



IOWA ADMINISTRATIVE BULLETIN

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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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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
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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
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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>
2	Friday, July 7, 2000	July 26, 2000
3	Friday, July 21, 2000	August 9, 2000
4	Friday, August 4, 2000	August 23, 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.

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Lucas State Office Building, First Floor, Des Moines, Iowa 50319.

The Administrative Rules Review Committee will hold its regular, statutory meeting on Tuesday, July 11, 2000, at 10 a.m. in House Committee Room 1, State Capitol, Des Moines, Iowa. The following rules will be reviewed:

Bulletin

AGRICULTURE AND LAND STEWARDSHIP DEPARTMENT[21]

Livestock movement, ch 66 introductory note, 66.1, Notice **ARC 9941A** 6/28/00

BANKING DIVISION[187]

COMMERCE DEPARTMENT[181]"umbrella"

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Child care services—income guidelines and fees, 130.3(1)“d”(2), 130.4(3), 170.4(7)“a,” tables I and II, <u>Notice ARC 9871A</u>	6/14/00
Child care services—income guidelines and fees, 130.3(1)“d”(2), 130.4(3), 170.4(7)“a,” tables I and II, <u>Filed Emergency ARC 9908A</u>	6/28/00
Reimbursement rates for adoption, independent living, home studies, and shelter care providers, 150.3(5)“p”(1) and (2), 150.3(5)“p”(2)“1” and “3” to “5,” 150.22(7)“p”(1), 150.22(7)“p”(1)“1,” <u>Notice ARC 9872A</u>	6/14/00
Reimbursement rates for adoption, independent living, home studies, and shelter care providers, 150.3(5)“p”(1) and (2), 150.3(5)“p”(2)“1” and “3” to “5,” 150.22(7)“p”(1), 150.22(7)“p”(1)“1,” <u>Filed Emergency ARC 9909A</u>	6/28/00
Foster family care and adoption payment rates, 156.6(1), <u>Notice ARC 9873A</u>	6/14/00
Foster family care and adoption payment rates, 156.6(1), <u>Filed Emergency ARC 9910A</u>	6/28/00
Iowa senior living trust fund; nursing facility conversion and long-term care services development grants, chs 161 and 162, <u>Notice ARC 9883A</u>	6/14/00
Iowa senior living trust fund; nursing facility conversion and long-term care services development grants, chs 161 and 162, <u>Filed Emergency ARC 9911A</u>	6/28/00
Pregnancy prevention programs, 163.1, 163.3(1), 163.4(2)“d,” 163.5(3), 163.5(3)“i” and “k,” <u>Notice ARC 9874A</u>	6/14/00
Pregnancy prevention programs, 163.1, 163.3(1), 163.4(2)“d,” 163.5(3), 163.5(3)“i” and “k,” <u>Filed Emergency ARC 9912A</u>	6/28/00
Rehabilitative treatment and support service provider rates, 185.112(1)“k,” <u>Notice ARC 9875A</u>	6/14/00
Rehabilitative treatment and support service provider rates, 185.112(1)“k,” <u>Filed Emergency ARC 9913A</u>	6/28/00

INSPECTIONS AND APPEALS DEPARTMENT[481]

Licensing sanctions for nonpayment of student loans, ch 8 title, 8.2, 8.3, <u>Notice ARC 9896A</u>	6/28/00
Quality award for health care facilities, ch 54, <u>Filed ARC 9942A</u>	6/28/00

INSURANCE DIVISION[191]

COMMERCE DEPARTMENT[181]“umbrella”

Replacement of life insurance and annuities, 16.22, 16.23(1)“b” and “f,” 16.24(2), 16.25(4), 16.26(1)“d,” 16.28(2)“a,” 16.29(3), ch 16, division II, appendix A1, <u>Filed Emergency ARC 9863A</u>	6/14/00
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MEDICAL EXAMINERS BOARD[653]

PUBLIC HEALTH DEPARTMENT[641]"umbrella"

