drugs
23.6(124,155A)	Space, equipment, and supplies
23.7(124,155A)	Policies and procedures
23.8	Reserved
23.9(124,155A)	Medication orders
23.10(124,155A)	Stop orders
23.11(124,155A)	Drugs dispensed—general requirements
23.12	Reserved
23.13(124,155A)	Labeling drugs under special circumstances
23.14(124,155A)	Labeling of biologicals and other injectables supplied to a facility
23.15(124,155A)	Return and reuse of drugs and devices
23.16(124,155A)	Destruction of outdated and improperly labeled drugs

23.17(124,155A) Accountability of controlled substances
23.18(124,155A) Schedule II orders
23.19(124,155A) Dispensing Schedule II controlled substances
23.20(124,155A) Partial filling of Schedule II controlled substances
23.21(124,155A) Destruction of controlled substances

CHAPTER 24
PHARMACY INTERNET SITES

24.1(155A) Purpose and scope
24.2(155A) Definitions
24.3(155A) General requirements for Internet pharmacy
24.4 and 24.5 Reserved
24.6(155A) Prescription requirements
24.7(155A) Internet site registration
24.8(155A) Internet site information
24.9 and 24.10 Reserved
24.11(155A) Records
24.12(155A) Pharmacy liability
24.13(155A) Application denial
24.14(155A) Discipline

CHAPTER 25
CHILD SUPPORT NONCOMPLIANCE

25.1(252J) Definitions
25.2(252J) Issuance or renewal of license—denial
25.3(252J) Suspension or revocation of a license
25.4(17A,22,252J) Share information

CHAPTER 26
PETITIONS FOR RULE MAKING
(Uniform Rules)

26.1(17A) Petition for rule making
26.2(17A) Briefs
26.3(17A) Inquiries
26.4(17A) Board consideration

CHAPTER 27
DECLARATORY ORDERS
(Uniform Rules)

27.1(17A) Petition for declaratory order
27.2(17A) Notice of petition
27.3(17A) Intervention
27.4(17A) Briefs
27.5(17A) Inquiries
27.6(17A) Service and filing of petitions and other papers
27.7(17A) Consideration
27.8(17A) Action on petition
27.9(17A) Refusal to issue order
27.10(17A) Contents of declaratory order—effective date
27.11(17A) Copies of orders
27.12(17A) Effect of a declaratory order

CHAPTER 28
AGENCY PROCEDURE FOR RULE MAKING
(Uniform Rules)

28.1(17A)	Applicability
28.2(17A)	Advice on possible rules before notice of proposed rule adoption
28.3(17A)	Public rule-making docket
28.4(17A)	Notice of proposed rule making
28.5(17A)	Public participation
28.6(17A)	Regulatory analysis
28.7(17A,25B)	Fiscal impact statement
28.8(17A)	Time and manner of rule adoption
28.9(17A)	Variance between adopted rule and published notice of proposed rule adoption
28.10(17A)	Exemptions from public rule-making procedures
28.11(17A)	Concise statement of reasons
28.12(17A)	Contents, style, and form of rule
28.13(17A)	Board rule-making record
28.14(17A)	Filing of rules
28.15(17A)	Effectiveness of rules prior to publication
28.16(17A)	General statements of policy
28.17(17A)	Review by board of rules

CHAPTER 29
SALES OF GOODS AND SERVICES

29.1(68B)	Selling of goods or services by members of the board
29.2(68B)	Conditions of consent for board members
29.3(68B)	Authorized sales
29.4(68B)	Application for consent
29.5(68B)	Limitation of consent

CHAPTER 30
IMPAIRED PHARMACY PROFESSIONAL AND TECHNICIAN RECOVERY PROGRAM

30.1(155A)	Definitions
30.2(155A)	Purpose, function, and responsibilities
30.3(155A)	Program committee and personnel; confidentiality; liability
30.4(155A)	Identification and referral of impaired professionals and technicians
30.5(155A)	Recovery contract requirements
30.6(155A)	Program provider contract
30.7(155A)	Disclosure of information
30.8(155A)	Program funds

CHAPTER 31
STUDENT LOAN DEFAULT OR NONCOMPLIANCE WITH AGREEMENT FOR PAYMENT OF OBLIGATION

31.1(261)	Definitions
31.2(261)	Issuance or renewal of a license—denial
31.3(261)	Suspension or revocation of a license
31.4(17A,22,261)	Share information

CHAPTER 32
NONPAYMENT OF STATE DEBT

32.1(272D)	Definitions
32.2(272D)	Issuance or renewal of a license—denial

32.3(272D) Suspension or revocation of a license
32.4(17A,22,272D) Share information

CHAPTER 33
MILITARY SERVICE AND VETERAN RECIPROCITY

33.1(85GA,ch1116) Definitions
33.2(85GA,ch1116) Military education, training, and service credit
33.3(85GA,ch1116) Veteran licensure or registration
33.4(85GA,ch1116) Request for contested case

CHAPTER 34
RULES FOR WAIVERS AND VARIANCES

34.1(17A) Definition
34.2(17A,124,126,147,155A,205,272C) Scope of chapter
34.3(17A,124,126,147,155A,205,272C) Applicability of chapter
34.4(17A) Criteria for waiver or variance
34.5(17A,124,126,147,155A,205,272C) Filing of petition
34.6(17A) Content of petition
34.7(17A) Additional information
34.8(17A) Notice
34.9(17A) Hearing procedures
34.10(17A) Ruling
34.11(17A,22) Public availability
34.12(17A) Summary reports
34.13(17A) Cancellation of a waiver
34.14(17A,124,126,147,155A,205,272C) Violations
34.15(17A,124,126,147,155A,205,272C) Defense
34.16(17A) Judicial review

CHAPTER 35
CONTESTED CASES

35.1(17A,124,124B,126,147,155A,205,272C) Scope and applicability
35.2(17A,272C) Definitions
35.3(17A) Time requirements
35.4 Reserved
35.5(17A,124B,126,147,155A,205,272C) Notice of hearing
35.6(17A,272C) Presiding officer for nondisciplinary hearings
35.7(17A,124B,147,155A,272C) Waiver of procedures
35.8(17A,272C) Telephone or network proceedings
35.9(17A) Disqualification
35.10(17A,272C) Consolidation—severance
35.11(17A,272C) Service and filing of pleadings and other papers
35.12(17A,272C) Discovery
35.13(17A,272C) Subpoenas
35.14(17A,272C) Motions
35.15(17A,272C) Prehearing conference
35.16(17A,272C) Continuances
35.17(17A) Withdrawals
35.18 Reserved
35.19(17A,124B,126,147,155A,205,272C) Hearing procedures in contested cases
35.20(17A,272C) Evidence
35.21(17A,272C) Default
35.22(17A,272C) Ex parte communication

35.23(17A,272C) Recording costs
35.24(17A,272C) Interlocutory appeals
35.25(17A) Final decision
35.26(17A,124B,126,147,155A,205,272C) Appeals and review
35.27(17A,124B,126,147,155A,205,272C) Applications for rehearing
35.28(17A,272C) Stays of board actions
35.29(17A,272C) No factual dispute contested cases
35.30(17A,124B,126,147,155A,205,272C) Emergency adjudicative proceedings

CHAPTER 36
DISCIPLINE

36.1(147,155A,272C) Authority and grounds for discipline
36.2(155A,272C) Investigations
36.3(147,272C) Peer review committees
36.4(17A,124,124B,126,147,155A,272C) Disciplinary proceedings
36.5(17A,124,124B,126,147,155A,272C) Notice of disciplinary hearing
36.6(17A,124B,147,155A,272C) Informal settlement
36.7(272C) Appearance
36.8(17A,124B,147,155A,272C) Order of proceedings
36.9(272C) Confidentiality
36.10(17A,272C) Notification of decision
36.11(272C) Board decision
36.12(17A,272C) Publication of decisions
36.13(17A,124B,147,155A,272C) Reinstatement
36.14(17A,124B,147,155A,272C) Informal reinstatement conference
36.15(17A,124B,147,155A,272C) Voluntary surrender of a license, permit, or registration
36.16(17A,124B,147,155A,272C) License, permit, or registration denial
36.17(155A,272C) Order for mental or physical examination
36.18(272C) Disciplinary hearings—fees and costs

CHAPTER 37
IOWA PRESCRIPTION MONITORING PROGRAM

37.1(124) Purpose
37.2(124) Definitions
37.3(124) Requirements for the PMP
37.4(124) Access to database information
37.5(124) Fees
37.6(124) PMP information retained
37.7(124) Information errors
37.8(124) Dispenser and practitioner records
37.9(124) Prohibited acts

CHAPTERS 38 and 39
Reserved

CHAPTER 40
TECH-CHECK-TECH PROGRAMS

40.1(155A) Purpose and scope
40.2(155A) Definitions
40.3(155A) General requirements
40.4(155A) TCT program requirements

CHAPTERS 41 to 99
Reserved

CHAPTER 100
IOWA REAL-TIME ELECTRONIC PSEUDOEPHEDRINE
TRACKING SYSTEM

100.1(124) Purpose and scope
100.2(124) Definitions
100.3(124) Electronic pseudoephedrine tracking system (PTS)
100.4(124) Access to database information and confidentiality
100.5(124) Violations

CHAPTER 3
PHARMACY TECHNICIANS
[Prior to 9/4/02, see 657—Ch 22]

657—3.1(155A) Definitions. For the purposes of this chapter, the following definitions shall apply:

"Board" means the Iowa board of pharmacy.

"Cashier" means a person whose duties within the pharmacy are limited to accessing finished, packaged prescription orders and processing payments for and delivering such orders to the patient or the patient's representative.

"Certified pharmacy technician" or *"certified technician"* means an individual who holds a valid current national certification and who has registered with the board as a certified pharmacy technician.

"Delivery" means the transport and conveyance of a finished, securely packaged prescription order to the patient or the patient's caregiver.

"Nationally accredited program" means a program and examination for the certification of pharmacy technicians that is accredited by the NCCA.

"NCCA" means the National Commission for Certifying Agencies.

"Pharmacy support person" means a person, other than a licensed pharmacist, a registered pharmacist-intern, or a registered pharmacy technician, who may perform nontechnical duties assigned by the pharmacist under the pharmacist's responsibility and supervision pursuant to 657—Chapter 5.

"Pharmacy technician" or *"technician"* means a person who is employed in Iowa by a licensed pharmacy under the responsibility of an Iowa-licensed pharmacist to assist in the technical functions of the practice of pharmacy, as provided in rules 657—3.22(155A) through 657—3.24(155A), and includes a certified pharmacy technician and a pharmacy technician trainee.

"Pharmacy technician certification" or *"national certification"* means a certificate issued by a national pharmacy technician certification authority accredited by the NCCA attesting that the technician has successfully completed the requirements of the certification program. The term includes evidence of renewal of the national certification.

"Pharmacy technician trainee" or *"technician trainee"* means an individual who is in training to become a pharmacy technician and who is in the process of acquiring national certification as a pharmacy technician as provided in rule 657—3.5(155A).

"Pharmacy technician training" or *"technician training"* means education or experience acquired for the purpose of qualifying for and preparing for national certification.

"Supervising pharmacist" means an Iowa-licensed pharmacist who is on duty in a licensed pharmacy in Iowa and who is responsible for the actions of a pharmacy technician or other supportive personnel.

[**ARC 8673B**, IAB 4/7/10, effective 6/1/10; **ARC 9009B**, IAB 8/11/10, effective 7/23/10; **ARC 1785C**, IAB 12/10/14, effective 1/14/15]

657—3.2(155A) Purpose of registration. A registration program for pharmacy technicians is established for the purposes of determining the competency of a pharmacy technician or of an applicant for registration as a certified pharmacy technician or pharmacy technician trainee and for the purposes of identification, tracking, and disciplinary action for violations of federal or state pharmacy or drug laws or regulations.

[**ARC 9009B**, IAB 8/11/10, effective 7/23/10; **ARC 1785C**, IAB 12/10/14, effective 1/14/15]

657—3.3(155A) Registration required. Any person employed in Iowa as a pharmacy technician, except a pharmacist-intern whose pharmacist-intern registration is in good standing with the board, shall obtain and maintain during such employment a current registration as a certified pharmacy technician or pharmacy technician trainee pursuant to these rules. An individual accepting employment as a pharmacy technician in Iowa who fails to register as a certified pharmacy technician or pharmacy technician trainee as provided by these rules may be subject to disciplinary sanctions. A certified pharmacy technician accepting employment as a certified pharmacy technician in Iowa who fails to register as a certified pharmacy technician or who fails to maintain national certification may be subject to disciplinary sanctions.

3.3(1) *Licensed health care provider.* Except as provided in this rule, a licensed health care provider whose registration or license is in good standing with and not subject to current disciplinary sanctions or practice restrictions imposed by the licensee's professional licensing board and who assists in the technical functions of the practice of pharmacy shall be required to register as a certified pharmacy technician or pharmacy technician trainee pursuant to these rules.

3.3(2) *Original application required.* Any person not currently registered with the board as a pharmacy technician shall complete the appropriate application for registration within 30 days of accepting employment in an Iowa pharmacy as a pharmacy technician. Such application shall be received in the board office before the expiration of this 30-day period.

3.3(3) *Technician training.* A person who is enrolled in a college-based or American Society of Health-System Pharmacists (ASHP)-accredited technician training program shall obtain a pharmacy technician trainee registration prior to beginning on-site practical experience. A person who is employed in a pharmacy and who is receiving pharmacy technician training through work experience shall obtain a pharmacy technician trainee registration within 30 days of the commencement of pharmacy technician training.

3.3(4) *Registration number.* Each pharmacy technician registered with the board will be assigned a unique registration number.

[**ARC 9009B**, IAB 8/11/10, effective 7/23/10; **ARC 9407B**, IAB 3/9/11, effective 4/13/11; **ARC 1785C**, IAB 12/10/14, effective 1/14/15]

657—3.4 Reserved.

657—3.5(155A) Certification of pharmacy technicians. Except as provided in subrule 3.5(1), all pharmacy technicians shall be required to be nationally certified as provided by this rule. National certification acquired through successful completion of any NCCA-accredited pharmacy technician certification program and examination fulfills the requirement for national certification. National certification does not replace the need for licensed pharmacist control over the performance of delegated functions, nor does national certification exempt the pharmacy technician from registration pursuant to these rules. A certified pharmacy technician shall maintain the technician's national certification, in addition to the technician's Iowa registration, during any period of employment in an Iowa pharmacy as a certified pharmacy technician.

3.5(1) *Pharmacy technician trainee.* A person who is in the process of acquiring national certification as a pharmacy technician shall register with the board as a pharmacy technician trainee. The registration shall be issued for a period of one year and shall not be renewed.

3.5(2) *Certified pharmacy technician.* All applicants for a new pharmacy technician registration except as provided by subrule 3.5(1), and all applicants for renewal of a pharmacy technician registration, shall provide proof of current national pharmacy technician certification and shall complete the application for certified pharmacy technician registration.

[**ARC 8673B**, IAB 4/7/10, effective 6/1/10; **ARC 9009B**, IAB 8/11/10, effective 7/23/10; **ARC 9407B**, IAB 3/9/11, effective 4/13/11; **ARC 1785C**, IAB 12/10/14, effective 1/14/15]

657—3.6(155A) Extension of deadline for national certification. Rescinded **ARC 1785C**, IAB 12/10/14, effective 1/14/15.

657—3.7 Reserved.

657—3.8(155A) Application form.

3.8(1) *Required information.* The application for a certified pharmacy technician registration or pharmacy technician trainee registration shall include the following:

a. Information sufficient to identify the applicant including, but not limited to, name, address, date of birth, gender, and social security number;

b. Educational background;

c. Work experience;

d. Current place or places of employment;

e. Any other information deemed necessary by the board and as provided by this rule.

3.8(2) *Declaration of current impairment or limitations.* The applicant shall declare any current use of drugs, alcohol, or other chemical substances that in any way impairs or limits the applicant's ability to perform the duties of a pharmacy technician with reasonable skill and safety.

3.8(3) *History of felony or misdemeanor crimes.* The applicant shall declare any history of being charged, convicted, found guilty of, or entering a plea of guilty or no contest to a felony or misdemeanor crime (other than minor traffic violations with fines under $100).

3.8(4) *History of disciplinary actions.* The applicant shall declare any history of disciplinary actions or practice restrictions imposed by a state health care professional or technician licensure or registration authority.

3.8(5) *Additional information.* The following additional information shall be required from an applicant for the specified registration.

a. *Pharmacy technician trainee.* The applicant for pharmacy technician trainee registration shall identify the source of pharmacy technician training, the anticipated date of completion of training, and the anticipated date of national certification.

b. *Certified pharmacy technician.* The applicant for certified pharmacy technician registration shall provide proof of current national pharmacy technician certification. The applicant shall also identify all current pharmacy employers including pharmacy name, license number, address, and average hours worked per week.

c. *Licensed health care provider.* In addition to the additional information required by paragraph *"a"* or *"b"* as applicable, a licensed health care provider shall provide evidence that the licensee's professional license or registration is current and in good standing and is not subject to current disciplinary sanctions or practice restrictions imposed by the licensee's professional licensing authority.

3.8(6) *Sworn signature.* The applicant shall sign the application under penalty of perjury and shall submit the application to the board with the appropriate fees pursuant to rule 657—3.10(155A).

[**ARC 9009B**, IAB 8/11/10, effective 7/23/10; **ARC 1785C**, IAB 12/10/14, effective 1/14/15]

657—3.9(155A) Registration term and renewal. A pharmacy technician registration shall expire as provided in this rule for the specified registration. The board shall not require continuing education for renewal of a pharmacy technician registration.

3.9(1) *Certified pharmacy technician registration.* A certified pharmacy technician registration shall expire on the second last day of the birth month following initial registration, with the exception that a new certified pharmacy technician registration issued within the two months immediately preceding the applicant's birth month shall expire on the third last day of the birth month following initial registration.

3.9(2) *Pharmacy technician trainee registration.* A registration for a pharmacy technician who is in the process of acquiring national certification (technician trainee) shall expire on the last day of the registration month 12 months following the date of registration or 12 months following the date registration was required pursuant to subrule 3.3(3).

a. *National certification completed.* When the registered pharmacy technician trainee completes national certification, and no later than the date of expiration of the pharmacy technician trainee registration, the pharmacy technician trainee shall complete and submit an application for certified pharmacy technician registration. A successful application shall result in issuance of a new certified pharmacy technician registration as provided in subrule 3.9(1).

b. *Voluntary cancellation of registration.* A registered pharmacy technician trainee who fails to complete national certification prior to expiration of the pharmacy technician trainee registration shall notify the board that the pharmacy technician trainee registration should be canceled and that the individual has ceased practice as a pharmacy technician.

c. *Failure to notify the board.* If a pharmacy technician trainee fails to notify the board prior to the expiration date of the pharmacy technician trainee registration regarding the individual's intentions as provided in paragraph *"a"* or *"b,"* the pharmacy technician trainee registration shall be canceled and the individual shall cease practice as a pharmacy technician.

[**ARC 9009B**, IAB 8/11/10, effective 7/23/10; **ARC 1785C**, IAB 12/10/14, effective 1/14/15]

657—3.10(155A) Registration fee. The following fees for initial registration and registration renewal shall apply to the specified registration applications filed within the following time frames. The appropriate fee shall be submitted with the registration application in the form of a personal check, certified check or cashier's check, or a money order payable to the Iowa Board of Pharmacy.

3.10(1) *Certified pharmacy technician registration.* The fee for obtaining an initial certified pharmacy technician registration or for biennial renewal of a certified pharmacy technician registration shall be $40 plus applicable surcharge pursuant to rule 657—30.8(155A).

3.10(2) *Technician trainee registration.* The fee for a one-year pharmacy technician trainee registration shall be $20 plus applicable surcharge pursuant to rule 657—30.8(155A).

[**ARC 9009B**, IAB 8/11/10, effective 7/23/10; **ARC 0504C**, IAB 12/12/12, effective 1/16/13; **ARC 1785C**, IAB 12/10/14, effective 1/14/15]

657—3.11(155A) Late applications and fees.

3.11(1) *Initial registration.* An application for initial registration that is not received within the applicable period specified in subrule 3.3(2) or 3.3(3) shall be delinquent, and the applicant shall be assessed a late payment fee. The late payment fee shall be equal to the amount of the fee for initial registration. A delinquent initial registration shall include payment of the initial registration fee, applicable surcharge pursuant to rule 657—30.8(155A), and late payment fee.

3.11(2) *Registration renewal.* A technician registration that is not renewed before its expiration date shall be delinquent, and the registrant shall not continue employment as a pharmacy technician until the registration is reactivated. An individual who continues employment as a pharmacy technician without a current registration, in addition to the pharmacy and the pharmacist in charge that allow the individual to continue practice as a pharmacy technician, may be subject to disciplinary sanctions.

a. A person who is required to renew a registration pursuant to these rules and who fails to renew the registration before the first day of the month following expiration shall pay the renewal fee, a penalty fee equal to the amount of the renewal fee, plus the applicable surcharge pursuant to rule 657—30.8(155A).

b. A person who is required to renew a registration pursuant to these rules and who fails to renew the registration before the first day of the second month following expiration shall pay the renewal fee, a penalty fee equal to the amount of the renewal fee, the applicable surcharge pursuant to rule 657—30.8(155A), plus an additional penalty fee of $10 for each additional month, not to exceed three additional months, that the registration is delinquent. The maximum combined fee payment for reactivation of a delinquent registration shall not exceed an amount equal to twice the renewal fee plus $30 plus the applicable surcharge pursuant to rule 657—30.8(155A).

c. A late payment fee shall not be assessed on an expired registration if the person was not employed as a pharmacy technician during the period following expiration of the registration.

[**ARC 0504C**, IAB 12/12/12, effective 1/16/13]

657—3.12(155A) Registration certificates. The certificate of pharmacy technician registration issued by the board to a certified pharmacy technician or pharmacy technician trainee is the property of and shall be maintained by the registered pharmacy technician. The certificate or a copy of the certificate shall be maintained in each pharmacy where the pharmacy technician works. Each pharmacy utilizing pharmacy technicians shall be responsible for verifying that all pharmacy technicians working in the pharmacy are registered, that pharmacy technician registrations remain current and active, and that a certified pharmacy technician's national certification remains current and active.

[**ARC 9009B**, IAB 8/11/10, effective 7/23/10; **ARC 9407B**, IAB 3/9/11, effective 4/13/11; **ARC 1785C**, IAB 12/10/14, effective 1/14/15]

657—3.13(155A) Notifications to the board. A pharmacy technician shall report to the board within ten days a change of the technician's name, address, or pharmacy employment status.

[**ARC 9009B**, IAB 8/11/10, effective 7/23/10]

657—3.14 to **3.16** Reserved.

657—3.17(155A) Training and utilization of pharmacy technicians. All licensed pharmacies located in Iowa that utilize pharmacy technicians shall develop, implement, and periodically review written policies and procedures for the training and utilization of pharmacy technicians appropriate to the practice of pharmacy. Pharmacy policies shall specify the frequency of review. Pharmacy technician training shall be documented and maintained by the pharmacy for the duration of employment. Policies and procedures and documentation of pharmacy technician training shall be available for inspection and copying by the board or an agent of the board.
[**ARC 1785C**, IAB 12/10/14, effective 1/14/15]

657—3.18(147,155A) Identification of pharmacy technician.

3.18(1) *Identification badge.* A pharmacy technician shall wear a visible identification badge while on duty that clearly identifies the person as a pharmacy technician and that includes at least the technician's first name.

3.18(2) *Misrepresentation prohibited.* A pharmacy technician shall not represent himself or herself in any manner as a pharmacist or pharmacist-intern. A pharmacy technician shall not represent himself or herself in any manner as a certified pharmacy technician unless the technician has attained national pharmacy technician certification.
[**ARC 9009B**, IAB 8/11/10, effective 7/23/10]

657—3.19 Reserved.

657—3.20(155A) Responsibility of supervising pharmacist. The ultimate responsibility for the actions of a pharmacy technician shall remain with the supervising pharmacist.
[**ARC 9009B**, IAB 8/11/10, effective 7/23/10]

657—3.21(155A) Delegation of functions.

3.21(1) *Technical dispensing functions.* A pharmacist may delegate technical dispensing functions to an appropriately trained and registered pharmacy technician, but only if the pharmacist is on site and available to supervise the pharmacy technician when delegated functions are performed, except as provided in 657—subrule 6.7(2) or 657—subrule 7.6(2), as appropriate, or as provided for telepharmacy in 657—Chapter 9. Except as provided for an approved tech-check-tech program pursuant to 657—Chapter 40, the pharmacist shall provide and document the final verification for the accuracy, validity, completeness, and appropriateness of the patient's prescription or medication order prior to the delivery of the medication to the patient or the patient's representative. A pharmacy technician shall not delegate technical functions to a pharmacy support person.

3.21(2) *Nontechnical functions.* A pharmacist may delegate nontechnical functions to a pharmacy technician or a pharmacy support person only if the pharmacist is present to supervise the pharmacy technician or pharmacy support person when delegated nontechnical functions are performed, except as provided in 657—subrule 6.7(2) or 657—subrule 7.6(2), as appropriate, or as provided for telepharmacy in 657—Chapter 9.
[**ARC 8673B**, IAB 4/7/10, effective 6/1/10; **ARC 9783B**, IAB 10/5/11, effective 11/9/11]

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

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

a. Perform packaging, manipulative, or repetitive tasks relating to the processing of a prescription or medication order in a licensed pharmacy.

b. Accept prescription refill authorizations communicated to a pharmacy by a prescriber or by the prescriber's agent.

c. Contact prescribers to obtain prescription refill authorizations.

d. Process pertinent patient information, including information regarding allergies and disease state.

e. Enter prescription and patient information into the pharmacy computer system.

f. Inspect drug supplies provided and controlled by an Iowa-licensed pharmacy but located or maintained outside the pharmacy department, including but not limited to drug supplies maintained in an ambulance or other emergency medical service vehicle, a long-term care facility, a hospital patient care unit, or a hospice facility.

g. Affix required prescription labels upon any container of drugs sold or dispensed pursuant to the prescription of an authorized prescriber.

h. Prepackage or label multi-dose and single-dose packages of drugs as provided in 657—Chapter 22.

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

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

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

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

a. Perform packaging, manipulative, or repetitive tasks relating to the processing of a prescription or medication order in a licensed pharmacy.

b. Accept prescription refill authorizations communicated to a pharmacy by a prescriber or by the prescriber's agent.

c. Contact prescribers to obtain prescription refill authorizations.

d. Process pertinent patient information, including information regarding allergies and disease state.

e. Enter prescription and patient information into the pharmacy computer system.

f. Affix required prescription labels upon any container of drugs sold or dispensed pursuant to the prescription of an authorized prescriber.

g. Prepackage or label multi-dose and single-dose packages of drugs as provided in 657—Chapter 22.

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

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

[**ARC 8673B**, IAB 4/7/10, effective 6/1/10; **ARC 9009B**, IAB 8/11/10, effective 7/23/10; **ARC 9502B**, IAB 5/18/11, effective 6/22/11; **ARC 1785C**, IAB 12/10/14, effective 1/14/15]

657—3.23(155A) Tasks a pharmacy technician shall not perform. A pharmacy technician shall not be authorized to perform any of the following judgmental tasks:

1. Except for a certified pharmacy technician participating in an approved tech-check-tech program pursuant to 657—Chapter 40, provide the final verification for the accuracy, validity, completeness, or appropriateness of a filled prescription or medication order;

2. Conduct prospective drug use review or evaluate a patient's medication record for purposes identified in rule 657—8.21(155A);

3. Provide patient counseling, consultation, or patient-specific drug information, tender an offer of patient counseling on behalf of a pharmacist, or accept a refusal of patient counseling from a patient or patient's agent;

4. Make decisions that require a pharmacist's professional judgment, such as interpreting prescription drug orders or applying information;

5. Transfer a prescription drug order to another pharmacy or receive the transfer of a prescription drug order from another pharmacy;

6. Delegate technical functions to a pharmacy support person.

[**ARC 8673B**, IAB 4/7/10, effective 6/1/10; **ARC 9009B**, IAB 8/11/10, effective 7/23/10; **ARC 9783B**, IAB 10/5/11, effective 11/9/11]

657—3.24(155A) New prescription drug orders or medication orders. At the discretion of the supervising pharmacist, a certified pharmacy technician may be allowed to accept new prescription drug orders or medication orders communicated to the pharmacy by a prescriber or by the prescriber's agent if the certified pharmacy technician has received appropriate training pursuant to the pharmacy's policies and procedures. The supervising pharmacist shall remain responsible for ensuring the accuracy, validity, and completeness of the information received by the certified pharmacy technician. The pharmacist shall contact the prescriber to resolve any questions, inconsistencies, or other issues relating to the information received by the certified pharmacy technician that involve a pharmacist's professional judgment.

[**ARC 9009B**, IAB 8/11/10, effective 7/23/10]

657—3.25(155A) Delegation of nontechnical functions. Rescinded IAB 4/7/10, effective 6/1/10.

657—3.26 and **3.27** Reserved.

657—3.28(147,155A) Unethical conduct or practice. Violation by a pharmacy technician of any of the provisions of this rule shall constitute unethical conduct or practice and may be grounds for disciplinary action as provided in rule 657—3.30(155A).

3.28(1) *Misrepresentative deeds.* A pharmacy technician shall not make any statement tending to deceive, misrepresent, or mislead anyone, or be a party to or an accessory to any fraudulent or deceitful practice or transaction in pharmacy or in the operation or conduct of a pharmacy.

3.28(2) *Confidentiality.* In the absence of express written authorization from the patient or written order or direction of a court, except where the best interests of the patient require, a pharmacy technician shall not divulge or reveal to any person other than the patient or the patient's authorized representative, the prescriber or other licensed practitioner then caring for the patient, a licensed pharmacist, a person duly authorized by law to receive such information, or as otherwise provided in rule 657—8.16(124,155A), any of the following:

a. A patient's name, address, social security number, or any information that could be used to identify a patient;

b. The contents of any prescription drug order or medication order or the therapeutic effect thereof, or the nature of professional pharmaceutical services rendered to a patient;

c. The nature, extent, or degree of illness suffered by any patient; or

d. Any medical information furnished by the prescriber or the patient.

3.28(3) *Discrimination.* It is unethical to unlawfully discriminate between patients or groups of patients for reasons of religion, race, creed, color, gender, gender identity, sexual orientation, marital status, age, national origin, physical or mental disability, or disease state when providing pharmaceutical services.

3.28(4) *Unethical conduct or behavior.* A pharmacy technician shall not exhibit unethical behavior in connection with the technician's pharmacy employment. Unethical behavior shall include, but is not limited to, the following acts: verbal or physical abuse, coercion, intimidation, harassment, sexual advances, threats, degradation of character, indecent or obscene conduct, and theft.

[**ARC 9009B**, IAB 8/11/10, effective 7/23/10]

657—3.29(155A) Denial of registration. The executive director or designee may deny an application for registration as a certified pharmacy technician or pharmacy technician trainee for any violation of the laws of this state, another state, or the United States relating to prescription drugs, controlled substances, or nonprescription drugs or for any violation of Iowa Code chapter 124, 124A, 124B, 126, 147, 155A, or 205 or any rule of the board.

An individual whose application for registration as a certified pharmacy technician or pharmacy technician trainee is denied pursuant to this rule may, within 30 days after issuance of the notice of denial, appeal to the board for reconsideration of the application.
[**ARC 9009B**, IAB 8/11/10, effective 7/23/10; **ARC 1785C**, IAB 12/10/14, effective 1/14/15]

657—3.30(155A) Discipline of pharmacy technicians.

3.30(1) *Violations.* The board may impose discipline for any violation of the laws of this state, another state, or the United States relating to prescription drugs, controlled substances, or nonprescription drugs, or for any violation of Iowa Code chapter 124, 124A, 124B, 126, 147, 155A, or 205 or any rule of the board.

3.30(2) *Sanctions.* The board may impose the following disciplinary sanctions:

a. Revocation of a certified pharmacy technician or pharmacy technician trainee registration.

b. Suspension of a certified pharmacy technician or pharmacy technician trainee registration until further order of the board or for a specified period.

c. Nonrenewal of a certified pharmacy technician registration.

d. Prohibition, permanently, until further order of the board, or for a specified period, from engaging in specified procedures, methods, or acts.

e. Probation.

f. The ordering of a physical or mental examination.

g. The imposition of civil penalties not to exceed $25,000.

h. Issuance of a citation and warning.

i. Such other sanctions allowed by law as may be appropriate.
[**ARC 9009B**, IAB 8/11/10, effective 7/23/10; **ARC 1785C**, IAB 12/10/14, effective 1/14/15]

These rules are intended to implement Iowa Code sections 147.72, 147.107, 155A.6A, 155A.23, 155A.33, and 155A.39.

[Filed 2/27/97, Notice 1/1/97—published 3/26/97, effective 4/30/97]
[Filed 4/24/98, Notice 3/11/98—published 5/20/98, effective 6/24/98]
[Filed 2/22/99, Notice 10/21/98—published 3/10/99, effective 4/14/99]
[Filed 9/8/99, Notice 6/2/99—published 10/6/99, effective 11/10/99]
[Filed 8/14/02, Notice 6/12/02—published 9/4/02, effective 10/9/02]
[Filed 3/11/04, Notice 8/6/03—published 3/31/04, effective 5/5/04]
[Filed emergency 7/16/04 after Notice 6/9/04—published 8/4/04, effective 7/16/04]
[Filed 10/22/04, Notice 3/31/04—published 11/10/04, effective 12/15/04]
[Filed emergency 6/30/05 after Notice 5/11/05—published 7/20/05, effective 7/1/05]
[Filed 3/22/06, Notice 1/18/06—published 4/12/06, effective 5/17/06]
[Filed 5/17/06, Notice 4/12/06—published 6/7/06, effective 7/12/06]
[Filed 2/7/07, Notice 10/25/06—published 2/28/07, effective 4/4/07]
[Filed emergency 11/13/07 after Notice 8/29/07—published 12/5/07, effective 11/13/07]
[Filed 3/5/08, Notice 12/19/07—published 3/26/08, effective 4/30/08][1]
[Filed emergency 6/9/08—published 7/2/08, effective 7/9/08]
[Filed ARC 8673B (Notice ARC 8380B, IAB 12/16/09), IAB 4/7/10, effective 6/1/10]
[Filed Emergency ARC 9009B, IAB 8/11/10, effective 7/23/10]
[Editorial change: IAC Supplement 10/6/10]
[Filed ARC 9407B (Notice ARC 9193B, IAB 11/3/10), IAB 3/9/11, effective 4/13/11]
[Filed ARC 9502B (Notice ARC 9297B, IAB 12/29/10), IAB 5/18/11, effective 6/22/11]
[Filed ARC 9783B (Notice ARC 9557B, IAB 6/15/11), IAB 10/5/11, effective 11/9/11]
[Filed ARC 0504C (Notice ARC 0351C, IAB 10/3/12), IAB 12/12/12, effective 1/16/13]
[Filed ARC 1785C (Notice ARC 1653C, IAB 10/1/14), IAB 12/10/14, effective 1/14/15]

[1] April 30, 2008, effective date delayed 70 days by the Administrative Rules Review Committee at its meeting held April 4, 2008.

CHAPTER 4
PHARMACIST-INTERNS
[Prior to 2/10/88, see Pharmacy Examiners[620] Ch 3]

657—4.1(155A) Definitions.

"Board" means the Iowa board of pharmacy.

"Pharmacist-intern" or *"intern"* means a person enrolled in a college of pharmacy or actively pursuing a pharmacy degree, or as otherwise provided by the board, who is registered with the board for the purpose of obtaining instruction in the practice of pharmacy from a preceptor pursuant to Iowa Code section 155A.6. "Pharmacist-intern" includes a graduate of an approved college of pharmacy, or a foreign graduate who has established educational equivalency pursuant to the requirements of rule 657—4.7(155A), who is registered with the board for the purpose of obtaining practical experience as a requirement for licensure as a pharmacist in Iowa. "Pharmacist-intern" may include an individual participating in a residency or fellowship program in Iowa, whether or not the individual is licensed as a pharmacist in another state.

"Pharmacist preceptor" or *"preceptor"* means a pharmacist licensed to practice pharmacy whose license is current and in good standing. Preceptors shall meet the conditions and requirements of rule 657—4.9(155A). No pharmacist shall serve as a preceptor while the pharmacist's license to practice pharmacy is the subject of disciplinary sanction by a pharmacist licensing authority.

[**ARC 9784B**, IAB 10/5/11, effective 11/9/11; **ARC 1406C**, IAB 4/2/14, effective 5/7/14]

657—4.2(155A) Goal and objectives of internship.

4.2(1) *Goal.* The goal of internship is for the pharmacist-intern, over a period of time, to attain and build upon the knowledge, skills, responsibilities, and ability to safely, efficiently, and effectively practice pharmacy under the laws and rules of the state of Iowa.

4.2(2) *Objectives.* The objectives of internship are as follows:

a. Managing drug therapy to optimize patient outcomes. The pharmacist-intern shall evaluate the patient and patient information to determine the presence of a disease or medical condition, to determine the need for treatment or referral, and to identify patient-specific factors that affect health, pharmacotherapy, or disease management; ensure the appropriateness of the patient's specific pharmacotherapeutic agents, dosing regimens, dosage forms, routes of administration, and delivery systems; and monitor the patient and patient information and manage the drug regimen to promote health and ensure safe and effective pharmacotherapy.

b. Ensuring the safe and accurate preparation and dispensing of medications. The pharmacist-intern shall perform calculations required to compound, dispense, and administer medication; select and dispense medications; and prepare and compound extemporaneous preparations and sterile products.

c. Providing drug information and promoting public health. The pharmacist-intern shall access, evaluate, and apply information to promote optimal health care; educate patients and health care professionals regarding prescription medications, nonprescription medications, and medical devices; and educate patients and the public regarding wellness, disease states, and medical conditions.

d. Adhering to professional and ethical standards. The pharmacist-intern shall comply with professional, legal, moral, and ethical standards relating to the practice of pharmacy and the operation of the pharmacy.

e. Understanding the management of pharmacy operations. The pharmacist-intern shall develop a general understanding of the business procedures of a pharmacy and develop knowledge concerning the employment and supervision of pharmacy employees.

657—4.3(155A) 1500-hour requirements. Internship credit may be obtained only after internship registration with the board and commencement of the first professional year in a college of pharmacy. Internship shall consist of a minimum of 1500 hours, all of which may be a college-based clinical program approved or accepted by the board. Programs shall be structured to provide experience in community, institutional, and clinical pharmacy practices. A pharmacist-intern may acquire additional

hours under the supervision of one or more preceptors in a traditional licensed general or hospital pharmacy, at a rate of no more than 48 hours per week, where the goal and objectives of internship in rule 657—4.2(155A) apply. Credit toward any additional hours will be allowed, at a rate not to exceed 10 hours per week, for an internship served concurrent with academic training and outside a college-based clinical program. "Concurrent time" means internship experience acquired while the person is a full-time student carrying, in a given school term, at least 75 percent of the average number of credit hours per term needed to graduate and receive an entry-level degree in pharmacy. Recognized academic holiday periods, such as spring break and winter break, shall not be considered "concurrent time." The competencies in subrule 4.2(2) and the concurrent time limitations of this rule shall not apply to college-based clinical programs.
[**ARC 1406C**, IAB 4/2/14, effective 5/7/14]

657—4.4(155A) Iowa colleges of pharmacy clinical internship programs. The board shall periodically review the clinical component of internship programs of the colleges of pharmacy located in Iowa. The board reserves the right to set conditions relating to the approval of such programs.

657—4.5(155A) Out-of-state internship programs. Candidates enrolled in out-of-state colleges of pharmacy who complete the internship requirements of that state shall be deemed to have satisfied Iowa's internship requirements. Candidates shall submit documentation from the out-of-state internship program certifying completion of that state's requirements. Candidates enrolled in colleges of pharmacy located in states with no formal internship training program shall submit documentation from that state's board of pharmacy or college of pharmacy certifying that the candidate has completed all prelicensure training requirements.

657—4.6(155A) Registration, reporting, and authorized functions. Every person shall register with the board before beginning the person's internship experience, whether or not for the purpose of fulfilling the requirements of rule 657—4.3(155A). Registration is required of all students enrolled in Iowa colleges of pharmacy upon commencement of the first professional year in the college of pharmacy. Colleges of pharmacy located in Iowa shall annually certify to the board the names of students who are enrolled in the first professional year in the college of pharmacy. Colleges of pharmacy located in Iowa shall, within two weeks of any change, certify to the board the names of students who have withdrawn from the college of pharmacy.

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

4.6(2) *Supervision and authorized functions.* A licensed pharmacist shall be on duty in the pharmacy and shall be responsible for the actions of a pharmacist-intern during all periods of internship training. At the discretion of the supervising pharmacist, the following judgmental functions, usually restricted to a pharmacist, may be delegated to pharmacist-interns registered by the board:

a. Verification of the accuracy, validity, and appropriateness of the filled prescription or medication order;

b. Review and assessment of patient records for purposes identified in rule 657—8.21(155A);

c. Patient counseling;

d. Administration of vaccines pursuant to rule 657—8.33(155A).

4.6(3) *Term of registration.* Registration shall remain in effect as long as the board is satisfied that the intern is pursuing a degree in pharmacy in good faith and with reasonable diligence. A pharmacist-intern may request that the intern's registration be extended beyond the automatic termination of the registration pursuant to the procedures and requirements of 657—Chapter 34. Except as provided by the definition

of pharmacist-intern in rule 657—4.1(155A), registration shall automatically terminate upon the earliest of any of the following:

a. Licensure to practice pharmacy in any state;

b. Lapse in the pursuit of a degree in pharmacy; or

c. One year following graduation from the college of pharmacy.

4.6(4) *Identification, reports, and notifications.* Credit for internship time will not be granted unless registration and other required records or affidavits are completed.

a. The pharmacist-intern shall be so designated in all relationships with the public and health professionals. While on duty in the pharmacy, the intern shall wear visible to the public a name badge including the designation "pharmacist-intern" or "pharmacy student."

b. Registered interns shall notify the board office within ten days of a change of name or address.

c. Notarized affidavits of experience in non-college-sponsored programs shall be filed with the board office after the successful completion of the internship. These affidavits shall certify only the number of hours and dates of training obtained outside a college-based clinical program as provided in rule 657—4.3(155A). An individual registered as a pharmacist-intern while participating in an Iowa residency or fellowship program shall not be required to file affidavits of experience.

4.6(5) *No credit prior to registration.* Credit will not be given for internship experience obtained prior to the individual's registration as a pharmacist-intern. Credit for Iowa college-based clinical programs will not be granted unless registration is issued before the student begins the program.

4.6(6) *Nontraditional internship.* Internship training at any site which is not licensed as a general or hospital pharmacy is considered nontraditional internship.

a. *Application.* Prior to beginning a period of nontraditional internship, the intern shall submit a written application, on forms provided by the board, for approval of the objectives of the nontraditional internship. The application shall identify objectives consistent with the unique learning experiences of the intern and consistent with the goal and objectives of internship in rule 657—4.2(155A).

b. *Preceptor.* A preceptor supervising a pharmacist-intern in a nontraditional internship shall be a currently licensed pharmacist in the state where the internship is served, and the requirements of rule 657—4.9(155A) shall apply to all preceptors.

c. *Certification, not credit.* Hours obtained in nontraditional internship shall not be credited toward the total 1500 hours required pursuant to rule 657—4.3(155A) prior to licensure to practice pharmacy in Iowa. The board may, however, certify hours obtained in one or more approved nontraditional internships in recognition of the pharmacist-intern's training outside the scope of traditional pharmacy practice. Certification shall not be granted for experience obtained in a nontraditional internship unless the board, prior to the intern's beginning the period of internship, approved the objectives of the internship.

[**ARC 9784B**, IAB 10/5/11, effective 11/9/11; **ARC 1406C**, IAB 4/2/14, effective 5/7/14; **ARC 1786C**, IAB 12/10/14, effective 1/14/15]

657—4.7(155A) Foreign pharmacy graduates. Foreign pharmacy graduates who are candidates for licensure in Iowa will be required to obtain a minimum of 1500 hours of internship in a licensed pharmacy or other board-approved location.

4.7(1) *Registration.* Candidates shall register with the board as provided in rule 657—4.6(155A). Internship credit will not be granted until the candidate has been issued an intern registration. Applications for registration shall be accompanied by certification from the Foreign Pharmacy Graduate Examination Committee (FPGEC) as provided in 657—subrule 2.10(1).

4.7(2) *Certification of hours.* Following completion of any period of internship, internship hours shall be certified to the board by submission of notarized affidavits of experience as provided in paragraph 4.6(4)*"c."*

4.7(3) *Credit for foreign pharmacy practice.* The board may grant credit to a foreign pharmacy graduate, based on the candidate's experience in the practice of pharmacy, for all or any portion of the required 1500 hours of internship training. The candidate shall provide detailed information regarding the candidate's experience in the practice of pharmacy. The board shall determine, on a case-by-case

basis, whether and to what extent the candidate's experience meets the goals and objectives established in rule 657—4.2(155A).
[**ARC 1406C**, IAB 4/2/14, effective 5/7/14]

657—4.8(155A) Fees. The fee for registration as a pharmacist-intern is $30, plus applicable surcharge pursuant to 657—30.8(155A), which shall be payable with the application.

657—4.9(155A) Preceptor requirements.

4.9(1) *Licensed pharmacist.* A preceptor shall be a licensed pharmacist in good standing in the state where the internship is to be served pursuant to the definition of pharmacist preceptor in rule 657—4.1(155A).

4.9(2) *Affidavits.* A preceptor shall be responsible for completing the affidavit certifying the number of hours and the dates of each internship training period under the supervision of the preceptor for any period of internship completed outside a college-based clinical program.

4.9(3) *Number of interns.* A preceptor may supervise no more than two pharmacist-interns concurrently.

4.9(4) *Responsibility.* A preceptor shall be responsible for all functions performed by a pharmacist-intern.
[**ARC 1406C**, IAB 4/2/14, effective 5/7/14]

657—4.10(155A) Denial of pharmacist-intern registration. The board may deny an application for registration as a pharmacist-intern for any violation of the laws of this state, another state, or the United States relating to prescription drugs, controlled substances, or nonprescription drugs, or for any violation of Iowa Code chapter 124, 124A, 124B, 126, 147, 155A or 205, or any rule of the board.

657—4.11(155A) Discipline of pharmacist-interns.

4.11(1) *Grounds for discipline.* The board may impose discipline for any violation of the laws of this state, another state, or the United States relating to prescription drugs, controlled substances, or nonprescription drugs or for any violation of Iowa Code chapter 124, 124A, 124B, 126, 147, 155A, or 205, or any rule of the board.

4.11(2) *Sanctions.* The board may impose the following disciplinary sanctions:

a. Revocation of a pharmacist-intern registration.

b. Suspension of a pharmacist-intern registration until further order of the board or for a specified period.

c. Prohibit permanently, until further order of the board, or for a specified period, the engaging in specified procedures, methods, or acts.

d. Such other sanctions allowed by law as may be appropriate.

These rules are intended to implement Iowa Code section 155A.6.

[Filed 7/19/67; amended 2/13/73]
[Filed 11/24/76, Notice 10/20/76—published 12/15/76, effective 1/19/77]
[Filed 11/9/77, Notice 10/5/77—published 11/30/77, effective 1/4/78]
[Filed 10/20/78, Notice 8/9/78—published 11/15/78, effective 1/9/79]
[Filed 8/28/79, Notice 5/30/79—published 9/19/79, effective 10/24/79]
[Filed 9/10/82, Notice 6/9/82—published 9/29/82, effective 11/8/82]
[Filed 12/22/87, Notice 11/4/87—published 1/13/88, effective 2/17/88]
[Filed emergency 1/21/88—published 2/10/88, effective 1/22/88]
[Filed 11/17/88, Notice 8/24/88—published 12/14/88, effective 1/18/89]
[Filed emergency 5/16/89—published 6/14/89, effective 5/17/89]
[Filed 8/31/90, Notice 6/13/90—published 9/19/90, effective 10/24/90]
[Filed 4/26/91, Notice 2/20/91—published 5/15/91, effective 6/19/91]
[Filed 12/10/96, Notice 8/28/96—published 1/1/97, effective 2/5/97]
[Filed 2/27/97, Notice 1/1/97—published 3/26/97, effective 4/30/97]
[Filed 4/22/99, Notice 3/10/99—published 5/19/99, effective 6/23/99]

[Filed 9/8/99, Notice 6/2/99—published 10/6/99, effective 11/10/99]
[Filed 2/18/00, Notice 12/15/99—published 3/22/00, effective 4/26/00]
[Filed 2/7/01, Notice 10/18/00—published 3/7/01, effective 4/11/01]
[Filed 8/14/02, Notice 6/12/02—published 9/4/02, effective 10/9/02]
[Filed 12/22/04, Notice 11/10/04—published 1/19/05, effective 2/23/05]
[Filed 3/22/06, Notice 1/18/06—published 4/12/06, effective 5/17/06]
[Filed ARC 9784B (Notice ARC 9555B, IAB 6/15/11), IAB 10/5/11, effective 11/9/11]
[Filed ARC 1406C (Notice ARC 1237C, IAB 12/11/13), IAB 4/2/14, effective 5/7/14]
[Filed ARC 1786C (Notice ARC 1652C, IAB 10/1/14), IAB 12/10/14, effective 1/14/15]

CHAPTER 8
UNIVERSAL PRACTICE STANDARDS

[Prior to 2/10/88, see Pharmacy Examiners[620] Ch 6]

657—8.1(155A) Purpose and scope. The requirements of these rules apply to all Iowa-licensed pharmacists and to all pharmacies providing the services addressed in this chapter to patients in Iowa and are in addition to rules of the board relating to specific types of pharmacy licenses issued by the board.

657—8.2(155A) Pharmaceutical care. Pharmaceutical care is a comprehensive, patient-centered, outcomes-oriented pharmacy practice in which the pharmacist accepts responsibility for assisting the prescriber and the patient in optimizing the patient's drug therapy plan and works to promote health, to prevent disease, and to optimize drug therapy. Pharmaceutical care does not include the prescribing of drugs without the consent of the prescribing practitioner.

8.2(1) *Drug therapy problems.* In providing pharmaceutical care, the pharmacist shall strive to identify, resolve, and prevent drug therapy problems.

8.2(2) *Drug therapy plan.* In providing pharmaceutical care, the pharmacist shall access and evaluate patient-specific information, identify drug therapy problems, and utilize that information in a documented plan of therapy that assists the patient or the patient's caregiver in achieving optimal drug therapy. In concert with the patient, the patient's prescribing practitioner, and the patient's other health care providers, the pharmacist shall assess, monitor, and suggest modifications of the plan as appropriate.

8.2(3) *Eligibility.* Any Iowa-licensed pharmacist may practice pharmaceutical care.

657—8.3(155A) Responsibility.

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

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

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

[**ARC 8673B**, IAB 4/7/10, effective 6/1/10; **ARC 1576C**, IAB 8/20/14, effective 9/24/14]

657—8.4(155A) Pharmacist identification and staff logs.

8.4(1) *Display of pharmacist license.* During any period the pharmacist is working in a pharmacy, each pharmacist shall display, in a position visible to the public, an original license to practice pharmacy. A current license renewal certificate, which may be a photocopy of an original renewal certificate, shall be displayed with the original license.

8.4(2) *Identification codes.* A permanent log of the initials or identification codes identifying by name each dispensing pharmacist, pharmacist-intern, pharmacy technician, and pharmacy support person shall be maintained for a minimum of two years and shall be available for inspection and copying by the board or its representative. The initials or identification code shall be unique to the individual to ensure that each pharmacist, pharmacist-intern, pharmacy technician, and pharmacy support person can be identified.

8.4(3) *Temporary or intermittent pharmacy staff.* The pharmacy shall maintain a log of all pharmacists, pharmacist-interns, pharmacy technicians, and pharmacy support persons who have worked at that pharmacy and who are not regularly staffed at that pharmacy. Such log shall include the dates and shifts worked by each pharmacist, pharmacist-intern, pharmacy technician, and pharmacy

support person and shall be available for inspection and copying by the board or its representative for a minimum of two years following the date of the entry.

8.4(4) *Identification badge.* A pharmacist shall wear a visible identification badge while on duty that clearly identifies the person as a pharmacist and includes at least the pharmacist's first name.
[**ARC 8673B**, IAB 4/7/10, effective 6/1/10; **ARC 9409B**, IAB 3/9/11, effective 4/13/11]

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

8.5(1) *Refrigeration.* The pharmacy shall maintain one or more refrigeration units. The temperature of the refrigerator shall be maintained within a range compatible with the proper storage of drugs requiring refrigeration, and a thermometer shall be maintained in the refrigerator to verify the temperature.

8.5(2) *Sink.* The pharmacy shall have a sink with hot and cold running water located within the pharmacy department and available to all pharmacy personnel; the sink shall be maintained in a sanitary condition.

8.5(3) *Secure barrier.* A pharmacy department shall be closed and secured in the absence of the pharmacist except as provided in rule 657—6.7(124,155A) or 657—7.6(124,155A). To ensure that secure closure, the pharmacy department shall be surrounded by a physical barrier capable of being securely locked to prevent entry when the department is closed. A secure barrier may be constructed of other than a solid material with a continuous surface if the openings in the material are not large enough to permit removal of items from the pharmacy department by any means. Any material used in the construction of the barrier shall be of sufficient strength and thickness that it cannot be readily or easily removed, penetrated, or bent. The plans and specifications of the barrier shall be submitted to the board for approval at least 30 days prior to the start of construction. The pharmacy may be subject to inspection as provided in subrule 8.5(4).

8.5(4) *Remodel or relocation—inspection.* A pharmacy planning to remodel or relocate a licensed pharmacy department on or within the premises currently occupied by the pharmacy department, or a pharmacy intending to remodel or install a sterile compounding facility or equipment, shall provide written notification to the board at least 30 days prior to commencement of the remodel, pharmacy relocation, or sterile compounding installation. The board may require on-site inspection of the facility, equipment, or pharmacy department prior to or during the pharmacy's remodel, relocation, or opening. The board may also require on-site inspection of a temporary pharmacy location intended to be utilized during the remodel, construction, or relocation of the pharmacy department.

8.5(5) *Orderly and clean.* The pharmacy shall be arranged in an orderly fashion and kept clean. All required equipment shall be in good operating condition and maintained in a sanitary manner. Animals shall not be allowed within a licensed pharmacy unless that pharmacy is exclusively providing services for the treatment of animals or unless the animal is a service dog or assistive animal as defined in Iowa Code subsection 216C.11(1).

8.5(6) *Light, ventilation, temperature, and humidity.* The pharmacy shall be properly lighted and ventilated. The temperature and humidity of the pharmacy shall be maintained within a range compatible with the proper storage of drugs.

8.5(7) *Other equipment.* The pharmacist in charge shall ensure the availability of any other equipment necessary for the particular practice of pharmacy and to meet the needs of the patients served by the pharmacy.

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

the accuracy of the device and maintain a dated record identifying the individual who performed the quarterly verification.
[**ARC 8671B**, IAB 4/7/10, effective 5/12/10; **ARC 0503C**, IAB 12/12/12, effective 1/16/13]

657—8.6(155A) Health of personnel. Only personnel authorized by the responsible pharmacist shall be in the immediate vicinity of the drug dispensing, preparation, compounding, or storage areas. Any person shown, either by medical examination or pharmacist determination, to have an apparent illness or open lesions that may adversely affect the quality or safety of a drug product or another individual shall be excluded from direct contact with components, bulk drug substances, drug product containers, closures, in-process materials, drug products, and patients until the condition is corrected or determined by competent medical personnel not to jeopardize the quality or safety of drug products or patients. All personnel who normally assist the pharmacist shall be instructed to report to the pharmacist any health conditions that may have an adverse effect on drug products or may pose a health or safety risk to others.

657—8.7(155A) Procurement, storage, and recall of drugs and devices.

8.7(1) *Source.* Procurement of prescription drugs and devices shall be from a drug wholesaler licensed by the board to distribute to Iowa pharmacies or, on a limited basis, from another licensed pharmacy or licensed practitioner located in the United States.

8.7(2) *Sufficient stock.* A pharmacy shall maintain sufficient stock of drugs and devices to fulfill the foreseeable needs of the patients served by the pharmacy.

8.7(3) *Manner of storage.* Drugs and devices shall be stored in a manner to protect their identity and integrity.

8.7(4) *Storage temperatures.* All drugs and devices shall be stored at the proper temperature, as defined by the following terms:

a. *"Controlled room temperature"* means temperature maintained thermostatically between 15 degrees and 30 degrees Celsius (59 degrees and 86 degrees Fahrenheit);

b. *"Cool"* means temperature between 8 degrees and 15 degrees Celsius (46 degrees and 59 degrees Fahrenheit). Drugs and devices may be stored in a refrigerator unless otherwise specified on the labeling;

c. *"Refrigerate"* means temperature maintained thermostatically between 2 degrees and 8 degrees Celsius (36 degrees and 46 degrees Fahrenheit); and

d. *"Freeze"* means temperature maintained thermostatically between -20 degrees and -10 degrees Celsius (-4 degrees and 14 degrees Fahrenheit).

8.7(5) *Product recall.* There shall be a system for removing from use, including unit dose, any drugs and devices subjected to a product recall.

657—8.8(124,155A) Out-of-date drugs or devices. Any drug or device bearing an expiration date shall not be dispensed for use beyond the expiration date of the drug or device. Outdated drugs or devices shall be removed from dispensing stock and shall be quarantined until such drugs or devices are properly disposed of.

657—8.9(124,155A) Records. Every inventory or other record required to be maintained by a pharmacy pursuant to board rules or Iowa Code chapters 124 and 155A shall be maintained and be available for inspection and copying by the board or its representative for at least two years from the date of such inventory or record unless a longer retention period is specified for the particular record or inventory. Original hard-copy prescription and other pharmacy records more than 12 months old may be maintained in a secure storage area outside the licensed pharmacy department unless such remote storage is prohibited under federal law. A remote storage area shall be located within the same physical structure containing the licensed pharmacy department. The following records shall be maintained for at least two years.

8.9(1) *Drug supplier invoices.* All pharmacies shall maintain supplier invoices of prescription drugs and controlled substances upon which the actual date of receipt of the controlled substances by the pharmacist or other responsible individual is clearly recorded.

8.9(2) *Drug supplier credits.* All pharmacies shall maintain supplier credit memos for controlled substances and prescription drugs.
[**ARC 8539B**, IAB 2/24/10, effective 4/1/10]

657—8.10 Reserved.

657—8.11(147,155A) Unethical conduct or practice. The provisions of this rule apply to licensed pharmacies, licensed pharmacists, registered pharmacy technicians, registered pharmacy support persons, and registered pharmacist-interns.

8.11(1) *Misrepresentative deeds.* A pharmacist, technician, support person, or pharmacist-intern shall not make any statement intended to deceive, misrepresent or mislead anyone, or be a party to or an accessory to any fraudulent or deceitful practice or transaction in pharmacy or in the operation or conduct of a pharmacy.

8.11(2) *Undue influence.*

a. A pharmacist shall not accept professional employment or share or receive compensation in any form arising out of, or incidental to, the pharmacist's professional activities from a prescriber of prescription drugs or any other person or corporation in which one or more such prescribers have a proprietary or beneficial interest sufficient to permit them to directly or indirectly exercise supervision or control over the pharmacist in the pharmacist's professional responsibilities and duties or over the pharmacy wherein the pharmacist practices.

b. A prescriber may employ a pharmacist to provide nondispensing, drug information, or other cognitive services.

8.11(3) *Lease agreements.* A pharmacist shall not lease space for a pharmacy under any of the following conditions:

a. From a prescriber of prescription drugs or a group, corporation, association, or organization of such prescribers on a percentage of income basis;

b. From a group, corporation, association, or organization in which prescribers have majority control or have directly or indirectly a majority beneficial or proprietary interest on a percentage of income basis; or

c. If the rent is not reasonable according to commonly accepted standards of the community in which the pharmacy will be located.

8.11(4) *Nonconformance with law.* A pharmacist, technician, support person, or pharmacist-intern shall not knowingly serve in a pharmacy which is not operated in conformance with law, or which engages in any practice which if engaged in by a pharmacist would be unethical conduct.

8.11(5) *Freedom of choice/solicitation/kickbacks/fee-splitting and imprinted prescription blanks or forms.* A pharmacist or pharmacy shall not enter into any agreement which negates a patient's freedom of choice of pharmacy services. A purchasing pharmacist or pharmacy shall not engage in any activity or include in any agreement with a selling pharmacist or pharmacy any provision that would prevent or prohibit the prior notifications required in subrule 8.35(7). A pharmacist or pharmacy shall not participate in prohibited agreements with any person in exchange for recommending, promoting, accepting, or promising to accept the professional pharmaceutical services of any pharmacist or pharmacy. "Person" includes an individual, corporation, partnership, association, firm, or other entity. "Prohibited agreements" includes an agreement or arrangement that provides premiums, "kickbacks," fee-splitting, or special charges as compensation or inducement for placement of business or solicitation of patronage with any pharmacist or pharmacy. "Kickbacks" includes, but is not limited to, the provision of medication carts, facsimile machines, any other equipment, or preprinted forms or supplies for the exclusive use of a facility or practitioner at no charge or billed below reasonable market rate. A pharmacist shall not provide, cause to be provided, or offer to provide to any person authorized to prescribe prescription blanks or forms bearing the pharmacist's or pharmacy's name, address, or other means of identification, except that a hospital may make available to hospital staff prescribers, emergency department prescribers, and prescribers granted hospital privileges for the prescribers' use

during practice at or in the hospital generic prescription blanks or forms bearing the name, address, or telephone number of the hospital pharmacy.

8.11(6) *Discrimination.* It is unethical to unlawfully discriminate between patients or groups of patients for reasons of religion, race, creed, color, gender, gender identity, sexual orientation, marital status, age, national origin, physical or mental disability, or disease state when providing pharmaceutical services.

8.11(7) *Claims of professional superiority.* A pharmacist shall not make a claim, assertion, or inference of professional superiority in the practice of pharmacy which cannot be substantiated, or claim an unusual, unsubstantiated capacity to supply a drug or professional service to the community.

8.11(8) *Unprofessional conduct or behavior.* A pharmacist shall not exhibit unprofessional behavior in connection with the practice of pharmacy or refuse to provide reasonable information or answer reasonable questions for the benefit of the patient. Unprofessional behavior shall include, but not be limited to, the following acts: verbal abuse, coercion, intimidation, harassment, sexual advances, threats, degradation of character, indecent or obscene conduct, and theft.

[**ARC 9526B**, IAB 6/1/11, effective 7/6/11]

657—8.12(126,147) Advertising. Prescription drug price and nonprice information may be provided to the public by a pharmacy so long as the information is not false or misleading and is not in violation of any federal or state laws applicable to the advertisement of such articles generally and if all of the following conditions are met:

1. All charges for services to the consumer must be stated.
2. The effective dates for the prices listed shall be stated.
3. No reference shall be made to controlled substances listed in Schedules II through V of the latest revision of the Iowa uniform controlled substances Act and the rules of the Iowa board of pharmacy.

657—8.13(135C,155A) Personnel histories. Pursuant to the requirements of Iowa Code section 135C.33, the provisions of this rule shall apply to any pharmacy employing any person to provide patient care services in a patient's home. For the purposes of this rule, "employed by the pharmacy" shall include any individual who is paid to provide treatment or services to any patient in the patient's home, whether the individual is paid by the pharmacy or by any other entity such as a corporation, a temporary staffing agency, or an independent contractor. Specifically excluded from the requirements of this rule are individuals such as delivery persons or couriers who do not enter the patient's home for the purpose of instructing the patient or the patient's caregiver in the use or maintenance of the equipment, device, or drug being delivered, or who do not enter the patient's home for the purpose of setting up or servicing the equipment, device, or drug used to treat the patient in the patient's home.

8.13(1) *Applicant acknowledgment.* The pharmacy shall ask the following question of each person seeking employment in a position that will provide in-home services: "Do you have a record of founded child or dependent adult abuse or have you ever been convicted of a crime, in this state or any other state?" The applicant shall also be informed that a criminal history and dependent adult abuse record check will be conducted. The applicant shall indicate, by signed acknowledgment, that the applicant has been informed that such record checks will be conducted.

8.13(2) *Criminal history check.* Prior to the employment of any person to provide in-home services as described by this rule, the pharmacy shall submit to the department of public safety a form specified by the department of public safety and receive the results of a criminal history check.

8.13(3) *Abuse history checks.* Prior to the employment of any person to provide in-home services as described by this rule, the pharmacy shall submit to the department of human services a form specified by the department of human services and receive the results of a dependent adult abuse record check. The pharmacy may submit to the department of human services a form specified by the department of human services to request a child abuse history check.

a. A person who has a criminal record, founded dependent adult abuse report, or founded child abuse report shall not be employed by a pharmacy to provide in-home services unless the department of human services has evaluated the crime or founded abuse report, has concluded that the crime or founded

abuse does not merit prohibition from such employment, and has notified the pharmacy that the person may be employed to provide in-home services.

b. The pharmacy shall keep copies of all record checks and evaluations for a minimum of two years following receipt of the record or for a minimum of two years after the individual is no longer employed by the pharmacy, whichever is greater.

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

[**ARC 8673B**, IAB 4/7/10, effective 6/1/10]

657—8.15(155A) Delivery of prescription drugs and devices. Prescription drug orders, prescription devices, and completed prescription drug containers may be delivered, in compliance with all laws, rules, and regulations relating to the practice of pharmacy, to patients at any place of business licensed as a pharmacy.

8.15(1) *Alternative methods.* A licensed pharmacy may, by means of its employee or by use of a common carrier, pick up or deliver prescriptions to the patient or the patient's caregiver as follows:

a. At the office or home of the prescriber.

b. At the residence of the patient or caregiver.

c. At the hospital or medical care facility in which a patient is confined.

d. At an outpatient medical care facility where the patient receives treatment only pursuant to the following requirements:

(1) The pharmacy shall obtain and maintain the written authorization of the patient or patient's caregiver for receipt or delivery at the outpatient medical care facility;

(2) The prescription shall be delivered directly to or received directly from the patient, the caregiver, or an authorized agent identified in the written authorization;

(3) A prescription authorized by a prescriber not treating the patient at the outpatient medical care facility may be transmitted to the pharmacy by the authorized agent via facsimile provided that the means of transmission does not obscure or render the prescription information illegible due to security features of the paper utilized by the prescriber to prepare the prescription and provided that the original written prescription is delivered to the pharmacy prior to delivery of the filled prescription to the patient; and

(4) The outpatient medical care facility shall store the patient's filled prescriptions in a secure area pending delivery to the patient.

e. At the patient's or caregiver's place of employment only pursuant to the following requirements:

(1) The pharmacy shall obtain and maintain the written authorization of the patient or patient's caregiver for receipt or delivery at the place of employment;

(2) The prescription shall be delivered directly to or received directly from the patient, the caregiver, the prescriber, or an authorized agent identified in the written authorization; and

(3) The pharmacy shall ensure the security of confidential information as defined in subrule 8.16(1).

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

[**ARC 7636B**, IAB 3/11/09, effective 4/15/09]

657—8.16(124,155A) Confidential information.

8.16(1) *Definition.* "Confidential information" means information accessed or maintained by the pharmacy in the patient's records which contains personally identifiable information that could be used to identify the patient. This includes but is not limited to patient name, address, telephone number, and social security number; prescriber name and address; and prescription and drug or device information such as therapeutic effect, diagnosis, allergies, disease state, pharmaceutical services rendered, medical information, and drug interactions, regardless of whether such information is communicated to or from the patient, is in the form of paper, is preserved on microfilm, or is stored on electronic media.

8.16(2) *Release of confidential information.* Confidential information in the patient record may be released only as follows:

a. Pursuant to the express written authorization of the patient or the order or direction of a court.

b. To the patient or the patient's authorized representative.

c. To the prescriber or other licensed practitioner then caring for the patient.

d. To another licensed pharmacist when the best interests of the patient require such release.

e. To the board or its representative or to such other persons or governmental agencies duly authorized by law to receive such information.

A pharmacist shall utilize the resources available to determine, in the professional judgment of the pharmacist, that any persons requesting confidential patient information pursuant to this rule are entitled to receive that information.

8.16(3) *Exceptions.* Nothing in this rule shall prohibit pharmacists from releasing confidential patient information as follows:

a. Transferring a prescription to another pharmacy upon the request of the patient or the patient's authorized representative.

b. Providing a copy of a nonrefillable prescription to the person for whom the prescription was issued which is clearly marked as a copy and not to be filled.

c. Providing drug therapy information to physicians or other authorized prescribers for their patients.

d. Disclosing information necessary for the processing of claims for payment of health care operations or services.

e. Transferring, subject to the provisions of subrule 8.35(7), prescription and patient records of a pharmacy that discontinues operation as a pharmacy to another licensed pharmacy that is held to the same standards of confidentiality and that agrees to act as custodian of the transferred records.

8.16(4) *System security and safeguards.* To maintain the integrity and confidentiality of patient records and prescription drug orders, any system or computer utilized shall have adequate security including system safeguards designed to prevent and detect unauthorized access, modification, or manipulation of patient records and prescription drug orders.

8.16(5) *Record disposal.* Disposal of any materials containing or including patient-specific or confidential information shall be conducted in a manner to preserve patient confidentiality.

[**ARC 9526B**, IAB 6/1/11, effective 7/6/11]

657—8.17 and **8.18** Reserved.

657—8.19(124,126,155A) Manner of issuance of a prescription drug or medication order. A prescription drug order or medication order may be transmitted from a prescriber or a prescriber's agent to a pharmacy in written form, orally including telephone voice communication, by facsimile transmission as provided in rule 657—21.9(124,155A), or by electronic transmission in accordance with applicable federal and state laws, rules, and regulations. Any prescription drug order or medication order provided to a patient in written or printed form shall include the original, handwritten signature of the prescriber except as provided in rule 657—21.7(124,155A).

8.19(1) *Requirements for a prescription.* A valid prescription drug order shall be based on a valid patient-prescriber relationship.

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

(1) The date issued.

(2) The name and address of the patient.

(3) The name, strength, and quantity of the drug or device prescribed.

(4) The name and address of the prescriber and, if the prescription is for a controlled substance, the prescriber's DEA registration number.

(5) The written or electronic signature of the prescriber.

b. Written prescription. In addition to the requirements of paragraph 8.19(1)*"a,"* a written prescription shall be manually signed, with ink or indelible pencil, by the prescriber. The requirement for manual signature shall not apply when an electronically prepared and signed prescription for a noncontrolled substance is printed on security paper as provided in 657—paragraph 21.7(3)*"b."*

c. Facsimile prescription. In addition to the requirements of paragraph 8.19(1)*"a,"* a prescription transmitted via facsimile shall include:

(1) The identification number of the facsimile machine used to transmit the prescription to the pharmacy.

(2) The time and date of transmission of the prescription.

(3) The name, address, telephone number, and facsimile number of the pharmacy to which the prescription is being transmitted.

(4) If the prescription is for a controlled substance and in compliance with DEA regulations, the manual signature of the prescriber.

d. Electronic prescription. In addition to the requirements of paragraph 8.19(1)*"a,"* an electronically prepared prescription for a controlled or noncontrolled prescription drug or device that is electronically transmitted to a pharmacy shall include the prescriber's electronic signature.

(1) An electronically prepared prescription for a controlled substance that is printed out or faxed by the prescriber or the prescriber's agent shall be manually signed by the prescriber.

(2) The prescriber shall ensure that the electronic prescription application used to prepare and transmit the electronic prescription complies with applicable state and federal laws, rules, and regulations regarding electronic prescriptions.

(3) The prescriber or the prescriber's agent shall provide verbal verification of an electronic prescription upon the request of the pharmacy.

8.19(2) *Verification.* The pharmacist shall exercise professional judgment regarding the accuracy, validity, and authenticity of any prescription drug order or medication order consistent with federal and state laws, rules, and regulations. In exercising professional judgment, the prescribing practitioner and the pharmacist shall take adequate measures to guard against the diversion of prescription drugs and controlled substances through prescription forgeries.

8.19(3) *Transmitting agent.* The prescribing practitioner may authorize an agent to transmit to the pharmacy a prescription drug order or medication order orally, by facsimile transmission, or by electronic transmission provided that the first and last names and title of the transmitting agent are included in the order.

a. New order. A new written or electronically prepared and transmitted prescription drug or medication order shall be manually or electronically signed by the prescriber. If transmitted by the prescriber's agent, the first and last names and title of the transmitting agent shall be included in the order. If the prescription is for a controlled substance and is written or printed from an electronic prescription application, the prescription shall be manually signed by the prescriber prior to delivery of the prescription to the patient or prior to facsimile transmission of the prescription to the pharmacy. An electronically prepared prescription shall not be electronically transmitted to the pharmacy if the prescription has been printed prior to the electronic transmission. An electronically prepared and electronically transmitted prescription that is printed following the electronic transmission shall be clearly labeled as a copy, not valid for dispensing.

b. Refill order or renewal order. An authorization to refill a prescription drug or medication order, or to renew or continue an existing drug therapy, may be transmitted to a pharmacist through oral communication, in writing, by facsimile transmission, or by electronic transmission initiated by or directed by the prescriber.

(1) If the transmission is completed by the prescriber's agent and the first and last names and title of the transmitting agent are included in the order, the prescriber's signature is not required on the fax or alternate electronic transmission.

(2) If the order differs in any manner from the original order, such as a change of the drug strength, dosage form, or directions for use, the prescriber shall sign the order as provided by paragraph 8.19(3)*"a."*

8.19(4) *Receiving agent.* Regardless of the means of transmission to a pharmacy, only a pharmacist, a pharmacist-intern, or a certified pharmacy technician shall be authorized to receive a new prescription drug or medication order from a practitioner or the practitioner's agent. In addition to a pharmacist, a pharmacist-intern, and a certified pharmacy technician, a technician trainee or an uncertified pharmacy technician may receive a refill or renewal order from a practitioner or the practitioner's agent if the technician's supervising pharmacist has authorized that function.

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

8.19(6) *Refills.* A refill is one or more dispensings of a prescription drug or device that result in the patient's receipt of the quantity authorized by the prescriber for a single fill as indicated on the prescription drug order.

a. Noncontrolled prescription drug or device. A prescription for a prescription drug or device that is not a controlled substance may authorize no more than 12 refills within 18 months following the date on which the prescription is issued.

b. Controlled substance. A prescription for a Schedule III, IV, or V controlled substance may authorize no more than 5 refills within 6 months following the date on which the prescription is issued.

[**ARC 8171B**, IAB 9/23/09, effective 10/28/09; **ARC 9912B**, IAB 12/14/11, effective 1/18/12]

657—8.20(155A) Valid prescriber/patient relationship. Prescription drug orders and medication orders shall be valid as long as a prescriber/patient relationship exists. Once the prescriber/patient relationship is broken and the prescriber is no longer available to treat the patient or oversee the patient's use of a prescription drug, the order loses its validity and the pharmacist, on becoming aware of the situation, shall cancel the order and any remaining refills. The pharmacist shall, however, exercise prudent judgment based upon individual circumstances to ensure that the patient is able to obtain a sufficient amount of the prescribed drug to continue treatment until the patient can reasonably obtain the service of another prescriber and a new order can be issued.

657—8.21(155A) Prospective drug use review. For purposes of promoting therapeutic appropriateness and ensuring rational drug therapy, a pharmacist shall review the patient record, information obtained from the patient, and each prescription drug or medication order to identify:

1. Overutilization or underutilization;
2. Therapeutic duplication;
3. Drug-disease contraindications;
4. Drug-drug interactions;
5. Incorrect drug dosage or duration of drug treatment;
6. Drug-allergy interactions;
7. Clinical abuse/misuse;
8. Drug-prescriber contraindications.

Upon recognizing any of the above, the pharmacist shall take appropriate steps to avoid or resolve the problem and shall, if necessary, include consultation with the prescriber. The review and assessment of patient records shall not be delegated to staff assistants but may be delegated to registered pharmacist-interns under the direct supervision of the pharmacist.

657—8.22 to **8.25** Reserved.

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

8.26(1) *Reportable program events.* For purposes of this rule, a reportable program event or program event means a preventable medication error resulting in the incorrect dispensing of a prescribed drug received by or administered to the patient and includes but is not necessarily limited to:

a. An incorrect drug;

b. An incorrect drug strength;

c. An incorrect dosage form;

d. A drug received by the wrong patient;

e. Inadequate or incorrect packaging, labeling, or directions; or

f. Any incident related to a prescription dispensed to a patient that results in or has the potential to result in serious harm to the patient.

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

8.26(3) *Policies and procedures.* Each pharmacy shall develop, implement, and adhere to written policies and procedures for the operation and management of the pharmacy's CQI program. A copy of the pharmacy's CQI program description and policies and procedures shall be maintained and readily available to all pharmacy personnel. The policies and procedures shall address, at a minimum, a planned process to:

a. Train all pharmacy personnel in relevant phases of the CQI program;

b. Identify and document reportable program events;

c. Minimize the impact of reportable program events on patients;

d. Analyze data collected to assess the causes and any contributing factors relating to reportable program events;

e. Use the findings to formulate an appropriate response and to develop pharmacy systems and workflow processes designed to prevent and reduce reportable program events; and

f. Periodically, but at least annually, meet with appropriate pharmacy personnel to review findings and inform personnel of changes that have been made to pharmacy policies, procedures, systems, or processes as a result of CQI program findings.

8.26(4) *Event discovery and notification.* As provided by the procedures of the CQI program, the pharmacist in charge or appropriate designee shall be informed of and review all reported and documented program events. All pharmacy personnel shall be trained to immediately inform the pharmacist on duty of any discovered or suspected program event. When the pharmacist on duty determines that a reportable program event has occurred, the pharmacist shall ensure that all reasonably necessary steps are taken to remedy any problems or potential problems for the patient and that those steps are documented. Necessary steps include, but are not limited to, the following:

a. Notifying the patient or the patient's caregiver and the prescriber or other members of the patient's health care team as warranted;

b. Identifying and communicating directions or processes for correcting the error; and

c. Communicating instructions for minimizing any negative impact on the patient.

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

a. The program event shall initially be documented as soon as practicable by the staff member who discovers the event or is informed of the event.

b. Program event documentation shall include a description of the event that provides sufficient information to permit categorization and analysis of the event and shall include:

(1) The date and time the program event was discovered and the name of the staff person who discovered the event; and

(2) The names of the individuals recording and reviewing or analyzing the program event information.

8.26(6) *Program event analysis and response.* The pharmacist in charge or designee shall review each reportable program event and determine if follow-up is necessary. When appropriate, information and data collected and documented shall be analyzed, individually and collectively, to assess the cause and any factors contributing to the program event. The analysis may include, but is not limited to, the following:

a. A consideration of the effects on the quality of the pharmacy system related to workflow processes, technology utilization and support, personnel training, and both professional and technical staffing levels;

b. Any recommendations for remedial changes to pharmacy policies, procedures, systems, or processes; and

c. The development of a set of indicators that a pharmacy will utilize to measure its program standards over a designated period of time.

657—8.27 to **8.29** Reserved.

657—8.30(126,155A) Sterile products. Rescinded IAB 6/6/07, effective 7/11/07.

657—8.31 Reserved.

657—8.32(124,155A) Individuals qualified to administer. The board designates the following as qualified individuals to whom a practitioner may delegate the administration of prescription drugs. Any person specifically authorized under pertinent sections of the Iowa Code to administer prescription drugs shall construe nothing in this rule to limit that authority.

1. Persons who have successfully completed a medication administration course.
2. Licensed pharmacists.

657—8.33(155A) Vaccine administration by pharmacists. An authorized pharmacist may administer vaccines pursuant to protocols established by the CDC in compliance with the requirements of this rule. An authorized pharmacist may only delegate the administration of a vaccine to an authorized pharmacist-intern under the direct supervision of the authorized pharmacist.

8.33(1) *Definitions.* For the purposes of this rule, the following definitions shall apply:

"ACIP" means the CDC Advisory Committee on Immunization Practices.

"ACPE" means the Accreditation Council for Pharmacy Education.

"Authorized pharmacist" means an Iowa-licensed pharmacist who has met the requirements identified in subrule 8.33(2).

"Authorized pharmacist-intern" means an Iowa-registered pharmacist-intern who has met the requirements for an authorized pharmacist identified in paragraphs 8.33(2)*"a"* and *"c."*

"CDC" means the United States Centers for Disease Control and Prevention.

"Immunization" shall have the same meaning as, and shall be interchangeable with, the term "vaccine."

"Protocol" means a standing order for a vaccine to be administered by an authorized pharmacist.

"Vaccine" means a specially prepared antigen administered to a person for the purpose of providing immunity.

8.33(2) *Authorized pharmacist training and continuing education.* An authorized pharmacist shall document successful completion of the requirements in paragraph 8.33(2)*"a"* and shall maintain competency by completing and maintaining documentation of the continuing education requirements in paragraph 8.33(2)*"b."*

a. *Initial qualification.* An authorized pharmacist shall have successfully completed an organized course of study in a college or school of pharmacy or an ACPE-accredited continuing education program on vaccine administration that:

(1) Requires documentation by the pharmacist of current certification in the American Heart Association or the Red Cross Basic Cardiac Life Support Protocol for health care providers.

(2) Is an evidence-based course that includes study material and hands-on training and techniques for administering vaccines, requires testing with a passing score, complies with current CDC guidelines, and provides instruction and experiential training in the following content areas:

1. Standards for immunization practices;
2. Basic immunology and vaccine protection;
3. Vaccine-preventable diseases;
4. Recommended immunization schedules;
5. Vaccine storage and management;
6. Informed consent;
7. Physiology and techniques for vaccine administration;
8. Pre- and post-vaccine assessment, counseling, and identification of contraindications to the vaccine;
9. Immunization record management; and
10. Management of adverse events, including identification, appropriate response, documentation, and reporting.

b. *Continuing education.* During any pharmacist license renewal period, an authorized pharmacist who engages in the administration of vaccines shall complete and document at least one hour of continuing education related to vaccines.

c. *Certification maintained.* During any period within which the pharmacist may engage in the administration of vaccines, the pharmacist shall maintain current certification in the American Heart Association or the Red Cross basic cardiac life support protocol for health care providers.

8.33(3) *Protocol requirements.* A pharmacist may administer vaccines pursuant to CDC protocols. A protocol shall be unique to a pharmacy. The prescriber who signs a protocol shall identify within the protocol, by name or category, those pharmacists or other qualified health professionals that the prescriber is authorizing to administer vaccines pursuant to the protocol. Links to CDC protocols shall be provided on the board's Web site at www.iowa.gov/ibpe. A protocol:

a. Shall be signed by a licensed Iowa prescriber practicing in Iowa.

b. Shall expire no later than one year from the effective date of the signed protocol.

c. Shall be effective for patients who wish to receive a vaccine administered by an authorized pharmacist, who meet the CDC recommended criteria, and who have no contraindications as published by the CDC.

d. Shall require the authorized pharmacist to notify the prescriber who signed the protocol within 24 hours of a serious complication and shall submit a Vaccine Advisory Event Reporting System (VAERS) report.

e. Shall specifically indicate whether the authorizing prescriber agrees that the administration of vaccines may be delegated by the authorized pharmacist to an authorized pharmacist-intern under the direct supervision of the authorized pharmacist.

8.33(4) *Influenza and other emergency vaccines.* An authorized pharmacist shall only administer via protocol, to patients six years of age and older, influenza vaccines and other emergency vaccines in response to a public health emergency.

8.33(5) *Other adult vaccines.* An authorized pharmacist shall only administer via protocol, to patients 18 years of age and older, the following vaccines:

a. A vaccine on the ACIP-approved adult vaccination schedule.

b. A vaccine recommended by the CDC for international travel.

8.33(6) *Vaccines administered via prescription.* An authorized pharmacist may administer any vaccine pursuant to a prescription or medication order for an individual patient. In case of serious complications, the authorized pharmacist shall notify the prescriber who authorized the prescription within 24 hours and shall submit a VAERS report.

8.33(7) *Verification and reporting.* The requirements of this subrule do not apply to influenza and other emergency vaccines administered via protocol pursuant to subrule 8.33(4). An authorized pharmacist shall:

a. Prior to administering a vaccine identified in subrule 8.33(5) or subrule 8.33(6), consult the statewide immunization registry or health information network.

b. Within 30 days following administration of a vaccine identified in subrule 8.33(5) or subrule 8.33(6), report the vaccine administration to the statewide immunization registry or health information network and to the patient's primary health care provider, if known.

[**ARC 1030C**, IAB 9/18/13, effective 9/1/13; **ARC 1786C**, IAB 12/10/14, effective 1/14/15]

657—8.34(155A) Collaborative drug therapy management. An authorized pharmacist may only perform collaborative drug therapy management pursuant to protocol with a physician pursuant to the requirements of this rule. The physician retains the ultimate responsibility for the care of the patient. The pharmacist is responsible for all aspects of drug therapy management performed by the pharmacist.

8.34(1) *Definitions.*

"Authorized pharmacist" means an Iowa-licensed pharmacist whose license is in good standing and who meets the drug therapy management criteria defined in this rule.

"Board" means the board of pharmacy.

"Collaborative drug therapy management" means participation by an authorized pharmacist and a physician in the management of drug therapy pursuant to a written community practice protocol or a written hospital practice protocol.

"Collaborative practice" means that a physician may delegate aspects of drug therapy management for the physician's patients to an authorized pharmacist through a community practice protocol. "Collaborative practice" also means that a P&T committee may authorize hospital pharmacists to perform drug therapy management for inpatients and hospital clinic patients through a hospital practice protocol.

"Community practice protocol" means a written, executed agreement entered into voluntarily between an authorized pharmacist and a physician establishing drug therapy management for one or more of the pharmacist's and physician's patients residing in a community setting. A community practice protocol shall comply with the requirements of subrule 8.34(2).

"Community setting" means a location outside a hospital inpatient, acute care setting or a hospital clinic setting. A community setting may include, but is not limited to, a home, group home, assisted living facility, correctional facility, hospice, or long-term care facility.

"Drug therapy management criteria" means one or more of the following:

1. Graduation from a recognized school or college of pharmacy with a doctor of pharmacy (Pharm.D.) degree;

2. Certification by the Board of Pharmaceutical Specialties (BPS);

3. Certification by the Commission for Certification in Geriatric Pharmacy (CCGP);

4. Successful completion of a National Institute for Standards in Pharmacist Credentialing (NISPC) disease state management examination and credentialing by the NISPC;

5. Successful completion of a pharmacy residency program accredited by the American Society of Health-System Pharmacists (ASHP); or

6. Approval by the board of pharmacy.

"Hospital clinic" means an outpatient care clinic operated and affiliated with a hospital and under the direct authority of the hospital's P&T committee.

"Hospital pharmacist" means an Iowa-licensed pharmacist who meets the requirements for participating in a hospital practice protocol as determined by the hospital's P&T committee.

"Hospital practice protocol" means a written plan, policy, procedure, or agreement that authorizes drug therapy management between hospital pharmacists and physicians within a hospital and the hospital's clinics as developed and determined by the hospital's P&T committee. Such a protocol may apply to all pharmacists and physicians at a hospital or the hospital's clinics or only to those pharmacists and physicians who are specifically recognized. A hospital practice protocol shall comply with the requirements of subrule 8.34(3).

"IBM" means the Iowa board of medicine.

"P&T committee" means a committee of the hospital composed of physicians, pharmacists, and other health professionals that evaluates the clinical use of drugs within the hospital, develops policies for managing drug use and administration in the hospital, and manages the hospital drug formulary system.

"Physician" means a person who is currently licensed in Iowa to practice medicine and surgery, osteopathic medicine and surgery, or osteopathy. A physician who executes a written protocol with an authorized pharmacist shall supervise the pharmacist's activities involved in the overall management of patients receiving medications or disease management services under the protocol. The physician may delegate only drug therapies that are in areas common to the physician's practice.

"Therapeutic interchange" means an authorized exchange of therapeutic alternate drug products in accordance with a previously established and approved written protocol.

8.34(2) *Community practice protocol.*

a. An authorized pharmacist shall engage in collaborative drug therapy management with a physician only under a written protocol that has been identified by topic and has been submitted to the board or a committee authorized by the board. A protocol executed after July 1, 2008, will no longer be required to be submitted to the board; however, written protocols executed or renewed after July 1, 2008, shall be made available upon request of the board or the IBM.

b. The community practice protocol shall include:

(1) The name, signature, date, and contact information for each authorized pharmacist who is a party to the protocol and is eligible to manage the drug therapy of a patient. If more than one authorized pharmacist is a party to the agreement, the pharmacists shall work for a single licensed pharmacy and a principal authorized pharmacist shall be designated in the protocol.

(2) The name, signature, date, and contact information for each physician who may prescribe drugs and is responsible for supervising a patient's drug therapy management. The physician who initiates a protocol shall be considered the main caregiver for the patient respective to that protocol and shall be noted in the protocol as the principal physician.

(3) The name and contact information of the principal physician and the principal authorized pharmacist who are responsible for development, training, administration, and quality assurance of the protocol.

(4) A detailed written protocol pursuant to which the authorized pharmacist will base drug therapy management decisions for patients. The protocol shall authorize one or more of the following:

1. Prescription drug orders. The protocol may authorize therapeutic interchange or modification of drug dosages based on symptoms or laboratory or physical findings defined in the protocol. The protocol shall include information specific to the dosage, frequency, duration, and route of administration of the drug authorized by the patient's physician. The protocol shall not authorize the pharmacist to change a Schedule II drug or to initiate a drug not included in the established protocol.

2. Laboratory tests. The protocol may authorize the pharmacist to obtain or to conduct specific laboratory tests as long as the tests relate directly to the drug therapy management.

3. Physical findings. The protocol may authorize the pharmacist to check certain physical findings, e.g., vital signs, oximetry, or peak flows, that enable the pharmacist to assess and adjust the drug therapy, detect adverse drug reactions, or determine if the patient should be referred back to the patient's physician for follow-up.

4. Patient activities. The protocol may authorize the pharmacist to monitor specific patient activities.

(5) Procedures for securing the patient's written consent. If the patient's consent is not secured by the physician, the authorized pharmacist shall secure such and notify the patient's physician within 24 hours.

(6) Circumstances that shall cause the authorized pharmacist to initiate communication with the physician including but not limited to the need for new prescription orders and reports of the patient's therapeutic response or adverse reaction.

(7) A detailed statement identifying the specific drugs, laboratory tests, and physical findings upon which the authorized pharmacist shall base drug therapy management decisions.

(8) A provision for the collaborative drug therapy management protocol to be reviewed, updated, and reexecuted or discontinued at least every two years.

(9) A description of the method the pharmacist shall use to document the pharmacist's decisions or recommendations for the physician.

(10) A description of the types of reports the authorized pharmacist is to provide to the physician and the schedule by which the pharmacist is to submit these reports. The schedule shall include a time frame within which a pharmacist shall report any adverse reaction to the physician.

(11) A statement of the medication categories and the type of initiation and modification of drug therapy that the physician authorizes the pharmacist to perform.

(12) A description of the procedures or plan that the pharmacist shall follow if the pharmacist modifies a drug therapy.

(13) Procedures for record keeping, record sharing, and long-term record storage.

(14) Procedures to follow in emergency situations.

(15) A statement that prohibits the authorized pharmacist from delegating drug therapy management to anyone other than another authorized pharmacist who has signed the applicable protocol.

(16) A statement that prohibits a physician from delegating collaborative drug therapy management to any unlicensed or licensed person other than another physician or an authorized pharmacist.

