



IOWA ADMINISTRATIVE BULLETIN

Published Biweekly

VOLUME XXII
April 19, 2000

NUMBER 21
Pages 1517 to 1556

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PREFACE

The Iowa Administrative Bulletin is published biweekly in pamphlet form pursuant to Iowa Code chapters 2B and 17A and contains Notices of Intended Action on rules, Filed and Filed Emergency rules by state agencies.

It also contains Proclamations and Executive Orders of the Governor which are general and permanent in nature; Economic Impact Statements to proposed rules and filed emergency rules; Objections filed by Administrative Rules Review Committee, Governor or the Attorney General; and Delay by the Committee of the effective date of filed rules; Regulatory Flexibility Analyses and Agenda for monthly Administrative Rules Review Committee meetings. Other "materials deemed fitting and proper by the Administrative Rules Review Committee" include summaries of Public Hearings, Attorney General Opinions and Supreme Court Decisions.

The Bulletin may also contain Public Funds Interest Rates [12C.6]; Workers' Compensation Rate Filings [515A.6(7)]; Usury [535.2(3)"a"]; Agricultural Credit Corporation Maximum Loan Rates [535.12]; and Regional Banking—Notice of Application and Hearing [524.1905(2)].

PLEASE NOTE: *Italics* indicate new material added to existing rules; ~~strike through letters~~ indicate deleted material.

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Iowa Administrative Bulletin

The Iowa Administrative Bulletin is sold as a separate publication and may be purchased by subscription or single copy. All subscriptions will expire on June 30 of each year. Subscriptions must be paid in advance and are prorated quarterly.

July 1, 1999, to June 30, 2000 \$253.86 plus \$12.69 sales tax

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Schedule for Rule Making 2000

NOTICE SUBMISSION DEADLINE	NOTICE PUB. DATE	HEARING OR COMMENTS 20 DAYS	FIRST POSSIBLE ADOPTION DATE 35 DAYS	ADOPTED FILING DEADLINE	ADOPTED PUB. DATE	FIRST POSSIBLE EFFECTIVE DATE	POSSIBLE EXPIRATION OF NOTICE 180 DAYS
Dec. 24 '99	Jan. 12 '00	Feb. 1 '00	Feb. 16 '00	Feb. 18 '00	Mar. 8 '00	Apr. 12 '00	July 10 '00
Jan. 7	Jan. 26	Feb. 15	Mar. 1	Mar. 3	Mar. 22	Apr. 26	July 24
Jan. 21	Feb. 9	Feb. 29	Mar. 15	Mar. 17	Apr. 5	May 10	Aug. 7
Feb. 4	Feb. 23	Mar. 14	Mar. 29	Mar. 31	Apr. 19	May 24	Aug. 21
Feb. 18	Mar. 8	Mar. 28	Apr. 12	Apr. 14	May 3	June 7	Sept. 4
Mar. 3	Mar. 22	Apr. 11	Apr. 26	Apr. 28	May 17	June 21	Sept. 18
Mar. 17	Apr. 5	Apr. 25	May 10	May 12	May 31	July 5	Oct. 2
Mar. 31	Apr. 19	May 9	May 24	May 26	June 14	July 19	Oct. 16
Apr. 14	May 3	May 23	June 7	June 9	June 28	Aug. 2	Oct. 30
Apr. 28	May 17	June 6	June 21	June 23	July 12	Aug. 16	Nov. 13
May 12	May 31	June 20	July 5	July 7	July 26	Aug. 30	Nov. 27
May 26	June 14	July 4	July 19	July 21	Aug. 9	Sept. 13	Dec. 11
June 9	June 28	July 18	Aug. 2	Aug. 4	Aug. 23	Sept. 27	Dec. 25
June 23	July 12	Aug. 1	Aug. 16	Aug. 18	Sept. 6	Oct. 11	Jan. 8 '01
July 7	July 26	Aug. 15	Aug. 30	Sept. 1	Sept. 20	Oct. 25	Jan. 22 '01
July 21	Aug. 9	Aug. 29	Sept. 13	Sept. 15	Oct. 4	Nov. 8	Feb. 5 '01
Aug. 4	Aug. 23	Sept. 12	Sept. 27	Sept. 29	Oct. 18	Nov. 22	Feb. 19 '01
Aug. 18	Sept. 6	Sept. 26	Oct. 11	Oct. 13	Nov. 1	Dec. 6	Mar. 5 '01
Sept. 1	Sept. 20	Oct. 10	Oct. 25	Oct. 27	Nov. 15	Dec. 20	Mar. 19 '01
Sept. 15	Oct. 4	Oct. 24	Nov. 8	Nov. 10	Nov. 29	Jan. 3 '01	Apr. 2 '01
Sept. 29	Oct. 18	Nov. 7	Nov. 22	Nov. 24	Dec. 13	Jan. 17 '01	Apr. 16 '01
Oct. 13	Nov. 1	Nov. 21	Dec. 6	Dec. 8	Dec. 27	Jan. 31 '01	Apr. 30 '01
Oct. 27	Nov. 15	Dec. 5	Dec. 20	Dec. 22	Jan. 10 '01	Feb. 14 '01	May 14 '01
Nov. 10	Nov. 29	Dec. 19	Jan. 3 '01	Jan. 5 '01	Jan. 24 '01	Feb. 28 '01	May 28 '01
Nov. 24	Dec. 13	Jan. 2 '01	Jan. 17 '01	Jan. 19 '01	Feb. 7 '01	Mar. 14 '01	June 11 '01
Dec. 8	Dec. 27	Jan. 16 '01	Jan. 31 '01	Feb. 2 '01	Feb. 21 '01	Mar. 28 '01	June 25 '01
Dec. 22	Jan. 10 '01	Jan. 30 '01	Feb. 14 '01	Feb. 16 '01	Mar. 7 '01	Apr. 11 '01	July 9 '01
Jan. 5 '01	Jan. 24 '01	Feb. 13 '01	Feb. 28 '01	Mar. 2 '01	Mar. 21 '01	Apr. 25 '01	July 23 '01

PRINTING SCHEDULE FOR IAB

<u>ISSUE NUMBER</u>	<u>SUBMISSION DEADLINE</u>	<u>ISSUE DATE</u>
23	Friday, April 28, 2000	May 17, 2000
24	Friday, May 12, 2000	May 31, 2000
25	Friday, May 26, 2000	June 14, 2000

PLEASE NOTE:

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

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

PUBLICATION PROCEDURES

TO: Administrative Rules Coordinators and Text Processors of State Agencies
 FROM: Kathleen K. Bates, Iowa Administrative Code Editor
 SUBJECT: Publication of Rules in Iowa Administrative Bulletin

The Administrative Code Division uses Interleaf 6 to publish the Iowa Administrative Bulletin and can import documents directly from most other word processing systems, including Microsoft Word, Word for Windows (Word 7 or earlier), and WordPerfect.

1. To facilitate the processing of rule-making documents, we request a 3.5" High Density (not Double Density) IBM PC-compatible diskette of the rule making. Please indicate on each diskette the following information: agency name, file name, format used for exporting, and chapter(s) amended. Diskettes may be delivered to the Administrative Code Division, 1st Floor, Lucas State Office Building or included with the documents submitted to the Governor's Administrative Rules Coordinator.

2. Alternatively, if you have Internet E-mail access, you may send your document as an attachment to an E-mail message, addressed to both of the following:

bcarr@legis.state.ia.us
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Please note that changes made prior to publication of the rule-making documents are reflected on the hard copy returned to agencies by the Governor's office, but not on the diskettes; diskettes are returned unchanged.

Your cooperation helps us print the Bulletin more quickly and cost-effectively than was previously possible and is greatly appreciated.

IOWA ADMINISTRATIVE RULES and IOWA COURT RULES on CD-ROM 1999 WINTER EDITION

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Guide to Rule Making, June 1995 Edition, available upon request to the Iowa Administrative Code Division, Lucas State Office Building, First Floor, Des Moines, Iowa 50319.

AGENDA

The Administrative Rules Review Committee will hold its regular, statutory meeting on Tuesday, May 9, 2000, at 9 a.m. in the Reagan Conference Room (Room 19), State Capitol, Des Moines, Iowa. The following rules will be reviewed:

NOTE: See also Supplemental Agenda to be published in the May 3, 2000, Iowa Administrative Bulletin.

Bulletin

CORRECTIONS DEPARTMENT[201]

- Private sector employment projects, 37.5, Notice **ARC 9775A** 4/5/00
- Utilization of offender labor in construction or maintenance projects, 37.6, Notice **ARC 9776A** 4/5/00

EDUCATIONAL EXAMINERS BOARD[282]

EDUCATION DEPARTMENT[281]"umbrella"

- Special education endorsements, 15.1, 15.2(2), 15.2(3), 15.2(8), Notice **ARC 9766A** 4/5/00
- Paraeducator certificates, ch 22, Notice **ARC 9765A** 4/5/00

EDUCATION DEPARTMENT[281]

- Contested case appeal procedures, 6.17(4) to 6.17(10), Notice **ARC 9773A**, also Filed Emergency **ARC 9774A** 4/5/00

ELDER AFFAIRS DEPARTMENT[321]

- Care review committees, ch 9, Filed **ARC 9791A** 4/19/00

HUMAN SERVICES DEPARTMENT[441]

Risk pool funding, 25.56 to 25.60, ch 25 division V, 25.61 to 25.66,

- Notice **ARC 9748A**, also Filed Emergency **ARC 9749A** 4/5/00

Census income exemption for food stamp recipients, 41.27(7)"ak," 65.29(3),

- 75.57(7)"ah," Notice **ARC 9750A**, also Filed Emergency **ARC 9751A** 4/5/00

- Rent subsidy program, 53.2(2), 53.3(2), 53.4(2), Filed **ARC 9752A** 4/5/00

- Emergency food assistance program—income eligibility guidelines, 73.4(3)"d"(2), Notice **ARC 9780A** 4/19/00

- Statewide average costs and charges for nursing care, 75.23(3), 75.24(3)"b," Notice **ARC 9781A** 4/19/00

Medicaid program—elimination of genetic consultation clinic provider category,

- 77.25, 78.27, 79.1(2), 79.14(1)"b"(14), 80.2(2)"y," 88.48(1)"e," Notice **ARC 9782A** 4/19/00

- Physicians' services—oral health screening and fluoride treatment for children, 78.1(24), Notice **ARC 9783A** 4/19/00

- Medicaid reimbursement to chiropractors for X-rays, 78.8(3), Notice **ARC 9784A** 4/19/00

- Highly structured juvenile programs, 114.2, 185.83(4), Filed **ARC 9753A** 4/5/00

- Effective date of rehabilitative treatment and supportive services contract, 152.8, 152.22(6), Filed **ARC 9754A** 4/5/00

INSPECTIONS AND APPEALS DEPARTMENT[481]

- Clinical privileges for hospital medical staff, 51.5(3), Filed **ARC 9777A** 4/19/00

- Obstetric and neonatal services—reference sources for policies and procedures, 51.32(2), Filed **ARC 9792A** 4/19/00

- Collection of food stamp overpayments, 71.6(2), Notice **ARC 9611A** Terminated **ARC 9789A** 4/19/00

INSURANCE DIVISION[191]

COMMERCE DEPARTMENT[181]"umbrella"

- Publication of consumer guide, 35.35 to 35.37, Notice **ARC 9756A** 4/5/00

LOTTERY DIVISION[705]

REVENUE AND FINANCE DEPARTMENT[701]"umbrella"

- Waiver or variance of rules, 1.30, Notice **ARC 9650A**, Terminated **ARC 9772A** 4/5/00

MEDICAL EXAMINERS BOARD[653]

PUBLIC HEALTH DEPARTMENT[641]"umbrella"

Supervision of pharmacists who administer adult immunizations, 13.3,

- Notice **ARC 9618A** Terminated, also Notice **ARC 9786A** 4/19/00

NATURAL RESOURCE COMMISSION[571]

NATURAL RESOURCES DEPARTMENT[561]"umbrella"

- Volunteer safety and education instructor certification, 15.9 to 15.12, Notice **ARC 9769A** 4/5/00

- General dock permit, 16.1, 16.3, Notice **ARC 9768A** 4/5/00

- Community forestry challenge grant program, ch 34, Notice **ARC 9770A**, also Filed Emergency **ARC 9771A** 4/5/00

NURSING BOARD[655]

PUBLIC HEALTH DEPARTMENT[641]"umbrella"

- Nursing education programs, 2.1, 2.10, 2.11, Filed **ARC 9763A** 4/5/00

- Infusion pump initiation and hypertonic solutions administration by LPNs, 6.5(4)"b" to "e," Notice **ARC 9762A** 4/5/00

PHARMACY EXAMINERS BOARD[657]

PUBLIC HEALTH DEPARTMENT[641]"umbrella"

Self-assessment of pharmacies, 6.2(1)"l," 7.6(7), 8.16, 8.17, 15.9"6," 36.1(4)"ac," "ad" and "ae,"

Notice ARC 9374A, Terminated ARC 9757A 4/5/00Supervision of pharmacists who administer adult immunizations, 8.33, Notice ARC 9790A 4/19/00**PROFESSIONAL LICENSURE DIVISION[645]**

PUBLIC HEALTH DEPARTMENT[641]"umbrella"

Optometry examiners, 180.6, 180.11 to 180.18, 180.115, ch 181, Notice ARC 9767A 4/5/00**PUBLIC HEALTH DEPARTMENT[641]**

Radiation, ch 38 title, 38.1(2), 38.2, 38.3(1), 38.8(1)"a," 38.8(3)"a," 38.8(6), 38.10, 39.1(3), 39.3(2)"a,"

39.3(3)"d," 39.3(10)"a," 39.4(24), 39.4(26)"e," 39.4(26)"f"(2) and (5), 39.4(27)"e," 39.4(33)"j"(2),

39.4(33)"k"(3), 39.4(90)"a"(3), 39.5, ch 39 appendices E, H, I, and J, 40.1(5), 40.2(2), 40.10(2),

40.15(1)"b"(1), 40.15(3), 40.20(1), 40.22, 40.36(1)"b"(1), 40.62(2), 40.62(5), 40.75, 40.80, ch 40 appendix D,

41.1(1), 41.1(2), 41.1(3)"a"(6), 41.1(3)"f"(1)"2," 41.1(3)"f"(2)"1," 41.1(3)"f"(4), 41.1(4)"i," 41.1(6), 41.1(6)"h"(1)"3,"

41.1(7)"c"(5), 41.1(9)"e" to "g," 41.1(11)"a," 41.2(14)"c," 41.2(60)"a"(2)"1" and "2," 41.2(62), 41.3(1)"b,"

41.3(2), 41.3(12), 41.3(13), 41.3(17)"a"(1)"3," 41.3(18)"a"(15), 41.3(18)"e," 41.3(18)"f"(1) and (3), 41.6(1),

41.6(2)"a" to "c," 41.6(3), 41.6(4), 41.6(5)"a," "b," "c," and "h" to "o," 41.6(6), 41.6 appendix I, 41.7(1),

ch 41 appendix B"3," 42.2(2)"f," 42.3(1)"a"(7), 45.1(2), 45.1(5)"c," 45.1(7), 45.1(9)"b," 45.1(10)"b"(1)"2,"

45.1(10)"d," 45.1(10)"g"(1)"1," 45.1(11), 45.1(12)"b," 45.1(13), 45.3(1), 45.3(2)"a," 45.3(4)"c"(5) and (8),

45.3(4)"f" and "g," 45.3(5)"b," 45.3(6)"a"(9) to (12), 45.3(6)"c," 45.3(7)"b," 45.3(9)"a," 45.3(11), 45.4(2),

45.4(11)"c," 46.1, 46.5(1)"c," Filed ARC 9759A 4/5/00Emergency medical services training grants, 130.1, 130.4(2), 130.4(3), Notice ARC 9758A 4/5/00**REVENUE AND FINANCE DEPARTMENT[701]**

Electronic submission of sales tax permit applications; withholding agent identification number applications,

13.2, 46.3(1), Filed ARC 9787A 4/19/00Federal offset for Iowa income tax obligations, 150.17, Filed ARC 9788A 4/19/00**SECRETARY OF STATE[721]**Competing nominations by nonparty political organizations, 21.201, Notice ARC 9785A 4/19/00**TRANSPORTATION DEPARTMENT[761]**Special mobile equipment, 410.1 to 410.3, Notice ARC 9761A 4/5/00Flashing lights and warning devices on slow-moving vehicles, ch 452 title, 452.1 to 452.3, Filed ARC 9755A 4/5/00

Federal motor carrier safety regulations, 520.1(1)"a," "b" and "d," 520.2, 520.3(1)"d,"

520.4(1), 520.6(1), 520.7, 520.8, Notice ARC 9779A 4/19/00Motor carrier regulations—cross reference update, 529.1, Notice ARC 9764A 4/5/00School transportation services provided by regional transit systems, ch 911, Notice ARC 9778A 4/19/00**WORKERS' COMPENSATION DIVISION[876]**

WORKFORCE DEVELOPMENT DEPARTMENT[871]"umbrella"

General, 2.4, 4.2, 4.6, 4.17, 4.38(2), 4.38(4), 4.39, 5.8(1), 5.9(1), 5.9(3),

8.9, 9.1, 9.12(2), 9.13(1)"d"(6), Notice ARC 9760A 4/5/00

To All Agencies:

The Administrative Rules Review Committee voted to request that Agencies comply with Iowa Code section 17A.4(1)“b” by allowing the opportunity for oral presentation (hearing) to be held at least **twenty** days after publication of Notice in the Iowa Administrative Bulletin.