- Uniform waiver and variance; licensure application waivers,
 ch 3, 11.9(3), Notice ARC 9605A Terminated ARC 9933A 6/28/00
- Selling of goods or services by board or impaired physician review committee members, 10.11, Notice ARC 9932A 6/28/00
- Licensure of acupuncturists, ch 14, Notice ARC 9924A 6/28/00

NATURAL RESOURCE COMMISSION[571]

NATURAL RESOURCES DEPARTMENT[561]"umbrella"

- Volunteer safety and education instructor certification, 15.9 to 15.12, Filed ARC 9943A 6/28/00
- General dock permit, 16.1, 16.3, Filed ARC 9944A 6/28/00
- Community forestry challenge grant program, ch 34, Filed ARC 9945A 6/28/00
- Wildlife refuges—addition of Spring Run and Henderson areas, 52.1(2)"a," Notice ARC 9946A 6/28/00

NURSING BOARD[655]

PUBLIC HEALTH DEPARTMENT[641]"umbrella"

- Nurse licensure compact, 2.3(2)"a," 2.6(2)"a," 3.1, 3.2(1), 3.2(2)"a" to "e," 3.5(2)"b"(5) and (6),
 3.6(1), 6.1, 6.5(5), 7.1, ch 16, Notice ARC 9917A, also Filed Emergency ARC 9915A 6/28/00
- Infusion pump initiation and hypertonic solutions administration by LPNs, 6.5(4)"b" to "e," Filed ARC 9916A 6/28/00

PAROLE BOARD[205]

CORRECTIONS DEPARTMENT[201]"umbrella"

- Commutation procedures for class "A" felons, 14.2, 14.5(1), 14.6,
Notice ARC 9898A, also Filed Emergency ARC 9897A 6/28/00

PROFESSIONAL LICENSURE DIVISION[645]

PUBLIC HEALTH DEPARTMENT[641]"umbrella"

- Massage therapy examiners, 130.1 to 130.4, 130.7 to 130.10, ch 131 title, 131.1, 131.1(2)"k," 131.2 to 131.5,
 131.17 to 131.19, ch 132, Notice ARC 9931A 6/28/00

RACING AND GAMING COMMISSION[491]

INSPECTIONS AND APPEALS DEPARTMENT[481]"umbrella"

- General, ch 1, 4.6(5)"h," chs 5 and 6, 7.2, 7.3(3)"e," 7.9(7)"b," 9.2(6)"d"(2), 9.2(7)"l," 9.3(1)"a"(6),
 10.2(6)"d"(2), 10.2(7)"l," 10.3, 10.4(1)"b"(6), 13.2(5)"a," 13.2(6), chs 20 and 21, 22.24, 24.13 to 24.15,
 ch 25, 26.9, Notice ARC 9865A 6/14/00

REAL ESTATE COMMISSION[193E]

Professional Licensing and Regulation Division[193]

COMMERCE DEPARTMENT[181]"umbrella"

- Business conduct, 1.1, 1.41, 1.41(3), 1.41(7) Filed Emergency ARC 9914A 6/28/00

REVENUE AND FINANCE DEPARTMENT[701]

- "Taxable use" defined; local option sales and service tax, 28.1, 107.2(1), 108.2(5), Notice ARC 9934A 6/28/00
- Hotel and motel tax; local option sales and service tax, 104.7, 107.15, 108.4, 108.7, Notice ARC 9935A 6/28/00

SECRETARY OF STATE[721]

- Competing nominations by nonparty political organizations, 21.201, Filed ARC 9889A 6/14/00
- Electronic voting equipment, 22.261, Notice ARC 9890A, also Filed Emergency ARC 9891A 6/28/00
- Pilot project for refund of corporate filing fees, 40.4(4), 40.4(5),
Notice ARC 9893A, also Filed Emergency ARC 9894A 6/28/00

TRANSPORTATION DEPARTMENT[761]

- Dealer and used vehicle wholesaler licensure—written evidence of compliance with zoning requirements,
 425.10(6), 425.52(1), Notice ARC 9876A 6/14/00
- Fees for driver's licenses; pilot project for waiver or refund of license fees,
 602.3, 605.9, 605.10, 630.2(6), Notice ARC 9866A 6/14/00