(17) A description of the mechanism for the pharmacist and the physician to communicate with each other and for documentation by the pharmacist of the implementation of collaborative drug therapy.

c. Collaborative drug therapy management is valid only when initiated by a written protocol executed by at least one authorized pharmacist and at least one physician.

d. The collaborative drug therapy protocol must be filed with the board, kept on file in the pharmacy, and be made available upon request of the board or the IBM. After July 1, 2008, protocols shall no longer be filed with the board but shall be maintained in the pharmacy and made available to the board and the IBM upon request.

e. A physician may terminate or amend the collaborative drug therapy management protocol with an authorized pharmacist if the physician notifies, in writing, the pharmacist and the board. Notification shall include the name of the authorized pharmacist, the desired change, and the proposed effective date of the change. After July 1, 2008, the physician shall no longer be required to notify the board of changes in a protocol but the written notification shall be maintained in the pharmacy and made available upon request of the board or the IBM.

f. The physician or pharmacist who initiates a protocol with a patient is responsible for securing a patient's written consent to participate in drug therapy management and for transmitting a copy of the consent to the other party within 24 hours. The consent shall indicate which protocol is involved. Any variation in the protocol for a specific patient shall be communicated to the other party at the time of securing the patient's consent. The patient's physician shall maintain the patient consent in the patient's medical record.

8.34(3) *Hospital practice protocol.*

a. A hospital's P&T committee shall determine the scope and extent of collaborative drug therapy management practices that may be conducted by the hospital's pharmacists.

b. Collaborative drug therapy management within a hospital setting or the hospital's clinic setting is valid only when approved by the hospital's P&T committee.

c. The hospital practice protocol shall include:

(1) The names or groups of pharmacists and physicians who are authorized by the P&T committee to participate in collaborative drug therapy management.

(2) A plan for development, training, administration, and quality assurance of the protocol.

(3) A detailed written protocol pursuant to which the hospital pharmacist shall base drug therapy management decisions for patients. The protocol shall authorize one or more of the following:

1. Medication orders and prescription drug orders. The protocol may authorize therapeutic interchange or modification of drug dosages based on symptoms or laboratory or physical findings defined in the protocol. The protocol shall include information specific to the dosage, frequency, duration, and route of administration of the drug authorized by the physician. The protocol shall not authorize the hospital pharmacist to change a Schedule II drug or to initiate a drug not included in the established protocol.

2. Laboratory tests. The protocol may authorize the hospital pharmacist to obtain or to conduct specific laboratory tests as long as the tests relate directly to the drug therapy management.

3. Physical findings. The protocol may authorize the hospital pharmacist to check certain physical findings, e.g., vital signs, oximetry, or peak flows, that enable the pharmacist to assess and adjust the drug therapy, detect adverse drug reactions, or determine if the patient should be referred back to the physician for follow-up.

(4) Circumstances that shall cause the hospital pharmacist to initiate communication with the patient's physician including but not limited to the need for new medication orders and prescription drug orders and reports of a patient's therapeutic response or adverse reaction.

(5) A statement of the medication categories and the type of initiation and modification of drug therapy that the P&T committee authorizes the hospital pharmacist to perform.

(6) A description of the procedures or plan that the hospital pharmacist shall follow if the hospital pharmacist modifies a drug therapy.

(7) A description of the mechanism for the hospital pharmacist and the patient's physician to communicate and for the hospital pharmacist to document implementation of the collaborative drug therapy.

657—8.35(155A) Pharmacy license. A pharmacy license issued by the board is required for all sites where prescription drugs are offered for sale or dispensed under the supervision of a pharmacist. A pharmacy license issued by the board is also required for all sites where drug information or other cognitive pharmacy services, including but not limited to drug use review and patient counseling, are provided by a pharmacist. The board may issue any of the following types of pharmacy licenses: a general pharmacy license, a hospital pharmacy license, a special or limited use pharmacy license, or a nonresident pharmacy license. Nonresident pharmacy license applicants shall comply with board rules regarding nonresident pharmacy practice except when specific exemptions have been granted. Applicants for general or hospital pharmacy practice shall comply with board rules regarding general or hospital pharmacy practice except when specific exemptions have been granted. Any pharmacy located within Iowa that dispenses controlled substances must also register pursuant to 657—Chapter 10.

8.35(1) *Exemptions.* Applicants who are granted exemptions shall be issued a "general pharmacy license with exemption," a "hospital pharmacy license with exemption," a "nonresident pharmacy license with exemption," or a "limited use pharmacy license with exemption" and shall comply with the provisions set forth by that exemption. A written petition for exemption from certain licensure requirements shall be submitted pursuant to the procedures and requirements of 657—Chapter 34 and will be determined on a case-by-case basis.

8.35(2) *Limited use pharmacy license.* Limited use pharmacy license may be issued for nuclear pharmacy practice, correctional facility pharmacy practice, and veterinary pharmacy practice. Applications for limited use pharmacy license for these and other limited use practice settings shall be determined on a case-by-case basis.

8.35(3) *Application form.* Application for licensure and license renewal shall be on forms provided by the board. The application for a pharmacy license shall require an indication of the pharmacy ownership classification. If the owner is a sole proprietorship (100 percent ownership), the name and address of the owner shall be indicated. If the owner is a partnership or limited partnership, the names and addresses of all partners shall be listed or attached. If the owner is a corporation, the names and addresses of the officers and directors of the corporation shall be listed or attached. Any other pharmacy ownership classification shall be further identified and explained on the application. The application form shall require the name, signature, and license number of the pharmacist in charge. The names and license numbers of all pharmacists engaged in practice in the pharmacy, the names and registration numbers of all pharmacy technicians and pharmacy support persons working in the pharmacy, and the average number of hours worked by each pharmacist, pharmacy technician, and pharmacy support person shall be listed or attached. Additional information may be required of specific types of pharmacy license applicants. The application shall be signed by the pharmacy owner or the owner's, partnership's, or corporation's authorized representative.

8.35(4) *License expiration and renewal.* General pharmacy licenses, hospital pharmacy licenses, special or limited use pharmacy licenses, and nonresident pharmacy licenses shall be renewed before January 1 of each year. The fee for a new or renewal license shall be $135.

a. Late payment penalty. Failure to renew the pharmacy license before January 1 following expiration shall require payment of the renewal fee and a penalty fee of $135. Failure to renew the license before February 1 following expiration shall require payment of the renewal fee and a penalty fee of $225. Failure to renew the license before March 1 following expiration shall require payment of the renewal fee and a penalty fee of $315. Failure to renew the license before April 1 following expiration shall require payment of the renewal fee and a penalty fee of $405 and may require an appearance before the board. In no event shall the combined renewal fee and penalty fee for late renewal of a pharmacy license exceed $540.

b. Delinquent license. If a license is not renewed before its expiration date, the license is delinquent and the licensee may not operate or provide pharmacy services to patients in the state of Iowa until the licensee renews the delinquent license. A pharmacy that continues to operate in Iowa without a current license may be subject to disciplinary sanctions pursuant to the provisions of 657—subrule 36.1(4).

8.35(5) *Inspection of new pharmacy location.* If the new pharmacy location within Iowa was not a licensed pharmacy immediately prior to the proposed opening of the new pharmacy, the pharmacy location shall require an on-site inspection by a pharmacy board inspector prior to the issuance of the pharmacy license. The purpose of the inspection is to determine compliance with requirements pertaining to space, library, equipment, security, temperature control, and drug storage safeguards. Inspection may be scheduled anytime following submission of necessary license and registration applications and prior to opening for business as a pharmacy. Prescription drugs, including controlled substances, may not be delivered to a new pharmacy location prior to satisfactory completion of the opening inspection.

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

a. Location. A change of pharmacy location in Iowa shall require an on-site inspection of the new location as provided in subrule 8.35(5) if the new location was not a licensed pharmacy immediately prior to the relocation.

b. Ownership. A change of ownership of a currently licensed Iowa pharmacy, or a change of pharmacy location to another existing Iowa pharmacy location, shall not require on-site inspection

pursuant to subrule 8.35(5). A new pharmacy license is required as provided in this subrule. A change of ownership effectively consists of a closing pharmacy, which is subject to the requirements for a closing pharmacy, and of a new pharmacy, which is subject to the requirements of a new pharmacy, with the possible exception of the on-site inspection as provided by this paragraph. In those cases in which the pharmacy is owned by a corporation, the sale or transfer of all stock of the corporation does not constitute a change of ownership provided the corporation that owns the pharmacy continues to exist and continues to own the pharmacy following the stock sale or transfer.

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

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

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

8.35(7) *Closing pharmacy.* A closing pharmacy shall ensure that all patient and prescription records are transferred to another pharmacy that is held to the same standards of confidentiality as the closing pharmacy and that agrees to act as custodian of the records for the appropriate retention period for each record type as required by federal or state laws, rules, or regulations. A pharmacy shall not execute a sale or closing of a pharmacy unless there exists an adequate period of time prior to the pharmacy closing for delivery of the notifications to the pharmacist in charge, the board, the Drug Enforcement Administration (DEA), and pharmacy patients as required by this subrule. However, the provisions of this subrule regarding prior notifications to the board, the DEA, and patients shall not apply in the case of a board-approved emergency or unforeseeable closure, including but not limited to emergency board action, foreclosure, fire, or natural disaster.

a. Pharmacist in charge notification. At least 40 days prior to the effective date of the sale of a pharmacy, the pharmacist in charge of the closing pharmacy, if that individual is not an owner of the closing pharmacy, shall be notified of the proposed sale. The owner of the closing pharmacy may direct the pharmacist in charge to maintain information regarding the pending closure of the pharmacy confidential until public notifications are required 30 days prior to the pharmacy closing. The pharmacist in charge of the closing pharmacy shall provide input and direction to the pharmacy owner regarding the responsibilities of the closing pharmacy, including the notifications, deadlines, and time lines established by this subrule. The pharmacist in charge of the closing pharmacy shall prepare patient notifications pursuant to paragraph 8.35(7)*"d."* At least 30 days prior to the effective date of the sale of a pharmacy, the pharmacist in charge of the purchasing or receiving pharmacy, if that individual is not an owner of the pharmacy, shall be notified of the pending transaction.

b. Board and DEA notifications. At least 30 days prior to the closing of a pharmacy, including a closing by sale of a pharmacy, a written notice shall be sent to the board and to the Drug Enforcement Administration (DEA) notifying those agencies of the intent to discontinue business or to sell the pharmacy and including the anticipated date of closing. These prior notifications shall include the name, address, DEA registration number, Iowa pharmacy license number, and Iowa controlled substances Act (CSA) registration number of the closing pharmacy and of the pharmacy to which prescription drugs will be transferred. Notifications shall also include the name, address, DEA registration number, Iowa pharmacy license number, and CSA registration number of the location at which prescription files, patient profiles, and controlled substance receipt and disbursement records will be maintained.

c. Terms of sale or purchase. If the closing is due to the sale of the pharmacy, a copy of the sale or purchase agreement, not including information regarding the monetary terms of the transaction, shall be submitted to the board upon the request of the board. The agreement shall include a written assurance from the closing pharmacy to the purchasing pharmacy that the closing pharmacy has given or will be giving notice to its patients as required by this subrule.

d. Patient notification. At least 30 days prior to closing, a closing pharmacy shall make a reasonable effort to notify all patients who had a prescription filled by the closing pharmacy within the last 18 months that the pharmacy intends to close, including the anticipated closing date.

(1) Written notification shall identify the pharmacy that will be receiving the patient's prescriptions and records. The notification shall advise patients that if they have any questions regarding their prescriptions and records that they may contact the closing pharmacy. If the closing pharmacy receives no contact from the patient within the 30-day notification period prior to the pharmacy closing, all patient information will be transferred to the receiving pharmacy. The notification shall also advise patients that after the date of closing patients may contact the pharmacy to which the prescriptions and records have been transferred.

(2) Written notification shall be delivered to each patient at the patient's last address on file with the closing pharmacy by direct mail or personal delivery and also by public notice. Public notice refers to the display, in a location and manner clearly visible to patients, of signs in pharmacy pickup locations including drive-through prescription pickup lanes, on pharmacy or retail store entry and exit doors, or at pharmacy prescription counters. In addition, notice may be posted on the pharmacy's Web site, displayed on a marquee or electronic sign, communicated via automated message on the pharmacy's telephone system, or published in one or more local newspapers or area shopper publications.

e. Patient communication by receiving pharmacy. A pharmacy receiving the patient records of another pharmacy shall not contact the patients of the closing pharmacy until after the transfer of those patient records from the closing pharmacy to the receiving pharmacy and after the closure of the closing pharmacy.

f. Prescription drug inventory. A complete inventory of all prescription drugs being transferred shall be taken as of the close of business. The inventory shall serve as the ending inventory for the closing pharmacy as well as a record of additional or starting inventory for the pharmacy to which the drugs are transferred. A copy of the inventory shall be included in the records of each licensee.

(1) DEA Form 222 is required for transfer of Schedule II controlled substances.

(2) The inventory of controlled substances shall be completed pursuant to the requirements in 657—10.35(124,155A).

(3) The inventory of all noncontrolled prescription drugs may be estimated.

(4) The inventory shall include the name, strength, dosage form, and quantity of all prescription drugs transferred.

(5) Controlled substances requiring destruction or other disposal shall be transferred in the same manner as all other drugs. The new owner is responsible for the disposal of these substances as provided in rule 657—10.18(124).

g. Surrender of certificates and forms. The pharmacy license certificate and CSA registration certificate of the closing or selling pharmacy shall be returned to the board office within ten days of closing or sale. The DEA registration certificate and all unused DEA Forms 222 shall be returned to the DEA within ten days of closing. All authorizations to utilize the DEA's online controlled substances ordering system (CSOS) and all digital certificates issued for the purpose of ordering controlled substances for the closing pharmacy shall be canceled or revoked within ten days of closing.

h. Signs at closed pharmacy location. A location that no longer houses a licensed pharmacy shall not display any sign, placard, or other notification, visible to the public, which identifies the location as a pharmacy. A sign or other public notification that cannot feasibly be removed shall be covered so as to conceal the identification as a pharmacy. Nothing in this paragraph shall prohibit the display of a public notice to patients, as required in paragraph 8.35(7)*"d,"* for a reasonable period not to exceed six months following the pharmacy closing.

8.35(8) *Failure to complete licensure.* An application for a pharmacy license, including an application for registration pursuant to 657—Chapter 10, if applicable, will become null and void if the applicant fails to complete the licensure process within six months of receipt by the board of the required applications. The licensure process shall be complete upon the pharmacy's opening for business at the licensed location following an inspection rated as satisfactory by an agent of the board

if such an inspection is required pursuant to this rule. When an applicant fails to timely complete the licensure process, fees submitted with applications will not be transferred or refunded.
[**ARC 8673B**, IAB 4/7/10, effective 6/1/10; **ARC 9526B**, IAB 6/1/11, effective 7/6/11 (See Delay note at end of chapter); **ARC 9693B**, IAB 9/7/11, effective 8/11/11; **ARC 0504C**, IAB 12/12/12, effective 1/16/13]

657—8.36 to **8.39** Reserved.

657—8.40(155A,84GA,ch63) Pharmacy pilot or demonstration research projects. The purpose of this rule is to specify the procedures to be followed in applying for approval of a pilot or demonstration research project for innovative applications in the practice of pharmacy as authorized by 2011 Iowa Acts, chapter 63, section 36, as amended by 2012 Iowa Acts, House File 2464, section 31. In reviewing projects, the board will consider only projects that expand pharmaceutical care services that contribute to positive patient outcomes. The board will not consider any project intended only to provide a competitive advantage to a single applicant or group of applicants.

8.40(1) *Definitions.* For the purposes of this rule, the following definitions shall apply:

"Act" means Iowa Code chapter 155A, the Iowa pharmacy practice Act.

"Board" means the Iowa board of pharmacy.

"Practice of pharmacy" means the practice of pharmacy as defined in Iowa Code section 155A.3(34).

"Project" means a pilot or demonstration research project as described in this rule.

8.40(2) *Scope of project.* A project may not expand the definition of the practice of pharmacy. A project may include therapeutic substitution or substitution of medical devices used in patient care if such substitution is included under a collaborative drug therapy management protocol established pursuant to rule 657—8.34(155A).

8.40(3) *Board approval of a project.* Board approval of a project may include the grant of an exception to or a waiver of rules adopted under the Act or under any law relating to the authority of prescription verification and the ability of a pharmacist to provide enhanced patient care in the practice of pharmacy. Project approval, including exception to or waiver of board rules, shall initially be for a specified period of time not exceeding 18 months from commencement of the project. The board may approve the extension or renewal of a project following consideration of a petition that clearly identifies the project, that includes a report similar to the final project report described in paragraph 8.40(6)*"a,"* that describes and explains any proposed changes to the originally approved and implemented project, and that justifies the need for extending or renewing the term of the project.

8.40(4) *Applying for approval of a project.* A person who wishes the board to consider approval of a project shall submit to the board a petition for approval that contains at least the following information:

a. *Responsible pharmacist.* Name, address, telephone number, and pharmacist license number of each pharmacist responsible for overseeing the project.

b. *Location of project.* Name, address, and telephone number of each specific location and, if a location is a pharmacy, the pharmacy license number where the proposed project will be conducted.

c. *Project summary.* A detailed summary of the proposed project that includes at least the following information:

(1) The goals, hypothesis, and objectives of the proposed project.

(2) A full explanation of the project and how it will be conducted.

(3) The time frame for the project including the proposed start date and length of study. The time frame may not exceed 18 months from the proposed start date of the project.

(4) Background information or literature review to support the proposed project.

(5) The rule or rules to be waived in order to complete the project and a request to waive the rule or rules.

(6) Procedures to be used during the project to ensure that the public health and safety are not compromised as a result of the waiver.

8.40(5) *Review and approval or denial of a proposed project.*

a. *Staff review.* Upon receipt of a petition for approval of a project, board staff shall initially review the petition for completeness and appropriateness. If the petition is incomplete or inappropriate for board

consideration, board staff shall return the petition to the requestor with a letter explaining the reason the petition is being returned. A petition that has been returned pursuant to this paragraph may be amended or supplemented as necessary and submitted for reconsideration.

b. Board review. Upon review by the board of a petition for approval of a project, the board shall either approve or deny the petition. If the board approves the petition, the approval:

(1) Shall be specific for the project requested;

(2) Shall approve the project for a specific time period; and

(3) May include conditions or qualifications applicable to the project.

c. Inspection. The project site and project documentation shall be available for inspection and review by the board or its representative at any time during the project review and the approval or denial processes and, if a project is approved, throughout the approved term of the project.

d. Documentation maintained. Project documentation shall be maintained and available for inspection, review, and copying by the board or its representative for at least two years following completion or termination of the project.

8.40(6) *Presentation of reports.* The pharmacist responsible for overseeing a project shall be responsible for submitting to the board any reports required as a condition of a project, including the final project report.

a. Final project report. The final project report shall include a written summary of the results of the project and the conclusions drawn from those results. The final project report shall be submitted to the board within three months after completion or termination of the project.

b. Board review. The board shall receive and review any report regarding the progress of a project and the final project report at a regularly scheduled meeting of the board. The report shall be an item on the open session agenda for the meeting.

[**ARC 0393C**, IAB 10/17/12, effective 11/21/12; **ARC 1032C**, IAB 9/18/13, effective 10/23/13]

These rules are intended to implement Iowa Code sections 124.101, 124.301, 124.306, 124.308, 126.10, 126.11, 126.16, 135C.33, 147.7, 147.55, 147.72, 147.74, 147.76, 155A.2 through 155A.4, 155A.6, 155A.10, 155A.12 through 155A.15, 155A.19, 155A.20, 155A.27 through 155A.29, 155A.32, and 155A.33 and 2013 Iowa Acts, Senate File 353.

[Filed 4/11/68; amended 11/14/73]
[Filed 11/24/76, Notice 10/20/76—published 12/15/76, effective 1/19/77]
[Filed 11/9/77, Notice 10/5/77—published 11/30/77, effective 1/4/78]
[Filed emergency 12/9/77—published 12/28/77, effective 12/9/77]
[Filed 10/20/78, Notice 8/9/78—published 11/15/78, effective 1/9/79]
[Filed 12/2/78, Notice 11/15/78—published 1/10/79, effective 2/14/79]
[Filed 12/21/78, Notice 11/15/78—published 1/10/79, effective 2/14/79]
[Filed 1/8/79, Notice 11/29/78—published 1/24/79, effective 2/28/79]
[Filed 8/28/79, Notice 5/30/79—published 9/19/79, effective 10/24/79]
[Filed 12/7/79, Notice 10/3/79—published 12/26/79, effective 1/30/80]
[Filed 2/22/80, Notice 10/3/79—published 3/19/80, effective 4/23/80]
[Filed emergency 4/22/80—published 5/14/80, effective 4/22/80]
[Filed 12/1/80, Notice 10/15/80—published 12/24/80, effective 1/28/81]
[Filed 2/12/81, Notice 12/24/80—published 3/4/81, effective 4/8/81]
[Filed 5/27/81, Notice 4/1/81—published 6/24/81, effective 7/29/81]
[Filed emergency 7/28/81—published 8/19/81, effective 8/1/81]
[Filed emergency 9/14/81—published 9/30/81, effective 9/30/81]
[Filed 7/28/82, Notice 3/17/82—published 8/18/82, effective 9/22/82]
[Filed emergency 8/26/82—published 9/15/82, effective 9/22/82]
[Filed 9/10/82, Notice 6/9/82—published 9/29/82, effective 11/8/82]
[Filed emergency 10/6/82—published 10/27/82, effective 10/27/82]◊
[Filed emergency 12/2/82—published 12/22/82, effective 12/22/82]
[Filed 11/18/83, Notice 8/3/83—published 12/7/83, effective 1/11/84]
[Filed 1/13/84, Notice 11/9/83—published 2/1/84, effective 3/7/84]

[Filed 6/22/84, Notice 4/11/84—published 7/18/84, effective 8/22/84]
[Filed emergency 7/13/84—published 8/1/84, effective 7/13/84]
[Filed 9/21/84, Notice 7/18/84—published 10/10/84, effective 11/14/84]
[Filed 2/22/85, Notice 11/21/84—published 3/13/85, effective 4/18/85]
[Filed emergency 6/18/85—published 7/3/85, effective 7/1/85]
[Filed 8/30/85, Notice 7/3/85—published 9/25/85, effective 10/30/85]◊
[Filed 11/27/85, Notice 8/28/85—published 12/18/85, effective 1/22/86]
[Filed 9/19/86, Notice 6/4/86—published 10/8/86, effective 11/12/86]
[Filed 1/28/87, Notice 11/19/86—published 2/25/87, effective 4/1/87]
[Filed emergency 1/21/88—published 2/10/88, effective 1/22/88]
[Filed 1/21/88, Notice 11/4/87—published 2/10/88, effective 3/16/88]
[Filed 3/29/88, Notice 1/27/88—published 4/20/88, effective 5/25/88]
[Filed 3/29/88, Notice 2/10/88—published 4/20/88, effective 5/25/88]
[Filed 11/17/88, Notice 8/24/88—published 12/14/88, effective 1/18/89]◊
[Filed emergency 5/16/89—published 6/14/89, effective 5/17/89]
[Filed 12/26/89, Notice 10/4/89—published 1/24/90, effective 2/28/90]
[Filed 3/19/90, Notice 1/10/90—published 4/18/90, effective 5/23/90]
[Filed 8/31/90, Notice 6/13/90—published 9/19/90, effective 10/24/90]
[Filed 1/29/91, Notice 6/13/90—published 2/20/91, effective 3/27/91]
[Filed 1/29/91, Notice 9/19/90—published 2/20/91, effective 3/27/91]
[Filed 4/26/91, Notice 2/20/91—published 5/15/91, effective 6/19/91]
[Filed emergency 5/10/91—published 5/29/91, effective 5/10/91]
[Filed 7/30/91, Notice 5/29/91—published 8/21/91, effective 9/25/91]
[Filed 1/21/92, Notice 10/16/91—published 2/19/92, effective 3/25/92]
[Filed 3/12/92, Notice 1/8/92—published 4/1/92, effective 5/6/92]
[Filed 5/21/92, Notice 4/1/92—published 6/10/92, effective 7/15/92]
[Filed 10/22/92, Notice 9/2/92—published 11/11/92, effective 1/1/93]
[Filed 2/5/93, Notice 11/11/92—published 3/3/93, effective 4/8/93]
[Filed 9/23/93, Notice 5/26/93—published 10/13/93, effective 11/17/93]
[Filed 3/21/94, Notices 10/13/93, 12/8/93—published 4/13/94, effective 5/18/94]
[Filed 6/24/94, Notice 4/13/94—published 7/20/94, effective 8/24/94]
[Filed 11/30/94, Notices 5/11/94, 7/20/94—published 12/21/94, effective 1/25/95]
[Filed 3/22/95, Notice 11/9/94—published 4/12/95, effective 5/31/95]
[Filed 10/6/95, Notices 6/7/95, 8/16/95—published 10/25/95, effective 1/1/96]
[Filed emergency 12/14/95—published 1/3/96, effective 1/1/96]
[Filed 12/10/96, Notice 8/28/96—published 1/1/97, effective 2/5/97]
[Filed 2/27/97, Notice 8/28/96—published 3/26/97, effective 4/30/97]
[Filed 2/27/97, Notice 1/1/97—published 3/26/97, effective 4/30/97]
[Filed 6/23/97, Notice 3/26/97—published 7/16/97, effective 8/20/97]
[Filed 11/19/97, Notice 10/8/97—published 12/17/97, effective 1/21/98]
[Filed 4/24/98, Notice 3/11/98—published 5/20/98, effective 6/24/98]
[Filed 7/31/98, Notice 5/20/98—published 8/26/98, effective 10/15/98]
[Filed 4/22/99, Notice 3/10/99—published 5/19/99, effective 6/23/99]
[Filed 11/23/99, Notice 6/2/99—published 12/15/99, effective 1/19/00]
[Filed 2/18/00, Notice 12/15/99—published 3/22/00, effective 4/26/00]
[Filed 11/9/00, Notice 4/19/00—published 11/29/00, effective 1/3/01]
[Filed 8/14/02, Notice 6/12/02—published 9/4/02, effective 10/9/02]
[Filed 3/11/04, Notice 8/6/03—published 3/31/04, effective 5/5/04]
[Filed emergency 7/16/04 after Notice 6/9/04—published 8/4/04, effective 7/16/04]
[Filed 10/22/04, Notice 3/31/04—published 11/10/04, effective 12/15/04]
[Filed 10/22/04, Notice 5/12/04—published 11/10/04, effective 12/15/04]
[Filed 6/2/05, Notice 3/16/05—published 6/22/05, effective 7/27/05]

[Filed emergency 6/30/05 after Notice 5/11/05—published 7/20/05, effective 7/1/05]
[Filed 3/22/06, Notice 1/18/06—published 4/12/06, effective 5/17/06]
[Filed 5/17/06, Notice 4/12/06—published 6/7/06, effective 7/12/06]
[Filed 5/17/06, Notice 2/15/06—published 6/7/06, effective 10/1/06]
[Filed 11/30/06, Notice 9/27/06—published 12/20/06, effective 1/24/07]
[Filed 2/7/07, Notice 10/25/06—published 2/28/07, effective 4/4/07]
[Filed 5/14/07, Notice 2/28/07—published 6/6/07, effective 7/11/07][◊]
[Filed 8/3/07, Notice 5/9/07—published 8/29/07, effective 10/3/07]
[Filed 8/3/07, Notice 6/20/07—published 8/29/07, effective 10/3/07]
[Filed emergency 11/13/07 after Notice 8/29/07—published 12/5/07, effective 11/13/07]
[Filed 11/13/07, Notice 8/29/07—published 12/5/07, effective 1/9/08]
[Filed 5/19/08, Notice 3/26/08—published 6/18/08, effective 7/23/08]
[Filed 9/5/08, Notice 7/2/08—published 9/24/08, effective 10/29/08]
[Filed ARC 7636B (Notice ARC 7448B, IAB 12/31/08), IAB 3/11/09, effective 4/15/09]
[Filed ARC 8171B (Notice ARC 7910B, IAB 7/1/09), IAB 9/23/09, effective 10/28/09]
[Filed ARC 8539B (Notice ARC 8269B, IAB 11/4/09), IAB 2/24/10, effective 4/1/10]
[Filed ARC 8673B (Notice ARC 8380B, IAB 12/16/09), IAB 4/7/10, effective 6/1/10]
[Filed ARC 8671B (Notice ARC 8414B, IAB 12/30/09), IAB 4/7/10, effective 5/12/10]
[Filed ARC 9409B (Notice ARC 9194B, IAB 11/3/10), IAB 3/9/11, effective 4/13/11]
[Filed ARC 9526B (Notice ARC 9295B, IAB 12/29/10), IAB 6/1/11, effective 7/6/11][1]
[Editorial change: IAC Supplement 6/29/11]
[Filed Emergency ARC 9693B, IAB 9/7/11, effective 8/11/11]
[Filed ARC 9912B (Notice ARC 9671B, IAB 8/10/11), IAB 12/14/11, effective 1/18/12]
[Filed ARC 0393C (Notice ARC 0256C, IAB 8/8/12), IAB 10/17/12, effective 11/21/12]
[Filed ARC 0503C (Notice ARC 0371C, IAB 10/3/12), IAB 12/12/12, effective 1/16/13]
[Filed ARC 0504C (Notice ARC 0351C, IAB 10/3/12), IAB 12/12/12, effective 1/16/13]
[Filed Emergency After Notice ARC 1030C (Notice ARC 0883C, IAB 7/24/13), IAB 9/18/13, effective 9/1/13]
[Filed ARC 1032C (Notice ARC 0882C, IAB 7/24/13), IAB 9/18/13, effective 10/23/13]
[Filed ARC 1576C (Notice ARC 1411C, IAB 4/2/14), IAB 8/20/14, effective 9/24/14]
[Filed ARC 1786C (Notice ARC 1652C, IAB 10/1/14), IAB 12/10/14, effective 1/14/15]

◊ Two or more ARCs

1 July 6, 2011, effective date of 8.35(7) delayed 70 days by the Administrative Rules Review Committee at its meeting held June 14, 2011.

CHAPTER 10
CONTROLLED SUBSTANCES

[Prior to 2/10/88, see Pharmacy Examiners[620] Ch 8]

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

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

657—10.2(124) Application forms. Application forms may be obtained from the Board of Pharmacy, 400 S.W. Eighth Street, Suite E, Des Moines, Iowa 50309-4688. Forms are also available on the board's Web site, www.state.ia.us/ibpe. Registration renewal forms will be mailed to each registrant approximately 60 days before the expiration date of the registration. A registrant who has not received a renewal form 45 days before the expiration date of the registration is responsible for contacting the board to request an application.

10.2(1) *Signature requirements.* Each application, attachment, or other document filed as part of an application shall be signed by the applicant as follows:

a. If the applicant is an individual practitioner, the practitioner shall sign the application and supporting documents.

b. If the applicant is a business, the application and supporting documents shall be signed by the person ultimately responsible for the security and maintenance of controlled substances at the registered location.

10.2(2) *Submission of multiple applications.* Any person or business required to obtain more than one registration may submit all applications in one package. Each application shall be complete and shall not refer to any accompanying application or any attachment to an accompanying application for required information.

657—10.3(124) Registration and renewal. For each registration or timely renewal of a registration to manufacture, distribute, dispense, prescribe, import or export, conduct research or instructional activities, or conduct chemical analysis with controlled substances listed in Schedules I through V of Iowa Code chapter 124, registrants shall pay a biennial fee of $90.

10.3(1) *Time and method of payment.* Registration and renewal fees shall be paid at the time the application for registration or renewal is submitted. Payment should be made in the form of a personal, certified, or cashier's check or a money order made payable to the Iowa Board of Pharmacy. Payments made in the form of foreign currency or third-party endorsed checks will not be accepted.

10.3(2) *Late renewal.* Any registered person or business may apply, on forms provided by the board office, for registration renewal not more than 60 days prior to the expiration of the registration. Failure to renew a registration prior to the first day of the month following expiration shall require payment of the renewal fee and a penalty fee of $90. Payment shall be made as specified in subrule 10.3(1).

[**ARC 0504C**, IAB 12/12/12, effective 1/16/13]

657—10.4(124) Exemptions—registration fee. The registration fee is waived for federal, state, and local law enforcement agencies and for the following federal and state institutions: hospitals, health care

or teaching institutions, and analytical laboratories authorized to possess, manufacture, distribute, and dispense controlled substances in the course of official duties.

10.4(1) *Law enforcement officials.* In order to enable law enforcement agency laboratories to obtain and transfer controlled substances for use as standards in chemical analysis, such laboratories shall maintain a registration to conduct chemical analysis. Such laboratories shall be exempt from payment of a fee for registration.

10.4(2) *Registration and duties not exempt.* Exemption from payment of a registration or registration renewal fee as provided in this rule does not relieve the agency or institution of registration or of any other requirements or duties prescribed by law.

657—10.5(124) Separate registration for independent activities; coincident activities. The following activities are deemed to be independent of each other and shall require separate registration. Any person or business engaged in more than one of these activities shall be required to separately register for each independent activity, provided, however, that registration in an independent activity shall authorize the registrant to engage in activities identified coincident with that independent activity.

10.5(1) *Manufacturing controlled substances.* A person or business registered to manufacture controlled substances in Schedules I through V may distribute any substances for which registration to manufacture was issued. A person or business registered to manufacture controlled substances in Schedules II through V may conduct chemical analysis and preclinical research, including quality control analysis, with any substances listed in those schedules for which the person or business is registered to manufacture.

10.5(2) *Distributing controlled substances.* This independent activity includes the delivery, other than by administering or dispensing, of controlled substances listed in Schedules I through V. No coincident activities are authorized.

10.5(3) *Dispensing or instructing with controlled substances.* This independent activity includes, but is not limited to, prescribing by individual practitioners, dispensing by pharmacies and hospitals, and conducting instructional activities with controlled substances listed in Schedules II through V. A person or business registered for this independent activity may conduct research and instructional activities with those substances for which the person or business is registered to the extent authorized under state law.

10.5(4) *Conducting research with controlled substances listed in Schedule I.* A researcher may manufacture or import the substances for which registration was issued provided that such manufacture or import is permitted under the federal Drug Enforcement Administration (DEA) registration. A researcher may distribute the substances for which registration was issued to persons or businesses registered or authorized to conduct research with that class of substances or registered or authorized to conduct chemical analysis with controlled substances.

10.5(5) *Conducting research with controlled substances listed in Schedules II through V.* A researcher may conduct chemical analysis with controlled substances in those schedules for which registration was issued, may manufacture such substances if and to the extent such manufacture is permitted under the federal DEA registration, and may import such substances for research purposes. A researcher may distribute controlled substances in those schedules for which registration was issued to persons registered or authorized to conduct chemical analysis, instructional activities, or research with such substances, and to persons exempt from registration pursuant to Iowa Code subsection 124.302(3), and may conduct instructional activities with controlled substances.

10.5(6) *Conducting chemical analysis with controlled substances.* A person or business registered to conduct chemical analysis with controlled substances listed in Schedules I through V may manufacture and import controlled substances for analytical or instructional activities; may distribute such substances to persons registered or authorized to conduct chemical analysis, instructional activities, or research with such substances and to persons exempt from registration pursuant to Iowa Code subsection 124.302(3); may export such substances to persons in other countries performing chemical analysis or enforcing laws relating to controlled substances or drugs in those countries; and may conduct instructional activities with controlled substances.

10.5(7) *Importing or exporting controlled substances.* A person or business registered to import controlled substances listed in Schedules I through V may distribute any substances for which such registration was issued.

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

10.6(1) *Warehouse.* A warehouse where controlled substances are stored by or on behalf of a registered person or business shall be exempt from registration except as follows:

a. Registration of the warehouse shall be required if such controlled substances are distributed directly from that warehouse to registered locations other than the registered location from which the substances were delivered to the warehouse.

b. Registration of the warehouse shall be required if such controlled substances are distributed directly from that warehouse to persons exempt from registration pursuant to Iowa Code subsection 124.302(3).

10.6(2) *Sales office.* An office used by agents of a registrant where sales of controlled substances are solicited, made, or supervised shall be exempt from registration. Such office shall not contain controlled substances, except substances used for display purposes or for lawful distribution as samples, and shall not serve as a distribution point for filling sales orders.

10.6(3) *Prescriber's office.* An office used by a prescriber who is registered at another location and where controlled substances are prescribed but where no supplies of controlled substances are maintained shall be exempt from registration. However, a prescriber who practices at more than one office location where controlled substances are administered or otherwise dispensed as a regular part of the prescriber's practice shall register at each location wherein the prescriber maintains supplies of controlled substances.

10.6(4) *Prescriber in hospital.* A prescriber who is registered at another location and who treats patients and may order the administration of controlled substances in a hospital other than the prescriber's registered practice location shall not be required to obtain a separate registration for the hospital.

10.6(5) *Affiliated interns, residents, or foreign physicians.* An individual practitioner who is an intern, resident, or foreign physician may dispense and prescribe controlled substances under the registration of the hospital or other institution which is registered and by whom the registrant is employed provided that:

a. The hospital or other institution by which the individual practitioner is employed has determined that the practitioner is permitted to dispense or prescribe drugs by the appropriate licensing board;

b. Such individual practitioner is acting only in the scope of employment in the hospital or institution;

c. The hospital or other institution authorizes the intern, resident, or foreign physician to dispense or prescribe under the hospital registration and designates a specific internal code number, letters, or combination thereof which shall be appended to the institution's DEA registration number, preceded by a hyphen (e.g., AP1234567-10 or AP1234567-12); and

d. The hospital or institution maintains a current list of internal code numbers identifying the corresponding individual practitioner, available for the purpose of verifying the authority of the prescribing individual practitioner.

657—10.7 to **10.9** Reserved.

657—10.10(124,147,155A) Inspection. The board may inspect, or cause to be inspected, the establishment of an applicant or registrant. The board shall review the application for registration and other information regarding an applicant or registrant in order to determine whether the applicant or registrant has met the applicable standards of Iowa Code chapter 124 and these rules.

657—10.11(124) Modification or termination of registration. A registered individual or business may apply to modify a current registration as provided by this rule.

10.11(1) *Change of substances authorized.* Any registrant may apply to modify the substances authorized by the registration by submitting a written request to the board. The request shall include the registrant's name, address, telephone number, registration number, and the substances or schedules to be added to or removed from the registration and shall be signed by the same person who signed the most recent application for registration or registration renewal. No fee shall be required for the modification.

10.11(2) *Change of address of registered location.*

a. Individual practitioner, researcher, analytical laboratory, or teaching institution. An entity registered under these classifications may apply to change the address of the registered location by submitting a written request to the board. The request shall include the registrant's name, current address, new address, telephone number, effective date of the address change, and registration number, and shall be signed by the registered individual practitioner or the same person who signed the most recent application for registration or registration renewal. No fee shall be required for the modification.

b. Pharmacy, hospital, care facility, manufacturer, distributor, importer, or exporter. An entity registered under these classifications shall apply to change the address of the registered location by submitting a completed application for registration. Applications may be obtained and shall be submitted as provided in rule 657—10.2(124). The registration fee as provided in rule 657—10.3(124) shall accompany each completed application.

10.11(3) *Change of registrant's name.*

a. Individual practitioner, researcher, analytical laboratory, or teaching institution. An entity registered under these classifications may apply to change the registrant's name by submitting a written request to the board. The request shall include the registrant's current name, the new name, address, telephone number, effective date of the name change, and registration number, and shall be signed by the registered individual practitioner or the same person who signed the most recent application for registration or registration renewal. No fee shall be required for the modification. Change of name, as used in this paragraph, refers to a change of the legal name of the registrant and does not authorize the transfer of a registration issued to an individual practitioner or researcher to another individual practitioner or researcher.

b. Pharmacy, hospital, care facility, manufacturer, distributor, importer, or exporter. An entity registered under these classifications shall apply to change the registrant name by submitting a completed application for registration. Applications may be obtained and shall be submitted as provided in rule 657—10.2(124). The registration fee as provided in rule 657—10.3(124) shall accompany each completed application.

10.11(4) *Change of ownership of registered business entity.* A change of immediate ownership of a pharmacy, hospital, care facility, manufacturer, distributor, analytical laboratory, teaching institution, importer, or exporter shall require the completion of an application for registration. Applications may be obtained and shall be submitted as provided in rule 657—10.2(124). The registration fee as provided in rule 10.3(124) shall accompany each completed application.

10.11(5) *Change of responsible individual.* Any registrant, except an individual practitioner, a researcher, a hospital, or a pharmacy, may apply to change the responsible individual authorized by the registration by submitting a written request to the board. The request shall include the registrant's name, address, telephone number, the name and title of the current responsible individual and of the new responsible individual, the effective date of the change, and the registration number, and shall be signed by the new responsible individual. No fee shall be required for the modification.

a. Individual practitioners and researchers. Responsibility under a registration issued to an individual practitioner or researcher shall remain with the named individual practitioner or researcher. The responsible individual under such registration may not be changed.

b. Pharmacies and hospitals. The responsible pharmacist may execute a power of attorney for DEA order forms to change responsibility under the registration issued to the pharmacy or hospital. The power of attorney shall include the name, address, DEA registration number, and Iowa uniform controlled substances Act (CSA) registration number of the registrant. The power of attorney shall

identify the current and new responsible individuals and shall authorize the new responsible individual to execute applications and official DEA order forms to requisition Schedule II controlled substances. The power of attorney shall be signed by both individuals, shall be witnessed by two adults, and shall be maintained by the registrant and available for inspection or copying by representatives of the board or other state or federal authorities.

10.11(6) *Termination of registration.* A registration issued to an individual shall terminate upon the death of the individual. A registration issued to an individual or business shall terminate when the registered individual or business ceases legal existence, discontinues business, or discontinues professional practice.

657—10.12(124) Denial, modification, suspension, or revocation of registration.

10.12(1) *Grounds for suspension or revocation.* The board may suspend or revoke any registration upon a finding that the registrant:

a. Has furnished false or fraudulent material information in any application filed under this chapter;

b. Has had the registrant's federal registration to manufacture, distribute, or dispense controlled substances suspended or revoked;

c. Has been convicted of a public offense under any state or federal law relating to any controlled substance. For the purpose of this rule only, a conviction shall include a plea of guilty, a forfeiture of bail or collateral deposited to secure a defendant's appearance in court which forfeiture has not been vacated, or a finding of guilt in a criminal action even though entry of the judgment or sentence has been withheld and the individual has been placed on probation;

d. Has committed such acts as would render the registrant's registration under Iowa Code section 124.303 inconsistent with the public interest as determined by that section; or

e. Has been subject to discipline by the registrant's respective professional licensing board and the discipline revokes, suspends, or modifies the registrant's authority regarding controlled substances (including, but not limited to, limiting or prohibiting the registrant from prescribing or handling controlled substances). A certified copy of the record of licensee discipline or a copy of the licensee's surrender of the professional license shall be conclusive evidence.

10.12(2) *Limited suspension or revocation.* If the board finds grounds to suspend or revoke a registration, the board may limit revocation or suspension of the registration to the particular controlled substance with respect to which the grounds for revocation or suspension exist. If the revocation or suspension is limited to a particular controlled substance or substances, the registrant shall be given a new certificate of registration for all substances not affected by revocation or suspension; no fee shall be required for the new certificate of registration. The registrant shall deliver the old certificate of registration to the board.

10.12(3) *Denial of registration or registration renewal.* If upon examination of an application for registration or registration renewal, including any other information the board has or receives regarding the applicant, the board determines that the issuance of the registration would be inconsistent with the public interest, the board shall serve upon the applicant an order to show cause why the registration should not be denied.

10.12(4) *Considerations in denial of registration.* In determining the public interest, the board shall consider all of the following factors:

a. Maintenance of effective controls against diversion of controlled substances into other than legitimate medical, scientific, or industrial channels.

b. Compliance with applicable state and local law.

c. Any convictions of the applicant under any federal and state laws relating to any controlled substance.

d. Past experience in the manufacture or distribution of controlled substances, and the existence in the applicant's establishment of effective controls against diversion.

e. Furnishing by the applicant of false or fraudulent material in any application filed under this chapter.

f. Suspension or revocation of the applicant's federal registration to manufacture, distribute, or dispense controlled substances as authorized by federal law.

g. Any other factors relevant to and consistent with the public health and safety.

10.12(5) *Order to show cause.* Before denying, modifying, suspending, or revoking a registration, the board shall serve upon the applicant or registrant an order to show cause why the registration should not be denied, modified, revoked, or suspended. The order to show cause shall contain a statement of the basis therefor and shall call upon the applicant or registrant to appear before an administrative law judge or the board at a time and place not less than 30 days after the date of service of the order. The order to show cause shall also contain a statement of the legal basis for such hearing and for the denial, revocation, or suspension of registration and a summary of the matters of fact and law asserted. If the order to show cause involves the possible denial of registration renewal, the order shall be served not later than 30 days before the expiration of the registration. Proceedings to refuse renewal of registration shall not abate the existing registration, which shall remain in effect pending the outcome of the administrative hearing unless the board issues an order of immediate suspension pursuant to subrule 10.12(9).

10.12(6) *Hearing requested.* If an applicant or registrant who has received an order to show cause desires a hearing on the matter, the applicant or registrant shall file a request for a hearing within 30 days after the date of service of the order to show cause. If a hearing is requested, the board shall hold a hearing pursuant to 657—Chapter 35 at the time and place stated in the order and without regard to any criminal prosecution or other proceeding. Unless otherwise ordered by the board, an administrative law judge employed by the department of inspections and appeals shall be assigned to preside over the case and to render a proposed decision for the board's consideration.

10.12(7) *Waiver of hearing.* If an applicant or registrant entitled to a hearing on an order to show cause fails to file a request for hearing, or if the applicant or registrant requests a hearing but fails to appear at the hearing, the applicant or registrant shall be deemed to have waived the opportunity for a hearing unless the applicant or registrant shows good cause for such failure.

10.12(8) *Final board order when hearing waived.* If an applicant or registrant entitled to a hearing waives or is deemed to have waived the opportunity for a hearing, the executive director of the board may cancel the hearing and issue, on behalf of the board, the board's final order on the order to show cause.

10.12(9) *Order of immediate suspension.* The board may suspend any registration simultaneously with the service upon the registrant of an order to show cause why such registration should not be revoked or suspended if it finds there is an imminent danger to the public health or safety that warrants such action. If the board suspends a registration simultaneously with the service of the order to show cause upon the registrant, it shall serve an order of immediate suspension containing a statement of its findings regarding the danger to public health or safety upon the registrant with the order to show cause. The suspension shall continue in effect until the conclusion of the proceedings, including judicial review thereof, under the provisions of the Iowa administrative procedure Act, unless sooner withdrawn by the board or dissolved by the order of the district court or an appellate court.

10.12(10) *Disposition of controlled substances.* If the board suspends or revokes a registration, the registrant shall promptly return the certificate of registration to the board. Also, upon service of the order of the board suspending or revoking the registration, the registrant shall deliver all affected controlled substances in the registrant's possession to the board or authorized agent of the board. Upon receiving the affected controlled substances from the registrant, the board or its authorized agent shall place all such substances under seal and retain the sealed controlled substances pending final resolution of any appeals or until a court of competent jurisdiction directs otherwise. No disposition may be made of the substances under seal until the time for taking an appeal has elapsed or until all appeals have been concluded unless a court, upon application, orders the sale of perishable substances and the deposit of proceeds of the sale with the court. Upon a revocation order's becoming final, all such controlled substances may be forfeited to the state.

10.12(11) *Notifications.* The board shall promptly notify the DEA and the Iowa department of public safety of all orders suspending or revoking registration and all forfeitures of controlled substances.

657—10.13 and **10.14** Reserved.

657—10.15(124,155A) Security requirements. All applicants and registrants shall provide effective controls and procedures to guard against theft and diversion of controlled substances. In order to determine whether a person has provided effective controls against diversion, the board shall use the security requirements set forth in these rules as standards for the physical security controls and operating procedures necessary to prevent diversion.

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

a. Controlled substances listed in Schedule I shall be stored in a securely locked, substantially constructed cabinet.

b. Controlled substances listed in Schedules II through V may be stored in a securely locked, substantially constructed cabinet. However, pharmacies and hospitals may disperse these substances throughout the stock of noncontrolled substances in a manner so as to obstruct the theft or diversion of the controlled substances.

10.15(2) *Factors in evaluating physical security systems.* In evaluating the overall security system of a registrant or applicant necessary to maintain effective controls against theft or diversion of controlled substances, the board may consider any of the following factors it deems relevant to the need for strict compliance with the requirements of this rule:

a. The type of activity conducted;

b. The type, form, and quantity of controlled substances handled;

c. The location of the premises and the relationship such location bears to security needs;

d. The type of building construction comprising the facility and the general characteristics of the building or buildings;

e. The type of vault, safe, and secure enclosures available;

f. The type of closures on vaults, safes, and secure enclosures;

g. The adequacy of key control systems or combination lock control systems;

h. The adequacy of electric detection and alarm systems, if any;

i. The adequacy of supervision over employees having access to controlled substances, to storage areas, or to manufacturing areas;

j. The extent of unsupervised public access to the facility, including the presence and characteristics of perimeter fencing, if any;

k. The procedures for handling business guests, visitors, maintenance personnel, and nonemployee service personnel;

l. The availability of local police protection or of the registrant's or applicant's security personnel; and

m. The adequacy of the registrant's or applicant's system for monitoring the receipt, manufacture, distribution, and disposition of controlled substances.

10.15(3) *Manufacturing and compounding storage areas.* Raw materials, bulk materials awaiting further processing, and finished products which are controlled substances listed in any schedule shall be stored pursuant to federal laws and regulations.

657—10.16(124) Report of theft or loss. A registrant shall report to the board and the DEA any theft or significant loss of controlled substances when the loss is attributable to other than inadvertent error. Thefts or other losses of controlled substances shall be reported whether or not the controlled substances are subsequently recovered or the responsible parties are identified and action taken against them.

10.16(1) *Immediate notice to board.* If the theft was committed by a registrant or licensee of the board, or if there is reason to believe that the theft was committed by a registrant or licensee of the board, the registrant from whom the controlled substances were stolen shall notify the board immediately upon discovery of the theft and shall identify to the board the registrant or licensee suspected of the theft.

10.16(2) *Immediate notice to DEA.* A registrant shall deliver notice, immediately upon discovery of a reportable theft or loss of controlled substances, to the Des Moines DEA field office via telephone, facsimile, or a brief written message explaining the circumstances of the theft or loss.

10.16(3) *Timely report submission.* Within 14 calendar days of discovery of the theft or loss, a registrant shall submit directly to the DEA a Form 106 or alternate required form via the DEA Web site at http://www.deadiversion.usdoj.gov/. A copy of the report that was completed and submitted to the DEA shall be immediately submitted to the board via facsimile, e-mail attachment, or personal or commercial delivery.

10.16(4) *Record maintained.* A copy of the report shall be maintained in the registrant's files for a minimum of two years following the date the report was completed.

[**ARC 1787C**, IAB 12/10/14, effective 1/14/15]

657—10.17(124) Accountability of stock supply. An individual who administers a controlled substance from a non-patient-specific, stock supply in an institutional setting shall personally document on a separate readily retrievable record system each dose administered, wasted, or returned to the pharmacy. Such documentation shall not be delegated to another individual. Wastage documentation shall include the signature or unique electronic signature or identification of a witnessing licensed health care practitioner.

Distribution records for non-patient-specific, floor-stocked controlled substances shall bear the following information:

1. Patient's name;
2. Prescriber who ordered drug;
3. Name of drug, dosage form, and strength;
4. Time and date of administration to patient and quantity administered;
5. Signature or unique electronic signature of individual administering controlled substance;
6. Returns to the pharmacy;
7. Waste, which is required to be witnessed and cosigned by another licensed health care practitioner.

[**ARC 9912B**, IAB 12/14/11, effective 1/18/12]

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

10.18(1) *Registrant stock supply.* Pharmacy personnel, registrants, and registrant staff shall remove from current inventory and dispose of controlled substances by one of the following procedures.

a. The responsible individual shall utilize the services of a DEA-registered and Iowa-licensed disposal firm.

b. The board may authorize and instruct the registrant to dispose of the controlled substances in one of the following manners:

(1) By delivery to an agent of the board or to the board office;

(2) By destruction of the drugs in the presence of a board officer, agent, inspector, or other authorized individual; or

(3) By such other means as the board may determine to ensure that drugs do not become available to unauthorized persons.

10.18(2) *Waste.* Except as otherwise specifically provided by federal or state law or rules of the board, the unused portion of a controlled substance resulting from administration to a patient from a registrant's stock or emergency supply or resulting from drug compounding operations may be destroyed or otherwise disposed of by the registrant or a pharmacist in witness of one other licensed health care provider or a registered pharmacy technician 18 years of age or older pursuant to this subrule. A written record of the wastage shall be made and maintained by the registrant for a minimum of two years following the destruction or other disposal. The record shall include the signatures of the individual

destroying or otherwise disposing of the waste controlled substance and of the witnessing licensed health care provider or registered pharmacy technician and shall identify the following:

a. The controlled substance wasted;

b. The date of destruction or other disposition;

c. The quantity or estimated quantity of the wasted controlled substance;

d. The source of the controlled substance, including identification of the patient to whom the substance was administered or the drug compounding process utilizing the controlled substance; and

e. The reason for the waste.

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

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

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

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

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

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

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

[**ARC 0749C**, IAB 5/29/13, effective 7/3/13]

657—10.19 and **10.20** Reserved.

657—10.21(124,126,155A) Prescription requirements. All prescriptions for controlled substances shall be dated as of, and signed on, the day issued. Controlled substances prescriptions shall be valid for six months following date of issue. A prescription for a Schedule III, IV, or V controlled substance may include authorization to refill the prescription no more than five times within the six months following date of issue. A prescription for a Schedule II controlled substance shall not be refilled.

10.21(1) *Form of prescription.* All prescriptions shall bear the full name and address of the patient; the drug name, strength, dosage form, quantity prescribed, and directions for use; and the name, address, and DEA registration number of the prescriber. All prescriptions issued by individual prescribers shall include the legibly preprinted, typed, or hand-printed name of the prescriber as well as the prescriber's written or electronic signature. When an oral order is not permitted, or when a prescriber is unable to prepare and transmit an electronic prescription in compliance with DEA requirements for electronic prescriptions, prescriptions shall be written with ink, indelible pencil, or typed print and shall be manually signed by the prescriber. If the prescriber utilizes an electronic prescription application that meets DEA requirements for electronic prescriptions, the prescriber may electronically prepare and transmit a prescription for a controlled substance to a pharmacy that utilizes a pharmacy prescription application that meets DEA requirements for electronic prescriptions. A prescriber's agent may prepare a prescription for the review, authorization, and manual or electronic signature of the prescriber but the prescribing practitioner is responsible for the accuracy, completeness, and validity of the prescription. An electronic prescription for a controlled substance shall not be transmitted to a pharmacy except by

the prescriber in compliance with DEA regulations. A prescriber shall securely maintain the unique authentication credentials issued to the prescriber for utilization of the electronic prescription application and authentication of the prescriber's electronic signature. Unique authentication credentials issued to any individual shall not be shared with or disclosed to any other prescriber, agent, or individual. A corresponding liability rests upon the pharmacist who fills a prescription not prepared in the form prescribed by this rule.

10.21(2) *Verification by pharmacist.* The pharmacist shall verify the authenticity of the prescription with the individual prescriber or the prescriber's agent in each case when a written or oral prescription for a Schedule II controlled substance is presented for filling and neither the prescribing individual practitioner issuing the prescription nor the patient or patient's agent is known to the pharmacist. The pharmacist shall verify the authenticity of the prescription with the individual prescriber or the prescriber's agent in any case when the pharmacist questions the validity of, including the legitimate medical purpose for, the prescription. The pharmacist is required to record the manner by which the prescription was verified and include the pharmacist's name or unique identifier.

10.21(3) *Intern, resident, foreign physician.* An intern, resident, or foreign physician exempt from registration pursuant to subrule 10.6(5) shall include on all prescriptions issued the hospital's registration number and the special internal code number assigned by the hospital in lieu of the prescriber's registration number required by this rule. Each prescription shall include the stamped or legibly printed name of the intern, resident, or foreign physician as well as the prescriber's signature.

10.21(4) *Valid prescriber/patient relationship.* Once the prescriber/patient relationship is broken and the prescriber is no longer available to treat the patient or to oversee the patient's use of the controlled substance, a prescription shall lose its validity. A prescriber/patient relationship shall be deemed broken when the prescriber dies, retires, or moves out of the local service area or when the prescriber's authority to prescribe is suspended, revoked, or otherwise modified to exclude authority for the schedule in which the prescribed substance is listed. The pharmacist, upon becoming aware of the situation, shall cancel the prescription and any remaining refills. However, the pharmacist shall exercise prudent judgment based upon individual circumstances to ensure that the patient is able to obtain a sufficient amount of the drug to continue treatment until the patient can reasonably obtain the service of another prescriber and a new prescription can be issued.

10.21(5) *Schedule II prescriptions.* With appropriate verification, a pharmacist may add information provided by the patient or patient's agent, such as the patient's address, to a Schedule II controlled substance prescription. A pharmacist shall never change the patient's name, the controlled substance prescribed except for generic substitution, or the name or signature of the prescriber. After consultation with the prescriber or the prescriber's agent and documentation of such consultation, a pharmacist may change or add the following information on a Schedule II controlled substance prescription:

a. The drug strength;

b. The dosage form;

c. The drug quantity;

d. The directions for use;

e. The date the prescription was issued; and

f. The prescriber's address or DEA registration number.

[**ARC 9912B**, IAB 12/14/11, effective 1/18/12]

657—10.22(124) Schedule II emergency prescriptions.

10.22(1) *Emergency situation defined.* For the purposes of authorizing an oral or facsimile transmission of a prescription for a Schedule II controlled substance listed in Iowa Code section 124.206, the term "emergency situation" means those situations in which the prescribing practitioner determines that all of the following apply:

a. Immediate administration of the controlled substance is necessary for proper treatment of the intended ultimate user.

b. No appropriate alternative treatment is available, including administration of a drug that is not a Schedule II controlled substance.

c. It is not reasonably possible for the prescribing practitioner to provide a manually signed written prescription to be presented to the pharmacy before the pharmacy dispenses the controlled substance or the prescribing practitioner is unable to provide a DEA-compliant electronic prescription to the pharmacy before the pharmacy dispenses the controlled substance.

10.22(2) *Requirements of emergency prescription.* In the case of an emergency situation as defined in subrule 10.22(1), a pharmacist may dispense a controlled substance listed in Schedule II pursuant to a facsimile transmission or upon receiving oral authorization of a prescribing individual practitioner provided that:

a. The quantity prescribed and dispensed is limited to the smallest available quantity to meet the needs of the patient during the emergency period. Dispensing beyond the emergency period requires a written prescription manually signed by the prescribing individual practitioner or a DEA-compliant electronic prescription.

b. If the pharmacist does not know the prescribing individual practitioner, the pharmacist shall make a reasonable effort to determine that the authorization came from an authorized prescriber. The pharmacist shall record the manner by which the authorization was verified and include the pharmacist's name or unique identification.

c. The pharmacist shall prepare a temporary written record of the emergency prescription. The temporary written record shall consist of a hard copy of the facsimile transmission or a written record of the oral transmission authorizing the emergency dispensing. A written record is not required to consist of a handwritten record and may be a printed facsimile or a print of a computer-generated record of the prescription if the printed record includes all of the required elements for the prescription. If the emergency prescription is transmitted by the practitioner's agent, the record shall include the first and last names and title of the individual who transmitted the prescription.

d. If the emergency prescription is transmitted via facsimile transmission, the means of transmission shall not obscure or render the prescription information illegible due to security features of the paper utilized by the prescriber to prepare the written prescription, and the hard-copy record of the facsimile transmission shall not be obscured or rendered illegible due to such security features.

e. Within seven days after authorizing an emergency prescription, the prescribing individual practitioner shall cause a written prescription for the emergency quantity prescribed to be delivered to the dispensing pharmacist. In addition to conforming to the requirements of 657—10.21(124,126,155A), the prescription shall have written on its face "Authorization for Emergency Dispensing" and the date of the emergency order. The written prescription may be delivered to the pharmacist in person or by mail, but if delivered by mail it must be postmarked within the seven-day period. The written prescription shall be attached to and maintained with the temporary written record prepared pursuant to paragraph *"c."*

f. The pharmacist shall notify the board and the DEA if the prescribing individual fails to deliver a written prescription. Failure of the pharmacist to so notify the board and the DEA, or failure of the prescribing individual to deliver the required written prescription as herein required, shall void the authority conferred by this subrule.

[**ARC 7636B**, IAB 3/11/09, effective 4/15/09; **ARC 9410B**, IAB 3/9/11, effective 4/13/11; **ARC 9912B**, IAB 12/14/11, effective 1/18/12]

657—10.23(124) Schedule II prescriptions—partial filling. The partial filling of a prescription for a controlled substance listed in Schedule II is permitted as provided in this rule.

10.23(1) *Insufficient supply on hand.* If the pharmacist is unable to supply the full quantity called for in a prescription and makes a notation of the quantity supplied on the prescription record, a partial fill of the prescription is permitted. The remaining portion of the prescription must be filled within 72 hours of the first partial filling. If the remaining portion is not or cannot be filled within the 72-hour period, the pharmacist shall so notify the prescriber. No further quantity may be supplied beyond 72 hours without a new prescription.

10.23(2) *Long-term care or terminally ill patient.* A prescription for a Schedule II controlled substance written for a patient in a long-term care facility (LTCF) or for a patient with a medical

diagnosis documenting a terminal illness may be filled in partial quantities to include individual dosage units as provided by this subrule.

a. If there is any question whether a patient may be classified as having a terminal illness, the pharmacist shall contact the practitioner prior to partially filling the prescription. Both the pharmacist and the practitioner have a corresponding responsibility to ensure that the controlled substance is for a terminally ill patient.

b. The pharmacist shall record on the prescription whether the patient is "terminally ill" or an "LTCF patient." For each partial filling, the dispensing pharmacist shall record on the back of the prescription, or on another appropriate uniformly maintained and readily retrievable record, the date of the partial filling, the quantity dispensed, the remaining quantity authorized to be dispensed, and the identification of the dispensing pharmacist.

c. The total quantity of Schedule II controlled substances dispensed in all partial fillings shall not exceed the total quantity prescribed. Schedule II prescriptions for patients in a LTCF or patients with a medical diagnosis documenting a terminal illness shall be valid for a period not to exceed 60 days from the issue date unless sooner terminated by the discontinuance of the drug.

d. Information pertaining to current Schedule II prescriptions for patients in a LTCF or for patients with a medical diagnosis documenting a terminal illness may be maintained in a computerized system pursuant to rule 657—21.4(124,155A).

657—10.24(124) Schedule II medication order. Schedule II controlled substances may be administered or dispensed to institutionalized patients pursuant to a medication order as provided in 657—subrule 7.13(1) or rule 657—23.18(124,155A), as applicable.

657—10.25(124) Schedule II—issuing multiple prescriptions. An individual prescriber may issue multiple prescriptions authorizing the patient to receive a total of up to a 90-day supply of a Schedule II controlled substance pursuant to the provisions and limitations of this rule.

10.25(1) *Refills prohibited.* The issuance of refills for a Schedule II controlled substance is prohibited. The use of multiple prescriptions for the dispensing of Schedule II controlled substances, pursuant to this rule, ensures that the prescriptions are treated as separate dispensing authorizations and not as refills of an original prescription.

10.25(2) *Legitimate medical purpose.* Each separate prescription issued pursuant to this rule shall be issued for a legitimate medical purpose by an individual prescriber acting in the usual course of the prescriber's professional practice.

10.25(3) *Dates and instructions.* Each prescription issued pursuant to this rule shall be dated as of and manually signed by the prescriber on the day the prescription is issued. Each separate prescription, other than the first prescription if that prescription is intended to be filled immediately, shall contain written instructions indicating the earliest date on which a pharmacist may fill each prescription.

10.25(4) *Authorized fill date unalterable.* Regardless of the provisions of subrule 10.21(5), when a prescription contains instructions from the prescriber indicating that the prescription shall not be filled before a certain date, a pharmacist shall not fill the prescription before that date. The pharmacist shall not contact the prescriber for verbal authorization to fill the prescription before the fill date originally indicated by the prescriber pursuant to this rule.

10.25(5) *Number of prescriptions and authorized quantity.* An individual prescriber may issue for a patient as many separate prescriptions, to be filled sequentially pursuant to this rule, as the prescriber deems necessary to provide the patient with adequate medical care. The cumulative effect of the filling of each of these separate prescriptions shall result in the receipt by the patient of a quantity of the Schedule II controlled substance not exceeding a 90-day supply.

10.25(6) *Prescriber's discretion.* Nothing in this rule shall be construed as requiring or encouraging an individual prescriber to issue multiple prescriptions pursuant to this rule or to see the prescriber's patients only once every 90 days when prescribing Schedule II controlled substances. An individual prescriber shall determine, based on sound medical judgment and in accordance with established medical

standards, how often to see patients and whether it is appropriate to issue multiple prescriptions pursuant to this rule.
[**ARC 8172B**, IAB 9/23/09, effective 10/28/09]

657—10.26 Reserved.

657—10.27(124,155A) Facsimile transmission of a controlled substance prescription. With the exception of an authorization for emergency dispensing as provided in rule 657—10.22(124), a prescription for a controlled substance may be transmitted via facsimile from a prescriber to a pharmacy as provided in rule 657—21.9(124,155A).

10.27(1) *Schedule II prescription.* A prescription for a Schedule II controlled substance may be transmitted via facsimile to the pharmacy only as provided in rules 657—21.12(124,155A) to 657—21.16(124,155A).

10.27(2) *Schedule III, IV, or V prescription.* A prescription for a Schedule III, IV, or V controlled substance may be transmitted via facsimile to the pharmacy only as provided in rule 657—21.9(124,155A).
[**ARC 9912B**, IAB 12/14/11, effective 1/18/12]

657—10.28(124,155A) Schedule III, IV, or V refills. No prescription for a controlled substance listed in Schedule III, IV, or V shall be filled or refilled more than six months after the date on which it was issued nor be refilled more than five times.

10.28(1) *Record.* Each filling and refilling of a prescription shall be entered on the prescription or on another uniformly maintained and readily retrievable record.

a. The following information shall be retrievable by the prescription number: the name and dosage form of the controlled substance, the date filled or refilled, the quantity dispensed, the unique identification of the dispensing pharmacist for each refill, and the total number of refills authorized for that prescription.

b. If the pharmacist merely initials or affixes the pharmacist's unique identifier and dates the back of the prescription, it shall be deemed that the full face amount of the prescription has been dispensed.

10.28(2) *Oral refill authorization.* The prescribing practitioner may authorize additional refills of Schedule III, IV, or V controlled substances on the original prescription through an oral refill authorization transmitted to the pharmacist provided the following conditions are met:

a. The total quantity authorized, including the amount of the original prescription, does not exceed five refills nor extend beyond six months from the date of issuance of the original prescription.

b. The pharmacist who obtains the oral authorization records from the prescriber who issued the original prescription records on or with the original prescription the date, the quantity of each refill, the number of additional refills authorized, and the pharmacist's unique identification.

c. The quantity of each additional refill is equal to or less than the quantity authorized for the initial filling of the original prescription.

d. The prescribing practitioner must execute a new and separate prescription for any additional quantities beyond the five-refill, six-month limitation.

10.28(3) *Automated data processing record system.* An automated data processing record system may be used for the storage and retrieval of Schedule III, IV, and V controlled substance prescription fill and refill information subject to the conditions and requirements of rules 657—21.4(124,155A) and 657—21.5(124,155A).

657—10.29(124,155A) Schedule III, IV, or V partial fills. The partial filling of a prescription for a controlled substance listed in Schedule III, IV, or V is permissible provided that each partial fill is recorded in the same manner as a refill. The total quantity dispensed in all partial fills shall not exceed the total quantity prescribed. No dispensing shall occur later than six months after the date on which the prescription was issued.

657—10.30(124,155A) Schedule III, IV, and V medication order. A Schedule III, IV, or V controlled substance may be administered or dispensed to institutionalized patients pursuant to a medication order as provided in 657—subrule 7.13(1) or rule 657—23.9(124,155A), as applicable.

657—10.31(124,155A) Dispensing Schedule V controlled substances without a prescription. A controlled substance listed in Schedule V, which substance is not a prescription drug as determined under the federal Food, Drug and Cosmetic Act, and excepting products containing ephedrine, pseudoephedrine, or phenylpropanolamine, may be dispensed or administered without a prescription by a pharmacist to a purchaser at retail pursuant to the conditions of this rule.

10.31(1) *Who may dispense.* Dispensing shall be by a licensed Iowa pharmacist or by a registered pharmacist-intern under the direct supervision of a pharmacist preceptor. This subrule does not prohibit, after the pharmacist has fulfilled the professional and legal responsibilities set forth in this rule and has authorized the dispensing of the substance, the completion of the actual cash or credit transaction or the delivery of the substance by a nonpharmacist.

10.31(2) *Frequency and quantity.* Dispensing at retail to the same purchaser in any 48-hour period shall be limited to no more than one of the following quantities of a Schedule V controlled substance:

a. 240 cc (8 ounces) of any controlled substance containing opium.

b. 120 cc (4 ounces) of any other controlled substance.

c. 48 dosage units of any controlled substance containing opium.

d. 24 dosage units of any other controlled substance.

10.31(3) *Age of purchaser.* The purchaser shall be at least 18 years of age.

10.31(4) *Identification.* The pharmacist shall require every purchaser under this rule not known by the pharmacist to present a government-issued photo identification, including proof of age when appropriate.

10.31(5) *Record.* A bound record book (i.e., with pages sewn or glued to the spine) for dispensing of Schedule V controlled substances pursuant to this rule shall be maintained by the pharmacist. The book shall contain the name and address of each purchaser, the name and quantity of controlled substance purchased, the date of each purchase, and the name or unique identification of the pharmacist or pharmacist-intern who approved the dispensing of the substance to the purchaser.

10.31(6) *Prescription not required under other laws.* No other federal or state law or regulation requires a prescription prior to distributing or dispensing a Schedule V controlled substance.

657—10.32(124,155A) Dispensing products containing ephedrine, pseudoephedrine, or phenylpropanolamine without a prescription. A product containing ephedrine, pseudoephedrine, or phenylpropanolamine, which substance is a Schedule V controlled substance and is not listed in another controlled substance schedule, may be dispensed or administered without a prescription by a pharmacist to a purchaser at retail pursuant to the conditions of this rule.

10.32(1) *Who may dispense.* Dispensing shall be by a licensed Iowa pharmacist or by a registered pharmacist-intern under the direct supervision of a pharmacist preceptor. This subrule does not prohibit, after the pharmacist has fulfilled the professional and legal responsibilities set forth in this rule and has authorized the dispensing of the substance, the completion of the actual cash or credit transaction or the delivery of the substance by a nonpharmacist.

10.32(2) *Packaging of nonliquid forms.* A nonliquid form of a product containing ephedrine, pseudoephedrine, or phenylpropanolamine includes gel caps. Nonliquid forms of these products to be sold pursuant to this rule shall be packaged either in blister packaging with each blister containing no more than two dosage units or, if blister packs are technically infeasible, in unit dose packets or pouches.

10.32(3) *Frequency and quantity.* Dispensing at retail to the same purchaser within any 30-day period shall be limited to products collectively containing no more than 7,500 mg of ephedrine, pseudoephedrine, or phenylpropanolamine; dispensing at retail to the same purchaser within a single calendar day shall not exceed 3,600 mg.

10.32(4) *Age of purchaser.* The purchaser shall be at least 18 years of age.

10.32(5) *Identification.* The pharmacist shall require every purchaser under this rule to present a current government-issued photo identification, including proof of age when appropriate. The pharmacist shall be responsible for verifying that the name on the identification matches the name provided by the purchaser and that the photo image depicts the purchaser.

10.32(6) *Record.* Purchase records shall be recorded in the real-time electronic pseudoephedrine tracking system (PTS) established and administered by the governor's office of drug control policy pursuant to 657—Chapter 100. If the real-time electronic repository is unavailable for use, the purchase record shall be recorded in an alternate format and submitted to the PTS as provided in 657—subrule 100.3(4).

a. *Alternate record contents.* The alternate record shall contain the following:

(1) The name, address, and signature of the purchaser.

(2) The name and quantity of the product purchased, including the total milligrams of ephedrine, pseudoephedrine, or phenylpropanolamine contained in the product.

(3) The date and time of the purchase.

(4) The name or unique identification of the pharmacist or pharmacist-intern who approved the dispensing of the product.

b. *Alternate record format.* The record shall be maintained using one of the following options:

(1) A hard-copy record.

(2) A record in the pharmacy's electronic prescription dispensing record-keeping system that is capable of producing a hard-copy printout of a record.

(3) A record in an electronic data collection system that captures each of the data elements required by this subrule and that is capable of producing a hard-copy printout of a record.

c. *PTS records retrieval.* Pursuant to 657—subrule 100.4(6), the pharmacy shall be able to produce a hard-copy printout of transactions recorded in the PTS by the pharmacy for one or more specific products for a specified period of time upon request by the board or its representative or to such other persons or governmental agencies authorized by law to receive such information.

10.32(7) *Notice required.* The pharmacy shall ensure that the following notice is provided to purchasers of ephedrine, pseudoephedrine, or phenylpropanolamine products and that the notice is displayed with or on the electronic signature device or is displayed in the dispensing area and visible to the public:

"WARNING: Section 1001 of Title 18, United States Code, states that whoever, with respect to the logbook, knowingly and willfully falsifies, conceals, or covers up by any trick, scheme, or device a material fact, or makes any materially false, fictitious, or fraudulent statement or representation, or makes or uses any false writing or document knowing the same to contain any materially false, fictitious, or fraudulent statement or entry, shall be fined not more than $250,000 if an individual or $500,000 if an organization, imprisoned not more than five years, or both."

[**ARC 8892B**, IAB 6/30/10, effective 9/1/10]

657—10.33(124,155A) Schedule II perpetual inventory in pharmacy. Each pharmacy located in Iowa that dispenses Schedule II controlled substances shall maintain a perpetual inventory system for all Schedule II controlled substances pursuant to the requirements of this rule. All records relating to the perpetual inventory shall be maintained by the pharmacy and shall be available for inspection and copying by the board or its representative for a period of two years from the date of the record.

10.33(1) *Record format.* The perpetual inventory record may be maintained in a manual or an electronic record format. Any electronic record shall provide for hard-copy printout of all transactions recorded in the perpetual inventory record for any specified period of time and shall state the current inventory quantities of each drug at the time the record is printed.

10.33(2) *Information included.* The perpetual inventory record shall identify all receipts for and disbursements of Schedule II controlled substances by drug or by national drug code (NDC) number. The record shall be updated to identify each prescription filled and each shipment received. The record shall also include incident reports and reconciliation records pursuant to subrules 10.33(3) and 10.33(4).

10.33(3) *Changes to a record.* If a perpetual inventory record is able to be changed, the individual making a change to the record shall complete an incident report documenting the change. The incident report shall identify the specific information that was changed including the information before and after the change, shall identify the individual making the change, and shall include the date and the reason the record was changed. If the electronic record system documents within the perpetual inventory record all of the information that must be included in an incident report, a separate report is not required.

10.33(4) *Reconciliation.* The pharmacist in charge shall be responsible for reconciling the physical inventory of all Schedule II controlled substances with the perpetual inventory balance on a periodic basis but no less frequently than annually. In case of any discrepancies between the physical inventory and the perpetual inventory, the pharmacist in charge shall determine the need for further investigation, and significant discrepancies shall be reported to the board pursuant to rule 657—10.16(124) and to the DEA pursuant to federal DEA regulations. Periodic reconciliation records shall be maintained and available for review and copying by the board or agents of the board for a period of two years from the date of the record. The reconciliation process may be completed using either of the following procedures or a combination thereof:

a. The dispensing pharmacist verifies that the physical inventory matches the perpetual inventory following each dispensing and documents that reconciliation in the perpetual inventory record. If controlled substances are maintained on the patient care unit, the nurse or other responsible licensed health care provider verifies that the physical inventory matches the perpetual inventory following each dispensing and documents that reconciliation in the perpetual inventory record. All discrepancies shall be reported to the pharmacist in charge. If any Schedule II controlled substances in the pharmacy's current inventory have been dispensed and verified in this manner within the year, and there are no discrepancies noted, no additional reconciliation action is required. A drug that has had no activity within the year shall be reconciled pursuant to paragraph *"b"* of this subrule.

b. A physical count of each Schedule II controlled substance stocked by the pharmacy shall be completed at least once each year, and that count shall be reconciled with the perpetual inventory record balance. The physical count and reconciliation may be completed over a period of time not to exceed one year in a manner that ensures that the perpetual inventory and the physical inventory of Schedule II controlled substances are annually reconciled. The individual performing the reconciliation shall record the date, the time, the individual's initials or unique identification, and any discrepancies between the physical inventory and the perpetual inventory. Any discrepancies between the physical inventory and the perpetual inventory shall be reported to the pharmacist in charge.

657—10.34(124,155A) Records. Every inventory or other record required to be kept under this chapter or under Iowa Code chapter 124 shall be kept by the registrant and be available for inspection and copying by the board or its representative for at least two years from the date of such inventory or record except as otherwise required in these rules. Controlled substances records shall be maintained in a readily retrievable manner that establishes the receipt and distribution of all controlled substances. Original hard-copy prescription and other pharmacy records more than 12 months old may be maintained in a secure storage area outside the licensed pharmacy department unless such remote storage is prohibited under federal law. A remote storage area shall be located within the same physical structure containing the licensed pharmacy department.

10.34(1) *Schedule I and II records.* Inventories and records of controlled substances listed in Schedules I and II shall be maintained separately from all other records of the registrant.

10.34(2) *Schedule III, IV, and V records.* Inventories and records of controlled substances listed in Schedules III, IV, and V shall be maintained either separately from all other records of the registrant or in such form that the required information is readily retrievable from the ordinary business records of the registrant.

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

10.34(4) *Receipt and disbursement records.* Each record of receipt or disbursement of controlled substances, unless otherwise provided in these rules or pursuant to federal law, shall include the following:

a. The name of the substance;

b. The strength and dosage form of the substance;

c. The number of units or commercial containers acquired from other registrants, including the date of receipt and the name, address, and DEA registration number of the registrant from whom the substances were acquired;

d. The number of units or commercial containers distributed to other registrants, including the date of distribution and the name, address, and DEA registration number of the registrant to whom the substances were distributed; and

e. The number of units or commercial containers disposed of in any other manner, including the date and manner of disposal and the name, address, and DEA registration number of the registrant to whom the substances were distributed for disposal, if appropriate.

10.34(5) *Dispensing records.* Each record of dispensing of controlled substances to a patient or research subject shall include the following information:

a. The name and address of the person to whom dispensed;

b. The date of dispensing;

c. The name of the substance;

d. The quantity of the substance dispensed; and

e. The name or unique identification of the individual who dispensed or administered the substance.

10.34(6) *Ordering or distributing Schedule I or II controlled substances - DEA Form 222.* Except as otherwise provided by subrule 10.34(7) and under federal law, a DEA Form 222 is required for each distribution of a Schedule I or II controlled substance. An order form may be executed only on behalf of the registrant named on the order form and only if the registrant's DEA and Iowa registrations for the substances being purchased have not expired or been revoked or suspended by the issuing agency.

a. Order forms shall be obtained, executed, and filled pursuant to DEA requirements. Each form shall be complete, legible, and properly prepared, executed, and endorsed and shall contain no alteration, erasure, or change of any kind.

b. The purchaser shall submit Copy 1 and Copy 2 of the order form to the supplier.

c. The purchaser shall maintain Copy 3 of the order form in the files of the registrant. Upon receipt of the substances from the supplier, the purchaser shall record on Copy 3 of the order form the quantity of each substance received, and the date of receipt, and shall initial each line identifying a substance received.

d. The supplier shall record on Copy 1 and Copy 2 of the order form the quantity of each substance distributed to the purchaser and the date on which the shipment is made. The supplier shall maintain Copy 1 of the order form in the files of the supplier and shall forward Copy 2 of the order form to the DEA district office.

e. Order forms shall be maintained separately from all other records of the registrant.

f. Each unaccepted, defective, or otherwise "void" order form and any attached statement or other documents relating to any order form shall be maintained in the files of the registrant.

g. If the registration of any purchaser of Schedule I or II controlled substances is terminated for any reason, or if the name or address of the registrant as shown on the registration is changed, the registrant shall return all unused order forms to the DEA district office.

10.34(7) *Ordering or distributing Schedule I or II controlled substances - electronic ordering system.* A registrant authorized to order or distribute Schedule I or II controlled substances via the DEA Controlled Substances Ordering System (CSOS) shall comply with the requirements of the DEA relating to that system, including the maintenance and security of digital certificates, signatures, and passwords and all record-keeping and reporting requirements.

a. For an electronic order to be valid, the purchaser shall sign the electronic order with a digital signature issued to the purchaser or the purchaser's agent by the DEA.

b. An electronic order may include controlled substances that are not in Schedules I and II and may also include noncontrolled substances.

c. A purchaser shall submit an order to a specific wholesale distributor appropriately licensed to distribute in Iowa.

d. Prior to filling an order, a supplier shall verify the integrity of the signature and the order, verify that the digital certificate has not expired, check the validity of the certificate, and verify the registrant's authority to order the controlled substances.

e. The supplier shall retain an electronic record of every order, including a record of the number of commercial or bulk containers furnished for each item and the date on which the supplier shipped the containers to the purchaser. The shipping record shall be linked to the electronic record of the order. Unless otherwise provided under federal law, a supplier shall ship the controlled substances to the registered location associated with the digital certificate used to sign the order.

f. If an order cannot be filled for any reason, the supplier shall notify the purchaser and provide a statement as to the reason the order cannot be filled. When a purchaser receives such a statement from a supplier, the purchaser shall electronically link the statement of nonacceptance to the original electronic order. Neither a purchaser nor a supplier may correct a defective order; the purchaser must issue a new order for the order to be filled.

g. When a purchaser receives a shipment, the purchaser shall create a record of the quantity of each item received and the date received. The record shall be electronically linked to the original order and shall identify the individual reconciling the order. A purchaser shall, for each order filled, retain the original signed order and all linked records for that order for two years. The purchaser shall also retain all copies of each unfilled or defective order and each linked statement.

h. A supplier shall retain each original order filled and all linked records for two years. A supplier shall, for each electronic order filled, forward to the DEA within two business days either a copy of the electronic order or an electronic report of the order in a format specified by the DEA.

i. Records of CSOS electronic orders and all linked records shall be maintained by a supplier and a purchaser for two years following the date of shipment or receipt, respectively. Records may be maintained electronically or in hard-copy format. Records that are maintained electronically shall be readily retrievable from all other records, shall be easily readable or easily rendered into a readable format, shall be readily retrievable at the registered location, and shall be made available to the board, to the board's agents, or to the DEA upon request. Records maintained in hard-copy format shall be maintained in the same manner as DEA Form 222.

[**ARC 8539B**, IAB 2/24/10, effective 4/1/10]

657—10.35(124,155A) Physical count and record of inventory. Responsibility for ensuring that a required inventory is timely completed shall rest with the registrant or, in the case of a registered business, shall rest with the owner of the business. A registrant or owner of a registered business may delegate the actual taking of any inventory. The person or persons responsible for taking the inventory shall sign the completed inventory record.

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

a. Each inventory shall contain a complete and accurate record of all controlled substances on hand on the date and at the time the inventory is taken.

b. Each inventory shall be maintained in a handwritten, typewritten, or electronically printed form at the registered location. An inventory of Schedule II controlled substances shall be maintained separately from an inventory of all other controlled substances.

c. Controlled substances shall be deemed to be on hand if they are in the possession of or under the control of the registrant. These shall include prescriptions prepared for dispensing to a patient but not yet delivered to the patient, substances maintained in emergency medical services programs or care facility emergency supplies, outdated or adulterated substances pending destruction, and substances stored in a warehouse on behalf of the registrant.

d. A separate inventory shall be made for each registered location and for each independent activity registered except as otherwise provided under federal law.

e. The inventory shall be taken either prior to opening or following the close of business on the inventory date, and the inventory record shall identify either opening or close of business.

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

(1) The name of the substance;

(2) The strength and dosage form of the substance; and

(3) The quantity of the substance.

g. For all substances listed in Schedule I or II, and for all solid oral and injectable hydrocodone-containing products, the quantity shall be an exact count or measure of the substance.

h. For all substances listed in Schedule III, IV, or V, except for hydrocodone-containing products identified in paragraph *"g"* herein, the quantity may be an estimated count or measure of the substance unless the container has been opened and originally held more than 100 dosage units. If the opened commercial container originally held more than 100 dosage units, an exact count of the contents shall be made. Liquid oral hydrocodone-containing products packaged in incremented containers shall be measured to the nearest increment; products packaged in nonincremented containers may be estimated to the nearest one-fourth container.

10.35(2) *Initial inventory.* A new registrant shall take an inventory of all stocks of controlled substances on hand on the date the new registrant first engages in the manufacture, distribution, or dispensing of controlled substances. If the registrant commences business or the registered activity with no controlled substances on hand, the initial inventory shall record that fact.

10.35(3) *Annual inventory.* After the initial inventory is taken, a registrant shall take a new inventory of all stocks of controlled substances on hand at least annually. The annual inventory may be taken on any date that is within one year or seven days after the date of the previous annual inventory.

10.35(4) *Change of ownership.* Both the current owner and the prospective owner shall be responsible for ensuring that an inventory of all controlled substances is timely completed whenever there is a change of ownership of any pharmacy or drug wholesaler licensed pursuant to Iowa Code section 155A.13 or 155A.17, respectively. The inventory shall be taken following the close of business the last day under terminating ownership and prior to opening for business the first day under the new ownership. The inventory shall serve as the ending inventory for the terminating owner as well as a record of beginning inventory for the new owner.

10.35(5) *Change of pharmacist in charge (PIC).* An inventory of all controlled substances shall be completed whenever there is a change of PIC. The inventory shall be taken following the close of business the last day of the terminating PIC's employment and prior to opening for business the first day of the new PIC's employment. A single inventory shall be sufficient if there is no lapse between employment of the terminating PIC and the new PIC.

10.35(6) *Change of registered location.* A registrant shall take an inventory of all controlled substances whenever there is a change of registered location. The inventory shall be taken following the close of business the last day at the location being vacated. This inventory shall serve as the ending inventory for the location being vacated as well as a record of beginning inventory for the new location.

10.35(7) *Discontinuing registered activity.* A registrant shall take an inventory of controlled substances at the close of business the last day the registrant is engaged in registered activities. If the registrant is selling or transferring the remaining controlled substances to another registrant, this inventory shall serve as the ending inventory for the registrant discontinuing business as well as a record of additional or starting inventory for the registrant to whom the substances are transferred.

10.35(8) *Newly controlled substances.* On the effective date of the addition of a previously noncontrolled substance to any schedule of controlled substances, any registrant who possesses the newly controlled substance shall take an inventory of all stocks of the substance on hand. That initial inventory record shall be maintained with the most recent controlled substances inventory record. Thereafter, the newly controlled substance shall be included in each inventory made by the registrant.

[**ARC 1575C**, IAB 8/20/14, effective 9/24/14]

657—10.36(124) Samples and other complimentary packages—records. Complimentary packages and samples of controlled substances may be distributed to practitioners pursuant to federal and state law only if the person distributing the items leaves with the practitioner a specific written list of the items delivered.

10.36(1) *Distribution record.* The record form for the distribution of complimentary packages of controlled substances shall contain the following information:

a. The name, address, and DEA registration number of the supplier;

b. The name, address, and DEA registration number of the practitioner;

c. The name, strength, and quantity of the specific controlled substances delivered; and

d. The date of delivery.

10.36(2) *Reports to the board.* Any person who distributes controlled substances pursuant to this rule shall report all such distributions to the board. Reports shall:

a. Include the information identified in subrule 10.36(1). Reports may consist of copies of those distribution records or may be computer-generated listings identifying those distributions.

b. Be submitted as soon as practicable after distribution to the practitioner but no less often than once each calendar quarter.

10.36(3) *Practitioner records.* A practitioner who regularly administers or dispenses controlled substances shall keep records of the receipt and disbursement of such drugs, including complimentary packages and samples. Records shall be filed in a readily retrievable manner in accordance with federal requirements and shall be made available for inspection and copying by agents of the board or other authorized individuals for at least two years from the date of the record.

657—10.37(124,126) Revision of controlled substances schedules.

10.37(1) *Application for exception.* Any person seeking to have any compound, mixture, or preparation containing any depressant or stimulant substance listed in any of the schedules in Iowa Code chapter 124 excepted from the application of all or any part of that chapter may apply to the board for such exception.

a. An application for an exception under this rule shall provide evidence that an exception has been granted under the federal Controlled Substances Act.

b. The board shall permit any interested person to file written comments on or objections to the proposal for exception and shall designate the time during which such filings may be made. After consideration of the application and any comments on or objections to the proposal for exception, the board shall issue its findings on the application.

10.37(2) *Designation of new controlled substance.* The board may designate any new substance as a controlled substance to be included in any of the schedules in Iowa Code chapter 124 no sooner than 30 days following publication in the Federal Register of a final order so designating the substance under federal law. Designation of a new controlled substance under this subrule shall be temporary as provided in Iowa Code section 124.201, subsection 4.

10.37(3) *Objection to designation of a new controlled substance.* The board may object to the designation of any new substance as a controlled substance within 30 days following publication in the Federal Register of a final order so designating the substance under federal law. The board shall file objection to the designation of a substance as controlled, shall afford all interested parties an opportunity to be heard, and shall issue the board's decision on the new designation as provided in Iowa Code section 124.201, subsection 4.

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

10.38(1) Amend Iowa Code section 124.204 by adding the following new subsection 9:

9. Temporary listing of substances subject to Schedule I. Any material, compound, mixture, or preparation which contains any quantity of the following substances:

a. (1-pentyl-1H-indol-3-yl)(2,2,3,3-tetramethylcyclopropyl)methanone, its optical, positional, and geometric isomers, salts and salts of isomers. Other names: UR-144, 1-pentyl-3-(2,2,3,3-tetramethylcyclopropoyl)indole.

b. [1-(5-fluoro-pentyl)-1H-indol-3-yl](2,2,3,3-tetramethylcyclopropyl)methanone, its optical, positional, and geometric isomers, salts and salts of isomers. Other names: 5-fluoro-UR-144, 5-F-UR-144, XLR11, 1-(5-fluoro-pentyl)-3-(2,2,3,3-tetramethylcyclopropoyl)indole.

c. N-(1-adamantyl)-1-pentyl-1H-indazole-3-carboxamide, its optical, positional, and geometric isomers, salts and salts of isomers. Other names: APINACA, AKB48.

10.38(2) Amend Iowa Code subsection 124.204(4) by adding the following new paragraphs:

al. 4-methyl-N-ethylcathinone, its optical, positional, and geometric isomers, salts and salts of isomers. Other names: 4-MEC, 2-(ethylamino)-1-(4-methylphenyl)propan-1-one.

am. 4-methyl-alpha-pyrrolidinopropiophenone, its optical, positional, and geometric isomers, salts and salts of isomers. Other names: 4-MePPP, MePPP, 4-methyl-[alpha]-pyrrolidinopropiophenone, 1-(4-methylphenyl)-2-(pyrrolidin-1-yl)-propan-1-one.

an. Alpha-pyrrolidinopentiophenone, its optical, positional, and geometric isomers, salts and salts of isomers. Other names: [alpha]-PVP, [alpha]-pyrrolidinovalerophenone, 1-phenyl-2-(pyrrolidin-1-yl)pentan-1-one.

ao. Butylone, its optical, positional, and geometric isomers, salts and salts of isomers. Other names: bk-MBDB, 1-(1,3-benzodioxol-5-yl)-2-(methylamino)butan-1-one.

ap. Pentedrone, its optical, positional, and geometric isomers, salts and salts of isomers. Other names: [alpha]-methylaminovalerophenone, 2-(methylamino)-1-phenylpentan-1-one.

aq. Pentylone, its optical, positional, and geometric isomers, salts and salts of isomers. Other names: bk-MBDP, 1-(1,3-benzodioxol-5-yl)-2-(methylamino)pentan-1-one.

ar. 4-fluoro-N-methylcathinone, its optical, positional, and geometric isomers, salts and salts of isomers. Other names: 4-FMC, flephedrone, 1-(4-fluorophenyl)-2-(methylamino)propan-1-one.

as. 3-fluoro-N-methylcathinone, its optical, positional, and geometric isomers, salts and salts of isomers. Other names: 3-FMC, 1-(3-fluorophenyl)-2-(methylamino)propan-1-one.

at. Naphyrone, its optical, positional, and geometric isomers, salts and salts of isomers. Other names: naphthylpyrovalerone, 1-(naphthalen-2-yl)-2-(pyrrolidin-1-yl)pentan-1-one.

au. Alpha-pyrrolidinobutiophenone, its optical, positional, and geometric isomers, salts and salts of isomers. Other names: [alpha]-PBP, 1-phenyl-2-(pyrrolidin-1-yl)butan-1-one.