AGENCY	HEARING LOCATION	DATE AND TIME OF HEARING
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CORRECTIONS DEPARTMENT[201]

Private sector employment projects, 37.5 IAB 4/5/00 ARC 9775A	Conference Room—2nd Floor 420 Keo Way Des Moines, Iowa	April 25, 2000 11 a.m. to 1 p.m.
Utilization of offender labor, 37.6 IAB 4/5/00 ARC 9776A	Conference Room—2nd Floor 420 Keo Way Des Moines, Iowa	April 25, 2000 11 a.m. to 1 p.m.

EDUCATIONAL EXAMINERS BOARD[282]

Requirements for special education endorsements, 15.1, 15.2 IAB 4/5/00 ARC 9766A	Conference Room 3 North—3rd Floor Grimes State Office Bldg. Des Moines, Iowa	April 25, 2000 2 p.m.
Paraeducator certificates, ch 22 IAB 4/5/00 ARC 9765A	Conference Room 3 North—3rd Floor Grimes State Office Bldg. Des Moines, Iowa	April 25, 2000 1 p.m.

EDUCATION DEPARTMENT[281]

Appeal procedures, 6.17 IAB 4/5/00 ARC 9773A (See also ARC 9774A)	State Board Room Grimes State Office Bldg. Des Moines, Iowa	April 25, 2000 1 p.m.
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HUMAN SERVICES DEPARTMENT[441]

Oral health screening for children, 78.1(24) IAB 4/19/00 ARC 9783A	Conference Room—6th Floor Iowa Bldg., Suite 600 411 3rd St. SE Cedar Rapids, Iowa	May 11, 2000 9 a.m.
	Administrative Conference Room 417 E. Kaneshville Blvd. Council Bluffs, Iowa	May 11, 2000 9 a.m.
	Large Conference Room Bicentennial Bldg.—5th Floor 428 Western Davenport, Iowa	May 11, 2000 12:30 p.m.
	Conference Room 102 City View Plaza 1200 University Des Moines, Iowa	May 10, 2000 10 a.m.
	Liberty Room Mohawk Square 22 N. Georgia Ave. Mason City, Iowa	May 11, 2000 10 a.m.

HUMAN SERVICES DEPARTMENT[441] (Cont'd)

Conference Room 3 120 East Main Ottumwa, Iowa	May 12, 2000 10 a.m.
Fifth Floor 520 Nebraska St. Sioux City, Iowa	May 11, 2000 1:30 p.m.
Conference Room 213 Pinecrest Office Bldg. 1407 Independence Ave. Waterloo, Iowa	May 11, 2000 10 a.m.

INSURANCE DIVISION[191]

Consumer guide, 35.35 to 35.37 IAB 4/5/00 ARC 9756A	330 Maple St. Des Moines, Iowa	April 25, 2000 10 a.m.
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MEDICAL EXAMINERS BOARD[653]

Supervision of pharmacists who administer adult immunizations, 13.3 IAB 4/19/00 ARC 9786A	Conference Room Suite C or E 400 SW Eighth St. Des Moines, Iowa	May 9, 2000 1 p.m.
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NATURAL RESOURCE COMMISSION[571]

Volunteer safety/education instructor certification, 15.9 to 15.12 IAB 4/5/00 ARC 9769A	Conference Room—4th Floor West Wallace State Office Bldg. Des Moines, Iowa	April 25, 2000 2 p.m.
General dock permit, 16.1, 16.3 IAB 4/5/00 ARC 9768A	Conference Room—4th Floor West Wallace State Office Bldg. Des Moines, Iowa	April 25, 2000 1 p.m.
Community forestry challenge grant program, 34.1 to 34.12 IAB 4/5/00 ARC 9770A (See also ARC 9771A)	Conference Room—4th Floor East Wallace State Office Bldg. Des Moines, Iowa	April 25, 2000 2 p.m.
Use of nontoxic shot on wildlife areas, 51.9 IAB 3/8/00 ARC 9720A	Auditorium Wallace State Office Bldg. Des Moines, Iowa	April 19, 2000 7:30 p.m.
Waterfowl and coot hunting, 91.1, 91.3, 91.4(2), 91.5(1), 91.6 IAB 3/8/00 ARC 9719A	Auditorium Wallace State Office Bldg. Des Moines, Iowa	April 19, 2000 7:30 p.m.
Wild turkey fall hunting, 99.2 IAB 3/8/00 ARC 9721A	Auditorium Wallace State Office Bldg. Des Moines, Iowa	April 19, 2000 7:30 p.m.
Deer hunting, 106.1(4), 106.2(4), 106.3(3), 106.4 to 106.6, 106.8 IAB 3/8/00 ARC 9722A	Auditorium Wallace State Office Bldg. Des Moines, Iowa	April 19, 2000 7:30 p.m.

PHARMACY EXAMINERS BOARD[657]

Supervision of pharmacists who administer adult immunizations, 8.33 IAB 4/19/00 ARC 9790A	Conference Room Suite C or E 400 SW Eighth St. Des Moines, Iowa	May 9, 2000 1 p.m.
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PROFESSIONAL LICENSURE DIVISION[645]

Optometry examiners, 180.6, 180.12 to 180.18, 180.115; ch 181 IAB 4/5/00 ARC 9767A	Board Conference Room—5th Floor Lucas State Office Bldg. Des Moines, Iowa	April 26, 2000 9 to 11 a.m.
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PUBLIC HEALTH DEPARTMENT[641]

Emergency medical services training grants, 130.1, 130.4 IAB 4/5/00 ARC 9758A (ICN Network)	National Guard Armory 11 East 23rd St. Spencer, Iowa	April 25, 2000 1 to 2 p.m.
	National Guard Armory 1712 LaClark Rd. Carroll, Iowa	April 25, 2000 1 to 2 p.m.
	National Guard Armory 1160 10th St. SW Mason City, Iowa	April 25, 2000 1 to 2 p.m.
	ICN Room, Sixth Floor Lucas State Office Building Des Moines, Iowa	April 25, 2000 1 to 2 p.m.
	National Guard Armory 195 Radford Rd. Dubuque, Iowa	April 25, 2000 1 to 2 p.m.
	National Guard Armory 501 Hwy 1 South Washington, Iowa	April 25, 2000 1 to 2 p.m.

SECRETARY OF STATE[721]

Competing nominations by nonparty political organizations, 21.201 IAB 4/19/00 ARC 9785A	Second Floor Hoover State Office Bldg. Des Moines, Iowa	May 9, 2000 1:30 p.m.
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TRANSPORTATION DEPARTMENT[761]

Special mobile equipment, 410.1 to 410.3 IAB 4/5/00 ARC 9761A	Conference Room—Upper Level Park Fair Mall 100 Euclid Ave. Des Moines, Iowa	April 27, 2000 8 a.m. (If requested)
Regulations applicable to carriers, 520.1(1), 520.2, 520.3(1), 520.4(1), 520.6(1), 520.7, 520.8 IAB 4/19/00 ARC 9779A	Conference Room—Upper Level Park Fair Mall 100 Euclid Ave. Des Moines, Iowa	May 11, 2000 1 p.m. (If requested)

TRANSPORTATION DEPARTMENT[761] (Cont'd)

Motor carrier regulations, 529.1 IAB 4/5/00 ARC 9764A	Conference Room—Upper Level Park Fair Mall 100 Euclid Ave. Des Moines, Iowa	April 27, 2000 10 a.m. (If requested)
School transportation services provided by regional transit systems, ch 911 IAB 4/19/00 ARC 9778A	Conference Room—Upper Level Park Fair Mall 100 Euclid Ave. Des Moines, Iowa	May 11, 2000 9:30 a.m. (If requested)

CITATION of Administrative Rules

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

441 IAC 79	(Chapter)
441 IAC 79.1(249A)	(Rule)
441 IAC 79.1(1)	(Subrule)
441 IAC 79.1(1)“a”	(Paragraph)
441 IAC 79.1(1)“a”(1)	(Subparagraph)

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

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

Due to reorganization of state government by 1986 Iowa Acts, chapter 1245, it was necessary to revise the agency identification numbering system, i.e., the bracketed number following the agency name.

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

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

Other autonomous agencies which were not included in the original reorganization legislation as “umbrella” agencies are included alphabetically in small capitals at the left-hand margin, e.g., BEEF INDUSTRY COUNCIL, IOWA[101].

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HUMAN SERVICES DEPARTMENT[441]

Notice of Intended Action

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

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

Pursuant to the authority of Iowa Code section 234.6, the Department of Human Services proposes to amend Chapter 73, "Commodity Distribution Programs," appearing in the Iowa Administrative Code.

This amendment increases the income eligibility guidelines for the Emergency Food Assistance Program.

Income eligibility guidelines for the Emergency Food Assistance Program in Iowa are based on the income guidelines for the reduced price meals in the National School Lunch Program. These guidelines are set at 185 percent of the federal poverty guidelines and are normally revised effective July 1 of each year. Revised federal poverty guidelines have been received by the Department.

This amendment does not provide for waiver in specified situations because it confers a benefit by allowing the Department of Human Services to serve more needy individuals under the Emergency Food Assistance Program.

Consideration will be given to all written data, views, and arguments thereto received by the Office of Policy Analysis, Department of Human Services, Hoover State Office Building, Des Moines, Iowa 50319-0114, on or before May 10, 2000.

This amendment is intended to implement Iowa Code section 234.12.

The following amendment is proposed.

Amend subrule 73.4(3), paragraph "d," subparagraph (2), as follows:

(2) Income eligible status. The gross income according to family size is no more than the following amounts:

<u>Household Size</u>	<u>Yearly Income</u>	<u>Monthly Income</u>	<u>Weekly Income</u>
1	\$15,244 \$15,448	\$1,271 \$1,288	\$ 294 \$ 298
2	20,461 20,813	1,706 1,735	394 401
3	25,678 26,178	2,140 2,182	494 504
4	30,895 31,543	2,575 2,629	595 607
5	36,112 36,908	3,010 3,076	695 710
6	41,329 42,273	3,445 3,523	795 813
7	46,546 47,638	3,879 3,970	896 917

<u>Household Size</u>	<u>Yearly Income</u>	<u>Monthly Income</u>	<u>Weekly Income</u>
8	51,763 53,003	4,314 4,417	996 1,020
For each additional household member add:	\$ 5,217 \$ 5,365	\$ 435 \$ 448	\$ 101 \$ 104

ARC 9781A

HUMAN SERVICES DEPARTMENT[441]

Notice of Intended Action

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

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

Pursuant to the authority of Iowa Code section 249A.4, the Department of Human Services proposes to amend Chapter 75, "Conditions of Eligibility," appearing in the Iowa Administrative Code.

These amendments revise the statewide average cost to a private pay person for nursing care in Iowa and the average charges for nursing facility care, hospital-based skilled nursing care, non-hospital-based skilled nursing care, intermediate care facility for the mentally retarded (ICF/MR) care, mental health institute (MHI) care, and psychiatric medical institution for children (PMIC) care. The statewide average cost is used to determine the period of ineligibility when an applicant or recipient has transferred assets for less than fair market value. The statewide average charge is used to determine whether a person who has established a medical assistance income trust qualifies for Medicaid.

A person who transfers assets for less than fair market value in order to become eligible for Medicaid becomes ineligible for Medicaid for nursing facility services or home- and community-based waiver services for a period of time determined by dividing the uncompensated value of the transferred assets by the statewide average cost for nursing facility services to a private pay person.

Any person is allowed to establish a medical assistance income trust under Iowa Code section 633.709. For persons whose income exceeds 300 percent of the Supplemental Security Income (SSI) benefit for one person (currently \$1,536) but whose income is below the statewide average charge or the average Medicaid reimbursement rate for nursing facility services or higher levels of care if the person so requires, a medical assistance income trust may be used to establish Medicaid eligibility.

The Department is required to update these average statewide costs and charges annually. The statewide average cost used to determine the period of ineligibility for a person who transfers assets for less than fair market value is a cost determined using all types of nursing facilities, including hospital-based and non-hospital-based skilled care.

The average private pay cost increased from \$2,673 per month to \$2,933. The average charge to a private pay resident of nursing facility care increased from \$2,723 to \$2,758. The average charge for hospital-based skilled care increased from \$8,013 per month to \$9,836. The average charge for non-hospital-based skilled care increased from \$4,097 to

HUMAN SERVICES DEPARTMENT[441](cont'd)

ARC 9782A

\$4,523. The average charges for ICF/MR and psychiatric medical institution for children care remained the same. The average statewide charge to a resident of a mental health institute decreased from \$11,924 per month to \$9,962.

These amendments do not provide for waivers in specified situations because everyone should be subject to the same amounts set by these amendments. Individuals may request a waiver under the Department's general rule on exceptions at rule 441—1.8(217).

Consideration will be given to all written data, views, and arguments thereto received by the Office of Policy Analysis, Department of Human Services, Hoover State Office Building, Des Moines, Iowa 50319-0114, on or before May 10, 2000.

These amendments are intended to implement Iowa Code section 249A.4.

The following amendments are proposed.

ITEM 1. Amend subrule 75.23(3) as follows:

75.23(3) Period of ineligibility. The number of months of ineligibility shall be equal to the total cumulative uncompensated value of all assets transferred by the individual (or the individual's spouse) on or after the look-back date specified in 75.23(2), divided by the statewide average private pay rate for nursing facility services at the time of application. The average statewide cost to a private pay resident shall be determined by the department and updated annually for nursing facilities. For the period from July 1, ~~1999~~ 2000, through June 30, ~~2000~~ 2001, this average statewide cost shall be ~~\$2,673~~ \$2,933 per month or ~~\$87.87~~ \$96.43 per day.