UTILITIES DIVISION[199]

COMMERCE DEPARTMENT[181]"umbrella"

- Restoration of agricultural lands during and after pipeline construction,
 ch 9, Notice ARC 9400A Terminated ARC 9877A, also Notice ARC 9878A 6/14/00

ADMINISTRATIVE RULES REVIEW COMMITTEE MEMBERS

Regular statutory meetings are held the second Tuesday of each month at the seat of government as provided in Iowa Code section 17A.8. A special meeting may be called by the Chair at any place in the state and at any time.

EDITOR'S NOTE: Terms ending April 30, 2003.

Senator H. Kay Hedge
3208 335th Street
Fremont, Iowa 52561

Senator Merlin E. Bartz
2081 410th Street
Grafton, Iowa 50440

Senator Patricia M. Harper
3336 Santa Maria Drive
Waterloo, Iowa 50702

Senator John P. Kibbie
P.O. Box 190
Emmetsburg, Iowa 50536

Senator Sheldon Rittmer
3539 230th Street
DeWitt, Iowa 52742

Joseph A. Royce
Legal Counsel
Capitol, Room 116A
Des Moines, Iowa 50319
Telephone (515)281-3084
Fax (515)281-5995

Representative Janet Metcalf
12954 Oak Brook Drive
Urbandale, Iowa 50323

Representative Clyde Bradley
835 Blackhawk Lane
Camanche, Iowa 52730

Representative Danny Carroll
244 400th Avenue
Grinnell, Iowa 50112

Representative Minnette Doderer
2008 Dunlap Court
Iowa City, Iowa 52245

Representative Geri Huser
213 7th Street NW
Altoona, Iowa 50009

Brian Gentry
Administrative Rules Coordinator
Governor's Ex Officio Representative
Capitol, Room 11
Des Moines, Iowa 50319

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

PUBLIC HEARINGS

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
BANKING DIVISION[187]		
Confidential records—shareholder lists, 7.13(2), 7.15(8) IAB 6/28/00 ARC 9895A	Conference Room 200 E. Grand Ave. Des Moines, Iowa	July 18, 2000 10 a.m.
CORRECTIONS DEPARTMENT[201]		
Newton correctional facility, ch 28 IAB 6/14/00 ARC 9879A	Second Floor Conference Room 420 Keo Way Des Moines, Iowa	July 5, 2000 11 a.m. to 1 p.m.
Fort Dodge correctional facility, ch 29 IAB 6/14/00 ARC 9880A	Second Floor Conference Room 420 Keo Way Des Moines, Iowa	July 5, 2000 11 a.m. to 1 p.m.
EDUCATIONAL EXAMINERS BOARD[282]		
One-year conditional license, 14.15 IAB 6/28/00 ARC 9927A	Conference Room 3 South Third Floor Grimes State Office Bldg. Des Moines, Iowa	July 27, 2000 1 p.m.
Two-year conditional license, 14.16 IAB 6/28/00 ARC 9929A	Conference Room 3 South Third Floor Grimes State Office Bldg. Des Moines, Iowa	July 27, 2000 2 p.m.
Elementary and secondary school counselor competencies, 14.20 IAB 6/28/00 ARC 9920A	Conference Room 3 South Third Floor Grimes State Office Bldg. Des Moines, Iowa	July 27, 2000 3:30 p.m.
General science endorsement, 14.21(17) IAB 6/28/00 ARC 9928A	Conference Room 3 South Third Floor Grimes State Office Bldg. Des Moines, Iowa	July 27, 2000 3 p.m.
Administrative endorsements— elementary and secondary school principals, 14.23 IAB 6/28/00 ARC 9923A	Conference Room 3 North Third Floor Grimes State Office Bldg. Des Moines, Iowa	September 1, 2000 10 a.m.
Two-year administrator exchange license, 14.25 IAB 6/28/00 ARC 9921A	Conference Room 3 North Third Floor Grimes State Office Bldg. Des Moines, Iowa	September 6, 2000 1 p.m.
Two-year administrator exchange license, 14.25 IAB 6/28/00 ARC 9921A	Conference Room 3 South Third Floor Grimes State Office Bldg. Des Moines, Iowa	July 27, 2000 2:30 p.m.