10.38(3) Amend Iowa Code subsection 124.204(9) by adding the following new paragraphs:

g. Quinolin-8-yl 1-pentyl-1H-indole-3-carboxylate, its optical, positional, and geometric isomers, salts and salts of isomers. Other names: PB-22, QUPIC.

h. Quinolin-8-yl 1-(5-fluoropentyl)-1H-indole-3-carboxylate, its optical, positional, and geometric isomers, salts and salts of isomers. Other names: 5-fluoro-PB-22, 5F-PB-22.

i. N-(1-amino-3-methyl-1-oxobutan-2-yl)-1-(4-fluorobenzyl)-1H-indazole-3-carboxamide, its optical, positional, and geometric isomers, salts and salts of isomers. Other name: AB-FUBINACA.

j. N-(1-amino-3,3-dimethyl-1-oxobutan-2-yl)-1-pentyl-1H-indazole-3-carboxamide, its optical, positional, and geometric isomers, salts and salts of isomers. Other name: ADB-PINACA.

10.38(4) Amend Iowa Code subsection 124.208(5), paragraph *"a,"* by rescinding subparagraphs (3) and (4) and by renumbering remaining subparagraphs (5) through (8) as subparagraphs (3) through (6).

10.38(5) Amend Iowa Code subsection 124.210(2) by adding the following new paragraph:

c. 2-[(dimethylamino)methyl]-1-(3-methoxyphenyl)cyclohexanol, its salts, optical and geometric isomers and salts of these isomers (including tramadol).

10.38(6) Amend Iowa Code subsection 124.210(3) by adding the following new paragraphs:

bb. Alfaxalone.

bc. Suvorexant.

[**ARC 7906B**, IAB 7/1/09, effective 6/22/09; **ARC 8411B**, IAB 12/30/09, effective 12/1/09; **ARC 8989B**, IAB 8/11/10, effective 7/21/10; **ARC 9091B**, IAB 9/22/10, effective 8/30/10; **ARC 0893C**, IAB 8/7/13, effective 7/9/13; **ARC 1408C**, IAB 4/2/14, effective 3/13/14; **ARC 1787C**, IAB 12/10/14, effective 1/14/15]

657—10.39(124,126) Excluded substances. The Iowa board of pharmacy hereby excludes from all schedules the current list of "Excluded Nonnarcotic Products" identified in Title 21, CFR Part 1308, Section 22. Copies of the list of excluded products may be obtained by written request to the board office at 400 S.W. Eighth Street, Suite E, Des Moines, Iowa 50309-4688.

657—10.40(124,126) Anabolic steroid defined. Anabolic steroid, as defined in Iowa Code section 126.2, paragraph 2, includes any substance identified as such in Iowa Code section 124.208, paragraph 6, or in Iowa Code section 126.2, paragraph 2.

657—10.41(124A) Designation of imitation controlled substances.

10.41(1) *Synthetic cannabinoids.* The following synthetic cannabinoids, including products by whatever trade name that are treated, sprayed, or saturated with these synthetic cannabinoids, are designated imitation controlled substances subject to the provisions of Iowa Code chapter 124A:

a. Dexanabinol, (6aS, 10aS)-9-(hydroxymethyl)-6, 6-dimethyl-3-(2-methyloctan-2-yl)-6a, 7, 10, 10a-tetrahydrobenzo[c]chromen-1-ol, also known as HU-211.

b. 1-butyl-3(1-naphthoyl) indole, also known as JWH-073.

c. 1-pentyl-3-(1-naphthoyl) indole, also known as JWH-018.

d. Phenol, CP 47, 497 and homologues, or 2-[(1R,3S)-3-hydroxycyclohexyl]-5-(2-methyloctan-2-yl)phenol, where side chain n=5, and homologues where side chain n=4, 6, or 7.

10.41(2) *Product examples.* Some currently marketed products containing the imitation controlled substances identified in subrule 10.41(1) include K2, Red Dragon Smoke, Spice, K2 Spice, Mojo, Smoke, Skunk, K2 Summit, and Pandora Potpourri.

[**ARC 9000B**, IAB 8/11/10, effective 7/22/10]

These rules are intended to implement Iowa Code sections 124.201, 124.301 to 124.308, 124.402, 124.403, 124.501, 126.2, 126.11, 147.88, 155A.13, 155A.17, 155A.26, 155A.37, and 205.3.

[Filed 9/29/71; amended 8/9/72, 12/15/72, 11/14/73, 8/14/74, 4/8/75]
[Filed 11/24/76, Notice 10/20/76—published 12/15/76, effective 1/19/77]
[Filed 11/9/77, Notice 8/24/77—published 11/30/77, effective 1/4/78]
[Filed 10/20/78, Notices 8/9/78, 9/6/78—published 11/15/78, effective 1/9/79]
[Filed 8/28/79, Notice 5/30/79—published 9/19/79, effective 10/24/79]
[Filed 2/12/81, Notice 12/24/80—published 3/4/81, effective 7/1/81]
[Filed 7/24/81, Notice 5/13/81—published 8/19/81, effective 9/23/81]
[Filed emergency 12/14/81—published 1/6/82, effective 1/6/82]
[Filed emergency 10/6/82—published 10/27/82, effective 10/27/82]
[Filed 6/16/83, Notice 5/11/83—published 7/6/83, effective 8/10/83]
[Filed 2/23/84, Notice 11/23/83—published 3/14/84, effective 4/18/84]
[Filed emergency 8/10/84—published 8/29/84, effective 8/10/84]
[Filed emergency 6/14/85—published 7/3/85, effective 6/14/85]
[Filed emergency 8/30/85—published 9/25/85, effective 9/6/85]
[Filed emergency 12/4/85—published 1/1/86, effective 12/5/85]
[Filed emergency 5/14/86—published 6/4/86, effective 5/16/86]
[Filed 5/14/86, Notice 4/9/86—published 6/4/86, effective 7/9/86]◊
[Filed 1/28/87, Notice 11/19/86—published 2/25/87, effective 4/1/87]
[Filed emergency 7/24/87—published 8/12/87, effective 7/24/87]
[Filed 8/5/87, Notice 6/3/87—published 8/26/87, effective 9/30/87]
[Filed emergency 1/21/88—published 2/10/88, effective 1/22/88]
[Filed 3/29/88, Notice 2/10/88—published 4/20/88, effective 5/25/88]
[Filed emergency 8/5/88—published 8/24/88, effective 8/5/88]
[Filed emergency 10/13/88—published 11/2/88, effective 10/13/88]
[Filed emergency 5/16/89—published 6/14/89, effective 5/17/89]
[Filed emergency 9/12/89—published 10/4/89, effective 9/13/89]
[Filed 1/19/90, Notice 11/29/89—published 2/7/90, effective 3/14/90]
[Filed 8/31/90, Notice 6/13/90—published 9/19/90, effective 10/24/90]
[Filed emergency 1/29/91—published 2/20/91, effective 2/27/91]
[Filed 1/29/91, Notice 9/19/90—published 2/20/91, effective 3/27/91]
[Filed emergency 2/27/91—published 3/20/91, effective 2/27/91]
[Filed 4/26/91, Notice 2/20/91—published 5/15/91, effective 6/19/91]

[Filed emergency 5/10/91—published 5/29/91, effective 5/10/91]
[Filed 7/30/91, Notice 5/29/91—published 8/21/91, effective 9/25/91][1]
[Filed emergency 9/23/91—published 10/16/91, effective 9/23/91]
[Filed emergency 10/18/91—published 11/13/91, effective 10/21/91]
[Filed 3/12/92, Notice 1/8/92—published 4/1/92, effective 5/6/92]
[Filed 5/21/92, Notice 4/1/92—published 6/10/92, effective 7/15/92]
[Filed emergency 8/10/92—published 9/2/92, effective 8/10/92]
[Filed 10/22/92, Notice 9/2/92—published 11/11/92, effective 1/1/93]
[Filed 9/23/93, Notice 5/26/93—published 10/13/93, effective 11/17/93]
[Filed emergency 3/21/94—published 4/13/94, effective 3/23/94]
[Filed 3/21/94, Notice 10/13/93—published 4/13/94, effective 5/18/94]
[Filed 4/22/94, Notice 11/10/93—published 5/11/94, effective 6/15/94]
[Filed 6/24/94, Notice 4/13/94—published 7/20/94, effective 8/24/94]
[Filed 3/22/95, Notice 11/9/94—published 4/12/95, effective 5/31/95]
[Filed 12/6/95, Notice 8/16/95—published 1/3/96, effective 2/7/96]
[Filed 11/19/97, Notice 10/8/97—published 12/17/97, effective 1/21/98]
[Filed 4/24/98, Notice 3/11/98—published 5/20/98, effective 6/24/98]
[Filed 7/31/98, Notice 5/20/98—published 8/26/98, effective 9/30/98]
[Filed emergency 8/18/99—published 9/8/99, effective 8/18/99]
[Filed emergency 10/6/99—published 11/3/99, effective 10/11/99]
[Filed emergency 7/18/00—published 8/9/00, effective 7/18/00]
[Filed 8/14/02, Notice 6/12/02—published 9/4/02, effective 10/9/02]
[Filed emergency 12/13/02—published 1/8/03, effective 12/13/02]
[Filed emergency 7/16/04 after Notice 6/9/04—published 8/4/04, effective 7/16/04]
[Filed 10/22/04, Notice 3/31/04—published 11/10/04, effective 12/15/04]
[Filed emergency 5/3/05—published 5/25/05, effective 5/21/05]
[Filed emergency 6/30/05 after Notice 5/11/05—published 7/20/05, effective 7/1/05]
[Filed 8/9/05, Notice 5/25/05—published 8/31/05, effective 10/5/05]
[Filed 3/22/06, Notice 12/21/05—published 4/12/06, effective 5/17/06]
[Filed 3/22/06, Notice 1/18/06—published 4/12/06, effective 5/17/06]
[Filed 5/17/06, Notice 4/12/06—published 6/7/06, effective 7/12/06]
[Filed 2/7/07, Notice 10/25/06—published 2/28/07, effective 4/4/07]
[Filed 5/14/07, Notice 2/28/07—published 6/6/07, effective 7/11/07]
[Filed emergency 8/2/07—published 8/29/07, effective 8/2/07]
[Filed emergency 11/13/07 after Notice 8/29/07—published 12/5/07, effective 11/13/07]
[Filed ARC 7636B (Notice ARC 7448B, IAB 12/31/08), IAB 3/11/09, effective 4/15/09]
[Filed Emergency ARC 7906B, IAB 7/1/09, effective 6/22/09]
[Filed ARC 8172B (Notice ARC 7908B, IAB 7/1/09), IAB 9/23/09, effective 10/28/09]
[Filed Emergency ARC 8411B, IAB 12/30/09, effective 12/1/09]
[Filed ARC 8539B (Notice ARC 8269B, IAB 11/4/09), IAB 2/24/10, effective 4/1/10]
[Filed ARC 8892B (Notice ARC 8667B, IAB 4/7/10), IAB 6/30/10, effective 9/1/10]
[Filed Emergency ARC 8989B, IAB 8/11/10, effective 7/21/10]
[Filed Emergency ARC 9000B, IAB 8/11/10, effective 7/22/10]
[Filed Emergency ARC 9091B, IAB 9/22/10, effective 8/30/10]
[Filed ARC 9410B (Notice ARC 9196B, IAB 11/3/10), IAB 3/9/11, effective 4/13/11]
[Filed ARC 9912B (Notice ARC 9671B, IAB 8/10/11), IAB 12/14/11, effective 1/18/12]
[Filed ARC 0504C (Notice ARC 0351C, IAB 10/3/12), IAB 12/12/12, effective 1/16/13]
[Filed ARC 0749C (Notice ARC 0652C, IAB 3/20/13), IAB 5/29/13, effective 7/3/13]
[Filed Emergency ARC 0893C, IAB 8/7/13, effective 7/9/13]
[Filed Emergency ARC 1408C, IAB 4/2/14, effective 3/13/14]
[Filed ARC 1575C (Notice ARC 1407C, IAB 4/2/14), IAB 8/20/14, effective 9/24/14]

[Filed ARC 1787C (Notice ARC 1647C, IAB 10/1/14), IAB 12/10/14, effective 1/14/15]

◊ Two or more ARCs

[1] Effective date delayed 70 days by the Administrative Rules Review Committee at its meeting held September 11, 1991.

CHAPTER 19
NONRESIDENT PHARMACY PRACTICE

657—19.1(155A) Definitions.

"Board" means the Iowa board of pharmacy examiners.

"Home state" means the state in which a pharmacy is located.

"Nonresident pharmacy" means a pharmacy, including an Internet-based pharmacy, located outside the state of Iowa which delivers, dispenses, or distributes, by any method, prescription drugs, devices, or pharmacy services to an ultimate user physically located in this state.

"Nonresident pharmacy license" means a pharmacy license issued to a nonresident pharmacy.

"Pharmacy service" includes, but is not limited to, nonproduct services such as providing patient counseling and drug information, assessing health risks, and providing pharmaceutical care.

657—19.2(155A) Application and license requirements. A nonresident pharmacy shall apply for and obtain, pursuant to provisions of 657—8.35(155A), a nonresident pharmacy license from the board prior to providing prescription drugs, devices, or pharmacy services to an ultimate user in this state.

19.2(1) *Pharmacy license changes.* Change of pharmacy name, ownership, location, or pharmacist in charge shall require a new completed application and license fee pursuant to 657—subrule 8.35(6).

19.2(2) *Pharmacy discontinuing Iowa operations.* A nonresident pharmacy intending to close or discontinue provision of prescription drugs, devices, and pharmacy services to Iowa patients shall notify the board and Iowa patients as provided in 657—subrule 8.35(7). The license of a nonresident pharmacy that provides such notice of intent to close or discontinue provision of services to patients in Iowa and that has returned to the board the nonresident pharmacy's Iowa pharmacy license certificate shall be administratively canceled within 30 days of the board's receipt of the notice and license certificate. A nonresident pharmacy licensee that is under investigation or pending administrative charges shall not be permitted to cancel the nonresident pharmacy license in lieu of discipline.

[**ARC 1788C**, IAB 12/10/14, effective 1/14/15]

657—19.3(124,155A) Applicability of board rules. A nonresident pharmacy shall comply with all requirements of this chapter and of 657—Chapter 8 and other board rules relating to the services that are provided by the pharmacy to patients in Iowa.

19.3(1) *Type of pharmacy practice.* A nonresident pharmacy, based on the principal type of pharmacy practice, shall comply with board rules as follows:

a. A "general pharmacy" as described in 657—6.1(155A) shall comply with all requirements of 657—Chapter 6.

b. A "hospital pharmacy" as described in 657—7.1(155A), excepting licensure pursuant to Iowa Code chapter 135B, shall comply with all requirements of 657—Chapter 7.

c. A "limited use pharmacy" as described in 657—subrule 8.35(2) shall comply with all requirements of the limited use pharmacy practice.

19.3(2) *Controlled substances.* A nonresident pharmacy providing prescription drugs identified as controlled substances under Iowa Code chapter 124 shall comply with all requirements of 657—Chapter 10 except requirements for registration with the board.

19.3(3) *Compounding.* A nonresident pharmacy engaged in the compounding of drug products as defined in 657—20.2(124,126,155A) shall comply with all requirements of 657—Chapter 20.

19.3(4) *Long-term care services.* A nonresident pharmacy providing services to Iowa patients in a long-term care facility as defined in 657—23.1(155A) shall comply with all requirements of 657—Chapter 23.

19.3(5) *Electronic data.* A nonresident pharmacy utilizing any electronic data processing or transmission devices or services shall comply with all requirements of 657—Chapter 21.

657—19.4 to **19.6** Reserved.

657—19.7(155A) Confidential data. The pharmacist in charge shall be responsible for developing, implementing, and enforcing policies and procedures to ensure patient confidentiality and to protect patient identity and patient-specific information from inappropriate or nonessential access, use, or distribution pursuant to the requirements of 657—8.16(124,155A).

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

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

19.9(1) *Patient record system.* A patient record system shall be maintained pursuant to 657—6.13(155A) for Iowa patients for whom prescription drug orders are dispensed.

19.9(2) *Prospective drug use review.* A pharmacist shall, pursuant to the requirements of 657—8.21(155A), review the patient record and each prescription drug order before dispensing.

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

657—19.10(155A) Discipline. Pursuant to 657—Chapters 35 and 36, the board may deny, suspend, or revoke a nonresident pharmacy license for any violation of Iowa Code section 155A.13A; section 155A.15, subsection 2, paragraph *"a," "b," "d," "e," "f," "g," "h,"* or *"i"*; Iowa Code chapter 124, 124A, 124B, 126, or 205; or a rule of the board.

These rules are intended to implement Iowa Code sections 124.301, 124.306, 155A.13, 155A.13A, 155A.19, and 155A.35.

[Filed 3/12/92, Notice 1/8/92—published 4/1/92, effective 5/6/92]
[Filed 11/30/94, Notice 10/12/94—published 12/21/94, effective 1/25/95]
[Filed 2/27/97, Notice 1/1/97—published 3/26/97, effective 4/30/97]
[Filed 2/22/99, Notice 10/21/98—published 3/10/99, effective 4/14/99]
[Filed 4/22/99, Notice 3/10/99—published 5/19/99, effective 6/23/99]
[Filed 9/8/99, Notice 6/2/99—published 10/6/99, effective 11/10/99]
[Filed 2/7/01, Notice 10/18/00—published 3/7/01, effective 4/11/01]
[Filed 8/14/02, Notice 6/12/02—published 9/4/02, effective 10/9/02]
[Filed ARC 1788C (Notice ARC 1651C, IAB 10/1/14), IAB 12/10/14, effective 1/14/15]

CHAPTER 33
MILITARY SERVICE AND VETERAN RECIPROCITY

657—33.1(85GA,ch1116) Definitions. For the purposes of this chapter, the following definitions shall apply:

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

"Military service applicant" means an individual requesting credit toward licensure or registration requirements for education, training, or service obtained or completed in military service.

"Veteran" means an individual who meets the definition of "veteran" in Iowa Code section 35.1(2).
[**ARC 1789C**, IAB 12/10/14, effective 1/14/15]

657—33.2(85GA,ch1116) Military education, training, and service credit. A military service applicant may apply for credit for verified military education, training, or service toward any experiential or educational requirement for pharmacist licensure, pharmacist-intern registration, or technician registration by submitting a military service credit application form to the board office. The board shall make available an application for military service credit.

33.2(1) *Military service credit application.* A military service credit application may be submitted with an application for licensure, examination, or registration or may be submitted prior to the submission of an application for licensure, examination, or registration. No fee is required with submission of a military service credit application.

33.2(2) *Credit identified.* The applicant shall identify the experiential or educational licensure or registration requirement to which the credit would be applied if granted. Credit shall not be applied to an examination requirement.

33.2(3) *Submission of verification documentation.* The applicant shall provide documents, military transcripts, a certified affidavit, or forms that verify completion of the relevant military education, training, or service, which may include, when applicable, the applicant's Certificate of Release or Discharge from Active Duty (DD Form 214) or Verification of Military Experience and Training (VMET) (DD Form 2586).

33.2(4) *Credit determination.* Upon receipt of a completed military service credit application, the board shall promptly determine whether the verified military education, training, or service will satisfy all or any part of the identified experiential or educational qualifications for licensure or registration.

33.2(5) *Granting of credit.* The board shall grant credit requested in the application in whole or in part if the board determines that the verified military education, training, or service satisfies all or part of the experiential or educational qualifications for licensure or registration.

33.2(6) *Notification of credit determination.* The board shall inform the military service applicant in writing of the credit, if any, given toward an experiential or educational qualification for licensure or registration or explain why no credit was granted. The applicant may request reconsideration of the board's determination upon submission of additional documentation or information.

33.2(7) *Consideration of applications.* The board shall grant or deny the military service credit application prior to ruling on the application for licensure, examination, or registration. The applicant shall not be required to submit any fees in connection with the license or registration application until the board issues a determination on the military service credit application. If the board does not grant the military service credit application, the applicant may withdraw any license or registration application and application fee, if submitted, or the applicant may request that the application be placed in pending status. The withdrawal of a license or registration application and fee shall not preclude subsequent applications supported by additional documentation or information.
[**ARC 1789C**, IAB 12/10/14, effective 1/14/15]

657—33.3(85GA,ch1116) Veteran licensure or registration. A veteran with an unrestricted pharmacist license in another jurisdiction may apply for pharmacist licensure in Iowa by license transfer/reciprocity

pursuant to rule 657—2.9(147,155A) and this chapter. A veteran must pass any required examinations to be eligible for pharmacist licensure by license transfer/reciprocity. A veteran may submit an application for pharmacist-intern registration pursuant to 657—Chapter 4 and this chapter. A veteran may submit an application for technician registration pursuant to 657—Chapter 3 and this chapter. A veteran may submit an application for pharmacy support person registration pursuant to 657—Chapter 5 and this chapter.

33.3(1) *Priority application status.* A fully completed application for licensure or registration submitted by a veteran under this chapter shall be given priority status and shall be expedited.

33.3(2) *Application requirements.* Such an application shall contain all of the information required of all applicants for licensure or registration who hold unrestricted licenses or registrations in other jurisdictions and who are applying for licensure or registration, including, but not limited to, completion of all required forms, payment of applicable fees, disclosure of criminal or disciplinary history, and, if applicable, a criminal history background check. In addition, the applicant shall provide such documentation as is reasonably needed to verify the applicant's status as a veteran under Iowa Code section 35.1(2).

33.3(3) *Equivalency determination.* Upon receipt of a fully completed application for licensure or registration, the board shall promptly determine if the requirements for licensure or registration of the jurisdiction where the veteran is licensed or registered are substantially equivalent to the requirements for licensure or registration in Iowa. The board may consider the following factors in determining substantial equivalence: scope of practice, education and coursework, degree requirements, and post-graduate experiences.

33.3(4) *Licensure or registration approval.* The board shall promptly grant a license or registration, as appropriate, to the veteran if the veteran is licensed or registered in another jurisdiction whose licensure or registration requirements are substantially equivalent to those required in Iowa, unless the applicant is ineligible for licensure or registration based on other grounds, for example, the applicant's disciplinary or criminal background.

33.3(5) *Notification of additional requirements and provisional licensure or registration.* If the board determines that the veteran is licensed or registered in another jurisdiction whose licensure or registration requirements are not substantially equivalent to those required in Iowa, the board shall promptly inform the veteran of the additional experience, education, or examinations required for licensure or registration in Iowa. Unless the applicant is ineligible for licensure or registration based on other grounds, such as disciplinary or criminal background, the following shall apply:

a. If a veteran has not passed the required examination(s) for licensure or registration, the applicant may request that the application be placed in pending status.

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

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

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

[**ARC 1789C**, IAB 12/10/14, effective 1/14/15]

657—33.4(85GA,ch1116) Request for contested case. A military service applicant or a veteran who is aggrieved by the board's decision to deny all or part of the military service credit application, a request for a license transfer/reciprocal license, a request for a registration, or a request for provisional license

or registration, or is aggrieved by the terms under which a provisional license or registration will be granted, may request a contested case (administrative hearing) and may participate in a contested case by telephone. A request for a contested case shall be made within 30 days of issuance of the board's decision pursuant to 657—subrule 35.26(1). There shall be no fees or costs assessed against the veteran in connection with a contested case conducted pursuant to this chapter.

[**ARC 1789C**, IAB 12/10/14, effective 1/14/15]

These rules are intended to implement 2014 Iowa Acts, chapter 1116, section 34.

[Filed ARC 1789C (Notice ARC 1641C, IAB 10/1/14), IAB 12/10/14, effective 1/14/15]

REVENUE DEPARTMENT[701]

Created by 1986 Iowa Acts, Chapter 1245.

CHAPTER 1
STATE BOARD OF TAX REVIEW—ADMINISTRATION

1.1(17A,421) Establishment, membership and location of the state board of tax review
1.2(421,17A) Powers and duties of the state board
1.3(421,17A) Powers and duties not subject to the jurisdiction of the state board

CHAPTER 2
STATE BOARD OF TAX REVIEW—CONDUCT OF APPEALS AND RULES OF PRACTICE AND PROCEDURE

DIVISION I
APPELLATE CASES

GENERAL RULES OF PRACTICE AND PROCEDURE FOR FINAL CONTESTED CASE DECISIONS OF OR ATTRIBUTABLE TO THE DIRECTOR OF REVENUE

2.1(421,17A) Definitions
2.2(421,17A) Appeal and jurisdiction
2.3(421,17A) Form of appeal
2.4(421,17A) Certification by director
2.5(421,17A) Motions
2.6(421,17A) Answer
2.7(421,17A) Docketing
2.8(421,17A) Filing of papers
2.9(421,17A) Hearing an appeal
2.10(17A,421) Appearances by appellant
2.11(421,17A) Authority of state board to issue procedural orders
2.12(421,17A) Continuances
2.13(17A,421) Place of hearing
2.14(17A,421) Members participating
2.15(17A,421) Presiding officer
2.16(17A,421) Appeals of state board decisions

DIVISION II
ORIGINAL JURISDICTION

RULES GOVERNING CONTESTED CASE PROCEEDINGS IN WHICH THE STATE BOARD HAS ORIGINAL JURISDICTION TO COMMENCE A CONTESTED CASE PROCEEDING

2.17(421,17A) Applicability and scope
2.18(17A) Definitions
2.19(421,17A) Time requirements
2.20(421,17A) Notice of appeal
2.21(421,17A) Form of appeal
2.22(421,17A) Certification by director
2.23(421,17A) Answer
2.24(421,17A) Docketing
2.25(421,17A) Appearances by appellant
2.26(421,17A) Place of hearing
2.27(421,17A) Transcript of hearing
2.28(421,17A) Requests for contested case proceeding
2.29(421,17A) Notice of hearing
2.30(17A) Presiding officer

2.31(421,17A) Transfer of case for hearing or appeal
2.32(421,17A) Waiver of procedures
2.33(421,17A) Telephone proceedings
2.34(17A,421) Disqualifications of a presiding officer
2.35(421,17A) Consolidation and severance
2.36(17A) Service and filing of pleadings and other papers
2.37(421,17A) Discovery
2.38(421,17A) Subpoenas
2.39(421,17A) Motions
2.40(421,17A) Prehearing conference
2.41(421,17A) Continuances
2.42(17A) Withdrawals
2.43(421,17A) Intervention
2.44(421,17A) Hearing procedures
2.45(421,17A) Evidence
2.46(421,17A) Default or dismissal
2.47(421,17A) Ex parte communication
2.48(421,17A) Recording costs
2.49(421,17A) Interlocutory appeals
2.50(421,17A) Final decision
2.51(421,17A) Applications for rehearing
2.52(421,17A) Stays of agency and board actions
2.53(421,17A) No factual dispute contested case
2.54(421,17A) Appeal and review of a state board decision

CHAPTER 3
VOLUNTARY DISCLOSURE PROGRAM
3.1(421,422,423) Voluntary disclosure program

CHAPTER 4
MULTILEVEL MARKETER AGREEMENTS
4.1(421) Multilevel marketers—in general

CHAPTER 5
PUBLIC RECORDS AND FAIR INFORMATION PRACTICES
(Uniform Rules)
5.1(17A,22) Definitions
5.3(17A,22) Requests for access to records
5.6(17A,22) Procedure by which additions, dissents, or objections may be entered into certain records
5.9(17A,22) Disclosures without the consent of the subject
5.10(17A,22) Routine use
5.11(17A,22) Consensual disclosure of confidential records
5.12(17A,22) Release to subject
5.13(17A,22) Availability of records
5.14(17A,22) Personally identifiable information
5.15(17A,22) Other groups of records
5.16(17A,22) Applicability

TITLE I
ADMINISTRATION

CHAPTER 6
ORGANIZATION, PUBLIC INSPECTION

6.1(17A)	Establishment, organization, general course and method of operations, methods by which and location where the public may obtain information or make submissions or requests
6.2(17A)	Public inspection
6.3(17A)	Examination of records
6.4(17A)	Copies of proposed rules
6.5(17A)	Regulatory analysis procedures
6.6(422)	Retention of records and returns by the department
6.7(68B)	Consent to sell
6.8(421)	Tax return extension in disaster areas

CHAPTER 7
PRACTICE AND PROCEDURE BEFORE THE DEPARTMENT OF REVENUE

7.1(421,17A)	Applicability and scope of rules
7.2(421,17A)	Definitions
7.3(17A)	Business hours
7.4(17A)	Computation of time, filing of documents
7.5(17A)	Form and style of papers
7.6(17A)	Persons authorized to represent themselves or others
7.7(17A)	Resolution of tax liability
7.8(17A)	Protest
7.9(17A)	Identifying details
7.10(17A)	Docket
7.11(17A)	Informal procedures and dismissals of protests
7.12(17A)	Answer
7.13(17A)	Subpoenas
7.14(17A)	Commencement of contested case proceedings
7.15(17A)	Discovery
7.16(17A)	Prehearing conference
7.17(17A)	Contested case proceedings
7.18(17A)	Interventions
7.19(17A)	Record and transcript
7.20(17A)	Application for rehearing
7.21(17A)	Service
7.22(17A)	Ex parte communications and disqualification
7.23(17A)	Licenses
7.24(17A)	Declaratory order—in general
7.25(17A)	Department procedure for rule making
7.26(17A)	Public inquiries on rule making and the rule-making records
7.27(17A)	Criticism of rules
7.28(17A)	Waiver or variance of certain department rules
7.29(17A)	Petition for rule making
7.30(9C,91C)	Procedure for nonlocal business entity bond forfeitures
7.31(421)	Abatement of unpaid tax
7.32(421)	Time and place of taxpayer interviews
7.33(421)	Mailing to the last-known address

7.34(421) Power of attorney
7.35(421) Taxpayer designation of tax type and period to which voluntary payments are to be applied

CHAPTER 8
FORMS AND COMMUNICATIONS

8.1(17A) Definitions
8.2(17A) Official forms
8.3(17A) Substitution of official forms
8.4(17A) Description of forms
8.5(422) Electronic filing of Iowa income tax returns

CHAPTER 9
FILING AND EXTENSION OF TAX LIENS
AND CHARGING OFF UNCOLLECTIBLE TAX ACCOUNTS

9.1(422,423) Definitions
9.2(422,423) Lien attaches
9.3(422,423) Purpose of filing
9.4(422,423) Place of filing
9.5(422,423) Time of filing
9.6(422,423) Period of lien
9.7(422,423) Fees

CHAPTER 10
INTEREST, PENALTY, EXCEPTIONS TO PENALTY, AND JEOPARDY ASSESSMENTS

10.1(421) Definitions
10.2(421) Interest
10.3(422,423,450,452A) Interest on refunds and unpaid tax
10.4(421) Frivolous return penalty
10.5(421) Improper receipt of credit or refund

PENALTY FOR TAX PERIOD BEGINNING AFTER JANUARY 1, 1991

10.6(421) Penalties
10.7(421) Waiver of penalty—definitions
10.8(421) Penalty exceptions
10.9(421) Notice of penalty exception for one late return in a three-year period
10.10 to 10.19 Reserved

RETAIL SALES

10.20 to 10.29 Reserved

USE

10.30 to 10.39 Reserved

INDIVIDUAL INCOME

10.40 to 10.49 Reserved

WITHHOLDING

10.50 to 10.55 Reserved

CORPORATE

10.56 to 10.65 Reserved

FINANCIAL INSTITUTIONS

10.66 to 10.70 Reserved

MOTOR FUEL

10.71(452A)	Penalty and enforcement provisions
10.72(452A)	Interest
10.73 to 10.75	Reserved

CIGARETTES AND TOBACCO

10.76(453A)	Penalties
10.77(453A)	Interest
10.78	Reserved
10.79(453A)	Request for statutory exception to penalty
10.80 to 10.84	Reserved

INHERITANCE

10.85 to 10.89	Reserved

IOWA ESTATE

10.90 to 10.95	Reserved

GENERATION SKIPPING

10.96 to 10.100	Reserved

FIDUCIARY INCOME

10.101 to 10.109	Reserved

HOTEL AND MOTEL

10.110 to 10.114	Reserved

ALL TAXES

10.115(421)	Application of payments to penalty, interest, and then tax due for payments made on or after January 1, 1995, unless otherwise designated by the taxpayer

JEOPARDY ASSESSMENTS

10.116(422,453B)	Jeopardy assessments
10.117(422,453B)	Procedure for posting bond
10.118(422,453B)	Time limits
10.119(422,453B)	Amount of bond
10.120(422,453B)	Posting of bond
10.121(422,453B)	Order
10.122(422,453B)	Director's order
10.123(422,453B)	Type of bond
10.124(422,453B)	Form of surety bond
10.125(422,453B)	Duration of the bond
10.126(422,453B)	Exoneration of the bond

TITLE II
EXCISE

CHAPTER 11
ADMINISTRATION

11.1(422,423)	Definitions
11.2(422,423)	Statute of limitations
11.3(422,423)	Credentials and receipts
11.4(422,423)	Retailers required to keep records
11.5(422,423)	Audit of records
11.6(422,423)	Billings
11.7(422,423)	Collections
11.8(422,423)	No property exempt from distress and sale

11.9(422,423) Information confidential
11.10(423) Bonding procedure

CHAPTER 12
FILING RETURNS, PAYMENT OF TAX, PENALTY AND INTEREST

12.1(422) Returns and payment of tax
12.2(422,423) Remittances
12.3(422) Permits and negotiated rate agreements
12.4(422) Nonpermit holders
12.5(422,423) Regular permit holders responsible for collection of tax
12.6(422,423) Sale of business
12.7(422) Bankruptcy, insolvency or assignment for benefit of creditors
12.8(422) Vending machines and other coin-operated devices
12.9(422) Claim for refund of tax
12.10(423) Audit limitation for certain services
12.11 Reserved
12.12(422) Extension of time for filing
12.13(422) Determination of filing status
12.14(422,423) Immediate successor liability for unpaid tax
12.15(422,423) Officers and partners—personal liability for unpaid tax
12.16(422) Show sponsor liability
12.17(422) Purchaser liability for unpaid sales tax
12.18(423) Biodiesel production refund
12.19(15) Sales and use tax refund for eligible businesses

CHAPTER 13
PERMITS

13.1(422) Retail sales tax permit required
13.2(422) Application for permit
13.3(422) Permit not transferable—sale of business
13.4(422) Permit—consolidated return optional
13.5(422) Retailers operating a temporary business
13.6(422) Reinstatement of canceled permit
13.7(422) Reinstatement of revoked permit
13.8(422) Withdrawal of permit
13.9(422) Loss or destruction of permit
13.10(422) Change of location
13.11(422) Change of ownership
13.12(422) Permit posting
13.13(422) Trustees, receivers, executors and administrators
13.14(422) Vending machines and other coin-operated devices
13.15(422) Other amusements
13.16(422) Substantially delinquent tax—denial of permit
13.17(422) Substantially delinquent tax—revocation of permit

CHAPTER 14
COMPUTATION OF TAX

14.1(422) Tax not to be included in price
14.2(422,423,77GA,ch1130) Retail bracket system for state sales and local option sales and service tax
14.3(422,423) Taxation of transactions due to rate change

CHAPTER 15
DETERMINATION OF A SALE AND SALE PRICE

15.1(422) Conditional sales to be included in gross sales
15.2(422,423) Repossessed goods
15.3(422,423) Exemption certificates, direct pay permits, fuel used in processing, and beer and wine wholesalers
15.4(422,423) Bad debts
15.5(422,423) Recovery of bad debts by collection agency or attorney
15.6(422,423) Discounts, rebates and coupons
15.7 Reserved
15.8(422,423) Returned merchandise
15.9(422) Goods damaged in transit
15.10(422) Consignment sales
15.11(422,423) Leased departments
15.12(422,423) Excise tax included in and excluded from gross receipts
15.13(422,423) Freight, other transportation charges, and exclusions from the exemption applicable to these services
15.14(422,423) Installation charges when tangible personal property is sold at retail
15.15(422) Premiums and gifts
15.16(422) Gift certificates
15.17(422,423) Finance charge
15.18(422,423) Coins and other currency exchanged at greater than face value
15.19(422,423) Trade-ins
15.20(422,423) Corporate mergers which do not involve taxable sales of tangible personal property or services

CHAPTER 16
TAXABLE SALES

16.1(422) Tax imposed
16.2(422) Used or secondhand tangible personal property
16.3(422,423) Tangible personal property used or consumed by the manufacturer thereof
16.4(422,423) Patterns, dies, jigs, tools, and manufacturing or printing aids
16.5(422,423) Explosives used in mines, quarries and elsewhere
16.6(422,423) Electrotypes, types, zinc etchings, halftones, stereotypes, color process plates and wood mounts
16.7 Reserved
16.8(422,423) Wholesalers and jobbers selling at retail
16.9(422,423) Materials and supplies sold to retail stores
16.10(422,423) Sales to certain corporations organized under federal statutes
16.11(422,423) Paper plates, paper cups, paper dishes, paper napkins, paper, wooden or plastic spoons and forks and straws
16.12(422) Tangible personal property purchased for resale but incidentally consumed by the purchaser
16.13(422) Property furnished without charge by employers to employees
16.14(422) Sales in interstate commerce—goods delivered into this state
16.15(422) Owners or operators of buildings
16.16(422,423) Tangible personal property made to order
16.17(422,423) Blacksmith and machine shops
16.18(422,423) Sales of signs at retail
16.19(422,423) Products sold by cooperatives to members or patrons
16.20(422,423) Municipal utilities, investor-owned utilities, or municipal or rural electrification cooperatives or associations

16.21(422,423) Sale of pets
16.22(422,423) Sales on layaway
16.23(422) Meal tickets, coupon books, and merchandise cards
16.24(422,423) Truckers engaged in retail business
16.25(422,423) Foreign truckers selling at retail in Iowa
16.26(422) Admissions to amusements, athletic events, commercial amusement enterprises, fairs, and games
16.27 and 16.28 Reserved
16.29(422) Rental of personal property in connection with the operation of amusements
16.30(422) Commercial amusement enterprises—companies or persons which contract to furnish show for fixed fee
16.31 Reserved
16.32(422) River steamboats
16.33(422) Pawnbrokers
16.34(422,423) Druggists and pharmacists
16.35(422,423) Memorial stones
16.36(422) Communication services furnished by hotel to its guests
16.37(422) Private clubs
16.38 Reserved
16.39(422) Athletic events
16.40(422,423) Iowa dental laboratories
16.41(422,423) Dental supply houses
16.42(422) News distributors and magazine distributors
16.43(422,423) Magazine subscriptions by independent dealers
16.44(422,423) Sales by finance companies
16.45(422,423) Sale of baling wire and baling twine
16.46(422,423) Snowmobiles and motorboats
16.47(422) Conditional sales contracts
16.48(422,423) Carpeting and other floor coverings
16.49(422,423) Bowling
16.50(422,423) Various special problems relating to public utilities
16.51(422,423) Sales of services treated as sales of tangible personal property
16.52(422,423) Sales of prepaid merchandise cards

CHAPTER 17
EXEMPT SALES

17.1(422,423) Gross receipts expended for educational, religious, and charitable purposes
17.2(422) Fuel used in processing—when exempt
17.3(422,423) Processing exemptions
17.4(422,423) Commercial fertilizer and agricultural limestone
17.5(422,423) Sales to the American Red Cross, the Coast Guard Auxiliary, Navy-Marine Corps Relief Society, and U.S.O
17.6(422,423) Sales of vehicles subject to registration—new and used—by dealers
17.7(422,423) Sales to certain federal corporations
17.8(422) Sales in interstate commerce—goods transported or shipped from this state
17.9(422,423) Sales of breeding livestock, fowl and certain other property used in agricultural production
17.10(422,423) Materials used for seed inoculations
17.11(422,423) Educational institution
17.12(422) Coat or hat checkrooms
17.13(422,423) Railroad rolling stock
17.14(422,423) Chemicals, solvents, sorbents, or reagents used in processing

17.15(422,423) Demurrage charges
17.16(422,423) Sale of a draft horse
17.17(422,423) Beverage container deposits
17.18(422,423) Films, video tapes and other media, exempt rental and sale
17.19(422,423) Gross receipts from the sale or rental of tangible personal property or from services performed, rendered, or furnished to certain nonprofit corporations exempt from tax
17.20(422) Raffles
17.21(422) Exempt sales of prizes
17.22(422,423) Modular homes
17.23(422,423) Sales to other states and their political subdivisions
17.24(422) Nonprofit private museums
17.25(422,423) Exempt sales by excursion boat licensees
17.26(422,423) Bedding for agricultural livestock or fowl
17.27(422,423) Statewide notification center service exemption
17.28(422,423) State fair and fair societies
17.29(422,423) Reciprocal shipment of wines
17.30(422,423) Nonprofit organ procurement organizations
17.31(422,423) Sale of electricity to water companies
17.32(422) Food and beverages sold by certain organizations are exempt
17.33(422,423) Sales of building materials, supplies and equipment to not-for-profit rural water districts
17.34(422,423) Sales to hospices
17.35(422,423) Sales of livestock ear tags
17.36(422,423) Sale or rental of information services
17.37(422,423) Temporary exemption from sales tax on certain utilities
17.38(422,423) State sales tax phase-out on energies
17.39(422,423) Art centers
17.40(422,423) Community action agencies
17.41(422,423) Legislative service bureau

CHAPTER 18
TAXABLE AND EXEMPT SALES DETERMINED BY METHOD OF TRANSACTION OR USAGE

18.1(422,423) Tangible personal property purchased from the United States government
18.2(422,423) Sales of butane, propane and other like gases in cylinder drums, etc.
18.3(422,423) Chemical compounds used to treat water
18.4(422) Mortgages and trustees
18.5(422,423) Sales to agencies or instrumentalities of federal, state, county and municipal government
18.6(422,423) Relief agencies
18.7(422,423) Containers, including packing cases, shipping cases, wrapping material and similar items
18.8(422) Auctioneers
18.9(422) Sales by farmers
18.10(422,423) Florists
18.11(422,423) Landscaping materials
18.12(422,423) Hatcheries
18.13(422,423) Sales by the state of Iowa, its agencies and instrumentalities
18.14(422,423) Sales of livestock and poultry feeds
18.15(422,423) Student fraternities and sororities
18.16(422,423) Photographers and photostaters

18.17(422,423)	Gravel and stone
18.18(422,423)	Sale of ice
18.19(422,423)	Antiques, curios, old coins or collector's postage stamps
18.20(422,423)	Communication services
18.21(422,423)	Morticians or funeral directors
18.22(422,423)	Physicians, dentists, surgeons, ophthalmologists, oculists, optometrists, and opticians
18.23(422)	Veterinarians
18.24(422,423)	Hospitals, infirmaries and sanitariums
18.25(422,423)	Warranties and maintenance contracts
18.26(422)	Service charge and gratuity
18.27(422)	Advertising agencies, commercial artists, and designers
18.28(422,423)	Casual sales
18.29(422,423)	Processing, a definition of the word, its beginning and completion characterized with specific examples of processing
18.30(422)	Taxation of American Indians
18.31(422,423)	Tangible personal property purchased by one who is engaged in the performance of a service
18.32(422,423)	Sale, transfer or exchange of tangible personal property or taxable enumerated services between affiliated corporations
18.33(422,423)	Printers' and publishers' supplies exemption with retroactive effective date
18.34(422,423)	Automatic data processing
18.35(422,423)	Drainage tile
18.36(422,423)	True leases and purchases of tangible personal property by lessors
18.37(422,423)	Motor fuel, special fuel, aviation fuels and gasoline
18.38(422,423)	Urban transit systems
18.39(422,423)	Sales or services rendered, furnished, or performed by a county or city
18.40(422,423)	Renting of rooms
18.41(422,423)	Envelopes for advertising
18.42(422,423)	Newspapers, free newspapers and shoppers' guides
18.43(422,423)	Written contract
18.44(422,423)	Sale or rental of farm machinery and equipment
18.45(422,423)	Sale or rental of computers, industrial machinery and equipment; refund of and exemption from tax paid for periods prior to July 1, 1997
18.46(422,423)	Automotive fluids
18.47(422,423)	Maintenance or repair of fabric or clothing
18.48(422,423)	Sale or rental of farm machinery, equipment, replacement parts, and repairs used in livestock, dairy, or plant production
18.49(422,423)	Aircraft sales, rental, component parts, and services exemptions prior to, on, and after July 1, 1999
18.50(422,423)	Property used by a lending organization
18.51(422,423)	Sales to nonprofit legal aid organizations
18.52(422,423)	Irrigation equipment used in farming operations
18.53(422,423)	Sales to persons engaged in the consumer rental purchase business
18.54(422,423)	Sales of advertising material
18.55(422,423)	Drop shipment sales
18.56(422,423)	Wind energy conversion property
18.57(422,423)	Exemptions applicable to the production of flowering, ornamental, and vegetable plants
18.58(422,423)	Exempt sales or rentals of computers, industrial machinery and equipment, and exempt sales of fuel and electricity on and after July 1, 1997
18.59(422,423)	Exempt sales to nonprofit hospitals

18.60(422,423) Exempt sales of gases used in the manufacturing process
18.61(422,423) Exclusion from tax for property delivered by certain media

CHAPTER 19
SALES AND USE TAX ON CONSTRUCTION ACTIVITIES

19.1(422,423) General information
19.2(422,423) Contractors are consumers of building materials, supplies, and equipment by statute
19.3(422,423) Sales of building materials, supplies, and equipment to contractors, subcontractors, builders or owners
19.4(422,423) Contractors, subcontractors or builders who are retailers
19.5(422,423) Building materials, supplies, and equipment used in the performance of construction contracts within and outside Iowa
19.6(422,423) Prefabricated structures
19.7(422,423) Types of construction contracts
19.8(422,423) Machinery and equipment sales contracts with installation
19.9(422,423) Construction contracts with equipment sales (mixed contracts)
19.10(422,423) Distinguishing machinery and equipment from real property
19.11(422,423) Tangible personal property which becomes structures
19.12(422,423) Construction contracts with tax exempt entities
19.13(422,423) Tax on enumerated services
19.14(422,423) Transportation cost
19.15(422,423) Start-up charges
19.16(422,423) Liability of subcontractors
19.17(422,423) Liability of sponsors
19.18(422,423) Withholding
19.19(422,423) Resale certificates
19.20(423) Reporting for use tax

CHAPTER 20
FOODS FOR HUMAN CONSUMPTION, PRESCRIPTION DRUGS, INSULIN, HYPODERMIC SYRINGES, DIABETIC TESTING MATERIALS, PROSTHETIC, ORTHOTIC OR ORTHOPEDIC DEVICES

20.1(422,423) Foods for human consumption
20.2(422,423) Food coupon rules
20.3(422,423) Nonparticipating retailer in the food coupon program
20.4(422,423) Determination of eligible foods
20.5(422,423) Meals and prepared food
20.6(422,423) Vending machines
20.7(422,423) Prescription drugs and devices
20.8(422,423) Exempt sales of nonprescription medical devices, other than prosthetic devices
20.9(422,423) Prosthetic, orthotic and orthopedic devices
20.10(422,423) Sales and rentals covered by Medicaid and Medicare
20.11(422,423) Reporting
20.12(422,423) Exempt sales of clothing and footwear during two-day period in August

CHAPTERS 21 to 25
Reserved

TITLE III
SALES TAX ON SERVICES

CHAPTER 26
SALES AND USE TAX ON SERVICES

26.1(422)	Definition and scope
26.2(422)	Enumerated services exempt
26.3(422)	Alteration and garment repair
26.4(422)	Armored car
26.5(422)	Vehicle repair
26.6(422)	Battery, tire and allied
26.7(422)	Investment counseling
26.8(422)	Bank and financial institution service charges
26.9(422)	Barber and beauty
26.10(422)	Boat repair
26.11(422)	Car and vehicle wash and wax
26.12(422)	Carpentry
26.13(422)	Roof, shingle and glass repair
26.14(422)	Dance schools and dance studios
26.15(422)	Dry cleaning, pressing, dyeing and laundering
26.16(422)	Electrical and electronic repair and installation
26.17(422)	Engraving, photography and retouching
26.18(422,423)	Equipment and tangible personal property rental
26.19(422)	Excavating and grading
26.20(422)	Farm implement repair of all kinds
26.21(422)	Flying service
26.22(422)	Furniture, rug, upholstery, repair and cleaning
26.23(422)	Fur storage and repair
26.24(422)	Golf and country clubs and all commercial recreation
26.25(422)	House and building moving
26.26(422)	Household appliance, television and radio repair
26.27(422)	Jewelry and watch repair
26.28(422)	Machine operators
26.29(422)	Machine repair of all kinds
26.30(422)	Motor repair
26.31(422)	Motorcycle, scooter and bicycle repair
26.32(422)	Oilers and lubricators
26.33(422)	Office and business machine repair
26.34(422)	Painting, papering and interior decorating
26.35(422)	Parking facilities
26.36(422)	Pipe fitting and plumbing
26.37(422)	Wood preparation
26.38(422)	Private employment agency, executive search agency
26.39(422)	Printing and binding
26.40(422)	Sewing and stitching
26.41(422)	Shoe repair and shoeshine
26.42(422)	Storage warehousing, storage locker, and storage warehousing of raw agricultural products and household goods
26.43(422,423)	Telephone answering service
26.44(422)	Test laboratories
26.45(422)	Termite, bug, roach, and pest eradicators
26.46(422)	Tin and sheet metal repair

26.47(422) Turkish baths, massage, and reducing salons
26.48(422) Vulcanizing, recapping or retreading
26.49 Reserved
26.50(422) Weighing
26.51(422) Welding
26.52(422) Well drilling
26.53(422) Wrapping, packing and packaging of merchandise other than processed meat, fish, fowl and vegetables
26.54(422) Wrecking service
26.55(422) Wrecker and towing
26.56(422) Cable and pay television
26.57(422) Camera repair
26.58(422) Campgrounds
26.59(422) Gun repair
26.60(422) Janitorial and building maintenance or cleaning
26.61(422) Lawn care
26.62(422) Landscaping
26.63(422) Pet grooming
26.64(422) Reflexology
26.65(422) Tanning beds and tanning salons
26.66(422) Tree trimming and removal
26.67(422) Water conditioning and softening
26.68(422) Motor vehicle, recreational vehicle and recreational boat rental
26.69(422) Security and detective services
26.70 Reserved
26.71(422,423) Solid waste collection and disposal services
26.72(422,423) Sewage services
26.73 Reserved
26.74(422,423) Aircraft rental
26.75(422,423) Sign construction and installation
26.76(422,423) Swimming pool cleaning and maintenance
26.77(422,423) Taxidermy
26.78(422,423) Mini-storage
26.79(422,423) Dating services
26.80(422,423) Limousine service
26.81(422) Sales of bundled services contracts

CHAPTER 27
AUTOMOBILE RENTAL EXCISE TAX

27.1(422,422C,423) Definitions and characterizations
27.2(422,422C,423) Tax imposed upon rental of automobiles
27.3(422,422C,423) Lessor's obligation to collect tax
27.4(422,422C,423) Administration of tax

TITLE IV
USE

CHAPTER 28
DEFINITIONS

28.1(423) Taxable use defined
28.2(423) Processing of property defined
28.3(423) Purchase price defined
28.4(423) Retailer maintaining a place of business in this state defined

CHAPTER 29
CERTIFICATES

29.1(423) Certificate of registration
29.2(423) Cancellation of certificate of registration
29.3(423) Certificates of resale, direct pay permits, or processing

CHAPTER 30
FILING RETURNS, PAYMENT OF TAX, PENALTY AND INTEREST

30.1(423) Liability for use tax and denial and revocation of permit
30.2(423) Measure of use tax
30.3(421,423) Consumer's use tax return
30.4(423) Retailer's use tax return
30.5(423) Collection requirements of registered retailers
30.6(423) Bracket system to be used by registered vendors
30.7(423) Sales tax or use tax paid to another state
30.8(423) Registered retailers selling tangible personal property on a conditional sale contract basis
30.9(423) Registered vendors repossessing goods sold on a conditional sale contract basis
30.10(423) Penalties for late filing of a monthly tax deposit or use tax returns
30.11(423) Claim for refund of use tax
30.12(423) Extension of time for filing

CHAPTER 31
RECEIPTS SUBJECT TO USE TAX

31.1(423) Transactions consummated outside this state
31.2(423) Goods coming into this state
31.3(423) Sales by federal government or agencies to consumers
31.4(423) Sales for lease of vehicles subject to registration—taxation and exemptions
31.5(423) Motor vehicle use tax on long-term leases
31.6(423) Sales of aircraft subject to registration
31.7(423) Communication services

CHAPTER 32
RECEIPTS EXEMPT FROM USE TAX

32.1(423) Tangible personal property and taxable services subject to sales tax
32.2(423) Sales tax exemptions applicable to use tax
32.3(423) Mobile homes and manufactured housing
32.4(423) Exemption for vehicles used in interstate commerce
32.5(423) Exemption for transactions if sales tax paid
32.6(423) Exemption for ships, barges, and other waterborne vessels
32.7(423) Exemption for containers
32.8(423) Exemption for building materials used outside this state
32.9(423) Exemption for vehicles subject to registration
32.10(423) Exemption for vehicles operated under Iowa Code chapter 326
32.11(423) Exemption for vehicles purchased for rental or lease
32.12(423) Exemption for vehicles previously purchased for rental
32.13(423) Exempt use of aircraft on and after July 1, 1999

CHAPTER 33
RECEIPTS SUBJECT TO USE TAX DEPENDING ON
METHOD OF TRANSACTION

33.1 Reserved
33.2(423) Federal manufacturer's or retailer's excise tax

33.3(423) Fuel consumed in creating power, heat or steam for processing or generating electric current
33.4(423) Repair of tangible personal property outside the state of Iowa
33.5(423) Taxation of American Indians
33.6(422,423) Exemption for property used in Iowa only in interstate commerce
33.7(423) Property used to manufacture certain vehicles to be leased
33.8(423) Out-of-state rental of vehicles subject to registration subsequently used in Iowa
33.9(423) Sales of mobile homes, manufactured housing, and related property and services
33.10(423) Tax imposed on the use of manufactured housing as tangible personal property and as real estate

CHAPTER 34
VEHICLES SUBJECT TO REGISTRATION

34.1(422,423) Definitions
34.2(423) County treasurer shall collect tax
34.3(423) Returned vehicles and tax refunded by manufacturers
34.4(423) Use tax collections required
34.5(423) Exemptions
34.6(423) Vehicles subject to registration received as gifts or prizes
34.7(423) Titling of used foreign vehicles by dealers
34.8(423) Dealer's retail sales tax returns
34.9(423) Affidavit forms
34.10(423) Exempt and taxable purchases of vehicles for taxable rental
34.11(423) Manufacturer's refund of use tax to a consumer, lessor, or lessee of a defective motor vehicle
34.12(423) Government payments for a motor vehicle which do not involve government purchases of the same
34.13(423) Transfers of vehicles resulting from corporate mergers and other types of corporate transfers
34.14(423) Refund of use tax paid on the purchase of a motor vehicle
34.15(423) Registration by manufacturers
34.16(423) Rebates
34.17(321,423) Repossession of a vehicle
34.18(423) Federal excise tax
34.19(423) Claiming an exemption from Iowa tax
34.20(423) Affidavit forms
34.21(423) Insurance companies

CHAPTERS 35 and 36
Reserved

CHAPTER 37
UNDERGROUND STORAGE TANK RULES
INCORPORATED BY REFERENCE

37.1(424) Rules incorporated

TITLE V
INDIVIDUAL

CHAPTER 38
ADMINISTRATION

38.1(422) Definitions
38.2(422) Statute of limitations
38.3(422) Retention of records

38.4(422) Authority for deductions
38.5(422) Jeopardy assessments
38.6(422) Information deemed confidential
38.7(422) Power of attorney
38.8(422) Delegations to audit and examine
38.9(422) Bonding procedure
38.10(422) Indexation
38.11(422) Appeals of notices of assessment and notices of denial of taxpayer's refund claims
38.12(422) Indexation of the optional standard deduction for inflation
38.13(422) Reciprocal tax agreements
38.14(422) Information returns for reporting income payments to the department of revenue
38.15(422) Relief of innocent spouse for substantial understatement of tax attributable to other spouse
38.16(422) Preparation of taxpayers' returns by department employees
38.17(422) Resident determination
38.18(422) Tax treatment of income repaid in current tax year which had been reported on prior Iowa individual income tax return
38.19(422) Indication of dependent child health care coverage on tax return

CHAPTER 39
FILING RETURN AND PAYMENT OF TAX

39.1(422) Who must file
39.2(422) Time and place for filing
39.3(422) Form for filing
39.4(422) Filing status
39.5(422) Payment of tax
39.6(422) Minimum tax
39.7(422) Tax on lump-sum distributions
39.8(422) State income tax limited to taxpayer's net worth immediately before the distressed sale
39.9(422) Special tax computation for all low-income taxpayers except single taxpayers
39.10(422) Election to report excess income from sale or exchange of livestock due to drought in the next tax year
39.11(422) Forgiveness of tax for an individual whose federal income tax was forgiven because the individual was killed outside the United States due to military or terroristic action
39.12(422) Tax benefits for persons in the armed forces deployed outside the United States
39.13 Reserved
39.14(422) Tax benefits for persons serving in support of the Bosnia-Herzegovina hazardous duty area
39.15(422) Special tax computation for taxpayers who are 65 years of age or older

CHAPTER 40
DETERMINATION OF NET INCOME

40.1(422) Net income defined
40.2(422) Interest and dividends from federal securities
40.3(422) Interest and dividends from foreign securities and securities of state and other political subdivisions
40.4 Reserved
40.5(422) Military pay
40.6(422) Interest and dividend income
40.7(422) Current year capital gains and losses

40.8(422)	Gains and losses on property acquired before January 1, 1934
40.9(422)	Work opportunity tax credit and alcohol and cellulosic biofuel fuels credit
40.10 and 40.11	Reserved
40.12(422)	Income from partnerships or limited liability companies
40.13(422)	Subchapter "S" income
40.14(422)	Contract sales
40.15(422)	Reporting of incomes by married taxpayers who file a joint federal return but elect to file separately for Iowa income tax purposes
40.16(422)	Income of nonresidents
40.17(422)	Income of part-year residents
40.18(422)	Net operating loss carrybacks and carryovers
40.19(422)	Casualty losses
40.20(422)	Adjustments to prior years
40.21(422)	Additional deduction for wages paid or accrued for work done in Iowa by certain individuals
40.22(422)	Disability income exclusion
40.23(422)	Social security benefits
40.24(99E)	Lottery prizes
40.25 and 40.26	Reserved
40.27(422)	Incomes from distressed sales of qualifying taxpayers
40.28	Reserved
40.29(422)	Intangible drilling costs
40.30(422)	Percentage depletion
40.31(422)	Away-from-home expenses of state legislators
40.32(422)	Interest and dividends from regulated investment companies which are exempt from federal income tax
40.33	Reserved
40.34(422)	Exemption of restitution payments for persons of Japanese ancestry
40.35(422)	Exemption of Agent Orange settlement proceeds received by disabled veterans or beneficiaries of disabled veterans
40.36(422)	Exemption of interest earned on bonds issued to finance beginning farmer loan program
40.37(422)	Exemption of interest from bonds issued by the Iowa comprehensive petroleum underground storage tank fund board
40.38(422)	Capital gain deduction or exclusion for certain types of net capital gains
40.39(422)	Exemption of interest from bonds or notes issued to fund the E911 emergency telephone system
40.40(422)	Exemption of active-duty military pay of national guard personnel and armed forces reserve personnel received for services related to operation desert shield
40.41	Reserved
40.42(422)	Depreciation of speculative shell buildings
40.43(422)	Retroactive exemption for payments received for providing unskilled in-home health care services to a relative
40.44(422,541A)	Individual development accounts
40.45(422)	Exemption for distributions from pensions, annuities, individual retirement accounts, or deferred compensation plans received by nonresidents of Iowa
40.46(422)	Taxation of compensation of nonresident members of professional athletic teams
40.47(422)	Partial exclusion of pensions and other retirement benefits for disabled individuals, individuals who are 55 years of age or older, surviving spouses, and survivors
40.48(422)	Health insurance premiums deduction
40.49(422)	Employer social security credit for tips
40.50(422)	Computing state taxable amounts of pension benefits from state pension plans

40.51(422) Exemption of active-duty military pay of national guard personnel and armed forces military reserve personnel for overseas services pursuant to military orders for peacekeeping in the Bosnia-Herzegovina area
40.52(422) Mutual funds
40.53(422) Deduction for contributions by taxpayers to the Iowa educational savings plan trust and addition to income for refunds of contributions previously deducted
40.54(422) Roth individual retirement accounts
40.55(422) Exemption of income payments for victims of the Holocaust and heirs of victims
40.56(422) Taxation of income from the sale of obligations of the state of Iowa and its political subdivisions
40.57(422) Installment sales by taxpayers using the accrual method of accounting
40.58(422) Exclusion of distributions from retirement plans by national guard members and members of military reserve forces of the United States
40.59 Reserved
40.60(422) Additional first-year depreciation allowance
40.61(422) Exclusion of active duty pay of national guard members and armed forces military reserve members for service under orders for Operation Iraqi Freedom, Operation Noble Eagle, Operation Enduring Freedom or Operation New Dawn
40.62(422) Deduction for overnight expenses not reimbursed for travel away from home of more than 100 miles for performance of service as a member of the national guard or armed forces military reserve
40.63(422) Exclusion of income from military student loan repayments
40.64(422) Exclusion of death gratuity payable to an eligible survivor of a member of the armed forces, including a member of a reserve component of the armed forces who has died while on active duty
40.65(422) Section 179 expensing
40.66(422) Deduction for certain unreimbursed expenses relating to a human organ transplant
40.67(422) Deduction for alternative motor vehicles
40.68(422) Injured veterans grant program
40.69(422) Exclusion of ordinary or capital gain income realized as a result of involuntary conversion of property due to eminent domain
40.70(422) Exclusion of income from sale, rental or furnishing of tangible personal property or services directly related to production of film, television or video projects
40.71(422) Exclusion for certain victim compensation payments
40.72(422) Exclusion of Vietnam Conflict veterans bonus
40.73(422) Exclusion for health care benefits of nonqualified tax dependents
40.74(422) Exclusion for AmeriCorps Segal Education Award
40.75(422) Exclusion of certain amounts received from Iowa veterans trust fund
40.76(422) Exemption of active duty pay for armed forces, armed forces military reserve, or the national guard
40.77(422) Exclusion of biodiesel production refund
40.78(422) Allowance of certain deductions for 2008 tax year
40.79(422) Special filing provisions related to 2010 tax changes
40.80(422) Exemption for military retirement pay

CHAPTER 41
DETERMINATION OF TAXABLE INCOME

41.1(422) Verification of deductions required
41.2(422) Federal rulings and regulations
41.3(422) Federal income tax deduction and federal refund
41.4(422) Optional standard deduction
41.5(422) Itemized deductions

41.6(422) Itemized deductions—separate returns by spouses
41.7(422) Itemized deductions—part-year residents
41.8(422) Itemized deductions—nonresidents
41.9(422) Annualizing income
41.10(422) Income tax averaging
41.11(422) Reduction in state itemized deductions for certain high-income taxpayers
41.12(422) Deduction for home mortgage interest for taxpayers with mortgage interest credit
41.13(422) Iowa income taxes and Iowa tax refund

CHAPTER 42
ADJUSTMENTS TO COMPUTED TAX AND TAX CREDITS

42.1(257,422) School district surtax
42.2(422D) Emergency medical services income surtax
42.3(422) Exemption credits
42.4(422) Tuition and textbook credit for expenses incurred for dependents attending grades kindergarten through 12 in Iowa
42.5(422) Nonresident and part-year resident credit
42.6(422) Out-of-state tax credits
42.7(422) Out-of-state tax credit for minimum tax
42.8(422) Withholding and estimated tax credits
42.9(422) Motor fuel credit
42.10(422) Alternative minimum tax credit for minimum tax paid in a prior tax year
42.11(15,422) Research activities credit
42.12(422) New jobs credit
42.13(422) Earned income credit
42.14(15) Investment tax credit—new jobs and income program and enterprise zone program
42.15(422) Child and dependent care credit
42.16(422) Franchise tax credit
42.17(15E) Eligible housing business tax credit
42.18(422) Assistive device tax credit
42.19(404A,422) Historic preservation and cultural and entertainment district tax credit
42.20(422) Ethanol blended gasoline tax credit
42.21(15E) Eligible development business investment tax credit
42.22(15E,422) Venture capital credits
42.23(15) New capital investment program tax credits
42.24(15E,422) Endow Iowa tax credit
42.25(422) Soy-based cutting tool oil tax credit
42.26(15I,422) Wage-benefits tax credit
42.27(422,476B) Wind energy production tax credit
42.28(422,476C) Renewable energy tax credit
42.29(15) High quality job creation program
42.30(15E,422) Economic development region revolving fund tax credit
42.31(422) Early childhood development tax credit
42.32(422) School tuition organization tax credit
42.33(422) E-85 gasoline promotion tax credit
42.34(422) Biodiesel blended fuel tax credit
42.35(422) Soy-based transformer fluid tax credit
42.36(16,422) Agricultural assets transfer tax credit and custom farming contract tax credit
42.37(15,422) Film qualified expenditure tax credit
42.38(15,422) Film investment tax credit
42.39(422) Ethanol promotion tax credit
42.40(422) Charitable conservation contribution tax credit

42.41(15,422) Redevelopment tax credit
42.42(15) High quality jobs program
42.43(16,422) Disaster recovery housing project tax credit
42.44(422) Deduction of credits
42.45(15) Aggregate tax credit limit for certain economic development programs
42.46(422) E-15 plus gasoline promotion tax credit
42.47(422) Geothermal heat pump tax credit
42.48(422) Solar energy system tax credit
42.49(422) Volunteer fire fighter, volunteer emergency medical services personnel and reserve peace officer tax credit
42.50(422) Taxpayers trust fund tax credit
42.51(422,85GA,SF452) From farm to food donation tax credit
42.52(422) Adoption tax credit
42.53(15) Workforce housing tax incentives program

CHAPTER 43
ASSESSMENTS AND REFUNDS

43.1(422) Notice of discrepancies
43.2(422) Notice of assessment, supplemental assessments and refund adjustments
43.3(422) Overpayments of tax
43.4(68A,422,456A) Optional designations of funds by taxpayer
43.5(422) Abatement of tax
43.6 and 43.7 Reserved
43.8(422) Livestock production credit refunds for corporate taxpayers and individual taxpayers

CHAPTER 44
PENALTY AND INTEREST

44.1(422) Penalty
44.2(422) Computation of interest on unpaid tax
44.3(422) Computation of interest on refunds resulting from net operating losses
44.4(422) Computation of interest on overpayments

CHAPTER 45
PARTNERSHIPS

45.1(422) General rule
45.2(422) Partnership returns
45.3(422) Contents of partnership return
45.4(422) Distribution and taxation of partnership income

CHAPTER 46
WITHHOLDING

46.1(422) Who must withhold
46.2(422) Computation of amount withheld
46.3(422) Forms, returns and reports
46.4(422) Withholding on nonresidents
46.5(422) Penalty and interest
46.6(422) Withholding tax credit to workforce development fund
46.7(422) ACE training program credits from withholding
46.8(260E) New job tax credit from withholding
46.9(15) Supplemental new jobs credit from withholding and alternative credit for housing assistance programs
46.10(403) Targeted jobs withholding tax credit

CHAPTER 47
Reserved

CHAPTER 48
COMPOSITE RETURNS

48.1(422)	Composite returns
48.2(422)	Definitions
48.3(422)	Filing requirements
48.4	Reserved
48.5(422)	Composite return required by director
48.6(422)	Determination of composite Iowa income
48.7(422)	Determination of composite Iowa tax
48.8(422)	Estimated tax
48.9(422)	Time and place for filing

CHAPTER 49
ESTIMATED INCOME TAX FOR INDIVIDUALS

49.1(422)	Who must pay estimated income tax
49.2(422)	Time for filing and payment of tax
49.3(422)	Estimated tax for nonresidents
49.4(422)	Special estimated tax periods
49.5(422)	Reporting forms
49.6(422)	Penalty—underpayment of estimated tax
49.7(422)	Estimated tax carryforwards and how the carryforward amounts are affected under different circumstances

CHAPTER 50
APPORTIONMENT OF INCOME FOR RESIDENT SHAREHOLDERS OF S CORPORATIONS

50.1(422)	Apportionment of income for resident shareholders of S corporations
50.2	Reserved
50.3(422)	Distributions
50.4(422)	Computation of net S corporation income
50.5(422)	Computation of federal tax on S corporation income
50.6(422)	Income allocable to Iowa
50.7(422)	Credit for taxes paid to another state
50.8 and 50.9	Reserved
50.10(422)	Example for tax periods beginning on or after January 1, 2002

TITLE VI
CORPORATION

CHAPTER 51
ADMINISTRATION

51.1(422)	Definitions
51.2(422)	Statutes of limitation
51.3(422)	Retention of records
51.4(422)	Cancellation of authority to do business
51.5(422)	Authority for deductions
51.6(422)	Jeopardy assessments
51.7(422)	Information confidential
51.8(422)	Power of attorney
51.9(422)	Delegation of authority to audit and examine

CHAPTER 52
FILING RETURNS, PAYMENT OF TAX, PENALTY AND INTEREST, AND TAX CREDITS

52.1(422)	Who must file
52.2(422)	Time and place for filing return
52.3(422)	Form for filing
52.4(422)	Payment of tax
52.5(422)	Minimum tax
52.6(422)	Motor fuel credit
52.7(422)	Research activities credit
52.8(422)	New jobs credit
52.9	Reserved
52.10(15)	New jobs and income program tax credits
52.11(422)	Refunds and overpayments
52.12(422)	Deduction of credits
52.13(422)	Livestock production credits
52.14(15E)	Enterprise zone tax credits
52.15(15E)	Eligible housing business tax credit
52.16(422)	Franchise tax credit
52.17(422)	Assistive device tax credit
52.18(404A,422)	Historic preservation and cultural and entertainment district tax credit
52.19(422)	Ethanol blended gasoline tax credit
52.20(15E)	Eligible development business investment tax credit
52.21(15E,422)	Venture capital credits
52.22(15)	New capital investment program tax credits
52.23(15E,422)	Endow Iowa tax credit
52.24(422)	Soy-based cutting tool oil tax credit
52.25(15I,422)	Wage-benefits tax credit
52.26(422,476B)	Wind energy production tax credit
52.27(422,476C)	Renewable energy tax credit
52.28(15)	High quality job creation program
52.29(15E,422)	Economic development region revolving fund tax credit
52.30(422)	E-85 gasoline promotion tax credit
52.31(422)	Biodiesel blended fuel tax credit
52.32(422)	Soy-based transformer fluid tax credit
52.33(16,422)	Agricultural assets transfer tax credit and custom farming contract tax credit
52.34(15,422)	Film qualified expenditure tax credit
52.35(15,422)	Film investment tax credit
52.36(422)	Ethanol promotion tax credit
52.37(422)	Charitable conservation contribution tax credit
52.38(422)	School tuition organization tax credit
52.39(15,422)	Redevelopment tax credit
52.40(15)	High quality jobs program
52.41(15)	Aggregate tax credit limit for certain economic development programs
52.42(16,422)	Disaster recovery housing project tax credit
52.43(422)	E-15 plus gasoline promotion tax credit
52.44(422)	Solar energy system tax credit
52.45(422,85GA,SF452)	From farm to food donation tax credit
52.46(15)	Workforce housing tax incentives program

CHAPTER 53
DETERMINATION OF NET INCOME

53.1(422) Computation of net income for corporations
53.2(422) Net operating loss carrybacks and carryovers
53.3(422) Capital loss carryback
53.4(422) Net operating and capital loss carrybacks and carryovers
53.5(422) Interest and dividends from federal securities
53.6(422) Interest and dividends from foreign securities, and securities of state and their political subdivisions
53.7(422) Safe harbor leases
53.8(422) Additions to federal taxable income
53.9(422) Gains and losses on property acquired before January 1, 1934
53.10(422) Work opportunity tax credit and alcohol and cellulosic biofuel fuels credit
53.11(422) Additional deduction for wages paid or accrued for work done in Iowa by certain individuals
53.12(422) Federal income tax deduction
53.13(422) Iowa income taxes and Iowa tax refund
53.14(422) Method of accounting, accounting period
53.15(422) Consolidated returns
53.16(422) Federal rulings and regulations
53.17(422) Depreciation of speculative shell buildings
53.18(422) Deduction of multipurpose vehicle registration fee
53.19(422) Deduction of foreign dividends
53.20(422) Employer social security credit for tips
53.21(422) Deduction for contributions made to the endowment fund of the Iowa educational savings plan trust
53.22(422) Additional first-year depreciation allowance
53.23(422) Section 179 expensing
53.24(422) Exclusion of ordinary or capital gain income realized as a result of involuntary conversion of property due to eminent domain
53.25(422) Exclusion of income from sale, rental or furnishing of tangible personal property or services directly related to production of film, television, or video projects
53.26(422) Exclusion of biodiesel production refund

CHAPTER 54
ALLOCATION AND APPORTIONMENT

54.1(422) Basis of corporate tax
54.2(422) Allocation or apportionment of investment income
54.3(422) Application of related expense to allocable interest, dividends, rents and royalties—tax periods beginning on or after January 1, 1978
54.4(422) Net gains and losses from the sale of assets
54.5(422) Where income is derived from the manufacture or sale of tangible personal property
54.6(422) Apportionment of income derived from business other than the manufacture or sale of tangible personal property
54.7(422) Apportionment of income of transportation, communications, and certain public utilities corporations
54.8(422) Apportionment of income derived from more than one business activity carried on within a single corporate structure
54.9(422) Allocation and apportionment of income in special cases

CHAPTER 55
ASSESSMENTS, REFUNDS, APPEALS

55.1(422) Notice of discrepancies
55.2(422) Notice of assessment
55.3(422) Refund of overpaid tax
55.4(421) Abatement of tax
55.5(422) Protests

CHAPTER 56
ESTIMATED TAX FOR CORPORATIONS

56.1(422) Who must pay estimated tax
56.2(422) Time for filing and payment of tax
56.3(422) Special estimate periods
56.4(422) Reporting forms
56.5(422) Penalties
56.6(422) Overpayment of estimated tax

TITLE VII
FRANCHISE

CHAPTER 57
ADMINISTRATION

57.1(422) Definitions
57.2(422) Statutes of limitation
57.3(422) Retention of records
57.4(422) Authority for deductions
57.5(422) Jeopardy assessments
57.6(422) Information deemed confidential
57.7(422) Power of attorney
57.8(422) Delegation to audit and examine

CHAPTER 58
FILING RETURNS, PAYMENT OF TAX, PENALTY AND INTEREST, AND TAX CREDITS

58.1(422) Who must file
58.2(422) Time and place for filing return
58.3(422) Form for filing
58.4(422) Payment of tax
58.5(422) Minimum tax
58.6(422) Refunds and overpayments
58.7(422) Allocation of franchise tax revenues
58.8(15E) Eligible housing business tax credit
58.9(15E) Eligible development business investment tax credit
58.10(422) Historic preservation and cultural and entertainment district tax credit
58.11(15E,422) Venture capital credits
58.12(15) New capital investment program tax credits
58.13(15E,422) Endow Iowa tax credit
58.14(15I,422) Wage-benefits tax credit
58.15(422,476B) Wind energy production tax credit
58.16(422,476C) Renewable energy tax credit
58.17(15) High quality job creation program
58.18(15E,422) Economic development region revolving fund tax credit
58.19(15,422) Film qualified expenditure tax credit
58.20(15,422) Film investment tax credit

58.21(15) High quality jobs program
58.22(422) Solar energy system tax credit
58.23(15) Workforce housing tax incentives program

CHAPTER 59
DETERMINATION OF NET INCOME

59.1(422) Computation of net income for financial institutions
59.2(422) Net operating loss carrybacks and carryovers
59.3(422) Capital loss carryback
59.4(422) Net operating and capital loss carrybacks and carryovers
59.5(422) Interest and dividends from federal securities
59.6(422) Interest and dividends from foreign securities and securities of states and other political subdivisions
59.7(422) Safe harbor leases
59.8(422) Additional deduction for wages paid or accrued for work done in Iowa by certain individuals
59.9(422) Work opportunity tax credit
59.10 Reserved
59.11(422) Gains and losses on property acquired before January 1, 1934
59.12(422) Federal income tax deduction
59.13(422) Iowa franchise taxes
59.14(422) Method of accounting, accounting period
59.15(422) Consolidated returns
59.16(422) Federal rulings and regulations
59.17(15E,422) Charitable contributions relating to the endow Iowa tax credit
59.18(422) Depreciation of speculative shell buildings
59.19(422) Deduction of multipurpose vehicle registration fee
59.20(422) Disallowance of expenses to carry an investment subsidiary for tax years which begin on or after January 1, 1995
59.21(422) S corporation and limited liability company financial institutions
59.22(422) Deduction for contributions made to the endowment fund of the Iowa educational savings plan trust
59.23(422) Additional first-year depreciation allowance
59.24(422) Section 179 expensing

ALLOCATION AND APPORTIONMENT

59.25(422) Basis of franchise tax
59.26(422) Allocation and apportionment
59.27(422) Net gains and losses from the sale of assets
59.28(422) Apportionment factor
59.29(422) Allocation and apportionment of income in special cases

CHAPTER 60
ASSESSMENTS, REFUNDS, APPEALS

60.1(422) Notice of discrepancies
60.2(422) Notice of assessment
60.3(422) Refund of overpaid tax
60.4(421) Abatement of tax
60.5(422) Protests

CHAPTER 61
ESTIMATED TAX FOR FINANCIAL INSTITUTIONS

61.1(422) Who must pay estimated tax
61.2(422) Time for filing and payment of tax
61.3(422) Special estimate periods
61.4(422) Reporting forms
61.5(422) Penalties
61.6(422) Overpayment of estimated tax

CHAPTERS 62 to 66
Reserved

TITLE VIII
MOTOR FUEL

CHAPTER 67
ADMINISTRATION

67.1(452A) Definitions
67.2(452A) Statute of limitations, supplemental assessments and refund adjustments
67.3(452A) Taxpayers required to keep records
67.4(452A) Audit—costs
67.5(452A) Estimate gallonage
67.6(452A) Timely filing of returns, reports, remittances, applications, or requests
67.7(452A) Extension of time to file
67.8(452A) Penalty and interest
67.9(452A) Penalty and enforcement provisions
67.10(452A) Application of remittance
67.11(452A) Reports, returns, records—variations
67.12(452A) Form of invoice
67.13(452A) Credit card invoices
67.14(452A) Original invoice retained by purchaser—certified copy if lost
67.15(452A) Taxes erroneously or illegally collected
67.16(452A) Credentials and receipts
67.17(452A) Information confidential
67.18(452A) Delegation to audit and examine
67.19(452A) Practice and procedure before the department of revenue
67.20(452A) Time for filing protest
67.21(452A) Bonding procedure
67.22(452A) Tax refund offset
67.23(452A) Supplier, restrictive supplier, importer, exporter, blender, dealer, or user licenses
67.24(452A) Reinstatement of license canceled for cause
67.25(452A) Fuel used in implements of husbandry
67.26(452A) Excess tax collected
67.27(452A) Retailer gallons report

CHAPTER 68
MOTOR FUEL AND UNDYED SPECIAL FUEL

68.1(452A) Definitions
68.2(452A) Tax rates—time tax attaches—responsible party
68.3(452A) Exemption
68.4(452A) Ethanol blended gasoline taxation—nonterminal location
68.5(452A) Tax returns—computations
68.6(452A) Distribution allowance
68.7(452A) Supplier credit—uncollectible account

68.8(452A) Refunds
68.9(452A) Claim for refund—payment of claim
68.10(452A) Refund permit
68.11(452A) Revocation of refund permit
68.12(452A) Income tax credit in lieu of refund
68.13(452A) Reduction of refund—sales tax
68.14(452A) Terminal withdrawals—meters
68.15(452A) Terminal and nonterminal storage facility reports and records
68.16(452A) Method of reporting taxable gallonage
68.17(452A) Transportation reports
68.18(452A) Bill of lading or manifest requirements
68.19(452A) Right of distributors and dealers to blend conventional blendstock for oxygenate blending, gasoline, or diesel fuel using a biofuel

CHAPTER 69
LIQUEFIED PETROLEUM GAS—
COMPRESSED NATURAL GAS

69.1(452A) Definitions
69.2(452A) Tax rates—time tax attaches—responsible party—payment of the tax
69.3(452A) Penalty and interest
69.4(452A) Bonding procedure
69.5(452A) Persons authorized to place L.P.G. or C.N.G. in the fuel supply tank of a motor vehicle
69.6(452A) Requirements to be licensed
69.7(452A) Licensed metered pumps
69.8(452A) Single license for each location
69.9(452A) Dealer's and user's license nonassignable
69.10(452A) Separate storage—bulk sales—highway use
69.11(452A) Combined storage—bulk sales—highway sales or use
69.12(452A) Exemption certificates
69.13(452A) L.P.G. sold to the state of Iowa, its political subdivisions, contract carriers under contract with public schools to transport pupils or regional transit systems
69.14(452A) Refunds
69.15(452A) Notice of meter seal breakage
69.16(452A) Location of records—L.P.G. or C.N.G. users and dealers

TITLE IX
PROPERTY

CHAPTER 70
REPLACEMENT TAX AND STATEWIDE PROPERTY TAX

DIVISION I
REPLACEMENT TAX

70.1(437A) Who must file return
70.2(437A) Time and place for filing return
70.3(437A) Form for filing
70.4(437A) Payment of tax
70.5(437A) Statute of limitations
70.6(437A) Billings
70.7(437A) Refunds
70.8(437A) Abatement of tax
70.9(437A) Taxpayers required to keep records
70.10(437A) Credentials

70.11(437A) Audit of records
70.12(437A) Collections/reimbursements
70.13(437A) Information confidential

DIVISION II
STATEWIDE PROPERTY TAX

70.14(437A) Who must file return
70.15(437A) Time and place for filing return
70.16(437A) Form for filing
70.17(437A) Payment of tax
70.18(437A) Statute of limitations
70.19(437A) Billings
70.20(437A) Refunds
70.21(437A) Abatement of tax
70.22(437A) Taxpayers required to keep records
70.23(437A) Credentials
70.24(437A) Audit of records

CHAPTER 71
ASSESSMENT PRACTICES AND EQUALIZATION

71.1(405,427A,428,441,499B) Classification of real estate
71.2(421,428,441) Assessment and valuation of real estate
71.3(421,428,441) Valuation of agricultural real estate
71.4(421,428,441) Valuation of residential real estate
71.5(421,428,441) Valuation of commercial real estate
71.6(421,428,441) Valuation of industrial land and buildings
71.7(421,427A,428,441) Valuation of industrial machinery
71.8(428,441) Abstract of assessment
71.9(428,441) Reconciliation report
71.10(421) Assessment/sales ratio study
71.11(441) Equalization of assessments by class of property
71.12(441) Determination of aggregate actual values
71.13(441) Tentative equalization notices
71.14(441) Hearings before the director
71.15(441) Final equalization order
71.16(441) Alternative method of implementing equalization orders
71.17(441) Special session of boards of review
71.18(441) Judgment of assessors and local boards of review
71.19(441) Conference boards
71.20(441) Board of review
71.21(421,17A) Property assessment appeal board
71.22(428,441) Assessors
71.23(421,428,441) Valuation of multiresidential real estate
71.24(421,428,441) Valuation of dual classification property
71.25(441,443) Omitted assessments
71.26(441) Assessor compliance

CHAPTER 72
EXAMINATION AND CERTIFICATION OF ASSESSORS AND DEPUTY ASSESSORS

72.1(441) Application for examination
72.2(441) Examinations
72.3(441) Equivalent of high school diploma
72.4(441) Appraisal-related experience

72.5(441) Regular certification
72.6(441) Temporary certification
72.7 Reserved
72.8(441) Deputy assessors—regular certification
72.9 Reserved
72.10(441) Appointment of deputy assessors
72.11(441) Special examinations
72.12(441) Register of eligible candidates
72.13(441) Course of study for provisional appointees
72.14(441) Examining board
72.15(441) Appointment of assessor
72.16(441) Reappointment of assessor
72.17(441) Removal of assessor
72.18(421,441) Courses offered by the department of revenue

CHAPTER 73
PROPERTY TAX CREDIT AND RENT REIMBURSEMENT

73.1(425) Eligible claimants
73.2(425) Separate homesteads—husband and wife property tax credit
73.3(425) Dual claims
73.4(425) Multipurpose building
73.5(425) Multidwelling
73.6(425) Income
73.7(425) Joint tenancy
73.8(425) Amended claim
73.9(425) Simultaneous homesteads
73.10(425) Confidential information
73.11(425) Mobile, modular, and manufactured homes
73.12(425) Totally disabled
73.13(425) Nursing homes
73.14(425) Household
73.15(425) Homestead
73.16(425) Household income
73.17(425) Timely filing of claims
73.18(425) Separate homestead—husband and wife rent reimbursements
73.19(425) Gross rent/rent constituting property taxes paid
73.20(425) Leased land
73.21(425) Property: taxable status
73.22(425) Special assessments
73.23(425) Suspended, delinquent, or canceled taxes
73.24(425) Income: spouse
73.25(425) Common law marriage
73.26 Reserved
73.27(425) Special assessment credit
73.28(425) Credit applied
73.29(425) Deceased claimant
73.30(425) Audit of claim
73.31(425) Extension of time for filing a claim
73.32(425) Annual adjustment factor
73.33(425) Proration of claims
73.34(425) Unreasonable hardship

CHAPTER 74
MOBILE, MODULAR, AND MANUFACTURED HOME TAX

74.1(435) Definitions
74.2(435) Movement of home to another county
74.3(435) Sale of home
74.4(435) Reduced tax rate
74.5(435) Taxation—real estate
74.6(435) Taxation—square footage
74.7(435) Audit by department of revenue
74.8(435) Collection of tax

CHAPTER 75
PROPERTY TAX ADMINISTRATION

75.1(441) Tax year
75.2(445) Partial payment of tax
75.3(445) When delinquent
75.4(446) Payment of subsequent year taxes by purchaser
75.5(428,433,434,437,437A,438,85GA,SF451) Central assessment confidentiality
75.6(446) Tax sale
75.7(445) Refund of tax
75.8(614) Delinquent property taxes

CHAPTER 76
DETERMINATION OF VALUE OF RAILROAD COMPANIES

76.1(434) Definitions of terms
76.2(434) Filing of annual reports
76.3(434) Comparable sales
76.4(434) Stock and debt approach to unit value
76.5(434) Income capitalization approach to unit value
76.6(434) Cost approach to unit value
76.7(434) Correlation
76.8(434) Allocation of unit value to state
76.9(434) Exclusions

CHAPTER 77
DETERMINATION OF VALUE OF UTILITY COMPANIES

77.1(428,433,437,438) Definition of terms
77.2(428,433,437,438) Filing of annual reports
77.3(428,433,437,438) Comparable sales
77.4(428,433,437,438) Stock and debt approach to unit value
77.5(428,433,437,438) Income capitalization approach to unit value
77.6(428,433,437,438) Cost approach to unit value
77.7(428,433,437,438) Correlation
77.8(428,433,437,438) Allocation of unit value to state

CHAPTER 78
REPLACEMENT TAX AND STATEWIDE PROPERTY TAX ON RATE-REGULATED WATER UTILITIES

REPLACEMENT TAX

78.1(85GA,SF451) Who must file return
78.2(85GA,SF451) Time and place for filing return
78.3(85GA,SF451) Form for filing
78.4(85GA,SF451) Payment of tax

78.5(85GA,SF451) Statute of limitations
78.6(85GA,SF451) Billings
78.7(85GA,SF451) Refunds
78.8(85GA,SF451) Abatement of tax
78.9(85GA,SF451) Taxpayers required to keep records
78.10(85GA,SF451) Credentials
78.11(85GA,SF451) Audit of records
78.12(85GA,SF451) Information confidential

STATEWIDE PROPERTY TAX

78.13(85GA,SF451) Who must file return
78.14(85GA,SF451) Time and place for filing return
78.15(85GA,SF451) Form for filing
78.16(85GA,SF451) Payment of tax
78.17(85GA,SF451) Statute of limitations
78.18(85GA,SF451) Billings
78.19(85GA,SF451) Refunds
78.20(85GA,SF451) Abatement of tax
78.21(85GA,SF451) Taxpayers required to keep records
78.22(85GA,SF451) Credentials
78.23(85GA,SF451) Audit of records

CHAPTER 79
REAL ESTATE TRANSFER TAX AND DECLARATIONS OF VALUE

79.1(428A) Real estate transfer tax: Responsibility of county recorders
79.2(428A) Taxable status of real estate transfers
79.3(428A) Declarations of value: Responsibility of county recorders and city and county assessors
79.4(428A) Certain transfers of agricultural realty
79.5(428A) Form completion and filing requirements
79.6(428A) Public access to declarations of value

CHAPTER 80
PROPERTY TAX CREDITS AND EXEMPTIONS

80.1(425) Homestead tax credit
80.2(22,35,426A) Military service tax exemption
80.3(427) Pollution control and recycling property tax exemption
80.4(427) Low-rent housing for the elderly and persons with disabilities
80.5(427) Speculative shell buildings
80.6(427B) Industrial property tax exemption
80.7(427B) Assessment of computers and industrial machinery and equipment
80.8(404) Urban revitalization partial exemption
80.9(427C,441) Forest and fruit-tree reservations
80.10(427B) Underground storage tanks
80.11(425A) Family farm tax credit
80.12(427) Methane gas conversion property
80.13(427B,476B) Wind energy conversion property
80.14(427) Mobile home park storm shelter
80.15(427) Barn and one-room schoolhouse preservation
80.16(426) Agricultural land tax credit
80.17(427) Indian housing property
80.18(427) Property used in value-added agricultural product operations
80.19(427) Dwelling unit property within certain cities

80.20(427)	Nursing facilities
80.21(368)	Annexation of property by a city
80.22(427)	Port authority
80.23(427A)	Concrete batch plants and hot mix asphalt facilities
80.24(427)	Airport property
80.25(427A)	Car wash equipment
80.26(427)	Web search portal and data center business property
80.27(427)	Privately owned libraries and art galleries
80.28(404B)	Disaster revitalization area
80.29(427)	Geothermal heating and cooling systems installed on property classified as residential
80.30(426C)	Business property tax credit
80.31 to 80.48	Reserved
80.49(441)	Commercial and industrial property tax replacement—county replacement claims
80.50(427,441)	Responsibility of local assessors
80.51(441)	Responsibility of local boards of review
80.52(427)	Responsibility of director of revenue
80.53(427)	Application for exemption
80.54(427)	Partial exemptions
80.55(427,441)	Taxable status of property
80.56(427)	Abatement of taxes