ITEM 2. Amend subrule **75.24(3)**, paragraph "b," as follows:

b. A trust established for the benefit of an individual if the trust is composed only of pension, social security, and other income to the individual (and accumulated income of the trust), and the state will receive all amounts remaining in the trust upon the death of the individual up to the amount equal to the total medical assistance paid on behalf of the individual.

For disposition of trust amounts pursuant to Iowa Code sections 633.707 to 633.711, the average statewide charges and Medicaid rates for the period from ~~December~~ July 1, ~~1999~~ 2000, to June 30, ~~2000~~ 2001, shall be as follows:

(1) The average statewide charge to a private pay resident of a nursing facility is ~~\$2,723~~ \$2,758 per month.

(2) The average statewide charge to a private pay resident of a hospital-based skilled nursing facility is ~~\$8,013~~ \$9,836 per month.

(3) The average statewide charge to a private pay resident of a non-hospital-based skilled nursing facility is ~~\$4,097~~ \$4,523 per month.

(4) No change.

(5) The average statewide charge to a resident of a mental health institute is ~~\$11,924~~ \$9,962 per month.

(6) and (7) No change.

HUMAN SERVICES DEPARTMENT[441]

Notice of Intended Action

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

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

Pursuant to the authority of Iowa Code section 249A.4, the Department of Human Services proposes to amend Chapter 77, "Conditions of Participation for Providers of Medical and Remedial Care," Chapter 78, "Amount, Duration and Scope of Medical and Remedial Services," Chapter 79, "Other Policies Relating to Providers of Medical and Remedial Care," Chapter 80, "Procedure and Method of Payment," and Chapter 88, "Managed Health Care Providers," appearing in the Iowa Administrative Code.

These amendments eliminate the genetic consultation clinic provider category from the Medicaid program. There has not been a provider enrolled as a genetic consultation clinic in at least five years.

It was determined as a part of the statewide rules review process that this was an obsolete provider category.

These amendments do not provide for waivers in specified situations because elimination of this provider category does not affect any current providers.

Consideration will be given to all written data, views, and arguments thereto received by the Office of Policy Analysis, Department of Human Services, Hoover State Office Building, Des Moines, Iowa 50319-0114, on or before May 10, 2000.

These amendments are intended to implement Iowa Code section 249A.4.

The following amendments are proposed.

ITEM 1. Rescind and reserve rule ~~441—77.25~~(249A).

ITEM 2. Rescind and reserve rule ~~441—78.27~~(249A).

ITEM 3. Amend subrule **79.1(2)** by deleting the provider category "genetic consultation clinics."

ITEM 4. Amend subrule **79.14(1)**, paragraph "b," by rescinding and reserving subparagraph (14).

ITEM 5. Amend subrule **80.2(2)** by rescinding and reserving paragraph "y."

ITEM 6. Amend subrule **88.48(1)**, paragraph "e," as follows:

e. Clinic (rural health clinic, federally qualified health center, maternal health center, ambulatory surgical center, ~~genetic consultation center~~, birthing center).

ARC 9783A

HUMAN SERVICES DEPARTMENT[441]

Notice of Intended Action

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

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

Pursuant to the authority of Iowa Code section 249A.4, the Department of Human Services proposes to amend Chapter 78, "Amount, Duration and Scope of Medical and Remedial Services," appearing in the Iowa Administrative Code.

This amendment allows physicians to perform limited oral evaluations and topical fluoride treatments for the purpose of identifying, preventing, and treating childhood dental caries (tooth decay).

The Iowa Chapter of the American Academy of Pediatrics petitioned the Department to allow physicians to bill and be paid for the services of oral health screening for children 0 to 3 years of age and fluoride application for children at high risk for early childhood dental caries. The petition indicated that it was the Chapter's belief that access to a dental professional for children at high risk for early childhood dental caries is problematic, and the proposed service is within the scope of practice for primary health care providers.

The petition also indicated that health, nutritional and developmental guidance is already standard in discussions in the primary care physician's office, as is dental hygiene, as recommended by early and periodic screening, diagnosis, and treatment guidelines. The petition further indicated the belief that these opportunities for health care promotion should not be missed.

The Department is placing this proposed change under notice and scheduling public hearings to allow for comment.

This amendment does not provide for waiver in specified situations because it confers a benefit by providing for coverage of these services by physicians.

Consideration will be given to all written data, views, and arguments thereto received by the Office of Policy Analysis, Department of Human Services, Hoover State Office Building, Des Moines, Iowa 50319-0114, on or before May 10, 2000.

Oral presentations may be made by persons appearing at the following meetings. Written comments will also be accepted at these times.

Cedar Rapids - May 11, 2000 9 a.m.
Cedar Rapids Regional Office
Iowa Building - Suite 600
Sixth Floor Conference Room
411 Third Street S. E.
Cedar Rapids, Iowa 52401

Council Bluffs - May 11, 2000 9 a.m.
Council Bluffs Regional Office
Administrative Conference Room
417 E. Kaneshville Boulevard
Council Bluffs, Iowa 51501

Davenport - May 11, 2000 12:30 p.m.
Davenport Area Office
Bicentennial Building - Fifth Floor
Large Conference Room
428 Western
Davenport, Iowa 52801

Des Moines - May 10, 2000 10 a.m.
Des Moines Regional Office
City View Plaza
Conference Room 102
1200 University
Des Moines, Iowa 50314

Mason City - May 11, 2000 10 a.m.
Mason City Area Office
Mohawk Square, Liberty Room
22 North Georgia Avenue
Mason City, Iowa 50401

Ottumwa - May 12, 2000 10 a.m.
Ottumwa Area Office
Conference Room 3
120 East Main
Ottumwa, Iowa 52501

Sioux City - May 11, 2000 1:30 p.m.
Sioux City Regional Office
Fifth Floor
520 Nebraska Street
Sioux City, Iowa 51101

Waterloo - May 11, 2000 10 a.m.
Waterloo Regional Office
Pinecrest Office Building
Conference Room 213
1407 Independence Avenue
Waterloo, Iowa 50703

Any persons who intend to attend a public hearing and have special requirements such as hearing or vision impairments should contact the Office of Policy Analysis at (515) 281-8440 and advise of special needs.

This amendment is intended to implement Iowa Code section 249A.4.

The following amendment is proposed.

Amend rule 441—78.1(249A) by adopting the following new subrule:

78.1(24) Payment shall be made for limited oral evaluations and topical fluoride treatments, as defined by the Current Dental Terminology, Third Edition (CDT-3), for the purpose of identifying and preventing tooth decay, when rendered by physicians acting within the scope of their practice, licensure, and other applicable state law.

ARC 9784A

HUMAN SERVICES
DEPARTMENT[441]

Notice of Intended Action

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

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

Pursuant to the authority of Iowa Code section 249A.4, the Department of Human Services proposes to amend Chapter 78, “Amount, Duration and Scope of Medical and Remedial Services,” appearing in the Iowa Administrative Code.

This amendment revises Medicaid payment policy to allow chiropractors to be reimbursed for X-rays they are currently required to have in the patient’s file. Current policy does not allow them to be reimbursed for the X-rays.

The Iowa Chiropractic Society has requested action by the Department, relative to a January 1, 2000, change in the Medicare program. The Medicare change eliminated the requirement that an X-ray be done to demonstrate the presence of a subluxation of the spine. Current Medicaid policy requires that an X-ray demonstrating the subluxation of the spine be in the patient’s medical records.

Current Iowa Medicaid chiropractic services policy states that “[p]ayment will be made for the same chiropractic procedures payable” under the Medicare program. The Department has interpreted this to mean Iowa Medicaid shall reimburse chiropractors for the same services payable under Medicare. The Department has further interpreted this policy to not extend to following Medicare policy regarding documentation requirements. Therefore, the Department believes Medicare’s new policy eliminating the X-ray requirement is not binding upon the Department, relative to the Medicaid program.

The Department has determined that this requirement should not be eliminated for the Medicaid program. Instead, the Department believes that this requirement should be retained, but that chiropractors should be reimbursed at the current physician fee schedule rate for selected X-ray procedure codes. Payable X-ray procedure codes shall be limited to those Current Procedural Terminology (CPT) procedure codes that are appropriate to determine the presence of a subluxation of the spine. Criteria used to determine payable X-ray CPT codes may include, but would not be limited to, the X-ray CPT codes for which major commercial payors reimburse chiropractors.

The Department believes it is important to retain a valid subluxation documentation function. Retention of the X-ray requirement will ensure that only claims for covered services are paid, i.e., demonstrated cases of subluxation of the spine. Without the X-ray requirement, it is anticipated that there would be an increase in both the use of chiropractic services and expenditures therefor. This conclusion is based on a determination by the Health Care Financing Administration’s Office of the Inspector General that there will be an increase in Medicare use of, and expenditures for, chiropractic services over the next three federal fiscal years, with the elimination of the Medicare X-ray requirement.

The Department believes that providing reimbursement to chiropractors for X-rays is reasonable for the following reasons:

- Chiropractors already perform in-office X-rays and are reimbursed for X-rays by other payors.
- Based on the current requirement that an X-ray be done, the Medicaid program is already paying a physician or outpatient hospital claim for an X-ray. Paying a chiropractor for an X-ray would mean that these other claims would not be occurring.
- From the chiropractic perspective, it is reasonable to conclude that chiropractors will want to have an objective subluxation documentation tool to protect them in any post-payment audit process.

This amendment does not provide for waiver in specified situations because it confers a benefit by providing for coverage of these services by chiropractors.

Consideration will be given to all written data, views, and arguments thereto received by the Office of Policy Analysis, Department of Human Services, Hoover State Office Building, Des Moines, Iowa 50319-0114, on or before May 10, 2000.

This amendment is intended to implement Iowa Code section 249A.4.

The following amendment is proposed.

Amend subrule 78.8(3) as follows:

78.8(3) Documenting X-ray. An X-ray must document the primary regions of subluxation being treated by CMT.

a. The documenting X-ray must be taken at a time reasonably proximate to the initiation of CMT. An X-ray is considered to be reasonably proximate if it was taken no more than 12 months prior to or 3 months following the initiation of CMT. X-rays need not be repeated unless there is a new condition *and no payment shall be made for subsequent X-rays, absent a new condition, consistent with paragraph “c” of this subrule.* No X-ray is required for pregnant women and for children aged 18 and under.

b. The X-ray films shall be labeled with the patient’s name and date the X-rays were taken and shall be marked right or left. The X-ray shall be made available to the department or its duly authorized representative when requested. A written and dated X-ray report, including interpretation and diagnosis, shall be present in the patient’s clinical record.

c. *Chiropractors shall be reimbursed for documenting X-rays at the physician fee schedule rate. Payable X-rays shall be limited to those Current Procedural Terminology (CPT) procedure codes that are appropriate to determine the presence of a subluxation of the spine. Criteria used to determine payable X-ray CPT codes may include, but are not limited to, the X-ray CPT codes for which major commercial payors reimburse chiropractors. The Iowa Medicaid fiscal agent shall publish in the Chiropractic Services Provider Manual the current list of payable X-ray CPT codes. Consistent with CPT, chiropractors may bill the professional, technical, or professional and technical components for X-rays, as appropriate. Payment for documenting X-rays shall be further limited to one per condition, consistent with the provisions of paragraph “a” of this subrule. A claim for a documenting X-ray related to the onset of a new condition is only payable if the X-ray is reasonably proximate to the initiation of CMT for the new condition, as defined in paragraph “a” of this subrule. A chiropractor is also authorized to order a documenting X-ray whether or not the chiropractor owns or possesses X-ray equipment in the chiropractor’s office. Any*

HUMAN SERVICES DEPARTMENT[441](cont'd)

X-rays so ordered shall be payable to the X-ray provider, consistent with the provisions in this paragraph.

ARC 9789A

INSPECTIONS AND APPEALS DEPARTMENT[481]

Notice of Termination

Pursuant to the authority of Iowa Code section 10A.104(5), the Department of Inspections and Appeals terminates the rule making initiated by its Notice of Intended Action published in the Iowa Administrative Bulletin on January 26, 2000, as **ARC 9611A**, amending Chapter 71, "Overpayment Recovery Unit," Iowa Administrative Code.

The Notice proposed to delete language from subrule 71.6(2) that permitted the withholding of unemployment compensation as a method used for the collection of food stamp overpayments.

The Department is terminating the rule making commenced in **ARC 9611A** maintaining unemployment compensation withholding as a means of overpayment recovery.

ARC 9786A

MEDICAL EXAMINERS BOARD[653]

Notice of Termination and Notice of Intended Action

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

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

Pursuant to the authority of Iowa Code sections 147.76 and 272C.3, the Board of Medical Examiners hereby terminates the rule making initiated by its Notice of Intended Action published in the Iowa Administrative Bulletin on January 26, 2000, as **ARC 9618A**, amending Chapter 13, "Standards of Practice and Professional Ethics," Iowa Administrative Code; and hereby gives Notice of Intended Action to amend Chapter 13, "Standards of Practice and Professional Ethics," Iowa Administrative Code.

The Board of Medical Examiners approved the Notice of Termination and the proposed amendment during a meeting held via telephone conference call on March 28, 2000. The Board of Pharmacy Examiners approved the amendment during a meeting held via telephone conference call on March 28, 2000.

The proposed rule permits physicians to prescribe via written protocol adult immunizations for influenza and pneumococcal vaccines for administration by authorized pharmacists. Physicians may also prescribe other adult immunizations for an individual patient by a prescription or medication order for administration by an authorized pharmacist. The rule defines the preparatory process the authorized pharmacist must complete and itemizes the elements needed in a written protocol for a physician to prescribe adult

immunizations for administration to patients by an authorized pharmacist. Finally, the rule describes the supervisory relationship between a prescribing physician and an administering pharmacist.

A rule pertaining to the administration of immunizations by pharmacists has also been proposed by the Board of Pharmacy Examiners and is published herein as **ARC 9790A**.

Any interested person may present written comments, data, views, and arguments on this proposed amendment not later than 4 p.m. on May 9, 2000. Such written materials should be sent to Ann E. Mowery, Executive Director, Board of Medical Examiners, 400 S.W. Eighth Street, Suite C, Des Moines, Iowa 50309-4686.

There will be a public hearing held jointly by the two boards on May 9, 2000, at 1 p.m. in the shared conference room of the Board of Medical Examiners and the Board of Pharmacy Examiners at 400 S.W. Eighth Street, Suite C or E, Des Moines, Iowa. Interested persons may present their views either orally or in writing.

This rule is intended to implement Iowa Code sections 147.76 and 272C.3.

The following amendment is proposed.

Amend 653—Chapter 13 by adopting the following **new** rule:

653—13.3(147) Supervision of pharmacists who administer adult immunizations. A physician may prescribe via written protocol adult immunizations for influenza and pneumococcal vaccines for administration by an authorized pharmacist if the physician meets these requirements for supervising the pharmacist.

13.3(1) Definitions.

a. "Authorized pharmacist" means an Iowa-licensed pharmacist who has documented that the pharmacist has successfully completed an educational program meeting the training standards on vaccine administration as provided by an American Council on Pharmaceutical Education (ACPE)-approved provider of continuing pharmaceutical education 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 Centers for Disease Control and Prevention 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 and counseling;
9. Immunization record management; and
10. Management of adverse events, including identification, appropriate response, documentation, and reporting.

b. "Vaccine" means a specially prepared antigen which, upon administration to a person, will result in immunity and, specifically for the purposes of this rule, shall mean influenza and pneumococcal vaccines.