EDUCATIONAL EXAMINERS BOARD[282] (Cont'd)

Mentor endorsement, 14.34, 14.35 IAB 6/28/00 ARC 9930A	Conference Room 3 North Third Floor Grimes State Office Bldg. Des Moines, Iowa	September 1, 2000 8 a.m.
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ELDER AFFAIRS DEPARTMENT[321]

Senior living coordinating unit, 16.1 to 16.5 IAB 6/28/00 ARC 9892A	North Conference Room—3rd Floor Clemens Bldg. 200 Tenth St. Des Moines, Iowa	August 1, 2000 10 a.m.
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Iowa senior living program—home- and community-based services for seniors, ch 28 IAB 6/14/00 ARC 9884A (Also see ARC 9864A)	North Conference Room—3rd Floor Clemens Bldg. 200 Tenth St. Des Moines, Iowa	July 6, 2000 10 a.m.
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ENVIRONMENTAL PROTECTION COMMISSION[567]

Air quality; emissions standards, 22.1, 22.3, 22.4(1), 22.100, 22.106, 23.1, 23.2(3), 23.3(2), 24.1, 25.1(9) IAB 6/14/00 ARC 9885A	Conference Rooms 5-8 Air Quality Bureau 7900 Hickman Rd. Urbandale, Iowa	July 20, 2000 1 p.m.
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Drinking water standards; laboratory certification, amendments to chs 40 to 43, 83 IAB 6/14/00 ARC 9888A	Auditorium Wallace State Office Bldg. Des Moines, Iowa	July 6, 2000 10 a.m.
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Muse-Norris Conference Center North Iowa Area Community College 500 College Dr. Mason City, Iowa	July 7, 2000 10 a.m.
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Helen Wilson Gallery Washington Public Library 120 E. Main Washington, Iowa	July 14, 2000 10 a.m.
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Municipal Utilities Conference Room 15 W. Third St. Atlantic, Iowa	July 18, 2000 10 a.m.
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Delaware County Community Center 200 E. Acres (at fairgrounds) Manchester, Iowa	July 19, 2000 10 a.m.
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Hansen Room, Siebens Forum Buena Vista University 4th and Grand Ave. Storm Lake, Iowa	July 20, 2000 10 a.m.
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Operator certification: public water supply systems and wastewater treatment and collection systems, ch 81 IAB 6/14/00 ARC 9886A	Auditorium Wallace State Office Bldg. Des Moines, Iowa	July 6, 2000 10 a.m.
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ENVIRONMENTAL PROTECTION COMMISSION[567] (Cont'd)

Muse-Norris Conference Center North Iowa Area Community College 500 College Dr. Mason City, Iowa	July 7, 2000 10 a.m.
Helen Wilson Gallery Washington Public Library 120 E. Main Washington, Iowa	July 14, 2000 10 a.m.
Municipal Utilities Conference Room 15 W. Third St. Atlantic, Iowa	July 18, 2000 10 a.m.
Delaware County Community Center 200 E. Acres (at fairgrounds) Manchester, Iowa	July 19, 2000 10 a.m.
Hansen Room, Siebens Forum Buena Vista University 4th and Grand Ave. Storm Lake, Iowa	July 20, 2000 10 a.m.