TITLE X
CIGARETTES AND TOBACCO

CHAPTER 81
ADMINISTRATION

81.1(453A)	Definitions
81.2(453A)	Credentials and receipts
81.3(453A)	Examination of records
81.4(453A)	Records
81.5(453A)	Form of invoice
81.6(453A)	Audit of records—cost, supplemental assessments and refund adjustments
81.7(453A)	Bonds
81.8(98)	Penalties
81.9(98)	Interest
81.10(98)	Waiver of penalty or interest
81.11(453A)	Appeal—practice and procedure before the department
81.12(453A)	Permit—license revocation
81.13(453A)	Permit applications and denials
81.14(453A)	Confidential information
81.15(98)	Request for waiver of penalty
81.16(453A)	Inventory tax

CHAPTER 82
CIGARETTE TAX

82.1(453A)	Permits required
82.2(453A)	Partial year permits—payment—refund—exchange
82.3(453A)	Bond requirements
82.4(453A)	Cigarette tax—attachment—exemption—exclusivity of tax
82.5(453A)	Cigarette tax stamps
82.6(453A)	Banks authorized to sell stamps—requirements—restrictions
82.7(453A)	Purchase of cigarette tax stamps—discount

82.8(453A) Affixing stamps
82.9(453A) Reports
82.10(453A) Manufacturer's samples
82.11(453A) Refund of tax—unused and destroyed stamps

CHAPTER 83
TOBACCO TAX

83.1(453A) Licenses
83.2(453A) Distributor bond
83.3(453A) Tax on tobacco products
83.4(453A) Tax on little cigars
83.5(453A) Distributor discount
83.6(453A) Distributor returns
83.7(453A) Consumer's return
83.8(453A) Transporter's report
83.9(453A) Free samples
83.10(453A) Credits and refunds of taxes
83.11(453A) Sales exempt from tax
83.12(81GA,HF339) Retail permits required
83.13(81GA,HF339) Permit issuance fee
83.14(81GA,HF339) Refunds of permit fee
83.15(81GA,HF339) Application for permit
83.16(81GA,HF339) Records and reports
83.17(81GA,HF339) Penalties

CHAPTER 84
UNFAIR CIGARETTE SALES

84.1(421B) Definitions
84.2(421B) Minimum price
84.3(421B) Combination sales
84.4(421B) Retail redemption of coupons
84.5(421B) Exempt sales
84.6(421B) Notification of manufacturer's price increase
84.7(421B) Permit revocation

CHAPTER 85
TOBACCO MASTER SETTLEMENT AGREEMENT

DIVISION I
TOBACCO MASTER SETTLEMENT AGREEMENT

85.1(453C) National uniform tobacco settlement
85.2(453C) Definitions
85.3(453C) Report required
85.4(453C) Report information
85.5(453C) Record-keeping requirement
85.6(453C) Confidentiality
85.7 to 85.20 Reserved

DIVISION II
TOBACCO PRODUCT MANUFACTURERS' OBLIGATIONS AND PROCEDURES

85.21(80GA,SF375) Definitions
85.22(80GA,SF375) Directory of tobacco product manufacturers

TITLE XI
INHERITANCE, ESTATE, GENERATION SKIPPING, AND FIDUCIARY INCOME TAX

CHAPTER 86
INHERITANCE TAX

86.1(450)	Administration
86.2(450)	Inheritance tax returns and payment of tax
86.3(450)	Audits, assessments and refunds
86.4(450)	Appeals
86.5(450)	Gross estate
86.6(450)	The net estate
86.7(450)	Life estate, remainder and annuity tables—in general
86.8(450B)	Special use valuation
86.9(450)	Market value in the ordinary course of trade
86.10(450)	Alternate valuation date
86.11(450)	Valuation—special problem areas
86.12(450)	The inheritance tax clearance
86.13(450)	No lien on the surviving spouse's share of the estate
86.14(450)	Computation of shares
86.15(450)	Applicability

CHAPTER 87
IOWA ESTATE TAX

87.1(451)	Administration
87.2(451)	Confidential and nonconfidential information
87.3(451)	Tax imposed, tax returns, and tax due
87.4(451)	Audits, assessments and refunds
87.5(451)	Appeals
87.6(451)	Applicable rules

CHAPTER 88
GENERATION SKIPPING TRANSFER TAX

88.1(450A)	Administration
88.2(450A)	Confidential and nonconfidential information
88.3(450A)	Tax imposed, tax due and tax returns
88.4(450A)	Audits, assessments and refunds
88.5(450A)	Appeals
88.6(450A)	Generation skipping transfers prior to Public Law 99-514
88.7(421)	Applicability

CHAPTER 89
FIDUCIARY INCOME TAX

89.1(422)	Administration
89.2(422)	Confidentiality
89.3(422)	Situs of trusts
89.4(422)	Fiduciary returns and payment of the tax
89.5(422)	Extension of time to file and pay the tax
89.6(422)	Penalties
89.7(422)	Interest or refunds on net operating loss carrybacks
89.8(422)	Reportable income and deductions
89.9(422)	Audits, assessments and refunds
89.10(422)	The income tax certificate of acquittance
89.11(422)	Appeals to the director

CHAPTER 90
Reserved

TITLE XII
MARIJUANA AND CONTROLLED SUBSTANCES STAMP TAX

CHAPTER 91
ADMINISTRATION OF MARIJUANA AND CONTROLLED SUBSTANCES STAMP TAX

91.1(453B) Marijuana and controlled substances stamp tax
91.2(453B) Sales of stamps
91.3(453B) Refunds pertaining to unused stamps

CHAPTERS 92 to 96
Reserved

TITLE XIII

CHAPTERS 97 to 101
Reserved

TITLE XIV
HOTEL AND MOTEL TAX

CHAPTER 102
Reserved

CHAPTER 103
STATE-IMPOSED AND LOCALLY IMPOSED HOTEL AND MOTEL TAXES—ADMINISTRATION

103.1(423A) Definitions, administration, and imposition
103.2(423A) Statute of limitations, supplemental assessments and refund adjustments
103.3(423A) Credentials and receipts
103.4(423A) Retailers required to keep records
103.5(423A) Audit of records
103.6(423A) Billings
103.7(423A) Collections
103.8(423A) No property exempt from distress and sale
103.9(423A) Information confidential
103.10(423A) Bonding procedure
103.11(423A) Sales tax
103.12(423A) Judicial review
103.13(423A) Registration
103.14(423A) Notification
103.15(423A) Certification of funds

CHAPTER 104
HOTEL AND MOTEL— FILING RETURNS, PAYMENT OF TAX, PENALTY, AND INTEREST

104.1(423A) Returns, time for filing
104.2(423A) Remittances
104.3(423A) Permits
104.4(423A) Sale of business
104.5(423A) Bankruptcy, insolvency or assignment for benefit of creditors
104.6(423A) Claim for refund of tax

104.7(423A) Application of payments
104.8(423A) Interest and penalty
104.9(423A) Request for waiver of penalty
104.10(423A) Extension of time for filing
104.11(421,423A) Personal liability of corporate officers and partners for unpaid tax
104.12(421,423A) Good faith exception for successor liability

CHAPTER 105
LOCALLY IMPOSED HOTEL AND MOTEL TAX

105.1(423A) Local option
105.2(423A) Tax rate
105.3(423A) Tax base
105.4(423A) Imposition dates
105.5(423A) Adding or absorbing tax
105.6(423A) Termination dates

CHAPTER 106
Reserved

TITLE XV
LOCAL OPTION SALES AND SERVICE TAX

CHAPTER 107
LOCAL OPTION SALES AND SERVICE TAX

107.1(422B) Definitions
107.2(422B) Local option sales and service tax
107.3(422B) Transactions subject to and excluded from local option sales tax
107.4(422B) Transactions subject to and excluded from local option service tax
107.5(422B) Single contracts for taxable services performed partly within and partly outside of an area of a county imposing the local option service tax
107.6(422B) Motor vehicle, recreational vehicle, and recreational boat rental subject to local option service tax
107.7(422B) Special rules regarding utility payments
107.8(423B) Contacts with county necessary to impose collection obligation upon a retailer
107.9(423B,423E) Sales not subject to local option tax, including transactions subject to Iowa use tax
107.10(422B) Local option sales and service tax payments to local governments
107.11(422B) Procedure if county of receipt's origins is unknown
107.12(422B) Computation of local option tax due from mixed sales on excursion boats
107.13(421,422B) Officers and partners, personal liability for unpaid tax
107.14(422B) Local option sales and service tax imposed by a city
107.15(422B) Application of payments
107.16(422B) Construction contractor refunds
107.17(422B,422E) Discretionary application of local option tax revenues

CHAPTER 108
LOCAL OPTION SCHOOL INFRASTRUCTURE
SALES AND SERVICE TAX

108.1(422E) Definitions
108.2(422E) Authorization, rate of tax, imposition, use of revenues, and administration
108.3(422E) Collection of the tax
108.4(422E) Similarities to the local option sales and service tax imposed in Iowa Code chapter 422B and 701—Chapter 107
108.5(422E) Sales not subject to local option tax, including transactions subject to Iowa use tax

108.6(422E) Deposits of receipts
108.7(422E) Local option school infrastructure sales and service tax payments to school districts
108.8(422E) Construction contract refunds
108.9(422E) 28E agreements

CHAPTER 109
NEW SCHOOL INFRASTRUCTURE LOCAL OPTION SALES AND SERVICES TAX—
EFFECTIVE ON OR AFTER APRIL 1, 2003, THROUGH FISCAL YEARS
ENDING DECEMBER 31, 2022

109.1(422E) Use of revenues and definitions
109.2(422E) Imposition of tax
109.3(422E) Application of law
109.4(422E) Collection of tax and distribution
109.5(422E) Insufficient funds
109.6(422E) Use of revenues by the school district
109.7(422E) Bonds
109.8(422E) 28E agreements

CHAPTERS 110 to 119
Reserved

TITLE XVI
REASSESSMENT EXPENSE FUND

CHAPTER 120
REASSESSMENT EXPENSE FUND

120.1(421) Reassessment expense fund
120.2(421) Application for loan
120.3(421) Criteria for granting loan

CHAPTER 121
Reserved

TITLE XVII
ASSESSOR CONTINUING EDUCATION

CHAPTER 122
ADMINISTRATION

122.1(441) Establishment
122.2(441) General operation
122.3(441) Location
122.4(441) Purpose

CHAPTER 123
CERTIFICATION

123.1(441) General
123.2(441) Confidentiality
123.3(441) Certification of assessors
123.4(441) Certification of deputy assessors
123.5(441) Type of credit
123.6(441) Retaking examination
123.7(441) Instructor credit
123.8(441) Conference board and assessor notification
123.9(441) Director of revenue notification

CHAPTER 124
COURSES

124.1(441) Course selection
124.2(441) Scheduling of courses
124.3(441) Petitioning to add, delete or modify courses
124.4(441) Course participation
124.5(441) Retaking a course
124.6(441) Continuing education program for assessors

CHAPTER 125
REVIEW OF AGENCY ACTION

125.1(441) Decisions final
125.2(441) Grievance and appeal procedures

CHAPTERS 126 to 149
Reserved

TITLE XVIII
DEBT COLLECTION

CHAPTER 150
FEDERAL OFFSET FOR IOWA INCOME TAX OBLIGATIONS

150.1(421,26USC6402) Purpose and general application of offset of a federal tax overpayment to collect an Iowa income tax obligation
150.2(421,26USC6402) Definitions
150.3(421,26USC6402) Prerequisites for requesting a federal offset
150.4(421,26USC6402) Procedure after submission of evidence
150.5(421,26USC6402) Notice by Iowa to the Secretary to request federal offset
150.6(421,26USC6402) Erroneous payments to Iowa
150.7(421,26USC6402) Correcting and updating notice to the Secretary

CHAPTER 151
COLLECTION OF DEBTS OWED THE STATE
OF IOWA OR A STATE AGENCY

151.1(421) Definitions
151.2(421) Scope and purpose
151.3(421) Participation guidelines
151.4(421) Duties of the agency
151.5(421) Duties of the department—performance of collection
151.6(421) Payment of collected amounts
151.7(421) Reimbursement for collection of liabilities
151.8(421) Confidentiality of information
151.9(421) Subpoena of records from public or private utility companies

CHAPTER 152
DEBT COLLECTION AND SELLING OF PROPERTY
TO COLLECT DELINQUENT DEBTS

152.1(421,422,626,642) Definitions
152.2(421,422,626,642) Sale of property
152.3(421,422,626,642) Means of sale

CHAPTER 153
LICENSE SANCTIONS FOR COLLECTION OF DEBTS OWED THE STATE OF IOWA OR A STATE AGENCY

153.1(272D) Definitions
153.2(272D) Purpose and use
153.3(272D) Challenge to issuance of certificate of noncompliance
153.4(272D) Use of information
153.5(272D) Notice to person of potential sanction of license
153.6(272D) Conference
153.7(272D) Issuance of certificate of noncompliance
153.8(272D) Stay of certificate of noncompliance
153.9(272D) Written agreements
153.10(272D) Decision of the unit
153.11(272D) Withdrawal of certificate of noncompliance
153.12(272D) Certificate of noncompliance to licensing authority
153.13(272D) Requirements of the licensing authority
153.14(272D) District court hearing

CHAPTER 154
CHALLENGES TO ADMINISTRATIVE LEVIES AND PUBLICATION OF NAMES OF DEBTORS

154.1(421) Definitions
154.2(421) Administrative levies
154.3(421) Challenges to administrative levies
154.4(421) Form and time of challenge
154.5(421) Issues that may be raised
154.6(421) Review of challenge
154.7(421) Actions where there is a mistake of fact
154.8(421) Action if there is not a mistake of fact
154.9 to 154.15 Reserved
154.16(421) List for publication
154.17(421) Names to be published
154.18(421) Release of information

CHAPTERS 155 to 210
Reserved

TITLE XIX
STREAMLINED SALES AND USE TAX RULES

CHAPTER 211
DEFINITIONS

211.1(423) Definitions

CHAPTER 212
ELEMENTS INCLUDED IN AND EXCLUDED FROM A TAXABLE SALE AND SALES PRICE

212.1(423) Tax not to be included in price
212.2(423) Finance charge
212.3(423) Retailers' discounts, trade discounts, rebates and coupons
212.4(423) Excise tax included in and excluded from sales price
212.5(423) Trade-ins
212.6(423) Installation charges when tangible personal property is sold at retail

212.7(423) Service charge and gratuity
212.8(423) Payment from a third party

CHAPTER 213
MISCELLANEOUS TAXABLE SALES

213.1(423) Tax imposed
213.2(423) Athletic events
213.3(423) Conditional sales contracts
213.4(423) The sales price of sales of butane, propane and other like gases in cylinder drums, etc.
213.5(423) Antiques, curios, old coins, collector's postage stamps, and currency exchanged for greater than face value
213.6(423) Communication services furnished by hotel to its guests
213.7(423) Consignment sales
213.8(423) Electrotypes, types, zinc etchings, halftones, stereotypes, color process plates, wood mounts and art productions
213.9(423) Explosives used in mines, quarries and elsewhere
213.10(423) Sales on layaway
213.11(423) Memorial stones
213.12(423) Creditors and trustees
213.13(423) Sale of pets
213.14(423) Redemption of meal tickets, coupon books and merchandise cards as a taxable sale
213.15(423) Rental of personal property in connection with the operation of amusements
213.16(423) Repossessed goods
213.17(423) Sales of signs at retail
213.18(423) Tangible personal property made to order
213.19(423) Used or secondhand tangible personal property
213.20(423) Carpeting and other floor coverings
213.21(423) Goods damaged in transit
213.22(423) Snowmobiles, motorboats, and certain other vehicles
213.23(423) Photographers and photostaters
213.24(423) Sale, transfer or exchange of tangible personal property or taxable enumerated services between affiliated corporations
213.25(423) Urban transit systems

CHAPTER 214
MISCELLANEOUS NONTAXABLE TRANSACTIONS

214.1(423) Corporate mergers which do not involve taxable sales of tangible personal property or services
214.2(423) Sales of prepaid merchandise cards
214.3(423) Demurrage charges
214.4(423) Beverage container deposits
214.5(423) Exempt sales by excursion boat licensees
214.6(423) Advertising agencies, commercial artists and designers as an agent or as a nonagent of a client

CHAPTERS 215 to 218
Reserved

CHAPTER 219
SALES AND USE TAX ON CONSTRUCTION ACTIVITIES

219.1(423) General information
219.2(423) Contractors—consumers of building materials, supplies, and equipment by statute

219.3(423) Sales of building materials, supplies, and equipment to contractors, subcontractors, builders or owners
219.4(423) Contractors, subcontractors or builders who are retailers
219.5(423) Building materials, supplies, and equipment used in the performance of construction contracts within and outside Iowa
219.6(423) Tangible personal property used or consumed by the manufacturer thereof
219.7(423) Prefabricated structures
219.8(423) Types of construction contracts
219.9(423) Machinery and equipment sales contracts with installation
219.10(423) Construction contracts with equipment sales (mixed contracts)
219.11(423) Distinguishing machinery and equipment from real property
219.12(423) Tangible personal property which becomes structures
219.13(423) Tax on enumerated services
219.14(423) Transportation cost
219.15(423) Start-up charges
219.16(423) Liability of subcontractors
219.17(423) Liability of sponsors
219.18(423) Withholding
219.19(423) Resale certificates
219.20(423) Reporting for use tax
219.21(423) Exempt sale, lease, or rental of equipment used by contractors, subcontractors, or builders

CHAPTERS 220 to 222
Reserved

CHAPTER 223
SOURCING OF TAXABLE SERVICES
223.1(423) Definitions
223.2(423) General sourcing rules for taxable services
223.3(423) First use of services performed on tangible personal property
223.4(423) Sourcing rules for personal care services

CHAPTER 224
TELECOMMUNICATION SERVICES
224.1(423) Taxable telecommunication service and ancillary service
224.2(423) Definitions
224.3(423) Imposition of tax
224.4(423) Exempt from the tax
224.5(423) Bundled transactions in telecommunication service
224.6(423) Sourcing telecommunication service
224.7(423) General billing issues
224.8(34A) Prepaid wireless E911 surcharge
224.9(423) State sales tax exemption for central office equipment and transmission equipment

CHAPTER 225
RESALE AND PROCESSING EXEMPTIONS PRIMARILY
OF BENEFIT TO RETAILERS
225.1(423) Paper or plastic plates, cups, and dishes, paper napkins, wooden or plastic spoons and forks, and straws
225.2(423) A service purchased for resale
225.3(423) Services used in the repair or reconditioning of certain tangible personal property

225.4(423) Tangible personal property purchased by a person engaged in the performance of a service
225.5(423) Maintenance or repair of fabric or clothing
225.6(423) The sales price from the leasing of all tangible personal property subject to tax
225.7(423) Certain inputs used in taxable vehicle wash and wax services

CHAPTER 226
AGRICULTURAL RULES

226.1(423) Sale or rental of farm machinery and equipment and items used in agricultural production that are attached to a self-propelled implement of husbandry
226.2(423) Packaging material used in agricultural production
226.3(423) Irrigation equipment used in agricultural production
226.4(423) Sale of a draft horse
226.5(423) Veterinary services
226.6(423) Commercial fertilizer and agricultural limestone
226.7(423) Sales of breeding livestock
226.8(423) Domesticated fowl
226.9(423) Agricultural health promotion items
226.10(423) Drainage tile
226.11(423) Materials used for seed inoculations
226.12(423) Fuel used in agricultural production
226.13(423) Water used in agricultural production
226.14(423) Bedding for agricultural livestock or fowl
226.15(423) Sales by farmers
226.16(423) Sales of livestock (including domesticated fowl) feeds
226.17(423) Farm machinery, equipment, and replacement parts used in livestock or dairy production
226.18(423) Machinery, equipment, and replacement parts used in the production of flowering, ornamental, and vegetable plants
226.19(423) Nonexclusive lists

CHAPTERS 227 to 229
Reserved

CHAPTER 230
EXEMPTIONS PRIMARILY BENEFITING MANUFACTURERS AND OTHER PERSONS ENGAGED IN PROCESSING

230.1 Reserved
230.2(423) Carbon dioxide in a liquid, solid, or gaseous form, electricity, steam, and taxable services used in processing
230.3(423) Services used in processing
230.4(423) Chemicals, solvents, sorbents, or reagents used in processing
230.5(423) Exempt sales of gases used in the manufacturing process
230.6(423) Sale of electricity to water companies
230.7(423) Wind energy conversion property
230.8(423) Exempt sales or rentals of core making and mold making equipment, and sand handling equipment
230.9(423) Chemical compounds used to treat water
230.10(423) Exclusive web search portal business and its exemption
230.11(423) Web search portal business and its exemption
230.12(423) Large data center business exemption
230.13(423) Data center business sales and use tax refunds

CHAPTER 231
EXEMPTIONS PRIMARILY OF BENEFIT TO CONSUMERS

231.1(423) Newspapers, free newspapers and shoppers' guides
231.2(423) Motor fuel, special fuel, aviation fuels and gasoline
231.3(423) Sales of food and food ingredients
231.4(423) Sales of candy
231.5(423) Sales of prepared food
231.6(423) Prescription drugs, medical devices, oxygen, and insulin
231.7(423) Exempt sales of other medical devices which are not prosthetic devices
231.8(423) Prosthetic devices, durable medical equipment, and mobility enhancing equipment
231.9(423) Raffles
231.10(423) Exempt sales of prizes
231.11(423) Modular homes
231.12(423) Access to on-line computer service
231.13(423) Sale or rental of information services
231.14(423) Exclusion from tax for property delivered by certain media
231.15(423) Exempt sales of clothing and footwear during two-day period in August
231.16(423) State sales tax phase-out on energies

CHAPTERS 232 to 234
Reserved

CHAPTER 235
REBATE OF IOWA SALES TAX PAID

235.1(423) Sanctioned automobile racetrack facilities
235.2(423) Sanctioned baseball and softball tournament facility and movie site

CHAPTER 236
Reserved

CHAPTER 237
REINVESTMENT DISTRICTS PROGRAM

237.1(15J) Purpose
237.2(15J) Definitions
237.3(15J) New state tax revenue calculations
237.4(15J) State reinvestment district fund
237.5(15J) Reinvestment project fund
237.6(15J) End of deposits—district dissolution

CHAPTER 238
FLOOD MITIGATION PROGRAM

238.1(418) Flood mitigation program
238.2(418) Definitions
238.3(418) Sales tax increment calculation
238.4(418) Sales tax increment fund

CHAPTER 239
LOCAL OPTION SALES TAX URBAN RENEWAL PROJECTS

239.1(423B) Urban renewal project
239.2(423B) Definitions
239.3(423B) Establishing sales and revenue growth
239.4(423B) Requirements for cities adopting an ordinance
239.5(423B) Identification of retail establishments
239.6(423B) Calculation of base year taxable sales amount

239.7(423B) Determination of tax growth increment amount
239.8(423B) Distribution of tax base and growth increment amounts
239.9(423B) Examples
239.10(423B) Ordinance term

CHAPTER 240
RULES NECESSARY TO IMPLEMENT THE STREAMLINED SALES AND USE TAX AGREEMENT

240.1(423) Allowing use of the lowest tax rate within a database area and use of the tax rate for a five-digit area when a nine-digit zip code cannot be used
240.2(423) Permissible categories of exemptions
240.3(423) Requirement of uniformity in the filing of returns and remittance of funds
240.4(423) Allocation of bad debts
240.5(423) Purchaser refund procedures
240.6(423) Relief from liability for reliance on taxability matrix
240.7(423) Effective dates of taxation rate increases or decreases when certain services are furnished
240.8(423) Prospective application of defining “retail sale” to include a lease or rental

CHAPTER 241
EXCISE TAXES NOT GOVERNED BY THE STREAMLINED SALES AND USE TAX AGREEMENT

241.1(423A,423D) Purpose of the chapter
241.2(423A,423D) Director’s administration

DIVISION I
STATE-IMPOSED HOTEL AND MOTEL TAX

241.3(423A) Definitions
241.4(423A) Imposition of tax
241.5(423A) Exemptions

DIVISION II
EXCISE TAX ON SPECIFIC CONSTRUCTION MACHINERY AND EQUIPMENT

241.6(423D) Definitions
241.7(423D) Tax imposed
241.8(423D) Exemption

CHAPTER 10
INTEREST, PENALTY, EXCEPTIONS TO PENALTY, AND JEOPARDY ASSESSMENTS

[Prior to 12/17/86, Revenue Department[730]]

Rules 701—10.20(421) to 701—10.111(422A) are excerpted from 701—Chs 12, 30, 44, 46, 52, 58, 63, 81, 86, 88, 89, 104, IAB 1/23/91

701—10.1(421) Definitions. As used in the rules contained herein, the following definitions apply unless the context otherwise requires:

10.1(1) *"Department"* means the department of revenue.

10.1(2) *"Director"* means the director of the department or authorized representative.

10.1(3) *"Taxes"* means all taxes and charges arising under Title X of the Iowa Code, which include but are not limited to individual income, withholding, corporate income, franchise, sales, use, hotel/motel, railroad fuel, equipment car, replacement tax, statewide property tax, motor vehicle fuel, and inheritance taxes and the environmental protection charge imposed upon petroleum diminution due and payable to the state of Iowa.

[**ARC 1545C**, IAB 7/23/14, effective 8/27/14]

701—10.2(421) Interest. Except where a different rate of interest is provided by Title X of the Iowa Code, the rate of interest on interest-bearing taxes and interest-bearing refunds arising under Title X is fixed for each calendar year by the director. In addition to any penalty computed, there shall be added interest as provided by law from the original due date of the return. Any portion of the tax imposed by statute which has been erroneously refunded and is recoverable by the department shall bear interest as provided in Iowa Code section 421.7, subsection 2, from the date of payment of the refund, considering each fraction of a month as an entire month. Interest which is not judgment interest is not payable on sales and use tax, local option tax, and hotel and motel tax refunds. *Herman M. Brown v. Johnson,* 248 Iowa 1143, 82 N.W.2d 134 (1957); *United Telephone Co. v. Iowa Department of Revenue,* 365 N.W.2d 647 (Iowa 1985). However, interest which is not judgment interest accrues on such refunds on or after January 1, 1995, and is payable on sales and use tax, local option tax and hotel and motel tax refunds on or after January 1, 1995.

10.2(1) *Calendar year 1982.* The rate of interest upon all unpaid taxes which are due as of January 1, 1982, will be 17 percent per annum (1.4% per month). This interest rate will accrue on taxes which were due and unpaid as of, or after, January 1, 1982. In addition, this interest rate will accrue on tax refunds which by law accrue interest, regardless of whether the tax to be refunded is due before, on, or after January 1, 1982. This interest rate of 17 percent per annum, whether for unpaid taxes or tax refunds, will commence to accrue in 1982.

EXAMPLES:

1. The taxpayer, X corporation, owes corporate income taxes assessed to it for the year 1975. The assessment was made by the department in 1977. On January 1, 1982, that assessment had not been paid. The rate of interest on the unpaid tax assessed has accrued at the rate of 9 percent per annum (0.75% per month) through December 31, 1981. Commencing on January 1, 1982, the rate of interest on the unpaid tax will thereafter accrue at the rate of 17 percent per annum for 1982 (1.4% per month). If the tax liability is not paid in 1982, the rate of interest will then accrue in 1983 in accordance with the rate fixed by the director as set forth in Iowa Code section 421.7.

2. The taxpayer, Y, owes retail sales taxes assessed to it for the audit period January 1, 1979, through December 31, 1982. The assessment is made on March 1, 1983. For the tax periods in which the tax became due prior to January 1, 1982, the interest rate on such unpaid sales taxes accrued at 9 percent per annum (0.75% per month). Commencing on January 1, 1982, the entire unpaid portion of the tax assessed which was delinquent at that time will begin to accrue interest at the rate of 17 percent per annum. Those portions of the tax assessed first becoming delinquent in 1982 will bear interest at the rate of 17 percent per annum (1.4% per month). In the event that any portion of the tax assessed remains unpaid on January 1, 1983, the rate of interest will then accrue in 1983 in accordance with the rate fixed by the director as set forth in Iowa Code section 421.7.

3. The taxpayer, Z, files a refund claim for 1978 individual income taxes in March 1982. The refund claim is allowed in May 1982, and is paid. Z is entitled to receive interest at the rate of 9 percent

per annum (0.75% per month) upon the refunded tax accruing through December 31, 1981, and is entitled to interest at the rate of 17 percent per annum (1.4% per month) upon such tax from January 1, 1982, until the refund is paid.

4. A's 1981 individual income tax liability becomes delinquent on May 1, 1982. A owes interest, commencing on May 1, 1982, at the rate of 17 percent per annum (1.4% per month). In the event that A does not pay the liability in 1982, the rate of interest will then accrue in 1983 in accordance with the rate fixed by the director as set forth in Iowa Code section 421.7.

5. Decedent died December 15, 1976. The inheritance tax was due 12 months after death, or December 15, 1977. Prior to the due date, the estate was granted an extension of time, until September 1, 1978, to file the return and pay the tax due. The tax, however, was paid March 15, 1982. Interest accrues on the unpaid tax during the period of the extension of time (December 15, 1977, to September 1, 1978) at the rate of 6 percent per annum. Interest accrues on the delinquent tax from September 1, 1978, through December 31, 1981, at the rate of 8 percent per annum. Interest accrues on the delinquent tax from January 1, 1982, to the date of payment on March 15, 1982, at the rate of 17 percent per annum.

6. B files a refund for sales taxes paid for the periods January 1, 1979, through December 31, 1982, in March 1983. The refund is allowed in May 1983. Since no interest is payable on sales tax refunds, B is not entitled to any interest. *Herman M. Brown Co. v. Johnson,* 248 Iowa 1143 (1957). However, interest accrues and is payable on and after January 1, 1995.

The examples set forth in these rules are not meant to be all-inclusive. In addition, other rules set forth the precise circumstance when interest begins to accrue and whether interest accrues for each month or fraction of a month or annually as provided by law. Interest accrues as provided by law, regardless of whether the department has made a formal assessment of tax.

10.2(2) *Calendar year 1983.* The rate of interest upon all unpaid taxes which are due as of January 1, 1983, will be 14 percent per annum (1.2% per month). This interest rate will accrue on taxes which were due and unpaid as of, or after January 1, 1983. In addition, this interest rate will accrue on tax refunds which by law accrue interest, regardless of whether the tax to be refunded is due before, on, or after January 1, 1983. This interest rate of 14 percent per annum, whether for unpaid taxes or tax refunds, will commence to accrue in 1983.

10.2(3) *Calendar year 1984.* The rate of interest upon all unpaid taxes which are due as of January 1, 1984, will be 9 percent per annum (0.8% per month). This interest rate will accrue on taxes which are due and unpaid as of, or after, January 1, 1984. In addition, this interest rate will accrue on tax refunds which by law accrue interest, regardless of whether the tax to be refunded is due before, on, or after January 1, 1984. This interest rate of 9 percent per annum, whether for unpaid taxes or tax refunds, will commence to accrue in 1984.

10.2(4) *Calendar year 1985.* The rate of interest upon all unpaid taxes which are due as of January 1, 1985, will be 10 percent per annum (0.8% per month). This interest rate will accrue on taxes which are due and unpaid as of, or after, January 1, 1985. In addition, this interest rate will accrue on tax refunds which by law accrue interest, regardless of whether the tax to be refunded is due before, on, or after January 1, 1985. This interest rate of 10 percent per annum, whether for unpaid taxes or tax refunds, will commence to accrue in 1985.

10.2(5) *Calendar year 1986.* The interest upon all unpaid taxes which are due as of January 1, 1986, will be 9 percent per annum (0.8% per month). This interest rate will accrue on taxes which are due and unpaid as of, or after, January 1, 1986. In addition, this interest rate will accrue on tax refunds which by law accrue interest, regardless of whether the tax to be refunded is due before, on, or after January 1, 1986. This interest rate of 9 percent per annum, whether for unpaid taxes or tax refunds, will commence to accrue in 1986.

10.2(6) *Calendar year 1987.* The interest upon all unpaid taxes which are due as of January 1, 1987, will be 9 percent per annum (0.8% per month). This interest rate will accrue on taxes which are due and unpaid as of, or after January 1, 1987. In addition, this interest rate will accrue on tax refunds which by law accrue interest, regardless of whether the tax to be refunded is due before, on, or after January 1, 1987. This interest rate of 9 percent per annum, whether for unpaid taxes or tax refunds, will commence to accrue in 1987.

10.2(7) *Calendar year 1988.* The interest upon all unpaid taxes which are due as of January 1, 1988, will be 8 percent per annum (0.7% per month). This interest rate will accrue on taxes which are due and unpaid as of, or after January 1, 1988. In addition, this interest rate will accrue on tax refunds which by law accrue interest, regardless of whether the tax to be refunded is due before, on, or after January 1, 1988. This interest rate of 8 percent per annum, whether for unpaid taxes or tax refunds, will commence to accrue in 1988.

10.2(8) *Calendar year 1989.* The interest upon all unpaid taxes which are due as of January 1, 1989, will be 9 percent per annum (0.8% per month). This interest rate will accrue on taxes which are due and unpaid as of, or after January 1, 1989. In addition, this interest rate will accrue on tax refunds which by law accrue interest, regardless of whether the tax to be refunded is due before, on, or after January 1, 1989. This interest rate of 9 percent per annum, whether for unpaid taxes or tax refunds, will commence to accrue in 1989.

10.2(9) *Calendar year 1990.* The interest upon all unpaid taxes which are due as of January 1, 1990, will be 11 percent per annum (0.9% per month). This interest rate will accrue on taxes which are due and unpaid as of, or after January 1, 1990. In addition, this interest rate will accrue on tax refunds which by law accrue interest, regardless of whether the tax to be refunded is due before, on, or after January 1, 1990. This interest rate of 11 percent per annum, whether for unpaid taxes or tax refunds, will commence to accrue in 1990.

10.2(10) *Calendar year 1991.* The interest upon all unpaid taxes which are due as of January 1, 1991, will be 12 percent per annum (1.0% per month). This interest rate will accrue on taxes which are due and unpaid as of, or after, January 1, 1991. In addition, this interest rate will accrue on tax refunds which by law accrue interest, regardless of whether the tax to be refunded is due before, on, or after January 1, 1991. This interest rate of 12 percent per annum, whether for unpaid taxes or tax refunds, will commence to accrue in 1991.

10.2(11) *Calendar year 1992.* The interest upon all unpaid taxes which are due as of January 1, 1992, will be 11 percent per annum (0.9% per month). This interest rate will accrue on taxes which are due and unpaid as of, or after, January 1, 1992. In addition, this interest rate will accrue on tax refunds which by law accrue interest, regardless of whether the tax to be refunded is due before, on, or after January 1, 1992. This interest rate of 11 percent per annum, whether for unpaid taxes or tax refunds, will commence to accrue in 1992.

10.2(12) *Calendar year 1993.* The interest upon all unpaid taxes which are due as of January 1, 1993, will be 9 percent per annum (0.8% per month). This interest rate will accrue on taxes which are due and unpaid as of, or after, January 1, 1993. In addition, this interest rate will accrue on tax refunds which by law accrue interest, regardless of whether the tax to be refunded is due before, on, or after January 1, 1993. This interest rate of 9 percent per annum, whether for unpaid taxes or tax refunds, will commence to accrue in 1993.

10.2(13) *Calendar year 1994.* The interest upon all unpaid taxes which are due as of January 1, 1994, will be 8 percent per annum (0.7% per month). This interest rate will accrue on taxes which are due and unpaid as of, or after, January 1, 1994. In addition, this interest rate will accrue on tax refunds which by law accrue interest, regardless of whether the tax to be refunded is due before, on, or after January 1, 1994. This interest rate of 8 percent per annum, whether for unpaid taxes or tax refunds, will commence to accrue in 1994.

10.2(14) *Calendar year 1995.* The interest upon all unpaid taxes which are due as of January 1, 1995, will be 9 percent per annum (0.8% per month). This interest rate will accrue on taxes which are due and unpaid as of, or after, January 1, 1995. In addition, this interest rate will accrue on tax refunds which by law accrue interest, regardless of whether the tax to be refunded is due before, on, or after January 1, 1995. This interest rate of 9 percent per annum, whether for unpaid taxes or tax refunds, will commence to accrue in 1995.

10.2(15) *Calendar year 1996.* The interest upon all unpaid taxes which are due as of January 1, 1996, will be 11 percent per annum (0.9% per month). This interest rate will accrue on taxes which are due and unpaid as of, or after, January 1, 1996. In addition, this interest rate will accrue on tax refunds which by law accrue interest, regardless of whether the tax to be refunded is due before, on, or after

January 1, 1996. This interest rate of 11 percent per annum, whether for unpaid taxes or tax refunds, will commence to accrue in 1996.

10.2(16) *Calendar year 1997.* The interest rate upon all unpaid taxes which are due as of January 1, 1997, will be 10 percent per annum (0.8% per month). This interest rate will accrue on taxes which are due and unpaid as of, or after, January 1, 1997. In addition, this interest rate will accrue on tax refunds which by law accrue interest, regardless of whether the tax to be refunded is due before or after January 1, 1997. This interest rate of 10 percent per annum, whether for unpaid taxes or tax refunds, will commence to accrue in 1997.

10.2(17) *Calendar year 1998.* The interest rate upon all unpaid taxes which are due as of January 1, 1998, will be 10 percent per annum (0.8% per month). This interest rate will accrue on taxes which are due and unpaid as of, or after, January 1, 1998. In addition, this interest rate will accrue on tax refunds which by law accrue interest, regardless of whether the tax to be refunded is due before or after January 1, 1998. This interest rate of 10 percent per annum, whether for unpaid taxes or tax refunds, will commence to accrue in 1998.

10.2(18) *Calendar year 1999.* The interest rate upon all unpaid taxes which are due as of January 1, 1999, will be 10 percent per annum (0.8% per month). This interest rate will accrue on taxes which are due and unpaid as of, or after, January 1, 1999. In addition, this interest rate will accrue on tax refunds which by law accrue interest, regardless of whether the tax to be refunded is due before or after January 1, 1999. This interest rate of 10 percent per annum, whether for unpaid taxes or tax refunds, will commence to accrue in 1999.

10.2(19) *Calendar year 2000.* The interest rate upon all unpaid taxes which are due as of January 1, 2000, will be 10 percent per annum (0.8% per month). This interest rate will accrue on taxes which are due and unpaid as of, or after, January 1, 2000. In addition, this interest rate will accrue on tax refunds which by law accrue interest, regardless of whether the tax to be refunded is due before or after January 1, 2000. This interest rate of 10 percent per annum, whether for unpaid taxes or tax refunds, will commence to accrue in 2000.

10.2(20) *Calendar year 2001.* The interest rate upon all unpaid taxes which are due as of January 1, 2001, will be 11 percent per annum (0.9% per month). This interest rate will accrue on taxes which are due and unpaid as of, or after, January 1, 2001. In addition, this interest rate will accrue on tax refunds which by law accrue interest, regardless of whether the tax to be refunded is due before or after January 1, 2001. This interest rate of 11 percent per annum, whether for unpaid taxes or tax refunds, will commence to accrue in 2001.

10.2(21) *Calendar year 2002.* The interest rate upon all unpaid taxes which are due as of January 1, 2002, will be 10 percent per annum (0.8% per month). This interest rate will accrue on taxes which are due and unpaid as of, or after, January 1, 2002. In addition, this interest rate will accrue on tax refunds which by law accrue interest, regardless of whether the tax to be refunded is due before or after January 1, 2002. This interest rate of 10 percent per annum, whether for unpaid taxes or tax refunds, will commence to accrue in 2002.

10.2(22) *Calendar year 2003.* The interest rate upon all unpaid taxes which are due as of January 1, 2003, will be 7 percent per annum (0.6% per month). This interest rate will accrue on taxes which are due and unpaid as of, or after, January 1, 2003. In addition, this interest will accrue on tax refunds which by law accrue interest, regardless of whether the tax to be refunded is due before or after January 1, 2003. This interest rate of 7 percent per annum, whether for unpaid taxes or tax refunds, will commence to accrue in 2003.

10.2(23) *Calendar year 2004.* The interest rate upon all unpaid taxes which are due as of January 1, 2004, will be 6 percent per annum (0.5% per month). This interest rate will accrue on taxes which are due and unpaid as of, or after, January 1, 2004. In addition, this interest will accrue on tax refunds which by law accrue interest, regardless of whether the tax to be refunded is due before or after January 1, 2004. This interest rate of 6 percent per annum, whether for unpaid taxes or tax refunds, will commence to accrue in 2004.

10.2(24) *Calendar year 2005.* The interest rate upon all unpaid taxes which are due as of January 1, 2005, will be 6 percent per annum (0.5% per month). This interest rate will accrue on taxes which are

due and unpaid as of, or after, January 1, 2005. In addition, this interest will accrue on tax refunds which by law accrue interest, regardless of whether the tax to be refunded is due before or after January 1, 2005. This interest rate of 6 percent per annum, whether for unpaid taxes or tax refunds, will commence to accrue in 2005.

10.2(25) *Calendar year 2006.* The interest rate upon all unpaid taxes which are due as of January 1, 2006, will be 8 percent per annum (0.7% per month). This interest rate will accrue on taxes which are due and unpaid as of, or after, January 1, 2006. In addition, this interest will accrue on tax refunds which by law accrue interest, regardless of whether the tax to be refunded is due before or after January 1, 2006. This interest rate of 8 percent per annum, whether for unpaid taxes or tax refunds, will commence to accrue in 2006.

10.2(26) *Calendar year 2007.* The interest rate upon all unpaid taxes which are due as of January 1, 2007, will be 10 percent per annum (0.8% per month). This interest rate will accrue on taxes which are due and unpaid as of, or after, January 1, 2007. In addition, this interest will accrue on tax refunds which by law accrue interest, regardless of whether the tax to be refunded is due before or after January 1, 2007. This interest rate of 10 percent per annum, whether for unpaid taxes or tax refunds, will commence to accrue in 2007.

10.2(27) *Calendar year 2008.* The interest rate upon all unpaid taxes which are due as of January 1, 2008, will be 10 percent per annum (0.8% per month). This interest rate will accrue on taxes which are due and unpaid as of, or after, January 1, 2008. In addition, this interest will accrue on tax refunds which by law accrue interest, regardless of whether the tax to be refunded is due before or after January 1, 2008. This interest rate of 10 percent per annum, whether for unpaid taxes or tax refunds, will commence to accrue in 2008.

10.2(28) *Calendar year 2009.* The interest rate upon all unpaid taxes which are due as of January 1, 2009, will be 8 percent per annum (0.7% per month). This interest rate will accrue on taxes which are due and unpaid as of, or after, January 1, 2009. In addition, this interest will accrue on tax refunds which by law accrue interest, regardless of whether the tax to be refunded is due before or after January 1, 2009. This interest rate of 8 percent per annum, whether for unpaid taxes or tax refunds, will commence to accrue in 2009.

10.2(29) *Calendar year 2010.* The interest rate upon all unpaid taxes which are due as of January 1, 2010, will be 5 percent per annum (0.4% per month). This interest rate will accrue on taxes which are due and unpaid as of, or after, January 1, 2010. In addition, this interest will accrue on tax refunds which by law accrue interest, regardless of whether the tax to be refunded is due before or after January 1, 2010. This interest rate of 5 percent per annum, whether for unpaid taxes or tax refunds, will commence to accrue in 2010.

10.2(30) *Calendar year 2011.* The interest rate upon all unpaid taxes which are due as of January 1, 2011, will be 5 percent per annum (0.4% per month). This interest rate will accrue on taxes which are due and unpaid as of, or after, January 1, 2011. In addition, this interest will accrue on tax refunds which by law accrue interest, regardless of whether the tax to be refunded is due before or after January 1, 2011. This interest rate of 5 percent per annum, whether for unpaid taxes or tax refunds, will commence to accrue in 2011.

10.2(31) *Calendar year 2012.* The interest rate upon all unpaid taxes which are due as of January 1, 2012, will be 5 percent per annum (0.4% per month). This interest rate will accrue on taxes which are due and unpaid as of, or after, January 1, 2012. In addition, this interest will accrue on tax refunds which by law accrue interest, regardless of whether the tax to be refunded is due before or after January 1, 2012. This interest rate of 5 percent per annum, whether for unpaid taxes or tax refunds, will commence to accrue in 2012.

10.2(32) *Calendar year 2013.* The interest rate upon all unpaid taxes which are due as of January 1, 2013, will be 5 percent per annum (0.4% per month). This interest rate will accrue on taxes which are due and unpaid as of, or after, January 1, 2013. In addition, this interest will accrue on tax refunds which by law accrue interest, regardless of whether the tax to be refunded is due before or after January 1, 2013. This interest rate of 5 percent per annum, whether for unpaid taxes or tax refunds, will commence to accrue in 2013.

10.2(33) *Calendar year 2014.* The interest rate upon all unpaid taxes which are due as of January 1, 2014, will be 5 percent per annum (0.4% per month). This interest rate will accrue on taxes which are due and unpaid as of, or after, January 1, 2014. In addition, this interest will accrue on tax refunds which by law accrue interest, regardless of whether the tax to be refunded is due before or after January 1, 2014. This interest rate of 5 percent per annum, whether for unpaid taxes or tax refunds, will commence to accrue in 2014.

10.2(34) *Calendar year 2015.* The interest rate upon all unpaid taxes which are due as of January 1, 2015, will be 5 percent per annum (0.4% per month). This interest rate will accrue on taxes which are due and unpaid as of, or after, January 1, 2015. In addition, this interest will accrue on tax refunds which by law accrue interest, regardless of whether the tax to be refunded is due before or after January 1, 2015. This interest rate of 5 percent per annum, whether for unpaid taxes or tax refunds, will commence to accrue in 2015.

This rule is intended to implement Iowa Code section 421.7.

[**ARC 8551B**, IAB 2/24/10, effective 3/31/10; **ARC 9308B**, IAB 12/29/10, effective 2/2/11; **ARC 9966B**, IAB 1/11/12, effective 2/15/12; **ARC 0557C**, IAB 1/9/13, effective 2/13/13; **ARC 1250C**, IAB 12/25/13, effective 1/29/14; **ARC 1767C**, IAB 12/10/14, effective 1/14/15]

701—10.3(422,423,450,452A) Interest on refunds and unpaid tax.

10.3(1) *Interest on refunds.* For those taxes on which interest accrues on refunds under Iowa Code sections 422.25(3), 422.28, 450.94, and 452A.65, interest shall accrue through the month in which the refund is mailed to the taxpayer and no further interest will accrue unless the department did not use the most current address as shown on the latest return or refund claim filed with the department.

10.3(2) *Interest on unpaid tax.* Interest due on unpaid tax is not a penalty, but rather it is compensation to the government for the period the government was deprived of the use of money. Therefore, interest due cannot be waived. *Vick v. Phinney,* 414 F.2d 444, 448 (5th CA 1969); *Time, Inc. v. United States,* 226 F.Supp. 680, 686 (S.D. N.Y. 1964); *In Re Jeffco Power Systems,* Dep't of Revenue Hearing Officer decision, Docket No. 77-9-6A-A (1978); *Waterloo Courier, Inc. v. Iowa Department of Revenue and Finance,* Case No. LACV081252, Black Hawk County District Court, December 30, 1999.

This rule is intended to implement Iowa Code sections 422.25(3), 422.28, 423.47, 450.94 and 452A.65.

[**ARC 7761B**, IAB 5/6/09, effective 6/10/09]

701—10.4(421) Frivolous return penalty. A $500 civil penalty is imposed on the return of a taxpayer that is considered to be a "frivolous return." A "frivolous return" is: (1) A return which lacks sufficient information from which the substantial correctness of the amount of tax liability can be determined or contains information that on its face indicates that the amount of tax shown is substantially incorrect, or (2) a return which reflects a position of law which is frivolous or is intended to delay or impede the administration of the tax laws of this state.

If the frivolous return penalty is applicable, the penalty will be imposed in addition to any other penalty which has been assessed. If the frivolous return penalty is relevant, the penalty may be imposed even under circumstances when it is determined that there is no tax liability on the return.

The frivolous return penalty is virtually identical to the penalty for frivolous income tax returns which is authorized in Section 6702 of the Internal Revenue Code. The department will follow federal guidelines and court cases when determining whether or not the frivolous return penalty should be imposed.

The frivolous return penalty may be imposed on all returns filed with the department and not just individual income tax returns. The penalty may be imposed on an amended return as well as an original return. The penalty may be imposed on each return filed with the department.

10.4(1) *Nonexclusive examples of circumstances under which the frivolous return penalty may be imposed.* The following are examples of returns filed in circumstances under which the frivolous return penalty may be imposed:

a. A return claiming a deduction against income or a credit against tax liability which is clearly not allowed such as a "war," "religious," "conscientious objector" deduction or tax credit.

b. A blank or partially completed return that was prepared on the theory that filing a complete return and providing required financial data would violate the Fifth Amendment privilege against self-incrimination or other rights guaranteed by the Constitution.

c. An unsigned return where the taxpayer refused to sign because the signature requirement was "incomprehensible or unconstitutional" or the taxpayer was not liable for state tax since the taxpayer had not signed the return.

d. A return which contained personal and financial information on the proper lines but where the words "true, correct and complete" were crossed out above the taxpayer's signature and where the taxpayer claimed the taxpayer's income was not legal tender and was exempt from tax.

e. A return where the taxpayer claimed that income was not "constructively received" and the taxpayer was the nominee-agent for a trust.

f. A return with clearly inconsistent information such as when 99 exemptions were claimed but only several dependents were shown.

g. A document filed for refund of taxes erroneously collected with the contention that the document was not a return and that no wage income was earned. This was inconsistent with attached W-2 Forms reporting wages.

10.4(2) *Nonexclusive examples where the frivolous return penalty is not applicable.* The following examples illustrate situations where the frivolous return penalty would not be applicable:

a. A return which includes a deduction, credit, or other item which may constitute a valid item of dispute between the taxpayer and the department.

b. A return which includes innocent or inadvertent mathematical or clerical errors, such as an error in addition, subtraction, multiplication, or division or the incorrect use of a table provided by the department.

c. A return which includes a statement of protest or objection, provided the return contains all required information.

d. A return which shows the correct amount of tax due, but the tax due is not paid.

This rule is intended to implement Iowa Code section 421.8.

701—10.5(421) Improper receipt of credit or refund. A person who makes an erroneous application for refund or credit shall be liable for any overpayment received plus interest at the rate in effect under Iowa Code section 421.7, subsection 2. In addition, a person who willfully makes a false or frivolous application for refund or credit with the intent to evade tax or with the intent to receive a refund or credit to which the person is not entitled is guilty of a fraudulent practice and is liable for a penalty equal to 75 percent of the refund or credit claimed.

This rule is intended to implement Iowa Code section 421.27 as amended by 2010 Iowa Acts, House File 2531, section 124.

[**ARC 9103B**, IAB 9/22/10, effective 10/27/10]

PENALTY FOR TAX PERIOD BEGINNING AFTER JANUARY 1, 1991

701—10.6(421) Penalties. A penalty shall be assessed upon all tax and deposits due under the following circumstances:

1. For failure to timely file a return or deposit form there is a 10 percent penalty. This penalty, once imposed, will be assessed on all subsequent amounts due or required to be shown due on the return or deposit form.

EXAMPLE: The taxpayer fails to timely file a return and fails to timely pay the tax due. The department will assess a 10 percent penalty for failure to timely file the return but will not assess a 5 percent penalty for failure to timely pay. The department subsequently audits the untimely filed return and determines additional tax is due. The department shall assess a 10 percent penalty on the additional tax found due by an audit.

2. For failure to timely pay the tax due on a return or deposit form, there is a 5 percent penalty.

3. For a deficiency of tax due on a return or deposit form found during an audit, there is a 5 percent penalty. For purposes of this penalty, the audit deficiency shall be assessed only when there is a timely filed return or deposit form.

Audit deficiency occurs when the department determines additional tax is due.

4. For willful failure to file a return or deposit form with the intent to evade tax, or in the case of willfully filing a false return or deposit form with the intent to evade tax, there is a 75 percent penalty.

The penalty rates are uniform for all taxes and deposits due under this chapter.

The penalty for failure to timely file will take precedence over the penalty for failure to timely pay or an audit deficiency when more than one penalty is applicable.

5. Examples to illustrate the computation of penalty for tax periods beginning on or after January 1, 1991.

The following are examples to illustrate the computation of penalties imposed under rule 701—10.7(421). For purposes of these examples, interest has been computed at the rate of 12 percent per year or 1 percent per month. The tax due amounts are assumed to be the total amounts required to be shown due when considering whether the failure to pay penalty should be assessed on the basis that less than 90 percent of the tax was paid.

Example (a) — Failure to File

a. Tax due is $100.

b. Return filed 3 months and 10 days after the due date.

c. $100 paid with the return.

The calculation for additional tax due is shown below:

Tax	$100	
Penalty	10	(10% failure to timely file)
Interest	4	(4 months interest)
Total	$114	
Less payment	100	
Additional tax due	$ 14	

Example (b) — Failure to Pay

a. Tax due is $100.

b. Return is timely filed.

c. $0 paid.

The calculation for the total amount due 5 months after the due date is shown below:

Tax	$100	
Penalty	5	
Interest	5	(5 months interest)
Total	$110	

Example (c) — Failure to File and Failure to Pay

a. Tax due is $100.

b. Return is filed 2 months and 10 days after the due date.

c. $0 paid.

The calculation for the total amount due 3 months after the due date is shown below:

Tax	$100	
Penalty	10	(10% for failure to file)
Interest	3	(3 months interest)
Total due in 3rd month	$113	

Example (d) — Audit on Timely Filed Return

a. $100 in additional tax found due.

b. Timely filed return.

c. Audit completed 8 months after the due date of the return.

d. Return showed $100 as the computed tax, which was paid with the return.

The calculation for the total amount due is shown below:

Computed tax after audit	$200	
Less tax paid with return	100	
Additional tax due	$100	
Penalty	5	(5% for audit deficiency)
Interest	8	(8 months interest)
Total due	$113	

Example (e) — Audit on Late Return Granted an Exception From Failure to File

a. Tax due is $100.

b. Return filed 3 months and 10 days after the due date.

c. $100 paid with the return.

d. Taxpayer is granted an exception from penalty for failure to file. (Return is then considered timely filed.)

e. Audit completed 8 months after the due date of the return. $100 additional tax found due.

f. Return showed $100 as the computed tax which was paid with the return.

The computation for the total amount due is shown below:

Computed tax after audit	$200	
Less tax paid with return	100	
Additional tax due	$100	
Penalty	5	(5% for audit deficiency. No penalty for failure to file.)
Interest	8	(8 months interest)
Total due	$113	

Example (f) — Audit on Late Filed Return No Pay Return

a. $100 claimed as tax on the return.

b. $100 in additional tax found due.

c. Return filed 3 months and 10 days after the due date.

d. Audit completed 8 months after the due date.

The computation for the total amount due is shown below:

Computed tax after audit	$200	
Penalty	20	(10% for failure to file)
Interest	16	(8 months interest)
Total due	$236	

701—10.7(421) Waiver of penalty—definitions. A penalty, if assessed, shall be waived by the department upon a showing of the circumstances stated below.

10.7(1) For purposes of these rules, the following definitions apply:

"Act of God" means an unusual and extraordinary manifestation of nature which could not reasonably be anticipated or foreseen and cannot be prevented by human care, skill, or foresight. There is a rebuttable presumption that an "act of God" that precedes the due date of the return or form by 30 days is not an act of God for purposes of an exception to penalty.

"Immediate family" includes the spouse, children, or parents of the taxpayer. There is a rebuttable presumption that relatives of the taxpayer beyond the relation of spouse, children, or parents of the taxpayer are not within the taxpayer's immediate family for purposes of the waiver exceptions.

"Sanctioned self-audit program" means an audit performed by the taxpayer with forms provided by the department as a result of contact by the department to the taxpayer prior to voluntary filing or payment of the tax. Filing voluntarily without contact by the department does not constitute a sanctioned self-audit.

"Serious, long-term illness or hospitalization" means an illness or hospitalization, documented by written evidence, which precedes the due date of the return or form by no later than 30 days and continues through the due date of the return or form and interferes with the timely filing of the return or form. There is a rebuttable presumption that an illness or hospitalization that precedes the due date of the return or form by more than 30 days is not an illness or hospitalization for purposes of an exception to penalty. The taxpayer will be provided an automatic extension of 30 days from the date the return or form is originally due or the termination of the serious, long-term illness or hospitalization whichever is later without incurring penalty. The taxpayer has the burden of proof on whether or not a serious, long-term illness or hospitalization has occurred.

"Substantial authority" means the weight of authorities for the tax treatment of an item is substantial in relation to the weight of authorities supporting contrary positions.

In determining whether there is substantial authority, only the following will be considered authority: applicable provisions of Iowa statutes; the Internal Revenue Code; Iowa administrative rules construing those statutes; court cases; administrative rulings; legal periodicals; department newsletters and tax return and deposit form instruction booklets; tax treaties and regulations; and legislative intent as reflected in committee reports.

Conclusions reached in treaties, legal opinions rendered by other tax professionals, descriptions of statutes prepared by legislative staff, legal counsel memoranda, and proposed rules and regulations are not authority.

There is substantial authority for the tax treatment of an item if there is substantial authority at the time the return containing the item is due to be filed or there was substantial authority on the last day of the taxable year to which the return relates.

The taxpayer must notify the department at the time the return, deposit form, or payment is originally due of the substantial authority the taxpayer is relying upon for not filing the return or deposit form or paying the tax due.

10.7(2) Reserved.

701—10.8(421) Penalty exceptions. Under certain circumstances the penalty for failure to timely file a return or deposit, failure to timely pay the tax shown due, or the tax required to be shown due with the filing of a return or a deposit form, or failure to pay following an audit by the department is waived.

When an exception is granted under subrule 10.9(1), the return or deposit form is considered timely filed for purposes of nonimposition of penalty only.

10.8(1) For failure to timely file a return or deposit form, the 10 percent penalty is waived upon a showing of the following exceptions:

a. At least 90 percent of the tax required to be shown due has been paid by the due date of the tax return or deposit form.

b. One late return allowed. A taxpayer required to file a return or deposit form quarterly, monthly, or semimonthly is allowed one untimely filed return or deposit form within a three-year period. The use by the taxpayer of any other penalty exception under this subrule will not count as a late return or deposit form for purposes of this subrule.

The exception for one late return in a three-year period is determined on the basis of the tax period for which the return or form is due and not the date on which the return is filed.

c. Death of a taxpayer, member of the immediate family of the taxpayer, or death of the person directly responsible for filing the return and paying the tax, when the death interferes with timely filing. There is a rebuttable presumption that a death which occurs more than 30 days before the original date the return or form is due does not interfere with timely filing.

d. The onset of serious, long-term illness or hospitalization of the taxpayer, a member of the taxpayer's immediate family, or the person directly responsible for filing the return and paying the tax.

e. Destruction of records by fire, flood, or act of God.

f. The taxpayer presents proof that the taxpayer at the due date of the return, deposit form, or payment relied upon applicable, documented, written advice made specifically to the taxpayer, the taxpayer's preparer, or to an association representative of the taxpayer from the department, state department of transportation, county treasurer, or federal Internal Revenue Service. The advice should be relevant to the agency offering the advice and not beyond the scope of the agency's area of expertise and knowledge. The advice must be current and not superseded by a court decision, ruling of a quasi-judicial body such as an administrative law judge, the director, or the state board of tax review, or by the adoption, amendment, or repeal of a rule or law.

g. Reliance upon the results of a previous audit was a direct cause for failure to file or pay where the previous audit expressly and clearly addressed the issue and the previous audit results have not been superseded by a court decision or by adoption, amendment, or repeal of a rule or law.

h. The taxpayer presents documented proof of substantial authority to rely upon a particular position or upon proof that all facts and circumstances are disclosed on a return or deposit form. Mathematical, computation, or transposition errors are not considered as facts and circumstances disclosed on a return or deposit form. These types of errors will not be considered as penalty exceptions.

i. The return, deposit form, or payment is timely, but erroneously, mailed with adequate postage to the Internal Revenue Service, another state agency, or a local government agency and the taxpayer provides proof of timely mailing with adequate postage. The taxpayer must provide competent evidence of the mailing as stated in Iowa Code section 622.105.

j. The tax has been paid by the wrong licensee and the payments were timely remitted to the department for one or more tax periods prior to notification by the department.

k. The failure to file was discovered through a sanctioned self-audit program conducted by the department.

l. Effective for estates with disclaimers filed on or after July 1, 2007, penalty will not be imposed for a late-filed Iowa inheritance tax return if the sole reason for the late-filed inheritance tax return is due to a beneficiary's decision to disclaim property or disclaim an interest in property from the estate. However, for the penalty to be waived, the Iowa inheritance tax return must be filed and all tax must be paid to the department within the later of nine months from the date of death or 60 days from the delivery or filing date of the disclaimer pursuant to Iowa Code section 633E.12.

10.8(2) For failure to timely pay the tax due on a return or deposit form, the 5 percent penalty is waived upon a showing of the following exceptions:

a. At least 90 percent of the tax required to be shown due has been paid by the due date of the tax return or deposit form.

b. The taxpayer voluntarily files an amended return and pays all tax shown to be due on the return prior to any contact by the department, except under a sanctioned self-audit program conducted by the department.

c. The taxpayer provides written notification to the department of a federal audit while it is in progress and voluntarily files an amended return which includes a copy of the federal document showing the final disposition or final federal adjustments within 60 days of the final disposition of the federal government's audit.

d. The taxpayer presents proof that the taxpayer relied upon applicable, documented, written advice specifically made to the taxpayer, to the taxpayer's preparer, or to an association representative of the taxpayer from the department, state department of transportation, county treasurer, or federal

Internal Revenue Service, whichever is appropriate, that has not been superseded by a court decision, ruling by a quasi-judicial body, or the adoption, amendment, or repeal of a rule or law.

e. Reliance upon results in a previous audit was a direct cause for the failure to pay the tax required to be shown due where the previous audit expressly and clearly addressed the issue and the previous audit results have not been superseded by a court decision, or the adoption, amendment, or repeal of a rule or law.

f. The taxpayer presents documented proof of substantial authority to rely upon a particular position or upon proof that all facts and circumstances are disclosed on a return or deposit form. Mathematical, computation, or transposition errors are not considered as facts and circumstances disclosed on a return or deposit form. These types of errors will not be considered as penalty exceptions.

g. The return, deposit form, or payment is timely, but erroneously, mailed with adequate postage to the Internal Revenue Service, another state agency, or a local government agency and the taxpayer provides proof of timely mailing with adequate postage. The taxpayer must provide competent evidence of the mailing as stated in Iowa Code section 622.105.

h. The tax has been paid by the wrong licensee and the payments were timely remitted to the department for one or more tax periods prior to notification by the department.

i. Effective for estates with disclaimers filed on or after July 1, 2007, penalty will not be imposed for failure to pay Iowa inheritance tax if the sole reason for the failure to pay Iowa inheritance tax is due to a beneficiary's decision to disclaim property or disclaim an interest in property from the estate. However, for the penalty to be waived, the Iowa inheritance tax return must be filed and all tax must be paid to the department within the later of nine months from the date of death or 60 days from the filing date of the disclaimer pursuant to Iowa Code section 633E.12.

10.8(3) For a deficiency of tax due on a return or deposit form found during an audit, the 5 percent penalty is waived under the following exceptions:

a. At least 90 percent of the tax required to be shown due has been paid by the due date.

b. The taxpayer presents proof that the taxpayer relied upon applicable, documented, written advice specifically made to the taxpayer, to the taxpayer's preparer, or to an association representative of the taxpayer from the department, state department of transportation, county treasurer, or federal Internal Revenue Service, whichever is appropriate, that has not been superseded by a court decision, ruling by a quasi-judicial body, or the adoption, amendment, or repeal of a rule or law.

c. Reliance upon results in a previous audit was a direct cause for the failure to pay the tax shown due or required to be shown due where the previous audit expressly and clearly addressed the issue and the previous audit results have not been superseded by a court decision, or the adoption, amendment, or repeal of a rule or law.

d. The taxpayer presents documented proof of substantial authority to rely upon a particular position or upon proof that all facts and circumstances are disclosed on a return or deposit form. Mathematical, computation, or transposition errors are not considered as facts and circumstances disclosed on a return or deposit form. These types of errors will not be considered as penalty exceptions.
[**ARC 7761B**, IAB 5/6/09, effective 6/10/09]

701—10.9(421) Notice of penalty exception for one late return in a three-year period. The penalty exception for one late return in a three-year period will automatically be applied to a return or deposit form by the department if the taxpayer is eligible for the exception.

The exception for one late return in a three-year period is applied to the returns or deposit forms in the order they are processed and not in the order which the returns or deposit forms should have been filed.

701—10.10 to **10.19** Reserved.

RETAIL SALES
[Prior to 1/23/91, see 701—12.10(422,423) and 12.11(422, 423)]

701—10.20(422,423) Penalty and interest computation. Rescinded IAB 5/6/09, effective 6/10/09.

701—10.21(422,423) Request for waiver of penalty. Rescinded IAB 5/6/09, effective 6/10/09.

701—10.22 to **10.29** Reserved.

USE
[Prior to 1/23/91, see 701—30.10(423)]

701—10.30(423) Penalties for late filing of a monthly tax deposit or use tax returns. Rescinded IAB 5/6/09, effective 6/10/09.

701—10.31 to **10.39** Reserved.

INDIVIDUAL INCOME
[Prior to 1/23/91, see 44.1(422), 44.3(422), 44.7(422) and 44.8(422)]

701—10.40(422) General rule. Rescinded IAB 11/24/04, effective 12/29/04.

701—10.41(422) Computation for tax payments due on or after January 1, 1981, but before January 1, 1982. Rescinded IAB 11/24/04, effective 12/29/04.

701—10.42(422) Interest commencing on or after January 1, 1982. Rescinded IAB 11/24/04, effective 12/29/04.

701—10.43(422) Request for waiver of penalty. Rescinded IAB 11/24/04, effective 12/29/04.

701—10.44 to **10.49** Reserved.

WITHHOLDING
[Prior to 1/23/91, see 701—46.5(422)]

701—10.50(422) Penalty and interest. Rescinded IAB 11/24/04, effective 12/29/04.

701—10.51 to **10.55** Reserved.

CORPORATE
[Prior to 1/23/91, see subrule 701—52.5(3) and rule 701—52.10(422)]

701—10.56(422) and **10.57(422) Penalty and interest.** Rescinded IAB 11/24/04, effective 12/29/04.

701—10.58(422) Waiver of penalty and interest. Rescinded IAB 11/24/04, effective 12/29/04.

701—10.59 to **10.65** Reserved.

FINANCIAL INSTITUTIONS
[Prior to 1/23/91, see 701—58.6(422)]

701—10.66(422) Penalty and interest. Rescinded IAB 11/24/04, effective 12/29/04.

701—10.67 to **10.70** Reserved.

MOTOR FUEL
[Prior to 1/23/91, see 701—63.8(324) and 63.10(324)]

701—10.71(452A) Penalty and enforcement provisions.

10.71(1) *Illegal use of dyed fuel.*

a. The illegal use of dyed fuel in the supply tank of a motor vehicle shall result in a civil penalty assessed against the owner or operator of the motor vehicle as follows:

(1) A $500 penalty for the first violation.

(2) A $1,000 penalty for a second violation within three years of the first violation.

(3) A $2,000 penalty for third and subsequent violations within three years of the first violation.

b. For the purposes of this subrule, if multiple vehicles are discovered to be in violation of this subrule during one inspection, each vehicle is considered a separate first violation. For example, if three vehicles are discovered to be in violation during one inspection, the result is three $500 penalties or $1,500. On the other hand, if three vehicles owned by the same taxpayer are discovered to be in violation during three separate inspections, the first inspection would result in a $500 penalty, the second inspection would result in a $1,000 penalty, and the third inspection would result in a $2,000 penalty. If one vehicle is discovered to be in violation during the first inspection, resulting in a $500 penalty, but two vehicles are discovered to be in violation in a second inspection, the result of the second inspection would be two $1,000 penalties, or $2,000 total.

10.71(2) *Illegal importation of untaxed fuel.* A person who illegally imports motor fuel or undyed special fuel without a valid importer's license or supplier's license shall be assessed a civil penalty as stated below. However, the owner or operator of the importing vehicle shall not be guilty of violating the illegal import provision if it is shown by the owner or operator that the owner or operator reasonably did not know or reasonably should not have known of the illegal importation.

a. For a first violation, the importing vehicle shall be detained and a penalty of $4,000 shall be paid before the vehicle will be released. The owner or operator of the importing vehicle or the owner of the fuel may be held liable for payment of the penalty.

b. For a second violation, the importing vehicle shall be detained and a penalty of $10,000 shall be paid before the vehicle will be released. The owner or operator of the importing vehicle or the owner of the fuel may be held liable to pay the penalty.

c. For third and subsequent violations, the importing vehicle and the fuel shall be seized and a penalty of $20,000 shall be paid before the vehicle will be released. The owner or operator of the importing vehicle or the owner of the fuel may be held liable to pay the penalty.

d. If the owner or operator of the importing vehicle or the owner of the fuel fails to pay the tax and penalty for a first or second offense, the importing vehicle and the fuel may be seized. The Iowa department of revenue, the Iowa department of transportation, or any peace officer, at the request of either department, may seize the vehicle and the fuel.

e. If the operator or owner of the importing vehicle or the owner of the fuel moves the vehicle or the fuel after the vehicle has been detained and a sticker has been placed on the vehicle stating that "this vehicle cannot be moved until the tax, penalty, and interest have been paid to the department of revenue," an additional penalty of $10,000 shall be assessed against the operator or owner of the importing vehicle or the owner of the fuel.

10.71(3) *Improper receipt of fuel credit or refund.* If a person files an incorrect refund claim, in addition to the amount of the excess claim, a penalty of 10 percent shall be added to the amount by which the amount claimed and refunded exceeds the amount actually due and shall be paid to the department. If a person knowingly files a fraudulent refund claim with the intent to evade the tax, the penalty shall be 75 percent in lieu of the 10 percent. The person shall also pay interest on the excess refunded at the rate per month specified in Iowa Code section 421.7, counting each fraction of a month as an entire month, computed from the date the refund was issued to the date the excess refund is repaid to the state.

10.71(4) *Illegal heating of fuel.* The deliberate heating of taxable motor fuel or special fuel by dealers prior to consumer sale is a simple misdemeanor.

10.71(5) *Prevention of inspection.* The Iowa department of revenue or the Iowa department of transportation may conduct inspections for coloration, markers, and shipping papers at any place where taxable fuel is or may be loaded into transport vehicles, produced, or stored. Any attempts by a person to prevent, stop, or delay an inspection of fuel or shipping papers by authorized personnel shall be subject to a civil penalty of not more than $2,000 per occurrence. Any law enforcement officer requested by the Iowa department of revenue or Iowa department of transportation may physically inspect, examine, or otherwise search any tank, fuel supply tank of a vehicle, reservoir, or other container that can or may be used for the production, storage, or transportation of any type of fuel.

10.71(6) *Failure to conspicuously label a fuel pump.* A retailer who does not conspicuously label a pump or other delivery facility as required by the Internal Revenue Service, that dispenses dyed diesel fuel so as to notify customers that it contains dyed fuel, shall pay to the department of revenue a penalty of $100 per occurrence.

10.71(7) *False or fraudulent return.* Any person, including an officer of a corporation or a manager of a limited liability company, who is required to make, render, sign, or verify any report or return required by this chapter and who makes a false or fraudulent report, or who fails to file a report or return with the intent to evade the tax, shall be guilty of a fraudulent practice. Any person who aids, abets, or assists another person in making any false or fraudulent return or false statement in any return with the intent to evade payment of tax shall be guilty of a fraudulent practice.

10.71(8) *Violation of a distributor's and dealer's right to blend conventional blendstock for oxygenate blending, gasoline, or diesel fuel and biofuel.* A refiner, supplier, terminal operator, or terminal owner, as defined in Iowa Code section 452A.2, who violates a distributor's or dealer's right to blend conventional blendstock for oxygenate blending, gasoline, or diesel fuel and biofuel, as described in Iowa Code section 452A.6A, is subject to a civil penalty.

a. Suspected violations should be reported to the motor fuel examination section of the department. Supporting documentation should be provided.

b. The department will investigate to determine whether a violation has occurred.

c. If the department determines that a violation has occurred, a civil penalty of $10,000 per violation will be assessed against the violator. Each day that a violation continues is a separate violation.

For more information on the blending rights of distributors and dealers, see 701—68.19(452A).

This rule is intended to implement Iowa Code sections 452A.2, 452A.6A and 452A.74A.

[**ARC 8225B**, IAB 10/7/09, effective 11/11/09; **ARC 1442C**, IAB 4/30/14, effective 6/4/14]

701—10.72(452A) Interest. Interest, based on the tax due, shall be assessed against the taxpayer for each month such tax remains unpaid. The interest shall accrue from the date the return was required to be filed. Each fraction of a month shall be considered a full month for the computation of interest. See rule 701—10.2(421) for the statutory interest rate commencing on or after January 1, 1982.

Refunds on reports or returns filed on or after July 1, 1997, will accrue interest beginning on the first day of the second calendar month following the date of payment or the date the return was filed or due to be filed, whichever is later, at the rate in effect under Iowa Code section 421.7, counting each fraction of a month as an entire month. Claims for refund filed under Iowa Code sections 452A.17 and 452A.21 will accrue interest beginning with the first day of the second calendar month following the date the refund claim is received by the department. See rule 701—10.3(422,450,452A).

This rule is intended to implement Iowa Code section 452A.65.

[**ARC 1303C**, IAB 2/5/14, effective 3/12/14]

701—10.73 to **10.75** Reserved.

CIGARETTES AND TOBACCO

[Prior to 1/23/91, see 701—81.8(98), 81.9(98), and 81.15(98)]

701—10.76(453A) Penalties.

10.76(1) *Cigarettes.* The following is a list of offenses which subject the violator to a penalty:

1. The failure of a permit holder to maintain proper records;
2. The sale of taxable cigarettes without a permit;
3. The filing of a late, false or incomplete report with the intent to evade tax by a cigarette distributor, distributing agent or wholesaler;
4. Acting as a distributing agent without a valid permit; and
5. A violation of any provision of Iowa Code chapter 453A or these rules.

Penalties for these offenses are as follows:

- A $200 penalty for the first violation.
- A $500 penalty for a second violation within three years of the first violation.

- A $1,000 penalty for a third or subsequent violation within three years of the first violation.

Penalties for possession of unstamped cigarettes are as follows:

- A $200 penalty for the first violation if a person is in possession of more than 40 but not more than 400 unstamped cigarettes.
- A $500 penalty for the first violation if a person is in possession of more than 400 but not more than 2,000 unstamped cigarettes.
- A $1,000 penalty for the first violation if a person is in possession of more than 2,000 unstamped cigarettes for violations occurring prior to July 1, 2004. A $25 per pack penalty for the first violation if a person is in possession of more than 2,000 unstamped cigarettes for violations occurring on or after July 1, 2004.
- For a second violation within three years of the first violation, the penalty is $400 if a person is in possession of more than 40 but not more than 400 unstamped cigarettes; $1,000 if a person is in possession of more than 400 but not more than 2,000 unstamped cigarettes; and $2,000 if a person is in possession of more than 2,000 unstamped cigarettes for violations occurring prior to July 1, 2004. A $35 per pack penalty applies if a person is in possession of more than 2,000 unstamped cigarettes for violations occurring on or after July 1, 2004.
- For a third or subsequent violation within three years of the first violation, the penalty is $600 if a person is in possession of more than 40 but not more than 400 unstamped cigarettes; $1,500 if a person is in possession of more than 400 but not more than 2,000 unstamped cigarettes; and $3,000 if a person is in possession of more than 2,000 unstamped cigarettes for violations occurring prior to July 1, 2004. A $45 per pack penalty applies if a person is in possession of more than 2,000 unstamped cigarettes for violations occurring on or after July 1, 2004.

See rule 701—10.6(421) for penalties related to failure to timely file a return, failure to timely pay the tax due, audit deficiency, and willful failure to file a return with the intent to evade the tax. If, upon audit, it is determined that any person has failed to pay at least 90 percent of the tax imposed by Iowa Code chapter 453A, division I, which failure was not the result of a violation enumerated above, a penalty of 5 percent of the tax deficiency shall be imposed. This penalty is not subject to waiver for reasonable cause.

See rule 701—10.8(421) for statutory exceptions to penalty.

10.76(2) *Tobacco.*

See rule 701—10.6(421) for penalties related to failure to timely file a return, failure to timely pay the tax due, audit deficiency, and willful failure to file a return with the intent to evade the tax.

See rule 701—10.8(421) for statutory exceptions to penalty.

This rule is intended to implement Iowa Code sections 453A.28, 453A.31 and 453A.46 as amended by 2004 Iowa Acts, Senate File 2296.

701—10.77(453A) Interest.

10.77(1) *Cigarettes.* There shall be assessed interest at the rate established by rule 701—10.2(421) from the due date of the tax to the date of payment counting each fraction of a month as an entire month. For the purpose of computing the due date of any unpaid tax, a FIFO inventory method shall be used for cigarettes and stamps. See rule 701—10.6(421) for examples of penalty and interest.

10.77(2) *Tobacco.* The interest rate on delinquent tobacco tax is the rate established by rule 701—10.2(421) counting each fraction of a month as an entire month. If an assessment for taxes due is not allocated to any given month, the interest shall accrue from the date of assessment. See rule 701—10.6(421) for examples of penalty and interest.

This rule is intended to implement Iowa Code sections 453A.28 and 453A.46.

701—10.78(453A) Waiver of penalty or interest. Rescinded IAB 11/10/04, effective 12/15/04.

701—10.79(453A) Request for statutory exception to penalty. Any taxpayer who believes there is a good reason to object to any penalty imposed by the department for failure to timely file returns or pay the tax may submit a request for exception seeking that the penalty be waived. The request must be in

the form of a letter or affidavit and must contain all facts alleged by the taxpayer and a reason for why the taxpayer qualifies for the exceptions. See rule 701—10.8(421).

This rule is intended to implement Iowa Code sections 453A.31 and 453A.46.

701—10.80 to **10.84** Reserved.

INHERITANCE
[Prior to 1/23/91, see 701—subrules 86.2(14) to 86.2(20)]

701—10.85(422) Penalty—delinquent returns and payment. Rescinded IAB 5/6/09, effective 6/10/09.

701—10.86 to **10.89** Reserved.

IOWA ESTATE
[Prior to 1/23/91, see 701—subrules 87.3(9) to 87.3(12)]

701—10.90(451) Penalty—delinquent return and payment. Rescinded IAB 5/6/09, effective 6/10/09.

701—10.91 to **10.95** Reserved.

GENERATION SKIPPING
[Prior to 1/23/91, see 701—subrules 88.3(14) and 88.3(15)]

701—10.96(450A) Penalty—delinquent return and payment for deaths occurring before January 1, 1991. Rescinded IAB 5/6/09, effective 6/10/09.

701—10.97(422) Interest on tax due. Rescinded IAB 5/6/09, effective 6/10/09.

701—10.98 to **10.100** Reserved.

FIDUCIARY INCOME
[Prior to 1/23/91, see 701—89.6(422) and 89.7(422)]

701—10.101(422) Penalties. Rescinded IAB 5/6/09, effective 6/10/09.

701—10.102(422) Penalty. Rescinded IAB 5/6/09, effective 6/10/09.

701—10.103(422) Interest on unpaid tax. Rescinded IAB 5/6/09, effective 6/10/09.

701—10.104 to **10.109** Reserved.

HOTEL AND MOTEL
[Prior to 1/23/91, see 701—104.8(422A) and 104.9(422A)]

701—10.110(423A) Interest and penalty. Rescinded IAB 5/6/09, effective 6/10/09.

701—10.111(423A) Request for waiver of penalty. Rescinded IAB 5/6/09, effective 6/10/09.

701—10.112 to **10.114** Reserved.

ALL TAXES

701—10.115(421) Application of payments to penalty, interest, and then tax due for payments made on or after January 1, 1995, unless otherwise designated by the taxpayer. The department will not reapply prior payments made by the taxpayer to penalty or interest determined to be due after the date of

those prior payments. However, the department will apply payments to penalty and interest which were due at the time the payment was made.

Example (a) — Delinquent Return

a. Tax due is $1,000.

b. Return filed two months late.

c. $1,000 paid with the return.

d. The department bills the additional tax in the third month after the due date. The taxpayer pays the assessment in the third month.

The computation of additional tax is shown below:

Tax	$1,000.00	
Penalty	100.00	(10% failure to file penalty)
Interest	14.00	(2 months interest)
Total	$1,114.00	
Less payment	1,000.00	
Additional tax due	$ 114.00	
Interest	.80	(1 month interest)
Total due	$ 114.80	

Two years after the due date, the Internal Revenue Service conducts an audit and increases the taxpayer's taxable income. The department redetermines the taxpayer's liability 26 months after the due date as follows:

Tax as redetermined by the department	$1,100.00	
Less paid with return	1,000.00	
Additional tax	$ 100.00	
Penalty	10.00	(10% failure to file penalty)
Interest	18.20	(26 months interest)
Total due	$ 128.20	

Example (b) — Timely Filed No Remit

a. Tax due is $1,000.

b. Return timely filed.

c. $0 paid.

The calculation for the total amount due five months after the due date is shown below:

Tax	$1,000.00	
Penalty	50.00	(5% failure to pay penalty)
Interest	35.00	(5 months interest)
Total due	$1,085.00	

The department bills the additional tax in the fifth month after the due date and the taxpayer pays the additional amount in the eighth month after the due date. The payment is applied as follows:

Tax	$1,000.00	
Penalty	50.00	(5% failure to pay penalty)
Interest	56.00	(8 months interest)
Total due	$1,106.00	
Amount paid	$1,085.00	

Balance tax due $21.00 subject to interest until paid.

The balance due was not paid.

Three years after the due date the taxpayer forwards a copy of an Internal Revenue Service audit which increases the taxpayer's income to the department. The department recomputes the taxpayer's liability as follows:

Tax as redetermined by the department	$1,200.00	
Less paid per prior audit	979.00	
Balance due	$ 221.00	(includes the balance due of $21)
Penalty	10.00	(5% failure to pay penalty on $200, the $21.00 already bears penalty)
Interest	54.52	(36 months interest on $200 and 28 months interest on $21)
Total due	$ 285.52	

10.115(1) *Refunds.* In those instances where an audit reduced the amount of tax, penalty, and interest due over the amount paid, the department will reapply payments so that amount refunded is tax on which interest will accrue as set forth in the Iowa Code.

10.115(2) *Partial payments made after notices of assessments are issued.* Where partial payments are made after a notice of assessment is issued, the department will reapply payments to penalty, interest, and then to tax due until the entire assessed amount is paid. See *Ashland Oil Inc. v. Iowa Department of Revenue and Finance,* 452 N.W.2d 162 (Iowa 1990). If penalty, interest, and tax are due and owing for more than one tax period, any payment must be applied first to the penalty, then the interest, then the tax for the oldest tax period, then to the penalty, interest, and tax to the next oldest tax period, and so on until the payment is exhausted.

Where there are both agreed- and unagreed-to items as a result of an examination, the taxpayer and the department may agree to apply payments to the penalty, interest, and then to tax due on the agreed-to items of the examination when all of the penalty, interest, and tax on the agreed-to items are paid. In these instances, subsequent payments will not be applied to penalty and interest accrued on the agreed-to items of the examination.

This rule is intended to implement Iowa Code section 422.25(4).

[**ARC 7761B**, IAB 5/6/09, effective 6/10/09]

JEOPARDY ASSESSMENTS

701—10.116(422,453B) Jeopardy assessments. A jeopardy assessment may be made where a return has been filed and the director believes for any reason that assessment or collection of the tax will be jeopardized by delay, or where a taxpayer fails to file a return, whether or not formally called upon to file a return. In addition, all assessments made pursuant to Iowa Code chapter 453B are jeopardy assessments. The department is authorized to estimate the applicable tax base and the tax upon the basis of available information, add penalty and interest, and demand immediate payment.

A jeopardy assessment is due and payable when the notice of the assessment is served upon the taxpayer. Proceedings to enforce the payment of the assessment by seizure or sale of any property of the taxpayer may be instituted immediately.

This rule is intended to implement Iowa Code sections 422.30 and 453B.9.

701—10.117(422,453B) Procedure for posting bond. In the event a taxpayer seeks to post a bond in lieu of summary collection of a jeopardy assessment, pending final determination of the amount of tax legally due, an original and four copies of a separate written bond application conspicuously titled "Jeopardy Assessment Bond Request" must be filed with the clerk of the hearings section for the department. Thereafter, if the taxpayer and the department agree on an appropriate bond, the clerk of the hearings section for the department shall be notified and the bond shall be approved by the clerk of the hearings section for the department.

If the clerk of the hearings section for the department has not been notified that an agreement on the bond has been reached within ten days after the date upon which the bond request was filed, the clerk of the hearings section for the department shall transfer the file to the director who shall promptly schedule a hearing on the bond request with written notice to be given the taxpayer and the department at least ten days prior to the hearing.

This rule is intended to implement Iowa Code chapter 17A as amended by 1998 Iowa Acts, chapter 1202, and sections 422.30 and 453B.9.

701—10.118(422,453B) Time limits. Bond requests may be made anytime after a timely protest to the jeopardy assessment has been filed with the clerk of the hearings section for the department, except that any bond request whereby the taxpayer seeks to postpone a scheduled sale of assets seized by or on behalf of the department must be filed with the clerk of the hearings section for the department no later than ten days from the date on which notice of the sale was mailed to, or otherwise served upon, the taxpayer. Portions of an assessment which are undisputed must be paid in full at the time a bond request is filed.

This rule is intended to implement Iowa Code chapter 17A as amended by 1998 Iowa Acts, chapter 1202, and sections 422.30 and 453B.9.

701—10.119(422,453B) Amount of bond. In the event no agreement on the bond is reached, bonds must be posted in an amount to be determined by the director consistent with the following:

10.119(1) If property has been seized or a lien has been filed and the taxpayer seeks only to postpone the sale of property, pending final determination of the amount of tax legally due, the bond shall be in an amount equal to the expected depreciation loss, storage cost, insurance costs and any and all other costs associated with the distraint and storage of the property pending such final determination.

10.119(2) If property has been seized or a lien has been filed and the taxpayer seeks to prevent the sale of property and to have the property returned for the taxpayer's own use, pending final determination of the amount of tax legally due, the bond shall be in an amount equal to the sale price the department can reasonably expect to realize on any property seized plus all costs related to the distraint and storage of the property.

10.119(3) If a taxpayer seeks to prevent the department from seizing property or placing a lien upon property, pending final determination of the amount of tax legally due, the bond shall be in an amount equal to the total amount of the department's assessment including interest to the date of the bond.

Bonds may not be required in excess of double the amount of the department's jeopardy assessment.

This rule is intended to implement Iowa Code chapter 17A as amended by 1998 Iowa Acts, chapter 1202, and sections 422.30 and 453B.9.

701—10.120(422,453B) Posting of bond. If the taxpayer fails to post the bond as agreed upon within 15 days from the date the bond is approved by the clerk of the hearings section for the department, no bond will be allowed and the director shall dismiss the bond request. If no agreement was reached and a bond order is issued by the director, the taxpayer has ten days to post the bond. If the bond is not posted within the ten-day period, the director shall dismiss the bond request.

This rule is intended to implement Iowa Code chapter 17A as amended by 1998 Iowa Acts, chapter 1202, and sections 422.30 and 453B.9.

701—10.121(422,453B) Order. The director's order shall be in writing and shall include findings of fact based solely on the evidence in the record and on matters officially noticed in the record and shall include

conclusions of law. The findings of fact and conclusions of law shall be separately stated. Findings of fact shall be prefaced by a concise and explicit statement of underlying facts supporting the findings. Each conclusion of law shall be supported by cited authority or by a reasoned opinion.

Orders will be issued within a reasonable time after termination of the hearing. Parties shall be promptly notified of each order by delivery to them of a copy of the order by personal service or by ordinary mail.

This rule is intended to implement Iowa Code chapter 17A as amended by 1998 Iowa Acts, chapter 1202, and sections 422.30 and 453B.9.

701—10.122(422,453B) Director's order. The director's order constitutes the final order of the department for purposes of judicial review. Parties shall be promptly notified of the director's order by delivery to them of a copy of the order by personal service or by ordinary mail.

This rule is intended to implement Iowa Code chapter 17A as amended by 1998 Iowa Acts, chapter 1202, and sections 422.30 and 453B.9.

701—10.123(422,453B) Type of bond. The bond shall be payable to the department for the use of the state of Iowa and shall be conditioned upon the full payment of the tax, penalty, interest, or fees that are found to be due which remain unpaid upon the resolution of the contested case proceedings up to the amount of the bond. Upon application of the taxpayer or the department, the director may, upon hearing, fix a greater or lesser amount to reflect changed circumstances, but only after ten days' prior notice is given to the department or the taxpayer as the case may be.

A personal bond, without a surety, is only permitted if the taxpayer posts with the clerk of the hearings section for the department, cash, a cashier's check, a certificate of deposit, or other marketable securities which are approved by the director with a readily ascertainable value which is equal in value to the total amount of the bond required. If a surety bond is posted, the surety on the bond may be either personal or corporate. The provisions of Iowa Code chapter 636 relating to personal and corporate sureties shall govern to the extent not inconsistent with the provisions of this subrule.

This rule is intended to implement Iowa Code chapter 17A as amended by 1998 Iowa Acts, chapter 1202, and sections 422.30 and 453B.9.

701—10.124(422,453B) Form of surety bond. The surety bond posted shall be in substantially the following form:

BEFORE THE IOWA STATE DEPARTMENT OF REVENUE
HOOVER STATE OFFICE BUILDING
DES MOINES, IOWA

IN THE MATTER OF	*	
	*	
(Taxpayer's Name, Address and	*	SURETY BOND
designate proceeding, e.g.,	*	
income, sales, etc.)	*	DOCKET NO.
	*	

KNOW ALL PERSONS BY THESE PRESENTS:

That we _____(taxpayer)_____ as principal, and _____(surety)_____, as surety, of the county of _____, and State of Iowa, are held and firmly bound unto the Iowa Department of Revenue for the use of the State of Iowa, in the sum of $ _____ dollars, lawful money of the United States, for the payment of which sum we jointly and severally bind ourselves, our heirs, devisees, successors and assigns firmly by these presents. The condition of the foregoing obligations are, that, whereas the above-named principal has protested an assessment of tax, penalty, interest,

or fees or any combination of them, made by the Iowa Department of Revenue, now if the principal _____ shall promptly pay the amount of the assessed tax, penalty, interest or fees found to be due upon the resolution of the contested case proceedings, then this bond shall be void, otherwise to remain in full force and effect.

Dated this _____ day of _____, _____.

_____
Principal

_____
Surety

_____
Surety
(corporate acknowledgment if surety is a corporation)

AFFIDAVIT OF PERSONAL SURETY

STATE OF IOWA)
COUNTY OF) ss

I hereby swear or affirm that I am a resident of Iowa and am worth beyond my debts the amount set opposite my signature below in the column entitled, "Worth Beyond Debts," and that I have property in the State of Iowa, liable to execution equal to the amount set opposite my signature in the column entitled "Property in Iowa Liable to Execution."

Signature	Worth Beyond Debts	Property in Iowa Liable to Execution
_____	$ _____	$ _____
Surety (type name)		
_____	$ _____	$ _____
Surety (type name)		

Subscribed and sworn to before me the undersigned Notary Public this _____ day of _____, _____.

(Seal) Notary Public in and for the State of Iowa

701—10.125(422,453B) Duration of the bond. The bond shall remain in full force and effect until the conditions of the bond have been fulfilled or until the bond is otherwise exonerated as provided by law.

This rule is intended to implement Iowa Code sections 422.30 and 453B.9.

701—10.126(422,453B) Exoneration of the bond. Upon conclusion of the contested case administrative proceedings, the bond shall be exonerated by the director when any of the following events occur: upon full payment of the tax, penalty, interest, costs or fees found to be due; upon filing a bond for the purposes of judicial review which bond is sufficient to secure the unpaid tax penalty, interest, costs and fees; or if no additional tax, penalty, interest, costs or fees are found to be due that have not been previously paid, upon entry of a final unappealable order which resolves the underlying protest.