MEDICAL EXAMINERS BOARD[653](cont'd)

c. "Written protocol" means a physician's order for one or more patients that contains, at a minimum, the following:

(1) A statement identifying the individual physician authorized to prescribe drugs and responsible for the delegation of administration of adult immunizations for influenza and pneumococcus;

(2) A statement identifying the individual authorized pharmacists;

(3) A statement that forbids an authorized pharmacist from delegating the administration of adult immunizations to anyone other than another authorized pharmacist or a registered nurse;

(4) A statement identifying the vaccines that may be administered by an authorized pharmacist, the dosages, and the route of administration;

(5) A statement identifying the activities an authorized pharmacist shall follow in the course of administering adult immunizations, including:

1. Procedures for determining if a patient is eligible to receive the vaccine;

2. Procedures for determining the appropriate scheduling and frequency of drug administration in accordance with applicable guidelines;

3. Procedures for record keeping and long-term record storage including batch or identification numbers;

4. Procedures to follow in case of life-threatening reactions; and

5. Procedures for the pharmacist and patient to follow in case of reactions following administration.

(6) A statement that describes how the authorized pharmacist shall report the administration of adult immunizations, within 30 days, to the physician issuing the written protocols and to the patient's primary care physician, if one has been designated by the patient. In case of serious complications, the authorized pharmacist shall notify the physicians within 24 hours and submit a VAERS report to the bureau of immunizations, Iowa department of public health. (VAERS is the Vaccine Advisory Event Reporting System.) A serious complication is one that requires further medical or therapeutic intervention to effectively protect the patient from further risk, morbidity, or mortality.

13.3(2) Supervision. A physician who prescribes adult immunizations to an authorized pharmacist for administration shall adequately supervise that pharmacist. Physician supervision shall be considered adequate if the delegating physician:

a. Ensures that the authorized pharmacist is prepared as described in subrule 13.3(1), paragraph "a";

b. Provides a written protocol that is updated at least annually;

c. Is available through direct telecommunication for consultation, assistance, and direction, or provides physician backup to provide these services when the physician supervisor is not available;

d. Is an Iowa-licensed physician who has a working relationship with an authorized pharmacist within the physician's local provider service area.

13.3(3) Administration of other adult immunizations by pharmacists. A physician may prescribe, for an individual patient by prescription or medication order, other adult immunizations to be administered by an authorized pharmacist.

This rule is intended to implement Iowa Code sections 147.76 and 272C.3.

ARC 9790A

PHARMACY EXAMINERS BOARD[657]

Notice of Intended Action

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

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

Pursuant to the authority of Iowa Code sections 147.76 and 272C.3, the Board of Pharmacy Examiners hereby gives Notice of Intended Action to amend Chapter 8, "Minimum Standards for the Practice of Pharmacy," Iowa Administrative Code.

The Board of Pharmacy Examiners approved the amendment during a meeting held via teleconference call on March 28, 2000. The Board of Medical Examiners approved the amendment during a meeting held via teleconference call on March 28, 2000.

The proposed rule permits physicians to prescribe via written protocol adult immunizations for influenza and pneumococcal vaccines for administration by authorized pharmacists. Physicians may also prescribe other adult immunizations for an individual patient by a prescription or medication order for administration by an authorized pharmacist. The rule defines the preparatory process the authorized pharmacist must complete and itemizes the elements needed in a written protocol for a physician to prescribe adult immunizations for administration to patients by an authorized pharmacist. Finally, the rule describes the supervisory relationship between a prescribing physician and an administering pharmacist.

A rule pertaining to the administration of immunizations by pharmacists has also been proposed by the Board of Medical Examiners and is published herein as **ARC 9786A**.

Any interested person may present written comments, data, views, and arguments on this proposed amendment not later than 4 p.m. on May 9, 2000. Such written materials should be sent to Lloyd K. Jessen, Executive Secretary/Director, Board of Pharmacy Examiners, 400 S.W. Eighth Street, Suite E, Des Moines, Iowa 50309-4688.

There will be a public hearing held jointly by the two boards on May 9, 2000, at 1 p.m. in the shared conference room of the Board of Medical Examiners and the Board of Pharmacy Examiners at 400 S.W. Eighth Street, Suite C or E, Des Moines, Iowa. Interested persons may present their views either orally or in writing.

This rule is intended to implement Iowa Code sections 147.76, 155A.3, 155A.4, and 272C.3.

The following amendment is proposed.

Adopt the following **new** rule 657—8.33(147):

657—8.33(147,155A) Supervision of pharmacists who administer adult immunizations. A physician may prescribe via written protocol adult immunizations for influenza and pneumococcal vaccines for administration by an authorized pharmacist if the physician meets these requirements for supervising the pharmacist.

8.33(1) Definitions.

a. "Authorized pharmacist" means an Iowa-licensed pharmacist who has documented that the pharmacist has successfully completed an educational program meeting the

PHARMACY EXAMINERS BOARD[657](cont'd)

training standards on vaccine administration as provided by an American Council on Pharmaceutical Education (ACPE)-approved provider of continuing pharmaceutical education 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 Centers for Disease Control and Prevention 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 and counseling;
9. Immunization record management; and
10. Management of adverse events, including identification, appropriate response, documentation, and reporting.

b. "Vaccine" means a specially prepared antigen which, upon administration to a person, will result in immunity and, specifically for the purposes of this rule, shall mean influenza and pneumococcal vaccines.

c. "Written protocol" means a physician's order for one or more patients that contains, at a minimum, the following:

(1) A statement identifying the individual physician authorized to prescribe drugs and responsible for the delegation of administration of adult immunizations for influenza and pneumococcus;

(2) A statement identifying the individual authorized pharmacists;

(3) A statement that forbids an authorized pharmacist from delegating the administration of adult immunizations to anyone other than another authorized pharmacist or a registered nurse;

(4) A statement identifying the vaccines that may be administered by an authorized pharmacist, the dosages, and the route of administration;

(5) A statement identifying the activities an authorized pharmacist shall follow in the course of administering adult immunizations, including:

1. Procedures for determining if a patient is eligible to receive the vaccine;
2. Procedures for determining the appropriate scheduling and frequency of drug administration in accordance with applicable guidelines;
3. Procedures for record keeping and long-term record storage including batch or identification numbers;
4. Procedures to follow in case of life-threatening reactions; and
5. Procedures for the pharmacist and patient to follow in case of reactions following administration.

(6) A statement that describes how the authorized pharmacist shall report the administration of adult immunizations, within 30 days, to the physician issuing the written protocols and to the patient's primary care physician if one has been designated by the patient. In case of serious complications, the authorized pharmacist shall notify the physicians within 24 hours and submit a VAERS report to the bureau of immunizations, Iowa department of public health.

(VAERS is the Vaccine Advisory Event Reporting System.) A serious complication is one that requires further medical or therapeutic intervention to effectively protect the patient from further risk, morbidity, or mortality.

8.33(2) Supervision. A physician who prescribes adult immunizations to an authorized pharmacist for administration shall adequately supervise that pharmacist. Physician supervision shall be considered adequate if the delegating physician:

- a. Ensures that the authorized pharmacist is prepared as described in subrule 8.33(1), paragraph "a";
- b. Provides a written protocol that is updated at least annually;
- c. Is available through direct telecommunication for consultation, assistance, and direction, or provides physician backup to provide these services when the physician supervisor is not available;
- d. Is an Iowa-licensed physician who has a working relationship with an authorized pharmacist within the physician's local provider service area.

8.33(3) Administration of other adult immunizations by pharmacists. A physician may prescribe, for an individual patient by prescription or medication order, other adult immunizations to be administered by an authorized pharmacist.

This rule is intended to implement Iowa Code sections 147.76, 155A.3, 155A.4, and 272C.3.

ARC 9785A

SECRETARY OF STATE[721]

Notice of Intended Action

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

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

Pursuant to the authority of Iowa Code section 47.1, the Secretary of State hereby gives Notice of Intended Action to amend Chapter 21, "Election Forms and Instructions," Iowa Administrative Code.

Iowa Code section 44.17 permits candidates of nonparty political organizations to file nominations by petition, limiting each organization to one candidate for each partisan office. However, there is no guidance provided regarding what to do if nomination petitions are received from more than one candidate from the same nonparty political organization for the same office, or if a nomination petition is received from a nonparty political organization candidate for an office for which the same organization has also nominated a candidate by convention.

Proposed rule 21.201(44) provides a method for determining which nomination to accept if a convention nomination and one or more nomination petitions are received, or if more than one nomination petition is received, or if more than one convention nomination is received from candidates seeking the same office and claiming affiliation with the same nonparty political organization. The proposed solution is to accept the convention nominee if only one is received; if not, the names of all candidates from the same nonparty political organization seeking the same office will be placed into a receptacle. The state or county commissioner, as appropriate, or a designee will then draw from the receptacle

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the name of the person who will be designated as the organization's candidate. All other candidates will be placed on the ballot as candidates nominated by petition.

Any interested person may make written suggestions or comments on the proposed rule on or before Tuesday, May 9, 2000. Written comments should be sent to the Elections Division, Office of the Secretary of State, Second Floor, Hoover State Office Building, Des Moines, Iowa 50319-0138; fax (515)242-3932. Anyone who wishes to comment orally may telephone the Elections Division at (515)281-5823 or visit the office on the second floor of the Hoover Building.

There will be a public hearing on Tuesday, May 9, 2000, at 1:30 p.m. at the Office of the Secretary of State, Second Floor, Hoover State Office Building. Persons may comment orally or in writing. All who speak at the hearing will be asked to give their names and addresses for the record and to confine their remarks to the subject of the proposed rule.

This proposed rule is intended to implement Iowa Code section 44.17.

The following **new** rule is proposed.

721—21.201(44) Competing nominations by nonparty political organizations.

21.201(1) Nominations by convention and by petitions. If one or more nomination petitions are received from nonparty political organization candidates for an office for which the same organization has also nominated one candidate by convention, the candidate nominated by convention shall be considered the nominee of the organization. The names of the other candidates shall appear on the ballot as candidates "nominated by petition."

21.201(2) Multiple nomination petitions. If nomination petitions are received from more than one candidate from the same nonparty political organization for the same office and the organization has not nominated a candidate for the office by convention, the name of each of these candidates shall be written on a separate piece of paper, all of which shall be as nearly uniform in size and material as possible and placed in a receptacle so that the names cannot be seen. In the presence of witnesses, the state commissioner of elections or the county commissioner, as appropriate, or a designee of the state or county commissioner, shall publicly draw one of the names; and that person shall be declared to be the nominee of the nonparty political organization. The names of the other candidates shall appear on the ballot as candidates "nominated by petition." A copy of the written record of the result of the drawing shall be kept with the nomination petition of each affected candidate.

21.201(3) Multiple nomination certificates. If more than one nomination certificate is received for the same office from groups with the same nonparty political organization name, the name of each of these candidates shall be written on a separate piece of paper, all of which shall be as nearly uniform in size and material as possible and placed in a receptacle so that the names cannot be seen. In the presence of witnesses, the state commissioner of elections or the county commissioner, as appropriate, or a designee of the state or county commissioner, shall publicly draw one of the names; and that person shall be declared to be the nominee of the nonparty political organization. The names of the other candidates, including any candidate who filed nomination petitions, shall appear on the ballot as candidates "nominated by petition." A copy of the written record of the result of the drawing shall be kept with the nomination certificate of each affected candidate.

This rule is intended to implement Iowa Code section 44.17.

ARC 9779A

TRANSPORTATION DEPARTMENT[761]

Notice of Intended Action

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

Pursuant to the authority of Iowa Code sections 307.10 and 307.12, the Department of Transportation hereby gives Notice of Intended Action to amend Chapter 520, "Regulations Applicable to Carriers," Iowa Administrative Code.

Iowa Code section 321.449 requires the Department to adopt rules consistent with the Federal Motor Carrier Safety Regulations promulgated under United States Code, Title 49, and found in 49 Code of Federal Regulations (CFR), Parts 390 to 399. Iowa Code section 321.450 requires the Department to adopt rules consistent with the Federal Hazardous Materials Regulations promulgated under United States Code, Title 49, and found in 49 CFR Parts 107, 171 to 173, 177, 178 and 180. To ensure the consistency required by statute, the Department annually adopts the specified parts of 49 CFR as adopted by the United States Department of Transportation.

Commercial vehicles transporting goods in interstate commerce are subject to the Federal Motor Carrier Safety Regulations on the effective dates specified in the Federal Register. Commercial vehicles transporting hazardous materials in interstate commerce or transporting certain hazardous materials intrastate are subject to the Federal Hazardous Materials Regulations on the effective dates specified in the Federal Register. The adoption of the federal regulations by the Department will extend the enforcement of the regulations to commercial vehicles operated intrastate unless exempted by statute.

Proposed federal regulations are published in the Federal Register to allow a period for public comment, and, after adoption, the final regulations are again published in the Federal Register. Each year a revised edition of 49 CFR is published incorporating all of the final regulations adopted during the year. Although revised editions of 49 CFR are usually dated October or November, the publication is not actually available in Iowa for several months after that date.

The amendments to the Federal Motor Carrier Safety Regulations and Federal Hazardous Materials Regulations that have become final and effective since the 1998 edition of the CFR are listed in the information below. The parts affected are followed by Federal Register (FR) citations.

Amendments to the Federal Motor Carrier Safety Regulations and Federal Hazardous Materials Regulations

Parts 107, 171, 172, 173, 177, 178 and 180 (FR Volume 63, No. 190, Page 52884, 10-1-98)

This final rule makes editorial corrections and clarifications to the hazardous materials regulations.

Part 171 (FR Volume 63, No. 209, Page 57929, 10-29-98)

This final rule will provide for harmonization with the United Nations' recommendations, International Maritime Dangerous Goods (IMDG) Code and International Civil Aviation Organization's (ICAO) technical instructions. This final rule amends a requirement for the use of ICAO's technical instructions for the safe transport of dangerous goods by air. This rule updates references in the hazardous materi-

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als regulations to include the most recent amendments to the IMDG Code and ICAO's technical instructions.

Part 177 (FR Volume 63, No. 210, Page 58323, 10-30-98)

This final rule is in response to petitions for reconsideration of the July 10, 1998, rule concerning the amendments relating to portable tanks. The Research and Special Programs Administration (RSPA) denied three petitions to allow portable tanks to be unloaded without fusible links. RSPA felt unloading portable tanks in the same manner as a cargo tank but without the same outlet requirements would pose increased safety risks in a fire situation when the operator is not able to manually activate the closure.

Parts 171, 172, 173, 177, 178 and 180 (FR Volume 64, No. 43, Page 10741, 3-5-99)

This rule will eliminate the "keep away from food" label. Also, this rule will add an identifier to the hazardous materials table for generic and not-otherwise-shown descriptions. This identifier will be the letter "g." Section 172.203(k)3 will be removed from the regulations. Also, numerous hazardous materials' proper shipping names are revised.

Part 393 (FR Volume 64, No. 61, Page 15588, 3-31-99)

This rule requires motor carriers engaged in interstate commerce to install retroreflective tape or reflex reflectors on the sides and rear of semitrailers and trailers that were manufactured prior to December 1, 1993, with an overall width of 80 inches or more and a gross vehicle weight rating of 10,001 or more pounds.

Parts 171, 173, 177, 178 and 180 (FR Volume 64, No. 99, Page 28029, 5-24-99)

This rule creates new standards for testing discharge hoses, the use of passive shutoff systems on high pressure cargo tanks and the attendance requirement during loading and unloading.