HUMAN SERVICES DEPARTMENT[441]

Skilled nursing and home health aide services; HCBS waivers, amendments to chs 77 to 79, 83 IAB 6/14/00 ARC 9881A	Conference Room—6th Floor Iowa Bldg., Suite 600 411 3rd St. SE Cedar Rapids, Iowa	July 11, 2000 9 a.m.
	Administrative Conference Room 417 E. Kaneshville Blvd. Council Bluffs, Iowa	July 5, 2000 9 a.m.
	Large Conference Room Bicentennial Bldg.—5th Floor 428 Western Ave. Davenport, Iowa	July 10, 2000 9 a.m.
	Conference Room 102 City View Plaza 1200 University Des Moines, Iowa	July 10, 2000 10 a.m.
	Liberty Room Mohawk Square 22 N. Georgia Ave. Mason City, Iowa	July 7, 2000 11 a.m.
	Conference Room 3 120 E. Main Ottumwa, Iowa	July 6, 2000 10 a.m.
	Fifth Floor 520 Nebraska St. Sioux City, Iowa	July 7, 2000 2:30 p.m.
	Conference Room 213 Pinecrest Office Bldg. 1407 Independence Ave. Waterloo, Iowa	July 5, 2000 10 a.m.

HUMAN SERVICES DEPARTMENT[441] (Cont'd)

Iowa senior living trust fund; facility conversion and service development grants, chs 161, 162 IAB 6/14/00 ARC 9883A	Conference Room—6th Floor Iowa Bldg., Suite 600 411 3rd St. SE Cedar Rapids, Iowa	July 11, 2000 11 a.m.
	CPI Conference Room 417 E. Kaneshville Blvd. Council Bluffs, Iowa	July 5, 2000 10 a.m.
	Large Conference Room Bicentennial Bldg.—5th Floor 428 Western Ave. Davenport, Iowa	July 10, 2000 11 a.m.
	Conference Room 104 City View Plaza 1200 University Des Moines, Iowa	July 11, 2000 10 a.m.
	Liberty Room Mohawk Square 22 N. Georgia Ave. Mason City, Iowa	July 7, 2000 11 a.m.
	Conference Room 3 120 E. Main Ottumwa, Iowa	July 6, 2000 11 a.m.
	Fifth Floor 520 Nebraska St. Sioux City, Iowa	July 7, 2000 1:30 p.m.
	Conference Room 402 Pinecrest Office Bldg. 1407 Independence Ave. Waterloo, Iowa	July 5, 2000 10 a.m.

MEDICAL EXAMINERS BOARD[653]

Selling of goods or services by members of the board or IPRC, 10.11 IAB 6/28/00 ARC 9932A	Suite C 400 SW 8th St. Des Moines, Iowa	July 18, 2000 1 p.m.
Licensure of acupuncturists, 14.1 to 14.30 IAB 6/28/00 ARC 9924A	Suite C 400 SW 8th St. Des Moines, Iowa	July 18, 2000 10 a.m.

NATURAL RESOURCE COMMISSION[571]

Wildlife refuges—Spring Run and Henderson areas, 52.1(2) IAB 6/28/00 ARC 9946A	Conference Room—4th Floor Wallace State Office Bldg. Des Moines, Iowa	July 19, 2000 10 a.m.
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NURSING BOARD[655]

Nurse licensure compact, 2.3(2), 2.6(2), 3.1, 3.2, 3.5, 3.6(1), 6.1, 6.5(5), 7.1, ch 16 IAB 6/28/00 ARC 9917A (Also see ARC 9915A herein)	Ballroom Kirkwood Civic Center Hotel Fourth and Walnut Des Moines, Iowa	September 7, 2000 5 p.m.
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PROFESSIONAL LICENSURE DIVISION[645]

Massage therapy examiners, 130.1 to 130.4, 130.7 to 130.10, 131.1 to 131.5, 131.18, 131.19, ch 132 IAB 6/28/00 ARC 9931A	Board Conference Room—5th Floor Lucas State Office Bldg. Des Moines, Iowa	July 18, 2000 9 to 11 a.m.
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RACING AND GAMING COMMISSION[491]

General, adopt chs 1, 5; amend chs 4, 7, 9, 10, 13, 22, 24; rescind chs 6, 20, 21, 25, 26 IAB 6/14/00 ARC 9865A	Suite B 717 E. Court Des Moines, Iowa	July 10, 2000 9 a.m.
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SECRETARY OF STATE[721]