This rule is intended to implement Iowa Code chapter 17A as amended by 1998 Iowa Acts, chapter 1202, and sections 422.30 and 453B.9.

[Filed 12/31/81, Notice 11/25/81—published 1/20/82, effective 2/24/82]
[Filed 12/17/82, Notice 11/10/82—published 1/5/83, effective 2/9/83]
[Filed 12/16/83, Notice 11/9/83—published 1/4/84, effective 2/8/84]
[Filed 12/14/84, Notice 11/7/84—published 1/2/85, effective 2/6/85]
[Filed 8/23/85, Notice 7/17/85—published 9/11/85, effective 10/16/85]
[Filed 12/2/85, Notice 10/23/85—published 12/18/85, effective 1/22/86]
[Filed 9/5/86, Notice 7/30/86—published 9/24/86, effective 10/29/86]
[Filed emergency 11/14/86—published 12/17/86, effective 11/14/86]
[Filed 11/26/86, Notice 10/22/86—published 12/17/86, effective 1/21/87]
[Filed 12/11/87, Notice 11/4/87—published 12/30/87, effective 2/3/88]
[Filed 12/9/88, Notice 11/2/88—published 12/28/88, effective 2/1/89]
[Filed without Notice 6/12/89—published 6/28/89, effective 8/2/89]
[Filed 11/22/89, Notice 10/18/89—published 12/13/89, effective 1/17/90]
[Filed 11/21/90, Notice 10/17/90—published 12/12/90, effective 1/16/91]
[Filed 1/4/91, Notice 11/28/90—published 1/23/91, effective 2/27/91]
[Filed 12/6/91, Notice 10/30/91—published 12/25/91, effective 1/29/92]
[Filed 9/11/92, Notice 8/5/92—published 9/30/92, effective 11/4/92]
[Filed 12/4/92, Notice 10/28/92—published 12/23/92, effective 1/27/93]
[Filed 12/3/93, Notice 10/27/93—published 12/22/93, effective 1/26/94]
[Filed 11/18/94, Notice 10/12/94—published 12/7/94, effective 1/11/95]
[Filed 12/2/94, Notice 10/26/94—published 12/21/94, effective 1/25/95]
[Filed 11/3/95, Notice 9/27/95—published 11/22/95, effective 12/27/95]
[Filed 12/1/95, Notice 10/25/95—published 12/20/95, effective 1/24/96][1]
[Filed emergency 3/11/96—published 3/27/96, effective 3/11/96]
[Filed 12/13/96, Notice 11/6/96—published 1/1/97, effective 2/5/97]
[Filed 9/5/97, Notice 7/30/97—published 9/24/97, effective 10/29/97]
[Filed 10/17/97, Notice 9/10/97—published 11/5/97, effective 12/10/97]
[Filed 12/12/97, Notice 11/5/97—published 12/31/97, effective 2/4/98]
[Filed 12/11/98, Notice 11/4/98—published 12/30/98, effective 2/3/99]
[Filed 4/30/99, Notice 3/24/99—published 5/19/99, effective 6/23/99]
[Filed 9/3/99, Notice 7/28/99—published 9/22/99, effective 10/27/99]
[Filed 12/10/99, Notice 11/3/99—published 12/29/99, effective 2/2/00][◊]
[Filed 12/22/00, Notice 11/15/00—published 1/10/01, effective 2/14/01]
[Filed 12/7/01, Notice 10/31/01—published 12/26/01, effective 1/30/02]
[Filed 3/15/02, Notice 2/6/02—published 4/3/02, effective 5/8/02]
[Filed 5/9/03, Notice 11/27/02—published 5/28/03, effective 7/2/03]
[Filed 1/30/04, Notice 12/10/03—published 2/18/04, effective 3/24/04]
[Filed 10/22/04, Notice 9/15/04—published 11/10/04, effective 12/15/04]
[Filed 11/4/04, Notice 9/29/04—published 11/24/04, effective 12/29/04]
[Filed 12/30/04, Notice 11/24/04—published 1/19/05, effective 2/23/05]
[Filed 12/30/05, Notice 11/23/05—published 1/18/06, effective 2/22/06]
[Filed 5/5/06, Notice 3/29/06—published 5/24/06, effective 6/28/06]
[Filed 12/13/06, Notice 11/8/06—published 1/3/07, effective 2/7/07]
[Filed 2/8/08, Notice 1/2/08—published 2/27/08, effective 4/2/08]
[Filed 3/7/08, Notice 1/30/08—published 3/26/08, effective 4/30/08]
[Filed 12/10/08, Notice 11/5/08—published 12/31/08, effective 2/4/09]
[Filed ARC 7761B (Notice ARC 7632B, IAB 3/11/09), IAB 5/6/09, effective 6/10/09]
[Filed ARC 8225B (Notice ARC 8043B, IAB 8/12/09), IAB 10/7/09, effective 11/11/09]
[Filed ARC 8551B (Notice ARC 8354B, IAB 12/2/09), IAB 2/24/10, effective 3/31/10]
[Filed ARC 9103B (Notice ARC 8944B, IAB 7/28/10), IAB 9/22/10, effective 10/27/10]
[Filed ARC 9308B (Notice ARC 9197B, IAB 11/3/10), IAB 12/29/10, effective 2/2/11]
[Filed ARC 9966B (Notice ARC 9856B, IAB 11/16/11), IAB 1/11/12, effective 2/15/12]

[Filed ARC 0557C (Notice ARC 0452C, IAB 11/14/12), IAB 1/9/13, effective 2/13/13]
[Filed ARC 1250C (Notice ARC 1162C, IAB 10/30/13), IAB 12/25/13, effective 1/29/14]
[Filed ARC 1303C (Notice ARC 1231C, IAB 12/11/13), IAB 2/5/14, effective 3/12/14]
[Filed ARC 1442C (Notice ARC 1362C, IAB 3/5/14), IAB 4/30/14, effective 6/4/14]
[Filed ARC 1545C (Notice ARC 1469C, IAB 5/28/14), IAB 7/23/14, effective 8/27/14]
[Filed ARC 1767C (Notice ARC 1682C, IAB 10/15/14), IAB 12/10/14, effective 1/14/15]

◊ Two or more ARCs

[1] Inadvertently omitted IAC 12/20/95; inserted 2/14/96.

CHAPTER 71
ASSESSMENT PRACTICES AND EQUALIZATION
[Prior to 12/17/86, Revenue Department[730]]

701—71.1(405,427A,428,441,499B) Classification of real estate.

71.1(1) *Responsibility of assessors.* All real estate subject to assessment by city and county assessors shall be classified as provided in this rule. It shall be the responsibility of city and county assessors to determine the proper classification of real estate. There can be only one classification per property under this rule, except as provided for in paragraph 71.1(5)*"b."* An assessor shall not assign one classification to the land and a different classification to the building or separate classifications to the land or separate classifications to the building. A building or structure on leased land is considered a separate property and may be classified differently than the land upon which it is located. The determination shall be based upon the best judgment of the assessor following the guidelines set forth in this rule and the status of the real estate as of January 1 of the year in which the assessment is made. The assessor shall classify property according to its present use and not according to its highest and best use. See subrule 71.1(9) for an exception to the general rule that property is to be classified according to its use. The classification shall be utilized on the abstract of assessment submitted to the department of revenue pursuant to Iowa Code section 441.45. See rule 701—71.8(428,441).

71.1(2) *Responsibility of boards of review, county auditors, and county treasurers.* Whenever local boards of review, county auditors, and county treasurers exercise assessment functions allowed or required by law, they shall classify property as provided in this rule and adhere to the requirements of this rule.

71.1(3) *Agricultural real estate.*

a. Generally. Agricultural real estate shall include all tracts of land and the improvements and structures located on them which are in good faith used primarily for agricultural purposes except buildings which are primarily used or intended for human habitation as defined in subrule 71.1(4). Land and the nonresidential improvements and structures located on it shall be considered to be used primarily for agricultural purposes if its principal use is devoted to the raising and harvesting of crops or forest or fruit trees, the rearing, feeding, and management of livestock, or horticulture, all for intended profit. Agricultural real estate shall also include woodland, wasteland, and pastureland, but only if that land is held or operated in conjunction with agricultural real estate as defined in paragraph *"a"* or *"b"* of this subrule.

b. Vineyards. Beginning with valuations established on or after January 1, 2002, vineyards and any buildings located on a vineyard and used in connection with the vineyard shall be classified as agricultural real estate if the primary use of the land and buildings is an activity related to the production or sale of wine.

c. Algae cultivation and production. Beginning with valuations established on or after January 1, 2013, real estate used directly in the cultivation and production of algae for harvesting as a crop for animal feed, food, nutritionals, or biofuel production shall be classified as agricultural real estate if the real estate is an enclosed pond or land which contains a photobioreactor. Pursuant to 2013 Iowa Acts, House File 632, section 1, a photobioreactor is not attached to land upon which it sits and shall not be assessed and taxed as real property.

(1) Determining direct usage. To determine if real estate is used "directly" in the cultivation and production of algae, one must first ensure that the real estate is used to perform activities that cultivate and produce algae and is not used for activities that occur before or after the cultivation and production of algae. If the real estate is used to perform activities for the cultivation and production of algae, to be "directly" so used, the real estate must be used to perform activities that are integral and essential to the cultivation and production, as distinguished from activities that are incidental, merely convenient to, or remote from cultivation and production. The fact that real estate is used for activities that are essential or necessary to the cultivation and production of algae does not mean that the real estate is also "directly" used in production. Even if the real estate is used for activities that are essential or necessary

to the cultivation and production of algae, if the activities are far enough removed from the cultivation or production of algae, the real estate would not qualify for the agricultural designation.

(2) Examples. The following are nonexclusive examples of real estate which would not be directly used in the cultivation and production of algae:

1. Real estate that is used to store, assemble, or repair machinery and equipment that is used for cultivation and production of algae.

2. Real estate that is used in the management, administration, advertising, or selling of algae.

3. Real estate that is used in the management, administration, or planning of the cultivation and production of algae.

4. Real estate that is used for packaging of the algae which has been produced and cultivated.

71.1(4) *Residential real estate.* Residential real estate shall include all lands and buildings which are primarily used or intended for human habitation containing fewer than three dwelling units, as that term is defined in subparagraph 71.1(5)*"a"*(5), including those buildings located on agricultural land. Buildings used primarily or intended for human habitation shall include the dwelling as well as structures and improvements used primarily as a part of, or in conjunction with, the dwelling. This includes but is not limited to garages, whether attached or detached, tennis courts, swimming pools, guest cottages, and storage sheds for household goods. "Used in conjunction with" means that the structure or improvement is located on the same parcel, on contiguous parcels, or on a parcel directly across a street or alley as the building or structure containing the dwelling and when marketed for sale would be sold as a unit. Residential real estate located on agricultural land shall include only buildings as defined in this subrule. Buildings for human habitation that are used as commercial ventures, including but not limited to hotels, motels, rest homes, and structures containing three or more separate living quarters shall not be considered residential real estate. However, regardless of the number of separate living quarters, multiple housing cooperatives organized under Iowa Code chapter 499A and land and buildings owned and operated by organizations that have received tax-exempt status under Section 501(c)(3) of the Internal Revenue Code, if the rental income from the property is not taxed as unrelated business income under Iowa Code section 422.33(1A), shall be considered residential real estate.

An apartment in a horizontal property regime (condominium) referred to in Iowa Code chapter 499B which is used or intended for use for human habitation shall be classified as residential real estate regardless of who occupies the apartment. Existing structures shall not be converted to a horizontal property regime unless building code requirements have been met.

71.1(5) *Multiresidential real estate.* Multiresidential real estate shall include all lands and buildings which are primarily used or intended for human habitation containing three or more separate dwelling units as well as structures and improvements used primarily as a part of, or in conjunction with, the dwelling units. For purposes of this rule, "used in conjunction with" means that the structure or improvement is located on the same parcel, on contiguous parcels, or on a parcel directly across a street or alley as the building or structure containing the dwelling units and when marketed for sale would be sold as a unit. Multiresidential real estate shall include that portion of a building that is used for human habitation and a proportionate share of the land upon which the building is situated, regardless of the number of dwelling units located in the building, if the use for human habitation is not the primary use of the building and such building is not otherwise classified as residential property. Multiresidential real estate shall include mobile home parks, manufactured home communities, land-leased communities, and assisted living facilities. Multiresidential real estate shall exclude properties referred to in Iowa Code section 427A.1(8) or properties subject to valuation under Iowa Code section 441.21(2).

a. *Definitions.* For purposes of this subrule, the following definitions apply:

(1) "Mobile home park" means any land upon which three or more mobile homes, as defined in Iowa Code section 435.1, or manufactured homes, as defined in Iowa Code section 435.1, or a combination of such homes, are placed on developed spaces and operated as a for-profit enterprise with water, sewer, or septic, and electrical services available. "Mobile home park" does not include homes where the owner of the land is providing temporary housing for the owner's employees or students.

(2) "Manufactured home community" means any site, lot, field, or tract of land under common ownership upon which ten or more occupied manufactured homes, as defined in Iowa Code section 435.1, are harbored, either free of charge or for revenue purposes, and shall include any building, structure, or enclosure used or intended for use as part of the equipment of the community. "Manufactured home community" shall not be construed to include homes, buildings, or other structures temporarily maintained by any individual, educational institution, or company on their own premises and used exclusively to house their own labor or students. "Manufactured home community" means the same as "land-leased community" as defined in Iowa Code sections 335.30A and 414.28A.

(3) "Land-leased community" means any site, lot, field, or tract of land under common ownership upon which ten or more occupied manufactured homes are harbored, either free of charge or for revenue purposes, and shall include any building, structure, or enclosure used or intended for use as part of the equipment of the land-leased community. "Land-leased community" shall not be construed to include homes, buildings, or other structures temporarily maintained by any individual, educational institution, or company on their own premises and used exclusively to house their own labor or students.

(4) "Assisted living facility" means real estate that provides housing with services which may include but are not limited to health-related care, personal care, and assistance with instrumental activities of daily living to three or more tenants in a physical structure which provides a homelike environment. "Assisted living facility" also includes a health care facility, as defined in Iowa Code section 135C.1, an elder group home, as defined in Iowa Code section 231B.1, a child foster care facility under Iowa Code chapter 237, or property used for a hospice program as defined in Iowa Code section 135J.1.

(5) "Dwelling unit" means an apartment, group of rooms, or single room which is occupied as separate living quarters or, if vacant, is intended for occupancy as separate living quarters, in which a tenant can live and sleep separately from any other persons in the building. A vacant dwelling unit that does not have active utility services is not considered to be intended for occupancy.

b. Dual classification. Assessors shall use dual classification on properties where the primary use of the property is commercial or industrial and a portion or portions of the property meet the requirements of the multiresidential classification. Properties where the primary use is multiresidential shall not receive a dual classification but instead shall be classified multiresidential for the entire parcel. There are only two permissible dual classifications: commercial/multiresidential and industrial/multiresidential. The assessor shall assign to that portion of the parcel that satisfies the requirements the classification of multiresidential property and to such other portions of the parcel the property classification for which such other portions qualify. The assessor shall maintain the valuation and assessment of property with a dual classification on one parcel record.

c. Section 42 housing. Property that has elected special valuation procedures under Iowa Code section 441.21(2) and is rented or leased to low-income individuals and families as authorized by Section 42 of the Internal Revenue Code shall not be classified as multiresidential property as required by 2014 Iowa Acts, House File 2466, section 3.

d. Short-term leases. A hotel, motel, inn or other building where rooms or dwelling units are usually rented for less than one month shall not be classified as multiresidential property.

71.1(6) *Commercial real estate.* Commercial real estate shall include all lands and improvements and structures located thereon which are primarily used or intended as a place of business where goods, wares, services, or merchandise is stored or offered for sale at wholesale or retail. Commercial realty shall also include hotels, motels, and property that is rented or leased to low-income individuals and families as authorized by Section 42 of the Internal Revenue Code and has not been withdrawn from Section 42 assessment procedures under Iowa Code section 441.21(2). Commercial real estate shall also include data processing equipment as defined in Iowa Code section 427A.1(1)*"j,"* except data processing equipment used in the manufacturing process. However, regardless of the number of separate living quarters or any commercial use of the property, single- and two-family dwellings, multiple housing cooperatives organized under Iowa Code chapter 499A, and land and buildings used primarily for human habitation and owned and operated by organizations that have received tax-exempt status under Section 501(c)(3) of the Internal Revenue Code, if the rental income from the property is not taxed as unrelated business income under Iowa Code section 422.33(1A), shall be classified as residential real estate.

An apartment in a horizontal property regime (condominium) referred to in Iowa Code chapter 499B which is used or intended for use as a commercial venture, other than leased for human habitation, shall be classified as commercial real estate. Existing structures shall not be converted to a horizontal property regime unless building code requirements have been met.

71.1(7) *Industrial real estate.*

a. Land and buildings.

(1) Industrial real estate includes land, buildings, structures, and improvements used primarily as a manufacturing establishment. A manufacturing establishment is a business entity in which the primary activity consists of adding to the value of personal property by any process of manufacturing, refining, purifying, the packing of meats, or the combination of different materials with the intent of selling the product for gain or profit. Industrial real estate includes land and buildings used for the storage of raw materials or finished products and which are an integral part of the manufacturing establishment, and also includes office space used as part of a manufacturing establishment.

(2) Whether property is used primarily as a manufacturing establishment and, therefore, assessed as industrial real estate depends upon the extent to which the property is used for the activities enumerated in subparagraph 71.1(7)*"a"*(1). Property in which the performance of these activities is only incidental to the property's primary use for another purpose is not a manufacturing establishment. For example, a grocery store in which bakery goods are prepared would be assessed as commercial real estate since the primary use of the grocery store premises is for the sale of goods not manufactured by the grocery and the industrial activity, i.e., baking, is only incidental to the store premises' primary use. However, property which is used primarily as a bakery would be assessed as industrial real estate even if baked goods are sold at retail on the premises since the bakery premises' primary use would be for an industrial activity to which the retail sale of baked goods is merely incidental. See *Lichty v. Board of Review of Waterloo,* 230 Iowa 750, 298 N.W. 654 (1941).

Similarly, a facility which has as its primary use the mixing and blending of products to manufacture feed would be assessed as industrial real estate even though a portion of the facility is used solely for the storage of grain, if the use for storage is merely incidental to the property's primary use as a manufacturing establishment. Conversely, a facility used primarily for the storage of grain would be assessed as commercial real estate even though a part of the facility is used to manufacture feed. In the latter situation, the industrial use of the property — the manufacture of feed — is merely incidental to the property's primary use for commercial purposes — the storage of grain.

(3) Property used primarily for the extraction of rock or mineral substances from the earth is not a manufacturing establishment if the only processing performed on the substance is to change its size by crushing or pulverizing. See *River Products Company v. Board of Review of Washington County,* 332 N.W.2d 116 (Iowa Ct. App. 1982).

b. Machinery.

(1) Machinery includes equipment and devices, both automated and nonautomated, which is used in manufacturing as defined in Iowa Code section 428.20. See *Deere Manufacturing Co. v. Beiner,* 247 Iowa 1264, 78 N.W.2d 527 (1956).

(2) Machinery owned or used by a manufacturer but not used within the manufacturing establishment is not assessed as industrial real estate. For example, "X" operates a factory which manufactures building materials for sale. In addition, "X" uses some of these building materials in construction contracts. The machinery which "X" would primarily use at the construction site would not be used in a manufacturing establishment and, therefore, would not be assessed as industrial real estate.

(3) Machinery used in manufacturing but not used in or by a manufacturing establishment is not assessed as industrial real estate. See *Associated General Contractors of Iowa v. State Tax Commission,* 255 Iowa 673, 123 N.W.2d 922 (1963).

(4) Where the primary function of a manufacturing establishment is to manufacture personal property that is consumed by the manufacturer rather than sold, the machinery used in the manufacturing establishment is not assessed as industrial real estate. See *Associated General Contractors of Iowa v. State Tax Commission,* 255 Iowa 673, 123 N.W.2d 922 (1963).

71.1(8) *Point-of-sale equipment.* As used in Iowa Code section 427A.1(1)*"j,"* the term "point-of-sale equipment" means input, output, and processing equipment used to consummate a sale and to record or process information pertaining to a sale transaction at the time the sale takes place and which is located at the counter, desk, or other specific point at which the transaction occurs. As used in this subrule, the term "sale" means the sale or rental of goods or services and includes both retail and wholesale transactions. Point-of-sale equipment does not include equipment used primarily for depositing or withdrawing funds from financial institution accounts.

71.1(9) *Housing development property.*

a. Ordinances adopted or amended on or after January 1, 2011.

(1) Adoption of ordinance by board of supervisors. A county board of supervisors may adopt an ordinance providing that property acquired and subdivided for development of housing on or after January 1, 2011, shall continue to be assessed for taxation in the manner it was assessed prior to the acquisition. Each lot shall continue to be taxed in the manner it was taxed prior to acquisition for housing until the lot is sold for construction or occupancy of housing or 5 years from the date of subdivision, whichever occurs first.

(2) Amendments to ordinance by board of supervisors. On or after July 27, 2011, the board of supervisors of a county may amend an ordinance adopted or otherwise made effective under 2011 Iowa Code Supplement section 405.1(1)*"a"* to extend the 5-year time period for a period of time not to exceed 5 years beyond the end of the original 5-year period established under 2011 Iowa Code Supplement section 405.1(1). Thus, the maximum special assessment time for ordinances adopted on or subsequent to January 1, 2011, is 10 years. An extension of an ordinance under 2011 Iowa Code Supplement section 405.1(1)*"a"* may apply to all or a portion of the property that was subject to the original ordinance.

(3) Amendments to ordinance by city council. A city council may adopt an ordinance, affecting all or a portion of the property located within the incorporated area of the city subject to the county ordinance adopted under 2011 Iowa Code Supplement section 405.1(1)*"a,"* extending the county ordinance not previously extended by the board of supervisors up to 5 years. An ordinance by a city council providing for an extension under 2011 Iowa Code Supplement section 405.1(3) shall be subject to the 5-year limitation under 2011 Iowa Code Supplement section 405.1(2). Thus, the maximum time to appeal an ordinance adopted on or subsequent to January 1, 2011, is 10 years if the city council amends an ordinance originally adopted by the county board of supervisors.

(4) Sale of lot; expiration of 5-year or extended period. Upon the sale of the lot for construction or occupancy for housing or upon the expiration of the 5-year or extended period, the property shall be assessed for taxation as residential or commercial multifamily property, whichever is applicable.

(5) Definition of "subdivide." As used in both paragraphs 71.1(9)*"a"* and *"b,"* "subdivide" means to divide a tract of land into three or more lots.

b. Ordinances adopted on or after January 1, 2004, but prior to January 1, 2011.

(1) Ordinances adopted under 2011 Iowa Code Supplement sections 405.1(1) and 405.1(2), to the extent such ordinances affect the assessment of property subdivided for development of housing on or after January 1, 2004, but before January 1, 2011, shall remain in effect or otherwise be made effective, and such ordinances:

1. Adopted under 2011 Iowa Code Supplement section 405.1(1), applicable to counties with a population of less than 20,000, shall be extended, from a period of 5 years, to apply to a period of 10 years from the date of subdivision.

2. Adopted under 2011 Iowa Code Supplement section 405.1(2), applicable to counties with a population of 20,000 or more, shall be extended, from a period of 3 years, to apply to a period of 8 years from the date of subdivision.

Each lot shall continue to be taxed in the manner it was taxed prior to acquisition for housing until the lot is sold for construction or occupancy of housing, or 10 years pursuant to paragraph "1" above or 8 years pursuant to paragraph "2" above (or the extended period, if applicable) from the date of subdivision, whichever occurs first.

(2) Amendments to ordinance by board of supervisors. On or after July 27, 2011, the board of supervisors of a county may amend an ordinance adopted under 2011 Iowa Code Supplement section

405.1(1) or 405.1(2) to extend the 10- and 8-year periods, respectively, for a period of time not to exceed 5 years beyond the end of the 10- and 8-year periods established under 2011 Iowa Code Supplement section 405.1(1)*"b."* Thus, the maximum special assessment time for ordinances adopted on or after January 1, 2004, but prior to January 1, 2011, for counties with a population of less than 20,000 shall be 15 years. For counties with a population of 20,000 or more, the maximum shall be 13 years.

(3) Amendments to ordinance by city council. A city council may adopt an ordinance, affecting all or a portion of the property located within the incorporated area of the city subject to the county ordinance adopted under 2011 Iowa Code Supplement sections 405.1(1) and 405.1(2), extending the county ordinances not previously extended by the board of supervisors up to 5 years. An ordinance by a city council providing for an extension under 2011 Iowa Code Supplement section 405.1(3) shall be subject to the 5-year limitation under 2011 Iowa Code Supplement section 405.1(2). Thus, the maximum time to appeal an ordinance adopted on or after January 1, 2004, but prior to January 1, 2011, for counties with a population of less than 20,000 shall be 15 years if the city council amends an ordinance originally adopted by the board of supervisors. For counties with a population of 20,000 or more, the maximum special assessment time shall be 13 years.

(4) Sale of lot. Upon the sale of the lot for construction or occupancy for housing or upon the expiration of the 10- or 8-year or extended period, the property shall be assessed for taxation as residential or commercial multifamily property, whichever is applicable.

71.1(10) *Assessment of platted lots.*

a. When a subdivision plat is recorded pursuant to Iowa Code chapter 354 on or after January 1, 2011, the individual lots within the subdivision plat shall not be assessed, in the aggregate, in excess of the total assessment of the land as acreage or unimproved property for 5 years after the recording of the plat or until the lot is actually improved with permanent construction, whichever occurs first. When an individual lot has been improved with permanent construction, the lot shall be assessed for taxation purposes as provided in Iowa Code chapters 428 and 441.

b. For subdivision plats recorded pursuant to Iowa Code chapter 354 (relating to division and subdivision of land) on or after January 1, 2004, but before January 1, 2011, the individual lots within the subdivision plat shall not be assessed, in the aggregate, in excess of the total assessment of the land as acreage or unimproved property for 8 years after the recording of the plat or until the lot is actually improved with permanent construction, whichever occurs first. When an individual lot has been improved with permanent construction, the lot shall be assessed for taxation purposes as provided in Iowa Code chapters 428 and 441.

c. 2011 Iowa Code Supplement section 441.72 does not apply to special assessment levies.

This rule is intended to implement Iowa Code sections 405.1, 427A.1, 428.4 and 441.22 and chapter 499B and Iowa Code Supplement section 441.21 as amended by 2002 Iowa Acts, House File 2584.

[**ARC 8559B**, IAB 3/10/10, effective 4/14/10; **ARC 0400C**, IAB 10/17/12, effective 11/21/12; **ARC 1196C**, IAB 11/27/13, effective 1/1/14; **ARC 1765C**, IAB 12/10/14, effective 1/14/15]

701—71.2(421,428,441) Assessment and valuation of real estate.

71.2(1) *Responsibility of assessor.* The valuation of real estate as established by city and county assessors shall be the actual value of the real estate as of January 1 of the year in which the assessment is made. New parcels of real estate created by the division of existing parcels of real estate shall be assessed separately as of January 1 of the year following the division of the existing parcel of real estate.

71.2(2) *Responsibility of other assessing officials.* Whenever local boards of review, county auditors, and county treasurers exercise assessment functions allowed or required by law, they shall follow the provisions of subrule 71.2(1) and rules 701—71.3(421,428,441) to 701—71.7(421,427A,428,441).

This rule is intended to implement Iowa Code sections 421.17, 428.4 and 441.21.

701—71.3(421,428,441) Valuation of agricultural real estate. Agricultural real estate shall be assessed at its actual value as defined in Iowa Code section 441.21 by giving exclusive consideration to its productivity and net earning capacity. In determining the actual value of agricultural real estate, city and county assessors shall use the Iowa Real Property Appraisal Manual and any other guidelines issued by the department of revenue pursuant to Iowa Code section 421.17(18).

71.3(1) *Productivity.*

a. In determining the productivity and net earning capacity of agricultural real estate, the assessor shall also use available data from Iowa State University, the United States Department of Agriculture (USDA) National Agricultural Statistics Service (NASS), the USDA Farm Service Agency (FSA), the Iowa department of revenue, or other reliable sources. The assessor shall also consider the results of a modern soil survey, if completed. The assessor shall determine the actual valuation of agricultural real estate within the assessing jurisdiction and distribute such valuation throughout the jurisdiction so that each parcel of real estate is assessed at its actual value as defined in Iowa Code section 441.21.

b. In distributing such valuation to each parcel under paragraph 71.3(1)*"a,"* the assessor shall adjust non-cropland. The adjustment shall be applied to non-cropland with a corn suitability rating (CSR) that is greater than 50 percent of the average CSR for cropland for the county. The adjustment shall be determined for each county based upon the five-year average difference in cash rent between non-irrigated cropland and pasture land as published by NASS. The assessor may utilize the USDA FSA-published Common Land Unit digital data or other reliable sources in determining non-cropland. Counties shall implement the adjustments under this paragraph on or before the 2017 assessment year. The department of revenue may, in a case involving hardship, extend the implementation of the adjustments required under this paragraph to the 2019 assessment year. No extension of time shall be granted unless the county makes a written request to the department of revenue for such action.

c. A taxpayer may apply to the county for the adjustment to non-cropland under paragraph 71.3(1)*"b"* beginning with the 2014 assessment and until the county's full implementation of this subrule. Upon application, and subsequent approval by the assessor, the county assessor shall adjust non-cropland as provided in paragraph 71.3(1)*"b."* Once a taxpayer applies for the adjustment, and upon approval, the assessor shall make the adjustment to the assessment year for which the application was submitted and until the county's full implementation of this subrule, without the need to reapply for the adjustment.

d. EXAMPLE. The following is an example of the calculation used to compute adjustment on land determined to be non-cropland with a CSR that is greater than 50 percent of the average CSR for cropland for the county:

Average county CSR rating for cropland	80 CSR
50% of average cropland CSR	40 CSR
Example of non-cropland soil 11b CSR rating	58 CSR
Non-cropland CSR points to be adjusted	58 − 40 = 18 CSR points
5-year average rent for non-irrigated cropland	$163.60
5-year average rent for pasture land	$48.30
Percent difference (rounded)	1 − ($48.30/$163.60) = 70%
Apply the percent difference to points to be adjusted	18 CSR points × (1 − .70) = 5.40 adjusted CSR points
Adjusted CSR non-cropland	40 + 5.40 = 45.40 adjusted CSR points

71.3(2) *Agricultural factor.* In order to determine a productivity value for agricultural buildings and structures, assessors must make an agricultural adjustment to the market value of these buildings and structures by developing an "agricultural factor" for the assessors' jurisdictions. The agricultural factor for each jurisdiction is the product of the ratio of the productivity and net earning capacity value per acre as determined under subrule 71.12(1) over the market value of agricultural land within the assessing jurisdiction. The resulting ratio is then applied to the actual value of the agricultural buildings and structures as determined under the Iowa Real Property Appraisal Manual prepared by the department. The agricultural factor must be applied uniformly to all agricultural buildings and structures in the assessing jurisdiction. As an example, if a building's actual value is $500,000 and the agricultural factor is 30 percent, the productivity value of that building is $150,000. See *H & R Partnership v. Davis County Board of Review,* 654 N.W.2d 521 (Iowa 2002). The 2007, 2008, and 2009 average of the market value of land will be used in determining the agricultural factor for assessment year 2011. A

five-year market value average of land for years used to determine the productivity formula will be used to determine the agricultural factor for assessment year 2013 and subsequent assessment years.

71.3(3) *Classification.* Land classified as agricultural real estate includes the land beneath any dwelling and appurtenant structures located on that land and shall be valued by the assessor pursuant to rule 701—71.3(421,428,441). An assessor shall not value a part of the land as agricultural real estate and a part of the land as if it is residential real estate.

This rule is intended to implement Iowa Code sections 421.17, 428.4 and 441.21.

[**ARC 8542B**, IAB 2/24/10, effective 3/31/10; **ARC 9478B**, IAB 4/20/11, effective 5/25/11; **ARC 0770C**, IAB 5/29/13, effective 7/3/13]

701—71.4(421,428,441) Valuation of residential real estate. Residential real estate shall be assessed at its actual value as defined in Iowa Code section 441.21.

In determining the actual value of residential real estate, city and county assessors shall use the appraisal manual issued by the department of revenue pursuant to Iowa Code section 421.17(18) as well as a locally conducted assessment/sales ratio study, an analysis of sales of comparable properties, and any other relevant data available.

This rule is intended to implement Iowa Code sections 421.17, 428.4 and 441.21.

701—71.5(421,428,441) Valuation of commercial real estate. Commercial real estate shall be assessed at its actual value as defined in Iowa Code section 441.21. In determining the actual value of commercial real estate, city and county assessors shall use the appraisal manual issued by the department of revenue pursuant to Iowa Code section 421.17(18) as well as a locally conducted assessment/sales ratio study, an analysis of sales of comparable properties, and any other relevant data available.

71.5(1) *Property of long distance telephone companies.* The director of revenue shall assess the property of long distance telephone companies as defined in Iowa Code section 476.1D(10) which property is first assessed for taxation on or after January 1, 1996, in the same manner as commercial real estate.

71.5(2) *Low-income housing subject to Section 42 of the Internal Revenue Code.*

a. Productive and earning capacity. In assessing property that is rented or leased to low-income individuals and families as authorized by Section 42 of the Internal Revenue Code which limits the amount that the individual or family pays for the rental or lease of units in the property, the assessor shall use the productive and earning capacity from the actual rents received as a method of appraisal and shall take into account the extent to which that use and limitation reduces the market value of the property.

b. Direct capitalization method. The income approach to valuation shall be applied using the direct capitalization method. The assessor may use the discounted cash flow method as a test of the reasonableness of the results produced by the direct capitalization method. The direct capitalization method of the income approach involves dividing the Net Operating Income (NOI) on a cash basis by an overall capitalization rate to derive an indication of the value of the property for the assessment year.

In applying the direct capitalization method, the assessor shall develop a normalized measure of annual NOI based on the productive and earning capacity of the development utilizing (1) the actual rent schedule applicable for each of the available units as of January 1 of the year of assessment indicating the actual rent to be paid by the resident plus any Section 8 rental assistance or other direct cash rental subsidy provided to the resident by federal, state or local rent subsidy programs as limited pursuant to Section 42 of the Internal Revenue Code, (2) a normal vacancy/collection allowance, (3) the prior year's actual and current year's projected annual operating expenses associated with the property, excluding noncash items such as depreciation and amortization, but including property taxes and those actual costs expected to be incurred and paid as required by Internal Revenue Code Section 42 regulations, provisions, and restrictions as applicable to the assessment year, and (4) an appropriate provision for replacement reserves.

If no separate line item is included for reserves for replacement in the historic income and expense data, then the maintenance and repair categories of the historic expense data must be itemized. For properties that have attained a normalized operating history, the NOI results of the prior three years (as represented in the statements variously named as the Income and Loss Statement, the Profit and

Loss Statement, the Income Statement, the Actual to Budget Comparison Statement, Balance Sheet, or some name variation of these) may be used to provide the basis for determining the normalized NOI used for purposes of applying the direct capitalization method for the year of assessment, provided an appropriate replacement reserve is included in the NOI determination and provided any additional costs required as a result of Section 42 regulation or compliance changes for the assessment year are included as an operating expense in the NOI determination. In addition, the assessor may utilize the current year operating budget to develop a measure of NOI for the assessment year. The assessor, in developing the measure of annual NOI on a cash basis, shall not consider as income any potential rental income differential that could otherwise be received from the property if the rents were not limited pursuant to Section 42 of the Internal Revenue Code, any tax credit equity, any tax credit value, or other subsidized financing.

c. *Filing of reports.* It shall be the responsibility of the property owner to file income and expense data with the local assessor by March 1 of each year. The assessor may require the filing of additional information if deemed necessary.

d. *Capitalization rate.* The overall capitalization rate to be used in applying the direct capitalization method for a Section 42 property is developed through the band-of-investment technique. The capitalization rate will be calculated annually by the Iowa department of revenue and distributed to all Iowa assessors by March 1. The capitalization rate is a composite rate weighted by the proportions of total property investment represented by debt and equity. The capital structure weights equity at 80 percent and debt at 20 percent unless actual market capital structure can be verified to the assessor. The yield, or market rate of return, for equity is calculated using the capital asset pricing model (CAPM). The yield for debt is equivalent to the average yield on 25-year Treasury bonds referred to as the Treasury long-term average rate. An example of the band-of-investment technique to be utilized is as follows:

	% to Total	Yield	Composite
Equity	80%	11.05%	8.84%
Debt	20%	5.94%	1.19%
	100%		10.03%

e. *Capital asset pricing model.* The capital asset pricing model (CAPM) is utilized to develop the equity rate. The formula is:

$$Re = B (Rm - Rf) + Rf$$

Where:
- Re = return on equity
- B = beta
- Rm = return on the market
- Rf = risk-free rate of return
- $Rm - Rf$ = market-risk premium

The beta is assumed to be 1 which indicates the risk level to be consistent with the market as a whole. The risk-free rate is calculated by finding the average of the three-month and six-month Treasury bill. The return on the market is calculated by taking the average of the return on the market for the Merrill Lynch Universe and Standard and Poor's 500 or by reference to other published secondary sources.

f. *Properties under construction.* For Section 42 properties under construction, the assessor may value the property by applying the percentage of completion to the replacement cost new (RCN) as calculated from the Iowa Real Property Appraisal Manual and adding the fair market value of the land. Alternatively, projected income and expense data may be utilized if available.

g. *Negative or minimal NOI.* If the Section 42 property shows a negative or minimal net operating income (NOI), the indicator of value as set forth in these rules shall not be utilized.

h. Eligibility withdrawn. The property owner shall notify the assessor when property is withdrawn from Section 42 eligibility under the Internal Revenue Code. The notification must be provided by March 1 of the assessment year or the owner is subject to a penalty of $500.

This rule is intended to implement Iowa Code sections 421.17, 428.4, 441.21 as amended by 2004 Iowa Acts, Senate File 2296, and 476.1D(10).

701—71.6(421,428,441) Valuation of industrial land and buildings. Industrial real estate shall be assessed at its actual value as defined in Iowa Code section 441.21.

In determining the actual value of industrial land and buildings, city and county assessors shall use the appraisal manual issued by the department of revenue pursuant to Iowa Code subsection 421.17(18), and any other relevant data available.

This rule is intended to implement Iowa Code sections 421.17, 428.4 and 441.21.

701—71.7(421,427A,428,441) Valuation of industrial machinery. Industrial machinery as referred to in Iowa Code section 427A.1(1)*"e"* shall include all machinery used in manufacturing establishments and shall be assessed as real estate even though such machinery might be assessed as personal property if not used in a manufacturing establishment.

In determining the actual value of industrial machinery assessed as real estate, the assessor shall give consideration to the "Industrial Machinery and Equipment Valuation Guide" issued by the department of revenue and any other relevant data available.

This rule is intended to implement Iowa Code sections 421.17, 427A.1, 428.4 and 441.21.

701—71.8(428,441) Abstract of assessment. Each city and county assessor shall submit annually to the director of revenue at the times specified in Iowa Code section 441.45 an abstract of assessment for the current year. The assessor shall use the form of abstract prescribed and furnished by the department of revenue, and shall enter on the abstract all information required by the department. However, the department may approve the use of a computer-prepared abstract if the data is essentially the same format as on the form prescribed by the department. The information entered on the abstract of assessment shall be reviewed and considered by the director of revenue in equalizing the valuations of classes of properties.

This rule is intended to implement Iowa Code sections 428.4 and 441.45.

701—71.9(428,441) Reconciliation report. The assessor's report of any revaluation required by Iowa Code section 428.4 shall be made on the reconciliation report prescribed and furnished by the department of revenue. The assessor shall enter on the report all information required by the department. The reconciliation report shall be a part of the abstract of assessment required by Iowa Code section 441.45 and shall be reviewed and considered by the director in equalizing valuations of classes of property.

This rule is intended to implement Iowa Code sections 428.4 and 441.45.

701—71.10(421) Assessment/sales ratio study.

71.10(1) *Basic data.* Basic data shall be that submitted to the department of revenue by county recorders and city and county assessors on forms prescribed and provided by the department, information furnished by parties to real estate transactions, and information obtained by field investigations made by the department of revenue.

71.10(2) *Responsibility of recorders and assessors.* County recorders and city and county assessors shall complete the prescribed forms as required by Iowa Code subsection 421.17(6) and rule 701—79.3(428A) in accordance with instructions issued by the department. Assessed values entered on the prescribed form shall be those established as of January 1 of the year in which the sale takes place.

71.10(3) *Normal sales.* All real estate transfers shall be considered by the department of revenue to be normal sales unless there exists definite information which would indicate the transfer was not an arms-length transaction or is of an excludable nature as provided in Iowa Code section 441.21.

This rule is intended to implement Iowa Code section 421.17.

701—71.11(441) Equalization of assessments by class of property. Commencing in 1977 and every two years thereafter, the director of revenue shall order the equalization of the levels of assessment of each class of property as provided in rule 701—71.12(441) by adding to or deducting from the valuation of each class of property, as reported to the department on the abstract of assessment and reconciliation report which is a part of the abstract, the percentage in each case as may be necessary to bring the level of assessment to its actual value as defined in Iowa Code section 441.21. Valuation adjustments shall be ordered if the director determines that the aggregate valuation of a class of property as reported on the abstract of assessment submitted by the assessor is at least 5 percent above or below the aggregate valuation for that class of property as determined by the director pursuant to rule 701—71.12(441). Equalization orders of the director shall be restricted to equalizing the aggregate valuations of entire classes of property among the several assessing jurisdictions. All classifications of real estate shall be applied uniformly throughout the state of Iowa.

Equalization percentage adjustments determined for residential realty located outside incorporated areas and not located on agricultural land shall apply to buildings located on agricultural land outside incorporated areas, which are primarily used or intended for human habitation, as defined in subrule 71.1(4).

Equalization percentage adjustments determined for residential realty located within incorporated cities and not located on agricultural land shall apply to buildings located on agricultural land within incorporated cities which are primarily used or intended for human habitation as defined in subrule 71.1(4).

This rule is intended to implement Iowa Code sections 441.21, 441.47, 441.48 and 441.49.

701—71.12(441) Determination of aggregate actual values.

71.12(1) *Agricultural real estate.*

a. *Use of income capitalization study.* The equalized valuation of agricultural realty shall be based upon its productivity and net earning capacity and shall be determined in accordance with the provisions of this subrule. Data used shall pertain to crops harvested during the five-year period ending with the calendar year in which assessments were last equalized. The equalized valuation of agricultural realty shall be determined for each county as follows:

(1) Computation of county acres. This information shall be obtained from the USDA National Agricultural Statistics Service.

1. Total acres in farms: Total acreage used for agricultural purposes.

2. Corn acres: Sum of corn acres harvested including silage, popcorn and acres planted for sorghum.

3. Oats and wheat acres: Sum of oats and wheat acres harvested.

4. Soybean acres: Soybean acres harvested.

5. Hay acres: All hay acres harvested.

6. Pasture acres: All pasture acres. Total pasture acres shall be determined by multiplying the total acres in farms reported by the USDA National Agricultural Statistics Service by the percentage which total pasture land as reported in the most recent U.S. Census of Agriculture bears to the total acreage in farmland also reported in the most recent U.S. Census of Agriculture. The amount of tillable and nontillable pasture acres shall be determined as follows:

1.	From the most recent U.S. Census of Agriculture obtain the following:		
	Cropland used only for pasture and grazing	_____	acres
	Woodland pasture	_____	acres
	Pasture land and rangeland (other than cropland and woodland pasture)	_____	acres
	TOTAL PASTURE LAND (total of above):	_____	acres
2.	Determine what percentage of the total pasture land is cropland used only for pasture:	_____	%
3.	Apply the percentage in "2" above to the 5-year average total acres of pasture as determined above to determine the pasture acres to be classified as tillable pasture. The remainder of the 5-year average shall be classified as nontillable pasture land.	_____	acres

7. Government programs: Determine the 5-year average acres participating in applicable government programs. Obtain data from the USDA Farm Service Agency, including but not limited to acreage devoted to the Payment-In-Kind (PIK), diverted and deficiency programs.

8. Other acres: The difference between the total acreage for land uses listed above and the total of all land in farms. Add the total of the corn, oats, soybeans, hay, tillable and nontillable pasture and diverted acres. Subtract this total from total acres in farms. The residual is classified as other acres.

(2) Computation of county yields. This information shall be obtained for each county from the USDA National Agricultural Statistics Service.

1. Corn yield (including silage): Number of bushels of corn harvested for grain per acre.
2. Oat yield (including wheat): Number of bushels of oats harvested per acre.
3. Soybean yield: Number of bushels per acre harvested.
4. Hay yield in tons: Number of tons per acre harvested.

(3) Computation of county gross income.

1. Corn: One-half of the 5-year average production multiplied by the 5-year average price received for corn.

2. Silage: One-half of the 5-year average number of acres devoted to the production of silage multiplied by the 5-year average production per acre for corn. The amount of production so determined shall be added to the 5-year average production for corn and included in the determination of the gross income for corn.

3. Soybeans: One-half of the 5-year average production multiplied by the 5-year average price received.

4. Oats: One-half of the 5-year average production of oats and wheat multiplied by the 5-year average price received for oats.

5. Price adjustment: For corn, soybeans, hay, and oats, the prices used shall be as obtained from the USDA National Agricultural Statistics Service and shall be adjusted to reflect any individual county price conditions prior to the 2007 crop year. For the 2007 crop year and later, the USDA National Agricultural Statistics Service district prices shall be used and shall be adjusted to reflect any individual county price conditions.

6. Government programs: Gross income shall be one-half of the 5-year average amount of cash payments or equivalent (such as PIK bushels) including but not limited to diverted, deficiency and PIK programs as reported by the USDA Farm Service Agency.

7. Hay: Gross income shall be a cash rent amount determined by multiplying the 5-year average number of acres devoted to hay by the product obtained by multiplying one-fourth of the 5-year average hay yield by the 5-year average price received for all types of hay.

8. Tillable pasture: Gross income shall be a cash rent amount determined by multiplying the 5-year average number of acres devoted to tillable pasture by the product obtained in "hay" above.

9. Nontillable pasture: Gross income shall be a cash rent amount determined by multiplying the 5-year average number of acres devoted to nontillable pasture by one-half the product obtained in "hay" above.

10. Other acres: Income shall be the product of the number of other acres multiplied by 17 percent of the net income per acre for all other land uses.

(4) Computation of county production costs. The following data and procedures shall be used to determine specific county production costs.

1. Basic average landlord production costs. Landlord production costs for corn, soybeans, oats, diverted acres, hay, tillable pasture, nontillable pasture, fertilizer costs, and facilities' costs shall be obtained for each year from Iowa State University.

2. Production cost adjustment. The production costs for corn, soybeans, oats, and hay are adjusted for each county by multiplying the difference between the 5-year state average yield per acre and the 5-year county average yield per acre by the 5-year average facilities' costs. If a county's yield exceeds the state yield, production costs are increased by this amount. If a county's yield is less than the state yield, production costs are reduced by this amount.

3. Fertilizer cost adjustment. The adjustment for fertilizer costs is determined as follows: Multiply the difference between the 5-year state average corn yield per acre and the 5-year county average corn yield per acre obtained from the USDA National Agricultural Statistics Service by the fertilizer cost amount per bushel determined by dividing the statewide average cost of landlord's share of fertilizer cost per acre from Iowa State University by the statewide average corn yield per acre to produce the corn fertilizer cost per bushel adjustment. This amount is then multiplied by the 5-year county average corn acres determined in (2) above.

4. Expense adjustments. If a county's 5-year average corn yield is greater than the state 5-year average corn yield, this amount is allowed as an additional expense. If the county's average is less than the state average, this amount is an expense reduction.

5. Liability insurance cost adjustment. The 5-year average per acre cost of obtaining tort liability insurance shall be determined.

(5) Computation of county net income. From the total gross income, subtract the total expenses. Divide the resulting total by the total number of acres.

(6) Computation of dwelling adjustment factor. The amount determined in (5) above shall be reduced by 10.6 percent.

(7) Computation of county tax adjustment. Subtract the 5-year average per acre real estate taxes levied for land and structures including drainage and levee district taxes but excluding those levied against agricultural dwellings from the amount determined in (6) above. Taxes shall be the tax levied for collection during the 5-year period as reported by county auditors, and reduced by the amount of the agricultural land tax credit.

(8) Calculation of county valuation per acre. Divide the net income per acre ((7) above) for each county as determined above by the capitalization rate specified in Iowa Code section 441.21. The quotient shall be the actual per acre equalized valuation of agricultural land and structures for the current equalization year.

b. Use of other relevant data. The director may also consider other relevant data, including field investigations conducted by representatives of the department of revenue, to determine the level of assessment of agricultural real estate.

c. Determination of value. The aggregate actual value of agricultural real estate in each county shall be determined by multiplying the equalized per acre value by the number of acres of agricultural real estate reported on the abstract of assessment for the current year, adjusted where necessary by the results of any field investigations conducted by the department of revenue and any other relevant data available.

71.12(2) *Residential real estate outside and within incorporated cities.*

a. Use of assessment/sales ratio study. Basic data shall be that set forth in rule 701—71.10(421) refined by eliminating any sales determined to be abnormal or by adjusting the sales to eliminate the effects of factors which resulted in the sales having been determined to be abnormal. The basic data used shall be the assessment/sales ratio study conducted for sales taking place during the calendar year immediately preceding the year in which the equalization order is issued. The director may also supplement the assessment/sales ratio study with appraisals made by department of revenue appraisal personnel for the year immediately preceding the year in which the equalization order is issued. The assessment/sales ratio study including relevant appraisals, if any, shall be used to determine the aggregate actual valuation of residential real estate in each assessing jurisdiction. The director of revenue may consider sales and appraisal data for prior years if it is determined the use of the sales and appraisal data for the year immediately preceding the year in which the equalization order is issued is insufficient to determine market value. If such sales and appraisal data for prior years is used, consideration shall be given for any subsequent changes in either assessed value or market value.

Assessors shall provide any known facts or circumstances regarding reported sales transactions and department appraisals which would indicate abnormal or unusual conditions or reporting discrepancies which would necessitate exclusion or adjustment of sales or appraisals from the determination of aggregate actual values. Assessors shall provide those facts within 45 days of receipt from the department of information concerning sales and appraisal data proposed for assessment/sales ratio and equalization purposes.

b. Use of other relevant data. The director may also consider other relevant data, including field investigations conducted by representatives of the department of revenue to determine the level of assessment of residential real estate.

c. Equalization appraisal selection procedures for residential real estate. Residential properties to be appraised by department of revenue personnel for use in supplementing the assessment/sales ratio study shall be selected for each jurisdiction in the following manner:

(1) The department appraiser assigned to the jurisdiction shall determine a systematic random sequence of numbers equal to the number of appraisals required and document the following steps.

1. The department appraiser assigned to the jurisdiction shall compute the interval number by dividing the total number of improved properties in the classification to be sampled by the number of appraisals to be performed.

EXAMPLE: In this example, ten appraisals are needed with a total of 1,397 improved residential units. Dividing 1,397 by 10, 139.7 is arrived at, which is rounded down to 139. This is the interval number.

2. The selection of the first sequence number shall be accomplished by having an available disinterested person randomly select a number from one through the interval number.

EXAMPLE: In this example a number from 1 to 139 is to be selected. The person randomly selected number 20.

3. The department appraiser shall develop a systematic sequence of numbers equal to the number of appraisals required. Starting with the randomly selected number previously picked by the disinterested person, add the interval number to this number and to each resulting number until a systematic sequence of numbers is obtained.

EXAMPLE: In this example ten appraisals are needed, so a sequence of ten numbers must be developed. Starting with number 20 and adding the interval number of 139 to it, each resulting number provides the following systematic sequence: 20, 159, 298, 437, 576, 715, 854, 993, 1,132, 1,271.

(2) Number of improved properties.

County jurisdictions—Put the name of each city or township having improved units in the classification to be sampled into a hat. Draw each one out of the hat and record its name in the order of its draw. Likewise, record the respective number of improved units for each. Then consecutively number all the improved units and document the procedure.

EXAMPLE:

City or Township	Number of Improved Residential Units	Code Numbers
Franklin Twp.	57	1-57
Pleasant View	160	58-217
Jackson Twp.	56	218-273
Johnston	300	274-573
Polk Twp.	110	574-683
Washington Twp.	114	684-797
Maryville	306	798-1103
Camden Twp.	110	1104-1213
Salem	184	1214-1397
Total	1,397	

(3) Determine the location of the improved properties selected for appraisal and document the procedure.

EXAMPLE:

City or Township	Number of Improved Residential Units	Code Numbers	Sequence Number	Entry on Rolls
Franklin Twp.	57	1-57	20	20
Pleasant View	160	58-217	159	102
Jackson Twp.	56	218-273		
Johnston	300	274-573	298,437	25,164
Polk Twp.	110	574-683	576	3
Washington Twp.	114	684-797	715	32
Maryville	306	798-1103	854,993	57,196
Camden Twp.	110	1104-1213	1132	29
Salem	184	1214-1397	1271	58
Total	1,397			

1. The department appraiser shall locate the property to be appraised by finding the relationship between the sequence numbers and the code numbers and identify the property.

EXAMPLE: The first sequence number is 20. Since the improved residential properties in Franklin Township have been assigned code numbers 1 to 57, sequence number 20 is in that location.

To identify this property, examine the Franklin Township assessment roll book and stop at the twentieth improved residential entry.

Document the parcel number, owner's name, and legal description of this property.

2. The department appraiser shall appraise the property selected unless it is ineligible because of any of the following restrictions:

Current year sale
Partial assessment
Prior equalization appraisal
Tax-exempt
Value established by court action
Value is not more than $10,000
Building on leased land

3. The department appraiser shall determine a substitute property if the originally selected one is ineligible. In ascending order, select code numbers until an eligible property is found.

EXAMPLE: If code number 20 is ineligible, use code number 21 as a substitute. If code number 21 is ineligible, use code number 22, etc., until an eligible property is found.

If the procedure described in 71.12(2)*"c"*(3)"3" moves the substitute property to another city or township, select substitute code numbers in descending order until an eligible property is found.

If the procedure described in the previous paragraph moves the substitute property to a preceding city or township, go back to the procedure of 71.12(2)*"c"*(3)"3" even if it moves the substitute property to a subsequent city or township.

4. Select an alternate property for the originally selected property which also would be eligible. This is necessary because at the time of appraisal the property may be found to be ineligible due to one of the restrictions in 71.12(2)*"c"*(3)"2." Alternate properties are selected by using the same procedure described in 71.12(2)*"c"*(3)"3."

5. Follow procedures 71.12(2)*"c"*(3), items "1" to "4," for each of the other originally selected sequence numbers.

71.12(3) *Multiresidential real estate.*

a. Use of assessment/sales ratio study. Basic data shall be that set forth in rule 701—71.11(421), refined by eliminating any sales determined to be abnormal or by adjusting same to eliminate the effects of factors which resulted in the sales having been determined to be abnormal. The basic data used shall be the assessment/sales ratio study conducted for sales taking place during the calendar year immediately preceding the year in which the equalization order is issued. The director may also supplement the assessment/sales ratio study with appraisals made by department of revenue appraisal personnel for the year immediately preceding the year in which the equalization order is issued. The assessment/sales ratio study including relevant appraisals, if any, shall be used to determine the aggregate actual valuation of multiresidential real estate in each assessing jurisdiction. The director of revenue may consider sales and appraisal data for prior years if it is determined the use of sales and appraisal data for the year immediately preceding the year in which the equalization order is issued is insufficient to determine market value. If such sales and appraisal data for prior years is used, consideration shall be given for any subsequent changes in either assessed value or market value.

b. Use of other relevant data. The director may also consider other relevant data, including field investigations conducted by representatives of the department of revenue, to determine the level of assessment of multiresidential real estate.

Assessors shall provide any known facts or circumstances regarding reported sales transactions and department appraisals which would indicate abnormal or unusual conditions or reporting discrepancies which would necessitate exclusion or adjustment of sales or appraisals from the determination of aggregate actual values. Assessors shall provide those facts within 45 days of receipt from the department of information concerning sales and appraisal data proposed for assessment/sales ratio and equalization purposes.

c. Equalization appraisal selection procedures for multiresidential real estate. To the extent possible, multiresidential properties to be appraised by department of revenue personnel for use in supplementing the assessment/sales ratio study shall be selected for each jurisdiction in the manner outlined in paragraph 71.12(4)*"c."*

The following restrictions shall render a property ineligible for the appraisal selection for multiresidential property:

Vacant building
Current-year sale
Partial assessment
Tax-exempt
Only one portion of a total property unit (example—a parking lot of a grocery store)
Value established by court action
Value is not more than $10,000
Building on leased land

71.12(4) *Commercial real estate.*

a. Use of assessment/sales ratio study. Basic data shall be that set forth in rule 701—71.10(421), refined by eliminating any sales determined to be abnormal or by adjusting same to eliminate the effects of factors which resulted in the sales having been determined to be abnormal. The basic data used shall be the assessment/sales ratio study conducted for sales taking place during the calendar year immediately preceding the year in which the equalization order is issued. The director may also supplement the assessment/sales ratio study with appraisals made by department of revenue appraisal personnel for the year immediately preceding the year in which the equalization order is issued. The assessment/sales ratio study including relevant appraisals, if any, shall be used to determine the aggregate actual valuation of commercial real estate in each assessing jurisdiction. The director of revenue may consider sales and appraisal data for prior years if it is determined the use of sales and appraisal data for the year immediately preceding the year in which the equalization order is issued is insufficient to determine market value. If such sales and appraisal data for prior years is used, consideration shall be given for any subsequent changes in either assessed value or market value. Properties receiving a dual classification with the primary use being commercial shall be included.

b. Use of other relevant data. The director may also consider other relevant data, including field investigations conducted by representatives of the department of revenue, to determine the level of assessment of commercial real estate. The diverse nature of commercial real estate precludes the use of a countywide or citywide income capitalization study.

Assessors shall provide any known facts or circumstances regarding reported sales transactions and department appraisals which would indicate abnormal or unusual conditions or reporting discrepancies which would necessitate exclusion or adjustment of sales or appraisals from the determination of aggregate actual values. Assessors shall provide those facts within 45 days of receipt from the department of information concerning sales and appraisal data proposed for assessment/sales ratio and equalization purposes.

c. Equalization appraisal selection procedures for commercial real estate. Commercial properties to be appraised by department of revenue personnel for use in supplementing the assessment/sales ratio study shall be selected for each jurisdiction in the manner outlined below. Properties receiving a dual classification with the primary use being commercial shall be included.

(1) The department appraiser assigned to the jurisdiction shall determine a systematic random sequence of numbers equal to the number of appraisals required and document the following steps.

1. The department appraiser shall compute the interval number by dividing the total number of improved properties in the classification to be sampled by the number of appraisals to be performed.

EXAMPLE: In this example, ten appraisals are needed with a total of 397 improved commercial units. Dividing 397 by 10, 39.7 is arrived at, which is rounded down to 39. This is the interval number.

2. The selection of the first sequence number shall be accomplished by having an available disinterested person randomly select a number from one through the interval number.

EXAMPLE: In this example a number from 1 to 39 is to be selected. The person randomly selected number 2.

3. The department appraiser shall develop a systematic sequence of numbers equal to the number of appraisals required. Starting with the randomly selected number previously picked by the disinterested person, add the interval number to this number and to each resulting number until a systematic sequence of numbers is obtained.

EXAMPLE: In this example ten appraisals are needed, so a sequence of ten numbers must be developed. Starting with number 2 and adding the interval number of 39 to it, each resulting number provides the following systematic sequence: 2, 41, 80, 119, 158, 197, 236, 275, 314, 353.

(2) Number of improved properties.

1. City jurisdictions—Utilizing the assessment book or a computer printout which follows the same order as the assessment book, consecutively number all the improved units and document the procedure.

2. County jurisdictions—Put the name of each city or township having improved units in the classification to be sampled into a hat. Draw each one out of the hat and record its name in the order

of its draw. Likewise, record the respective number of improved units for each. Then consecutively number all the improved units and document the procedure.

EXAMPLE:

City or Township	Number of Improved Commercial Units	Code Numbers
Franklin Twp.	4	1-4
Pleasant View	60	5-64
Jackson Twp.	9	65-73
Johnston	100	74-173
Polk Twp.	10	174-183
Washington Twp.	14	184-197
Maryville	106	198-303
Camden Twp.	10	304-313
Salem	84	314-397
Total	397	

(3) The department appraiser shall determine the location of the improved properties selected for appraisal and document the procedure.

EXAMPLE:

City or Township	Number of Improved Commercial Units	Code Numbers	Sequence Number	Entry on Rolls
Franklin Twp.	4	1-4	2	2
Pleasant View	60	5-64	41	37
Jackson Twp.	9	65-73		
Johnston	100	74-173	80,119,158	7,46,85
Polk Twp.	10	174-183		
Washington Twp.	14	184-197	197	14
Maryville	106	198-303	236,275	39,78
Camden Twp.	10	304-313		
Salem	84	314-397	314,353	1,40
Total	397			

1. The department appraiser shall locate the property to be appraised by finding the relationship between the sequence numbers and the code numbers and identify the property.

EXAMPLE: The first sequence number is 2. Since the improved commercial properties in Franklin Township have been assigned code numbers 1 to 4, sequence number 2 is in that location.

To identify this property, examine the Franklin Township assessment roll book and stop at the second improved commercial entry.

The department appraiser shall document the parcel number, owner's name, and legal description of this property.

2. The department appraiser shall appraise the property selected unless it is ineligible because of any of the following restrictions:

Vacant building

Current-year sale

Partial assessment

Prior equalization appraisal

Tax-exempt

Only one portion of a total property unit (example—a parking lot of a grocery store)

Value established by court action

Value is not more than $10,000

Building on leased land

3. The department appraiser shall determine a substitute property if the originally selected one is ineligible. In ascending order, select code numbers until an eligible property is found.

EXAMPLE: If code number 2 is ineligible, use code number 3 as a substitute. If code number 3 is ineligible, use code number 4, etc., until an eligible property is found.

If the procedure described in 71.12(4)*"c"*(3)"3" moves the substitute property to a city or township, select substitute code numbers in descending order until an eligible property is found.

If the procedure described in the previous paragraph moves the substitute property to a preceding city or township, go back to the procedure of 71.12(4)*"c"*(3)"3" even if it moves the substitute property to a subsequent city or township.

4. Select an alternate property for the originally selected property which also would be eligible. This is necessary because at the time of appraisal the property may be found to be ineligible due to one of the restrictions in 71.12(4)*"c"*(3)"2." Alternate properties are selected by using the same procedure described in 71.12(4)*"c"*(3)"3."

5. Follow procedures 71.12(4)*"c"*(3), items "1" to "4," for each of the other originally selected sequence numbers.

71.12(5) *Industrial real estate.* It is not possible to determine the level of assessment of industrial real estate by using accepted equalization methods. The lack of sales data precludes the use of an assessment/sales ratio study, the diverse nature of industrial real estate precludes the use of a countywide or citywide income capitalization study, and the limited number of industrial properties precludes the use of sample appraisals. The level of assessment of industrial real estate can only be determined by the valuation of individual parcels of industrial real estate. Any attempt to equalize industrial valuations by using accepted equalization methods would create an arbitrary result. However, under the circumstances set forth in Iowa Code subsection 421.17(10), the director may correct any errors in such assessments which are brought to the director's attention, including errors related to property with a dual classification if the primary use of the property is from the industrial portions.

71.12(6) *Centrally assessed property.* Property assessed by the director of revenue pursuant to Iowa Code chapters 428 and 433 to 438, inclusive, is equalized internally by the director in the making of the assessments. Further, the assessments are equalized with the aggregate valuations of other classes of property as a result of actions taken by the director of revenue pursuant to rule 701—71.11(441).

71.12(7) *Miscellaneous real estate.* Since it is not possible to use accepted equalization methods to determine the level of assessment of mineral rights and interstate railroad and toll bridges, these classes of property shall not be subject to equalization by the director of revenue. However, under the circumstances set forth in Iowa Code section 421.17(10), the director may correct any errors in assessments which are brought to the director's attention.

This rule is intended to implement Iowa Code sections 441.21, 441.47, 441.48 and 441.49.

[**ARC 7726B**, IAB 4/22/09, effective 5/27/09; **ARC 9478B**, IAB 4/20/11, effective 5/25/11; **ARC 1765C**, IAB 12/10/14, effective 1/14/15]

701—71.13(441) Tentative equalization notices. Prior to the issuance of the final equalization order to each county auditor, a tentative equalization notice providing for proposed percentage adjustments to the aggregate valuations of classes of property as set forth in rule 701—71.12(441) shall be mailed to the county auditor whose valuations are proposed to be adjusted. The tentative equalization notice constitutes the ten days' notice required by Iowa Code section 441.48.

This rule is intended to implement Iowa Code sections 441.47 and 441.48.

701—71.14(441) Hearings before the director.

71.14(1) *Protests.* Written or oral protest against the proposed percentage adjustments as set forth in the tentative equalization notice issued by the director of revenue shall be made only on behalf of the

affected assessing jurisdiction. The protests shall be made only by officials of the assessing jurisdiction, including, but not limited to, an assessing jurisdiction's city council or board of supervisors, assessor, or city or county attorney. An assessing jurisdiction may submit a written protest in lieu of making an oral presentation before the director, or may submit an oral protest supported by written documentation. Protests against the adjustments in valuation contained in the tentative equalization notices shall be limited to a statement of the error or errors complained of and shall include such facts as might lead to their correction. No other factors shall be considered by the director in reviewing the protests. Protests and hearings on tentative equalization notices before the director are excluded from the provisions of the Iowa Administrative Procedure Act governing contested case proceedings.

71.14(2) *Conduct of hearing.* The director shall schedule each hearing so as to allow the same amount of time within which each assessing jurisdiction can make its presentation. During the hearing each assessing jurisdiction shall be afforded the opportunity to present evidence relevant to its protest. The director or the director's designated representative shall preside at the hearing which shall be held at the time and place designated by the director or such other time and place as may be mutually agreed upon by the director and the protesting assessing jurisdiction.

This rule is intended to implement Iowa Code section 441.48.

701—71.15(441) Final equalization order. After the tentative equalization notice has been issued and an opportunity for a hearing described in rule 701—71.14(441) has been afforded, the director shall issue a final equalization order by mail to the county auditor. The order shall specify any percentage adjustments in the aggregate valuations of any class of property to be made effective for the county as of January 1 of the year in which the order is issued. The final equalization order shall be issued on or before October 1 unless for good cause it cannot be issued until after October 1. The final equalization order shall be implemented by the county auditor.

An assessing jurisdiction may appeal a final equalization order to the state board of tax review. The protest must be filed or postmarked not later than ten days after the date the final equalization order is issued.

This rule is intended to implement Iowa Code sections 441.48 and 441.49.

701—71.16(441) Alternative method of implementing equalization orders.

71.16(1) *Application for permission to use an alternative method.* A request by an assessing jurisdiction for permission to use an alternative method of applying the final equalization order must be made in writing to the director of revenue within ten days from the date the county auditor receives the final equalization order. The written request shall include the following information:

a. Facts evidencing the need to use an alternative method of implementing the final equalization order. Such facts shall clearly show that the proposed method is essential to ensure compliance with the provisions of Iowa Code section 441.21.

b. The exact methods to be employed in implementing the requested alternative method for each class of property.

c. The specific method of notifying affected property owners of the valuation changes.

d. Evidence that the alternative method will result in an aggregate property class valuation adjustment equivalent to that prescribed in the director's final equalization order.

The director of revenue shall review each written request for an alternative method and shall notify the assessing jurisdiction of acceptance or rejection of the proposed method by October 15. The assessing jurisdiction shall immediately inform the county auditor of the director's decision. The county auditor shall include a description of any approved alternative method in the required newspaper publication of the final equalization order. In those instances where the approved alternative method includes individual property owner notification, the publication shall not be considered proper notice to the affected property owners.

71.16(2) *Implementation of alternative method.* If an alternative method is approved by the director of revenue, any individual notification of property owners shall be completed by the assessor by not later than October 25.

71.16(3) *Appeal by property owners.* If an alternative method is approved by the director of revenue, the special session of the local board of review to hear equalization protests shall be extended to November 30. In such instances, protests may be filed up to and including November 4.

This rule is intended to implement Iowa Code section 441.49.

701—71.17(441) Special session of boards of review.

71.17(1) *Grounds for protest.* The only ground for protesting to the local board of review reconvened in special session pursuant to Iowa Code section 441.49 is that the application of the director's final equalization order results in a value greater than that permitted under Iowa Code section 441.21.

71.17(2) *Authority of board of review.* When in special session to hear protests resulting from equalization adjustments, the local board of review shall only act upon protests for those properties for which valuations have been increased as a result of the application of the director of revenue's final equalization order.

The local board of review may adjust valuations of those properties it deems warranted, but under no circumstance shall the adjustment result in a value less than that which existed prior to the application of the director's equalization order. The local board of review shall not adjust the valuation of properties for which no protests have been filed.

71.17(3) *Report of board of review.* In the report to the director of revenue of action taken by the local board of review in special session, the board of review shall report the aggregate valuation adjustments by class of property as well as all other information required by the director of revenue to determine if such actions may have substantially altered the equalization order.

71.17(4) *Meetings of board of review.* If the final equalization order does not increase the valuation of any class of property, the board of review is not required to meet during the special session. If the final equalization order increases the valuation of one or more classes of property but no protests are filed by the times specified in Iowa Code section 441.49, the board of review is not required to meet during the special session.

This rule is intended to implement Iowa Code sections 421.17(10) and 441.49.

701—71.18(441) Judgment of assessors and local boards of review. Nothing stated in these rules should be construed as prohibiting the exercise of honest judgment, as provided by law, by the assessors and local boards of review in matters pertaining to valuing and assessing of individual properties within their respective jurisdictions.

This rule is intended to implement Iowa Code sections 441.17 and 441.35.

701—71.19(441) Conference boards.

71.19(1) *Establishment and abolition of office.*

a. As referred to in Iowa Code section 441.1, the term "federal census" includes any special census conducted by the Bureau of the Census of the U.S. Department of Commerce as well as the Bureau's decennial census.

b. Within 60 days of receiving the certified results of a federal census indicating the population of a city having its own assessor has fallen below 10,000, the city council of the city shall repeal the ordinance providing for its own assessor.

c. Whenever the office of city assessor is abolished, all moneys in the assessment expense fund and the special appraiser fund shall be transferred to the appropriate accounts in the county assessor's office, and all equipment and supplies shall be transferred to the county assessor's office. Employees of the city assessor's office may, at the discretion of the county assessor, become employees of the county assessor. However, any deputy assessor of the city may not be appointed a deputy county assessor unless certified as eligible for appointment pursuant to Iowa Code sections 441.5 and 441.10.

71.19(2) *Membership.*

a. County conference boards. A county conference board consists of the county board of supervisors, the mayor of each incorporated city in the county whose property is assessed by the county assessor, and one member of the board of directors of each high school district in the county, provided

the member is a resident of the county. Members representing school districts serve one-year terms, and the board of directors each year must notify the clerk of the conference board of its representative on the conference board. A member of the board of directors of a school district may serve on the county conference board even though the member lives in a city having its own assessor (1978 O.A.G. 466).

b. City conference boards. A city conference board consists of the county board of supervisors, the city council, and the entire board of directors of each school district whose property is assessed by the city assessor.

71.19(3) *Voting.*

a. Votes on matters before a conference board shall be by units as provided in Iowa Code section 441.2. At least two members of each voting unit must be present in order for the unit to cast a vote (1960 O.A.G. 226). In the event the vote of the members of a voting unit ends in a tie, that unit shall not cast a vote on the particular matter before the conference board.

b. If a member of a conference board is absent from a meeting, the member's vote may not be cast by another person, except that a mayor pro tem as provided in Iowa Code section 372.14(3) may vote for the mayor when the mayor is absent from or unable to perform official duties.

This rule is intended to implement Iowa Code section 441.2.

701—71.20(441) Board of review.

71.20(1) *Membership.*

a. Occupation of members. One member of the county board of review must be actively engaged in farming as that member's primary occupation. However, it is not necessary for a board of review to have as a member one licensed real estate broker and one registered architect or person experienced in the building and construction field if the person cannot be located after a good faith effort to do so has been made by the conference board (1966 O.A.G. 416). In determining eligibility for membership on a board of review, a retired person is not considered to be employed in the occupation pursued prior to retirement, unless that person remains in reasonable contact with the former occupation, including some participation in matters associated with that occupation.

b. Residency of members. A person must be a resident of the assessor jurisdiction served to qualify for appointment as a member of the board of review. However, a member changing assessing jurisdiction residency after appointment to the board may continue to serve on the board until the member's current term of office expires.

c. Term of office. The term of office of members of boards of review shall be for six years and shall be staggered as provided in Iowa Code section 441.31. In the event of the death, resignation, or removal from office of a member of a board of review, the conference board or city council shall appoint a successor to serve the unexpired term of the previous incumbent.

d. Membership on other boards. A member of a board of review shall not at the same time serve on either the conference board or the examining board, or be an employee of the assessor's office (1948 O.A.G. 120, 1960 O.A.G. 226).

e. Number of members. A conference board or city council may at any time change the composition of a board of review to either three or five members. To reduce membership from five members to three members, the conference board or city council shall not appoint successors to fill the next two vacancies which occur (1970 O.A.G. 342). To increase membership from three members to five members, the conference board or city council shall appoint two additional members whose initial terms shall expire at such times so that no two board members' terms expire at the end of the same year. Also, the conference board or city council may increase the membership of the board of review by an additional two members if it determines that a large number of protests warrant the emergency appointments. If the board of review has ten members, not more than four additional members may be appointed by the conference board. The terms of the emergency members will not exceed two years.

f. Removal from office. A member of a board of review may be removed from office by the conference board or city council but only after specific charges have been filed by the conference board or city council.

g. Appointment of members. Members of a county board of review shall be appointed by the county conference board. Members of a city board of review shall be appointed by the city conference board in cities with an assessor or by the city council in cities without an assessor. A city without an assessor can only have a board of review if the population of the city is 75,000 or more. A city with a population of more than 125,000 may appoint a city board of review or request the county conference board to appoint a ten-member county board of review.

71.20(2) *Sessions of boards of review.*

a. It is mandatory that a board of review convene on May 1 and adjourn no later than May 31 of each year. However, if either date falls on a Saturday, Sunday, or legal holiday, the board of review shall convene or adjourn on the following Monday.

b. Extended session. If a board of review determines it will be unable to complete its work by May 31, it may request that the director of revenue extend its session up to July 15. The request must be signed by a majority of the membership of the board of review and must contain the reasons the board of review cannot complete its work by May 31. During the extended session, a board of review may perform the same functions as during its regular session unless specifically limited by the director of revenue.

c. Special session. If a board of review is reconvened by the director of revenue pursuant to Iowa Code section 421.17, the board of review shall perform those functions specified in the order of the director of revenue and shall perform no other functions.

71.20(3) *Actions initiated by boards of review.*

a. Internal equalization of assessments. A board of review in reassessment years as provided in Iowa Code section 428.4 has the power to equalize individual assessments as established by the assessor, but cannot make percentage adjustments in the aggregate valuations of classes of property (1966 O.A.G. 416). In nonreassessment years, a board of review can adjust the valuation of an entire class of property by adjusting all assessment by a uniform percentage. Nothing contained in this rule shall restrict the director from exercising the responsibilities set forth in Iowa Code section 421.17.

b. Omitted assessments. A board of review may assess for taxation any property which was not assessed by the assessor, including property which the assessor determines erroneously is not subject to taxation by virtue of enjoying an exempt status (*Talley v. Brown,* 146 Iowa 360,125 N.W. 248 (1910)).

c. Notice to taxpayers. If the value of any property is increased by a board of review or a board of review assesses property not previously assessed by the assessor, the person to whom the property is assessed shall be notified by regular mail of the board's action. The notification shall state that the taxpayer may protest the action by filing a written protest with the board of review within five days of the date of the notice. After at least five days have passed since notifying the taxpayer, the board of review shall meet to take final action on the matter, including the consideration of any protest filed. However, if the valuations of all properties within a class of property are raised or lowered by a uniform percentage in a nonreassessment year, notice to taxpayers need be provided only by newspaper publication as described in Iowa Code section 441.35.

71.20(4) *Appeals to boards of review.*

a. A board of review may act only upon written protests which have been filed with the board of review between April 16 and May 5, inclusive. In the event May 5 falls on a Saturday or Sunday, protests filed the following Monday shall be considered to have been timely filed. Protests postmarked by May 5 or the following Monday if May 5 falls on a Saturday or Sunday shall also be considered to have been timely filed. All protests must be in writing and signed by the taxpayer or the taxpayer's authorized agent. A written request for an oral hearing must be made at the time of filing the protest and may be made by checking the appropriate box on the form prescribed by the department of revenue. Protests may be filed for previous years if the taxpayer discovers that a mathematical or clerical error was made in the assessment, provided the taxes have not been fully paid or otherwise legally discharged. The protester may combine on one form assessment protests on parcels separately assessed if the same grounds are relied upon as the basis for protesting each separate assessment. If an oral hearing is requested on more than one of the protests, the person making the combined protests may request that the oral hearings

be held consecutively. A board of review may allow protests to be filed in electronic format. Protests transmitted electronically are subject to the same deadlines as written protests.

b. Grounds for protest. Taxpayers may protest to a board of review on one or more of the grounds specified in Iowa Code section 441.37. The grounds for protest and procedures for considering protests are as follows:

(1) The assessment is not equitable when compared with those of similar properties in the same assessing district. If this ground is a basis for the protest, the protest must contain the legal descriptions and assessments of the comparable properties. The comparable properties selected by the taxpayer must be located within the same assessing district as the property for which the protest has been filed (*Maytag Co. v. Partridge,* 210 N.W.2d 584 (Iowa 1973)). In considering a protest based upon this ground, the board of review should examine carefully all information used to determine the assessment of the subject property and the comparable properties and determine that those properties are indeed comparable to the subject property. It is the responsibility of the taxpayer to establish that the other properties submitted are comparable to the subject property and that inequalities exist in the assessments (*Chicago & N. W. Ry. Co. v. Iowa State Tax Commission,* 257 Iowa 1359,137 N.W.2d 246(1965)).

(2) The property is assessed at more than its actual value as defined in Iowa Code section 441.21. If this ground is used, the taxpayer must state both the amount by which the property is overassessed and the amount considered to be the actual value of the property.

(3) The property is not assessable and should be exempt from taxation. If using this ground, taxpayers must state the reasons why it is felt the property is not assessable.

(4) There is an error in the assessment. An error in the assessment would most probably involve erroneous mathematical computations or errors in listing the property. The improper classification of property also constitutes an error in the assessment. If this ground is used, the taxpayer's protest must state the specific error alleged.

A board of review must determine:

1. If an error exists, and
2. How the error might be corrected.

(5) There is fraud in the assessment. If this ground of protest is used, the taxpayer's protest must state the specific fraud alleged, and the board of review must first determine if there is validity to the taxpayer's allegation. If it is determined there is fraud in the assessment, the board of review shall take action to correct the assessment and report the matter to the director of revenue.

(6) There has been a change of value of real estate since the last assessment. The board of review must determine that the value of the property as of January 1 of the current year has changed since January 1 of the previous reassessment year. This is the only ground upon which a protest pertaining to the valuation of a property can be filed in a year in which the assessor has not assessed or reassessed the property pursuant to Iowa Code section 428.4. In a year subsequent to a year in which a property has been assessed or reassessed pursuant to Iowa Code section 428.4, a taxpayer cannot protest to the board of review based upon actions taken in the year in which the property was assessed or reassessed (*James Black Dry Goods Co. v. Board of Review for City of Waterloo,* 260 Iowa 1269,151 N.W.2d 534 (1967); *Commercial Merchants Nat'l Bank and Trust Co. v. Board of Review of Sioux City,* 229 Iowa 1081, 296 N.W. 203 (1941)).

c. Disposition of protests. After reaching a decision on a protest, the board of review shall give the taxpayer written notice of its decision. The notice shall contain the following information:

(1) The valuation and classification of the property as determined by the board of review.

(2) If the protest was based on the ground the property was not assessable, the notice shall state whether the exemption is allowed and the value at which the property would be assessed in the absence of the exemption.

(3) The specific reasons for the board's decision with respect to the protest.

(4) That the board of review's decision may be appealed to the district court within 20 days of the board's adjournment or May 31, whichever date is later. If the adjournment date is known, the date shall be stated on the notice. If the adjournment date is not known, the notice shall state the date will be no

earlier than May 31. Notice of the appeal shall be served on the chairperson, presiding officer, or clerk of the board of review after the written notice of appeal has been filed with the clerk of district court.

This rule is intended to implement Iowa Code sections 441.31 to 441.37 and Iowa Code Supplement section 441.38 as amended by 2006 Iowa Acts, House File 2794.

701—71.21(421,17A) Property assessment appeal board.

71.21(1) *Establishment, membership, and location of the property assessment appeal board.*

a. A statewide property assessment appeal board is created for the purpose of establishing a consistent, fair, and equitable property assessment appeal process. The statewide property assessment appeal board is established within the department of revenue. The board's principal office shall be in the office of the department of revenue.

b. The property assessment appeal board shall consist of three members appointed by the governor and subject to confirmation by the senate. The members shall be appointed to staggered six-year terms beginning initially on January 1, 2007, and ending as provided in Iowa Code section 69.19. Members' subsequent terms shall begin and end as provided in Iowa Code section 69.19. The governor shall appoint from the members a chairperson, subject to confirmation by the senate, of the board to a two-year term. Vacancies on the board shall be filled for the unexpired portion of the term in the same manner as regular appointments are made.

Each member of the property assessment appeal board shall be qualified by virtue of at least two years' experience in the area of government, corporate, or private practice relating to property appraisal and property tax administration. Two members of the board shall be certified real property appraisers and one member shall be an attorney practicing in the area of state and local taxation or property tax appraisals. No more than two members of the board may be from the same political party as that term is defined in Iowa Code section 43.2.

c. The property assessment appeal board shall organize by appointing a secretary who shall take the same oath of office as the members of the board. The board may employ additional personnel as it finds necessary. All personnel employed by the board shall be considered state employees and are subject to the merit system provisions of Iowa Code chapter 8A, subchapter IV.

71.21(2) *Powers and duties of the board.* The property assessment appeal board shall:

a. Review any final decision, finding, ruling, determination, or order of a local board of review relating to assessment protests, valuation, or application of an equalization order.

b. Affirm, reverse, or modify a final decision, finding, ruling, determination, or order of a local board of review.

c. Order the payment or refund of property taxes in a matter over which the board has jurisdiction.

d. Grant other relief or issue writs, orders, or directives that the board deems necessary or appropriate in the process of disposing of a matter over which the board has jurisdiction.

e. Subpoena documents and witnesses and administer oaths.

f. Adopt administrative rules pursuant to Iowa Code chapter 17A for the administration and implementation of its powers, including rules for practice and procedure for protests filed with the board, the manner in which hearings on appeals of assessments shall be conducted, filing fees to be imposed by the board, and for the determination of the correct assessment of property which is the subject of an appeal.

g. Adopt administrative rules pursuant to Iowa Code chapter 17A necessary for the preservation of order and the regulation of proceedings before the board, including forms or notice and the service thereof, which rules shall conform as nearly as possible to those in use in the courts of this state.

h. If an appeal to district court is taken from the action of the property assessment appeal board, notice of appeal shall be served as an original notice on the secretary of the board after the written notice of appeal has been filed with the clerk of district court.

71.21(3) *General counsel.* The property assessment appeal board shall employ a competent attorney to serve as its general counsel, and assistants to the general counsel as it finds necessary for the full and efficient discharge of its duties. The general counsel is the attorney for, and legal advisor of, the board. The general counsel or an assistant to the general counsel shall provide the necessary legal advice to the

board in all matters and shall represent the board in all actions instituted in a court challenging the validity of a rule or order of the board. The general counsel shall devote full time to the duties of the office. During employment as general counsel to the board, the counsel shall not be a member of a political committee, contribute to a political campaign, participate in a political campaign, or be a candidate for partisan political office. The general counsel and assistants to the general counsel shall be considered state employees and are subject to the merit system provisions of Iowa Code chapter 8A, subchapter IV.

71.21(4) *Compensation.* The members of the property assessment appeal board shall receive a salary set by the governor within a range established by the general assembly. The members of the board shall be considered state employees for purposes of salary and benefits and are subject to the merit system provisions of Iowa Code chapter 8A, subchapter IV. Members of the board and any employees of the board, when required to travel in the discharge of official duties, shall be paid their actual and necessary expenses incurred in the performance of their duties.

71.21(5) *Applicability and scope.* These subrules set forth herein govern the proceedings for all cases in which the property assessment appeal board (board) has jurisdiction to hear appeals from the action of a local board of review. For the purpose of these subrules, the following definitions shall apply:

"Appellant" means the party filing the notice of appeal with the secretary of the property assessment appeal board.

"Board" means the property assessment appeal board as created by Iowa Code section 421.1A and governed by Iowa Code chapter 17A and section 441.37A.

"Department" means the Iowa department of revenue.

"Local board of review" means the board of review as defined by Iowa Code section 441.31.

"Party" means each person or entity named or admitted as a party or properly seeking and entitled as of right to be admitted as a party.

"Presiding officer" means the chairperson, member or members of the property assessment appeal board who preside over an appeal of proceedings before the property assessment appeal board.

"Secretary" means the secretary for the property assessment appeal board.

71.21(6) *Appeal and jurisdiction.* Notice of appeal confers jurisdiction for the board. The procedure for appeals and parameters for jurisdiction are as follows:

a. Jurisdiction is conferred upon the board by written notice of appeal given to the secretary. The written notice of appeal shall include a petition setting forth the basis of the appeal and the relief sought. The written notice of appeal shall be filed with the secretary within 20 calendar days after the date of adjournment of the local board of review or May 31, whichever is later. Appeals postmarked within this time period shall also be considered to have been timely filed. The appellant may appeal the action of the board of review relating to protests of assessment, valuation, or the application of an equalization order. No new grounds in addition to those set out in the protest to the local board of review can be pleaded, but additional evidence to sustain those grounds may be introduced. The appeal is a contested case.

b. Notice of appeal may be delivered in person, mailed by first-class mail, delivered to an established courier service for immediate delivery, or e-mailed to the board at paab@iowa.gov.

c. For an appeal filed by e-mail to be timely, it must be received by the board by 11:59 p.m. on the last day for filing as established within the time period set forth in paragraph 71.21(6)*"a."*

71.21(7) *Form of appeal.* The notice of appeal shall include:

a. The appellant's name, mailing address, e-mail address, and telephone number;

b. The address of the property being appealed and its parcel number;

c. A copy of the letter of disposition by the local board of review;

d. A short and plain statement of the claim showing that the appellant is entitled to relief;

e. The relief sought; and

f. If the party is represented by an attorney or designated representative, the attorney or designated representative's name, mailing address, e-mail address, and telephone number.

71.21(8) *Scope of review.* The board shall determine anew all questions arising before the local board of review which relate to the liability of the property to assessment or the amount thereof. There shall be no presumption as to the correctness of the valuation of the assessment appealed from. The burden of proof is on the appellant; however, when the appellant offers competent evidence by at least two

disinterested witnesses that the market value of the property is less than the market value determined by the assessor, the burden of proof thereafter shall be upon the party seeking to uphold the valuation.

71.21(9) *Notice to local board of review.* The secretary shall mail a copy of the appellant's written notice of appeal and petition to the local board of review whose decision is being appealed. Notice to all affected taxing districts shall be deemed to have been given when written notice is provided to the local board of review.

71.21(10) *Certification by local board of review.*

a. *Initial certification.* Within 21 days after notice of appeal is given, the local board of review shall certify to the board the original notice of assessment if any, the petition to the board of review, and a copy of the board of review's letter of disposition.

The local board of review shall also submit to the board in writing the name, address, telephone number, and e-mail address of the attorney representing the local board of review before the board. The local board of review may request additional time to certify a copy of its record to the board by submitting a request in writing or by e-mail to the board at paab@iowa.gov.

b. *Full record certification prior to hearing.* At least 21 calendar days prior to the contested case hearing, the local board of review shall certify to the board the complete property record card for the subject property, the protest hearing minutes of the local board of review kept pursuant to Iowa Code chapter 21, and any information provided to or considered by the local board of review as part of the protest. The local board of review shall also send a copy of the full record to the opposing party.

71.21(11) *Docketing.* Appeals shall be assigned consecutive docket numbers. Records consisting of the case name and the corresponding docket number assigned to the case shall be maintained by the secretary. The records of each case shall also include each action and each act done, with the proper dates as follows:

a. The title of the appeal including jurisdiction and parcel identification number;

b. Brief statement of the grounds for the appeal and the relief sought;

c. Postmarked date of the local board of review's letter of disposition;

d. The manner and date/time of service of notice of appeal;

e. Date of notice of hearing;

f. Date of hearing; and

g. The decision by the board, or other disposition of the case, and date thereof.

71.21(12) *Appearances.* Any party may appear and be heard on its own behalf, or by its designated representative. A designated representative shall file a notice of appearance with the board for each case in which the representative appears for a party. Filing a motion or pleadings on behalf of a party shall be equivalent to filing a notice of appearance. A designated representative who is not an attorney shall also file a power of attorney. When acting as a designated representative on behalf of a party, the designated representative acknowledges that the representative has read and will abide by the board's rules.

71.21(13) *Service and filing of papers.* After the notice of appeal and petition have been filed, all motions, pleadings, briefs, and other papers shall be served upon each of the parties of record contemporaneously with their filing with the board.

a. *Service on a party—how and when made.* The parties may agree to exchange the certified record, motions, pleadings, briefs, exhibits, and any other papers with each other electronically or via any other means. All documents are deemed served at the time they are delivered in person to the opposing party; delivered to an established courier service for immediate delivery; mailed by first-class mail, so long as there is proof of mailing; or sent electronically if the parties have agreed to service by such means.

b. *Filing with the board—when made.* Except where otherwise provided by law, a document is deemed filed at the time it is delivered to the board; delivered to an established courier service for immediate delivery; mailed by first-class mail, so long as there is proof of mailing; or sent by e-mail as permitted by the applicable subrules of this rule.

(1) For most filings in a docket made with the board, only an original is required.

(2) For exhibits and other documents to be introduced at hearing, three copies are required. For a nonoral submission, only one copy is required.

(3) The board or presiding officer may request additional copies.

c. *Proof of mailing.* Proof of mailing includes: a legible United States Postal Service postmark on the envelope, a certificate of service, a notarized affidavit, or a certification in substantially the following form:

> I certify under penalty of perjury and pursuant to the laws of Iowa that, on (date of mailing), I mailed copies of (describe document) addressed to the Property Assessment Appeal Board and to the names and addresses of the parties listed below by depositing the same in a (United States post office mailbox with correct postage properly affixed).
>
> (Date) (Signature)

71.21(14) *Motions.* No technical form for motions is required. All prehearing motions shall be in writing, shall be filed with the secretary and shall contain the reasons and grounds supporting the motion. The board shall act upon such motions as justice may require. Motions based on matters which do not appear of record shall be supported by affidavit. Any party may file a written response to a motion no later than 10 days from the date the motion is filed, unless the time period is extended or shortened by the board or presiding officer. The presiding officer may schedule oral argument on any motion.

a. Motions pertaining to the hearing, except motions for summary judgment, must be filed and served at least 10 days prior to the date of hearing unless there is good cause for permitting later action or the time for such action is lengthened or shortened by the board or presiding officer.

b. Motions for summary judgment. Motions for summary judgment shall comply with the requirements of Iowa Rule of Civil Procedure 1.981 and shall be subject to disposition according to the requirements of that rule to the extent such requirements are not inconsistent with the provisions of this rule or any other provision of law governing the procedure in contested cases.