Parts 177 and 180 (FR Volume 64, No. 130, Page 38062, 7-8-99)

This final rule extends the implementation date until January 1, 2000, for Section 177.840(t) as it applies to chlorine unloading operations. This final rule also makes several editorial corrections.

Part 396 (FR Volume 64, No. 160, Page 45207, 8-19-99)

This is a correction to reinstate text of Paragraph (b) concerning inspector qualifications.

Part 171 (FR Volume 64, No. 161, Page 45457, 8-20-99)

This replaces the word "poison" the first time it appears with the words "poison inhalation hazard."

Part 393 (FR Volume 64, No. 169, Page 47703, 9-1-99)

This rule requires certain trailers and semitrailers with a gross vehicle weight rating of 10,001 pounds or more, manufactured on or after January 26, 1998, to be equipped with rear impact guards. These guards are required to improve the safety of operation of commercial motor vehicles by reducing the incidence of passenger compartment intrusion during underride accidents in which the passenger vehicle strikes the rear of the trailer.

Part 390 (FR Volume 64, No. 171, Page 48510, 9-3-99)

This rule revises the definition of "commercial motor vehicle" to mean a vehicle that has a gross vehicle weight rating, gross combination weight rating or vehicle weight or gross combination weight of 10,001 pounds or more, whichever is greater. This rule also revises the definition of "passenger carrying vehicle" within the definition of "commercial motor vehicle." However, the department is not adopting the "passenger carrying vehicle" definition because it conflicts with state law.

Part 171 (FR Volume 64, No. 179, Page 50260, 9-16-99)

This interim final rule provides a limited exception until October 1, 2001, for requirements to place the new poison inhalation hazard or poison gas labels on packages that are intended for transportation in international commerce. The exception applies only to Division 2.3 materials and Division 6.1 liquids in Hazard Zone A or B. Until that time, the existing poison gas and poison labels will be acceptable.

Part 171 (FR Volume 64, No. 185, Page 51719, 9-24-99)

In this correction, the September 16, 1999, interim final rule is revised to provide for the transportation of packages containing poison inhalation hazard materials between the United States and Canada in conformance with the transportation of dangerous goods labeling requirements.

Parts 107, 171, 172, 173 and 178 (FR Volume 64, No. 186, Page 51912, 9-27-99)

This final rule corrects editorial errors and makes minor regulatory changes in the hazardous materials regulations.

The other amendments to this chapter are due to the following:

- The Code of Federal Regulations is available from the state law library.
- 1999 Iowa Acts, chapter 96, section 34, numbered the paragraphs in Iowa Code section 321.449.
- 1998 Iowa Acts, chapter 1178, section 5, eliminated the motor carrier safety regulation exemption relating to hazardous materials which are clearly labeled.
- Public Law 106-159 established the Federal Motor Carrier Safety Administration.

Proposed rule 761—520.8(321) identifies Iowa's planting and harvesting seasons when the hours of service exemptions apply to drivers transporting agricultural commodities or farm supplies for agricultural purposes in Iowa. Various portions of the federal regulations and Iowa statutes allow some exceptions when the exceptions will not adversely impact the safe transportation of commodities on the nation's highways. Granting additional exceptions for drivers and the motor carrier industry in Iowa would adversely impact the safety of the traveling public in Iowa.

Any person or agency may submit written comments concerning these proposed amendments or may submit a written request to make an oral presentation. The comments or request shall:

1. Include the name, address, and telephone number of the person or agency authoring the comments or request.
2. Reference the number and title of the proposed amendment, as given in this Notice, that is the subject of the comments or request.
3. Indicate the general content of a requested oral presentation.
4. Be addressed to the Department of Transportation, Director's Staff Division, 800 Lincoln Way, Ames, Iowa 50010; fax (515)239-1639; Internet E-mail address tgeorge@max.state.ia.us.
5. Be received by the Director's Staff Division no later than May 9, 2000.

A meeting to hear requested oral presentations is scheduled for May 11, 2000, at 1 p.m. in the conference room of the Motor Vehicle Division, which is located on the upper level of Park Fair Mall, 100 Euclid Avenue, Des Moines.

The meeting will be canceled without further notice if no oral presentation is requested.

The proposed amendments may have an impact on small business. A request for a regulatory analysis pursuant to Iowa Code Supplement section 17A.4A must be received by the Director's Staff Division at the address listed in this No-

TRANSPORTATION DEPARTMENT[761](cont'd)

notice no later than 32 days after publication of this Notice in the Iowa Administrative Bulletin.

These amendments are intended to implement Iowa Code chapter 321.

Proposed rule-making actions:

ITEM 1. Amend subrule **520.1(1)**, paragraphs “a,” “b” and “d,” as follows:

a. Motor carrier safety regulations. The Iowa department of transportation adopts the Federal Motor Carrier Safety Regulations, 49 CFR Parts 390-399 (October 1, 1998 1999).

b. Hazardous materials regulations. The Iowa department of transportation adopts the Federal Hazardous Materials Regulations, 49 CFR Parts 107, 171-173, 177, 178, and 180 (October 1, 1998 1999).

d. ~~Obtaining copies~~ Copies of regulations. Copies of the federal regulations may be ~~obtained reviewed from at the Superintendent of Documents, United States Government Printing Office, Washington, D.C. 20402~~ state law library.

ITEM 2. Amend rule **761—520.2(321)** by amending the following definitions:

“Any requirements which impose any restrictions upon a person” as used in Iowa Code *Supplement* section 321.449(6), ~~unnumbered paragraph 8~~, means the requirements in 49 CFR Parts 391, ~~394~~ and 395.

“Driver age qualifications” as used in Iowa Code *Supplement* section 321.449(3), ~~unnumbered paragraph 3~~, means the age qualifications in 49 CFR 391.11(b)(1).

“Driver qualifications” as used in Iowa Code *Supplement* section 321.449(2), ~~unnumbered paragraph 2~~, means the driver qualifications in 49 CFR Part 391.

“Hours of service” as used in Iowa Code *Supplement* section 321.449(2), ~~unnumbered paragraph 2~~, means the hours of service requirements in 49 CFR Part 395.

“Record-keeping requirements” as used in Iowa Code *Supplement* section 321.449(2), ~~unnumbered paragraph 2~~, means the record-keeping requirements in 49 CFR Part 395.

“Rules adopted under this section concerning physical and medical qualifications” as used in Iowa Code *Supplement* section 321.449(5), ~~unnumbered paragraphs 5, 6 and 7~~, and Iowa Code section 321.450, unnumbered paragraph 2, means the regulations in 49 CFR 391.11(b)(6) and 49 CFR Part 391, Subpart E.

“Rules adopted under this section for a driver of a commercial vehicle” as used in Iowa Code *Supplement* section 321.449(4), ~~unnumbered paragraph 4~~, means the regulations in 49 CFR Parts 391 and 395.

ITEM 3. Amend paragraph **520.3(1)“d,”** as follows:

d. Motor vehicles registered for a gross weight of five tons or less when used by retail dealers or their employees to deliver hazardous materials, fertilizers, petroleum products and pesticides to farm customers ~~provided the hazardous materials which are transported are clearly labeled.~~

ITEM 4. Amend subrule 520.4(1) as follows:

520.4(1) Pursuant to Iowa Code section 321.450, unnumbered paragraph 3, “retail dealers of fertilizers, petroleum products, and pesticides and their employees while delivering fertilizers, petroleum products and pesticides to farm customers within a ~~100-mile~~ 100-air-mile radius of their retail place of business” are exempt from 49 CFR 177.804; and, pursuant to Iowa Code *Supplement* section 321.449(4), ~~unnumbered paragraph 4~~, they are exempt from 49 CFR Parts 391 and 395. However, pursuant to Iowa Code section 321.449, the retail dealers and their employees under the

specified conditions are subject to the regulations in 49 CFR Parts 390, 392, 393, ~~394~~, 396 and 397.

ITEM 5. Amend subrule 520.6(1) as follows:

520.6(1) A person shall not operate a commercial vehicle or transport hazardous material in violation of an out-of-service order issued by an Iowa peace officer. An out-of-service order for noncompliance shall be issued when either the vehicle operator is not qualified to operate the vehicle or the vehicle is unsafe to be operated until necessary repairs are made. The out-of-service order shall be consistent with the North American Uniform Out-of-Service Criteria issued by the ~~Federal Highway Administration, Office of Motor Carriers~~ Federal Motor Carrier Safety Administration.

ITEM 6. Amend rule 761—520.7(321), introductory paragraph, as follows:

761—520.7(321) Driver’s statement. A “driver” as used in Iowa Code *Supplement* section 321.449(5), ~~unnumbered paragraph 5~~, and Iowa Code section 321.450, unnumbered paragraph 2, shall carry at all times a notarized statement of employment. The statement shall include the following:

ITEM 7. Amend 761—Chapter 520 by adopting the following **new** rule:

761—520.8(321) Agricultural operations. The provisions of 49 CFR Part 395.3 shall not apply to drivers transporting agricultural commodities or farm supplies for agricultural purposes in Iowa if such transportation:

1. Is limited to an area within a 100-air-mile radius from the source of the commodities or the distribution point from the farm supplies, and

2. Is conducted only during the time frames of March 15 through June 30 and October 4 through December 14.

This rule is intended to implement Iowa Code sections 321.449 and 321.450.

ARC 9778A

TRANSPORTATION DEPARTMENT[761]

Notice of Intended Action

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

Pursuant to the authority of Iowa Code sections 307.10 and 307.12, the Department of Transportation hereby gives Notice of Intended Action to adopt Chapter 911, “School Transportation Services Provided by Regional Transit Systems,” Iowa Administrative Code.

Iowa Code Supplement section 321.377 requires the DOT to develop rules governing the provision of school transportation services by regional transit systems. The DOT developed the proposed rules in consultation with the Department of Education.

These rules establish standards for any school transportation services provided by Iowa’s regional transit systems. Specific requirements are set in the areas of driver qualifications, vehicles and equipment, maintenance practices, and operating policies.

A waiver provision is not included in these rules because flexibility is provided by establishing a later compliance date for certain requirements which are expected to be more diffi-

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cult to meet. Issuing other waivers would be inappropriate for safety-related rules of this nature.

Any person or agency may submit written comments concerning these proposed rules or may submit a written request to make an oral presentation. The comments or request shall:

1. Include the name, address, and telephone number of the person or agency authoring the comments or request.

2. Reference the number and title of the proposed rule, as given in this Notice, that is the subject of the comments or request.

3. Indicate the general content of a requested oral presentation.

4. Be addressed to the Department of Transportation, Director's Staff Division, 800 Lincoln Way, Ames, Iowa 50010; fax (515)239-1639; Internet E-mail address tgeorge@max.state.ia.us.

5. Be received by the Director's Staff Division no later than May 9, 2000.

A meeting to hear requested oral presentations is scheduled for Thursday, May 11, 2000, at 9:30 a.m. in the conference room of the Motor Vehicle Division, which is located on the upper level of Park Fair Mall, 100 Euclid Avenue, Des Moines, Iowa.

The meeting will be canceled without further notice if no oral presentation is requested.

These rules are intended to implement Iowa Code sections 321.189, 321.343, 321.376 and 324A.1 and Iowa Code Supplement sections 321.1 and 321.377.

The proposed rules may cause political subdivisions or their contractors to incur additional combined annual expenditures in excess of \$100,000. Pursuant to Iowa Code section 25B.6, a fiscal impact statement accompanies this Notice:

Fiscal Impact Statement

School Transportation Services

Provided by Regional Transit Systems

The proposed rules regulating the transportation of students by regional transit systems will impact the transit systems on both the capital and operating sides of the systems' budgets. A portion of the capital costs may be covered by federal transit funds, but the remainder of the cost increases will largely be passed along to the schools and other institutions contracting for services. On the capital side, some existing 15 passenger vans may have to be replaced. In addition, any new regional transit buses purchased will need to incorporate a rear emergency exit door, which has not previously been required. On the operating side, regional transit systems will be required to put drivers assigned to student transportation contracts through additional training/licensing. Regional transit systems may also have to upgrade some of the safety equipment carried on the buses (first aid and body fluid cleanup kits and fire extinguishers). The regional transit systems will also have higher per mile operating costs for the larger and heavier vehicles.

It is estimated that regional transit systems may be using 10 to 15 vans for student transportation statewide. In some cases, individual transit systems may be able to substitute a bus that would comply with these rules by shifting vehicle assignments within their fleet. If not, the transit systems will either need to stop assisting the local school systems or purchase compliant buses to replace the vans. If a van is currently scheduled for replacement, the additional cost to upgrade to a compliant small bus will be approximately \$25,000. This estimate is based on standard programming guidance used by the department of transportation. If a van must be replaced ahead of schedule, the net cost is estimated to be

approximately \$40,000. Estimating that 12 vans may need to be replaced, with nine replaced early and three replaced on schedule, it is anticipated that replacements would result in one-time additional costs of \$435,000.

About 40 small buses are purchased by regional transit systems in a typical year. All of these buses are already purchased in compliance with the Federal Motor Vehicle Safety Standards cited in these rules. However, about 80 percent meet the emergency exit requirements using window exits rather than the rear door specified in the proposed rules. The annual cost to equip the rest of the new vehicles with rear emergency exit doors is estimated to be only about \$200 more per bus, for an additional annual cost of \$6,400.

Statewide, there are approximately 120 regional transit drivers providing student transportation services, plus another 60 who are potential substitutes. Currently, all drivers go through their regional transit system's driver training program. Under the new rules, the regional transit systems will also be required to have each driver complete school bus operator training and obtain a school bus operator's permit. It is estimated that the cost of such additional training is approximately \$40 per driver for tuition, and \$128 per driver in labor costs (based on four 3-hour sessions of training, plus an hour of travel for each session, and an \$8 per hour average wage). The initial additional cost for training would come to \$30,240. Each year thereafter, any new drivers would have to complete the 12-hour initial training, while veterans would only need a 3-hour refresher, which has a tuition cost of \$15 and \$32 for labor (including travel time). Assuming a turnover rate of 20 percent, the ongoing cost of the additional training would be \$12,816.

Most transit systems already equip their vehicles with the safety equipment specified in these rules. It is estimated that the initial cost of equipping any deficient vehicles will be less than \$5,000 statewide.

The 12 vans to be upgraded to small buses in order to be in compliance with these rules will cost about \$.04/mile more in fuel costs. Based on average vehicle utilization of 20,000 miles/year, this will increase operating costs by \$800 per vehicle each year or \$9,600 statewide.

Regional transit systems already conduct inspections of their vehicles. It is anticipated that the additional cost of meeting the self-inspection and record keeping is nominal. The cost to pull vehicles out of service for Department of Education inspections during working hours is expected to be more significant. It will involve either canceling services for client agencies during these times or employing additional drivers to exchange backup vehicles with regular service vehicles so that the service vehicles can be brought in during the scheduled inspection periods. At this time, it is unclear exactly how each system will address this issue and, therefore, what the cost impact will be.

Total estimated impacts are as follows:

(initial)	\$435,000	van replacement
	5,000	miscellaneous safety equipment
	30,240	driver training/licensing
	<hr/>	
	\$470,240	
(ongoing)	\$ 6,400	rear emergency exit doors
	12,816	driver training/licensing
	9,600	additional fuel
	<hr/>	
	\$ 28,816	

TRANSPORTATION DEPARTMENT[761](cont'd)

Proposed rule-making action:

The following **new** chapter is proposed.

CHAPTER 911

SCHOOL TRANSPORTATION SERVICES PROVIDED
BY REGIONAL TRANSIT SYSTEMS**761—911.1(321) Purpose and information.**

911.1(1) Purpose. This chapter establishes standards for school transportation services provided by Iowa's regional transit systems under contract with local schools.