Electronic voting equipment, 22.261 IAB 6/28/00 ARC 9890A (Also see ARC 9891A herein)	Second Floor Hoover State Office Bldg. Des Moines, Iowa	July 18, 2000 1:30 p.m.
Refund of corporate filing fees— pilot project, 40.4 IAB 6/28/00 ARC 9893A (Also see ARC 9894A herein)	O'Connor Conference Room Second Floor Hoover State Office Bldg. Des Moines, Iowa	July 18, 2000 10 a.m. (If requested)

TRANSPORTATION DEPARTMENT[761]

Zoning—dealer's or used vehicle wholesaler's license requirements, 425.10(6), 425.52(1) IAB 6/14/00 ARC 9876A	DOT Conference Room Park Fair Mall 100 Euclid Ave. Des Moines, Iowa	July 7, 2000 1 p.m. (If requested)
Fees for driver's licenses; waiver or refund of license fees—pilot project, 602.3, 605.9, 605.10, 630.2(6) IAB 6/14/00 ARC 9866A	DOT Conference Room Park Fair Mall 100 Euclid Ave. Des Moines, Iowa	July 7, 2000 10 a.m. (If requested)

UTILITIES DIVISION[199]

Restoration of agricultural lands during and after pipeline construction, ch 9 IAB 6/14/00 ARC 9878A	Board Hearing Room 350 Maple St. Des Moines, Iowa	July 19, 2000 10 a.m.
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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].

The following list will be updated as changes occur:

AGRICULTURE AND LAND STEWARDSHIP DEPARTMENT[21]

Agricultural Development Authority[25]

Soil Conservation Division[27]

ATTORNEY GENERAL[61]

AUDITOR OF STATE[81]

BEEF INDUSTRY COUNCIL, IOWA[101]

BLIND, DEPARTMENT FOR THE[111]

CITIZENS' AIDE[141]

CIVIL RIGHTS COMMISSION[161]

COMMERCE DEPARTMENT[181]

Alcoholic Beverages Division[185]

Banking Division[187]

Credit Union Division[189]

Insurance Division[191]

Professional Licensing and Regulation Division[193]

Accountancy Examining Board[193A]

Architectural Examining Board[193B]

Engineering and Land Surveying Examining Board[193C]

Landscape Architectural Examining Board[193D]

Real Estate Commission[193E]

Real Estate Appraiser Examining Board[193F]

Savings and Loan Division[197]

Utilities Division[199]

CORRECTIONS DEPARTMENT[201]

Parole Board[205]

CULTURAL AFFAIRS DEPARTMENT[221]

Arts Division[222]

Historical Division[223]

ECONOMIC DEVELOPMENT, IOWA DEPARTMENT OF[261]

City Development Board[263]

Iowa Finance Authority[265]

EDUCATION DEPARTMENT[281]

Educational Examiners Board[282]

College Student Aid Commission[283]

Higher Education Loan Authority[284]

Iowa Advance Funding Authority[285]

Libraries and Information Services Division[286]

Public Broadcasting Division[288]

School Budget Review Committee[289]

EGG COUNCIL[301]

ELDER AFFAIRS DEPARTMENT[321]

EMPOWERMENT BOARD, IOWA[349]

ETHICS AND CAMPAIGN DISCLOSURE BOARD, IOWA[351]

EXECUTIVE COUNCIL[361]

FAIR BOARD[371]

GENERAL SERVICES DEPARTMENT[401]

HUMAN INVESTMENT COUNCIL[417]

HUMAN RIGHTS DEPARTMENT[421]

Community Action Agencies Division[427]

Criminal and Juvenile Justice Planning Division[428]

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Persons With Disabilities Division[431]

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Status of African-Americans, Division on the[434]

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HUMAN SERVICES DEPARTMENT[441]