Motions for summary judgment must be filed and served no later than 90 days after service of the notice of appeal, unless good cause is shown for a later filing. Good cause may include, but is not limited to, information the moving party obtains through discovery. Any party resisting the motion shall file and serve a resistance within 20 days, unless otherwise ordered by the board or presiding officer, from the date a copy of the motion was served. The time fixed for hearing or nonoral submission shall be not less than 30 days after the filing of the motion, unless a shorter time is ordered by the presiding officer. A summary judgment order rendered on all issues in a contested case is subject to rehearing pursuant to subrule 71.21(34).

71.21(15) *Authority of board to issue procedural orders.* The board may issue preliminary orders regarding procedural matters. The secretary shall mail copies of all procedural orders to the parties.

71.21(16) *Members participating.* Each appeal may be considered by one or more members of the board, and the chairperson of the board may assign members to consider appeals. If the appeal is considered by less than the full membership of the board, the determination made by such members shall be forwarded to the full board for approval, rejection, or modification. Decisions shall affirm, modify, or reverse the decision, order, or directive from which an appeal was made. In order for the decision to be valid, a majority of the board must concur on the decision on appeal.

71.21(17) *Notice of hearing.* Unless otherwise designated by the board, the hearing shall be held in the hearing room of the board. All hearings are open to the public. If a hearing is requested, the secretary shall mail a notice of hearing to the parties at least 30 days prior to the hearing. The parties may jointly waive the 30-day notice by following the provisions of subrule 71.21(18). The notice of hearing shall contain the following information:

a. A statement of the date, time, and place of the hearing;

b. A statement of legal authority and jurisdiction under which the hearing is to be held;

c. A reference to the particular sections of the statutes and rules involved;

d. That the parties may appear and present oral arguments;

e. That the parties may submit evidence and briefs;

f. That the hearing will be electronically recorded by the board;

g. That a party may obtain a certified court reporter for the hearing at the party's own expense;

h. That audio visual aids and equipment are to be provided by the party intending to use them;

i. A statement that, upon submission of the appeal, the board will take the matter under advisement. A letter of disposition will be mailed to the parties; and

j. A compliance notice required by the Americans with Disabilities Act (ADA).

71.21(18) *Waiver of 30-day notice.* The parties to the appeal may jointly waive the 30-day written notice requirement for a hearing. The waiver must be in writing or by e-mail to paab@iowa.gov and signed by the parties or their designated representatives. By waiving notice, the parties acknowledge they are ready to proceed with the hearing. The parties will be contacted when a hearing date is available but notice for said date may be less than 30 days. The parties will have the right to accept or reject the hearing date.

71.21(19) *Transcript of hearing.* All hearings shall be electronically recorded. Any party may provide a certified court reporter at the party's own expense. Any party may request a transcription of the hearing. The board reserves the right to impose a charge for copies and transcripts.

71.21(20) *Continuance.* Any hearing may be continued for "good cause." Requests for continuance prior to the hearing shall be in writing or by e-mail to paab@iowa.gov and promptly filed with the secretary of the board immediately upon "the cause" becoming known. An emergency oral continuance may be obtained from the board or presiding officer based on "good cause" and at the discretion of the board or presiding officer. In determining whether to grant a continuance, the board or presiding officer may consider:

a. Prior continuances;

b. The interests of all parties;

c. The likelihood of informal settlement;

d. The existence of an emergency;

e. Any objection;

f. Any applicable time requirements;

g. The existence of a conflict in the schedules of counsel, parties, or witnesses;

h. The timeliness of the request; and

i. Other relevant factors, including the existence of a scheduling order.

71.21(21) *Telephone proceedings.* The board or presiding officer may conduct a telephone conference in which all parties have an opportunity to participate to resolve preliminary procedural motions. Other proceedings, including contested case hearings, may be held by telephone. The board will determine the location of the parties and witnesses for telephone hearings. The convenience of the witnesses or parties, as well as the nature of the case, will be considered when the location is chosen.

71.21(22) *Disqualification of board member.* A board member or members must, on their own motion or on a motion from a party in the proceeding, withdraw from participating in an appeal if there are circumstances that warrant disqualification.

a. A board member or members shall withdraw from participation in the making of any proposed or final decision in an appeal before the board if that member is involved in one of the following circumstances:

(1) Has a personal bias or prejudice concerning a party or a representative of a party;

(2) Has personally investigated, prosecuted, or advocated in connection with the appeal, the specific controversy underlying that appeal, or another pending factually related matter, or a pending factually related controversy that may culminate in an appeal involving the same parties;

(3) Is subject to the authority, direction, or discretion of any person who has personally investigated, prosecuted, or advocated in connection with that matter, the specific controversy underlying the appeal, or a pending factually related matter or controversy involving the same parties;

(4) Has acted as counsel to any person who is a private party to that proceeding within the past two years;

(5) Has a personal financial interest in the outcome of the appeal or any other significant personal interest that could be substantially affected by the outcome of the appeal;

(6) Has a spouse or relative within the third degree of relationship who:

1. Is a party to the appeal, or an officer, director or trustee of a party;

2. Is a lawyer in the appeal;

3. Is known to have an interest that could be substantially affected by the outcome of the appeal; or

4. Is likely to be a material witness in the appeal; or

(7) Has any other legally sufficient cause to withdraw from participation in the decision making in that appeal.

b. Motion for disqualification. If a party asserts disqualification on any appropriate ground, including those listed in paragraph *"a,"* the party shall file a motion supported by an affidavit pursuant to Iowa Code section 17A.11. The motion must be filed as soon as practicable after the reason alleged in the motion becomes known to the party. If, during the course of the hearing, a party first becomes aware of evidence of bias or other grounds for disqualification, the party may move for disqualification, but must establish the grounds by the introduction of evidence into the record.

If a majority of the board determines that disqualification is appropriate, the board member shall withdraw. If a majority of the board determines that withdrawal is not required, the board shall enter an order to that effect. A party asserting disqualification may seek an interlocutory appeal and a stay as provided under 701—Chapter 7.

c. The term "personally investigated" means taking affirmative steps to interview witnesses directly or to obtain documents or other information directly. The term "personally investigated" does not include general direction and supervision of assigned investigators, unsolicited receipt of information which is relayed to assigned investigators, review of another person's investigative work product in the course of determining whether there is probable cause to initiate a proceeding, or exposure to factual information while performing other functions of the board, including fact gathering for purposes other than investigation of the matter which culminates in an appeal. Factual information relevant to the merits of an appeal received by a person who later serves as presiding officer or a member of the board shall be disclosed if required by Iowa Code section 17A.11 and this rule.

d. Withdrawal. In a situation where a presiding officer or any other board member knows of information which might reasonably be deemed to be a basis for disqualification and decides voluntary withdrawal is unnecessary, that person shall submit the relevant information for the record by affidavit and shall provide for the record a statement of the reasons for the determination that withdrawal is unnecessary.

71.21(23) *Consolidation and severance.* The board or presiding officer may determine if consolidation or severance of issues or proceedings should be performed in order to efficiently resolve matters on appeal before the board.

a. *Consolidation.* The presiding officer may consolidate any or all matters at issue in two or more appeal proceedings where:

(1) The matters at issue involve common parties or common questions of fact or law;

(2) Consolidation would expedite and simplify consideration of the issues involved; and

(3) Consolidation would not adversely affect the rights of any of the parties to those proceedings.

b. *Severance.* The presiding officer may, for good cause shown, order any appeal proceedings or portions of the proceedings severed.

71.21(24) *Withdrawal.* An appellant may withdraw the appeal prior to the hearing. Such a withdrawal of an appeal must be in writing or by e-mail to paab@iowa.gov and signed by the appellant or the appellant's designated representative. Unless otherwise provided, withdrawal shall be with prejudice and the appellant shall not be able to refile the appeal. Within 20 days of the board granting a withdrawal of appeal, the appellant may make a motion to reopen the file and rescind the withdrawal based upon fraud, duress, undue influence, or mutual mistake.

71.21(25) *Prehearing conference.* An informal conference of parties may be ordered at the discretion of the board or presiding officer or at the request of any party for any appropriate purpose. Any agreement reached at the conference shall be made a part of the record in the manner directed by the board or presiding officer.

71.21(26) *Scheduling orders.*

a. *When required.* For appeals involving properties classified commercial or industrial and assessed at $2 million or more, a scheduling order shall be sent to the parties to set dates for discovery,

designation of witnesses, filing of motions, exchange of evidence, and a contested case hearing. In any other appeal, the parties may jointly enter a scheduling order or the board may, on its own motion, issue a scheduling order. The dates established in a scheduling order under this subrule shall supersede any dates set forth in other subrules of this rule.

b. Prehearing conference. A party may request a prehearing conference to resolve scheduling issues.

c. Modification. The parties may jointly agree to modify a scheduling order. If one party seeks to modify a scheduling order, the party must show good cause for the modification.

d. Failure to comply. A party that fails to comply with a scheduling order shall be required to show good cause for failing to comply with the order and that the other party is not substantially prejudiced. Failing to comply with a scheduling order may result in sanctions including, but not limited to, the exclusion of evidence or dismissal of the appeal.

71.21(27) *Hearing procedures.* A party to the appeal may request a hearing, or the appeal may proceed without a hearing. The local board of review may be present and participate at such hearing. Hearings may be conducted by the board or by one or more of its members.

a. Authority of presiding officer. The presiding officer presides at the hearing and may rule on motions, require briefs, issue a decision, and issue such orders and rulings as will ensure the orderly conduct of the proceedings.

b. Representation. Parties to the appeal have the right to participate or to be represented in all hearings. Any party may be represented by an attorney or by a designated representative.

c. Participation in hearing. The parties to the appeal have the right to introduce evidence relevant to the grounds set out in the protest to the local board of review. Subject to terms and conditions prescribed by the presiding officer, parties have the right to introduce evidence on issues of material fact, cross-examine witnesses present at the hearing as necessary for a full and true disclosure of the facts, present evidence in rebuttal, and submit briefs and engage in oral argument.

d. Decorum. The presiding officer shall maintain the decorum of the hearing and may refuse to admit or may expel anyone whose conduct is disorderly.

e. Conduct of the hearing. The presiding officer shall conduct the hearing in the following manner:

(1) The presiding officer shall give an opening statement briefly describing the nature of the proceedings;

(2) The parties shall be given an opportunity to present opening statements;

(3) The parties shall present their cases in the sequence determined by the presiding officer;

(4) Each witness shall be sworn or affirmed by the presiding officer and shall be subject to examination and cross-examination. The presiding officer may limit questioning in a manner consistent with law; and

(5) When all parties and witnesses have been heard, parties may be given the opportunity to present final arguments.

71.21(28) *Discovery.*

a. Discovery procedure. Discovery procedures applicable in civil actions under the Iowa Rules of Civil Procedure are available to parties in cases before the board. Unless lengthened or shortened by these rules, the board or presiding officer, time periods for compliance with discovery shall be as provided in the Iowa Rules of Civil Procedure.

b. Discovery motions. Prior to filing any motion related to discovery, parties shall make a good-faith effort to resolve discovery disputes without the involvement of the board or presiding officer. Any motion related to discovery shall allege that the moving party has made a good-faith attempt to resolve the discovery issues involved with the opposing party. Opposing parties shall be given the opportunity to respond within 10 days of the filing of the motion unless the time is shortened by order of the board or presiding officer. The board or presiding officer may rule on the basis of the written motion and any response or may have a hearing or other proceedings on the motion.

c. Admissibility of evidence. Evidence obtained in discovery may be used in the case proceeding if that evidence would otherwise be admissible in that proceeding.

71.21(29) *Subpoenas.*

a. Issuance of Subpoena for Witness.

(1) An agency subpoena shall be issued to a party on request. The request shall be in writing and include the name, address, and telephone number of the requesting party. In absence of good cause for permitting later action, a request for subpoena must be received at least 10 days before the scheduled hearing.

(2) Except to the extent otherwise provided by law, parties are responsible for service of their own subpoenas and payment of witness fees and mileage expenses.

b. Issuance of Subpoena for Production of Documents.

(1) An agency subpoena shall be issued to a party on request. The request shall be in writing and include the name, address, and telephone number of the requesting party. In absence of good cause for permitting later action, a request for subpoena must be received at least 20 days before the scheduled hearing.

(2) Except to the extent otherwise provided by law, parties are responsible for service of their own subpoenas.

c. Motion to quash or modify. Upon motion, the board or presiding officer may quash or modify a subpoena for any lawful reason in accordance with the Iowa Rules of Civil Procedure.

71.21(30) *Evidence.*

a. Admissibility. The presiding officer shall rule on admissibility of evidence and may take official notice of facts in accordance with all applicable requirements of law.

b. Stipulations. Stipulation of facts by the parties is encouraged. The presiding officer may make a decision based on stipulated facts.

c. Scope of admissible evidence. Evidence in the proceeding shall be confined to the issues contained in the notice from the board prior to the hearing, unless the parties waive their right to such notice or the presiding officer determines that good cause justifies expansion of the issues. Admissible evidence is that which, in the opinion of the board, is determined to be material, relevant, or necessary for the making of a just decision. Irrelevant, immaterial or unduly repetitious evidence may be excluded. A finding shall be based upon the kind of evidence on which reasonably prudent persons are accustomed to rely for the conduct of their serious affairs, and may be based upon such evidence even if it would be inadmissible in a jury trial. Hearsay evidence is admissible. The rules of privilege apply in all proceedings before the board.

d. Exhibits, exhibit and witness lists, and briefs. The party seeking admission of an exhibit must provide an opposing party with an opportunity to examine the exhibit prior to the ruling on its admissibility. Copies of documents to be used as evidence, exhibit lists, and a list of witnesses intended to be called at hearing shall be served on the opposing party at least 21 calendar days prior to the hearing, unless the time period is extended or shortened by the board or presiding officer or the parties have entered a scheduling order under subrule 71.21(26). All exhibits and briefs admitted into evidence shall be appropriately marked and be made part of the record. The appellant shall mark exhibits with consecutive numbers. The appellee shall mark exhibits with consecutive letters.

e. Objections. Any party may object to specific evidence or may request limits on the scope of examination or cross-examination. Such an objection shall be accompanied by a brief statement of the grounds upon which the objection is based. The objection, the ruling on the objection, and the reasons for the ruling shall be noted in the record. The presiding officer may rule on the objection at the time it is made or may reserve a ruling until the written decision.

f. Offers of proof. Whenever evidence is ruled inadmissible, the party offering that evidence may submit an offer of proof on the record. The party making the offer of proof for excluded oral testimony shall briefly summarize the testimony or, with permission of the presiding officer, present the testimony. If the excluded evidence consists of a document or exhibit, it shall be marked as part of an offer of proof and inserted in the record.

71.21(31) *Settlements.* Parties to a case may propose to settle all or some of the issues in the case at any time prior to the issuance of a final decision. A settlement of an appeal shall be jointly signed by the parties, or their designated representatives, and filed in writing or by an electronic copy e-mailed

to paab@iowa.gov. The board will not approve settlements unless the settlement is reasonable in light of the whole record, consistent with law, and in the public interest. Board adoption of a settlement constitutes the final decision of the board on issues addressed in the settlement.

71.21(32) *Records access.*

a. *Location of record.* A request for access to a record should be directed to the custodian.

b. *Office hours.* Open records shall be made available during all customary office hours, which are 8 a.m. to 4:30 p.m. Monday through Friday excluding holidays.

c. *Request for access.* Requests for access to open records may be made in writing, in person, by e-mail, or by telephone. Requests shall identify the particular records sought by name or description in order to facilitate the location of the record. Mail, e-mail, and telephone requests shall include the name, address, and telephone number of the person requesting the information. A person shall not be required to give a reason for requesting an open record.

d. *Response to requests.* Access to an open record shall be provided promptly upon request unless the size or nature of the request makes prompt access infeasible. If the size or nature of the request for access to an open record requires time for compliance, the custodian shall comply with the request as soon as feasible. Access to an open record may be delayed for one of the purposes authorized by Iowa Code section 22.8(4) or 22.10(4). The custodian shall promptly give notice to the requester of the reason for any delay in access to an open record and an estimate of the length of that delay and, upon request, shall promptly provide that notice to the requester in writing. The custodian of a record may deny access by members of the public to the record only on the grounds that such a denial is warranted under Iowa Code sections 22.8(4) and 22.10(4), or that it is a confidential record, or that its disclosure is prohibited by a court or board order. Access by members of the public to a confidential record is limited by law and, therefore, may generally be provided only in accordance with the applicable provisions of law.

e. *Security of record.* No person may, without permission from the secretary, search or remove any record from board files. Examination and copying of board records shall be supervised by the secretary. Records shall be protected from damage and disorganization.

f. *Copying.* A reasonable number of copies of an open record may be made in the board's office. If photocopy equipment is not available, the custodian shall permit examination of the record and shall arrange to have copies promptly made elsewhere.

g. *Fees.*

(1) When charged. The board may charge fees in connection with the examination or copying of records only if the fees are authorized by law. To the extent permitted by applicable provisions of law, the payment of fees may be waived when the imposition of fees is inequitable or when a waiver is in the public interest.

(2) Copying and postage costs. Price schedules for published materials and for photocopies of records supplied by the board are available from the custodian. Copies of records may be made by or for members of the public on board photocopy machines or from electronic storage systems at cost as determined and made available by the custodian. When the mailing of copies of records is requested, the actual costs of such mailing may also be charged to the requester.

(3) Supervisory fee. An hourly fee may be charged for actual board expenses in supervising the examination and copying of requested records when the supervision time required is in excess of one hour. The custodian shall provide the hourly fees to be charged for supervision of records during examination and copying. That hourly fee shall not be in excess of the hourly wage of a board clerical employee who ordinarily would be appropriate and suitable to perform this supervisory function.

(4) Advance deposits.

1. When the estimated total fee chargeable under this paragraph exceeds $25, the custodian may require a requester to make an advance payment to cover all or a part of the estimated fee.

2. When a requester has previously failed to pay a fee chargeable under this paragraph, the custodian may require advance payment of the full amount of any estimated fee before the custodian processes a new request from that requester.

71.21(33) *Motion to reopen records.* The board or presiding officer, on the board's or presiding officer's own motion or on the motion of a party, may reopen the record for the reception of further evidence. A motion to reopen the record may be made anytime prior to the issuance of a final decision.

71.21(34) *Rehearing and reconsideration.*

a. *Application for rehearing or reconsideration.* Any party to a case may file an application for rehearing or reconsideration of the final decision. The application for rehearing or reconsideration shall be filed within 20 days after the final decision in the case is issued.

b. *Contents of application.* Applications for rehearing or reconsideration shall specify the findings of fact and conclusions of law claimed to be erroneous, with a brief statement of the alleged grounds of error. Any application for rehearing or reconsideration asserting that evidence has arisen since the final order was issued as a ground for rehearing or reconsideration shall present the evidence by affidavit that includes an explanation of the competence of the person to sponsor the evidence and a brief description of the evidence sought to be included.

c. *Notice to other parties.* A copy of the application shall be timely mailed by the applicant to all parties of record not joining therein. If the application does not contain a certificate of service, the board shall serve copies on all parties.

d. *Requirements for objections to applications for rehearing or reconsideration.* An answer or objection to an application for rehearing or reconsideration must be filed within 14 days of the date the application was filed with the board, unless otherwise ordered by the board.

e. *Disposition.* Any application for a rehearing shall be deemed denied unless the board grants the application within 20 days after its filing.

71.21(35) *Dismissal.* If a party fails to appear or participate in an appeal hearing after proper service of notice, the presiding officer may dismiss the appeal unless a continuance is granted for good cause. If an appeal is dismissed for failure to appear, the board shall have no jurisdiction to consider any subsequent appeal on the appellant's protest.

71.21(36) *Waivers.*

a. In response to a request, or on its own motion, the board may grant a waiver from a rule adopted by the board, in whole or in part, as applied to a specific set of circumstances, if the board finds, based on clear and convincing evidence, that:

(1) The application of the rule would pose an undue hardship on the person for whom the waiver is requested;

(2) The waiver would not prejudice the substantial rights of any person;

(3) The provisions of the rule subject to a petition for waiver are not specifically mandated by statute or another provision of law; and

(4) Substantially equal protection of public health, safety, and welfare will be afforded by means other than that prescribed in the rule for which the waiver is requested.

b. Persons requesting a waiver may submit their request in writing. The waiver request must state the relevant facts and reasons the requester believes will justify the waiver, if the reasons have not already been provided to the board in another pleading.

c. Grants or denials of waiver requests shall contain a statement of the facts and reasons upon which the decision is based. The board may condition the grant of the waiver on such reasonable conditions as appropriate to achieve the objectives of the particular rule in question. The board may at any time cancel a waiver upon appropriate notice and opportunity for hearing.

71.21(37) *Appeals of board decisions.* A party may seek judicial review of a decision rendered by the board by filing a written notice of appeal with the clerk of the district court where the property is located within 20 days after the letter of disposition of the appeal by the board is mailed to the appellant. Iowa Code chapter 17A applies to judicial review of the board's final decision. The filing of the petition does not itself stay execution or enforcement of the board's final decision. The board may grant a stay on appropriate terms or other temporary remedies during the pendency of judicial review.

71.21(38) *Stays of agency actions.* Any party to a contested case proceeding may petition the board for a stay or other temporary remedies pending judicial review of all or part of that proceeding. The petition shall state the reasons justifying a stay or other temporary remedy. In determining whether

to grant a stay, the board or presiding officer shall consider the factors listed in Iowa Code section 17A.19(5)*"c."* A stay may be vacated by the board upon application of any other party.

71.21(39) *Time requirements.* Time shall be computed as provided in Iowa Code section 4.1(34).

71.21(40) *Judgment of the board.* Nothing in this rule should be construed as prohibiting the exercise of honest judgment, as provided by law, by the board in matters pertaining to valuation and assessment of individual properties.

This rule is intended to implement Iowa Code sections 421.1, 421.1A as amended by 2013 Iowa Acts, Senate File 295, division VI, 421.2, 441.37A as amended by 2013 Iowa Acts, Senate File 295, division VI, 441.38 and 441.49 and chapter 17A.

[**ARC 9877B**, IAB 11/30/11, effective 1/4/12; **ARC 1306C**, IAB 2/5/14, effective 3/12/14; **ARC 1496C**, IAB 6/11/14, effective 5/20/14]

701—71.22(428,441) Assessors.

71.22(1) *Conflict of interest.* An assessor shall not act as a private appraiser, or as a real estate broker or option agent in the jurisdiction in which serving as assessor (1976 O.A.G. 744).

71.22(2) *Listing of property.*

a. Forms. Assessors may design and use their own forms in lieu of those prescribed by the department of revenue provided that the forms contain all information contained on the prescribed form, are not substantially different from the prescribed form, and are approved by the director of revenue.

b. Assessment rolls. Assessment rolls must be prepared in duplicate for each property in a reassessment year as defined in Iowa Code section 428.4. However, the copy of the roll does not have to be issued to a taxpayer unless there is a change in the assessment or the taxpayer requests the issuance of the duplicate copy.

c. Whenever a date specified in Iowa Code chapter 441 falls on a Saturday, Sunday, or legal holiday, the action required to be completed on or before that date shall be considered to have been timely completed if performed on or before the following day which is not a Saturday, Sunday, or holiday.

d. Buildings erected or improvements made by a person other than the owner of the land on which they are located are to be assessed to the owner of the buildings or improvements. Unpaid taxes are a lien on the buildings or improvements and not a lien on the land on which they are located.

71.22(3) *Notice of protest.* If a protest or appeal is filed with the board of review, property assessment appeal board, or district court against the assessment of property valued at $5 million or more, the assessor shall provide notice to the school district in which the property is located within ten days of the filing of the protest or the appeal, as applicable.

This rule is intended to implement Iowa Code chapter 428 and Iowa Code chapter 441 as amended by 2006 Iowa Acts, House File 2797.

701—71.23(421,428,441) Valuation of multiresidential real estate. Multiresidential real estate shall be assessed at a percent of its actual value as defined in Iowa Code section 441.21. In determining the actual value of multiresidential real estate, city and county assessors shall use the appraisal manual issued by the department of revenue pursuant to Iowa Code section 421.17(18) as well as a locally conducted assessment/sales ratio study, an analysis of sales of comparable properties, and any other relevant data.

This rule is intended to implement Iowa Code sections 421.17, 428.4 and 441.21 as amended by 2013 Iowa Acts, Senate File 295.

[**ARC 1765C**, IAB 12/10/14, effective 1/14/15]

701—71.24(421,428,441) Valuation of dual classification property. Real estate with a dual classification of commercial/multiresidential or industrial/multiresidential shall be assessed at its actual value as defined in Iowa Code section 441.21.

71.24(1) *Allocation of dual classification values.* The assessor shall value as a whole properties that have portions classified as multiresidential and portions classified as commercial or industrial using the methodology found in rule 701—71.23(421,428,441). After the assessor has assigned a value to the property, the value shall be allocated between the two classes of property based on the appropriate appraisal methodology. The assessor shall allocate land value proportionately by class.

71.24(2) *Notice of valuation.* The valuation notice issued pursuant to Iowa Code section 441.23 shall include a breakdown of the valuation by class for the current year and the prior year.

71.24(3) *Protest of assessment.* The valuation and assessment of property with a dual classification shall be considered one assessment, and any protest of assessment brought under Iowa Code section 441.37 or subsequent appeal must be made on the entire assessment. Protests of assessments on the valuation of only one class of property are not permitted. The board of review shall review the valuation in total as both classifications are subject to the board's adjustment in any review proceeding. Likewise, any tribunal or court reviewing the board's decision shall base its review on the entire assessment.

This rule is intended to implement Iowa Code sections 421.17, 428.4 and 441.21 as amended by 2013 Iowa Acts, Senate File 295.

[**ARC 1765C**, IAB 12/10/14, effective 1/14/15]

701—71.25(441,443) Omitted assessments.

71.25(1) *Property subject to omitted assessment.*

a. Land and buildings. An omitted assessment can be made only if land or buildings were not listed and assessed by the assessor. The failure to list and assess an entire building is an omission for which an omitted assessment can be made even if the land upon which the building is located has been listed and assessed. See *Okland v. Bilyeu,* 359 N.W.2d 412 (Iowa 1984). However, the failure to consider the value added as a result of an improvement made does not constitute an omission for which an omitted assessment can be made if the building or land to which the improvement was made has been listed and assessed.

b. Previously exempt property. Property which has been erroneously determined to be exempt from taxation may be restored to taxation by the making of an omitted assessment. See *Talley v. Brown,* 146 Iowa 360, 125 N.W. 243 (1910). An omitted assessment is also made to restore to taxation previously exempt property which ceases to be eligible for an exemption.

71.25(2) *Officials authorized to make an omitted assessment.*

a. Local board of review. A local board of review may make an omitted assessment of property during its regular session only if the property was not listed and assessed as of January 1 of the current assessment year. For example, during its regular session which begins May 1, 1986, a local board of review may make an omitted assessment only of property that was not assessed by the assessor as of January 1, 1986. During that session, the board of review could not make an omitted assessment for an assessment year prior to 1986.

b. County auditor and local assessor. The county auditor and local assessor may make an omitted assessment. However, no omitted assessment can be made by the county auditor or local assessor if taxes based on the assessment year in question have been paid or otherwise legally discharged. For example, if a tract of land was listed and assessed and taxes levied against that assessment have been paid or legally discharged, no omitted assessment can be made of a building located upon that tract of land even though the building was not listed and assessed at the time the land was listed and assessed. See *Okland v. Bilyeu,* 359 N.W.2d 412, 417 (Iowa 1984).

c. County treasurer. The county treasurer may make an omitted assessment within two years from the date the tax list which should have contained the assessment should have been delivered to the county treasurer. For example, for the 1999 assessment year, the tax list is to be delivered to the county treasurer on or before June 30, 2000. Thus, the county treasurer may make an omitted assessment for the 1999 assessment year at any time on or before June 30, 2002. The county treasurer may make an omitted assessment of a building even if taxes levied against the land upon which the building is located have been paid or legally discharged. See *Okland v. Bilyeu,* 359 N.W.2d 412, 417 (Iowa 1984). The county treasurer may not make an omitted assessment if the omitted property is no longer owned by the person who owned the property on January 1 of the year the original assessment should have been made.

d. Director of revenue. The director of revenue may make an omitted assessment of any property assessable by the director at any time within two years from the date the assessment should have been made.

This rule is intended to implement Iowa Code chapter 440 and sections 443.6 through 443.15 as amended by 1999 Iowa Acts, chapter 174.

701—71.26(441) Assessor compliance. The assessor shall determine the value of real property in accordance with rules adopted by the department of revenue and in accordance with forms and guidelines contained in the Iowa Real Property Appraisal Manual prepared by the department. The assessor may use an alternative manual to value property if it is a unique type of property not covered in the manual prepared by the department.

If the department finds that an assessor is not in compliance with the rules of the department relating to valuation of property or has disregarded the forms and guidelines contained in the real property appraisal manual, the department shall notify the assessor and each member of the conference board for that assessing jurisdiction. The notice shall be mailed by restricted certified mail and shall specify the areas of noncompliance and the steps necessary to achieve compliance. The notice shall also inform the assessor and conference board that if compliance is not achieved, a penalty may be imposed.

The conference board shall respond to the department within 30 days of receipt of the notice of noncompliance. The conference board may respond to the notice by asserting that the assessor is in compliance with the rules, guidelines, and forms of the department or by informing the department that the conference board intends to submit a plan of action to achieve compliance. If the conference board responds to the notification by asserting that the assessor is in compliance, a hearing before the director of revenue shall be held on the matter within 60 days of receipt of the notice of noncompliance. If it is agreed that the assessor is not in compliance, the conference board shall submit a plan of action within 60 days of receipt of the notice of noncompliance.

The plan shall contain a time frame under which compliance shall be achieved, which shall be no later than January 1 of the following assessment year. The plan of action shall contain the signature of the assessor and of the chairperson of the conference board. The department shall review the plan to determine whether the plan is sufficient to achieve compliance. Within 30 days of receipt of the plan, the department shall notify the assessor and the chairperson of the conference board that it has accepted the plan or that it is necessary to submit an amended plan of action.

By January 1 of the assessment year following the calendar year in which the plan was submitted to the department, the conference board shall submit a report to the department verifying that the plan of action was followed and compliance has been achieved. The department may conduct a field inspection to ensure that the assessor is in compliance. By January 31, the department shall notify the assessor and the conference board, by restricted certified mail, either that compliance has been achieved or that the assessor remains in noncompliance. If the department determines that the assessor remains in noncompliance, the department shall take steps to withhold up to 5 percent of the reimbursement payment authorized in Iowa Code section 425.1 until the director of revenue determines that the assessor is in compliance.

If the conference board disputes the determination of the department, the chairperson of the conference board may appeal the determination to the state board of tax review.

This rule is intended to implement Iowa Code Supplement section 441.21.

[Filed 5/11/71; amended 8/16/73]
[Filed 6/21/77, Notice 4/6/77—published 7/13/77, effective 8/17/77]
[Filed emergency 7/21/77—published 8/10/77, effective 7/21/77]
[Filed emergency 8/3/79—published 8/22/79, effective 8/3/79]
[Filed emergency 8/1/80—published 8/20/80, effective 8/1/80]
[Filed 3/25/81, Notice 2/18/81—published 4/15/81, effective 5/20/81]
[Filed 5/8/81, Notice 4/1/81—published 5/27/81, effective 7/1/81]
[Filed 3/25/83, Notice 2/16/83—published 4/13/83, effective 5/18/83]
[Filed 7/27/84, Notice 6/20/84—published 8/15/84, effective 9/19/84]

[Filed emergency 8/13/84—published 8/29/84, effective 8/13/84]
[Filed 8/10/84, Notice 7/4/84—published 8/29/84, effective 10/3/84]
[Filed 4/5/85, Notice 1/16/85—published 4/24/85, effective 5/29/85]
[Filed 5/31/85, Notice 4/24/85—published 6/19/85, effective 7/24/85]
[Filed 1/10/86, Notice 12/4/85—published 1/29/86, effective 3/5/86]
[Filed 3/21/86, Notice 2/12/86—published 4/9/86, effective 5/14/86]
[Filed 8/22/86, Notice 7/16/86—published 9/10/86, effective 10/15/86]
[Filed emergency 11/14/86—published 12/17/86, effective 11/14/86]
[Filed 5/15/87, Notice 3/25/87—published 6/3/87, effective 7/8/87]
[Filed 9/18/87, Notice 8/12/87—published 10/7/87, effective 11/11/87]
[Filed 6/10/88, Notice 5/4/88—published 6/29/88, effective 8/3/88]
[Filed 9/2/88, Notice 7/27/88—published 9/21/88, effective 10/26/88]
[Filed 12/7/90, Notice 10/17/90—published 12/26/90, effective 1/30/91]
[Filed 11/18/94, Notice 10/12/94—published 12/7/94, effective 1/11/95]
[Filed 10/6/95, Notice 8/30/95—published 10/25/95, effective 11/29/95]
[Filed 11/15/96, Notice 10/9/96—published 12/4/96, effective 1/8/97]
[Filed 10/17/97, Notice 9/10/97—published 11/5/97, effective 12/10/97]
[Filed 2/12/99, Notice 9/23/98—published 3/10/99, effective 4/14/99][1]
[Filed 1/7/00, Notice 12/1/99—published 1/26/00, effective 3/1/00]
[Filed 9/15/00, Notice 8/9/00—published 10/4/00, effective 11/8/00]
[Filed 12/19/01, Notice 11/14/01—published 1/9/02, effective 2/13/02]
[Filed emergency 2/14/02—published 3/6/02, effective 2/15/02]
[Filed 10/25/02, Notice 9/4/02—published 11/13/02, effective 12/18/02]
[Filed 10/25/02, Notice 9/18/02—published 11/13/02, effective 12/18/02]
[Filed 9/10/04, Notice 8/4/04—published 9/29/04, effective 11/3/04]
[Filed 12/30/05, Notice 11/9/05—published 1/18/06, effective 2/22/06]
[Filed 10/5/06, Notice 8/30/06—published 10/25/06, effective 11/29/06]
[Filed 1/11/07, Notice 11/22/06—published 1/31/07, effective 3/7/07]
[Filed 5/4/07, Notice 3/28/07—published 5/23/07, effective 6/27/07]
[Filed 10/19/07, Notice 9/12/07—published 11/7/07, effective 12/12/07]
[Filed 5/29/08, Notice 4/23/08—published 6/18/08, effective 7/23/08]
[Filed ARC 7726B (Notice ARC 7592B, IAB 2/25/09), IAB 4/22/09, effective 5/27/09]
[Filed ARC 8542B (Notice ARC 8428B, IAB 12/30/09), IAB 2/24/10, effective 3/31/10]
[Filed ARC 8559B (Notice ARC 8352B, IAB 12/2/09), IAB 3/10/10, effective 4/14/10]
[Filed ARC 9478B (Notice ARC 9113B, IAB 10/6/10), IAB 4/20/11, effective 5/25/11]
[Filed ARC 9877B (Notice ARC 9761B, IAB 10/5/11), IAB 11/30/11, effective 1/4/12]
[Filed ARC 0400C (Notice ARC 0286C, IAB 8/22/12), IAB 10/17/12, effective 11/21/12]
[Filed ARC 0770C (Notice ARC 0653C, IAB 3/20/13; Amended Notice ARC 0659C, IAB 4/3/13), IAB 5/29/13, effective 7/3/13]
[Filed ARC 1196C (Notice ARC 1042C, IAB 10/2/13), IAB 11/27/13, effective 1/1/14]
[Filed ARC 1306C (Notice ARC 1238C, IAB 12/11/13), IAB 2/5/14, effective 3/12/14]
[Filed Emergency ARC 1496C, IAB 6/11/14, effective 5/20/14]
[Filed ARC 1765C (Notice ARC 1593C, IAB 8/20/14), IAB 12/10/14, effective 1/14/15]

[1] Amendments nullified by 2000 Iowa Acts, SJR 2005, editorially removed IAC Supplement 7/12/00 pursuant to Iowa Code section 17A.6(3).

CHAPTER 22
VOTING SYSTEMS

[Prior to 7/13/88, see Secretary of State[750] Ch 10]

TESTING AND EXAMINATION OF VOTING EQUIPMENT

721—22.1(52) Definitions for certification of voting equipment.

"Accredited independent test authority" means a person or agency that was formally recognized by the National Association of State Election Directors as competent to design and perform qualification tests for voting system hardware and software. "Accredited independent test authority" also includes voting system test laboratories accredited by the Election Assistance Commission to test voting systems for compliance with federal voting system standards and guidelines, as required by the Help America Vote Act, Section 231.

"Audio ballot" means the presentation of the contents of a ballot on an electronic ballot marking device in a recorded format, played to the voter over headphones.

"Automatic tabulating equipment" means apparatuses that are utilized to ascertain the manner in which optical scan ballots have been marked by voters or by electronic ballot marking devices and to count the votes marked on the ballots.

"Ballot" means the official document that includes all of the offices or public measures to be voted upon at a single election, whether they appear on one or more paper ballots. The term includes optical scan paper ballots designed to be read by automatic tabulating equipment. In appropriate contexts, "ballot" also includes conventional paper ballots.

"Ballot marking device" means a pen, pencil, or similar writing tool, or an electronic device, all designed for use in marking an optical scan ballot, and so designed or fabricated that the mark it leaves may be detected and the vote so cast counted by automatic tabulating equipment.

"Certification" means formal approval of an optical scan voting system for use in Iowa pursuant to Iowa Code sections 52.5 and 52.26.

"De minimis change" means a change to a certified voting system's hardware, the nature of which will not materially alter the system's reliability, functionality, capability, security and operation. In order for a change to qualify as a de minimis change, it must not alter the reliability, functionality, capability, security and operability of the system. A de minimis change shall also ensure that when the hardware is replaced, the original hardware and the replacement hardware are electronically and mechanically interchangeable and have identical functionality and tolerances. A change shall not be considered de minimis if it has reasonable and identifiable potential to affect the system's operation and compliance with applicable voting system standards.

"Early voting" means the process of receiving ballots from voters before election day without using absentee voting procedures. Iowa law does not authorize this process.

"Electronic ballot marking device" means a component of an optical scan voting system designed to assist voters with disabilities by displaying audio and visual ballot information to the voter, providing accessible methods for the voter to make selections, and then printing the voter's choices on an optical scan ballot.

"Electronic transmission" means using hardware and software components to send data over distances both within and external to the polling place and to receive an accurate copy of the transmission.

"Examiners" means the board of examiners for voting systems described in Iowa Code section 52.4.

"Memory storage device" means a small, removable device containing data files of the election definition programmed for use in voting equipment for each election.

"Modification" means a change to a certified voting system's software or firmware. Modification also means a change to a certified voting system's hardware that has the potential to affect the reliability, functionality, capability, security or operability of a system.

"Optical scan ballot" means a printed ballot designed to be marked by a voter with a ballot marking device and to be counted by use of automatic tabulating equipment.

"Optical scan voting system" means a system employing paper ballots under which votes are cast by voters by marking paper ballots with a ballot marking device and thereafter counted by use of automatic tabulating equipment.

"Program" means the written record of the set of instructions defining the operations to be performed by a computer in examining, counting, tabulating, and printing votes.

"Qualification test" means the examination and testing of a voting system by an independent test authority using the voting system standards required by Iowa Code section 52.5 and rule 721—22.2(52) to determine whether the system complies with those standards.

"Vendor" means a person or representative of a person owning or being interested in an optical scan voting system and seeking certification of the equipment for use in elections in Iowa.

"Voting booth" means an enclosure designed to be used by a voter while marking a conventional paper ballot, optical scan ballot or ballot card.

"Voting equipment" means an optical scan voting system which is required by Iowa Code sections 52.5 and 52.26 to be approved for use by the examiners.

"Voting equipment malfunction" means a problem with the voting equipment that renders the equipment inoperable for a period of time when it is has been deployed for use during an election. "Voting equipment malfunction" does not include interruptions of equipment operations due to routine error messages as referred to in subrule 22.261(5), 22.262(6) or 22.266(5).

"Voting system" means the total combination of mechanical, electromechanical or electronic equipment (including the software, firmware and documentation required to program, control and support the equipment that is used to define ballots, to cast and count votes, to report or display election results and to maintain and produce any audit trail information). "Voting system" also includes the practices and associated documentation used to identify system components and versions of such components, to test the system during its development and maintenance, to maintain records of system errors and defects, to determine specific system changes to be made to a system after the initial qualification of the system and to make available any materials to the voter such as notices, instructions, forms or paper ballots. (See Section 301(b) of HAVA.)

[**ARC 8244B**, IAB 10/21/09, effective 10/2/09; **ARC 9468B**, IAB 4/20/11, effective 5/25/11; **ARC 0801C**, IAB 6/26/13, effective 7/31/13]

721—22.2(52) Voting system standards. All electronic voting systems approved for use by the board of examiners after April 9, 2003, shall meet Voting Systems Performance and Test Standards, as adopted by the Federal Election Commission April 30, 2002, or the 2005 Voluntary Voting Systems Guidelines, as adopted by the U.S. Election Assistance Commission in December 2005. The report of an accredited independent test authority certifying that the system is in compliance with these standards shall be submitted with the application for examination.

This rule is intended to implement Iowa Code section 52.5.

[**ARC 9468B**, IAB 4/20/11, effective 5/25/11; **ARC 9762B**, IAB 10/5/11, effective 9/8/11]

721—22.3(52) Examiners. The examiners annually shall elect a chairperson. All three examiners must be present for any formal action. Approval by two of the three examiners is required to approve any action to be taken by the examiners.

22.3(1) Notice of the time and place of any meeting by the board of examiners must be published pursuant to Iowa Code section 21.4.

22.3(2) Meetings of the examiners are open to the public, except that closed meetings may be held as permitted by Iowa Code section 21.5.

22.3(3) Correspondence and materials required to be filed with the board of examiners shall be addressed to the examiners in care of the Elections Division, Office of the Secretary of State, Lucas State Office Building, 321 E. 12th Street, Des Moines, Iowa 50319.

721—22.4(52) Fees and expenses paid to the examiners.

22.4(1) The examiners shall be reimbursed for travel to and from the meeting place at the rate specified in Iowa Code section 70A.9. The examiners shall also be reimbursed for actual expenses for meals and lodging, if necessary.

a. If the meeting was called for the purpose of examining, reexamining, testing, or discussing the certification of voting equipment offered by a vendor, the examiners' expenses shall be paid by the vendor within seven days following the completion of the examination and testing of the voting equipment.

b. If the meeting was called for the purpose of advising the secretary of state regarding administrative rules for the examiners, or to hear complaints or requests for decertification of voting equipment, or any other business of interest to the examiners, the expenses shall be paid by the secretary of state.

22.4(2) The vendor shall pay the examiners the amount of compensation specified in Iowa Code section 52.6 at the beginning of each meeting for which compensation is required to be provided to the examiners. The fee shall be paid as follows:

a. For each meeting or series of meetings held for the purpose of certifying an optical scan voting system or component thereof.

b. For each meeting or series of meetings for reconsideration of an optical scan voting system or component thereof after denial of certification.

This rule is intended to implement Iowa Code sections 17A.19, 49.25(3), 52.5, 52.6, and 52.26.

[**ARC 8244B**, IAB 10/21/09, effective 10/2/09]

721—22.5(52) Examination of voting equipment—application. Any vendor who wishes to apply for certification of voting equipment for use in the state of Iowa shall apply to the secretary of state for an appointment with the examiners. The application shall include five copies of each of the following:

22.5(1) History of the equipment to be examined. This history shall include a complete description of the equipment to be examined, descriptions of any previous models of the equipment, the date the system to be examined went into production, and a complete list of jurisdictions which have used the equipment. The user list shall include jurisdictions which used the equipment experimentally without purchasing it, jurisdictions which purchased earlier versions of the equipment to be examined, and jurisdictions which purchased the current version of the equipment to be examined.

22.5(2) Copies of all manuals developed for use with the system including, but not limited to, technical manuals for repair and maintenance of the equipment, operations manuals for election officials, printer's manuals for ballot production, and any other written documents prepared by the vendor that describe the operation, use, and maintenance of the machine.

22.5(3) Report of an accredited independent test authority certifying that the system is in compliance with the voting systems standards required by rule 721—22.2(52). Copies of these reports are confidential records as defined by Iowa Code section 22.7 and Iowa Code chapter 550. Independent test authority reports shall be available to the secretary of state, deputy secretary of state, director of elections, members of the board of examiners, and any other person designated by the secretary of state to have a bona fide need to review the report. No other person shall have access to the reports, and no copies shall be made. All independent test authority reports shall be marked "CONFIDENTIAL" and shall also be accompanied by a list of those persons who are authorized to examine the report. The reports shall be kept in a locked cabinet.

22.5(4) Copies of the reports of any test authority who has examined the equipment in conjunction with certification requirements of other states.

22.5(5) Reports of the certifying authorities of any other states that have examined the equipment, whether or not the equipment was approved for use.

22.5(6) Brochures, photographs and advertising material used to encourage sales of the equipment.

22.5(7) Manuals for the use and maintenance of any components of the equipment that are not manufactured by the vendor.

22.5(8) Rescinded IAB 4/20/11, effective 5/25/11.

22.5(9) Reserved.

22.5(10) The form prescribed by the state commissioner of elections to request examination and testing of voting systems.
[**ARC 8244B**, IAB 10/21/09, effective 10/2/09; **ARC 9468B**, IAB 4/20/11, effective 5/25/11]

721—22.6(52) Review of application by examiners. Upon receipt of the application, the secretary of state shall immediately forward copies of the application to each of the examiners. The examiners shall review the application and within seven days a date shall be set for the examiners to meet and examine the equipment. If additional information is needed by the examiners, they may delay setting a date for the examination pending the submission of the requested materials.

721—22.7(52) Consultant. If the examiners determine that a consultant is necessary to determine whether a system meets the requirements of Iowa law or whether a change to a voting system is de minimis or a modification, the examiners shall notify the vendor of the decision. The vendor may suggest the names of reliable independent test authorities to the examiners and may decline to submit the equipment to the examination of an individual for good reason.

A consultant may be employed if no other state has certified the equipment for use. The examiners may require a consultant if the equipment has been modified following certification by other states, or if the examiners believe it to be necessary.

If a test authority has been determined to be necessary by the examiners and a suitable consultant cannot be agreed upon by the examiners and the vendor, the equipment shall not be approved for use.
[**ARC 8244B**, IAB 10/21/09, effective 10/2/09]

721—22.8(52) Contact other users. The examiners shall contact a representative sample of the users of the equipment to determine the nature of the experience of other users.

721—22.9(52) Testing the equipment. The vendor shall provide to the examiners one, or more, if deemed necessary by the examiners, production models of the equipment submitted for certification. The equipment shall be prepared by the examiners with the aid of the vendor to be tested at two sample elections: a sample partisan primary election, and a sample general election.

22.9(1) Test county for absentee voting. Voting equipment which is designed to be used for tabulation of absentee ballots shall be tested using a model county consisting of 155 precincts, with 180,000 registered voters. The county shall include one U.S. congressional district, five state senate districts, 11 state house of representatives districts, and 30 townships. Each township shall include both rural voters (who are eligible to vote for township officers) and city voters (who are not eligible to vote for township officers).

22.9(2) Test county for absentee systems. Voting equipment which is designed to be used for tabulation of absentee ballots only shall be tested using a model county consisting of 155 precincts, with 180,000 registered voters. The county shall include one U.S. Congressional District, five state senate districts, 11 state house of representatives districts, and 30 townships. Each township shall include both rural voters (who are eligible to vote for township officers) and city voters (who are not eligible to vote for township officers).

22.9(3) Test precinct for precinct count systems. The test precinct shall include both rural voters (who are eligible to vote for township officers) and city voters (who are not eligible to vote for township officers).

22.9(4) All requirements for preparation and printing of test ballots shall be met in the preparation of ballots for the test elections including, but not limited to, rotation of candidates' names and the provision of space for write-in votes.

22.9(5) Test ballots provided by vendor. The vendor shall provide the ballots to be used in the testing of the equipment. A total of at least 2000 ballots shall be printed for each of the two test elections. One thousand ballots for each test election shall be marked and manually tabulated by the vendor to use as a test of the ability to tabulate results accurately. The balance of the ballots shall be delivered to the examiners before the date set for the examination. The examiners shall mark and manually tabulate an additional set of at least 300 test ballots.

22.9(6) Accessibility testing by other interested parties. Any party interested in the accessibility of voting equipment that is being considered for state certification may request to be included on notices of meetings of the board of examiners. Requests shall be sent to the examiners, in care of the Elections Division, Office of the Secretary of State, Lucas State Office Building, 321 E. 12th Street, Des Moines, Iowa 50319. Any parties present at the meeting may complete accessibility testing on the equipment and submit a report on the accessibility of the voting system to the examiners within 30 days of the date of the examination and test. The report may be made in written or oral form. If an interested party would like to make an oral report, the examiners may hear the report either in person or by conference call organized by the elections division, whichever the examiners prefer.
[**ARC 0736C**, IAB 5/15/13, effective 6/19/13]

721—22.10(52) Test primary election for three political parties.

22.10(1) *Closed primary election.* Voters may only cast votes for the candidates of one of the parties.

22.10(2) *Offices.* The following offices shall each have two candidates for each party. Candidate names shall be rotated as required by Iowa Code section 43.28.

a. U.S. Senator
b. U.S. Representative
c. Governor
d. Secretary of State
e. Auditor of State
f. Treasurer of State
g. Secretary of Agriculture
h. Attorney General
i. State Senator
j. State Representative
k. County Supervisor (vote for no more than three of six candidates)
l. County Treasurer
m. County Recorder
n. County Attorney
o. and *p.* Rescinded IAB 8/1/07, effective 7/13/07.

22.10(3) *Write-in votes.* Spaces for write-in votes shall be provided for each office on the ballot. The number of spaces shall equal the number of persons to be elected to the office.

721—22.11(52) Test general election. The ballots for the test general election shall include the following:

22.11(1) Offices. In the test general election all of the above offices shall be included with the addition of candidates for lieutenant governor to be voted for jointly with each candidate for governor. Each political party and nonparty political organization shall have one candidate for each office that appeared on the primary ballot, except county supervisor, which shall have three candidates for each party and nonparty political organization. Names of candidates for county supervisor shall be rotated as required by Iowa Code section 49.31, subsection 2.

The following nonpartisan offices shall also be included on the ballot with the heading "Nominated by Petition":

a. Township Trustee
b. Township Clerk
c. County Public Hospital Trustee
d. Soil and Water Conservation District Commissioners
e. Agricultural Extension Council

22.11(2) Judicial ballot. Portions of the judicial ballot may be printed separately if necessary.

a. Supreme Court (five justices)
b. Appeals (four judges)
c. District Court (six judges)

d. District Associate Judges (three judges)

22.11(3) Public measures.

a. Constitutional Amendments (two)

b. Local public measures (three)

22.11(4) Straight party voting for three political parties and five nonparty political organizations.

22.11(5) Write-in votes. Spaces for write-in votes shall be provided for each office on the ballot. The number of spaces shall equal the number of persons to be elected to the office. This does not include judges standing for retention.

721—22.12(52) Report of findings. Within 60 days of examining a voting system pursuant to this chapter, the examiners shall complete a report showing their findings. The report shall include a checklist containing all statutory requirements for voting systems and shall indicate whether each requirement applies to the voting system being examined and whether the voting system is compliant or not compliant. The checklist must indicate that all applicable items are compliant with statutory requirements in order for the examiners to find that the voting system may be approved for use.

22.12(1) *Accessibility reports.* If interested parties are present at the examination and test and participate in accessibility testing of the equipment, the examiners shall wait a minimum of 30 days from the date of the examination and test before completing the report required by this rule so that the examiners have sufficient time to receive and review any accessibility reports submitted by interested parties pursuant to subrule 22.9(6).

22.12(2) *Approval prior to use.* If the report states that the voting system has been approved for use, the voting system may be adopted for use at elections.

22.12(3) *Report filed with the secretary of state.* The report shall be filed with the secretary of state. The secretary of state shall retain the vendor's application and other documents submitted pertaining to the certification as long as the voting system remains certified.

[**ARC 0736C**, IAB 5/15/13, effective 6/19/13]

721—22.13(52) Notification. The examiners shall promptly notify the vendor of their decision and shall provide the vendor with a copy of their report.

721—22.14(52) Denial of certification. If the examiners find that the equipment does not meet the requirements prescribed by the Code of Iowa and the Iowa Administrative Code, the examiners shall deny certification to the equipment. The report of the board shall specify the reasons for the denial, as well as all areas in which the equipment complied with the requirements of the law. Certification may be denied for any of the following reasons:

22.14(1) The absence of any feature required by Iowa Code section 52.5 or 52.26.

22.14(2) Failure to pay the examiners' fees and expenses, or the fees of any consultant mutually agreed upon by the examiners and the vendor.

22.14(3) Failure to provide the examiners with a complete application as required by rule 721—22.5(52).

22.14(4) Failure of the equipment to produce accurate results in one or both of the test elections. The test groups of ballots shall be tabulated manually to determine the expected outcome of each test election. If the equipment fails to reproduce exactly the results of the manual tabulation, the system shall not be approved for use, unless it can be demonstrated that the manual tabulation was in error and the machine tabulation was accurate.

[**ARC 9468B**, IAB 4/20/11, effective 5/25/11]

721—22.15(52) Application for reconsideration. Following denial of certification a vendor may make the necessary modifications to the system and apply for reconsideration. Aspects of the equipment which were approved in the initial application do not need to be reexamined unless the examiners find that the modifications may have affected the ability of the equipment to comply in other areas. If certification was denied for the reasons cited in 22.14(1) or 22.14(4), both test elections must be completed satisfactorily, or approval shall not be granted.

721—22.16(52) Appeal. If the vendor believes the denial of certification is in error, the vendor must file written exceptions with the examiners within 30 days after issuance of the report. The examiners will issue a response to the exceptions within 30 days after filing of the exceptions. A vendor who is aggrieved or adversely affected by a denial after a ruling on exceptions may seek judicial review pursuant to Iowa Code section 17A.19.

721—22.17(52) Changes to certified voting systems. The procedures in this rule shall be followed anytime a change is made to a certified voting system, including a change in tabulation software, firmware, or hardware.

22.17(1) *Notification of change.* The vendor shall notify the examiners of any changes in a certified voting system. The vendor shall provide the examiners with the following information at the time the vendor provides notice of the change(s):

a. A description of the changes made.

b. Reports of test results conducted by an accredited independent test authority, and any reports of test results conducted by or for other states following the changes to the voting system.

c. Copies of manuals, instructions, advertisements and other documents submitted with the voting system's original application for certification that have been updated since the original application was submitted.

d. An assessment from an accredited independent test authority of the change as either a de minimis change or a modification to the voting system.

22.17(2) *Commencing review proceedings.* Within seven days of receiving a voting system change notice from a vendor, the examiners shall commence review proceedings to independently determine whether the change submitted by the vendor is a de minimis change or a modification to the voting system. In making this independent determination, the examiners may use any means available, including hiring a consultant pursuant to rule 721—22.7(52).

22.17(3) *De minimis changes.* If the examiners determine a change to a voting system is de minimis, the examiners may approve the changes by motion and certify the changed voting system for use in the state.

22.17(4) *Modifications to voting systems.* If the examiners determine a change to a voting system is a modification to the voting system, the examiners shall require the vendor to submit a new application for certification and testing of the voting system pursuant to rules 721—22.5(52) to 721—22.11(52).

[**ARC 8244B**, IAB 10/21/09, effective 10/2/09]

721—22.18(52) Rescinding certification.

22.18(1) *Grounds for rescinding certification.* Certification may be rescinded if it is found that:

a. The equipment does not produce accurate results and reports as required for an election.

b. Modifications have been made in a certified voting system that have not been approved by the examiners.

c. Equipment which has been certified for use has not been adopted by any county in Iowa, or is no longer used by any county in Iowa, and is no longer available for purchase from the manufacturer. The examiners may rescind certification of such voting equipment without a complaint or contested case proceedings.

d. Equipment that has been certified for use no longer complies with the requirements of Iowa law.

e. Any other grounds that may materially affect delivery or performance of the equipment.

22.18(2) *Procedure for rescinding certification.* Complaints regarding voting equipment certified for use in Iowa shall be filed with the secretary of state. The examiners shall review all complaints and may initiate a contested case to rescind certification on any ground listed above. The contested case may be conducted before the examiners or before an administrative law judge. A contested case for rescinding certification shall be conducted, to the extent applicable, in accordance with the procedural rules specified in 481—Chapter 10, Iowa Administrative Code.

22.18(3) *Suspension of certification.* If the administrative law judge hearing the contested case, or the examiners, as the case may be, find that the voting equipment can be modified to correct the deficiency, certification may be suspended until the deficiency is corrected. If it is found that the deficiency is limited to a specific flaw not present in all models of the equipment, the suspension may be limited to the deficient models. While certification is suspended, the equipment may not be used for any election.

After the required modifications have been made the vendor may apply for reexamination of the equipment following the procedure described in rule 721—22.17(52).

22.18(4) *Further use prohibited.* If certification of voting equipment is rescinded without qualification, no further use shall be permitted by any county.

[**ARC 8244B**, IAB 10/21/09, effective 10/2/09]

These rules are intended to implement Iowa Code sections 17A.12, 21.4, 21.5, 52.4, 52.5, 52.6, 52.7, 52.26, and 70A.9.

721—22.19(52) Examination of voting booths—application. Rescinded IAB 10/21/09, effective 10/2/09.

721—22.20(52) Review of application by examiners. Rescinded IAB 10/21/09, effective 10/2/09.

721—22.21(52) Contact other users. Rescinded IAB 10/21/09, effective 10/2/09.

721—22.22(52) Criteria for approval. Rescinded IAB 10/21/09, effective 10/2/09.

721—22.23(52) Report. Rescinded IAB 10/21/09, effective 10/2/09.

721—22.24(52) Notification. Rescinded IAB 10/21/09, effective 10/2/09.

721—22.25(52) Denial of certification. Rescinded IAB 10/21/09, effective 10/2/09.

721—22.26(52) Application for reconsideration. Rescinded IAB 10/21/09, effective 10/2/09.

721—22.27(52) Appeal. Rescinded IAB 10/21/09, effective 10/2/09.

721—22.28(52) Reexamination following changes in voting booth. Rescinded IAB 10/21/09, effective 10/2/09.

721—22.29(52) Rescinding certification. Rescinded IAB 10/21/09, effective 10/2/09.

721—22.30(50,52) Electronic transmission of election results.

22.30(1) *Certification of equipment.* On or after December 17, 2003, new components for transmission of election results by any electronic means may be used in elections in Iowa only if the components are approved by the board of examiners for use with a certified voting system. Existing systems containing electronic transmission components in use before December 17, 2003, may continue to be used until January 1, 2006, when the Help America Vote Act voting system requirements become effective.

The examiners shall review the qualification test report submitted with the application for examination and testing of the voting system. If the test report for the voting system under examination shows that the electronic transmission components have met the voting system standards and the examiners concur, the electronic transmission components may be used in conjunction with the voting system. If the qualification test report or the examiners conclude that the electronic transmission components do not meet the voting system standards, or if this feature is not mentioned in the report, purchasers of the voting system may not transmit election results electronically.

22.30(2) *Procedures on election day.* The election results may be transmitted electronically from voting equipment to the county commissioner of elections' office only after the precinct election officials

have produced a written report of the election results as required by Iowa Code section 50.11. All election officials of the precinct shall sign the printed report of the election results. The signed copy shall be the official tabulation from that precinct.

22.30(3) *Procedures after election day.* Before the canvass by the board of supervisors, the county commissioner of elections shall compare the signed, printed report from each precinct with the results transmitted electronically from the precinct on election night. The commissioner shall report any discrepancies between the two sets of election results to the board of supervisors. The signed, printed results produced pursuant to Iowa Code section 50.11 shall be considered the correct results.

This rule is intended to implement Iowa Code sections 50.11 and 52.41.

721—22.31(52) Acceptance testing. When the commissioner receives voting equipment from a vendor, the commissioner shall carefully examine and test the equipment to:

22.31(1) Verify that the system delivered is certified for use in Iowa. The commissioner shall compare the voting system version numbers with the list of certified voting equipment provided by the state commissioner;

22.31(2) Verify that everything in the contract has been delivered by:

a. Comparing a copy of the purchase contract with the items received;

b. Making certain that all components, such as power cords, casters, and keys, are included;

c. Reviewing instruction and maintenance manuals to be sure that the correct version of each manual was provided; and

22.31(3) Verify that everything delivered actually works. The commissioner shall run a simulated election to confirm that each part of the system and the system as a whole function properly.

721—22.32(52) Optical scan voting system purchase program. Rescinded IAB 4/20/11, effective 5/25/11.

721—22.33 to **22.38** Reserved.

721—22.39(52) Public testing for direct recording electronic voting machines. Rescinded IAB 10/8/08, effective 9/19/08.

721—22.40(52) Public testing of lever voting machines. Rescinded IAB 8/1/07, effective 7/13/07.

721—22.41(52) Public testing of optical scan systems. All automatic tabulating equipment (including equipment used to tabulate absentee ballots) shall be tested before use at any election, as required by Iowa Code section 52.35. The process and results of the test shall be documented and available for inspection.

22.41(1) Each automatic tabulating device (including equipment that will be used for counting absentee ballots) shall be tested to determine the following:

a. The device and its programs will accurately tabulate votes for each candidate and question on the ballot.

b. Votes cast for more candidates for any office than the number to be elected will result in the rejection of all votes cast for that office on that ballot. Votes properly cast for other offices on the same ballot shall be counted.

c. The tabulating equipment records all votes cast and no others. A written tally of the test votes shall be prepared before the test. The results of the test voting shall be recorded. The results of the machine tabulation shall be printed and compared with the test plan.

d. The voter may cast as many write-in votes for each office on the ballot as there are positions to be filled, and the write-in votes are tallied correctly.

e. For primary elections, the tabulating equipment accurately records votes cast for all political parties.

f. For general elections:

(1) A ballot marked with only a straight party vote is recorded with one vote for each candidate of the designated political party, and no other votes are recorded for partisan offices;

(2) The voter may override a straight party vote for any office by voting for any candidate not associated with that political party; and

(3) For offices to which more than one person will be elected, if a voter has chosen to override a straight party vote, only the candidates whose names are marked shall receive a vote.

22.41(2) Conducting the test.

a. The commissioner shall follow the process described in rule 721—22.42(52) for preparing test decks.

b. If, during the test, there are differences between the test plan and the results produced by the optical scan device, the cause of the discrepancy shall be determined. If the cause of the discrepancy cannot be determined and corrected, the faulty program or equipment shall not be used in the election.

c. The test decks, the preparer's tally, and the printed results of the test shall be kept with the records of the election and preserved as required by Iowa Code section 50.19.

721—22.42(52) Preparing test decks. The commissioner shall prepare test decks from all ballots printed for use in the election, including those for use at the polling places and for absentee balloting. Each of the following test decks shall be prepared for every precinct and ballot style in the election. Commissioners may use additional test methods to supplement the process described in this rule.

22.42(1) *Requirements for all test decks prepared by the commissioner and used in public testing.* The commissioner shall:

a. Replace ballots spoiled during the marking process instead of attempting to correct errors.

b. Fill in each oval completely using the recommended pen, pencil or AutoMARK VAT.

c. Mark each ballot "Test Ballot."

d. Mark at least one valid vote for each candidate and question on the ballot using the OVI unit (if applicable). The ballots marked by the OVI unit may be used as part of the systematic or straight party test deck (if applicable).

e. Mark at least one valid vote for each candidate and question on the ballot using the ImageCast Evolution or ImageCast Precinct with audio and printer (if applicable). The ballots marked by one of these units may be used as part of the systematic or straight party test deck (if applicable).

22.42(2) *Required test method.* The commissioner shall:

a. Prepare a test plan showing the planned number of votes, including undervotes and overvotes for each oval on the ballot. Follow the instructions in subrules 22.42(3) through 22.42(5) in preparing the test decks.

b. Mark the test ballots according to the test plan.

c. Print a zero totals report from the optical scan tabulator before inserting any ballots.

d. Insert the ballots into the optical scan tabulator and print a report showing the number of votes recorded for all offices, questions and judges, including undervotes and overvotes.

e. Compare the printed report with the test plan to ensure that the correct number of votes was counted for each oval.

f. If the commissioner finds errors, the commissioner shall identify and correct them. The commissioner shall repeat the testing process until the printed results from the tabulator match the test plan. If the commissioner cannot produce an errorless test, the equipment shall not be used in the election.

22.42(3) *Systematic test deck.* The commissioner shall determine a unique number of votes for each candidate in each office, such as one vote for each write-in oval for the office, two votes for the first candidate listed (or "NO" votes on public measures and judges), three votes for the second candidate, etc. It is not necessary to have a different number of votes for each write-in oval for offices for which the voter may select more than one candidate. However, the write-in oval shall have a different number of votes marked than any candidate for the office. The commissioner shall:

a. On general election ballots, leave the straight party choice blank.

b. For offices without candidates, mark all of the write-in ovals for that office.

c. For offices in which the voter may vote for more than one candidate, vote for the maximum allowed on at least one ballot.

d. On a ballot that contains at least one valid vote, overvote one other office or question.

22.42(4) *System-specific testing requirements.* Separate tests are prescribed for each certified voting system.

a. Election Systems & Software, Unisyn OpenElect and Dominion Democracy Suite—overvote and blank ballot test. For an overvote and blank ballot test, the commissioner shall:

(1) Overvote all offices and questions (including judges) on one ballot, by marking one more vote than permitted. Do not mark the write-in ovals for any offices for which there are no candidates' names on the ballot.

(2) If the test is for ballots that will be used in a general election, mark two straight party votes on one ballot. Do not mark any other ovals. In the test plan, this ballot should be tallied to show that the straight party selection was overvoted, and to show undervotes for all other offices and questions on the ballot.

(3) When the overvoted ballots are rejected by the optical scan tabulator, override the rejection and include the ballot in the tally. Add to the manual tally the number of overvotes in this test. The tally for this part of the test deck will show no votes for any candidate.

(4) Insert a blank ballot. When the blank ballot is rejected by the optical scan tabulator, override the rejection and include the ballot in the tally. This is a very important test of the accuracy of ballot printing. Printing errors sometimes put readable marks in the voting target area.

(5) Orientation test. Mark the maximum number of choices for each office and question on one ballot.

Scan this ballot in each of the four possible orientations:

- Face up, head first.
- Face down, head first.
- Face up, feet first.
- Face down, feet first.

b. Premier Election Solutions.

(1) Blank and fully voted test. The commissioner shall use two ballots for this test.

1. Leave one ballot completely blank.
2. On the second ballot, mark every oval on both sides of the ballot.
3. Select "Test Blank Ballots" and insert the blank ballot in all four orientations:

- Face up, head first.
- Face down, head first.
- Face up, feet first.
- Face down, feet first.

4. Select "Test Fully Voted Ballots" and insert the second ballot in each of the four orientations listed in numbered paragraph "3" above.
5. Reinsert the blank ballot and the fully voted ballot and override the rejection feature.

(2) Overvote. Overvote all offices and questions (including judges) on one ballot, by marking one more vote than permitted. Do not mark the write-in ovals for any offices for which there are no candidates' names on the ballot.

22.42(5) *Straight party test for general elections.* For a straight party test, the commissioner shall:

a. For each set of ballots:

(1) Mark straight party votes in a pattern, such as one vote for the first straight party choice, two votes for the second, and so on, and tally the expected results. Do not mark anything else on this group of ballots.

(2) On a second set of ballots containing as many ballots as there are straight party choices, mark the straight party option and, for each office affected by the straight party vote, mark the write-in oval, and tally the expected results.

(3) If the election includes an at-large county supervisor race with more than one person to be elected, mark a ballot with only a straight party vote and then vote for one candidate from the same political party as the straight party vote. Only this separately marked candidate should receive a vote.

b. Compile the results of the straight party test deck.

[**ARC 0238C**, IAB 8/8/12, effective 7/11/12; **ARC 0801C**, IAB 6/26/13, effective 7/31/13]

721—22.43(52) Conducting the public test.

22.43(1) The equipment shall be inspected to determine whether it has been prepared properly for the election at which it will be used. The following information shall be verified:

a. The correct program cartridge or memory card is in place for the election and the precinct or precincts in which it will be used.

b. All counters are set at zero before the test is begun.

22.43(2) The commissioner shall conclude the test not later than 12 hours before the polls open on election day. Following the test, the tabulating equipment shall be inspected to determine that:

a. All counters have been returned to zero.

b. All required locks or seals are in place.

c. The automatic tabulating equipment is ready for operation at the election.

The results tape from each scanner produced during the public test shall be signed by the person conducting the test and by any observers present at the test. The signers shall write their signatures at the end of the tape where it will be detached from the machine. The tape shall be torn or cut across the signatures, so that a portion of the signature is on the tape remaining on the tabulating device. The test results tape, including a part of the tester's signature, shall be retained with the appropriate test deck for the period of time required by Iowa Code section 50.19.

22.43(3) Test deck submitted by observers. Any person who is present at the public test may mark ballots to be used to test the voting equipment. The following conditions apply:

a. Not more than ten ballots may be submitted by any person.

b. Only official ballots provided by the commissioner at the test shall be used.

c. The observer submitting the test shall provide a written tally of the test deck.

d. The results of the machine tabulation shall be printed and compared with the observer's tally. If there are differences, the cause of the discrepancy shall be determined. If the cause of the discrepancy cannot be determined and corrected, the program or equipment shall not be used at the election.

e. The test decks, the tally, and the printed results of the test shall be kept with the records of the election and preserved as required by Iowa Code section 50.19.

Rules 721—22.41(52) through 721—22.43(52) are intended to implement Iowa Code section 52.35.

721—22.44 to **22.49** Reserved.

721—22.50(52) Voting system security. Each county shall have a written security policy. The policy shall include detailed plans to protect the election equipment and data from unauthorized access. The policy shall describe the methods to be used to preserve the integrity of the election and to document the election process.

22.50(1) *Staff access.* The security policy shall describe who shall have access to the voting equipment.

22.50(2) *Computers.* For security purposes, computers used in the commissioner's office to prepare ballots and voting equipment programs or to compile and report election results should not be used for any other function and should not be linked to any computer network or to the Internet.

a. If the election computers are linked to a network or to the Internet, the commissioner shall use a firewall to filter network traffic. Data transmissions over the Internet shall be encrypted and password-protected. Information posted to a Web site shall not be considered transmission of data over the Internet.

b. Access shall be limited to persons specified by the commissioner in the written security policy. The level of access shall be included in a written security policy.

(1) Uniqueness. Every ID and password shall be unique. The creation of generic or shared user IDs is specifically prohibited. Each user shall have exactly one user ID and password, except where job requirements necessitate the creation of multiple IDs to access different business functions.

(2) Authority. Each user shall be granted only the level of access specifically required by the user's job. Use of "Administrator," "Super User," "Security Administrator," or "SA" levels of authority shall be severely restricted.

(3) Generic user IDs. Staff members with generic user IDs are not allowed to sign on to voting systems.

(4) Password standards.

Account Policy	Recommended Setting
Maximum Password Age	90 days
Minimum Password Age	2 days
Minimum Password Length	8 characters
Enforced Password History	6 passwords (last 6 cannot be used)
Account Lockout (number of unsuccessful log-on attempts)	3 bad attempts
Account Lockout Duration	6 hours
Reset Account Lockout Counter After	6 hours

c. Hardened operating system. For security purposes, users of Election Systems & Software, Unity 3.4.0.1, Election Systems & Software EVS 5.3.0.0, Democracy Suite 4.6 and Democracy Suite 4.14B shall harden the operating system on the computer on which the election management system is housed according to the specifications of the vendor and the recommendations of the county information technology department (if any).

22.50(3) *Evacuation.* If it is necessary to evacuate the election office, a satellite absentee voting station or a polling place, the precinct election staff or the election officials shall immediately attempt to notify the commissioner and take the following actions:

a. Keep people safe.

b. If possible, gather and secure voted ballots, election equipment and critical election documents.

[**ARC 0801C**, IAB 6/26/13, effective 7/31/13; **ARC 1746C**, IAB 12/10/14, effective 1/14/15]

721—22.51(52) Memory storage devices. For all voting equipment, the following security measures for memory storage devices are required:

22.51(1) *Serial number.* Each memory storage device shall have a serial number printed on a readily visible label. The label shall include the name of the county.

22.51(2) *Inventory.* Memory storage devices owned by the county and retained in the custody of the county commissioner shall be maintained under perpetual inventory, with a record of inventory activity. The commissioner shall maintain a similar record of relevant actions if the memory storage devices are acquired from a vendor for each election. The record of inventory activity shall reflect:

a. The date each memory storage device was acquired;

b. Each use of each memory storage device in an election;

c. Each maintenance activity to a memory storage device, such as changing the battery;

d. Any problems or errors detected while using the memory storage device during its life;

e. Records of the disposal of any memory storage devices at the end of their useful life or upon return to the vendor for maintenance or warranty claims.

22.51(3) *Custody.*

a. In counties where the commissioner has the necessary software and equipment to program the memory storage devices locally, the commissioner shall maintain a memory storage device log for each election as required in subrule 22.51(4) during the period when the memory storage devices are removed from storage, prepared for an election, and until they are sealed into a voting device. Only county employees and precinct election officials, as applicable, authorized by the county's security policy shall be permitted to handle the memory storage devices. No one individual should be alone with the

unsecured memory storage devices at any time. If a person who is not authorized by the security policy to have access to the memory storage devices transports them to another location, such as a warehouse, the memory storage devices shall be enclosed in a transport container with a tamper-evident seal.

b. In counties where the commissioner purchases programming services from a vendor, the memory storage devices shall be shipped to and from the vendor by a shipping service that employs tracking numbers. The memory storage devices shall be enclosed in a package sealed with a numbered, tamper-evident seal. Programmed memory storage devices shall be shipped in a package sealed with a numbered, tamper-evident seal from the vendor to the commissioner. If the seal is not intact upon arrival, the commissioner shall immediately contact the vendor for replacement storage devices. Only county employees authorized by the county's security policy (and precinct election officials, as applicable) shall be permitted to handle the memory storage devices. No one individual should be alone with the unsecured memory storage devices at any time.

22.51(4) *Memory storage device log.* For each election, the commissioner shall create a log to record the serial numbers of each memory storage device, the voting equipment into which the memory storage device was installed, the serial number of the seal, the ballot style and the precinct to which the equipment is assigned. The log shall be in substantially the same form as Form A or Form B, as applicable:

Form A

State of Iowa

Election Log: Memory Storage Devices for _____ County

Use this form in counties where the memory storage devices are programmed locally.

Memory storage device chain of custody record for:_____ Election to be held __/__/20__

Memory Storage Device Serial #	Precinct and/or Polling Place	Programmed By		Installed in Machine #	Installed By	Installation		Seal Number	Storage Device Returned from Polls	
		Date	Time			Date	Time		By	Date

Form B

State of Iowa

Election Log: Memory Storage Devices for _____ County

Use this form if a vendor programs the memory storage devices.
Memory storage device chain of custody record for:_____ Election to be held __/__/20__

Memory Storage Device Serial #	Precinct and/or Polling Place	Sent for Programming		Installed in Machine #	Installed By	Installation		Seal Number	Storage Device Returned from Polls	
		Date Out	Date In			Date	Time		By	Date

Memory Storage Device Shipping Record for _____ County

Shipped for programming:

Record each storage device number before packing to ship, and check out each storage device number on the chain of custody record. Enclose a photocopy of the Memory Storage Device Record with the storage devices.

Shipped by: _____ _____ Date: ___/___/___ Time: ___:___a.m./p.m.
Print name Signature

Shipped to: _____ Shipped via: _____
_____ Tracking number: _____
_____

Instructions to vendor:

Check in each storage device number on the enclosed chain of custody record when unpacking storage devices.

By: _____ _____ Date: ___/___/___ Time: ___:___ a.m./p.m.
Print name Signature

- If memory storage devices are removed from this inventory for any reason, make a notation of which storage device(s) on the Memory Storage Device Record.
- Replacement storage device(s) if issued should be added to the bottom of the Memory Storage Device Record as a new storage device. A serial number will be assigned later by the receiving county.

Shipped via: _____ Date: _____ Tracking number: _____

Received by County Election Department on Date: ___/___/___

Was the package sealed? _____ Was the seal intact? _____ Notes: _____

Keep the memory storage devices in secure storage after they are received and until they are installed in the voting equipment.

22.51(5) *Preparation and installation.* When memory storage devices are installed, they shall be sealed immediately into the machine using a numbered, tamper-evident seal. Appropriate log entries shall be completed.

22.51(6) *Replacing seals or memory storage devices.* If a seal is accidentally broken or a memory storage device is replaced for any reason, the issuance of a new seal and the entry into the log shall be witnessed by more than one person. The facts of the incident and the names of the individuals who detected and resolved it shall be recorded.

22.51(7) *Opening the polls.* Immediately before the polls open on election day, the precinct election officials shall turn on the voting equipment and print the report showing that all counters are set at zero.

22.51(8) *Verification log.* The commissioner shall provide to each precinct a precinct verification log with the ballot record and receipt. The verification log shall provide places for precinct election officials to record or check the following information before the polls open and again before leaving the polling place at the end of the day:

a. Seal numbers from the voting equipment; and

b. Condition of seals on ballot containers.

22.51(9) *Election day.*

a. Before the polls are opened, the precinct election officials shall verify the required information in the verification log and sign the log.

b. After the polls are closed, the precinct election officials shall verify the required information in the verification log and sign the log before leaving the polling place.

c. If the precinct election officials remove the memory storage devices from the voting equipment, the officials shall first print the results report from the voting equipment.

22.51(10) *Return of memory storage devices.* If the precinct election officials remove the memory storage devices from the voting equipment on election night, they shall return to the commissioner the memory storage devices and the seals used to secure them in a sealed envelope or other container. All officials of the precinct shall witness the statement on the envelope or other container. The label on the envelope or other container shall be in substantially the following form:

Memory Storage Devices

Election Date: _____
Precinct: _____

This envelope contains Memory Storage Devices and memory storage device access seals from this precinct.

Machine Number	Memory Storage Device #	Memory Storage Device Seal #

[Signatures of all precinct election officials shall be included on the label.]

22.51(11) *Storage.* If the memory storage devices are returned inside the voting equipment to the commissioner, the machine serial numbers and the seal numbers shall be verified against the verification log described in subrule 22.51(8). When the memory storage devices are removed, their serial numbers shall also be verified against the verification log returned by the precinct's election officials. The memory storage device audit log shall be retained for the time period required by Iowa Code section 50.19.

22.51(12) *Results verified.* Before the conclusion of the canvass of votes, the individual results reports from the precincts, as signed by the precinct election officials at the polls on election night, shall be compared to the election results compiled for the canvass (either manually or electronically) to verify that transmitted and accumulated totals match the results witnessed by the election officials. Any discrepancies in these totals shall be reconciled before the supervisors conclude the canvass.

22.51(13) *Retention of programmed memory storage devices.* The election information on all memory storage devices used for an election shall be retained on the memory storage devices until after the time to file requests for recounts and election contests has passed. If a contest is pending, the memory storage devices shall be retained until the contest is resolved. Before the memory storage devices are permanently erased, the commissioner shall print the memory storage device audit log from each storage device.

22.51(14) *Retention of program information.* The commissioner shall retain all instructions and other written records of the process for programming the memory storage devices and the memory storage device audit logs for the period required by Iowa Code section 50.19. The contents of memory storage devices and other electronic records of the election process shall be collected and retained in an electronic or other medium and stored with the other election records for the time period required by Iowa Code section 50.19.

[**ARC 0801C**, IAB 6/26/13, effective 7/31/13]

721—22.52(52) Voting equipment malfunction at the polls. The precinct election officials shall immediately cease using any malfunctioning voting equipment and report the problem to the commissioner. Only a person who is authorized in writing by the commissioner to do so shall be permitted to attempt to repair malfunctioning voting equipment. The person shall show identification to the precinct election official. The commissioner shall keep a written record of all known malfunctions and their resolution. The precinct election officials shall return the voting equipment to service only if the malfunction is corrected.

22.52(1) *Routine resolution.* Some problems may be easily resolved by following simple instructions. If the commissioner and the precinct election officials are able to resolve a problem without replacing the equipment, the officials shall document the problem, the time it occurred, how it was resolved, and by whom.

22.52(2) *Repair or replacement.* Repairs to voting equipment at the polls on election day shall be limited. If the problem cannot be easily resolved, a person who is authorized to do so by the commissioner shall replace the equipment as soon as possible. Two election officials, one from each political party, shall witness repair or replacement of any voting equipment, including memory cards. The authorized person making the repair or replacement and the two election officials shall sign a report of the incident.

721—22.53 to **22.99** Reserved.

OPTICAL SCAN VOTING SYSTEMS

721—22.100(52) Optical scan ballots, automatic tabulating equipment, and absentee voting. Rescinded IAB 10/8/08, effective 9/19/08.

721—22.101(52) Definitions. The definitions established by this rule shall apply whenever the terms defined appear in relation to an optical scan system used with the type of ballot defined in this rule.

"Ballot" means the official document that includes all of the offices or public measures to be voted upon at a single election, whether they appear on one or more optical scan ballots.

"Optical scan voting system" means a system employing optical scan ballots under which votes are cast by voters by marking the optical scan ballots with a ballot marking device and thereafter counted by use of automatic tabulating equipment.

"Overvote" means to vote for more than the permitted number of choices for any office or question on a ballot.

"Secrecy envelope" means a reusable envelope of sufficient construction that when the optical scan ballot is inserted in it all portions indicating voting marks are hidden from view.

"Tabulating device" means the portable apparatus which examines and counts the votes recorded on the optical scan ballot and produces a paper printout of the results of the voting.

"Ticket" means each list of candidates nominated by a political party or group of petitioners.

"Undervote" means to vote for fewer than the permitted number of choices for any office or question on a ballot.

"Voting system" means the total combination of mechanical, electromechanical or electronic equipment (including the software, firmware and documentation required to program, control and support the equipment that is used to define ballots, to cast and count votes, to report or display election results and to maintain and produce any audit trail information). "Voting system" also includes the practices and associated documentation used to identify system components and versions of such components, to test the system during its development and maintenance, to maintain records of system errors and defects, to determine specific system changes to be made to a system after the initial qualification of the system and to make available any materials to the voter such as notices, instructions, forms or paper ballots. (See Section 301(b) of HAVA.)

"Voting target" means the space on an optical scan ballot which the voter marks to cast a vote for a candidate, judge or question. This target shall be printed according to the requirements of the voting system to be used to read the ballots.

721—22.102(52) Optical scan ballots. The optical scan ballots shall be printed pursuant to Iowa Code chapters 43 and 49 and by any relevant provisions of any statutes which specify the form of ballots for special elections, so far as possible within the constraints of the physical characteristics of the system.

22.102(1) The optical scan ballots may be printed on both sides of a sheet of paper. If both sides are used, the words "Turn the ballot over" shall be clearly printed on the front and the back of the optical scan ballot, at the bottom.

22.102(2) Printed at the top of the front side of the optical scan ballot shall be the name and date of the election; the words "Official Ballot"; a designation of the ballot style or precinct, if any; and a facsimile of the commissioner's signature.

22.102(3) The voting target shall be printed opposite each candidate's name and write-in line on the optical scan ballot, and opposite the "yes" and "no" for each public measure and judge. The voting target

shall be printed on the left side of the name or "yes" and "no". The voting target shall be an oval unless the voting system requires a target with a different shape.

22.102(4) For partisan primary elections, the names of candidates representing each political party shall be printed on separate optical scan ballots. The ballots shall be uniform in quality, texture and size. The name of the political party shall be printed in at least 24-point type (¼″ high) at the top of the ballot.

22.102(5) There shall be printed on the ballot a line to accommodate the initials of the precinct election official who endorses the ballot as provided in Iowa Code sections 43.36 and 49.82.

22.102(6) It is not necessary for public measures to be printed on colored paper.

22.102(7) Ballots shall be coded as necessary to allow the tabulation program to identify the appropriate ballots for the precinct. Ballots shall be coded so the tabulating device can identify by precinct the votes cast for each office and question on the ballot by precinct. The votes from the absentee and special voters precinct shall be reported as a single precinct except in general elections pursuant to Iowa Code section 53.20 as amended by 2008 Iowa Acts, House File 2367. Identical ballots shall not be coded to identify groups of voters within a precinct.

22.102(8) No office or public measure on any ballot shall be divided to appear in more than one column or on more than one page of a ballot. If the full text of a public measure will not fit on a single column of the ballot, the commissioner shall prepare a summary for the ballot and post the full text in the voting booth as required by Iowa Code section 52.25.

22.102(9) Ballots shall be stored in a locked room or storage area. Access to the storage area shall be restricted to those persons identified in the election security plan. Throughout the election process, the commissioner shall keep accurate records of the number of each type of ballot or ballot style printed for the election. This record shall include the number of ballots:

a. Ordered from the printer.

b. Printed and delivered by the printer to the commissioner. The commissioner may store sealed, unopened packages of ballots without verifying the number of ballots in the package.

c. Used for testing as required by Iowa Code sections 52.9 and 52.35 and rule 721—22.41(52).

d. Held in reserve for emergencies as required by Iowa Code section 49.66.

e. Delivered to and returned from the polling places as required by Iowa Code sections 49.65 and 50.10.

f. Used for absentee voting, including any spoiled ballots.

g. Issued as sample ballots to the public as permitted by Iowa Code section 43.30.

h. Photocopied ballots used pursuant to Iowa Code section 49.67.

i. Printed by the commissioner using any voting system program, such as Election Systems & Software's Ballot on Demand program.

721—22.103 to **22.199** Reserved.

PRECINCT COUNT SYSTEMS

721—22.200(52) Security.

22.200(1) At least one tabulating device shall be provided at each precinct polling place for an election. If the tabulating device is delivered to the polling place before election day, it shall be secured against tampering or kept in a locked room.

22.200(2) The maintenance key or keys used to gain access to the internal parts of the tabulating device shall be kept in a secure place and in a secure manner, in the custody of the commissioner. On election day, the key used to obtain the paper printout shall be kept by the chairperson of the precinct election officials in a secure manner. Small electronic devices, such as memory cards, cartridges or other data storage devices used to activate tabulation equipment or to store election information, shall be in the custody of the precinct chairperson when the devices are not installed on the voting equipment.

22.200(3) If a password is needed for precinct election officials to have routine access to the tabulating device during election day, the password shall be changed for every election. The commissioner shall restrict access to the password in the written security policy.

721—22.201(52) Programming and testing the tabulating devices for precinct count systems.

22.201(1) All programming of tabulating devices shall be performed under the supervision of the commissioner. The devices shall be programmed to ensure that all votes will be counted in accordance with the laws of Iowa. Tabulating devices shall be programmed to return to the voter any ballots:

a. That are not coded to be used in the precinct.

b. That are read as blank.

c. That have one or more overvoted offices or public measures.

22.201(2) Digital ballot images that are saved as the voted ballots are scanned and the portions of those images that are printed on the results tapes may be used for the purpose of tallying write-in votes cast in the election. Digital ballot images that are saved as the voted ballots are scanned shall not be transferred to the election computer used as part of the voting system as defined by rule 721—22.1(52). Digital ballot images shall be treated as voted ballots under Iowa Code section 50.12 in terms of preservation, access, retention, and destruction, except the images shall not be accessed in the event of an official recount as required by Iowa Code section 50.48(4)*"a"* or election contest unless the actual physical ballots are unavailable.

[**ARC 1548C**, IAB 7/23/14, effective 8/27/14]

721—22.202(50) Unique race and candidate ID numbers for election night results reporting. All tabulating devices programmed for primary and general elections and for special elections conducted pursuant to Iowa Code section 69.14 shall be programmed using the unique race and candidate ID numbers assigned by the state commissioner. The unique race and candidate ID numbers will be provided to the county commissioners with the candidate certification prepared by the state commissioner.

This rule is intended to implement Iowa Code chapter 50.

[**ARC 9989B**, IAB 2/8/12, effective 1/17/12]

721—22.203(50) Reporting election night results electronically. For all primary and general elections, the county commissioner shall provide the state commissioner with an electronic results file generated from the county's vote tabulation software system, if any. For special elections conducted pursuant to Iowa Code section 69.14, the county commissioner shall provide election night results in the manner requested by the state commissioner.

This rule is intended to implement Iowa Code chapter 50.

[**ARC 9989B**, IAB 2/8/12, effective 1/17/12]

721—22.204 to **22.220** Reserved.

721—22.221(52) Sample ballots and instructions to voters. Sample special paper ballots and printed instructions for casting votes on special paper ballots shall be prominently displayed in each polling place. Instructions shall also be displayed inside each voting booth. Each special paper ballot shall also include an example of the method of marking the ballot recommended by the manufacturer of the tabulating device. Further instructions shall be provided to any voter who requests assistance in accordance with Iowa Code section 49.90.

721—22.222 to **22.230** Reserved.

721—22.231(52) Emergency ballot box or bin. Each precinct shall be furnished with an emergency ballot box or bin that is suitably equipped with a lock and key or numbered, tamperproof seal. In the event of power failure or malfunction of the tabulating device, voted ballots shall be deposited in the locked or sealed emergency ballot box or bin. A precinct election official shall put the ballot into the emergency ballot box or bin for the voter. The voted ballots so deposited may be removed from the locked emergency ballot box or bin and tabulated before the polls close whenever a properly functioning tabulating device becomes available, or the voted ballots so deposited may be removed and counted electronically or manually immediately after the polls are closed. If the ballots are counted manually, the precinct election officials shall follow the requirements of 721—Chapter 26.

721—22.232(52) Manner of voting. After the precinct election official has endorsed a ballot, the official shall instruct the voter to use only the marker provided. The ballot shall be inserted in a secrecy folder and given to the person who is entitled to receive the ballot in accordance with the provisions of Iowa Code section 49.77.

22.232(1) The precinct officials shall provide each voter with a secrecy folder. The commissioner may print basic ballot marking instructions on the secrecy folder. It is not necessary to print information on secrecy folders that will limit the usefulness of the secrecy folder to one or more elections or election types. Upon receipt of the ballot in the secrecy folder, the voter shall retire alone to a voting booth and without delay mark the ballot.

22.232(2) The voter shall vote upon the ballot by marking the appropriate voting target with an appropriate pen or pencil in the manner described in the instructions printed on the ballot.

When a write-in vote has been cast, the ballot must also be marked in the corresponding voting target in order to be counted.

22.232(3) After marking the ballot, the voter shall replace it in the secrecy folder and leave the voting booth at once.

22.232(4) The voter shall at once deposit the ballot, still enclosed in the secrecy folder, in the tabulating device so that the ballot is automatically removed from the secrecy folder, the votes tabulated, and the ballot deposited in the ballot box.

22.232(5) If the tabulating device is equipped with a mechanism that will not permit more than one ballot to be inserted at one time, the voter may insert the ballot into the tabulating device. If the tabulating device cannot detect and reject multiple ballots, the voter shall be required to hand the ballot in the secrecy folder to the precinct election official without revealing any of the marks on the ballot. The precinct election official shall at once deposit the ballot in the manner described in subrule 22.232(4).

22.232(6) If the tabulating device returns a ballot, the precinct official attending the device shall ask the voter to wait. Without examining the ballot, the official shall enclose the returned ballot in a secrecy folder. If necessary, the official shall read to the voter the information provided by the device about the reason the ballot was returned. The official shall offer the voter the opportunity to correct the ballot. The precinct official shall mark the returned ballot "spoiled" and shall also tear or mark the ballot so that the tabulating device cannot count it. The voter may use the spoiled ballot as a guide for marking the corrected ballot. After the voter has marked the corrected ballot, the precinct officials shall collect the spoiled ballot and keep it with other spoiled ballots.

22.232(7) If the voter who cast the returned ballot is not available, or declines to correct the ballot, the precinct official shall not mark the ballot "spoiled." Either the voter or the official shall reset the tabulating device to accept the ballot. The voter, or the official if the voter has gone, shall insert the ballot into the precinct counter without further examination.

721—22.233 to **22.239** Reserved.