911.1(2) Information. Information and forms may be obtained from the Department of Transportation, Office of Public Transit, 100 East Euclid Avenue, Suite 7, Des Moines, Iowa 50313; telephone (515)237-3302.

761—911.2(321,324A) Definitions. For the purpose of these rules, the following definitions apply:

"Automobile" means a motor vehicle, except a motorcycle or motorized bicycle, designed primarily to carry nine persons or less, as defined in Iowa Code section 321.1.

"Bus" means a motor vehicle, excluding a trailer, designed to carry more than ten persons.

"Contract" means a written agreement between a public or nonpublic school or other group and a regional transit system which defines the terms and conditions under which school transportation service is to be provided. It shall not include the relationship between a regional transit system and an individual fare-paying passenger in either fixed route or demand response service.

"Multipurpose vehicle" means a motor vehicle designed to carry not more than ten persons, and constructed either on a truck chassis or with special features for occasional off-road operation, as defined in Iowa Code section 321.1.

"Regional transit system" means a regional transit system designated under Iowa Code section 324A.1 and all subcontracted providers to the designated regional transit system. It does not mean an urban transit system designated under that section.

"School bus" means a bus that complies with all federal motor vehicle safety standards applicable to a school bus.

"School transportation service" means transit service provided under contract to a public or nonpublic school or other group, including day care centers, to transport students to or from schools or school-sponsored activities.

"Student" means a person attending a public or nonpublic school, grades pre-kindergarten through high school.

"Vehicle" means an automobile, multipurpose vehicle, bus or school bus as defined in this rule.

761—911.3(321) Services to students as part of the general public. All services provided by regional transit systems must be open to the public. This chapter shall not be construed to restrict the use of these services by any individual fare-paying passenger, in either fixed route or demand response service.**761—911.4(321) Contracts for nonexclusive school transportation.** As common carriers in urban transportation service, regional transit systems may contract with schools, day care providers, after-school program providers, or others to provide nonexclusive school transportation service that meets the requirements of this chapter. Exclusive service contracts are prohibited.**761—911.5(321) Adoption of federal regulations.**

911.5(1) Code of Federal Regulations. The department of transportation adopts the following portions of the October

1, 1999, Code of Federal Regulations, which are referenced throughout this chapter:

a. 49 CFR Part 38, Americans with Disabilities Act Accessibility Specifications for Transportation Vehicles.

b. 49 CFR Part 571, Federal Motor Vehicle Safety Standards.

c. 49 CFR Part 653, Prevention of Prohibited Drug Use in Transit Operations.

d. 49 CFR Part 654, Prevention of Alcohol Misuse in Transit Operations.

911.5(2) Obtaining copies of regulations. Copies of these regulations are available from the state law library.

761—911.6(321) Driver standards. The following standards apply to regional transit system drivers assigned to provide school transportation service:

911.6(1) FTA drug and alcohol testing. Each driver is subject to the following testing for drug and alcohol usage as required by the Federal Transit Administration in 49 CFR Parts 653 and 654, including:

- a. Preemployment testing.
- b. Reasonable suspicion testing.
- c. Postaccident testing.
- d. Random testing.
- e. Return to duty testing.
- f. Follow-up testing.

911.6(2) Training. Each new driver must, within the first six months of assignment and at least every 24 months thereafter, complete a course of instruction approved by the department of education, in accordance with Iowa Code section 321.376.

911.6(3) Driving record check. The regional transit system must review the driving record of each driver prior to employment and on an annual basis.

911.6(4) Criminal record check. The regional transit system must conduct a criminal records review of each driver prior to employment and on an annual basis. This review verifies that the driver has no history of child abuse or other criminal activity.

911.6(5) Driver licensing. Each driver must be licensed appropriately for the size and type of vehicle used as provided in Iowa Code section 321.189. A Class A, B or C commercial driver's license with passenger endorsement may be required. If a commercial driver's license is not required, a Class D (chauffeur) license with passenger endorsement is required.

911.6(6) School bus operator's permit. Each driver who transports students must have a school bus operator's permit issued by the department of education in accordance with Iowa Code section 321.376.

761—911.7(321) Vehicle standards. The following standards apply to regional transit system vehicles assigned to provide school transportation service:**911.7(1) Vehicle construction.**

a. Each vehicle must be constructed in compliance with the federal motor vehicle safety standards for that type of vehicle as set forth in 49 CFR Part 571. The capacity rating of automobiles and multipurpose vehicles shall not be modified or altered in any way except by the original manufacturer.

b. On or after July 1, 2001, each bus in use must also comply with the following federal motor vehicle safety standards:

(1) Standard No. 217, Bus Emergency Exits and Window Retention and Release. Buses purchased after January 1, 2000, shall incorporate a rear emergency exit door in meeting this standard.

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- (2) Standard No. 220, School Bus Rollover Protection.
- (3) Standard No. 221, School Bus Body Joint Strength.
- (4) Standard No. 301, Fuel System Integrity.

911.7(2) Passenger restraint/protection. Each automobile, multipurpose vehicle or school bus must provide passenger restraint/protection devices as required for that type of vehicle in the federal motor vehicle safety standards. Each bus must meet the standards listed in either "a" to "d" below or "e" below:

- a. Standard No. 207, Seating Systems.
- b. Standard No. 208, Occupant Crash Protection.
- c. Standard No. 209, Seat Belt Assemblies.
- d. Standard No. 210, Seat Belt Assembly Anchorages.
- e. Standard No. 222, School Bus Passenger Seating and Crash Protection.

911.7(3) Accessibility for persons with disabilities. Each vehicle used for students with disabilities must comply with all applicable provisions of 49 CFR Part 38.

911.7(4) Signage. A vehicle must not be signed as a school bus.

911.7(5) Department of education inspection. Every vehicle must be inspected twice annually by the department of education school bus inspectors and officers of the Iowa state patrol to determine if the vehicle meets all vehicle standards set forth in this chapter.

The department of education will notify each regional transit system of the dates and locations of scheduled inspections. Inspections must be documented on a form prescribed jointly by the departments of transportation and education.

761—911.8(321) Maintenance. Regional transit system vehicles assigned to provide school transportation service must be maintained in a safe and operable condition. The following maintenance practices apply:

911.8(1) FTA drug and alcohol testing of mechanics. All personnel providing maintenance services on regional transit system vehicles are subject to drug and alcohol testing as required by the Federal Transit Administration in 49 CFR Parts 653 and 654.

911.8(2) Daily pretrip vehicle inspections. Drivers of these vehicles must perform daily pretrip vehicle inspections using a form prescribed by the department of transportation. Regional transit systems must retain daily pretrip vehicle inspection reports and documentation of follow-up maintenance for one year.

911.8(3) Annual vehicle inspection. Maintenance personnel must annually inspect each vehicle using a form prescribed by the department of transportation. Regional transit systems must retain annual inspection forms for one year.

761—911.9(321) Safety equipment. Regional transit system vehicles assigned to provide school transportation service must carry the following safety equipment:

911.9(1) Communication equipment. Each vehicle must be equipped with a two-way radio or cellular phone capable of emergency communication between the vehicle and the regional transit system's base of operations.

911.9(2) First aid/body fluids cleanup kit(s). Each vehicle must be equipped with a first aid kit of sufficient size and content for the capacity of the vehicle and, in addition, be equipped with a body fluid cleanup kit. These may be provided as separate kits or combined into one kit. The contents of the kit(s) must be contained in one or more moisture-proof and dust-proof containers mounted in an accessible location within the driver's compartment and must be removable from the vehicle in an emergency.

911.9(3) Fire extinguisher. Each bus or school bus must be equipped with a minimum 5-pound capacity, dry chemical fire extinguisher. Each automobile and multipurpose vehicle must be equipped with an extinguisher of at least 2.5-pound capacity. Extinguishers must have a 2A-10BC rating.

761—911.10(321) Operating policies. School transportation services provided by regional transit systems must be designed to maximize the safety of student riders and must, at a minimum, meet the following standards:

911.10(1) Passenger loading/unloading. Unless prohibited by law, students transported in vehicles other than school buses must be loaded and unloaded on the same side of the street as their residence or other origin or destination. Students may be released only to the custody of a designated school official, parent or guardian, employee of the department of human services, or law enforcement official, unless other arrangements are made in advance.

911.10(2) Student passenger behavior and discipline policy. Each contract for school transportation service must include a policy relating to behavior of students while they ride in vehicles. The regional transit system or school must provide instruction to all drivers assigned to school transportation service relative to the content and application of the policy. If a student is removed from a vehicle for one or more policy violations, the student may be released only to the custody of a school official, parent or guardian, employee of the department of human services or a law enforcement officer. In all cases, the school must be notified immediately of any such disciplinary action, and a written report must be filed with the school describing the circumstances resulting in the removal.

911.10(3) Standing prohibited. Under no circumstances shall a student be permitted or required to stand while a vehicle is in motion. Every student must be provided an appropriate seat at all times.

911.10(4) Stops at rail crossings. Every driver must make a complete stop before crossing the tracks of any railroad crossing, in accordance with Iowa Code section 321.343. In the case of a bus or school bus, the driver must open the service entrance door, look and listen for approaching trains and proceed to cross the tracks only when the driver can do so safely. No stop is needed where the crossing is posted with an exempt sign.

911.10(5) Accident reporting. If a driver is involved in a collision or other incident causing or having a potential to cause injuries to students, the regional transit system must immediately notify the school of the incident. The regional transit system must file all accident reports required by law. In addition, the regional transit system must complete a school bus accident report on a form prescribed by the department of education and submit it to the school or the department of education.

911.10(6) Passenger instruction/evacuation drills. Each school must provide students assigned to school transportation service with school bus passenger safety instruction and emergency evacuation drills at least twice each school year. These evacuation drills must involve a vehicle of the same type used to provide the school transportation service.

911.10(7) Special training for drivers carrying students with disabilities. Each school contracting for school transportation services for a student with one or more disabilities must provide the regional transit system with information on any special needs of the student and, if necessary, provide the assigned driver with appropriate information and training on

TRANSPORTATION DEPARTMENT[761](cont'd)

how to appropriately respond to the needs of the student during transit and in the event of an emergency.

These rules are intended to implement Iowa Code sections 321.189, 321.343, 321.376 and 324A.1 and Iowa Code Supplement sections 321.1 and 321.377.

NOTICE—PUBLIC FUNDS INTEREST RATES

In compliance with Iowa Code chapter 74A and section 12C.6, the committee composed of Treasurer of State Michael L. Fitzgerald, Superintendent of Credit Unions James E. Forney, Superintendent of Banking Holmes Foster, and Auditor of State Richard D. Johnson have established today the following rates of interest for public obligations and special assessments. The usury rate for April is 8.50%.

INTEREST RATES FOR PUBLIC

OBLIGATIONS AND ASSESSMENTS

- 74A.2 Unpaid Warrants Maximum 6.0%
- 74A.4 Special Assessments Maximum 9.0%

RECOMMENDED for 74A.3 and 74A.7: A rate equal to 75% of the Federal Reserve monthly published indices for U.S. Government securities of comparable maturities.

The rate of interest has been determined by a committee of the state of Iowa to be the minimum interest rate that shall be

paid on public funds deposited in approved financial institutions. To be eligible to accept deposits of public funds of the state of Iowa, a financial institution shall demonstrate a commitment to serve the needs of the local community in which it is chartered to do business. These needs include credit services as well as deposit services. All such financial institutions are required to provide the committee with a written description of their commitment to provide credit services in the community. This statement is available for examination by citizens.

New official state interest rates, effective April 11, 2000, setting the minimums that may be paid by Iowa depositories on public funds are listed below.

TIME DEPOSITS

- 7-31 days Minimum 5.20%
- 32-89 days Minimum 5.40%
- 90-179 days Minimum 5.70%
- 180-364 days Minimum 5.90%
- One year Minimum 5.90%
- Two years or more Minimum 6.10%

These are minimum rates only. The one year and less are four-tenths of a percent below average rates. Public body treasurers and their depositories may negotiate a higher rate according to money market rates and conditions.

Inquiries may be sent to Michael L. Fitzgerald, Treasurer of State, State Capitol, Des Moines, Iowa 50319.

ARC 9791A

ELDER AFFAIRS
DEPARTMENT[321]

Adopted and Filed

Pursuant to the authority of Iowa Code section 231.44, the Department of Elder Affairs hereby amends Chapter 9, "Care Review Committees," Iowa Administrative Code.

These amendments incorporate the "resident advocate" name change as passed by the 1999 Legislature in Iowa Code Supplement section 135C.11(2); propose a streamlining of reporting procedures for resident advocate volunteers; redefine duties of Area Agencies on Aging; address the reconfiguration of the program in facilities for persons with mental retardation and mental illness; and correct Iowa Code citations.

Notice of Intended Action was published in the Iowa Administrative Bulletin on February 23, 2000, as **ARC 9696A**. A public hearing was held on March 14, 2000. Written comments from one nursing home association were received and addressed. These amendments are identical to those published under Notice of Intended Action.

These amendments are intended to implement Iowa Code section 231.44.

These amendments will become effective May 24, 2000. The following amendments are adopted.

Amend 321—Chapter 9 as follows:

CHAPTER 9

~~CARE REVIEW RESIDENT ADVOCATE~~
COMMITTEES**321—9.1(249D 231) ~~Care review Resident advocate committees established.~~**

9.1(1) Committee for each licensed facility. A ~~care review resident advocate~~ committee shall be established for each licensed health care facility as defined in Iowa Code section 135C.1, in accordance with Iowa Code section 135C.25 and chapter ~~249D 231~~, and shall operate within the scope of these rules.

9.1(2) Committee membership. The committee shall consist of at least ~~three~~ *two* members or a number sufficient to maintain a ratio of *at least* 1 member to 15 residents ~~with the maximum size not to exceed 12 members~~. The ratio shall be waived by the department if the committee demonstrates the ability to carry out the functions outlined in these rules with fewer members.

9.1(3) Committee member residence. Members shall reside within the service area of the facility.

321—9.2(249D 231) ~~Application for committee membership.~~ Any individual may apply to the department for membership. AAAs and other organizations are encouraged to recommend names of potential volunteers for ~~care review resident advocate~~ committee membership to the department.

9.2(1) Application forms. Application forms may be obtained from any AAA, ~~or~~ the department address in rule ~~321—2.1(249D 231)~~, *or other organizations designated by the department*.

9.2(2) Submission of forms. Each applicant shall complete and submit an application for membership to the department address in rule ~~321—2.1(249D 231)~~.

9.2(3) Membership restriction. Applications for membership on ~~care review resident advocate~~ committees will

not be accepted unless if the applicant has an ownership interest in a facility; or is employed by the facility or a competing facility; or has been employed by the facility within the past three years; or is related to an employee, board member, or licensee of the facility; or is a public employee involved with the sponsoring or placement of residents in the facility; or is an administrator of the a long-term care facility; or is a professional consultant to the facility. Relatives shall be defined as any one of the following: father, mother, son, daughter, brother, sister, aunt, uncle, first cousin, nephew, niece, wife, husband, father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, sister-in-law, stepparent, stepbrother, stepchild, stepsister, half sister, half brother, grandparent or grandchild.

9.2(4) Waiver of membership restriction. The waiver of membership restriction for relatives in subrule 9.2(3) may be reviewed and approved by the ~~commission~~ *executive director* and granted, if it can be documented to the department that efforts have been made individually or jointly by the ~~care review resident advocate~~ committee, AAA, or the department to contact and recruit alternative applicants.