721—22.240(52) Results. After the polls are closed and the tabulating device has processed all of the ballots, including any ballots from the emergency ballot box or bin, the precinct election officials shall:

22.240(1) Unlock the tabulating device and obtain a paper printout showing the votes cast for each candidate and public measure.

22.240(2) Fasten the paper printout to the official tally sheet.

22.240(3) Unlock or remove the seal on the ballot box or bin containing ballots with write-in votes and open it. The precinct officials shall remove the ballots and manually count the write-in votes as required by 721—Chapter 26. The officials shall record the write-in votes in the tally list. A single tally list is sufficient for use when tabulating write-in votes.

22.240(4) Seal all ballots in a transfer case to be returned to the commissioner in accordance with Iowa Code section 50.12.

22.240(5) It is not necessary for the precinct officials to separate primary election ballots by political party.

721—22.241(52) Electronic transmission of election results. If the equipment includes a modem for the electronic transmission of election results, the precinct officials may transmit the results after a printed copy has been made. If the voting system includes a data card, cartridge or other small device that contains an electronic copy of the election results, the precinct chairperson shall secure the device and ensure its safe delivery to the commissioner.

721—22.242 to **22.249** Reserved.

721—22.250(52) Absentee voting instructions. Printed instructions shall be included with the ballot or ballots given to or mailed to each absentee voter. Written instructions to the voter shall be sent with every absentee ballot. For federal elections, the commissioner shall use only the instructions provided by the state commissioner.

721—22.251(52) Absentee voting instructions. Rescinded IAB 11/23/05, effective 12/28/05.

721—22.252 to **22.259** Reserved.

721—22.260(52) Specific precinct count systems. Additional rules are provided for each voting system approved for use in Iowa. The requirements in rules 721—22.261(52) through 721—22.265(52) apply only to the voting systems indicated and are in addition to the general provisions set forth in rules 721—22.200(52) through 721—22.250(52).
[**ARC 0238C**, IAB 8/8/12, effective 7/11/12]

721—22.261(52) Election Systems & Software Voting Systems—preparation and use in elections.

22.261(1) *Security.* The commissioner shall have a written security plan for the voting system. Access to equipment, programs and passwords shall be limited to those persons authorized in writing by the commissioner. The security plan shall be reviewed at least annually.

a. Passwords used at the polling places on election day shall be changed for each election.

b. The control key for the precinct automatic tabulators shall be in the possession of the precinct chairperson on election day.

22.261(2) *Precinct automatic tabulator configuration choices.* The following settings are mandatory for all elections.

a. *Ballot control.* In an official election, the commissioner shall not program the precinct automatic tabulators for unconditional acceptance of all ballots, shall not divert blank ballots to the write-in bin, and shall always accept undervoted ballots. The system shall be programmed to query the voter in each of the following situations:

(1) Overvoted ballot.

(2) Blank ballot.

(3) Unreadable ballot.

b. *Unit control.* The commissioner shall not select automatic transmission of election results by modem. The precinct officials must print the official results at the polling place before transmitting them.

c. *Reports.* The following are required reports:

(1) Opening the polls. Print the Zero Certification report.

(2) Closing the polls. Print the poll report before transmitting the election results by modem. The poll report is the official record of the votes cast in the precinct on election day. The following certification text shall appear at the end of the poll report:

> We, the undersigned precinct election officials of this precinct, hereby attest that this tape shows the results of all ballots cast and counted by the Optical Scan tabulation device at this election.
> [print lines for each of the officials to sign]
> Precinct Election Officials Date: _____ Time: _____

d. *Reopen polls.* The commissioner shall enable the option to reopen the polls, but protect it against unauthorized use. If it is necessary to reopen the polls, the chairperson of the precinct board shall contact the commissioner for the password.

e. *Ballot images.* Rescinded IAB 7/23/14, effective 8/27/14.

22.261(3) *Central count automatic tabulator configuration choices.* The following settings are mandatory for all elections in which the M650 or DS850 is used.

a. *Ballot control.* In an official election, the commissioner shall program the central count automatic tabulator to accept overvoted ballots and undervoted ballots. The commissioner shall program the central count automatic tabulator to sort blank ballots and unreadable ballots as required by Iowa Code section 52.37. Ballots with write-in votes may be sorted for further review by the absentee and special voters precinct board at the commissioner's discretion.

b. *Reports.* The following are required reports:

(1) Opening the polls. Before ballots are tabulated in the central count automatic tabulator, a Zero Certification report shall be printed.

(2) Closing the polls. After all ballots are tabulated by the central count automatic tabulator, a poll report shall be printed. The poll report is the official record of ballots tabulated in the absentee precinct. The following certification text shall appear at the end of the poll report:

> We, the undersigned precinct election officials of this precinct, hereby attest that this tape shows the results of all ballots cast and counted by the Optical Scan tabulation device at this election.
> [print lines for each of the officials to sign]
> Precinct Election Officials Date: _____ Time: _____

c. *Reopen polls.* The commissioner shall enable the option to reopen the polls, but protect it against unauthorized use.

d. *Ballot images.* Rescinded IAB 7/23/14, effective 8/27/14.

22.261(4) *Ballot printing.*

a. *Format.* The office title, instructions about the maximum number of choices the voter can make for the office, the candidate names and all write-in lines associated with each office on the ballot shall be printed in a single column on the same side of the ballot. When describing the maximum number of choices the voter can make for the office, the following description for each office shall be used: "Vote for no more than xx." Do not include "vote for" language for public measures or judges. All text and the "yes" and "no" choices for each public measure and for each individual judge on a ballot shall be printed in a single column on the same side of the ballot. No office or public measure on any ballot shall be divided to appear in more than one column or on more than one page of a ballot.

b. *Instructions for voters.* The following instructions shall be printed on ballots:

(1) Voting mark. "To vote, fill in the oval next to your choice."

(2) Straight party voting. "To vote for all candidates from a single party, fill in the oval in front of the party name. Not all parties have nominated candidates for all offices. Marking a straight party vote does not include votes for nonpartisan offices, judges or questions."

(3) Public measures. "Notice to voters. To vote to approve any question on this ballot, fill in the oval in front of the word 'Yes'. To vote against a question, fill in the oval in front of the word 'No'."

22.261(5) *System error messages.* At the discretion of the commissioner, precinct election officials may be provided with a list of routine error messages, including messages that relate to paper jams, which do not rise to the level of voting equipment malfunctions and the appropriate responses. The officials may be instructed to contact the commissioner or the commissioner's designee on election day for all other messages or routine errors for which appropriate responses have not been provided by the commissioner.

22.261(6) *Record retention.* The precinct automatic tabulating equipment uses thermal printers. The maximum anticipated life span of the results from each automatic tabulator is only five years. In order to preserve the permanent record of the precinct results required by Iowa Code section 50.19,

the commissioner shall print a copy of the results of each precinct on permanent paper and store these copies with the tally lists from precincts where the precinct automatic tabulators were used.
[**ARC 9468B**, IAB 4/20/11, effective 5/25/11; **ARC 0801C**, IAB 6/26/13, effective 7/31/13; **ARC 1548C**, IAB 7/23/14, effective 8/27/14]

721—22.262(52) Premier Election Solutions' AccuVote OS and AccuVote OSX precinct count devices.

22.262(1) *Security.* The commissioner shall have a written security plan for the voting system. Access to voting equipment, programs and passwords shall be limited to those persons authorized in writing by the commissioner. The security plan shall be reviewed at least annually.

a. Passwords used at polling places shall be changed for each election.

b. For each election, the precinct chairperson shall be responsible for the custody and security of the control card and ballot box keys and the security of the voting system.

22.262(2) *Configuration choices.* The following selections are mandatory for all elections:

a. Reject settings shall be configured as follows:

(1) Return to voters ballots that include one or more overvoted races and blank-voted ballots. Include on the override log the number of times the override option was used for overvoted and blank-voted ballots.

(2) Divert to the write-in ballot bin only ballots with write-in votes.

(3) Do not include reject settings for blank voted races, undervoted races, straight party overvotes, multiparty overvotes or duplicate votes.

b. Tally settings shall be as follows:

(1) The straight party shall be "Exclusive."

(2) The write-in setting shall be "Combined."

22.262(3) *Zero totals reports.* Long form zero totals reports showing all counters at zero shall be printed following memory card programming, before counting ballots in the Pre-Election Mode and as the ballot reader is opened on election day.

22.262(4) *Ballot printing.* Although the Premier Election Solutions' GEMS voting system software includes choices for variations in ballot layout, all ballots shall be prepared according to the requirements of Iowa Code sections 43.26 through 43.29 and 49.30 through 49.48. For all elections the voting target shall be an oval printed on the left side of each choice on the ballot.

22.262(5) *Preelection testing.* All voting equipment shall be tested pursuant to the provisions of Iowa Code section 52.30 and rule 721—22.42(52). At the commissioner's discretion, the commissioner may conduct additional tests.

22.262(6) *System error messages.* At the discretion of the commissioner, precinct election officials may be provided with a list of routine error messages, including messages that relate to paper jams, which do not rise to the level of voting equipment malfunctions and the appropriate responses. The officials may be instructed to contact the commissioner or the commissioner's designee on election day for all other messages or routine errors for which appropriate responses have not been provided by the commissioner.
[**ARC 0801C**, IAB 6/26/13, effective 7/31/13]

721—22.263(52) AutoMARK Voter Assist Terminal (VAT).

22.263(1) *Acceptance testing.* Upon receipt of the equipment from the vendor, the commissioner shall subject each AutoMARK VAT to an acceptance test. The test shall be in addition to any testing provided by the vendor and shall include a demonstration of all functionalities of the device.

22.263(2) *Audio ballot preparation.* Each candidate shall have the opportunity to provide a record of the proper pronunciation of the candidate's name. The same voice shall be used for recording the entire ballot including instructions, office titles, candidate names and the full text of all public measures.

22.263(3) *Preelection testing.* Each AutoMARK VAT shall be tested before each election in which it will be used. The commissioner may use the AutoMARK VAT to prepare some ballots for test decks required by rule 721—22.42(52). In addition, the commissioner shall:

a. Perform the test ballot print, then review the ballot to be sure that all ovals are darkened and the appropriate names are printed on each line.

b. Calibrate the touchscreen.

c. Select, then deselect each voting position in each race.

d. Verify that the overvote and undervote functions are programmed correctly.

e. Test the write-in function for each office on one ballot, and test all of the letters in the alphabet.

f. Use the audio ballot function to mark one ballot.

g. Tabulate the marked ballots from this test on the appropriate optical scanner.

h. Ensure that the AutoMARK VAT is available for demonstration at public tests.

22.263(4) *Compact flash memory cartridge or memory card.* The compact flash memory cartridge shall be installed before the AutoMARK VAT is locked, sealed and shipped to the polling place for election day. In addition to locking the memory cartridge access door, the commissioner shall seal the door with a numbered seal, record the seal number, and provide the number to the precinct election officials as required by rule 721—22.51(52). From the time the AutoMARK VAT is delivered to the polling place until the time the precinct election officials arrive, the AutoMARK VAT shall be stored securely to prevent tampering. On election day, the precinct election officials shall inspect the seal and verify that the original numbered seal is present and undamaged.

22.263(5) *Calibration testing.* The commissioner may provide for printer and touchscreen calibration testing after delivery of the AutoMARK VAT to the polling place. If calibration testing is performed at the polling place, the delivery staff shall complete the testing before the polls open on election day and shall keep a log for each AutoMARK VAT and record the machine serial number, the precinct name or number, the date and time of the test, the name of the person performing the test, and the lifetime printer counter number at the completion of the test. The ballot to be used in the calibration test shall be provided to the tester and shall be labeled with the precinct name and election date. The completed calibration test ballot shall be returned to the commissioner and kept with the election records.

22.263(6) *AutoMARK VAT keys.* Possession of the AutoMARK VAT keys shall be restricted to precinct election officials and authorized members of the commissioner's staff.

22.263(7) *Table.* The table used to support the AutoMARK VAT shall meet the following requirements: The table shall be sturdy enough to hold the 40-pound AutoMARK VAT safely. Clearance shall be at least 27 inches high, 30 inches wide, and 26 inches deep. The top of the table shall be from 28 inches to 34 inches above the floor.

22.263(8) *Privacy.* The commissioner may provide each AutoMARK VAT with a privacy shield to protect the secrecy of each voter's ballot. The commissioner shall instruct the precinct election officials to position the AutoMARK VAT to provide maximum access for voters (especially voters who use wheelchairs) as well as privacy.

22.263(9) *Abandoned ballots.* If a voter or precinct election official discovers that a voter has left the AutoMARK VAT without printing the voter's ballot, the two precinct election officials designated to assist voters shall print the ballot without reviewing the ballot or making any changes, enclose the ballot in a secrecy folder, and immediately deposit the ballot in the tabulating device.

721—22.264(52) Unisyn OpenElect OVO unit—preparation and use in elections.

22.264(1) *Security.* The commissioner shall have a written security plan for the voting system. Access to equipment, programs and passwords shall be limited to those persons authorized in writing by the commissioner. The security plan shall be reviewed at least annually.

a. Passwords used at the polling places on election day shall be changed for each election.

b. For each election, the precinct chairperson shall be responsible for the custody and security of the keys for the voting equipment, the ballot boxes and the security of the voting system on election day.

22.264(2) *Configuration choices.* The following selections are mandatory for all elections:

a. *Access, messaging and tabulating selections.* In the Election Manager, "Election Options" menu, the following selections shall be made:

(1) "Allow Add Precinct" shall be checked.

(2) "Full Voter Ballot Review" shall not be checked. The commissioner may select either "Alert Print Only" or "Alert on-screen."

(3) "Show Precinct Split Totals" shall not be checked.

(4) "Overvote by Vote For" shall be checked.

(5) "No Undervote Check" shall be selected in the Undervote Checking dropdown menu.

b. *Printing selections.* In the Election Manager, "Printing Options" menu, the following selections shall be made:

(1) "Auto Print Alerts" may be checked.

(2) "Voter Receipts" shall not be checked.

(3) "Show Contest Results on Election Day" shall be checked.

c. *Ballot acceptance by the OVO unit.* In an official election, the commissioner shall not program the OVO for unconditional acceptance of all ballots and shall program the OVO unit to accept undervoted ballots. The system shall also be programmed to query the voter and give the voter the on-screen option to "Cast Ballot as Marked" in each of the following situations:

(1) Overvoted ballot.

(2) Blank ballot.

(3) Unreadable ballot.

d. *Reports.* The following are required reports:

(1) Opening the polls. Print a zero vote totals report.

(2) Closing the polls. The poll report is the official record of the votes cast in the precinct on election day.

(3) Certification text. The following shall appear at the end of the poll report:

We, the undersigned precinct election officials of this precinct, hereby attest that this tape shows the results of all ballots cast and counted on this tabulating device at this election.
(Include signature lines for each of the officials to sign.)

22.264(3) *Ballot layout.* Although the Unisyn OpenElect voting system software includes choices for variations in ballot layout, all ballots shall be prepared according to the requirements of Iowa Code sections 43.26 through 43.29 and 49.30 through 49.48.

a. *Format.* The office title, instructions about the maximum number of choices the voter can make for the office, the candidate names and all write-in lines associated with each office on the ballot shall be printed in a single column on the same side of the ballot. All text and the "yes" and "no" choices for each public measure and for each individual judge on a ballot shall be printed in a single column on the same side of the ballot. No office or public measure on any ballot shall be divided to appear in more than one column or on more than one page of a ballot. For all elections, the voting target shall be printed on the left side of each choice on the ballot.

b. *Instructions for voters.* The ballots shall contain instructions for voters including:

(1) How to mark the ballot;

(2) Straight party voting instructions in general elections as required by Iowa Code section 49.37;

(3) Where to find the judicial ballot (if any); and

(4) Constitutional amendment (if any) as required by Iowa Code section 49.48 and notices to voters on ballots with public measures (if any) as required by Iowa Code section 49.47.

22.264(4) *System error messages.* Precinct election officials shall be provided with a list of known system error messages and the appropriate responses. The officials shall be instructed to contact the commissioner or the commissioner's designee for all other messages, errors or voting equipment malfunctions on election day.

22.264(5) *Preelection testing.* All voting equipment shall be tested pursuant to the provisions of Iowa Code section 52.30 and rule 721—22.42(52). At the commissioner's discretion, additional logic and accuracy tests may be conducted.

22.264(6) *Record retention.* The OVO unit uses a thermal printer. The maximum anticipated life span of the results from each OVO unit is only five years. In order to preserve the permanent record of the precinct results required by Iowa Code section 50.19, the commissioner shall print a copy of the

results of each precinct on permanent paper and store these copies with the tally lists from precincts where the OVO unit was used.

22.264(7) *Central count automatic tabulator configuration choices.* The following settings are mandatory for all elections in which the OVCS is used.

a. *Ballot control.* In an official election, the commissioner shall program the central count automatic tabulator to accept overvoted ballots and undervoted ballots. The commissioner shall program the central count automatic tabulator to sort blank ballots and unreadable ballots as required by Iowa Code section 52.37. Ballots with write-in votes may be sorted for further review by the absentee and special voters precinct board at the commissioner's discretion.

b. *Reports.* The following are required reports:

(1) Opening the polls. Before ballots are tabulated in the central count automatic tabulator, a Zero Certification report shall be printed and shall be signed by the members of the absentee and special voters precinct board.

(2) Closing the polls. After all ballots are tabulated by the central count automatic tabulator, a poll report shall be printed. The poll report is the official record of ballots tabulated in the absentee precinct and shall be signed by the members of the absentee and special voters precinct board.

c. *Reopen polls.* The commissioner shall enable the option to reopen the polls, but protect it against unauthorized use.

[**ARC 0238C**, IAB 8/8/12, effective 7/11/12; **ARC 0801C**, IAB 6/26/13, effective 7/31/13; **ARC 1548C**, IAB 7/23/14, effective 8/27/14; **ARC 1746C**, IAB 12/10/14, effective 1/14/15]

721—22.265(52) Unisyn OpenElect OVI unit.

22.265(1) *Acceptance testing.* Upon receipt of the equipment from the vendor, the commissioner shall subject each OVI unit to an acceptance test. The test shall be in addition to any testing provided by the vendor and shall include a demonstration of the functionalities of the device.

22.265(2) *Audio ballot preparation.* Each candidate shall have an opportunity to provide a record of the proper pronunciation of the candidate's name. The same voice shall be used for recording the entire ballot including instructions, office titles, candidate names and the full text of all public measures.

22.265(3) *Timeout value.* The OVI timeout value shall be set to 600 seconds. Precinct election officials shall monitor the use of the OVI unit to ensure that voting sessions are not automatically terminated due to inactivity. If a voter abandons a voting session initiated on the OVI unit without printing a ballot, the two precinct election officials designated to assist voters shall print the ballot without reviewing it or making any changes to the voter's choices before the OVI unit times out due to inactivity, enclose the ballot in a secrecy folder, and immediately deposit the ballot in the tabulating device.

22.265(4) *Preelection testing.* Each OVI unit shall be tested before each election in which it will be used. The commissioner must use the OVI unit to prepare some ballots for the test decks as required by paragraph 22.42(1)*"d."* In addition, the commissioner shall verify that:

a. The vote response fields on the screen align with the candidate names or choices.

b. All contests and candidates appear on the screen for each precinct.

c. All contests and candidates are included in the audio ballot for each precinct.

d. All voting positions in each race can be selected, then deselected, using the touchscreen and the keypad.

e. Selections on the printed ballots accurately reflect the voter's choices.

f. Overvote and undervote functions are programmed correctly.

g. The write-in function for each office is working correctly. All letters in the alphabet must be tested.

h. There is enough paper on the paper roll to print a minimum of ten ballots for the election in which the OVI unit is being used.

22.265(5) *Availability at public test.* The commissioner shall ensure that the OVI unit is available for demonstration at public tests.

22.265(6) *TM.* The TM device used with the OVI unit shall be installed before the OVI unit is locked, sealed and transported to the polling place for election day. The commissioner shall lock and seal the OVI unit, record the seal number and provide the number to the precinct election officials as required by rule 721—22.51(52). From the time the OVI unit is delivered to the polling place until the time the precinct officials arrive, the OVI unit shall be stored securely to prevent tampering. On election day, the precinct election officials shall inspect the seal and verify that the original numbered seal is present and undamaged.

22.265(7) *Touchscreen and printer testing.* The commissioner may provide for printer and touchscreen testing after delivery of the OVI unit to the polling place. If touchscreen testing is performed at the polling place, the delivery staff shall complete the testing before the polls open on election day. Staff shall keep a log for each OVI unit and record the machine serial number, precinct name or number, nature of the test, date and time of the test and name of the person performing the test.

22.265(8) *OVI unit keys.* Possession of the OVI unit keys shall be restricted to the precinct chairperson and authorized members of the commissioner's staff.

22.265(9) *Table or voting booth.* The table or voting booth used to support the OVI unit shall meet the following requirements:

a. The table shall be sturdy enough to hold the OVI unit safely.

b. Clearance shall be at least 27 inches high, 30 inches wide, and 26 inches deep.

c. The top of the table shall be from 28 inches to 34 inches above the floor.

22.265(10) *Privacy.* The commissioner shall instruct the precinct election officials to position the OVI unit to provide maximum privacy and access to voters.

22.265(11) *Abandoned ballots.* If a voter or a precinct election official discovers that a voter has left the voter's ballot at the OVI unit, the two precinct election officials designated to assist voters shall enclose the ballot in a secrecy folder and immediately deposit the ballot in the tabulating device.

22.265(12) *Extra paper rolls.* Each precinct in which an OVI unit is being used shall be equipped with an extra paper roll for the OVI unit, and precinct election officials shall be instructed as to the method of replacing the paper roll.

[**ARC 0238C**, IAB 8/8/12, effective 7/11/12]

721—22.266(52) Dominion Democracy Suite Voting Systems—preparation and use in elections.

22.266(1) *Security.* The commissioner shall have a written security plan for the voting system. Access to equipment, programs and passwords shall be limited to those persons authorized in writing by the commissioner. The security plan shall be reviewed at least annually.

a. Passwords used at the polling places on election day shall be changed for each election.

b. For each election, the precinct chairperson shall be responsible for the custody and security of the keys for the voting equipment and the ballot boxes and the security of the voting system on election day.

22.266(2) *Precinct automatic tabulator configuration choices.* The following selections are mandatory for all elections.

a. Access, messaging and tabulating selections. The Machine Behavioral Settings shall be configured as follows:

(1) The option to allow voters to review ballot selections detected by the precinct automatic tabulator shall be disabled.

(2) Results for each precinct automatic tabulator shall be consolidated by precinct and shall not be reported by split within a precinct.

(3) The automatic tabulators shall be configured to report write-in votes when the oval is darkened, regardless of whether there is text written on the corresponding write-in line.

b. Ballot acceptance. In an official election, the commissioner shall not program the precinct automatic tabulators for unconditional acceptance of all ballots and shall program the automatic tabulators to accept undervoted ballots. The automatic tabulators shall also be programmed to query the voter in each of the following situations:

(1) Overvoted ballot.

(2) Blank ballot.

(3) Unreadable ballot.

(4) Ambiguous marks. Ambiguous marks shall be defined as those marks where 5 to 24 percent of the voting target is darkened.

c. *Reports.* The following are required reports:

(1) Opening the polls. Print a zero vote totals report.

(2) Closing the polls. The poll report is the official record of the votes cast in the precinct on election day.

(3) Certification text. Substantially the following text shall appear at the end of the poll report:

> We, the undersigned precinct election officials of this precinct, hereby attest that this tape shows the results of all ballots cast and counted on this tabulating device at this election.
> (Include signature lines for each of the officials to sign.)

22.266(3) *Central count automatic tabulator configuration choices.* The following settings are mandatory for all elections in which the ImageCast Central automatic tabulator is used.

a. *Ballot control.* In an official election, the commissioner shall program the central count automatic tabulator to accept overvoted ballots and undervoted ballots. The commissioner shall program the central count automatic tabulator to sort or notify the user when blank ballots, unreadable ballots and ballots with write-in votes are detected so such ballots can be separated for further review by the absentee and special voters precinct board as required by Iowa Code section 52.37.

b. *Reports.* The following are required reports:

(1) Opening the polls. Before ballots are tabulated in the central count automatic tabulator, a Zero Certification report shall be printed and shall be signed by the members of the absentee and special voters precinct board.

(2) Closing the polls. After all ballots are tabulated by the central count automatic tabulator, a poll report shall be printed. The poll report is the official record of ballots tabulated in the absentee precinct and shall be signed by the members of the absentee and special voters precinct board.

c. *Reopen polls.* The commissioner shall enable this option, but protect it against unauthorized use.

22.266(4) *Ballot layout.* Although the Dominion Democracy Suite voting system software includes choices for variations in ballot layout, all ballots shall be prepared according to the requirements of Iowa Code sections 43.26 through 43.29 and 49.30 through 49.48.

a. *Format.* The office title, instructions about the maximum number of choices the voter can make for the office, the candidate names and all write-in lines associated with each office on the ballot shall be printed in a single column on the same side of the ballot. When describing the maximum number of choices the voter can make for the office, the following description for each office shall be used: "Vote for no more than xx." Do not include "vote for" language for public measures or judges. All text and the "yes" and "no" choices for each public measure and for each individual judge on a ballot shall be printed in a single column on the same side of the ballot. No office or public measure on any ballot shall be divided to appear in more than one column or on more than one page of a ballot. For all elections, the voting target shall be printed on the left side of each choice on the ballot.

b. *Instructions for voters.* The ballots shall contain instructions for voters, including:

(1) How to mark the ballot;

(2) Straight party voting instructions in general elections as required by Iowa Code section 49.37;

(3) Where to find the judicial ballot (if any); and

(4) Constitutional amendment (if any) as required by Iowa Code section 49.48 and notices to voters on ballots with public measures (if any) as required by Iowa Code section 49.47.

22.266(5) *System error messages.* At the discretion of the commissioner, precinct election officials may be provided with a list of routine error messages, including messages that relate to paper jams, which do not rise to the level of voting equipment malfunctions and the appropriate responses. The officials may be instructed to contact the commissioner or the commissioner's designee on election day

for all other messages or routine errors for which appropriate responses have not been provided by the commissioner.

22.266(6) *Preelection testing of automatic tabulators.* Each ImageCast Evolution or ImageCast Precinct with or without audio and printer unit shall be tested pursuant to the provisions of Iowa Code section 52.30 and rule 721—22.42(52). At the commissioner's discretion, additional logic and accuracy tests may be conducted.

22.266(7) *Audio ballot preparation.* Each candidate shall have an opportunity to provide a record of the proper pronunciation of the candidate's name. The same voice shall be used for recording the entire ballot, including instructions, office titles, candidate names and the full text of all public measures.

22.266(8) *Preelection testing of accessible components.* The accessible components of each ImageCast Evolution or ImageCast Precinct with audio and printer unit shall be tested before each election in which the unit will be used. The commissioner must use the ImageCast Evolution or ImageCast Precinct with audio and printer unit to prepare some ballots for the test decks as required by paragraph 22.42(1)*"e."* In addition, the commissioner shall verify that:

a. The vote response fields on the screen align with the candidate names or choices on the ImageCast Evolution.

b. All contests and candidates appear on the screen for each precinct on the ImageCast Evolution.

c. All contests and candidates are included in the audio ballot for each precinct on the ImageCast Evolution or ImageCast Precinct with audio and printer unit.

d. All voting positions in each race can be selected, then deselected, using the touchscreen on the ImageCast Evolution and the keypad on the ImageCast Evolution or ImageCast Precinct with audio and printer unit.

e. Selections on the printed ballots accurately reflect the voter's choices.

f. Overvote and undervote functions are programmed correctly.

g. The write-in function for each office is working correctly. All letters in the alphabet must be tested.

22.266(9) *Touchscreen and printer testing.* The commissioner may provide for printer and touchscreen testing after delivery of the ImageCast Evolution or ImageCast Precinct with audio and printer unit to the polling place. If touchscreen testing is performed at the polling place, the delivery staff shall complete the testing before the polls open on election day. Staff shall keep a log for each unit and record the machine serial number, precinct name or number, nature of the test, date and time of the test and name of the person performing the test.

22.266(10) *Table or voting booth.* A table or voting booth shall be available to a voter using the ImageCast Precinct with audio and printer unit. A chair shall be provided for voters using the ImageCast Evolution keypad and headphones components. Any table or voting booth used shall meet the following requirements:

a. Clearance shall be at least 27 inches high, 30 inches wide, and 26 inches deep.

b. The top of the table shall be from 28 inches to 34 inches above the floor.

22.266(11) *Privacy.* The commissioner shall instruct the precinct election officials to position the ImageCast Precinct with audio and printer unit to provide maximum privacy and access to voters.

22.266(12) *Abandoned ballots.* If a voter or a precinct election official discovers that a voter has left the voter's ballot at the ImageCast Precinct with audio and printer unit, the two precinct election officials designated to assist voters shall enclose the ballot in a secrecy folder and immediately deposit the ballot in the tabulating device.

22.266(13) *Ballot stock.* Each precinct in which an ImageCast Precinct with audio and printer unit is being used shall be equipped with ballot stock for the printer. The ballot stock shall be kept in a secure place throughout election day. Precinct election officials shall be instructed as to appropriate methods for securing the ballot stock and shall only place a sheet of ballot stock in the printer when an audio ballot is authorized on the unit.

22.266(14) *Record retention.* The ImageCast Evolution, ImageCast Precinct and ImageCast Precinct with audio and printer unit use thermal printers. The maximum anticipated life span of the results from each unit is only five years. In order to preserve the permanent record of the precinct results

required by Iowa Code section 50.19, the commissioner shall print a copy of the results of each precinct on permanent paper and store these copies with the tally lists from precincts where the units were used.
[**ARC 0801C**, IAB 6/26/13, effective 7/31/13; **ARC 1548C**, IAB 7/23/14, effective 8/27/14]

721—22.267 to **22.339** Reserved.

OPTICAL SCAN VOTING SYSTEM USED FOR ABSENTEE AND SPECIAL VOTERS PRECINCT

721—22.340(52) Processing. All scanners used to tabulate absentee and provisional ballots shall be configured to sort blank ballots and ballots containing marks in write-in vote targets for review by the resolution board. The scanners shall not be configured to sort ballots with overvotes. However, if it is not possible to configure the scanners used to count absentee ballots differently from those used at the polling places, the person operating the scanner shall override the scanner and accept overvoted ballots as they are processed. The resolution board shall follow the requirements of 721—subrule 26.2(2). The commissioner shall provide the resolution board with a copy of 721—Chapter 26, "Counting Votes."

This rule is intended to implement Iowa Code section 52.33 as amended by 2007 Iowa Acts, Senate File 369, section 9.

721—22.341(52) Reporting results from absentee ballots and provisional ballots. Absentee and provisional ballot results shall be reported as a single precinct as required by subrule 22.102(7).

721—22.342(52) Tally list for absentee and special voters precinct.

22.342(1) Write-in votes shall be reported on a separate tally sheet which provides a column for the names of offices, a column for the names of persons receiving votes, space to tally the votes received, and a column in which to report the total number of votes cast for each person. In tally lists provided for primary elections, separate pages shall be provided to tally the write-in votes for each political party. Each member of the board who participated in the count shall attest to each tally sheet for write-in votes.

22.342(2) The officials shall certify the procedures followed. The certification shall be in substantially the following form:

Absentee and Special Voters Tally Certificate

_____County

We, the undersigned officials of the Absentee and Special Voters Precinct for this county, do hereby certify that all ballots delivered to the Board for this election were tabulated as shown in the attached report.

We further certify that a record of any write-in votes or other votes manually counted pursuant to Iowa Code chapter 52 is included in this Tally List, and that the numbers entered in the column headed "Total Votes" are the correct totals of all votes manually counted by us.

Signed at _____ on ____/____/____, ___:___ a.m./p.m.

[signatures of officials] 1. _____

2. _____ (etc.)

22.342(3) The record generated by the tabulating equipment shall be attached to or enclosed with the tally list and shall constitute the official return of the precinct.

This rule is intended to implement Iowa Code section 52.33 as amended by 2007 Iowa Acts, Senate File 369, section 9.

721—22.343(39A,53) Counting absentee ballots on the day before the general election. When absentee ballots are tabulated on the day before the election as permitted or required by Iowa Code section 53.23 as amended by 2009 Iowa Acts, House File 670, the absentee and special voters precinct board and county commissioner shall implement the following security precautions:

22.343(1) *Seal and label voted ballot envelopes or other containers with date of tabulation.* The precinct election officials shall seal all ballots tabulated on the day before the election in a voted ballot envelope or other container labeled with the date of tabulation. The precinct election officials shall seal

and sign the envelope or other container in a manner that will make it evident if the envelope or other container is opened.

22.343(2) *Ensure secure storage of all ballots.* Before adjourning for the day, the precinct election officials shall transfer custody of all absentee ballots to the commissioner. The commissioner shall ensure all absentee ballots are stored in a secure location until tabulation is resumed on election day.

22.343(3) *Ensure memory card security.* Before the absentee and special voters precinct board adjourns for the day, the memory card used in the tabulator(s) on the day before the election shall be secured by the precinct election officials in one of the following ways:

a. The memory card may be left in the tabulator when a tamper-evident seal is affixed over the memory card in a manner that will make it evident if the seal is removed.

b. The memory card may be removed from the tabulator and placed in an envelope. The precinct election officials shall seal the envelope in a manner that will make it evident if the envelope is opened.

22.343(4) *Ensure security of the tabulator(s).* Before adjourning for the day, the precinct election officials shall ensure the security of the tabulator(s). The tabulator(s) must be stored in a secure location until the absentee and special voters precinct board resumes tabulation on election day.

22.343(5) *No results tape printing on the day before the election.* No results tapes may be printed from the tabulator(s) on the day before the election.

22.343(6) *No upload of results to tabulating software until election day.* No results may be uploaded or input into tabulating software on the day before the election.

22.343(7) *Verify no tampering before resuming tabulation on election day.* Before tabulation resumes on election day, the absentee and special voters precinct board shall verify the tabulator(s), memory card(s) and memory card port(s) have not been obviously tampered with overnight.

22.343(8) *Resume tabulation.* The absentee and special voters precinct board shall resume tabulation using one of the following methods:

a. Using the same memory card(s) used on the day before the election and resuming tabulation.

b. Using a new memory card(s) and compiling the results contained on the memory card(s) used on election day and on the day before the election.

22.343(9) *Print audit logs.* After the election, the audit logs must be printed and be available for public inspection.

This rule is intended to implement Iowa Code section 39A.5, section 1, paragraph *"a,"* subparagraph (3), and Iowa Code section 53.23 as amended by 2009 Iowa Acts, House File 670.

[**ARC 8698B**, IAB 4/21/10, effective 6/15/10]

721—22.344 to **22.349** Reserved.

721—22.350(52) Election Systems & Software models. Rescinded IAB 10/8/08, effective 9/19/08.

721—22.351(52) Diebold Election Systems' AccuVote-OS central count process. Rescinded IAB 10/8/08, effective 9/19/08.

721—22.352 to **22.430** Reserved.

VOTING MACHINES

721—22.431(52) Temporary use of printed ballots in voting machine precincts. Rescinded IAB 10/8/08, effective 9/19/08.

721—22.432(52) Abandoned ballots. Rescinded IAB 10/8/08, effective 9/19/08.

721—22.433(52) Prohibited uses for direct recording electronic voting machines. Rescinded IAB 10/8/08, effective 9/19/08.

721—22.434(52) Audio ballot preparation. Rescinded IAB 10/8/08, effective 9/19/08.

721—22.435 to **22.460** Reserved.

721—22.461(52) MicroVote Absentee Voting System. Rescinded IAB 8/1/07, effective 7/13/07.

721—22.462(52) Fidlar & Chambers' Absentee Voting System. Rescinded IAB 10/30/02, effective 1/1/03.

721—22.463(52) Election Systems & Software iVotronic. Rescinded IAB 10/8/08, effective 9/19/08.

721—22.464(52) Diebold Election Systems AccuVote TSX DRE. Rescinded IAB 10/8/08, effective 9/19/08.

721—22.465 to **22.499** Reserved.

721—22.500(52) Blended systems. Rescinded IAB 10/8/08, effective 9/19/08.

These rules are intended to implement Iowa Code chapter 52.

[Filed 9/2/75]
[Filed emergency after Notice 9/24/80, Notice 8/20/80—published 10/15/80, effective 10/15/80]
[Filed emergency 10/1/81—published 10/28/81, effective 10/1/81]
[Filed 12/3/81, Notice 10/14/81—published 12/23/81, effective 1/27/82]
[Filed 12/3/81, Notice 10/28/81—published 12/23/81, effective 1/27/82]
[Filed 11/30/83, Notice 10/12/83—published 12/21/83, effective 1/25/84]
[Filed emergency 4/15/86—published 5/7/86, effective 4/15/86]
[Filed without Notice 6/13/86—published 7/2/86, effective 9/3/86]
[Filed 10/16/87, Notice 9/9/87—published 11/4/87, effective 12/9/87]
[Filed 6/23/88, Notice 5/18/88—published 7/13/88, effective 8/17/88]
[Filed 7/26/88, Notice 6/15/88—published 8/10/88, effective 9/14/88]
[Filed 3/30/90, Notice 2/21/90—published 4/18/90, effective 5/23/90]
[Filed emergency 5/8/90—published 5/30/90, effective 5/23/90]
[Filed 5/8/92, Notice 4/1/92—published 5/27/92, effective 7/1/92]
[Filed 3/25/94, Notice 2/16/94—published 4/13/94, effective 5/18/94]
[Filed 6/28/96, Notice 5/22/96—published 7/17/96, effective 8/21/96]
[Filed 8/22/97, Notice 7/16/97—published 9/10/97, effective 10/15/97]
[Filed 12/12/97, Notice 11/5/97—published 12/31/97, effective 2/4/98]
[Filed 6/11/99, Notice 4/7/99—published 6/30/99, effective 8/4/99]
[Filed emergency 6/5/00—published 6/28/00, effective 6/5/00]
[Filed without Notice 10/10/02—published 10/30/02, effective 1/1/03]
[Filed 2/13/03, Notice 12/25/02—published 3/5/03, effective 4/9/03]
[Filed 10/24/03, Notice 7/23/03—published 11/12/03, effective 12/17/03]
[Filed 11/4/05, Notice 9/28/05—published 11/23/05, effective 12/28/05]
[Filed 11/24/05, Notice 10/12/05—published 12/21/05, effective 1/25/06]
[Filed emergency 4/21/06 after Notice 3/15/06—published 5/10/06, effective 5/10/06]
[Filed emergency 5/3/06—published 5/24/06, effective 5/3/06]
[Filed emergency 10/4/06 after Notice 8/30/06—published 10/25/06, effective 10/4/06]
[Filed emergency 6/12/07—published 7/4/07, effective 6/12/07]
[Filed emergency 7/13/07—published 8/1/07, effective 7/13/07]
[Filed 9/7/07, Notice 8/1/07—published 9/26/07, effective 10/31/07]
[Filed emergency 4/2/08—published 4/23/08, effective 4/2/08]
[Filed emergency 9/19/08—published 10/8/08, effective 9/19/08]
[Filed Emergency ARC 8244B, IAB 10/21/09, effective 10/2/09]
[Filed ARC 8698B (Notice ARC 8541B, IAB 2/24/10), IAB 4/21/10, effective 6/15/10]
[Filed ARC 9468B (Notice ARC 9292B, IAB 12/29/10), IAB 4/20/11, effective 5/25/11]
[Filed Emergency ARC 9762B, IAB 10/5/11, effective 9/8/11]

[Filed Emergency ARC 9989B, IAB 2/8/12, effective 1/17/12]
[Filed Emergency ARC 0238C, IAB 8/8/12, effective 7/11/12]
[Filed ARC 0736C (Notice ARC 0556C, IAB 1/9/13), IAB 5/15/13, effective 6/19/13]
[Filed ARC 0801C (Notice ARC 0695C, IAB 5/1/13), IAB 6/26/13, effective 7/31/13]
[Filed ARC 1548C (Notice ARC 1474C, IAB 5/28/14), IAB 7/23/14, effective 8/27/14]
[Filed ARC 1746C (Notice ARC 1643C, IAB 10/1/14), IAB 12/10/14, effective 1/14/15]

LABOR SERVICES DIVISION[875]

[Prior to 11/19/97, see Labor Services Division[347]]

CHAPTER 1
DESCRIPTION OF ORGANIZATION AND PROCEDURES BEFORE THE DIVISION

DIVISION I
ADMINISTRATION

1.1(91) Definitions
1.2(91) Scope and application
1.3(91) Department of workforce development, division of labor services
1.4 to 1.10 Reserved

DIVISION II
OPEN RECORDS AND FAIR INFORMATION PRACTICES

1.11(22,91) General provisions
1.12(22,91) Request for access to records
1.13(22,91) Access to confidential records
1.14(22,91) Requests for treatment of a record as a confidential record and withholding from examination
1.15(22,91) Procedure by which additions, dissents, or objections may be entered into certain records
1.16(22,91) Consent to disclosure by the subject of a confidential record
1.17(22,91) Disclosure without the consent of the subject
1.18(22,91,77GA,ch1105) Availability of records
1.19(22,91) Routine uses
1.20(22,91) Release to a subject
1.21(22,91) Notice to suppliers of information
1.22(22,91) Data processing systems comparison
1.23(22,91) Personally identifiable information
1.24 to 1.30 Reserved

DIVISION III
RULE-MAKING PROCEDURES

1.31(17A) Applicability
1.32(17A) Advice on possible rules before notice of proposed rule adoption
1.33(17A) Public rule-making docket
1.34(17A) Notice of proposed rule making
1.35(17A) Public participation
1.36(17A) Regulatory analysis
1.37(17A,25B) Fiscal impact statement
1.38(17A) Time and manner of rule adoption
1.39(17A) Variance between adopted rule and published notice of proposed rule adoption
1.40(17A) Exemptions from public rule-making procedures
1.41(17A) Concise statement of reasons
1.42(17A,89) Contents, style, and form of rule
1.43(17A) Agency rule-making record
1.44(17A) Filing of rules
1.45(17A) Effectiveness of rules prior to publication
1.46(17A) General statements of policy
1.47(17A) Review by agency of rules
1.48 and 1.49 Reserved

DIVISION IV
DECLARATORY ORDERS

1.50(17A)	Petition for declaratory order
1.51(17A)	Notice of petition
1.52(17A)	Intervention
1.53(17A)	Briefs
1.54(17A)	Inquiries
1.55(17A)	Service and filing of petitions and other papers
1.56(17A)	Consideration
1.57(17A)	Action on petition
1.58(17A)	Refusal to issue order
1.59(17A)	Contents of declaratory order—effective date
1.60(17A)	Copies of orders
1.61(17A)	Effect of a declaratory order
1.62 to 1.64	Reserved

DIVISION V
CONTESTED CASES

1.65(17A)	Scope and applicability
1.66(17A)	Definitions
1.67(17A)	Time requirements
1.68(17A)	Requests for contested case proceeding
1.69(17A)	Notice of hearing
1.70(17A)	Presiding officer
1.71(17A)	Waiver of procedures
1.72(17A)	Disqualification
1.73(17A)	Consolidation—severance
1.74(17A)	Answer
1.75(17A)	Pleadings, service and filing
1.76(17A)	Discovery
1.77(17A)	Subpoenas
1.78(17A)	Motions
1.79(17A)	Prehearing conference
1.80(17A)	Continuances
1.81(17A)	Withdrawals
1.82(17A)	Intervention
1.83(17A)	Hearing procedures
1.84(17A)	Evidence
1.85(17A)	Default
1.86(17A)	Ex parte communication
1.87(17A)	Recording costs
1.88(17A)	Interlocutory appeals
1.89(17A)	Final decision—nonlicense decision
1.90(17A)	Final decision—license decision
1.91(17A)	Appeals and review
1.92(17A)	Applications for rehearing
1.93(17A)	Stays of agency actions
1.94(17A)	No factual dispute contested cases
1.95(17A)	Emergency adjudicative proceedings
1.96 to 1.98	Reserved

DIVISION VI
INTEREST, FEES AND CHARGES

1.99(17A,91) Interest
1.100 Reserved

DIVISION VII
WAIVERS AND VARIANCES FROM ADMINISTRATIVE RULES

1.101(17A,91) Scope
1.102(17A,91) Petitions
1.103(17A,91) Notice and acknowledgment
1.104(17A,91) Review
1.105(17A,91) Ruling
1.106(17A,91) Public availability
1.107(17A,91) Cancellation
1.108(17A,91) Violations
1.109(17A,91) Appeals

IOWA OCCUPATIONAL
SAFETY AND HEALTH

CHAPTER 2
IOSH ENFORCEMENT, IOSH RESEARCH AND STATISTICS,
IOSH CONSULTATION AND EDUCATION

2.1(88) Scope and application
2.2(88) IOSH enforcement
2.3(88) IOSH research and statistics
2.4(88) IOSH private sector consultative services
2.5(88) IOSH public sector consultative services
2.6(88) IOSH education

CHAPTER 3
INSPECTIONS, CITATIONS AND PROPOSED PENALTIES

3.1(88) Posting of notice; availability of the Act, regulations and applicable standards
3.2(88) Objection to inspection
3.3(88) Entry not a waiver
3.4(88) Advance notice of inspections
3.5(88) Conduct of inspections
3.6(88) Representatives of employers and employees
3.7(88) Complaints by employees
3.8(88) Trade or governmental secrets
3.9(88) Imminent danger
3.10(88) Consultation with employees
3.11(88) Citations
3.12(88) Informal conferences
3.13(88) Petitions for modification of abatement date
3.14 to 3.18 Reserved
3.19(88) Abatement verification
3.20(88) Policy regarding employee rescue activities
3.21 Reserved
3.22(88,89B) Additional hazard communication training requirements
3.23(88) Definitions
3.24(88) Occupational safety and health bureau forms

CHAPTER 4
RECORDING AND REPORTING OCCUPATIONAL INJURIES AND ILLNESSES

4.1(88) Purpose and scope
4.2(88) First reports of injury
4.3(88) Recording and reporting regulations

CHAPTER 5
RULES OF PRACTICE FOR VARIANCES, LIMITATIONS, VARIATIONS, TOLERANCES AND EXEMPTIONS

5.1(88) Purpose and scope
5.2(88) Definitions
5.3 Reserved
5.4(88) Effect of variances
5.5(88) Notice of a granted variance
5.6(88) Form of documents; subscription; copies
5.7(88) Temporary variance
5.8(88) Permanent variance
5.9(88) Special variance
5.10(88) Modification and revocation of rules or orders
5.11(88) Action on applications
5.12(88) Requests for hearings on applications
5.13(88) Consolidation of proceedings
5.14(88) Notice of hearing
5.15(88) Manner of service
5.16(88) Hearing examiner; powers and duties
5.17(88) Prehearing conferences
5.18(88) Consent findings and rules or orders
5.19(88) Discovery
5.20(88) Hearings
5.21(88) Decisions of hearing examiner
5.22(88) Motion for summary decision
5.23(88) Summary decision
5.24(88) Finality for purposes of judicial review

CHAPTERS 6 and 7
Reserved

CHAPTER 8
CONSULTATIVE SERVICES

8.1(88) Purpose and scope
8.2(88) Definitions
8.3(88) Requesting and scheduling of on-site consultation visit
8.4 and 8.5 Reserved
8.6(88) Conducting a visit
8.7(88) Relationship to enforcement

CHAPTER 9
DISCRIMINATION AGAINST EMPLOYEES

9.1(88) Introductory statement
9.2(88) Purpose of this chapter
9.3(88) General requirements of Iowa Code section 88.9(3)
9.4(88) Persons prohibited from discriminating
9.5(88) Persons protected by Iowa Code section 88.9(3)

9.6(88) Unprotected activities distinguished
9.7 and 9.8 Reserved
9.9(88) Complaints under or related to the Act
9.10(88) Proceedings under or related to the Act
9.11(88) Testimony
9.12(88) Exercise of any right afforded by the Act
9.13 and 9.14 Reserved
9.15(88) Filing of complaint for discrimination
9.16(88) Notice of determination
9.17(88) Withdrawal of complaint
9.18(88) Arbitration or other agency proceedings
9.19 and 9.20 Reserved
9.21(88) Walkaround pay disputes
9.22(88) Employee refusal to comply with safety rules

CHAPTER 10
GENERAL INDUSTRY SAFETY AND HEALTH RULES
10.1(88) Definitions
10.2(88) Applicability of standards
10.3(88) Incorporation by reference
10.4(88) Exception for hexavalent chromium exposure in metal and surface finishing job shops
10.5 and 10.6 Reserved
10.7(88) Definitions and requirements for a nationally recognized testing laboratory
10.8 to 10.11 Reserved
10.12(88) Construction work
10.13 to 10.18 Reserved
10.19(88) Special provisions for air contaminants
10.20(88) Adoption by reference

CHAPTERS 11 to 25
Reserved

CHAPTER 26
CONSTRUCTION SAFETY AND HEALTH RULES
26.1(88) Adoption by reference

CHAPTER 27
Reserved

CHAPTER 28
OCCUPATIONAL SAFETY AND HEALTH STANDARDS FOR AGRICULTURE
28.1(88) Adoption by reference

CHAPTER 29
SANITATION AND SHELTER RULES FOR RAILROAD EMPLOYEES
29.1(88) Definitions
29.2(88) Water supply
29.3(88) Toilets
29.4(88) Eating places and lunchrooms
29.5(88) Sleeping accommodations
29.6(88) Cleanliness and maintenance
29.7(88) Conflicts resolved

CHAPTER 30
Reserved

CHILD LABOR

CHAPTER 31
Reserved

CHAPTER 32
CHILD LABOR

32.1(92)	Definitions
32.2(92)	Permits and certificates of age
32.3 and 32.4	Reserved
32.5(92)	Other work
32.6	Reserved
32.7(92)	Workweek
32.8(92)	Terms
32.9 and 32.10	Reserved
32.11(92)	Civil penalty calculation
32.12(92)	Civil penalty procedures
32.13 to 32.16	Reserved
32.17(92)	Definitions

CHAPTER 33
Reserved

CHAPTER 34
CIVIL PENALTIES

34.1(91A)	Civil penalties for Iowa Code chapter 91A violations
34.2(91A)	Investigation
34.3(91A)	Calculation of penalty
34.4(91A)	Settlement opportunity
34.5(91A)	Notice of penalty assessment; contested case proceedings
34.6(91A)	Judicial review

CHAPTER 35
WAGE PAYMENT COLLECTION

35.1(91A)	Definitions
35.2(91A)	Right of private action
35.3(91A)	Filing a claim
35.4(91A)	Investigation
35.5(91A)	Legal action on wage claims

CHAPTER 36
DISCRIMINATION AGAINST EMPLOYEES

36.1(91A)	Definitions
36.2(91A)	Employee rights
36.3(91A)	Purposes
36.4(91A)	General requirements
36.5(91A)	Unprotected activities distinguished
36.6(91A)	Complaint under or related to the Act
36.7(91A)	Proceedings under or related to the Act
36.8(91A)	Filing of complaint for discrimination or discharge
36.9(91A)	Withdrawal of complaints

36.10(91A) Arbitration or other agency proceedings
36.11(91A) Decision of the commissioner

CHAPTER 37
Reserved

CHAPTER 38
EMPLOYMENT AGENCY LICENSING

38.1(94A) Definitions
38.2(94A) Application and license
38.3(94A) Non-employment agency activity
38.4(94A) Complaints
38.5(17A,94A,252J) Denials, revocations, reprimands and suspensions
38.6(94A) Permissible fees charged by agency
38.7 Reserved
38.8(94A) Contracts and fee schedules

CHAPTERS 39 to 50
Reserved

RAILROADS

CHAPTERS 51 to 60
Reserved

AMUSEMENT PARKS AND RIDES

CHAPTER 61
ADMINISTRATION OF IOWA CODE CHAPTER 88A

61.1(88A) Purpose, scope and definitions
61.2(88A) Administration
61.3(88A) Exemptions

CHAPTER 62
SAFETY RULES FOR AMUSEMENT RIDES, AMUSEMENT DEVICES, AND CONCESSION BOOTHS

62.1(88A) Purpose, scope and definitions
62.2(88A) Design criteria
62.3(88A) Concession booth requirements
62.4(88A) Walking surfaces, access and egress
62.5 and 62.6 Reserved
62.7(88A) Signal systems
62.8(88A) Hazardous materials
62.9 Reserved
62.10(88A) General environment
62.11(88A) Medical and first aid
62.12(88A) Fire protection
62.13(88A) Compressed gas and air equipment
62.14 Reserved
62.15(88A) Machinery and machine guarding
62.16 Reserved
62.17(88A) Welding, cutting and brazing
62.18(88A) Operations
62.19(88A) Electrical

CHAPTERS 63 and 64
Reserved

ELEVATORS, ESCALATORS, AND RELATED EQUIPMENT

CHAPTER 65
ELEVATOR SAFETY BOARD ADMINISTRATIVE AND REGULATORY AUTHORITY

65.1(89A) Definitions
65.2(89A) Purpose and authority of board
65.3(21,89A) Organization of board
65.4(21,89A) Public meetings
65.5(89A) Official communications

CHAPTER 66
WAIVERS OR VARIANCES FROM ADMINISTRATIVE RULES
BY THE ELEVATOR SAFETY BOARD

66.1(17A,89A) Waivers of rules
66.2(17A,89A) Applicability of rule
66.3(17A,89A) Criteria for waiver or variance
66.4(17A,89A) Filing of petition
66.5(17A,89A) Content of petition
66.6(17A,89A) Additional information
66.7(17A,89A) Notice
66.8(17A,89A) Board review procedures
66.9(17A,89A) Hearing procedures
66.10(17A,89A) Ruling
66.11(17A,89A) Public availability
66.12(17A,89A) Summary reports
66.13(17A,89A) Cancellation of a waiver
66.14(17A,89A) Violations
66.15(17A,89A) Defense
66.16(17A,89A) Judicial review

CHAPTER 67
ELEVATOR SAFETY BOARD PETITIONS FOR RULE MAKING

67.1(17A,89A) Petitions for rule making
67.2(17A,89A) Briefs
67.3(17A,89A) Inquiries
67.4(17A,89A) Board review procedures

CHAPTER 68
DECLARATORY ORDERS BY THE ELEVATOR SAFETY BOARD

68.1(17A,89A) Petition for declaratory order
68.2(17A,89A) Notice of petition
68.3(17A,89A) Intervention
68.4(17A,89A) Briefs
68.5(17A,89A) Inquiries
68.6(17A,89A) Service and filing of petitions and other papers
68.7(17A,89A) Board review procedures
68.8 Reserved
68.9(17A,89A) Refusal to issue order
68.10(17A,89A) Contents of declaratory order—effective date
68.11(17A,89A) Copies of orders
68.12(17A,89A) Effect of a declaratory order

CHAPTER 69
CONTESTED CASES BEFORE THE ELEVATOR SAFETY BOARD

69.1(17A,89A) Reconsideration of inspection report
69.2(17A,89A) Appeal to the board
69.3(17A,89A) Informal review
69.4(17A,89A) Delivery of notice
69.5(17A,89A) Contents of notice
69.6 Reserved
69.7(17A,89A) File transmitted to the board
69.8(17A,89A) Legal representation
69.9(17A,89A) Presiding officer
69.10(17A,89A) Service and filing
69.11(17A,89A) Time requirements
69.12(17A,89A) Waiver of procedures
69.13(17A,89A) Telephone and electronic proceedings
69.14(17A,89A) Disqualification
69.15(17A,89A) Consolidation and severance
69.16(17A,89A) Discovery
69.17(17A,89A) Subpoenas in a contested case
69.18(17A,89A) Motions
69.19(17A,89A) Settlements
69.20(17A,89A) Prehearing conference
69.21(17A,89A) Continuances
69.22(17A,89A) Withdrawals
69.23(17A,89A) Hearing procedures
69.24(17A,89A) Evidence
69.25(17A,89A) Ex parte communication
69.26(17A,89A) Interlocutory appeals
69.27(17A,89A) Decisions
69.28(17A,89A) Contested cases with no factual disputes
69.29(17A,89A) Applications for rehearing
69.30(17A,89A) Stays of board actions
69.31(17A,89A) Judicial review

CHAPTER 70
PUBLIC RECORDS AND FAIR INFORMATION PRACTICES OF THE ELEVATOR SAFETY BOARD

70.1(22,89A) Definitions
70.2(22,89A) Statement of policy
70.3(22,89A) Requests for access to records
70.4(22,89A) Access to confidential records
70.5(22,89A) Requests for treatment of a record as a confidential record and its withholding from examination
70.6(22,89A) Procedure by which additions, dissents, or objections may be entered into certain records
70.7(22,89A) Consent to disclosure by the subject of a confidential record
70.8(22,89A) Disclosures without the consent of the subject
70.9(17A,89A) Routine use
70.10(22,89A) Consensual disclosure of confidential records
70.11(22,89A) Release to subject
70.12(21,22,89A) Availability of records
70.13(22,89A) Applicability

70.14(17A,22,89A) Personally identifiable information
70.15(17A,21,22,89A) Other groups of records
70.16(22,89A) Data processing system
70.17(22,89A) Notice to suppliers of information

CHAPTER 71
ADMINISTRATION OF THE CONVEYANCE SAFETY PROGRAM

71.1(89A) Definitions
71.2(89A) Registration of conveyances
71.3(89A) State identification number
71.4(89A) Responsibility for obtaining permits
71.5(89A) Installation permits
71.6(89A) Construction permits
71.7(89A) Operating permits
71.8(89A) Controller upgrade permits
71.9(89A) Alteration permits
71.10(89A) Alterations
71.11(89A) Inspections
71.12(89A,252J,261,272D) Special inspector commissions
71.13(89A) State employees
71.14(89A) Safety tests
71.15(89A) Authorized companies
71.16(89A) Fees
71.17(89A) Publications available for review
71.18(89A) Other regulations affecting elevators
71.19(89A) Accidents
71.20(89A) Temporary removal from service

CHAPTER 72
CONVEYANCES INSTALLED ON OR AFTER JANUARY 1, 1975

72.1(89A) Purpose and scope
72.2(89A) Definitions
72.3(89A) Accommodating the physically disabled
72.4(89A) Electric elevators
72.5(89A) Hydraulic elevators
72.6(89A) Power sidewalk elevators
72.7(89A) Performance-based safety code
72.8(89A) Hand and power dumbwaiters
72.9(89A) Escalators and moving walks
72.10(89A) General requirements
72.11 Reserved
72.12(89A) Wind tower lifts
72.13(89A) Alterations, repairs, replacements and maintenance
72.14 Reserved
72.15(89A) Power-operated special purpose elevators
72.16(89A) Inclined and vertical wheelchair lifts
72.17(89A) Hand-powered elevators
72.18(89A) Accommodating the physically disabled
72.19(89A) Limited-use/limited-application elevators
72.20(89A) Rack and pinion, screw-column elevators
72.21(89A) Inclined elevators
72.22(89A) Material lift elevators

72.23(89A) Elevators used for construction
72.24(89A) Construction personnel hoists
72.25(89A) Alarm bell

CHAPTER 73
CONVEYANCES INSTALLED PRIOR TO JANUARY 1, 1975

73.1(89A) Scope and definitions
73.2(89A) Hoistways
73.3(89A) Car enclosure: Passenger
73.4(89A) Car enclosure: Freight
73.5(89A) Brakes
73.6(89A) Machines
73.7(89A) Electrical protective devices
73.8(89A) Maintenance, repairs and alterations
73.9(89A) Machine rooms
73.10(89A) Pits
73.11(89A) Counterweights
73.12(89A) Car platforms and car slings
73.13(89A) Means of suspension
73.14(89A) Car safeties and speed governors
73.15(89A) Guide rails
73.16(89A) Existing hydraulic elevators
73.17(89A) Existing sidewalk elevators
73.18(89A) Existing hand elevators
73.19(89A) Power-operated special purpose elevators
73.20(89A) Inclined and vertical wheelchair lifts
73.21(89A) Handicapped restricted use elevators
73.22(89A) Escalators
73.23 Reserved
73.24(89A) Dumbwaiters

CHAPTERS 74 to 79
Reserved

BOILERS AND PRESSURE VESSELS

CHAPTER 80
BOILER AND PRESSURE VESSEL BOARD
ADMINISTRATIVE AND REGULATORY AUTHORITY

80.1(89) Definitions
80.2(89) Purpose and authority of board
80.3(89) Organization of board
80.4(21,89) Public meetings
80.5(89) Official communications

CHAPTER 81
WAIVERS OR VARIANCES FROM ADMINISTRATIVE RULES
BY THE BOILER AND PRESSURE VESSEL BOARD

81.1(17A,89) Waivers of rules
81.2(17A,89) Applicability of rule
81.3(17A,89) Criteria for waiver or variance
81.4(17A,89) Filing of petition
81.5(17A,89) Content of petition
81.6(17A,89) Additional information

81.7(17A,89) Notice
81.8(17A,89) Board review procedures
81.9(17A,89) Hearing procedures
81.10(17A,89) Ruling
81.11(17A,89) Public availability
81.12(17A,89) Summary reports
81.13(17A,89) Cancellation of a waiver
81.14(17A,89) Violations
81.15(17A,89) Defense
81.16(17A,89) Judicial review

CHAPTER 82
BOILER AND PRESSURE VESSEL BOARD PETITIONS FOR RULE MAKING

82.1(17A,89) Petitions for rule making
82.2(17A,89) Briefs
82.3(17A,89) Inquiries
82.4(17A,89) Board review procedures

CHAPTER 83
DECLARATORY ORDERS BY THE BOILER AND PRESSURE VESSEL BOARD

83.1(17A,89) Petition for declaratory order
83.2(17A,89) Notice of petition
83.3(17A,89) Intervention
83.4(17A,89) Briefs
83.5(17A,89) Inquiries
83.6(17A,89) Service and filing of petitions and other papers
83.7(17A,89) Board review procedures
83.8 Reserved
83.9(17A,89) Refusal to issue order
83.10(17A,89) Contents of declaratory order—effective date
83.11(17A,89) Copies of orders
83.12(17A,89) Effect of a declaratory order

CHAPTER 84
CONTESTED CASES BEFORE THE BOILER AND PRESSURE VESSEL BOARD

84.1(17A,89) Reconsideration of inspection report
84.2(17A,89) Appeal to the board
84.3(17A,89) Informal review
84.4(17A,89) Delivery of notice
84.5(17A,89) Contents of notice
84.6(17A,89) Scope of issues
84.7(17A,89) File transmitted to the board
84.8(17A,89) Legal representation
84.9(17A,89) Presiding officer
84.10(17A,89) Service and filing
84.11(17A,89) Time requirements
84.12(17A,89) Waiver of procedures
84.13(17A,89) Telephone and electronic proceedings
84.14(17A,89) Disqualification
84.15(17A,89) Consolidation and severance
84.16(17A,89) Discovery
84.17(17A,89) Subpoenas in a contested case
84.18(17A,89) Motions

84.19(17A,89) Settlements
84.20(17A,89) Prehearing conference
84.21(17A,89) Continuances
84.22(17A,89) Withdrawals
84.23(17A,89) Hearing procedures
84.24(17A,89) Evidence
84.25(17A,89) Ex parte communication
84.26(17A,89) Interlocutory appeals
84.27(17A,89) Decisions
84.28(17A,89) Contested cases with no factual disputes
84.29(17A,89) Applications for rehearing
84.30(17A,89) Stays of board actions
84.31(17A,89) Judicial review

CHAPTER 85
PUBLIC RECORDS AND FAIR INFORMATION PRACTICES
OF THE BOILER AND PRESSURE VESSEL BOARD

85.1(22,89) Definitions
85.2(22,89) Statement of policy
85.3(22,89) Requests for access to records
85.4(22,89) Access to confidential records
85.5(22,89) Requests for treatment of a record as a confidential record and its withholding from examination
85.6(22,89) Procedure by which additions, dissents, or objections may be entered into certain records
85.7(22,89) Consent to disclosure by the subject of a confidential record
85.8(22,89) Disclosures without the consent of the subject
85.9(17A,89) Routine use
85.10(22,89) Consensual disclosure of confidential records
85.11(22,89) Release to subject
85.12(21,22,89) Availability of records
85.13(22,89) Applicability
85.14(17A,22,89) Personally identifiable information
85.15(17A,22,89) Other groups of records
85.16(22,89) Data processing system
85.17(22,89) Notice to suppliers of information

CHAPTERS 86 to 89
Reserved

CHAPTER 90
ADMINISTRATION OF THE BOILER AND PRESSURE VESSEL PROGRAM

90.1(89) Purpose and scope
90.2(89,261,252J,272D) Definitions
90.3(89) Iowa identification numbers
90.4 Reserved
90.5(89) Preinspection owner or user preparation
90.6(89) Inspections
90.7(89) Fees
90.8(89) Certificate
90.9(89,252J,261) Special inspector commissions
90.10(89) Quality reviews, surveys and audits
90.11(89) Notification of explosion

90.12(89) Publications available for review
90.13(89) Notice prior to installation
90.14(89) Temporary boilers
90.15(89) Conversion of a power boiler to a low-pressure boiler

CHAPTER 91
GENERAL REQUIREMENTS FOR ALL OBJECTS

91.1(89) Codes and code cases adopted by reference
91.2(89) Safety appliance
91.3(89) Pressure-reducing valves
91.4(89) Blowoff equipment
91.5(89) Location of discharge piping outlets
91.6(89) Pipe, valve, and fitting requirements
91.7 to 91.9 Reserved
91.10(89) Clearance
91.11(89) Fall protection
91.12(89) Exit from rooms containing objects
91.13(89) Air and ventilation
91.14(89) Condensate return tank
91.15(89) Conditions not covered
91.16 Reserved
91.17(89) English language and U.S. customary units required
91.18(89) National Board registration
91.19(89) ASME stamp
91.20(89) CSD-1 Report

CHAPTER 92
POWER BOILERS

92.1(89) Scope
92.2(89) Codes adopted by reference
92.3 Reserved
92.4(89) Maximum allowable working pressure for steel boilers
92.5(89) Maximum allowable working pressure and temperature for cast iron headers and mud drums
92.6(89) Rivets
92.7(89) Safety valves
92.8(89) Boiler feeding
92.9(89) Water level indicators
92.10(89) Pressure gages
92.11(89) Steam stop valves
92.12(89) Blowoff connection

CHAPTER 93
MINIATURE POWER BOILERS INSTALLED PRIOR TO SEPTEMBER 20, 2006

93.1(89) Scope
93.2(89) Codes adopted by reference
93.3(89) Maximum working pressure
93.4(89) Safety valves
93.5(89) Steam stop valves
93.6(89) Water gages
93.7(89) Feedwater supply
93.8(89) Blowoff

93.9(89) Washout openings
93.10(89) Fixtures and fittings

CHAPTER 94
STEAM HEATING BOILERS, HOT WATER HEATING BOILERS AND
HOT WATER SUPPLY BOILERS

94.1(89) Scope
94.2(89) Codes adopted by reference
94.3(89) General requirements
94.4(89) Steam heating boilers installed before July 1, 1960
94.5(89) Hot water heating boilers installed before July 1, 1960
94.6(89) Hot water supply boilers installed before July 1, 1960

CHAPTER 95
WATER HEATERS

95.1(89) Scope
95.2(89) Recognized standard
95.3(89) Installation
95.4(89) Temperature and pressure relief valves
95.5(89) Shutoff valves prohibited
95.6 Reserved
95.7(89) Stop valves
95.8(89) Carbonization
95.9(89) Leaks
95.10(89) Flues
95.11(89) Tanks
95.12(89) Galvanized pipes, valves, and fittings

CHAPTER 96
UNFIRED STEAM PRESSURE VESSELS

96.1(89) Codes adopted by reference
96.2(89) Objects installed prior to July 1, 1983

CHAPTERS 97 to 109
Reserved

RIGHT TO KNOW

CHAPTER 110
HAZARDOUS CHEMICAL RISKS RIGHT TO KNOW—
GENERAL PROVISIONS

110.1(88,89B) Purpose, scope and application
110.2(88,89B) Definitions
110.3(88,89B) Hazard determination
110.4(88,89B) Labels and other forms of warning
110.5(88,89B) Material safety data sheets
110.6(88,89B) Trade secrets

CHAPTERS 111 to 129
Reserved

CHAPTER 130
COMMUNITY RIGHT TO KNOW

130.1(89B) Employer's duty
130.2(89B) Records accessibility

130.3(89B) Application for exemption
130.4(89B) Burden of proof and criteria
130.5(89B) Formal ruling
130.6(89B) Request for information
130.7(89B) Filing with division
130.8(89B) Grounds for complaint against the employer
130.9(89B) Investigation or inspection upon complaint
130.10(89B) Order to comply
130.11(30,89B) Relationship to Emergency Planning and Community Right-to-know Act
130.12(30,89B) Information to county libraries

CHAPTERS 131 to 139
Reserved

CHAPTER 140
PUBLIC SAFETY/EMERGENCY RESPONSE RIGHT TO KNOW
140.1(89B) Signs required and adoption by reference
140.2(89B) Employer variance applications
140.3(89B) Agreement between an employer and fire department
140.4(89B) Significant amounts
140.5(89B) Information submitted to local fire department
140.6(89B) Recommended communications
140.7(89B) Procedure for noncompliance
140.8(89B) Notice of noncompliance
140.9(30,89B) Relationship to Emergency Planning and Community Right-to-know Act

CHAPTERS 141 to 149
Reserved

CONSTRUCTION—REGISTRATION AND BONDING

CHAPTER 150
CONSTRUCTION CONTRACTOR REGISTRATION
150.1(91C) Scope
150.2(91C) Definitions
150.3(91C) Registration required
150.4(91C) Application
150.5(91C) Amendments to application
150.6(91C) Fee
150.7(91C) Registration number issuance
150.8(91C) Workers' compensation insurance cancellation notifications
150.9(91C) Investigations and complaints
150.10(91C) Citations/penalties and appeal hearings
150.11(91C) Revocation of registrations and appeal hearings
150.12(91C) Concurrent actions
150.13 to 150.15 Reserved
150.16(91C) Bond release

CHAPTERS 151 to 154
Reserved

CHAPTER 155
ASBESTOS REMOVAL AND ENCAPSULATION

155.1(88B) Definitions
155.2(88B) Permit application procedures
155.3(88B) Other asbestos regulations
155.4(88B) Asbestos project records
155.5(88B) Ten-day notices
155.6(88B) License application procedures
155.7(88B) Duplicate permits and licenses
155.8(17A,88B,252J,261) Denial, suspension and revocation
155.9(17A,88B) Contested cases

CHAPTER 156
BIDDER PREFERENCES IN GOVERNMENT CONTRACTING

156.1(73A) Purpose, scope and definitions
156.2(73A) Reporting of resident status of bidders
156.3(73A) Application of preference
156.4(73A) Complaints regarding alleged violations of the Act
156.5(73A) Nonresident bidder record-keeping requirements
156.6(73A) Investigations; determination of civil penalty
156.7(73A) Remedies
156.8(73A) Compliance with federal law
156.9(73A) Severability

CHAPTERS 157 to 159
Reserved

CHAPTER 160
EMPLOYER REQUIREMENTS RELATING TO
NON-ENGLISH SPEAKING EMPLOYEES

160.1(91E) Purpose and scope
160.2(91E) Definitions
160.3(91E) Comprehension of employment
160.4(91E) Interpreters
160.5(91E) Community services referral agent
160.6(91E) Active recruitment of non-English speaking employees
160.7(91E) Employee's return to location of recruitment
160.8(91E) Inspections and investigations
160.9(91E) Exemptions
160.10(91E) Enforcement and penalties

CHAPTERS 161 to 168
Reserved

ATHLETICS COMMISSIONER

CHAPTER 169
GENERAL REQUIREMENTS FOR ATHLETIC EVENTS

169.1(90A) Scope and application
169.2(90A) Prohibited events
169.3(90A) Advance notice of event
169.4(90A) Event license
169.5(90A) Promoter responsibilities
169.6(90A) Taxes

CHAPTER 170
OPERATIONS OF ADVISORY BOARD

170.1(90A) Scope
170.2(90A) Membership
170.3(90A) Time of meetings
170.4(90A) Notification of meetings
170.5(90A) Attendance and participation by the public
170.6(90A) Quorum and voting requirements
170.7(90A) Minutes, transcripts and recording of meetings

CHAPTER 171
GRANT APPLICATIONS AND AWARDS

171.1(90A) Scope
171.2(90A) Application process
171.3(90A) Grant process
171.4(90A) Evaluation
171.5(90A) Termination
171.6(90A) Financial management
171.7(90A) Adjustments and collections

CHAPTER 172
PROFESSIONAL WRESTLING

172.1(90A) Limitation of bouts
172.2(90A) Fall
172.3(90A) Out-of-bounds
172.4(90A) Disqualification
172.5(90A) Failure to break hold
172.6(90A) Prohibition against hanging on
172.7(90A) Abusing referee
172.8(90A) Prohibited materials in ring
172.9 Reserved
172.10(90A) Time between falls
172.11(90A) Contestants' arrival
172.12 Reserved
172.13(90A) Separation of boxing and wrestling
172.14 Reserved
172.15(90A) Health of wrestler
172.16(90A) Wrestling outside of ring
172.17(90A) Advertising

CHAPTER 173
PROFESSIONAL BOXING

173.1(90A) Limitation of rounds
173.2(90A) Weight restrictions
173.3 Reserved
173.4(90A) Injury
173.5(90A) Knockdown
173.6(90A) Limitation on number of bouts
173.7(90A) Contestants' arrival
173.8(90A) Persons allowed in the ring
173.9(90A) Protection of hands
173.10(90A) Scoring
173.11(90A) Gloves

173.12(90A) Proper attire
173.13(90A) Use of substances
173.14(90A) "Down"
173.15(90A) Foul
173.16(90A) Penalties
173.17(90A) Weight classes
173.18(90A) Attendance of commissioner
173.19(90A) Weighing of contestants
173.20 Reserved
173.21(90A) General requirements
173.22 Reserved
173.23(90A) Excessive coaching
173.24(90A) Abusive language
173.25 and 173.26 Reserved
173.27(90A) Ring requirements
173.28(90A) Ring posts
173.29(90A) Ropes
173.30(90A) Ring floor
173.31(90A) Bell
173.32(90A) Gloves
173.33(90A) Referee's duties
173.34(90A) Chief second
173.35(90A) Naming referee
173.36(90A) Reasons for stopping bout
173.37(90A) Forfeit of purse
173.38 Reserved
173.39(90A) Shaking hands
173.40(90A) Assessing fouls
173.41(90A) Delaying prohibited
173.42(90A) Count
173.43(90A) Intentional foul
173.44(90A) Use of the ropes
173.45(90A) Attending ring physician
173.46(90A) Technical knockout
173.47(90A) Timekeeper
173.48(90A) Seconds
173.49(90A) Requirements for seconds
173.50(90A) Use of water
173.51(90A) Stopping the fight
173.52(90A) Removing objects from ring
173.53(90A) Decision
173.54 Reserved
173.55(90A) Boxer registration

CHAPTER 174
ELIMINATION TOURNAMENTS

174.1(90A) Purpose and scope
174.2(90A) Bouts, rounds and rest periods
174.3(90A) Protective equipment
174.4(90A) Weight restrictions
174.5(90A) Down
174.6(90A) Suspension

174.7(90A) Training requirements
174.8(90A) Judges
174.9 Reserved
174.10(90A) Impartiality of timekeeper
174.11(90A) Ringside

CHAPTER 175
AMATEUR BOXING

175.1(90A) Purpose
175.2(90A) Application
175.3(90A) Verification
175.4(90A) Forms

CHAPTER 176
PROFESSIONAL KICKBOXING

176.1(90A) Scope and purpose
176.2(90A) WKA rules adopted by reference
176.3(90A) Professional boxing rules adopted by reference
176.4(90A) Additional provisions

CHAPTER 177
MIXED MARTIAL ARTS

177.1(90A) Definitions
177.2 Reserved
177.3(90A) Equipment specifications
177.4(90A) Event
177.5(90A) Contestants
177.6(90A) Procedural rules
177.7(90A) Decision
177.8(90A) Forfeit of purse

CHAPTERS 178 to 214
Reserved

MINIMUM WAGE

CHAPTER 215
MINIMUM WAGE SCOPE AND COVERAGE

215.1(91D) Requirement to pay
215.2(91D) Initial employment wage rate
215.3(91D) Definitions
215.4(91D) Exceptions
215.5(91D) Interpretative guidelines

CHAPTER 216
RECORDS TO BE KEPT BY EMPLOYERS

216.1(91D) Form of records—scope of rules
216.2(91D) Employees subject to minimum wage
216.3(91D) Bona fide executive, administrative, and professional employees (including academic administrative personnel and teachers in elementary or secondary schools), and outside sales employees employed pursuant to 875—subrule 215.4(1)
216.4(91D) Posting of notices
216.5(91D) Records to be preserved three years

216.6(91D) Records to be preserved two years
216.7(91D) Place for keeping records and their availability for inspection
216.8(91D) Computations and reports
216.9(91D) Petitions for exceptions
216.10 Reserved

EMPLOYEES SUBJECT TO MISCELLANEOUS EXEMPTIONS

216.11 to 216.26 Reserved
216.27(91D) Board, lodging, or other facilities
216.28(91D) Tipped employees
216.29 Reserved
216.30(91D) Learners, apprentices, messengers, students, or persons with a disability employed under special certificates as provided in the federal Fair Labor Standards Act, 29 U.S.C. 214
216.31(91D) Industrial homeworkers
216.32 Reserved
216.33(91D) Employees employed in agriculture pursuant to 875—subrule 215.4(6)

CHAPTER 217
WAGE PAYMENTS

217.1 Reserved
217.2(91D) Purpose and scope
217.3(91D) "Reasonable cost"
217.4(91D) Determinations of "reasonable cost"
217.5(91D) Determinations of "fair value"
217.6(91D) Effects of collective bargaining agreements
217.7(91D) Request for review of tip credit
217.8 to 217.24 Reserved
217.25(91D) Introductory statement
217.26 Reserved
217.27(91D) Payment in cash or its equivalent required
217.28 Reserved
217.29(91D) Board, lodging, or other facilities
217.30(91D) "Furnished" to the employee
217.31(91D) "Customarily" furnished
217.32(91D) "Other facilities"
217.33 and 217.34 Reserved
217.35(91D) "Free and clear" payment; "kickbacks"
217.36(91D) Payment where additions or deductions are involved
217.37(91D) Offsets
217.38(91D) Amounts deducted for taxes
217.39(91D) Payments to third persons pursuant to court order
217.40(91D) Payments to employee's assignee
217.41 to 217.49 Reserved
217.50(91D) Payments to tipped employees
217.51(91D) Conditions for taking tip credits in making wage payments
217.52(91D) General characteristics of "tips"
217.53(91D) Payments which constitute tips
217.54(91D) Tip pooling
217.55(91D) Examples of amounts not received as tips
217.56(91D) "More than $30 a month in tips"
217.57(91D) Receiving the minimum amount "customarily and regularly"

217.58(91D) Initial and terminal months
217.59(91D) The tip wage credit

CHAPTER 218
EMPLOYEES EMPLOYED IN A BONA FIDE EXECUTIVE, ADMINISTRATIVE, OR PROFESSIONAL CAPACITY (INCLUDING ANY EMPLOYEE EMPLOYED IN THE CAPACITY OF ACADEMIC ADMINISTRATIVE PERSONNEL OR TEACHER IN ELEMENTARY OR SECONDARY SCHOOLS), OR IN THE CAPACITY OF OUTSIDE SALESPERSON

218.1(91D) Executive
218.2(91D) Administrative
218.3(91D) Professional
218.4 Reserved
218.5(91D) Outside salesperson
218.6(91D) Special provision for motion picture producing industry
218.7 to 218.100 Reserved

BONA FIDE EXECUTIVE CAPACITY

218.101(91D) General
218.102(91D) Management
218.103(91D) Primary duty
218.104(91D) Department or subdivision
218.105(91D) Two or more other employees
218.106(91D) Authority to hire or fire
218.107(91D) Discretionary powers
218.108(91D) Work directly and closely related
218.109(91D) Emergencies
218.110(91D) Occasional tasks
218.111(91D) Nonexempt work generally
218.112(91D) Percentage limitations on nonexempt work
218.113(91D) Sole-charge exception
218.114(91D) Exception for owners of 20 percent interest
218.115(91D) Working supervisor
218.116(91D) Trainees, executive
218.117(91D) Amount of salary required
218.118(91D) Salary basis
218.119(91D) Special proviso for high-salaried executives
218.120 to 218.200 Reserved

BONA FIDE ADMINISTRATIVE CAPACITY

218.201(91D) Types of administrative employees
218.202 Reserved
218.203(91D) Nonmanual work
218.204 Reserved
218.205(91D) Directly related to management policies or general business operations
218.206(91D) Primary duty
218.207(91D) Discretion and independent judgment
218.208 Reserved
218.209(91D) Percentage limitations on nonexempt work
218.210(91D) Trainees, administrative
218.211(91D) Amount of salary or fees required
218.212(91D) Salary basis
218.213(91D) Fee basis
218.214(91D) Special proviso for high-salaried administrative employees

218.215(91D) Elementary or secondary schools and other educational establishments and institutions
218.216 to 218.300 Reserved

BONA FIDE PROFESSIONAL CAPACITY

218.301(91D) General
218.302(91D) Learned professions
218.303(91D) Artistic professions
218.304(91D) Primary duty
218.305(91D) Discretion and judgment
218.306(91D) Predominantly intellectual and varied
218.307(91D) Essential part of and necessarily incident to
218.308 Reserved
218.309(91D) Twenty percent nonexempt work limitation
218.310(91D) Trainees, professional
218.311(91D) Amount of salary or fees required
218.312(91D) Salary basis
218.313(91D) Fee basis
218.314(91D) Exception for physicians, lawyers, and teachers
218.315(91D) Special proviso for high-salaried professional employees
218.316 to 218.499 Reserved

OUTSIDE SALESPERSON

218.500(91D) Definition of "outside salesperson"
218.501(91D) Making sales or obtaining orders
218.502(91D) Away from employer's place of business
218.503(91D) Incidental to and in conjunction with sales work
218.504(91D) Promotion work
218.505(91D) Driver salespersons
218.506(91D) Nonexempt work generally
218.507(91D) Twenty percent limitation on nonexempt work
218.508(91D) Trainees, outside salespersons
218.509 to 218.599 Reserved

SPECIAL PROBLEMS

218.600(91D) Combination exemptions
218.601(91D) Special provision for motion picture producing industry
218.602(91D) Special proviso concerning executive and administrative employees in multistore retailing operations

CHAPTER 219
APPLICATION OF THE FAIR LABOR STANDARDS ACT
TO DOMESTIC SERVICE

219.1 Reserved
219.2(91D) Purpose and scope
219.3(91D) Domestic service employment
219.4(91D) Babysitting services
219.5(91D) Casual basis
219.6(91D) Companionship services for the aged or infirm
219.7 to 219.99 Reserved
219.100(91D) Application of minimum wage and overtime provisions
219.101(91D) Domestic service employment
219.102(91D) Live-in domestic service employees
219.103(91D) Babysitting services in general

219.104(91D) Babysitting services performed on a casual basis
219.105(91D) Individuals performing babysitting services in their own homes
219.106(91D) Companionship services for the aged or infirm
219.107(91D) Yard maintenance workers
219.108 Reserved
219.109(91D) Third-party employment
219.110(91D) Record-keeping requirements

CHAPTER 220
APPLICATION OF THE FAIR LABOR STANDARDS ACT
TO EMPLOYEES OF STATE AND LOCAL GOVERNMENTS

220.1(91D) Definitions
220.2(91D) Purpose and scope
220.3 to 220.10 Reserved
220.11(91D) Exclusion for elected officials and their appointees
220.12(91D) Exclusion for employees of legislative branches
220.13 to 220.19 Reserved
220.20(91D) Introduction
220.21(91D) Compensatory time and compensatory time off
220.22 to 220.26 Reserved
220.27(91D) Payments for unused compensatory time
220.28(91D) Other compensatory time
220.29 Reserved

OTHER EXEMPTIONS

220.30 Reserved
220.31(91D) Substitution—federal Fair Labor Standards Act, 29 U.S.C. 207(p)(3)
220.32 to 220.49 Reserved

RECORD KEEPING

220.50(91D) Records to be kept of compensatory time
220.51 to 220.99 Reserved

VOLUNTEERS

220.100(91D) General
220.101(91D) “Volunteer” defined
220.102(91D) Employment by the same public agency
220.103(91D) “Same type of services” defined
220.104(91D) Private individuals who volunteer services to public agencies
220.105(91D) Mutual aid agreements
220.106(91D) Payment of expenses, benefits, or fees
220.107 to 220.199 Reserved

FIRE PROTECTION AND LAW ENFORCEMENT
EMPLOYEES OF PUBLIC AGENCIES

220.200 to 220.220 Reserved
220.221(91D) Compensable hours of work
220.222(91D) Sleep time
220.223(91D) Meal time
220.224 Reserved
220.225(91D) Early relief
220.226(91D) Training time

CHAPTER 4
RECORDING AND REPORTING OCCUPATIONAL INJURIES AND ILLNESSES

[Prior to 9/24/86, Labor, Bureau of [530]]
[Prior to 10/7/98, see 347—Ch 4]

875—4.1(88) Purpose and scope. These rules provide for record keeping and reporting by employers covered under Iowa Code chapter 88 as necessary or appropriate for enforcement of the Act, for developing information regarding the causes and prevention of occupational accidents and illnesses, and for maintaining a program of collection, compilation and analysis of occupational safety and health statistics. This chapter applies to public and private employers, and the use of the word "company" or "companies" in the standard adopted by reference herein shall not limit the scope or application of this chapter to private employers.

875—4.2(88) First reports of injury. All employers shall report to the Iowa division of workers' compensation any occupational injury or illness which temporarily disables an employee for more than three days or which results in permanent total disability, permanent partial disability or death. This report shall be made within four days from such event when such injury or illness is alleged by the employee to have been sustained in the course of the employee's employment. First reports of injury are to be filed in the form and manner required by the division of workers' compensation. A report to the division of workers' compensation is considered to be a report to the division of labor services. The division of workers' compensation shall forward all reports to the division of labor services. This rule does not excuse employers from making reports required by rule 875—4.3(88).
[**ARC 1782C**, IAB 12/10/14, effective 1/14/15]

875—4.3(88) Recording and reporting regulations. Except as noted in this rule, the Federal Occupational Safety and Health Administration regulations at 29 CFR 1904.0 through 1904.46 as published at 66 Fed. Reg. 6122 to 6135 (January 19, 2001) are adopted.

4.3(1) The following amendments to 29 CFR 1904.0 through 1904.46 are adopted:

a. 66 Fed. Reg. 52031-52034 (October 12, 2001)

b. 67 Fed. Reg. 44047 (July 1, 2002)

c. 67 Fed. Reg. 77170 (December 17, 2002)

d. 68 Fed. Reg. 38606 (June 30, 2003)

e. 79 Fed. Reg. 56186 (September 18, 2014)

4.3(2) In addition to the reporting methods set forth in 29 CFR 1904.39(a), employers may make reports required by 29 CFR 1904.39 using at least one of the following methods:

a. Completing the incident report form available at www.iowaosha.gov and faxing the completed form to (515)242-5076 or sending the completed form to osha@iwd.iowa.gov;

b. Calling (877)242-6742; or

c. Visiting 1000 E. Grand Avenue, Des Moines, Iowa.
[**ARC 1782C**, IAB 12/10/14, effective 1/14/15]

875—4.4(88) Supplementary record. Rescinded IAB 1/23/02, effective 1/1/02.

875—4.5(88) Annual summary. Rescinded IAB 1/23/02, effective 1/1/02.

875—4.6(88) Retention of records. Rescinded IAB 1/23/02, effective 1/1/02.

875—4.7(88) Access to records. Rescinded IAB 1/23/02, effective 1/1/02.

875—4.8(88) Reporting of fatality or multiple hospitalization incidents. Rescinded IAB 1/23/02, effective 1/1/02.

875—4.9(88) Falsification or failure to keep records or reports. Rescinded IAB 1/23/02, effective 1/1/02.

875—4.10(88) Change of ownership. Rescinded IAB 1/23/02, effective 1/1/02.

875—4.11 Reserved.

875—4.12(88) Petitions for record-keeping exceptions. Rescinded IAB 1/23/02, effective 1/1/02.

875—4.13(88) Description of statistical program. Rescinded IAB 1/23/02, effective 1/1/02.

875—4.14(88) Duties. Rescinded IAB 1/23/02, effective 1/1/02.

875—4.15(88) Employees not in fixed establishments. Rescinded IAB 1/23/02, effective 1/1/02.

875—4.16(88) Small employers. Rescinded IAB 1/23/02, effective 1/1/02.

875—4.17(88) Bureau of inspections and reporting, research and statistical section forms. Rescinded IAB 1/23/02, effective 1/1/02.

875—4.18(88) Definitions. Rescinded IAB 1/23/02, effective 1/1/02.

875—4.19(88) Establishments classified in Standard Industrial Classification Codes (SIC) 52-89 (except 52-54, 70, 75, 76, 79 and 80). Rescinded IAB 1/23/02, effective 1/1/02.

These rules are intended to implement Iowa Code chapter 88.

[Filed July 13, 1972; amended August 29, 1972, December 1, 1972, April 2, 1973, February 28, 1975]
[Filed 12/15/75, Notice 10/6/75—published 12/29/75, effective 2/4/76]
[Filed 11/18/77, Notice 10/5/77—published 12/14/77, effective 1/20/78]
[Filed 3/15/78, Notice 2/8/78—published 4/5/78, effective 5/15/78]
[Filed 11/2/78, Notice 9/20/78—published 11/15/78, effective 12/22/78]
[Filed emergency 11/8/79—published 11/28/79, effective 1/1/80]
[Filed emergency 11/20/79—published 12/12/79, effective 11/20/79]
[Filed emergency 12/5/79—published 12/26/79, effective 12/5/79]
[Filed emergency 12/5/79—published 12/26/79, effective 1/1/80]
[Filed 10/3/80, Notice 7/9/80—published 10/29/80, effective 12/3/80]
[Filed 7/1/83, Notice 5/11/83—published 7/20/83, effective 9/1/83]
[Filed emergency 9/5/86—published 9/24/86, effective 9/24/86]
[Filed 4/17/87, Notice 9/24/86—published 5/6/87, effective 6/10/87]
[Filed emergency 10/6/94 after Notice 7/6/94—published 10/26/94, effective 10/26/94]
[Filed 1/21/00, Notice 8/25/99—published 2/9/00, effective 3/15/00]
[Filed emergency 12/19/01 after Notice 11/14/01—published 1/23/02, effective 1/1/02]
[Filed emergency 11/22/02—published 12/11/02, effective 1/1/03]
[Filed 3/28/03, Notice 2/19/03—published 4/16/03, effective 5/21/03]
[Filed emergency 7/16/04 after Notice 6/9/04—published 8/4/04, effective 8/4/04]
[Filed ARC 1782C (Notice ARC 1677C, IAB 10/15/14), IAB 12/10/14, effective 1/14/15]

CHAPTER 71
ADMINISTRATION OF THE CONVEYANCE SAFETY PROGRAM

875—71.1(89A) Definitions. The definitions contained in this rule shall apply to 875—Chapters 71, 72, and 73.

"Acceptance checklist" means a checklist available on the Web site of the division of labor services that includes a list of major systems and components of conveyances.

"AECO" means an elevator/escalator certification organization accredited pursuant to ASME A17.7.

"Approved" means approved by the division.

"CCD" means code compliance documentation as described in ASME A17.7, Section 2.10.

"CEI" means a person who is a certified elevator inspector or certified elevator inspector supervisor and who received the certification from a certifying organization that holds a valid document of accreditation issued by an accreditation body in accordance with ANSI/ISO/IEC 17024.

"Control" means the system governing the starting, stopping, direction of motion, acceleration, speed and deceleration of the moving member.