9.2(5) Committee membership for facilities for mentally ill, mentally retarded, or developmentally disabled. Applications for ~~care review resident advocate~~ committee membership for any facility caring primarily for persons who are mentally ill, mentally retarded, or developmentally disabled shall be accepted only after consultation with the director of the division of mental health, mental retardation and developmental disabilities of the Iowa department of human services. The applications shall be considered acceptable if the director of the division of mental health, mental retardation and developmental disabilities of the Iowa department of human services institutes no disqualifying action within ten days of notification of the proposed appointments.

321—9.3(249D 231) ~~Appointment to care review resident advocate committees.~~

9.3(1) Notification. Members of the ~~care review resident advocate~~ committee shall be appointed from individuals whose ~~application~~ *applications* for membership ~~has~~ *have* been accepted according to this rule. Appointments shall be made by letter within 45 days of ~~notification of a vacancy receipt of applications~~ by the executive director or designee. Appropriate AAAs and facilities shall be notified of the appointments.

9.3(2) Traits or skills. Appointment of ~~care review resident advocate~~ committee members may be made from accepted applicants who may, but are not required to, possess a combination of the following traits or skills: knowledge of the long-term care system; understanding of the aging process; training in the human services field; experience in complaint identification, processing, and documentation; a commitment to the welfare and rights of residents; and understanding of the types and needs of clients served by the facility.

9.3(3) Preference. Preference for membership on ~~care review resident advocate~~ committees may be given to applicants with backgrounds and expertise that differ from existing members of the same committee.

321—9.4(249D 231) ~~Cancellation of appointments to care review resident advocate committees.~~

9.4(1) Reasons for cancellation. A ~~care review resident advocate~~ committee member's appointment may be canceled by the executive director for any of the following reasons: falsification of information on the application for membership form, acting as a member without appointment,

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attending less than one-half of the meetings convened each year by the ~~care review resident advocate~~ committee chairperson, voluntary resignation, and actions which are found by the executive director to violate these rules or the intent of the ~~resident's advocate/~~ ombudsman program.

9.4(2) Filing an objection. A facility administrator who objects to the membership of the ~~care review resident advocate~~ committee for that facility may file ~~an~~ a written objection with the executive director. The objection shall be considered and investigated as a confidential complaint.

9.4(3) Notification of cancellation. The executive director shall notify, in writing, the remaining committee members, the appropriate AAA, and the facility of the cancellation of ~~care review resident advocate~~ committee members' appointments.

321—9.5(249D 231) Request for reconsideration of appointment or cancellation of appointment.

9.5(1) ~~Timeline~~ Time of request. A request for reconsideration of the decision of the executive director concerning the appointment or cancellation of ~~the appointment of a care review resident advocate~~ committee member may be made in writing to the department within 30 days of the written notice of the executive director's ~~decision~~ appointment or cancellation.

9.5(2) ~~Timeline~~ Time for response. The executive director shall consider the request and notify the requesting party of the director's decision regarding the request within 30 days of receiving written notice of the request.

321—9.6(249D 231) Care review Resident advocate committee structure and meetings.

9.6(1) Structure. Every committee shall have a chairperson and secretary selected by the membership. The chairperson shall coordinate the activities of the committee. The secretary shall record minutes of each meeting and prepare reports as necessary.

9.6(2) Meetings. The committee shall meet at least quarterly and on other occasions as required to accomplish its responsibilities. The chairperson shall notify all members of the time and place of each meeting.

a. The administrator or staff of the facility shall not attend committee meetings except upon request of the committee.

b. Confidential information shall not be discussed during meetings when members of the general public are present.

c. The secretary shall submit written minutes to the administrator and to the ~~department at the conclusion of each meeting~~ resident advocate coordinator if the facility is a nursing facility or residential care facility.

d. Committee minutes shall be retained by the facility for a period of at least two years and shall be available to the department of inspections and appeals and the department of elder affairs upon request.

321—9.7(249D 231) Responsibilities of the committee.

9.7(1) Duties. The committee shall represent and advocate for the rights of residents of the facility.

9.7(2) The committee or individual members shall:

a. Conduct a ~~review~~ ongoing reviews of each resident annually according to the procedures identified in rule 9.10(249D 231);

b. Investigate complaints and grievances according to the procedures established in rule 9.11(249D 231); and

c. Participate in a training session approved by the department at least once per year.

321—9.8(249D 231) Committee access and assistance.

9.8(1) Access. The committee shall have access to the facility and private access to the residents.

9.8(2) Assistance to the committee. The committee may request information, advice, and counsel from the facility administrator, medical or health professionals or specialists, AAAs, the department or from other state and local agencies.

a. The physician's certification of care shall be made available to the committee by the administrator of the facility.

b. Physicians who have patients residing in the facility shall have the responsibility of assisting the committee upon request.

c. Upon contacting anyone on behalf of residents in the performance of duties, the ~~care review resident advocate~~ committee member shall clearly identify ~~oneself~~ be identified as a ~~care review resident advocate~~ committee member who is a volunteer advocate and shall clearly state the purpose and justification for this contact.

321—9.9(249D 231) Confidentiality.

9.9(1) Restriction on access. ~~Care review Resident advocate~~ committee members shall not have access to the following unless access is granted by the resident or resident's responsible party:

a. Medical, financial or personal records of the residents; or

b. Records of the social services department of the facility.

9.9(2) Nondisclosure of information. The committee shall not disclose information concerning the residents or the operation of the facility in a manner that will identify individuals or the facility, except to the ~~resident's advocate/~~ ombudsman program or as requested in proceedings involving the investigation of a facility by the department of inspections and appeals.

321—9.10(249D 231) Committee procedures.

9.10(1) Resident reviews. To evaluate the degree of satisfaction that residents have with the quality of life experienced in the facility in which they reside, the following procedures shall be used:

a. Resident reviews shall be recorded, including responses to questions asked of residents or their representatives.

b. The committee shall establish a schedule for at least one private interview annually with each resident in the facility.

9.10(2) Review visits. Committee members shall make some visits without prior notice to the facility to observe residents at different times of the day. ~~Committee members shall notify the staff person in charge of the facility that they are in the facility.~~

9.10(3) Review reports. The report of each resident review shall be discussed *with the committee as appropriate* and provided to the administrator of the facility following the private interview of the resident. Reports shall be retained by the ~~facility committee chairperson~~ for a period of at least two years. The report shall be available to the department of inspections and appeals and department of elder affairs; upon request.

9.10(4) Complaints and grievances during reviews. Complaints and grievances identified by the resident during resident reviews shall be handled according to subrule 9.11(2) and shall not be recorded with resident reviews.

321—9.11(249D 231) Committee response to complaints and grievances.

ELDER AFFAIRS DEPARTMENT[321](cont'd)

9.11(1) General rule. Throughout the investigation of all complaints and grievances, the committee shall maintain objectivity and act as advocates for residents without being adversaries of the facility.

a. The dignity and privacy of residents will be maintained by all persons involved in a complaint or grievance investigation.

b. The committee may receive and investigate complaints or grievances regarding the rights and welfare of residents of a facility using the procedures appropriate to the source of the complaint, either from an individual or the department of inspections and appeals.

c. The committee shall solicit the input of the complainant or resident regarding the complainant's or resident's wishes on action to be pursued by the committee.

d. The purpose of the committee response to complaints or grievances is to seek the ~~mutually satisfactory~~ resolution of problems and prevent unnecessary recourse to *such* regulatory action against a facility. This purpose shall not, however, prevent such regulatory action when necessary to protect or achieve the rights of residents.

9.11(2) Action upon receipt of a complaint or grievance. Upon receipt of a complaint or grievance, the committee will contact the facility administrator to discuss the allegations, only if the contact does not violate confidentiality, ~~and shall forward a copy of the complaint or grievance to the resident's advocate/ombudsman.~~

a. Information which may identify the complainant or resident shall be confidential unless the complainant or resident has given written permission to the ~~care review resident advocate~~ committee for the disclosure of the identity.

b. A committee member will investigate ~~or forward~~ the complaint or grievance to the ~~resident's advocate/ombudsman~~ within seven calendar days of receipt or forward the complaint or grievance to the ~~resident's advocate/ombudsman~~. Life- or health-threatening complaints will be forwarded within 72 hours.

c. The investigating ~~care review resident advocate~~ committee member shall make an unannounced visit to the facility, ~~and upon arrival at the facility, may notify the staff person in charge of the facility that the member is in the facility.~~

d. The committee member investigating the complaint or grievance will, to the extent possible, ascertain the facts of the situation by talking with residents, staff, and others who might have information regarding the matter under investigation and through personal observations of conditions and activities in the facility.

e. ~~The committee shall attempt to resolve the situation to the mutual satisfaction of the facility administrator and the complainant.~~

f. ~~If, after 14 days, a resolution has not been reached, the committee shall file a written report with may contact the resident's advocate/ombudsman program for follow-up action as appropriate. The report shall document all attempts of resolution pursued by the committee. The resident's advocate/ombudsman program shall forward a copy of the report to the department of inspections and appeals.~~

g. ~~The committee will inform the complainant of any action taken in response to the complaint or grievance within 20 days of receipt members are responsible for keeping the complainants informed of progress of the complaint.~~

321—9.12(249D 231) Complaints referred from the department of inspections and appeals. The following procedures shall apply to complaints referred by the department of inspections and appeals to the department of elder affairs:

9.12(1) Referral process. Complaints or grievances received or initiated by the department of inspections and appeals may be referred for investigation to the ~~care review resident advocate~~ committee by transmittal to the ~~resident's advocate/ombudsman~~ program at the department, address in 321—subrule 2.1(2).

9.12(2) Confidentiality. Information that may identify the complainant or resident shall be confidential.

9.12(3) Notification. The ~~resident's advocate/ombudsman~~ program will provide adequate information within three days to a member of the appropriate ~~care review resident advocate~~ committee. Written notification will be provided within seven days.

9.12(4) Investigation. A committee member will investigate the complaint or grievance in accordance with rule 9.11(249D 231).

321—9.13(249D 231) Role of the AAAs. AAAs shall carry out the following activities in support of the ~~resident's advocate/ombudsman~~ program *in nursing facilities and residential care facilities*:

1. Advise the ~~resident's advocate/ombudsman~~ program on the training needs of ~~care review resident advocate~~ committees in the planning and service area of the area agency;

2. Assist the ~~resident's advocate/ombudsman~~ program in training and coordinating the training of ~~care review resident advocate~~ committee members;

3. Distribute department-provided forms if requested by ~~care review resident advocate~~ committees;

4. Assist ~~care review resident advocate~~ committees to obtain legal and other technical assistance;

5. Recruit applicants for membership on ~~care review resident advocate~~ committees; and

6. Assist in the resolution of complaints or grievances being investigated by ~~care review resident advocate~~ committees or the ~~resident's advocate/ombudsman~~ program as requested.

321—9.14(249D 231) Approval of training for committees *in nursing facilities and residential care facilities*.

9.14(1) Potential provider requirements. The provider of proposed training for ~~care review committee members~~ shall submit the training agenda, facility, and objectives to the ~~resident's advocate/ombudsman~~ program for approval 30 days prior to the date of the proposed training.

9.14(2) Timeline Time for approval or disapproval. The ~~resident's advocate/ombudsman~~ program shall approve or disapprove the proposal and notify the provider of the proposed training within ten working days of receipt of the proposal.

9.14(3) Provider reports. Upon completion of the ~~care review resident advocate~~ committee training, the provider of the training shall submit a list of the name and address of each ~~care review resident advocate~~ committee member trained and the name and address of the long-term care facility at which each trained ~~care review committee~~ member serves, to the ~~resident's resident advocate/ombudsman~~ program coordinator within ten days following completion of the training course. *The ombudsman shall audit records at least once per year or as needed.*

ELDER AFFAIRS DEPARTMENT[321](cont'd)

These rules are intended to implement Iowa Code chapter 231.

[Filed 3/30/00, effective 5/24/00]
[Published 4/19/00]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 4/19/00.

ARC 9777A

INSPECTIONS AND APPEALS DEPARTMENT[481]

Adopted and Filed

Pursuant to the authority of Iowa Code section 135C.14, the Department of Inspections and Appeals amends Chapter 51, "Hospitals," Iowa Administrative Code.

This amendment reflects changes made to Iowa Code section 135B.7 during the 1999 Legislative Session (1999 Iowa Acts, Senate File 277) regarding hospital medical staff.

Notice of Intended Action was published in the Iowa Administrative Bulletin on February 9, 2000, as **ARC 9655A**. No public comment was received on this amendment. The adopted amendment is identical to the amendment published under Notice.

The Hospital Licensing Board approved the adoption of this amendment on February 24, 2000. The Board of Health approved the adoption of the amendment on March 8, 2000.

This rule reflects statutory provisions. Therefore, a waiver of this rule or a portion of this rule would conflict with state law.

This amendment will become effective May 24, 2000.

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

The following amendment is adopted.

Amend subrule 51.5(3) as follows:

51.5(3) A hospital shall not deny clinical privileges to physicians and surgeons, podiatrists, osteopaths or osteopathic surgeons, dentists, or 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.

[Filed 3/30/00, effective 5/24/00]
[Published 4/19/00]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 4/19/00.

ARC 9792A

INSPECTIONS AND APPEALS DEPARTMENT[481]

Adopted and Filed

Pursuant to the authority of Iowa Code section 135C.14, the Department of Inspections and Appeals amends Chapter 51, "Hospitals," Iowa Administrative Code.

The amendment updates reference sources guiding hospitals in the development of policies and procedures for obstetric and neonatal services.

Notice of Intended Action was published in the Iowa Administrative Bulletin on February 9, 2000, as **ARC 9656A**. No public comment was received on this amendment. The adopted amendment is identical to the amendment published under Notice.

The Hospital Licensing Board approved the adoption of this amendment on February 24, 2000. The Board of Health approved the adoption of the amendment on March 8, 2000.

This amendment will become effective May 24, 2000.

This amendment is not subject to waiver because hospital rules are considered minimum standards.

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

The following amendment is adopted.

Amend subrule 51.32(2) as follows:

51.32(2) Written policies and procedures shall be implemented governing obstetric and neonatal services that are consistent with the needs of the patient and resources of the hospital. 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. to g. No change.

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*, ~~"Guidelines for Perinatal Services," Seventh Edition, Iowa Department of Public Health~~; and ~~"Guidelines for Perinatal Care," Third Fourth Edition, American Academy of Pediatrics, American College of Obstetrics and Gynecology.~~

[Filed 3/30/00, effective 5/24/00]
[Published 4/19/00]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 4/19/00.

ARC 9787A

REVENUE AND FINANCE DEPARTMENT[701]

Adopted and Filed

Pursuant to the authority of Iowa Code sections 421.17(19) and 422.68, the Department of Revenue and Finance hereby amends Chapter 13, "Permits," and Chapter 46, "Withholding," Iowa Administrative Code.

Notice of Intended Action was published in IAB Volume XXII, Number 17, page 1325, on February 23, 2000, as **ARC**

REVENUE AND FINANCE DEPARTMENT[701](cont'd)

9689A. These amendments are identical to those published under Notice of Intended Action.

Item 1 amends rule 701—13.2(422) to provide for an electronic signature when an application for a sales tax permit is electronically submitted.

Item 2 amends subrule 46.3(1), first unnumbered paragraph, by striking the requirement that the responsible parties sign the application for an Iowa withholding agent's identification number.

Rule 13.2(422) in Item 1 is a discretionary rule and is subject to the Uniform Waiver Rule found in Executive Order Number 11.

The amendments will become effective May 24, 2000, after filing with the Administrative Rules Coordinator and publication in the Iowa Administrative Bulletin.

These amendments are intended to implement Iowa Code section 421.17.

The following amendments are adopted.

ITEM 1. Amend rule 701—13.2(422) as follows:

701—13.2(422) Application for permit. An application for a permanent permit shall be made upon a form provided by the department, and the applicant shall furnish all information requested on such form.

An application for a permit for a business operating under a trade name shall state the trade name, as well as the individual owner's name, in the case of a sole ownership by an individual; or, the trade name and the name of all partners, in the case of a partnership.

The application shall be signed by the owner, in the case of an individual business; by a partner, in the case of a partnership, although all partners' names shall appear on the application; and by the president, vice president, treasurer or other principal officer of a corporation or association, unless written authorization is given by the officers for another person to sign the application.

For electronically transmitted applications, the application form shall state that in lieu of a person's handwritten signature, the E-mail address will constitute a valid signature.

The application shall state the date when the applicant will begin selling tangible personal property or taxable services at retail in Iowa from the location for which the application is made.

This rule is intended to implement Iowa Code section sections 421.17(15) and 422.53.

ITEM 2. Amend subrule 46.3(1), first unnumbered paragraph, as follows:

~~Where~~ When initial payment of wages, subject to Iowa withholding tax occurs late in the calendar quarter, or before the employer's or payer's federal employer's identification number is assigned by the Internal Revenue Service, the application for Iowa withholding agent's identification number shall be forwarded along with the first quarterly withholding return. The responsible party(ies) shall be listed on the application and the application shall be signed by each of the responsible party(ies) so listed.

[Filed 3/30/00, effective 5/24/00]

[Published 4/19/00]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 4/19/00.

ARC 9788A

**REVENUE AND FINANCE
DEPARTMENT[701]**

Adopted and Filed

Pursuant to the authority of Iowa Code sections 421.14 and 422.68, the Department of Revenue and Finance hereby amends Chapter 150, "Offset of Debts Owed State Agencies," Iowa Administrative Code.

Notice of Intended Action was published in IAB Volume XXII, Number 17, page 1326, on February 23, 2000, as **ARC 9698A**.

This amendment adopts a new division within Chapter 150 entitled "Federal Offset for Iowa Income Tax Obligations." This new division provides that effective for refunds payable beginning January 1, 2000, the Internal Revenue Service may offset an overpayment of federal tax against an Iowa income tax obligation of a resident of Iowa. This new division provides for the procedures by which such offsets may be performed for the state of Iowa. This amendment implements the Internal Revenue Service Restructuring and Reforms Act of 1998, Pub. L. 105-206, 112 Stat. 685, 779 (1998).

This amendment is not identical to that published under Notice of Intended Action. The term "income surtax" has been inserted in the definition of "state income tax obligation" or "Iowa income tax obligation."

This amendment will become effective May 24, 2000, after filing with the Administrative Rules Coordinator and publication in the Iowa Administrative Bulletin.

This amendment is intended to implement the Internal Revenue Service Restructuring and Reforms Act of 1998, Pub. L. 105-206, 112 Stat. 685, 779 (1998).

The following amendment is adopted.

Amend 701—Chapter 150 by adopting a **new** division as follows:

FEDERAL OFFSET FOR IOWA INCOME TAX OBLIGATIONS

701—150.17(421, PL105-206) Purpose and general application of offset of a federal tax overpayment to collect an Iowa income tax obligation. Effective for refunds of overpayments to the Internal Revenue Service (IRS) that are payable beginning January 1, 2000, the IRS may offset, in whole or in part, an amount of federal refund payable to an Iowa resident by the amount of any past due legally enforceable Iowa income tax obligation owed by such taxpayer. The purpose of this rule is to establish a procedure to identify taxpayers that owe Iowa income tax liabilities and to establish a procedure for requesting the offset of the taxpayer's federal tax overpayment to collect a past due legally enforceable Iowa income tax obligation.

150.17(1) Definitions. The following definitions are applicable to the federal offset program:

"Assessment" means the determination of a past due tax obligation and includes self-assessments. An assessment includes the Iowa income tax, interest, penalties, fees or other charges associated with the past due legally enforceable Iowa income tax obligation.

"Department," "state of Iowa," "Iowa" or "the state" means the Iowa department of revenue and finance.

"Director" means the director of the Iowa department of revenue and finance.

REVENUE AND FINANCE DEPARTMENT[701](cont'd)

“Overpayment” means a federal tax refund due and owing to a person or persons.

“Past due legally enforceable Iowa income tax obligation” means a debt which resulted from a judgment rendered by a court of competent jurisdiction which has determined an amount of state income tax to be due or a determination after an administrative hearing which has determined an amount of state income tax to be due and which is no longer subject to judicial review. In addition, this term also includes a debt which resulted from a state income tax which has been assessed but not collected, the time for redetermination which has expired, and which has not been delinquent for more than ten years.

“Resident of Iowa” means any person with a federal overpayment for the year in which Iowa seeks offset and such person has an Iowa address listed on that person’s federal return for the tax period of overpayment.

“Secretary” means the Secretary of the Treasury for the federal government.

“State income tax obligation” or “Iowa income tax obligation” is intended to cover all Iowa income taxes. This term includes all local income taxes administered by the Iowa department of revenue and finance or determined to be a “state income tax” under Iowa law. Such taxes may include, but are not limited to, individual income tax, income surtax, fiduciary income tax, withholding tax, or corporate income tax, and penalties, interest, fines, judgments, or court costs relating to such tax obligations.

“Tax refund offset” means withholding or reducing, in whole or in part, a federal tax refund payment by an amount necessary to satisfy a past due legally enforceable state income tax obligation owed by the payee (taxpayer) of the tax refund payment. This rule only involves the offset of tax refund payments under 26 U.S.C. 6402(e); it does not cover the offset of federal payments other than tax refund payments for the collection of past due legally enforceable state income tax obligations.

“Tax refund payment” means the amount to be refunded to a taxpayer by the federal government after the Internal Revenue Service (IRS) has applied the taxpayer’s overpayment to the taxpayer’s past due tax liabilities in accordance with 26 U.S.C. 6402(a) and 26 CFR 6402-3(a)(6)(i).

150.17(2) Prerequisites for requesting a federal offset. The following are the requirements that the state of Iowa must meet before the state can request an offset of a federal overpayment against an Iowa income tax obligation:

a. Pre-offset notice. At least 60 days prior to requesting the offset of a taxpayer’s federal overpayment for an Iowa income tax obligation, the state of Iowa must provide notice by certified mail, return receipt requested, to the person owing the Iowa income tax liability. This notice must state the following information:

(1) That the state proposes to request the offset of the person’s federal overpayment against a specified Iowa income tax obligation and that such an obligation is past due and legally enforceable;

(2) That the authority for this offset is Internal Revenue Service Restructuring and Reforms Act of 1998, Pub. L. 105-206, 112 Stat. 685, 779 (1998), as implemented by 701 IAC 150.17(421,PL105-206);

(3) That the person owing the obligation has 60 days from the date of the notice to present evidence to the department that all or part of the obligation at issue is not past due or not legally enforceable;

(4) The mailing address for submitting such evidence;

(5) That failure to timely submit the evidence waives the taxpayer’s right to protest the amount, validity or qualification of the Iowa income tax obligation for offset at any time in the future; and

(6) Where contact can be made with the department for additional information or questions.

b. The state must consider any evidence presented by the person owing the obligation and determine whether the amount or amounts are past due and legally enforceable.

c. The state must have made written demand on the taxpayer to obtain payment of the state income tax obligation for which the request for offset is being submitted.

d. Additional pre-offset notices. The department must provide a taxpayer with an additional pre-offset notice if the amount of the obligation to be subject to offset is increased due to a new assessment. However, a new pre-offset notice is not required to be sent to the taxpayer by the department if there is an increase in the amount to be offset due to accrued interest, penalties or other charges associated with an Iowa income tax obligation in which notice has previously been given.

e. Before offset of the federal refund can be requested by the state of Iowa, the person’s Iowa income tax liability must be at least \$25, unless otherwise provided based on the discretion of the department and the Secretary. If an individual owes more than one Iowa income tax obligation, the minimum amount will be applied to the aggregate amounts of such obligations owed to Iowa.

f. Offset applies to residents of Iowa as defined under this rule.

150.17(3) Procedure after submission of evidence. Upon timely receipt of evidence by the department from the taxpayer as set forth in 150.17(2)“a”(3), the department has 60 days to review the evidence and notify the taxpayer whether the evidence submitted is sufficient to terminate the intended offset. If the department determines that the evidence is sufficient, the procedure to initiate the federal offset shall be terminated for that obligation and the taxpayer’s record of Iowa income tax obligation for that particular obligation shall be adjusted accordingly. However, if the department determines that the evidence is insufficient to show that the amount or amounts at issue are not, in whole or in part, a past due and legally enforceable income tax obligation, the department must notify the taxpayer within 60 days of receiving the evidence from the taxpayer.

The contest of an offset under this rule is subject to judicial review under Iowa Code section 17A.19 as “other agency action.”

In cases in which a taxpayer claims immunity from state taxation due to being an enrolled member of an Indian tribe who lives on that member’s reservation and derives all of that member’s income from that reservation, Iowa must consider such claims de novo on the merits, unless such claims have been previously adjudicated by a court of competent jurisdiction.

150.17(4) Notice by Iowa to the Secretary to request federal offset. Iowa must notify the Secretary of an Iowa income tax obligation in the manner prescribed by the Secretary.

150.17(5) Erroneous payments to Iowa. If Iowa receives a notice from the Secretary that an erroneous payment has been made to Iowa under this rule, Iowa must promptly pay to the Secretary, in accordance with such rules and regulations as the Secretary may prescribe, an amount equal to the amount of the erroneous payment (without regard to whether any other amounts payable to Iowa under this rule have been

REVENUE AND FINANCE DEPARTMENT[701](cont'd)

paid to Iowa). In the alternative, Iowa may return the erroneous payment directly to the taxpayer. If this latter alternative is used by Iowa, then Iowa must notify the Secretary of the erroneous offset being paid to the taxpayer, and the taxpayer's records will be adjusted accordingly.

150.17(6) Correcting and updating notice to the Secretary. Iowa must notify the Secretary of any deletion or decrease in the amount of past due legally enforceable Iowa income tax obligation referred to the Secretary for collection by offset under this rule. Iowa may also notify the Secretary of any increases in the amount or amounts referred to the

Secretary for collection by offset under this rule provided that Iowa has complied with the requirements of this rule with regard to such amount or amounts.

This rule is intended to implement Iowa Code chapter 421 and Pub. L. 105-206, 112 Stat. 685, 779 (1998).

[Filed 3/30/00, effective 5/24/00]

[Published 4/19/00]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 4/19/00.



State of Iowa
Executive Department

IN THE NAME AND BY THE AUTHORITY OF THE STATE OF IOWA

***EXECUTIVE ORDER NUMBER SIXTEEN**

- WHEREAS,** the economy and social fabric of this state are inextricably linked to food production and food production-related activities; and
- WHEREAS,** food production accounts for more than twenty-five percent of the state's gross annual product; and
- WHEREAS,** the expansion of global markets for agricultural products have failed to keep pace with increased agricultural productivity in recent years, leading to a reduction in the amount of income earned by local producers; and
- WHEREAS,** unacceptable numbers of people from across the state and around the world do not have reliable access to Iowa's abundant food supply; and
- WHEREAS,** the State of Iowa contains some of the most productive farmland found around the world, and the potential to feed hungry people and generate sustainable income for local producers is virtually unlimited; and
- WHEREAS,** this administration is confident that the State of Iowa can become a world leader in the new economy by creating an efficient food production infrastructure that links producers, processors, distributors, and marketers to vibrant and sustainable world markets; and
- WHEREAS,** the development of these linkages will enable this state to establish itself as the Food Capital of the World by creating new opportunities to increase profitability for Iowa producers through product diversification, local processing, enhanced distribution, and direct marketing; and
- WHEREAS,** it is imperative for policy-makers to develop a common working knowledge of Iowa's overall food production system by collecting and analyzing information about the state's food production infrastructure, including consumer patterns, in an effort to improve food policy-related decisions; and
- WHEREAS,** a state food production policy that is designed to produce a safe, nutritious, and adequate food supply stock for world consumption, must also balance economic, environmental, and social considerations that are important to the people of this state.

NOW, THEREFORE, I, Thomas J. Vilsack, Governor of the State of Iowa, by the power vested in me by the laws of the constitution of the State of Iowa do hereby order the creation of the IOWA FOOD POLICY COUNCIL.

- I. **Purpose.** The Iowa Food Policy Council shall advise this office on all aspects of the food production system in Iowa. The Council's advice shall include, but should not be limited to, a discussion of the following items:
1. the state's baseline agricultural production output (this assessment shall include data on: the amount of food produced annually in this state; the amount of food that is purchased and consumed by state residents; and the extent to which the food produced in Iowa is processed, distributed and marketed by local individuals and businesses);
 2. barriers that limit the access of local businesses to production, distribution and consumer markets both inside and outside of the state. This assessment should include, but shall not be limited to, an examination of the manner in which state and local policies may impede the ability of local individuals and businesses to engage in food production, processing, distribution, and marketing activities;
 3. barriers that limit the access of hungry consumers to available food stocks;
 4. innovative local food system activities, including an assessment of the state's capacity to replicate these activities across Iowa;
 5. strategies to expand training and assistance programs for local individuals and businesses, including methods that will link actors at each stage of the local food production infrastructure together in a working system;
 6. strategies to improve the participation of state and local governments in the development of a growing local food production infrastructure; and
 7. strategies to link consumers to a growing local food production infrastructure.
- II. **Organization.** The Council will be composed of 15-20 members appointed by the governor. Representatives from the Iowa Department of Agriculture and Land Stewardship, the Iowa Department of Economic Development, and Iowa's health and human services agencies shall be appointed to serve as ex-officio members on the Council. The Council's voting membership shall consist of representatives from the following areas of the state's local food production system:
1. local producers also engaged in direct marketing;
 2. local food processors;
 3. local food distributors;
 4. local food retailers;
 5. cooperative extension representatives;
 6. urban agriculture and education representatives;
 7. agricultural policy and legal experts; and
 8. hunger prevention and food security experts.

The Council will receive administrative support from the Agricultural Law Center at Drake University. All research, policy development, and publication activities will be coordinated by the Council through Drake University. Funding to support the Council's activities will be received by the Council through private donations, state and federal grant assistance, and institutional support from Drake University.

III. Activities. The Council shall convene in April, 2000. The Council shall review the following research reports for background information in preparation for this initiative:

1. A report entitled "Making the Connections," conducted by Agricultural Law Center at Drake University. This study identifies a series of innovative food production and marketing activities currently underway across the state.
2. A report entitled "Examining Iowa's Food System," conducted by the Iowa State University Cooperative Extension under the institution's Value-Added Agriculture Initiative. This study examines the current status of the state's baseline food production system.

The Council shall submit a final report outlining its findings and recommendations to the Governor's Office for review no later than April 30, 2001. The Council shall be dissolved after the final report has been submitted, unless an application to continue its activities has been approved by the governor before April 30, 2001.



ATTEST:

Chester J. Culver

Chester J. Culver
Secretary of State

IN TESTIMONY WHEREOF, I have hereunto subscribed my name and caused the Great Seal of Iowa to be affixed. Done in Des Moines, Iowa this 31st day of March in the year our Lord Two Thousand.

Thomas J. Vilsack

Thomas J. Vilsack
Governor

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Department of General Services
Hoover State Office Building, Level A
Des Moines, Iowa 50319

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