"Conveyance" means any elevator, escalator, dumbwaiter, wind tower lift, CPH, or other equipment governed by Iowa Code chapter 89A.

"CPH" means a construction personnel hoist.

"CPH jump" means the addition or removal of mast or tower allowing a change in the hoist service elevation of a CPH.

"Division" means the labor services division of the workforce development department.

"Elevator" means a hoisting and lowering mechanism equipped with a car or platform which moves in guides in a substantially vertical direction and which serves two or more floors of a building or structure. "Elevator" does not include a CPH.

"Elevator mechanic" means a person who meets the standard for "elevator personnel" found in ASME A17.1.

"Hoistway-unit system" means a series of hoistway-door interlocks, hoistway-door electric contacts or hoistway-door combination mechanical locks and electric contacts, or a combination thereof, the function of which is to prevent operation of the driving machine by the normal operating device unless all hoistway doors are in the closed position and, if required, locked.

"Wind tower lift" means a conveyance designed and utilized solely for movement of trained and authorized people and small loads in wind towers built for the production of electricity.

[**ARC 7840B**, IAB 6/17/09, effective 7/22/09; **ARC 9221B**, IAB 11/17/10, effective 12/22/10; **ARC 0168C**, IAB 6/13/12, effective 7/18/12; **ARC 0685C**, IAB 4/17/13, effective 5/22/13; **ARC 1159C**, IAB 10/30/13, effective 12/4/13]

875—71.2(89A) Registration of conveyances. The owner or authorized agent of each operable conveyance not previously registered shall register the conveyance. An application to install a new conveyance shall constitute registration. All registrations shall be submitted to the commissioner on forms available from the division of labor services and shall include all information requested by the labor commissioner.

[**ARC 7840B**, IAB 6/17/09, effective 7/22/09]

875—71.3(89A) State identification number. The commissioner shall assign an identification number to each conveyance that shall be stamped on a metal tag permanently attached to the controller, to the electrical disconnecting switch, or in a wind tower lift cage.

[**ARC 7840B**, IAB 6/17/09, effective 7/22/09]

875—71.4(89A) Responsibility for obtaining permits. The procuring of all permits and the payment of all fees required by this chapter shall be the responsibility of the owner. Failure to obtain the appropriate permit prior to installation, alteration or operation may, at the discretion of the labor commissioner, result in a referral to the attorney general for prosecution of criminal penalties as described in Iowa Code section 89A.17.

[**ARC 7840B**, IAB 6/17/09, effective 7/22/09]

875—71.5(89A) Installation permits.

71.5(1) Installation shall not begin until an installation permit has been issued by the division. A separate installation permit shall be issued for each conveyance, except that a single installation permit shall cover all identical wind tower lifts installed as the result of one construction contract in identical wind towers in a single wind farm.

71.5(2) Application for an installation permit shall be accompanied by the fee specified in rule 875—71.16(89A), shall be in the format required by the labor commissioner, and shall include the following, as applicable:

a. Sectional plan of car and hoistway.

b. Sectional plan of machine room.

c. Sectional elevation of hoistway and machine room including the pit, bottom and top clearance of car and counterweights.

d. Size and weight of rails and guide rail bracket spacing.

e. The estimated maximum vertical forces on the guide rails on application of the safety device.

f. In the case of freight elevators for class B or class C loading, the horizontal forces on the guide rail faces during loading and unloading and the estimated maximum horizontal forces in a post-wise direction on the guide rail faces on the application of the safety device.

g. The size and weight per foot of any rail reinforcements where rail reinforcements are provided.

h. Job specifications.

i. For a conveyance covered by ASME A17.7, a complete copy of the CCD with attachments and a complete copy of the Certificate of Conformance with attachments as described by ASME A17.7, Appendix I, Section 4.5.

j. For a CPH, the number of CPH jumps planned, the planned dates for each CPH jump, and the change in the number of floors anticipated with each CPH jump.

71.5(3) A CPH installation permit issued in response to an application submitted in full compliance with this subrule permits each planned CPH jump. Each CPH jump shall be considered an alteration. The fee submitted for a CPH installation permit shall be the total of the CPH installation permit fee as set forth in subrule 71.16(3) and the CPH alteration permit fee as set forth in subrule 71.16(4).

71.5(4) Issuance of an installation permit shall not be construed as a waiver or variance of any requirement of law.

71.5(5) The installation permit or a copy of the installation permit shall be conspicuously posted at the worksite. All the wind towers covered by a single installation permit shall be considered a single worksite, and posting one copy of the installation permit at the construction project office shall be sufficient compliance with this subrule.

71.5(6) Except as described in paragraphs 71.5(6)*"a"* and *"b,"* the installation permit shall expire upon the earlier of the completion of the installation as described in the permit application or one year after issuance.

a. For a CPH, the installation permit shall expire upon completion of the last CPH jump.

b. For any conveyance, during the tenth month after issuance, and upon submission to the labor commissioner of sufficient justification, the fee established by this chapter, and other required information, an extension may be granted at the discretion of the labor commissioner.

[**ARC 7840B**, IAB 6/17/09, effective 7/22/09; **ARC 9221B**, IAB 11/17/10, effective 12/22/10]

875—71.6(89A) Construction permits. A construction permit authorizes the temporary, limited use of an elevator for purposes relating to construction or demolition.

71.6(1) Use of the elevator shall not begin until a construction permit has been issued by the division.

71.6(2) Application for a construction permit shall be in the format required by the labor commissioner and must include all the information requested by the labor commissioner and the fee specified by this chapter.

71.6(3) Upon submission of the completed application and fee, a state inspector shall be scheduled to inspect the elevator. Construction permits shall be issued only if the following criteria are met:

a. The elevator has been successfully tested pursuant to the requirements of ASME A17.1, Section 8.11.5.13; and

b. The applicable requirements of ASME A17.1, Section 5.10, are met.

71.6(4) The construction permit or a copy of the construction permit shall be posted conspicuously in a protective sleeve in the elevator car.

71.6(5) The construction permit shall expire 120 days after issuance. However, between 90 and 110 days after issuance and upon submission to the labor commissioner of sufficient justification, the fee established by this chapter, and other required information, an extension of up to 90 days may be granted at the discretion of the labor commissioner.

71.6(6) Elevators with a construction permit but without an operating permit shall not be accessible to the general public.

71.6(7) Failure to comply with these provisions may result in the revocation of the construction permit.

71.6(8) An operating permit shall not be issued before construction and an acceptance inspection are complete.

[**ARC 7840B**, IAB 6/17/09, effective 7/22/09]

875—71.7(89A) Operating permits.

71.7(1) Operation of equipment covered by this chapter without a current operating permit is prohibited, except as authorized by rules 875—71.6(89A), 875—71.8(89A), and 875—71.20(89A). If operation of a conveyance is prohibited under this rule, the labor commissioner may post notice on the conveyance that it is not to be used. The conveyance may be returned to service only after an operating permit for the conveyance has been issued or reissued.

71.7(2) Operating permits shall not be issued prior to successful completion of an inspection pursuant to rule 875—71.11(89A) and payment of all permit and inspection fees owed to the division.

71.7(3) Current operating permits or copies of current operating permits shall be conspicuously displayed as follows:

a. The operating permit for an elevator or CPH shall be posted in the car.

b. The operating permit for an escalator, dumbwaiter, wind tower lift, moving walk, or wheelchair lift shall be posted on or near the subject conveyance.

71.7(4) An operating permit shall expire 60 days after the first permit renewal inspection following the issuance of the operating permit, unless an earlier date is dictated by this rule.

71.7(5) An operating permit is automatically suspended when an alteration begins. The operating permit automatically resumes when the elevator passes an inspection pursuant to rule 875—71.11(89A).

71.7(6) An operating permit is automatically terminated when an imminent danger notice is posted on the conveyance.

71.7(7) Notwithstanding other provisions of this rule, at the discretion of the labor commissioner, a temporary operating permit may be issued for up to 30 days provided the inspection has been completed and no code violations were identified. Issuance of a temporary operating permit does not extend the expiration date of the conveyance's operating permit.

[**ARC 7840B**, IAB 6/17/09, effective 7/22/09; **ARC 0318C**, IAB 9/5/12, effective 10/10/12; **ARC 0574C**, IAB 2/6/13, effective 3/13/13; **ARC 0685C**, IAB 4/17/13, effective 5/22/13]

875—71.8(89A) Controller upgrade permits. A controller upgrade permit may be issued to allow operation of an elevator while work to upgrade controls requires deactivation of the Phase I recall initiated by smoke sensing devices. Each elevator to be altered requires a separate controller upgrade permit. The duration of a controller upgrade permit shall not exceed 90 days. Each elevator in the group shall pass inspection pursuant to rule 875—71.11(89A) prior to being placed back into service.

71.8(1) A controller upgrade permit shall not be issued unless each of the following conditions is met:

a. Two or more elevators share a lobby at the level of the recall floor.

b. The project includes the installation of new elevator controllers in all of the elevators in the group.

c. Phase I fire recall initiated by a key-operated switch and all other controls shall be properly functioning for each elevator available for use.

d. There is a current alteration permit for the project.

e. A complete application for the controller upgrade permit and the fee established by this chapter have been submitted and accepted.

71.8(2) A controller upgrade permit shall not be construed to waive or excuse compliance with the requirements of any other governmental entity, including the department of public safety.

71.8(3) Upon the submission to the labor commissioner of sufficient justification, the fee established by this chapter, and other required information, an extension of the permit for up to 60 days may be granted.

[**ARC 7840B**, IAB 6/17/09, effective 7/22/09]

875—71.9(89A) Alteration permits.

71.9(1) Alteration shall not begin until an alteration permit has been issued by the division.

71.9(2) Application for an alteration permit shall be in the format required by the labor commissioner and shall include drawings and specifications of all planned changes and the fee specified by rule 875—71.16(89A).

71.9(3) Issuance of an alteration permit shall not be construed as a waiver or variance of any requirement of law.

71.9(4) The alteration permit or a copy of the alteration permit shall be conspicuously posted at the worksite.

71.9(5) If a complete installation permit application was submitted for a CPH pursuant to subrule 71.5(3), at least seven days' advance notice of each CPH jump shall be provided to the labor commissioner.

71.9(6) The alteration permit shall expire upon the earlier of the completion of the alteration as described in the permit application or 120 days after issuance. However, between 90 and 110 days after issuance and upon submission to the labor commissioner of sufficient justification and other required information, an extension of the alteration permit may be granted at the discretion of the labor commissioner.

[**ARC 7840B**, IAB 6/17/09, effective 7/22/09; **ARC 9221B**, IAB 11/17/10, effective 12/22/10; **ARC 0685C**, IAB 4/17/13, effective 5/22/13]

875—71.10(89A) Alterations.

71.10(1) Alterations or changes shall comply with rule 875—72.13(89A) or rule 875—73.8(89A), as applicable.

71.10(2) A conveyance that is relocated shall be brought into compliance with all codes that are applicable at the time of relocation.

71.10(3) With the exception of replacing brushes on or adding brushes to escalators, all alterations of conveyances other than elevators shall require that the entire conveyance be brought into compliance with the current code.

[**ARC 7840B**, IAB 6/17/09, effective 7/22/09; **ARC 0168C**, IAB 6/13/12, effective 7/18/12; **ARC 0685C**, IAB 4/17/13, effective 5/22/13]

875—71.11(89A) Inspections. Pursuant to Iowa Code section 89A.12, inspections by the labor commissioner's designee shall be permitted at reasonable times with or without prior notice.

71.11(1) *Scope of inspections.*

a. *Comprehensive.* Periodic inspections shall be comprehensive. Elevators being transferred from construction permits to operating permits, previously dormant conveyances being returned to service, relocated conveyances, and new conveyances shall be inspected in their entirety prior to operation.

b. *Limited.* The scope of an inspection after an alteration shall be determined by rule 875—72.13(89A) or 875—73.8(89A), as applicable. However, if the inspector notices a safety hazard in plain view outside the altered components, or if the periodic inspection is due, the entire conveyance shall be inspected.

71.11(2) *When inspections will occur.* When the timing of two different types of inspection on a single conveyance coincide, a state inspector may perform both inspections in one visit.

a. *Periodic inspections.*

(1) Each CPH shall be inspected at intervals not to exceed three months. All other periodic conveyance inspections by state inspectors shall be conducted annually unless the labor commissioner determines resources do not allow annual inspections. If the labor commissioner determines quarterly inspections of CPHs and annual inspections of other state-inspected conveyances are not feasible due to insufficient resources, the labor commissioner shall determine the inspection schedule.

(2) Conveyance inspections by special inspectors shall be conducted at least annually.

b. *Acceptance inspections.* A CPH shall be inspected pursuant to the schedule in ANSI A10.4 – 2007, Chapter 26. For all other conveyances, an acceptance inspection shall occur:

(1) After each relocation,

(2) After each alteration,

(3) For a new installation, not less than two business days after a completed acceptance checklist is submitted by the conveyance installation company,

(4) Before an elevator subject to a construction permit receives an operating permit, and

(5) Before a previously dormant conveyance is returned to service.

c. *Other inspections.* Inspections may be made when the commissioner reasonably believes that a conveyance is not in compliance with the rules. Accidents, complaints, or requests for consultative inspections may result in inspections by the labor commissioner's designee.

71.11(3) *Who may perform inspections.*

a. The labor commissioner's designee shall inspect altered conveyances, CPHs, previously dormant conveyances being returned to service, wind tower lifts exempted from ASME A17.1 by rule 875—72.12(89A), relocated conveyances, and new conveyances.

b. Except as noted in 71.11(3)*"c,"* annual inspections may be performed by state inspectors or special inspectors authorized by the labor commissioner pursuant to rule 875—71.12(89A).

c. An inspection report by a special inspector shall not be accepted as the required, annual inspection if the conveyance is under contract for maintenance, installation or alteration by the special inspector or the special inspector's employer, or if the property is owned or leased by the special inspector or the special inspector's employer.

71.11(4) *Inspection standards.* Inspections shall be performed in accordance with applicable safety codes or documents such as:

a. CCD;

b. ASME A17.1, Sections 8.10 and 8.11, except Section 8.11.1.1;

c. ANSI A10.4-2007;

d. Rule 875—72.12(89A) for wind tower lifts exempted from ASME A17.1 by rule 875—72.12(89A); or

e. ASME A18.1.

71.11(5) *Inspection reports.*

a. All inspectors shall file inspection reports on forms approved by the commissioner within 30 days from the date of inspection and shall provide owners of conveyances with copies of completed inspection reports. The inspection report must separately list each unsafe condition and the applicable, specific code citation. Up to 30 days shall be allowed for correction of the unsafe conditions.

b. The owner may file a petition for reconsideration of an inspection report pursuant to 875—Chapter 69. The timely and proper filing of a petition for reconsideration extends the deadline for correction of the hazards that are subject to the petition for reconsideration.

71.11(6) *Extension of time.* The owner may petition the commissioner for up to 60 additional days to make the necessary corrections. The time frames set forth in subrule 71.11(7) may be adjusted by the labor commissioner as necessary to accommodate an extension of time.

71.11(7) *Correction of unsafe conditions.* In the absence of a determination on reconsideration or appeal that correction of hazards is not required, all unsafe conditions identified in the inspection report shall be corrected. The labor commissioner shall verify correction of all unsafe conditions identified

in the inspection report by sending a state inspector to reinspect the conveyance for the fee set forth in rule 875—71.16(89A), or by reviewing appropriate documentation such as a photograph, invoice, other verifiable document, or subsequent inspection report. The time frames set forth in this subrule may be accelerated at the request of the owner.

a. Promptly upon receipt of an inspection report listing unsafe conditions, the labor commissioner will send to the owner and the special inspector, if any, an abatement order. A copy of the inspection report shall be attached to the abatement order. Unless a special inspector conducted the inspection, the order may specify a period that ends no more than 45 days after the inspection during which the owner may submit written evidence that the unsafe conditions have been corrected. The abatement order shall:

(1) Identify the equipment.

(2) Demand that the unsafe conditions be corrected within the period set forth in the inspection report.

(3) Set forth the consequences of failure to comply.

b. After the period specified on the inspection report has passed, the labor commissioner may cause a state inspector to verify correction of all unsafe conditions. If reinspection reveals no significant progress toward correcting the unsafe conditions, or the remaining unsafe conditions create significant safety concerns, the labor commissioner may serve a notice of intent to suspend, deny or revoke the operating permit.

c. The labor commissioner may issue an operating permit after receipt of the appropriate fee and verification that each unsafe condition identified in the inspection report has been corrected.

d. If written proof of correction was requested in the abatement order, but adequate proof was not received by the deadline set forth in the abatement order, the labor commissioner may send a second abatement order or cause a state inspector to inspect the conveyance. If the labor commissioner elects to send a second abatement order, it shall notify the owner that, if written proof of abatement is not received within 20 days, a state inspector may be sent to the site. Copies of the abatement order and the inspection report shall be attached to the second abatement order.

e. If a special inspector conducted the inspection, more than 45 days have passed since the deadline for correction of hazards, and an inspection report indicating the hazards are corrected has not been filed, the labor commissioner may contact the special inspector, send a second abatement order to the owner, or send a state inspector to inspect the conveyance. Copies of the abatement order and the inspection report shall be attached to a second abatement order.

f. If an inspection as described in paragraph 71.11(7)*"d"* or *"e"* reveals no significant progress toward correcting the unsafe conditions, and the remaining unsafe conditions create no significant safety concerns, the labor commissioner may extend the time for abatement of the unsafe conditions an additional 10 days or may serve a notice of intent to suspend, deny or revoke the operating permit. The labor commissioner may also post a notice prohibiting use of the conveyance pending abatement of the unsafe conditions listed in the inspection report.

g. Procedures for appeal of a notice of intent to suspend, deny or revoke an operating permit are set forth in 875—Chapter 69.

71.11(8) *Imminent danger.* If the labor commissioner determines that continued operation of a conveyance pending correction of unsafe conditions creates an imminent danger, the labor commissioner shall post notice on the conveyance that it is not to be used pending repairs. Use of a conveyance contrary to posted notice by the labor commissioner may result in additional legal proceedings pursuant to Iowa Code section 89A.10(3) or 89A.18. The conveyance may be returned to service only after the imminent danger has been corrected and the conveyance has passed a comprehensive inspection.

71.11(9) *Interference prohibited.* No person shall interfere with, delay or impede an inspector employed by the state during an inspection.

[**ARC 7840B**, IAB 6/17/09, effective 7/22/09; **ARC 9221B**, IAB 11/17/10, effective 12/22/10; **ARC 0168C**, IAB 6/13/12, effective 7/18/12; **ARC 0685C**, IAB 4/17/13, effective 5/22/13]

875—71.12(89A,252J,261,272D) Special inspector commissions.

71.12(1) *Definition.* As used in this rule, "certificate of noncompliance" means:

a. A certificate of noncompliance issued by the child support recovery unit, department of human services, pursuant to Iowa Code chapter 252J;

b. A certificate of noncompliance issued by the college student aid commission pursuant to Iowa Code chapter 261; or

c. A certificate of noncompliance issued by the centralized collection unit of the department of revenue pursuant to Iowa Code chapter 272D.

71.12(2) *Qualifications.*

a. Each applicant must possess a high school diploma or general equivalency degree.

b. Each applicant shall have at least three years of full-time work experience in the construction, installation, repair or inspection of conveyances.

c. Each applicant shall be a CEI.

d. Each applicant shall satisfactorily pass a division of labor services examination on Iowa procedures, Iowa policies, and all safety standards adopted by reference.

e. Each applicant shall submit proof of insurance coverage insuring the applicant against liability for injury or death for any act or omission on the part of the applicant. The insurance policy shall be in an amount of not less than $1,000,000 for bodily injury to or death of one person in any one accident, and in an amount of not less than $5,000,000 for bodily injury to or death of two or more persons in any one accident, and in an amount of not less than $100,000 for damage to or destruction of property in any one accident. The insurance coverage of the special inspector's employer shall be considered to comply with this requirement if the coverage provides equivalent coverage for each special inspector.

71.12(3) *Application.* An applicant for a commission shall complete, sign, and submit to the division the form provided by the division with the required fee. The applicant shall include with the application proof that the applicant is a CEI.

71.12(4) *Expiration.* The commission expires when the commission is suspended or revoked by the labor commissioner or one year from issuance, whichever occurs earlier.

71.12(5) *Changes.* The special inspector shall notify the division at the time any of the information on the form or attachments changes.

71.12(6) *Denials.* The labor commissioner may refuse to issue or renew a special inspector's commission for failure of the applicant to complete an application package, if the applicant is not a CEI, or for any reason listed in subrules 71.12(8) to 71.12(10).

71.12(7) *Investigations.* The labor commissioner may investigate for any reasonable cause related to special inspectors or special inspector applicants. The labor commissioner may conduct interviews and utilize other reasonable investigatory techniques. Investigations may be conducted without prior notice at the times and in the places the labor commissioner directs. The labor commissioner may notify the organization that certified the special inspector as a CEI of the findings of an investigation.

71.12(8) *Reasons for probation.* The labor commissioner may issue a notice of commission probation when an investigation reasonably reveals that the special inspector filed inaccurate reports.

71.12(9) *Reasons for suspension.* The labor commissioner may issue a notice of commission suspension when an investigation reasonably reveals any of the following:

a. The special inspector failed to submit and report inspections on a timely basis;

b. The special inspector abused the special inspector's authority;

c. The special inspector misrepresented self as a state inspector or a state employee;

d. The special inspector used commission authority for inappropriate personal gain;

e. The special inspector failed to follow the division's rules for inspection of object repairs, alterations, construction, installation, or in-service inspection;

f. The special inspector committed numerous violations as described in subrule 71.12(8);

g. The special inspector used fraud or deception to obtain or retain, or to attempt to obtain or retain, a special inspector commission whether for one's self or another;

h. The special inspector is no longer a CEI;

i. The division received a certificate of noncompliance; or

j. The special inspector failed to take appropriate disciplinary actions against a subordinate special inspector who has committed repeated acts or omissions listed in paragraphs 71.12(9)*"a"* to *"h."*

71.12(10) *Reasons for revocation.* The labor commissioner may issue a notice of revocation of a special inspector's commission when an investigation reveals any of the following:

a. The special inspector filed a misleading, false or fraudulent report;

b. The special inspector failed to perform a required inspection;

c. The special inspector failed to file a report or filed a report which was not in accordance with the provisions of applicable standards;

d. The special inspector committed repeated violations as described in subrule 71.12(9);

e. The special inspector used fraud or deception to obtain or retain, or to attempt to obtain or retain, a special inspector commission whether for one's self or another;

f. The special inspector instructed, ordered, or otherwise encouraged a subordinate special inspector to perform the acts or omissions listed in paragraphs 71.12(10)*"a"* to *"e"*;

g. The special inspector is no longer a CEI; or

h. The division received a certificate of noncompliance.

71.12(11) *Procedures.* The following procedures shall apply except in the event of revocation or suspension due to receipt of a certificate of noncompliance. In instances involving receipt of a certificate of noncompliance, the applicable procedures of Iowa Code chapter 252J, 261, or 272D shall apply.

a. *Notice of actions.* The labor commissioner shall serve a notice on the special inspector by certified mail to an address listed on the commission application form or by other service as permitted by Iowa Code chapter 17A.

b. *Contested cases.* The special inspector shall have 20 days to file a written notice of contest with the labor commissioner. If the special inspector does not file a written contest within 20 days of receipt of the notice, the action stated in the notice shall automatically be effective.

c. *Hearing procedures.* The hearing procedures in 875—Chapter 1 shall govern.

d. *Emergency suspension.* Pursuant to Iowa Code section 17A.18A, if the labor commissioner finds that the public health, safety or welfare imperatively requires emergency action because a special inspector failed to comply with applicable laws or rules, the special inspector's commission may be summarily suspended.

e. *Probation period.* A special inspector may be placed on probation for a period not to exceed one year for each incident causing probation.

f. *Suspension period.* A special inspector's commission may be suspended up to five years for each incident causing a suspension.

g. *Revocation period.* A special inspector's commission that has been revoked shall not be reinstated for five years.

h. *Concurrent actions.* Multiple actions may proceed at the same time against any special inspector.

i. *Revoked or suspended commissions.* Within five business days of final agency action revoking or suspending a special inspector commission, the special inspector shall surrender the special inspector's commission card to the labor commissioner. The labor commissioner may notify the special inspector's employer and the organization that certified the special inspector as a CEI of a revocation or suspension.

[**ARC 7841B**, IAB 6/17/09, effective 7/22/09]

875—71.13(89A) State employees. ASME A17.1, Rule 8.11.1.1, shall not apply to inspectors who were hired before January 2005 and are state employees.

[**ARC 7840B**, IAB 6/17/09, effective 7/22/09]

875—71.14(89A) Safety tests. Only safety test reports submitted on approved forms from elevator mechanics who are employed by authorized companies shall be considered to meet the requirements of this rule. The alternative test methods set forth at ASME A17.1, Rule 8.6.11.10, shall not be allowed as a substitute for a full-load safety test.

71.14(1) *When safety tests will be performed.*

a. Safety tests shall be performed on new and altered installations before they are placed in service.

b. Safety tests shall be made on all conveyances pursuant to the schedules and procedures set forth in:

(1) The maintenance control plan for wind tower lifts exempted from ASME A17.1 by rule 875—72.12(89A);

(2) The CCD for conveyances covered by ASME A17.7-2007/CSA B44-07;

(3) The columns pertaining to "periodic tests" in Table N-1 in the edition of ASME A17.1 currently adopted for new conveyances at rule 875—72.1(89A);

(4) ASME A18.1(2003), Part 10; or

(5) ANSI A10.4-2007, Section 26.4.

71.14(2) *How safety tests will be reported.* Within 30 days after completion of a safety test, the elevator mechanic shall file with the labor commissioner a report on an approved form and shall provide a copy of the form to the owner and to the witness, if applicable.

71.14(3) *How safety tests will be recorded.* The elevator mechanic shall attach a tag showing the date of the test, the elevator mechanic's name, and the type of test performed.

a. On electric traction elevators, the elevator mechanic shall attach the tag to the safety-releasing carrier.

b. On hydraulic elevators, the elevator mechanic shall attach the tag to the disconnecting switch or the controller.

c. On wheelchair lifts, the elevator mechanic shall attach the tag to the disconnecting switch.

d. On other conveyances covered by these rules, the commissioner's designee witnessing the acceptance safety test shall indicate the proper location of the tag. Subsequent test tags shall be attached in the same location.

[**ARC 7840B**, IAB 6/17/09, effective 7/22/09; **ARC 9221B**, IAB 11/17/10, effective 12/22/10; **ARC 0168C**, IAB 6/13/12, effective 7/18/12; **ARC 1766C**, IAB 12/10/14, effective 1/14/15]

875—71.15(89A) Authorized companies.

71.15(1) Each year, authorized companies shall train their elevator mechanics who perform safety tests on safety test procedures.

71.15(2) For each conveyance owned by an authorized company, the owner shall obtain the services of a CEI who is not employed by the authorized company or an inspector employed by the state to witness the safety test.

71.15(3) To become authorized to perform safety tests, a company shall submit a copy of its procedures for performing safety tests. The labor commissioner shall review the procedures for adequacy and shall request modifications to the procedures or grant or deny the authorization.

71.15(4) Every five years or within six months after the board adopts a new edition of ASME, whichever is earlier, authorized companies shall submit revised safety test procedures for renewal of authorization. The labor commissioner shall review the procedures for adequacy and shall request modifications to the procedures or grant or deny the authorization.

71.15(5) Investigations. Investigations shall take place at the times and in the places the labor commissioner directs. The labor commissioner may investigate for any reasonable cause. The labor commissioner may conduct interviews and utilize other reasonable investigatory techniques. Investigations may be conducted without prior notice.

71.15(6) Suspension. If the labor commissioner determines that a falsified safety test report was submitted by an elevator mechanic, the labor commissioner shall suspend the authorization of the elevator mechanic's employer for six months. During the suspension, all safety tests performed by any employee of the authorized company shall be witnessed by a state inspector or a CEI who is not employed by the suspended authorized company.

71.15(7) Suspension procedures.

a. The labor commissioner shall notify an authorized company of its suspension by certified mail or by other service as permitted by Iowa Code chapter 17A.

b. The authorized company shall have 20 days to file a written notice of contest with the labor commissioner. If the authorized company does not file a written notice of contest in a timely manner, the suspension shall automatically be effective. If the authorized company does file a written notice of contest in a timely manner, the hearing procedures in 875—Chapter 1 shall govern.

c. If the labor commissioner finds, pursuant to Iowa Code section 17A.18A, that public health, safety or welfare imperatively requires emergency action, the authorization may be summarily suspended.

[**ARC 7840B**, IAB 6/17/09, effective 7/22/09]

875—71.16(89A) Fees. Except as noted in this rule, all fees are nonrefundable and due in advance.

71.16(1) *Operating permits.* The annual operating permit fee shall be $75 per conveyance.

71.16(2) *Periodic inspections.* Fees shall be remitted to the division of labor services within 30 days of the date of inspection. The fees for periodic inspections shall be as follows:

a. Hydraulic elevator: $100.

b. Wind tower lift: $225.

c. Hand-powered elevator: $90.

d. Television tower elevator: $500.

e. Other traction elevator: $150.

f. Escalator: $150.

g. Dumbwaiter: $90.

h. Wheelchair lift: $90.

i. CPH.

(1) Annual: $500.

(2) Quarterly: $200.

j. Moving walk: $150.

71.16(3) *Installation permits.* The fees in this subrule cover the initial print review, installation permit, initial inspection and first-year operating permit. Each print revision submitted to the division shall be subject to an additional fee of $100. The fees for new installations shall be as follows:

a. Wind tower lift: $500.

b. Hydraulic elevator: $750.

c. Traction elevator: $1000.

d. Escalator: $1000.

e. Dumbwaiter: $500.

f. Wheelchair lift: $500.

g. CPH: $500.

h. Moving walk: $500.

71.16(4) *Alteration permits.*

a. The fee for any elevator alteration permit except a CPH extension shall be $500 and shall cover the initial print review, alteration permit, and initial inspection.

b. The fee for each CPH extension shall be $150. The total fee required for all planned CPH extensions shall be submitted with the installation permit application pursuant to subrule 71.5(3).

c. For all other conveyances, the fees for new installations shall apply to alterations.

71.16(5) *Construction permits.* The construction permit fee shall be $200 per conveyance. This fee includes the fee for initial inspection.

71.16(6) *Controller upgrade permits.* The controller upgrade permit fee shall be $250. This fee includes one inspection.

71.16(7) *Consultative inspections.* Consultative inspections may be performed at the discretion of the labor commissioner for $125 per hour, including travel time, with a minimum charge of $250.

71.16(8) *Special inspector commission.* The special inspector commission fee shall be $60 annually.

71.16(9) *Witness of safety tests.* The fee for division employees to witness safety tests shall be $125 per hour, including travel time, with a minimum charge of $250.

71.16(10) *Permit extensions.* The fee to extend an installation permit, alteration permit, or construction permit shall be $100.

71.16(11) *Inspections outside of normal business hours.* Inspections outside the normal business hours may be performed at the discretion of the labor commissioner. If the owner or contractor requests an inspection outside of normal business hours and the labor commissioner agrees to the schedule, an

additional fee will be charged. The additional fee will be calculated at a rate of $200 per hour, including travel time, with a minimum charge of $400.

71.16(12) *Reinspections.* The fees for reinspections are $400 for television tower elevators and CPHs, $200 for wind tower lifts, and $300 for all other conveyances.

71.16(13) *Inspection for temporary removal from service.* The inspection fee for temporary removal from service pursuant to rule 875—71.20(89A) shall be $125 per hour, including travel time, with a minimum charge of $250.

71.16(14) *Fee waiver.* When a state inspector combines in one visit two different types of inspection on a single conveyance, the commissioner may waive the lesser of the fees.

[**ARC 7840B**, IAB 6/17/09, effective 7/22/09; **ARC 9221B**, IAB 11/17/10, effective 12/22/10; **ARC 0318C**, IAB 9/5/12, effective 10/10/12; **ARC 0685C**, IAB 4/17/13, effective 5/22/13; **ARC 1158C**, IAB 10/30/13, effective 12/4/13]

875—71.17(89A) Publications available for review. Standards, codes, and publications adopted by reference in these rules are available for review in the office of the Division of Labor Services, 1000 E. Grand Avenue, Des Moines, Iowa 50319.

[**ARC 7840B**, IAB 6/17/09, effective 7/22/09]

875—71.18(89A) Other regulations affecting elevators. Regulations concerning accessibility of buildings and conveyances available to the public are found at 661—Chapter 302. Regulations governing the safety and health of employees who work in and around elevators are found at 875—Chapters 2 to 26. Iowa Code chapter 91C and 875—Chapter 150 apply to companies that alter and install conveyances. No rule in 875—Chapters 71 to 73 shall be interpreted as creating an exemption, waiver, or variance from any otherwise applicable regulation or statute.

[**ARC 7840B**, IAB 6/17/09, effective 7/22/09]

875—71.19(89A) Accidents.

71.19(1) *Reporting the accident.* The owner shall immediately notify the commissioner of each personal injury accident requiring the service of a physician or causing disability exceeding one day or causing damage to the conveyance exceeding $2,000. Notification shall be in writing and shall include the state identification number, owner, and description of accident.

71.19(2) *Securing the accident site pending investigation.* The removal of any part of the damaged conveyance or operating mechanism from the premises is forbidden until permission to do so is granted by the commissioner.

71.19(3) *Putting the conveyance back into operation.* When an accident involves the failure or destruction of any part of the conveyance or its operating mechanism, the use of the conveyance is forbidden until it has been made safe, until it has been reinspected, and until any repairs or alterations have been approved by the commissioner.

[**ARC 7840B**, IAB 6/17/09, effective 7/22/09]

875—71.20(89A) Temporary removal from service. The requirements for an annual inspection, annual inspection fee, safety test, operating permit, and operating permit fee shall be temporarily suspended for up to three years for an elevator in an unoccupied building if the requirements of this rule are met.

71.20(1) All elevator doors in unoccupied buildings shall be closed and locked. Hydraulic elevators shall be parked at the bottom of the hoistway. Traction elevators shall be parked at the top of the hoistway.

71.20(2) Upon request by the owner of an elevator in an unoccupied building, the labor commissioner shall send an inspector who is a state employee to confirm that the building is unoccupied and that the car and doors of the elevator have been properly secured. If the conditions set forth in subrule 71.20(1) are met, the inspector shall apply to the elevator a seal and a red tag marked with the words "Do Not Operate."

71.20(3) One year after the inspection, the owner must file with the labor commissioner written confirmation that the status of the elevator and building have not changed, and the owner must file again two years after the inspection. Failure to comply with this requirement shall result in termination of the temporary suspension of the requirements for safety tests, inspections, and operating permits.

71.20(4) Prior to returning the elevator to service, and upon request of the owner, the labor commissioner may allow the elevator to be operated for 30 days for the sole purpose of performing safety tests and maintenance.

71.20(5) The owner must notify the labor commissioner at least two weeks before placing an elevator back into service and must arrange for an inspector who is a state employee to witness a safety test.

71.20(6) If at the end of three years the building is still unoccupied, suspension of the requirements for safety tests, inspections, and operating permits shall end without possibility of renewal.

[**ARC 0318C**, IAB 9/5/12, effective 10/10/12]

These rules are intended to implement Iowa Code chapters 89A, 252J, 261 and 272D.

[Filed emergency 12/15/75, Notice 10/6/75—published 12/29/75, effective 12/15/75]
[Filed 7/28/82, Notice 5/26/82—published 8/18/82, effective 9/30/82]
[Filed emergency 9/5/86—published 9/24/86, effective 9/24/86]
[Filed emergency 12/4/92 after Notice 9/30/92—published 12/23/92, effective 12/23/92]
[Filed 2/15/01, Notice 10/18/00—published 3/7/01, effective 4/11/01]
[Filed 11/20/01, Notice 6/13/01—published 12/12/01, effective 1/16/02]
[Filed 11/7/03, Notice 10/1/03—published 11/26/03, effective 1/1/04]
[Filed 2/10/06, Notice 1/4/06—published 3/1/06, effective 4/5/06]
[Filed 7/3/07, Notice 4/25/07—published 8/1/07, effective 9/5/07]
[Filed 1/25/08, Notice 11/7/07—published 2/13/08, effective 3/19/08]
[Filed emergency 5/28/08—published 6/18/08, effective 5/28/08]
[Filed 5/29/08, Notice 4/23/08—published 6/18/08, effective 7/23/08]
[Filed emergency 6/24/08—published 7/16/08, effective 7/23/08]
[Filed 9/3/08, Notice 6/18/08—published 9/24/08, effective 10/29/08]
[Filed 9/3/08, Notice 7/16/08—published 9/24/08, effective 10/29/08]
[Filed ARC 7840B (Notice ARC 7696B, IAB 4/8/09), IAB 6/17/09, effective 7/22/09]
[Filed ARC 7841B (Notice ARC 7697B, IAB 4/8/09), IAB 6/17/09, effective 7/22/09]
[Filed ARC 9221B (Notice ARC 8996B, IAB 8/11/10), IAB 11/17/10, effective 12/22/10]
[Filed ARC 0168C (Notice ARC 0011C, IAB 2/22/12), IAB 6/13/12, effective 7/18/12]
[Filed ARC 0318C (Notice ARC 0171C, IAB 6/13/12), IAB 9/5/12, effective 10/10/12]
[Filed ARC 0574C (Notice ARC 0411C, IAB 10/31/12), IAB 2/6/13, effective 3/13/13]
[Filed ARC 0685C (Notice ARC 0597C, IAB 2/6/13), IAB 4/17/13, effective 5/22/13]
[Filed ARC 1159C (Notice ARC 0951C, IAB 8/21/13), IAB 10/30/13, effective 12/4/13]
[Filed ARC 1158C (Notice ARC 1009C, IAB 9/4/13), IAB 10/30/13, effective 12/4/13]
[Filed ARC 1766C (Notice ARC 1560C, IAB 7/23/14), IAB 12/10/14, effective 1/14/15]

CHAPTER 72
CONVEYANCES INSTALLED ON OR AFTER JANUARY 1, 1975

[Prior to 9/24/86, Labor, Bureau of [530]]
[Prior to 10/21/98, see 347—Ch 72]

875—72.1(89A) Purpose and scope. This chapter contains safety standards covering the design, construction, installation, operation, inspection, testing, maintenance, alteration and repair of conveyances installed on or after January 1, 1975. The rules of this chapter also apply to previously dormant conveyances that are being reactivated, and to reinstalled or moved conveyances. As used in this rule, the word "installation" refers to the date on which a conveyance contractor enters into a contractual agreement pertaining to a conveyance.

72.1(1) For installations between January 1, 1975, and December 31, 1982, ANSI A17.1 shall mean ANSI A17.1 (1971).

72.1(2) For installations between January 1, 1983, and December 31, 1992:

a. ANSI A17.1 shall mean ANSI A17.1 (1981); and

b. ANSI A117.1 shall mean ANSI A117.1 (1980).

72.1(3) For installations between January 1, 1993, and December 31, 2000:

a. ASME A17.1 shall mean ASME A17.1 (1990) and in addition shall mean the following:

(1) ASME A17.1b (1992), Rule 110.11h, for electric elevators installed between July 1, 1993, and December 31, 2000, and

(2) ASME A17.1b (1992), Rule 110.11h that is referenced by Rule 300.11, for hydraulic elevators installed between July 1, 1993, and December 31, 2000.

b. ANSI/NFPA 70 shall mean ANSI/NFPA 70 (1990); and

c. ANSI A117.1 shall mean ANSI A117.1 (1980).

72.1(4) For installations between January 1, 2001, and December 31, 2003:

a. ASME A17.1 shall mean ASME A17.1 (1996 through the 1999 addenda);

b. ASME A18.1 shall mean ASME A18.1 (1999), except Chapters 4, 5, 6, and 7;

c. ANSI A117.1 shall mean ANSI A117.1 (1998); and

d. ANSI/NFPA 70 shall mean ANSI/NFPA 70 (1999).

72.1(5) For installations between January 1, 2004, and April 4, 2006:

a. ASME A17.1 shall mean ASME A17.1 (2000 through the 2003 addenda);

b. ASME A18.1 shall mean ASME A18.1 (1999 through the 2001 addenda), except Chapters 4, 5, 6, and 7;

c. ANSI A117.1 shall mean ANSI A117.1 (1998); and

d. ANSI/NFPA 70 shall mean ANSI/NFPA 70 (2002).

72.1(6) For installations between April 5, 2006, and July 22, 2008:

a. ASME A17.1 shall mean ASME A17.1-2004, A17.1a-2005 and A17.1S-2005;

b. ASME A18.1 shall mean ASME A18.1 (2003), except Chapters 4, 5, 6, and 7;

c. ANSI A117.1 shall mean ANSI A117.1 (2003), except for Rule 407.4.6.2.2; and

d. ANSI/NFPA 70 shall mean ANSI/NFPA 70 (2005).

72.1(7) For installations between July 23, 2008, and July 18, 2012:

a. ASME A17.1 shall mean ASME A17.1-2007/CSA B44-07;

b. ASME A17.7 shall mean ASME A17.7-2007/CSA B44-07;

c. ASME A18.1 shall mean ASME A18.1 (2003), except Chapters 4, 5, 6, and 7;

d. ANSI A117.1 shall mean ANSI A117.1 (2003), except for Rule 407.4.6.2.2; and

e. ANSI/NFPA 70 shall mean ANSI/NFPA 70 (2005).

72.1(8) For installations on or after July 19, 2012:

a. ASME A17.1 shall mean ASME A17.1-2010/CSA B44-10, except for Rule 2.27.1.1.6;

b. ASME A17.7 shall mean ASME A17.7-2007/CSA B44-07;

c. ASME A18.1 shall mean ASME A18.1 (2003), except Chapters 4, 5, 6, and 7;

d. ANSI A117.1 shall mean ANSI A117.1 (2003), except for Rule 407.4.6.2.2; and

e. ANSI/NFPA 70 shall mean ANSI/NFPA 70 (2008).

72.1(9) For installations between January 31, 2014, and January 14, 2015:

a. ASME A17.1 shall mean ASME A17.1-2010/CSA B44-10, except for Rule 2.27.1.1.6;

b. ASME A17.7 shall mean ASME A17.7-2007/CSA B44-07;

c. ASME A18.1 shall mean ASME A18.1 (2011), except Chapters 4, 5, 6, and 7;

d. ANSI A117.1 shall mean ANSI A117.1 (2003), except for Rule 407.4.6.2.2; and

e. ANSI/NFPA 70 shall mean ANSI/NFPA 70 (2008).

72.1(10) For installations on or after January 14, 2015:

a. ASME A17.1 shall mean ASME A17.1-2013/CSA B44-13;

b. ASME A17.7 shall mean ASME A17.7-2007/CSA B44-07;

c. ASME A18.1 shall mean ASME A18.1 (2011), except Chapters 4, 5, 6, and 7;

d. ANSI A117.1 shall mean ANSI A117.1 (2003), except for Rule 407.4.6.2.2; and

e. ANSI/NFPA 70 shall mean ANSI/NFPA 70 (2011).

[**ARC 7840B**, IAB 6/17/09, effective 7/22/09; **ARC 8759B**, IAB 5/19/10, effective 6/23/10; **ARC 0168C**, IAB 6/13/12, effective 7/18/12; **ARC 1232C**, IAB 12/11/13, effective 1/31/14; **ARC 1766C**, IAB 12/10/14, effective 1/14/15]

875—72.2(89A) Definitions. The definitions contained in ASME A17.1, ASME A18.1, ANSI A117.1, and any other standard adopted herein by reference shall be applicable as used in this chapter to the extent that the definitions do not conflict with the definitions contained in Iowa Code chapter 89A and these rules. However, the definition of "building code" in ASME A17.1 is modified to exclude the Building Construction and Safety Code (NFPA 5000) and the National Building Code of Canada (NBCC) for any installation after March 1, 2008.

[**ARC 7840B**, IAB 6/17/09, effective 7/22/09]

875—72.3(89A) Accommodating the physically disabled. All passenger elevators installed between January 1, 1975, and December 31, 1982, which are available and intended for public use shall be usable by the physically disabled. All passenger elevators shall have control buttons with identifying features for the benefit of the blind and shall allow for wheelchair traffic. All passenger elevators and wheelchair lifts installed on or after January 1, 1983, which are accessible to the general public shall comply with Accessible and Usable Buildings and Facilities ANSI A117.1, sections 407 and 408.

875—72.4(89A) Electric elevators. The provisions contained in ASME A17.1, part 2, are adopted by reference.

875—72.5(89A) Hydraulic elevators. The provisions contained in ASME A17.1, part 3, are adopted by reference.

875—72.6(89A) Power sidewalk elevators. The provisions contained in ASME A17.1, section 5.5, are adopted by reference.

875—72.7(89A) Performance-based safety code. Conveyances may comply with ASME A17.7, in whole or in part, as an alternative to ASME A17.1.

875—72.8(89A) Hand and power dumbwaiters. The provisions contained in ASME A17.1, sections 7.1, 7.2, 7.3, and 7.8, are adopted by reference.

875—72.9(89A) Escalators and moving walks. The provisions contained in ASME A17.1, part 6, are adopted by reference, except for those portions that allow an operating or safety device to reset automatically.

[**ARC 1766C**, IAB 12/10/14, effective 1/14/15]

875—72.10(89A) General requirements. The provisions contained in ASME A17.1, part 8, are adopted by reference unless specifically excluded herein.

875—72.11(89A) Acceptance and periodic tests and inspections of elevators, dumbwaiters, escalators and moving walks. Rescinded IAB 6/17/09, effective 7/22/09.

875—72.12(89A) Wind tower lifts. Wind tower lifts authorized by this rule shall not be installed in grain elevators, high-rise buildings, water towers, television towers or any facility other than a wind tower built for the production of electricity. This rule applies to all wind tower lifts, whether installed before or after May 28, 2008; however, this exception shall not apply to a wind tower lift if the contract for its installation is executed after an AECO is accredited.

72.12(1) Wind tower lifts that meet the requirements of subrules 72.12(2) through 72.12(10) are exempt from the requirements of ASME A17.1. This temporary exemption shall terminate for a wind tower lift upon the occurrence of at least one of the following events:

a. Three weeks have passed since the accreditation of at least one AECO, and the manufacturer of the wind tower lift has not filed with the labor commissioner an affidavit attesting that a request for Certificate of Conformance as described by ASME A17.7 (2007) was submitted to an AECO.

b. The AECO has reviewed a request pursuant to ASME A17.7 and refused to issue a Certificate of Conformance for the model or series of lifts.

c. The AECO has determined that modifications to the wind tower lift are necessary, and the modifications have not been made with reasonable diligence.

d. The AECO has determined that modifications to the wind tower lift are necessary, and the labor commissioner determines the wind tower lift is not safe to operate prior to completion of the modifications.

e. The AECO has reviewed an application pursuant to ASME A17.7 and issued a Certificate of Conformance for the model or series of lifts.

72.12(2) A wind tower lift placed in operation on or before May 28, 2008, shall be registered by the owner with the labor commissioner no later than July 1, 2008, and shall pass an installation inspection by inspectors employed by the labor commissioner according to the schedule set by the labor commissioner. The wind tower lift shall receive a periodic inspection by the labor commissioner's inspectors annually thereafter.

72.12(3) The owner of a wind tower lift installed after May 28, 2008, shall register the wind tower lift with the labor commissioner prior to its installation. A wind tower lift installed after May 28, 2008, shall pass an installation inspection by the labor commissioner's inspectors prior to its being placed into operation. The wind tower lift shall receive a periodic inspection by the labor commissioner's inspectors annually thereafter.

72.12(4) Registration pursuant to this rule requires submission of the following information to the labor commissioner:

a. The unique identifier of the wind tower.

b. The name of the wind tower owner and contact information for the owner's representative.

c. The name of the wind tower lift manufacturer and contact information for the manufacturer's representative.

d. The location of the wind farm.

e. Three copies of the prints and design documents that are certified by a professional engineer duly licensed in the state of Iowa and that bear the professional engineer's P.E. stamp for the lifts.

f. The manufacturer's complete test procedures, inspection checklists, operating manual, service manual, and related documents as determined necessary by the labor commissioner.

72.12(5) The owner shall notify the labor commissioner within 30 days of any change in the information provided pursuant to 72.12(4)*"b"* and *"c."*

72.12(6) This subrule establishes reporting requirements in addition to the requirements of rule 875—71.3(89A). The manufacturer of a lift must notify the labor commissioner in writing within one week if one of its wind tower lifts anywhere in the world is involved in a personal injury accident requiring the service of a physician, a personal injury accident causing disability exceeding one day or death, or an incident causing property damage exceeding $2,000. The notification shall specifically identify the model number, serial number, and owner of the lift, and a description of the incident or

accident. The labor commissioner shall determine and require necessary inspections, tests, changes or enhancements to prevent a similar incident or accident in this state.

72.12(7) Wind tower lifts must comply with 29 CFR 1910.

72.12(8) The manufacturer shall notify the labor commissioner within seven days of notification to the manufacturer that an AECO has:

a. Issued a Certificate of Conformance for the model or series of wind tower lifts,

b. Refused to issue a Certificate of Conformance for the model or series of wind tower lifts, or

c. Determined that modifications to the wind tower lifts are necessary.

72.12(9) Wind tower lifts shall pass an inspection covering the following criteria:

a. Ascending speed, descending speed, and emergency descending speed shall not exceed the manufacturer's recommendations.

b. Stop switch, interior lighting, cage entry door, door contact, operating controls and remote operating controls shall operate according to manufacturer's recommendations.

c. Interior floor and cage framework shall appear to be structurally sound.

d. Enclosure signage recommended by the manufacturer shall be in place.

e. Manufacturer's data plate shall be visible.

f. Hoisting mechanism shall appear to be structurally sound and intact from inside and outside the car.

g. Guide shoes shall appear to be structurally sound and undamaged.

h. Suspended power cords and strain relief devices shall reveal no visible damage.

i. Upper and lower normal and final limits shall operate according to the manufacturer's recommendations.

j. Overspeed device shall successfully pass a full-load test.

k. Overload device shall successfully pass an overload test according to the manufacturer's recommendations.

l. Wire rope, safety rope, and guide rope shall show no evidence of wear.

m. Guide rope attachments, suspension attachment beam, beam tower attachments, suspension rope attachment, suspension rope secondary attachment (if present), and guide wire rope attachments shall show no evidence of wear or fatigue.

n. The wind tower lift shall not drift when subjected to a static full load.

o. Maintenance logs, tags, and other necessary documentation shall be available in sufficient detail to establish that maintenance is occurring pursuant to the manufacturer's schedule.

p. Guide rope tension device, safety rope tension device, and suspension rope tension device shall pass a visual test for proper tension.

q. Power cord catch basket shall pass a visual inspection.

r. Safety set distance, overspeed trip speed, overload limit setting, and maximum overload allowed shall not exceed manufacturer's recommendations.

s. A communication device, if installed in the car, shall be operable.

t. Any other items on the manufacturer's recommended inspection checklist shall pass inspection.

72.12(10) The owner or owner's representative shall provide weights as needed to perform necessary tests during inspections.

875—72.13(89A) Alterations, repairs, replacements and maintenance.

72.13(1) *General.* Except as set forth in this rule, all maintenance, repairs, replacements, and alterations shall comply with the edition of ASME A17.1 currently adopted for new conveyances at rule 875—72.1(89A) or ASME A17.7-2007/CSA B44-07, as applicable. Rule 875—71.10(89A) describes alterations which require that the entire conveyance be brought into compliance with the most current codes.

72.13(2) *Exemption for button renumbering.* All maintenance, repairs and alterations to devices covered by ANSI A117.1 shall comply with ANSI A117.1 (2003), except for Rule 407.4.6.2.2.

72.13(3) *Sump pump exemption.* The provisions of ASME A17.1 that require a pit sump or drain shall not apply to an elevator alteration when all of the following criteria are met:

a. No other code or rule requires that the pit be excavated or lowered.

b. The alteration plans do not include the excavation or lowering of the pit floor for any other reason.

c. There is evidence that groundwater has not entered the pit previously.

d. The location and geology of the building indicate a likelihood that groundwater would enter the pit if the foundation or pit floor were breached to install the pit sump or drain.

e. A description of alternative means to maintain the pit in a dry condition is provided to the labor commissioner with the alteration permit application.

f. The labor commissioner approves the alternative means to maintain the pit in a dry condition.

g. The alternative means to maintain the pit in a dry condition are installed or implemented as described in the alteration permit application.

72.13(4) *Pit excavation exemption.* The full length of the platform guard set forth in ASME A17.1, Rule 2.15.9.2(a), shall not be required if all of the following criteria are met:

a. No other code or rule requires that the pit be excavated or lowered.

b. The alteration plans do not include the excavation or lowering of the pit floor for any other reason.

c. A full-length platform guard would strike the pit floor when the elevator is on its fully compressed buffer.

d. The clearance between the bottom of the platform guard and the pit floor is 2.5 centimeters (1 inch) when the elevator is on its fully compressed buffer.

72.13(5) *Sprinkler retrofits and shunt trip breakers.* When a sprinkler is added to a hoistway or machine room, the conveyance shall comply with the following:

a. The installation shall comply with the applicable version of ASME A17.1, Rule 2.8.3.3.

b. The elevator controls shall be arranged to comply with the phase I fire recall provisions of the applicable version of ASME A17.1, Rule 2.27.3.

c. The applicable version of ASME A17.1 shall be determined by reference to rule 875—72.1(89A). For purposes of rule 875—72.13(89A), the relevant subrule of 875—72.1(89A) shall apply based on the date the sprinkler is installed instead of the date the conveyance was installed.

[**ARC 7840B**, IAB 6/17/09, effective 7/22/09; **ARC 1766C**, IAB 12/10/14, effective 1/14/15]

875—72.14(89A) Design data and formulas. Rescinded IAB 11/26/03, effective 1/1/04.

875—72.15(89A) Power-operated special purpose elevators. The provisions contained in ASME A17.1, section 5.7, are adopted by reference.

875—72.16(89A) Inclined and vertical wheelchair lifts. The provisions contained in ASME Safety Standard for Platform Lifts and Stairway Chairlifts A18.1, sections 1, 2, 3, 8, 9, and 10, are adopted by reference for all inclined and vertical wheelchair lifts.

875—72.17(89A) Hand-powered elevators. Hand-powered elevators shall not be installed after January 1, 1983.

875—72.18(89A) Accommodating the physically disabled. Renumbered as 875—72.3(89A), IAB 11/26/03, effective 1/1/04.

875—72.19(89A) Limited-use/limited-application elevators. The provisions contained in ASME A17.1, section 5.2, are adopted by reference.

875—72.20(89A) Rack and pinion, screw-column elevators. The provisions contained in ASME A17.1, sections 4.1 and 4.2, are adopted by reference.

875—72.21(89A) Inclined elevators. The provisions contained in ASME A17.1, section 5.1, are adopted by reference.

875—72.22(89A) Material lift elevators. Material lifts existing at a location prior to January 1, 1975, are not regulated or inspected by the labor commissioner.

875—72.23(89A) Elevators used for construction. The provisions contained in ASME A17.1, section 5.10, are adopted by reference only as they pertain to elevators utilizing permanent equipment in a permanent location.

875—72.24(89A) Construction personnel hoists. The provisions of American National Standards Institute (ANSI) A10.4-2007 are adopted by reference for construction personnel hoists as defined by ANSI A10.4-2007. Notwithstanding the ANSI definition, these conveyances may be used only temporarily during construction.

875—72.25(89A) Alarm bell. An automatic passenger elevator shall be provided with an alarm bell that is activated by a switch marked "ALARM" located in or adjacent to the car operating panel. The alarm bell shall be audible inside the car and outside the hoistway.

[**ARC 0950C**, IAB 8/21/13, effective 9/25/13]

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

[Filed emergency 12/15/75, Notice 10/6/75—published 12/29/75, effective 12/15/75]
[Filed 7/28/82, Notice 5/26/82—published 8/18/82, effective 9/30/82]
[Filed emergency 9/5/86—published 9/24/86, effective 9/24/86]
[Filed emergency 4/17/87—published 5/6/87, effective 4/17/87]
[Filed emergency 12/4/92 after Notice 9/30/92—published 12/23/92, effective 12/23/92]
[Filed 2/15/01, Notice 10/18/00—published 3/7/01, effective 4/11/01]
[Filed 11/7/03, Notice 10/1/03—published 11/26/03, effective 1/1/04]
[Filed 2/10/06, Notice 1/4/06—published 3/1/06, effective 4/5/06]
[Filed 6/16/06, Notice 5/10/06—published 7/5/06, effective 8/9/06]
[Filed 7/3/07, Notice 4/25/07—published 8/1/07, effective 9/5/07]
[Filed 12/11/07, Notice 10/24/07—published 1/2/08, effective 2/6/08]
[Filed emergency 5/28/08—published 6/18/08, effective 5/28/08]
[Filed 5/29/08, Notice 4/23/08—published 6/18/08, effective 7/23/08]
[Filed 9/3/08, Notice 6/18/08—published 9/24/08, effective 10/29/08]
[Filed ARC 7840B (Notice ARC 7696B, IAB 4/8/09), IAB 6/17/09, effective 7/22/09]
[Filed ARC 8759B (Notice ARC 8622B, IAB 3/24/10), IAB 5/19/10, effective 6/23/10]
[Filed ARC 0168C (Notice ARC 0011C, IAB 2/22/12), IAB 6/13/12, effective 7/18/12]
[Filed ARC 0950C (Notice ARC 0753C, IAB 5/29/13), IAB 8/21/13, effective 9/25/13]
[Filed ARC 1232C (Notice ARC 1108C, IAB 10/16/13), IAB 12/11/13, effective 1/31/14]
[Filed ARC 1766C (Notice ARC 1560C, IAB 7/23/14), IAB 12/10/14, effective 1/14/15]

CHAPTER 73
CONVEYANCES INSTALLED PRIOR TO JANUARY 1, 1975

[Prior to 9/24/86, Labor, Bureau of [530]]
[Prior to 10/21/98, see 347—Ch 73]

875—73.1(89A) Scope and definitions.

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

73.1(2) The definitions contained in ASME (1971) shall be applicable as used in this chapter to the extent that they do not conflict with the definitions contained in Iowa Code chapter 89A or 875—Chapter 71.

[**ARC 7840B**, IAB 6/17/09, effective 7/22/09]

875—73.2(89A) Hoistways.

73.2(1) Each passenger elevator hoistway landing shall be protected with a door or gate. The door or gate shall be of solid construction and shall guard the entire entrance.

73.2(2) All automatic passenger elevators with power doors shall have nonvision panels on hoistway doors.

73.2(3) Each hoistway landing in any elevator hoistway shall be continuously provided with a properly working door or gate.

73.2(4) Where freight elevator hoistway doors or gates are of open or lattice construction, they shall be at least 6 feet high and shall come within 2 inches of the floor when closed. Gates shall be constructed to reject a ball 2 inches in diameter. Doors and gates must be able to withstand 250 pounds of pressure applied in the center of the door or gate without breaking or being forced out of their guides.

73.2(5) Manually operated biparting entrances of elevators which can be operated from the landings shall be provided with pull straps on the inside and outside of the upper panel where the lower edge of the upper panel is more than 6 feet 6 inches above the landing when the panel is in the fully opened position.

73.2(6) All freight elevators having wooden hoistway gates in an area where power loading equipment, such as fork trucks, electric mules, etc. are used shall have an acceptable means to restrain the power equipment from running through such wooden gates.

73.2(7) Each hoistway door or gate shall be provided with interlocks designed to prevent the car from moving unless the doors or gates are closed. Where doors or gates do not lock when closed they shall lock when the elevator is not more than 12 inches away from the floor. Passenger elevator hoistway doors shall be closed and locked before the car leaves the floor.

73.2(8) All hoistway-door interlocks shall function as part of a hoistway-unit system.

73.2(9) Automatic fire doors shall not lock any landing opening in the hoistway enclosure from the hoistway side nor lock any exit leading from any hoistway landing to the outside of the building.

73.2(10) Emergency keys for hoistway doors and service keys shall be kept readily accessible to authorized persons and elevator safety inspectors.

73.2(11) Access means shall be provided at one upper landing to permit access to the top of the car, and at the lowest landing if this landing is the normal point of access to the pit.

73.2(12) Each hoistway door or gate which is counterweighted shall have its weights enclosed in a box-type guide or run in metal guides. The bottom of the guides or boxes shall be so constructed as to retain the counterweight if the counterweight suspension means breaks.

73.2(13) Hoistways containing freight elevators shall be fully enclosed. Enclosures shall be unperforated to a height of 6 feet above each floor or landing and above the treads of adjacent stairways. Unperforated enclosures shall be so supported and braced as to deflect not over 1 inch when subjected to a force of 100 pounds applied horizontally to any point. Open work enclosure may be used above the 6-foot level and shall reject a ball 2 inches in diameter.

73.2(14) Hoistways containing passenger elevators shall be fully enclosed and the enclosure shall be of solid construction to its full height.

73.2(15) All elevators that have automatic leveling, inching or teasing devices and that are configured with landing sills that project into the hoistway shall be equipped with a bevel on the underside of the landing sill or the underside of projections found on the bottom section of vertically opening biparting doors. Bevels shall be constructed of smooth concrete or not less than 16-gauge metal securely fastened to the hoistway entrance. Bevels shall extend the full depth of the leveling zone plus 3 inches.

73.2(16) Every hoistway window opening seven stories or less on an outside wall above a thoroughfare and every such window three stories or less above a roof of the building or of an adjacent building shall be guarded to prevent entrance by fire or emergency rescue persons. Each such window shall be marked "hoistway" in a readily visible manner.

[**ARC 7840B**, IAB 6/17/09, effective 7/22/09]

875—73.3(89A) Car enclosure: Passenger.

73.3(1) Each passenger car shall be fully enclosed except on the sides used for entrance and exit. The enclosure shall be of solid construction. Grillwork at the top of the sides shall not be more than 8 inches high. If the car is provided with a solid door and there is no grillwork in the enclosure, adequate means of ventilation shall be provided.

73.3(2) Each passenger car enclosure shall have a top constructed of solid material. The top shall be capable of sustaining a load of 300 pounds on any area of 2 feet on a side and 100 pounds applied at any point. Simultaneous application of these loads is not required.

73.3(3) Passenger car enclosure tops shall have an emergency exit with cover. Opening size shall be as set forth in ANSI A17.1, 1971, Rule 204.1E. Hydraulic elevators provided with a manual lowering valve are not required to provide an emergency exit.

73.3(4) Each passenger car shall have a door or gate at each entrance. Doors or gates shall be of the horizontally sliding type. Doors shall be of solid construction. Gates shall be of the collapsible type. Gates and doors shall conform to ANSI A17.1, 1971, Rule 204.4.

73.3(5) Each passenger car door or gate shall have an electric contact to prevent the car from running with doors or gates open. EXCEPTIONS:

a. By a car-leveling or truck-zoning device.

b. By a combination hoistway access switch and operating device.

c. When a hoistway access switch is operated.

73.3(6) All automatic passenger elevators with power doors shall have reopening devices on the doors, designed to reopen doors in the event the doors should become obstructed.

73.3(7) Car door or gate closing force.

a. Where a car door or gate of an automatic or continuous-pressure operation passenger elevator is closed by power, or is of the automatically released self-closing type, and faces a manually operated or self-closing hoistway door, the closing of the car door or gate shall not be initiated unless the hoistway door is in the closed position. The closing mechanism shall be so designed that the force necessary to prevent closing of a horizontally sliding car door or gate from rest shall be not more than 30 pounds.

b. Paragraph 73.3(7)*"a"* does not apply when both of the following conditions are met:

(1) A car door or gate is closed by power through continuous pressure of a door-closing switch or the car operating device, and

(2) The release of the closing switch or operating device will cause the car door or gate to stop or to stop and reopen.

73.3(8) Each passenger car shall have lighting inside the enclosure of not less than 5 foot-candles. Bulbs and tubes shall be guarded to prevent breakage.

73.3(9) Each passenger elevator shall have a capacity plate prominently displayed in its enclosure. The capacity plate shall list its capacity in pounds.

73.3(10) All passenger elevator car floors shall be maintained so that persons are not exposed to the hazards of tripping or falling.

73.3(11) All automatic passenger elevators shall be provided with an alarm bell capable of being activated from inside the car and audible outside the hoistway. If the elevator is not equipped with a bell,

a two-way conversation device to the elevator and a ready accessible point outside the hoistway may be acceptable.

73.3(12) All automatic passenger elevators shall have their door open zones adjusted so that the door shall not open unless the car has stopped within 6 inches of floor level.
[**ARC 7840B**, IAB 6/17/09, effective 7/22/09]

875—73.4(89A) Car enclosure: Freight.

73.4(1) Each freight elevator car shall have a solid enclosure at least 66 inches in height. The space between the solid section and the car top shall be enclosed with solid material, perforated material, or latticework. Where used, perforated material or latticework shall reject a ball 1½ inches in diameter. The portion of open-type enclosure which passes the counterweights shall be of solid construction the entire width of the counterweights plus 6 inches on either side. The enclosure top shall be provided with an emergency exit, except for hydraulic elevators with manual lowering valves.

73.4(2) Each freight car enclosure shall have doors or gates at each entrance and shall be not less than 6 feet high. Each door or gate shall be constructed in accordance with ANSI A17.1, 1971, Rule 204.4.

73.4(3) Each car door or gate on a freight elevator shall have electric contacts to prevent the car from running with doors or gates open. EXCEPTIONS:

a. By a car-leveling or truck-zoning device.

b. By a combination hoistway access switch and operating device.

c. When a hoistway access switch is operated.

73.4(4) Each freight elevator car enclosure shall be provided with a top. The top may be of solid or open-work construction and shall be of metal. The openwork shall reject a ball 2 inches in diameter. Car tops shall be constructed to sustain a load of 200 pounds applied at any point on the car top. The top shall not have hinged or folding panels other than the emergency exit cover.

73.4(5) Each freight car enclosure shall have lighting not less than 2½ foot-candles. Bulbs or tubes shall be guarded to prevent breakage.

73.4(6) Each freight car enclosure shall have capacity plate, loading class plates, and a "No Passenger" sign conspicuously posted. Letters shall be not less than ½-inch high.

73.4(7) Freight elevators shall not be loaded to exceed the rated load as stated on their capacity plates.

73.4(8) Each freight elevator car floor shall be maintained so that personnel will not readily slip or trip. The floor shall be maintained so that it will hold its rated load without breaking through at any place in the car.

73.4(9) Freight elevators shall not be permitted to carry passengers other than the operator and persons to load and unload material.
[**ARC 7840B**, IAB 6/17/09, effective 7/22/09]

875—73.5(89A) Brakes.

73.5(1) Each electric elevator shall be provided with an electric brake.

73.5(2) Each brake shall be of the friction type applied by a spring or springs or gravity and released electrically. The brake shall be capable of holding the car at rest with its rated load.

875—73.6(89A) Machines.

73.6(1) Friction gearing or clutch mechanisms shall not be used for connecting the drum or sheaves to the main driving mechanism.

73.6(2) Set screw fastenings shall not be used on power elevators in lieu of keys or pins on connections subject to torque or tension.

73.6(3) Portable power-chain or cable hoist machines shall not be used to raise or lower an elevator car.

73.6(4) No belt or chain driven power machine shall be used for any elevator unless the machine is provided with a broken belt or broken chain safety switch of the electrical nonautomatic reset type. EXCEPTION: Hydraulic machines.

875—73.7(89A) Electrical protective devices.

73.7(1) All electric elevators shall have a labeled emergency stop switch. The switch shall be located on or adjacent to the operating panel.

73.7(2) All electric elevators shall have upper and lower final limit switches. Open-type switches shall not be accepted. Drum-type machines shall have final limit switches mounted on the machine and hoistway final limit switches.

73.7(3) All operating devices of car switch operations shall automatically return to the stop position and latch there when released.

73.7(4) Tiller-rope operations shall not be used unless all direction switches on controllers are mechanically operated. Contacts on direction switches shall be broken when the rope is at the centered position.

73.7(5) Except for firefighter service switches, leveling switches, and truck zone switches, no elevator shall be provided with a switch or device which makes more than one door or gate switch inoperative at any one time.

73.7(6) No person at any time shall make any required safety device or electrical protective device inoperative, except where necessary during tests, inspections or maintenance. Such devices shall be restored to their normal operating conditions as soon as all tests, inspections and maintenance have been completed. The conveyance shall not be left unattended while any of these devices are inoperative. To ensure that no jumpers are left behind, a counting system shall be utilized.

73.7(7) Each winding drum machine shall be provided with an electrical switch which shall disconnect power to the hoisting motor and brake when ropes are slackened.

73.7(8) No person shall enter an elevator pit for any reason without disconnecting power to the equipment using the pit stop switch, lockout, tagout procedures, or other appropriate means of de-energization in accordance with 875—Chapters 2 to 26.

73.7(9) Elevators having a polyphase AC power supply shall be provided with means to prevent the starting of the elevator drive motor or door motor if a reversal of phase rotation, or phase failure of the incoming polyphase AC power, will cause the elevator car or elevator door(s) to operate in the wrong direction.

73.7(10) All electrical equipment in the machine room shall be grounded and shall conform to ANSI C1-1975 (NFPA 70-1975).

73.7(11) All electrical wiring in the machine room and hoistway shall be enclosed in metal conduit, flexible conduit or metal raceways.

[**ARC 7840B**, IAB 6/17/09, effective 7/22/09]

875—73.8(89A) Maintenance, repairs and alterations.

73.8(1) *General.* Except as set forth in this rule, all maintenance, repairs and alterations shall comply with the edition of ASME A17.1 currently adopted for new conveyances at rule 875—72.1(89A) or ASME A17.7-2007/CSA B44-07, as applicable. Rule 875—71.10(89A) describes alterations which require that the entire conveyance be brought into compliance with the most current code.

73.8(2) *Exemption for button numbering.* All maintenance, repairs and alterations to devices covered by ANSI A117.1 shall comply with ANSI A117.1 (2003), except for Rule 407.4.6.2.2.

73.8(3) *Sump pump exemption.* The provisions of ASME A17.1 that require a pit sump or drain shall not apply to an elevator alteration when all of the following criteria are met:

a. No other code or rule requires that the pit be excavated or lowered.

b. The alteration plans do not include the excavation or lowering of the pit floor for any other reason.

c. There is evidence that groundwater has not entered the pit previously.

d. The location and geology of the building indicate a likelihood that groundwater would enter the pit if the foundation or pit floor were breached to install the pit sump or drain.

e. A description of alternative means to maintain the pit in a dry condition is provided to the labor commissioner with the alteration permit application.

f. The labor commissioner approves the alternative means to maintain the pit in a dry condition.

g. The alternative means to maintain the pit in a dry condition are installed or implemented as described in the alteration permit application.

73.8(4) *Pit excavation exemption.* The full length of the platform guard set forth in ASME A17.1, Rule 2.15.9.2(a), shall not be required if all of the following criteria are met:

a. No other code or rule requires that the pit be excavated or lowered.

b. The alteration plans do not include the excavation or lowering of the pit floor for any other reason.

c. A full-length platform guard would strike the pit floor when the elevator is on its fully compressed buffer.

d. The clearance between the bottom of the platform guard and the pit floor is 2.5 centimeters (1 inch) when the elevator is on its fully compressed buffer.

73.8(5) *Sprinkler retrofits and shunt trip breakers.* When a sprinkler is added to a hoistway or machine room, the conveyance shall comply with the following:

a. The installation shall comply with the applicable version of ASME A17.1, Rule 2.8.3.3.

b. The elevator controls shall be arranged to comply with the phase I fire recall provisions of the applicable version of ASME A17.1, Rule 2.27.3.

c. The applicable version of ASME A17.1 shall be determined by reference to rule 875—72.1(89A). For purposes of rule 875—73.8(89A), the relevant subrule of 875—72.1(89A) shall apply based on the date the sprinkler is installed instead of the date the conveyance was installed.

73.8(6) *Safety bulkheads.* Documentation from the manufacturer establishing that a safety bulkhead was installed shall establish compliance with ASME A17.1, Rule 8.6.5.8.

[**ARC 7840B**, IAB 6/17/09, effective 7/22/09; **ARC 1766C**, IAB 12/10/14, effective 1/14/15]

875—73.9(89A) Machine rooms.

73.9(1) All means of access to elevator machine rooms shall be of a permanent nature and shall be constructed and maintained in a clear and unobstructed manner.

73.9(2) The elevator machine and control equipment shall be located in a separate room or separated from other equipment by a substantial grill not less than 6 feet high. The grill shall be of a design that will reject a ball 2 inches in diameter. All rooms or enclosures shall have a self-closing and self-locking door.

73.9(3) All elevator machine rooms shall be provided with a floor. The floor shall cover the entire area of the machine room and hoistway.

73.9(4) Machine room floors shall be kept clean and free of grease and oil. Articles or materials not necessary for the maintenance or operation of the elevator shall not be stored therein. Storage of any equipment or materials in elevator machine rooms other than equipment directly related to elevator operation is prohibited.

73.9(5) Lighting in the machine room shall be not less than 10 foot-candles at floor level.

73.9(6) Where there is more than one machine in a room, each machine shall have a different number conspicuously marked on it. The controller, disconnecting means and relay panels for each machine shall be conspicuously numbered to correspond to the machine they control.

[**ARC 7840B**, IAB 6/17/09, effective 7/22/09]

875—73.10(89A) Pits.

73.10(1) All pits shall be kept clean and free of equipment or material not relating to the operation of the elevator. EXCEPTION: sump pumps.

73.10(2) Buffers under cars and counterweights shall be permanently fastened to the floor or their supporting beams.

73.10(3) All elevators shall have counterweight guards. Guards shall be of unperforated metal of at least the strength of or braced to the equivalent strength of number 14-gauge sheet steel. Guards shall extend from a point not more than 12 inches above the pit floor to a point not less than 7 feet above the pit floor. Where guards are not feasible, warning chains shall be installed on the bottom of the counterweights and shall extend no less than 5 feet below the counterweight. Chains shall be of a

number 10 U.S. gauge wire or of equal size. EXCEPTION: When compensating chains or ropes are used, a counterweight guard is not required.

73.10(4) Buffers shall be installed where elevator pits are not provided with buffers and where the pit depth will permit. Buffers shall comply with ANSI A17.1, 1971, Section 201.

73.10(5) Where the depth of any pit is in excess of 4 feet it shall have a ladder permanently installed. The ladder shall extend not less than 30 inches above the sill of the access door, or hand grips shall be provided to the same height. Ladder shall be of noncombustible material.

[**ARC 7840B**, IAB 6/17/09, effective 7/22/09]

875—73.11(89A) Counterweights.

73.11(1) Broken or cracked sections of counterweights shall be replaced.

73.11(2) Counterweight hanger rods, tie rods or both shall firmly support and secure the counterweight sections in place.

73.11(3) Wire ropes extending through counterweights from one stack to another shall be guarded by metal sleeves attached to the wire ropes. Stacks shall not be spaced less than 8 inches apart.

875—73.12(89A) Car platforms and car slings.

73.12(1) All platforms shall be soundly constructed without cracks or breaks in stringers or frames. All floors shall be free of holes.

73.12(2) All car slings shall be soundly constructed and free of cracks or breaks.

73.12(3) Where cable sheaves are used on the crosshead, they shall be firmly attached and free of cracks or breaks.

73.12(4) All elevators shall have data plates attached to the crosshead.

73.12(5) All elevators with automatic leveling, inching or teasing devices shall have a platform guard or an apron. All other elevators shall have warning chains hung within 2 inches of the edge of the platform on the entrance sides. Chains shall be of number 10 U.S. gauge wire or of equal size. Chains shall extend not less than 5 feet below the platform and shall not be spaced more than 4 inches apart.

73.12(6) All car slings shall have guide shoes at the top and bottom of the sling. Shoes that are worn to a degree which affect the safe operation of the car shall be repaired or replaced.

875—73.13(89A) Means of suspension.

73.13(1) Suspension ropes on drum-type machines shall have not less than one turn of the rope on the drum when the car is resting on the fully compressed buffers.

73.13(2) Winding drum machines shall not be used unless they are provided with not less than two hoisting ropes. Each counterweight stack shall be provided with not less than two ropes.

73.13(3) Tiller cables on cable-operated elevators shall be kept free of breaks.

73.13(4) On tiller-cable operations, the cable shall pass through a guiding or stopping device mounted on the car. The cable shall be provided with adjustable stop balls and be provided with means to lock and hold the car at a floor. Stop balls at top and bottom shall be adjusted to automatically stop the car. The tiller cable shall be completely enclosed in the hoistway.

73.13(5) All hoisting or counterweight ropes located outside of the hoistway that are exposed shall be covered with a box-type guard. The guard shall be not less than 6 feet high from floor level.

73.13(6) Roller chains shall not be used as the suspension means for any conveyance except where specifically allowed by an applicable provision of ASME A17.1.

73.13(7) Hoisting ropes for power elevators shall not be less than 3/8 inch in diameter.

73.13(8) Hoisting rope fastening means shall be of the socket and babbitting type. Clamps shall not be used.

[**ARC 7840B**, IAB 6/17/09, effective 7/22/09]

875—73.14(89A) Car safeties and speed governors.

73.14(1) Each elevator suspended by ropes shall be provided with mechanically applied car safeties which shall be capable of stopping and sustaining its rated load.

73.14(2) Broken rope or slack rope safeties may be allowed if the car speed is not in excess of 50 FPM.

73.14(3) Elevators which are provided solely with broken rope or slack rope safeties shall not be used for passenger service. EXCEPTION: Handicapped restricted use elevators.

73.14(4) All safeties shall be adjusted so that clearances from the rail shall be in accordance with ANSI A17.1, 1971, Rule 1001.2.

73.14(5) All slack cable safeties shall be provided with an electrical switch which disconnects power to the elevator machine and brake when setting of the safeties occurs.

73.14(6) All safeties operated by a speed governor shall be provided with a speed switch operated by the governor when used with type B or C car safeties on elevators having a rated speed exceeding 150 FPM. A switch shall be provided on the speed governor when used with a counterweight safety for any car speed.

73.14(7) Speed governors shall have their means of speed adjustment sealed.

73.14(8) For hoistways not extending to the lowest floor and where space below the hoistway is used for a passageway or is occupied by persons, or if unoccupied but not secured against unauthorized access, the counterweights of the elevator shall be provided with safeties. Safeties shall be tripped by a speed governor if the car speed is in excess of 150 FPM. Speed governors shall be set to trip above the car governor tripping speed but not more than 10 percent greater.

73.14(9) Access to a governor that is located inside a hoistway shall be provided in accordance with ASME A17.1-2007, Rule 2.7.6.3.4.

[**ARC 7840B**, IAB 6/17/09, effective 7/22/09; **ARC 8760B**, IAB 5/19/10, effective 6/23/10]

875—73.15(89A) Guide rails.

73.15(1) All guide rails and brackets whether of wood or steel shall be firmly and securely anchored or bolted in place. Where T rail is used, all fish-plate bolts shall be tight. This shall comply with ANSI A17.1, 1981, Section 200.

73.15(2) Where guide rails which are worn to such a point that proper clearance of safety jaws cannot be maintained, the worn sections shall be replaced to achieve clearances as specified in ANSI A17.1, 1971, Rule 1001.2.

[**ARC 7840B**, IAB 6/17/09, effective 7/22/09]

875—73.16(89A) Existing hydraulic elevators.

73.16(1) Cylinders of hydraulic-elevator machines shall be provided with a means for releasing air or other gas.

73.16(2) Each pump or group of pumps shall be equipped with a relief valve conforming to the following requirements:

a. Type and location. The relief valve shall be located between the pump and the check valve and shall be of such a type and so installed in the bypass connection that the valve cannot be shut off from the hydraulic system.

b. Setting. The relief valve shall be preset to open at a pressure not greater than that necessary to maintain 125 percent of working pressure.

c. Size. The size of the relief valve and bypass shall be sufficient to pass the maximum rated capacity of the pump without raising the pressure more than 20 percent above that at which the valve opens. Two or more relief valves may be used to obtain the required capacity.

d. Sealing. Relief valves having exposed pressure adjustments, if used, shall have their means of adjustment sealed after being set to the correct pressure.

EXCEPTION: No relief valve is required for centrifugal pumps driven by induction motors, provided the shut-off, or maximum pressure which the pump can develop, is not greater than 135 percent of the working pressure at the pump.

73.16(3) Storage and discharge tanks shall be covered and suitably vented to the atmosphere.

73.16(4) Hydraulic elevators shall be governed by the rules contained in Chapter 73 that apply to electric elevators except the following rules which are exempt: 73.5, 73.6(3), 73.7(2), 73.7(4), 73.7(7),73.9(9), 73.10(3), 73.11, 73.13, and 73.14.

73.16(5) Rescinded IAB 3/7/01, effective 4/11/01.

875—73.17(89A) Existing sidewalk elevators.

73.17(1) Hoistways shall be permanently enclosed. The enclosures shall conform to ANSI A17.1, 1971, Rule 401.1.

73.17(2) All interior landings shall have a door or gate which shall be provided with an interlock.

73.17(3) Doors opening in sidewalks or other areas exterior to the building shall be of the hinged type. Doors or covers shall be designed to hold a static load of 300 pounds per square foot. Doors shall always be closed unless elevator is at the landing.

73.17(4) Stops shall be provided to prevent the cover in the opening of the sidewalk from opening more than 90 degrees from its closed position.

73.17(5) Covers in sidewalk shall be designed to close when the car descends from the top landing.

73.17(6) Recesses or guides which will securely hold the cover in place on the car stanchions shall be provided on the underside of the cover.

73.17(7) All electrical wiring shall be enclosed in metal conduit, flexible conduit or metal raceways. If hoistway opens in the sidewalk, the wiring shall be weatherproof.

73.17(8) Operating devices and control equipment shall comply with ANSI A17.1, 1971, Rule 402.4.

73.17(9) All electric sidewalk elevators shall have upper and lower final limit switches. Open-type switches shall not be allowed.

73.17(10) Cars shall have enclosures which shall be not less than 6 feet in height provided the stanchions and bow iron are of sufficient height. The enclosure shall be provided with electric contacts to prevent the car from running with doors or gates open.

73.17(11) Cars shall have safeties. Where the speed of the elevator does not exceed 50 FPM, car safeties which operate as a result of breaking or slackening of the hoisting ropes may be used. Such safeties may be of the inertia type or approved type without governors. Governors shall not be required when car speed does not exceed 50 FPM.

73.17(12) Car enclosures and car gates shall not be required for hand-powered sidewalk elevators.

73.17(13) Rescinded IAB 3/7/01, effective 4/11/01.

[**ARC 7840B**, IAB 6/17/09, effective 7/22/09]

875—73.18(89A) Existing hand elevators.

73.18(1) Hand-powered elevators shall have hoistway doors. Doors shall be of the self-closing and self-locking type.

73.18(2) A sign reading "Danger—Elevator Hoistway—Keep Closed" shall be mounted on each hoistway door. The letters on the signs shall be legible, shall be at least 2 inches high, and shall contrast with the background color.

73.18(3) All hand-powered elevators shall be provided with safeties or slack cable devices. Safeties do not have to be operated by a speed governor unless the speed is in excess of 50 FPM.

73.18(4) Hand-powered elevators shall have a car enclosure which shall be constructed of metal or sound seasoned wood. The enclosure shall cover all sides which are not used for entrance or exit. The enclosure shall be secured to the car platform or frame in such a manner that it cannot work loose or become displaced in ordinary service.

73.18(5) Each hand-powered elevator shall be provided with a brake which shall be capable of stopping and sustaining the car whether loaded or unloaded.

73.18(6) Hand-powered elevators shall not be converted or changed to electric powered unless the complete conveyance is brought into conformity with 875—Chapter 72.

73.18(7) Rescinded IAB 3/7/01, effective 4/11/01.

[**ARC 7840B**, IAB 6/17/09, effective 7/22/09]

875—73.19(89A) Power-operated special purpose elevators.

73.19(1) Elevators complying with the following requirements may be installed in any structure where the elevator is not accessible to the general public, is used exclusively for designated operating

and maintenance employees only, and where transportation of one or two persons is required to attend machinery or equipment frequently.

73.19(2) The inside platform area of the car shall not exceed 9 square feet. The rated speed shall not exceed 100 FPM. The rated load shall not exceed 650 pounds.

73.19(3) Hoistways shall be enclosed to their full width, to a height of not less than 7 feet with solid or perforated noncombustible material braced to deflect not more than 1 inch when subjected to a force of 100 pounds applied horizontally at any point. Open work enclosures shall be at least number 13 steel wire gauge or expanded metal at least number 13 U.S. gauge and shall reject a ball 2 inches in diameter. Where counterweights pass, landing and stairway side shall be of solid construction.

73.19(4) Wiring shall comply with the requirements of the National Electrical Code, ANSI C1-1975 (NFPA 70-1975).

73.19(5) Counterweights shall comply with rule 875—73.11(89A).

73.19(6) Hoistway doors shall comply with subrules 73.2(1), 73.2(7) and 73.2(11).

73.19(7) Cars shall be solidly constructed in accordance with subrules 73.12(1) and 73.12(2).

73.19(8) Car enclosure.

a. Except at the entrance, the car shall be enclosed on all sides and the top. The enclosure at the sides shall be solid or openwork. All openwork shall reject a ball 1 inch in diameter. The enclosure shall be constructed of sufficient strength that it will not deflect more than 1 inch at any one point.

b. There shall be an electric light to illuminate the car or hoistway with the switch placed on or near the operating panel.

c. There shall be no glass used in the elevator car except for the car light.

73.19(9) A car door shall be provided at each car entrance. Door or gate shall guard the complete entrance. The door or gate shall be at least 7 feet high, of metal construction with solid or open construction to reject a ball 1 inch in diameter. A contact switch shall be provided to prevent the operation of the elevator with doors or gates open. The door or gate shall be provided with interlocks.

73.19(10) Guide rails shall comply with rule 875—73.15(89A).

73.19(11) The means and methods of suspension shall comply with subrules 73.13(1), 73.13(5), 73.13(6), 73.13(7), and 73.13(8).

73.19(12) Electrical switches shall comply with subrules 73.7(2) and 73.7(9).

73.19(13) Brakes shall comply with rule 875—73.5(89A).

73.19(14) Emergency signal or communication shall comply with subrule 73.3(11).

[**ARC 7840B**, IAB 6/17/09, effective 7/22/09]

875—73.20(89A) Inclined and vertical wheelchair lifts. All vertical and inclined wheelchair lifts shall conform to ANSI A17.1 (1981), part XX, sections 2000 and 2001.

875—73.21(89A) Handicapped restricted use elevators. All handicapped restricted use elevators must meet ANSI A17.1 (1981), Part V. Permits will be reissued only for locations where other elevators do not exist and where the absence of the elevator would deprive a known group of physically disabled individuals use of the building. Additionally, the elevators shall comply with the following limitations:

1. The elevator shall be used only by a maximum of one disabled person and one attendant at a time. Where a disabled individual cannot operate the elevator in a manner which will ensure access to all operating controls and safety features, an attendant shall accompany the disabled individual.

2. The elevator shall be key-operated and shall not be capable of being called by buttons or switches but may be called by a key operator.

3. Keys to operate the elevator shall be in the control of the disabled person, the attendant or persons in positions of responsibility at the location.

4. A list shall be maintained at the location indicating the persons holding keys for the operation of the elevator.

5. Each landing and the elevator car shall be posted to indicate that the elevator is only for the use of disabled persons.

6. The travel distance of the elevator shall not exceed 50 feet.

[**ARC 7840B**, IAB 6/17/09, effective 7/22/09]

875—73.22(89A) Escalators.

73.22(1) Each escalator shall be provided with an electrically released mechanically applied brake capable of stopping the up and down traveling escalator with any load up to and including the rated load. The brake shall be located either on the driving machine or on the main drive shaft.

73.22(2) Starting switches shall be of the key-operated type. Starting switches shall be located on or near the escalator.

73.22(3) Emergency stop buttons or other type manually operated switches having red buttons or handles shall be accessibly located at or near the bottom and top landings. The buttons or levers shall be protected to prevent accidental operation.

73.22(4) A broken step-chain device shall be provided on each escalator that will cause interruption of power to the driving machine if a step chain breaks or if excessive sag occurs in either step chain.

73.22(5) Each escalator shall have comb plates at top and bottom landings of the escalator. Comb-plate teeth shall be meshed with and set into slots in the tread surface of the steps so that the points of the teeth are always below the upper surface of the treads.

73.22(6) Each escalator balustrade or moulding on the balustrade shall have a smooth surface. Screwheads shall set flush with the surface or be of the oval head type without any burrs or rough places on their surface.

73.22(7) The clearance on either side of the steps between the step tread and the adjacent skirt panel shall be not more than 3/16 inch.

73.22(8) Step treads shall be illuminated throughout their run. The light intensity shall be not less than 2 foot-candles.

73.22(9) An enclosed fused disconnect switch or circuit breaker arranged to disconnect the power supply to the escalator shall be in each machine room or wherever the controller is located.

73.22(10) A stop switch shall be provided in each machinery space where means of access to the space is provided. The switch when opened shall cause electric power to be removed from the escalator driving-machine motor and brake. The switch shall be of the manually opened and closed type and shall be marked "STOP".

73.22(11) Hand or finger guards shall be provided at the point where the handrail enters the balustrade.

73.22(12) Where the clearance of the upper outside edge of the balustrade and a ceiling or scaffold is less than 12 inches or where the intersection of the outside balustrade and a ceiling or soffit is less than 24 inches from the centerline of the handrail, a solid guard shall be provided in the intersection of the angle of the outside balustrade and the ceiling or soffit. The vertical front edge of the guard shall project a minimum of 14 inches horizontally from the apex of the angle. The escalator side of the vertical face of the guard shall be flush with the face of the wellway. The exposed edge of the guard shall be rounded.

This rule is intended to implement Iowa Code chapter 89A.

875—73.23(89A) Moving walks. Rescinded IAB 6/17/09, effective 7/22/09.

875—73.24(89A) Dumbwaiters. All dumbwaiters whether electric or hand powered shall conform to ANSI A17.1, 1971, section 700. Exceptions: Required rules for hoistway construction as set forth in ANSI A17.1, 1971, shall not apply to existing installations.

875—73.25(89A) Sprinkler retrofits and shunt trip breakers. Rescinded IAB 6/17/09, effective 7/22/09.

875—73.26(89A) Safety bulkheads. Rescinded IAB 6/17/09, effective 7/22/09.

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

[Filed emergency 12/15/75, Notice 10/16/75—published 12/29/75, effective 12/15/75]
[Filed 7/28/82, Notice 5/26/82—published 8/18/82, effective 9/30/82]
[Filed emergency 9/5/86—published 9/24/86, effective 9/24/86]
[Filed emergency 12/4/92 after Notice 9/30/92—published 12/23/92, effective 12/23/92]

[Filed 2/15/01, Notice 10/18/00—published 3/7/01, effective 4/11/01]
[Filed 11/7/03, Notice 10/1/03—published 11/26/03, effective 1/1/04]
[Filed 2/10/06, Notice 1/4/06—published 3/1/06, effective 4/5/06]
[Filed 6/16/06, Notice 5/10/06—published 7/5/06, effective 8/9/06]
[Filed 7/3/07, Notice 4/25/07—published 8/1/07, effective 9/5/07]
[Filed 10/17/07, Notice 8/1/07—published 11/7/07, effective 12/12/07]
[Filed 12/11/07, Notice 10/24/07—published 1/2/08, effective 2/6/08]
[Filed 5/29/08, Notice 4/23/08—published 6/18/08, effective 7/23/08]
[Filed ARC 7840B (Notice ARC 7696B, IAB 4/8/09), IAB 6/17/09, effective 7/22/09]
[Filed ARC 8760B (Notice ARC 8623B, IAB 3/24/10), IAB 5/19/10, effective 6/23/10]
[Filed ARC 1766C (Notice ARC 1560C, IAB 7/23/14), IAB 12/10/14, effective 1/14/15]