INSPECTIONS AND APPEALS DEPARTMENT[481]
 Employment Appeal Board[486]
 Foster Care Review Board[489]
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 State Public Defender[493]
LAW ENFORCEMENT ACADEMY[501]
LIVESTOCK HEALTH ADVISORY COUNCIL[521]
MANAGEMENT DEPARTMENT[541]
 Appeal Board, State[543]
 City Finance Committee[545]
 County Finance Committee[547]
NARCOTICS ENFORCEMENT ADVISORY COUNCIL[551]
NATIONAL AND COMMUNITY SERVICE, IOWA COMMISSION ON[555]
NATURAL RESOURCES DEPARTMENT[561]
 Energy and Geological Resources Division[565]
 Environmental Protection Commission[567]
 Natural Resource Commission[571]
 Preserves, State Advisory Board[575]
PERSONNEL DEPARTMENT[581]
PETROLEUM UNDERGROUND STORAGE TANK FUND
 BOARD, IOWA COMPREHENSIVE[591]
PREVENTION OF DISABILITIES POLICY COUNCIL[597]
PUBLIC DEFENSE DEPARTMENT[601]
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PUBLIC EMPLOYMENT RELATIONS BOARD[621]
PUBLIC HEALTH DEPARTMENT[641]
 Substance Abuse Commission[643]
 Professional Licensure Division[645]
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PUBLIC SAFETY DEPARTMENT[661]
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REGENTS BOARD[681]
 Archaeologist[685]
REVENUE AND FINANCE DEPARTMENT[701]
 Lottery Division[705]
SECRETARY OF STATE[721]
SEED CAPITAL CORPORATION, IOWA[727]
SHEEP AND WOOL PROMOTION BOARD, IOWA[741]
TELECOMMUNICATIONS AND TECHNOLOGY COMMISSION, IOWA[751]
TRANSPORTATION DEPARTMENT[761]
 Railway Finance Authority[765]
TREASURER OF STATE[781]
TURKEY MARKETING COUNCIL, IOWA[787]
UNIFORM STATE LAWS COMMISSION[791]
VETERANS AFFAIRS COMMISSION[801]
VETERINARY MEDICINE BOARD[811]
VOTER REGISTRATION COMMISSION[821]
WORKFORCE DEVELOPMENT DEPARTMENT[871]
 Labor Services Division[875]
 Workers' Compensation Division[876]
 Workforce Development Board and
 Workforce Development Center Administration Division[877]

AGENCY	PROGRAM	SERVICE DELIVERY AREA	ELIGIBLE APPLICANTS	SERVICES	APPLICATION DUE DATE	CONTRACT PERIOD
Iowa Department of Public Health, Bureau of Rural Health and Primary Care	PRIMECARRE Loan Repayment Program PRIMECARRE, the Primary Care Recruitment and Retention Endeavor, provides grants for repayment of educational loans to primary care providers working in Iowa's federally designated Health Professional Shortage Areas (HPSA).	Statewide in federally designated HPSAs	Requirements: U.S. citizenship; medical education debts; Iowa certification or license to practice as a primary care physician, dentist, physician assistant, dental hygienist, registered nurse practitioner, certified nurse midwife, clinical psychologist, clinical social worker, or psychiatric nurse specialist; must provide healthcare services as described under "Services" column.	Applicants must provide full-time primary healthcare clinical services in a public or nonprofit private entity located in a HPSA for a two-year period. Employment must be secured prior to application for this grant program. Awards for each year of a two-year contract: up to \$30,000 for physicians and psychologists; up to \$20,000 for dentists; up to \$15,000 for other healthcare specialties.	Written request for RFP packet due by July 7, 2000. Proposal due August 15, 2000, by 4:30 p.m.	October 1, 2000, through September 30, 2002

Faxed and electronic requests will be accepted.
Request application packet from:

Patricia M. Kehoe, PRIMECARRE Coordinator
Bureau of Rural Health & Primary Care
Division of Family and Community Health
Iowa Department of Public Health
Lucas State Office Building, 5th Floor
Des Moines, Iowa 50319-0075
Telephone: (515) 281-5069
FAX: (515) 242-6384
E-mail: pkehoe@idph.state.ia.us

ARC 9941A

AGRICULTURE AND LAND STEWARDSHIP DEPARTMENT[21]

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 159.5(11) and 163.1, the Department of Agriculture and Land Stewardship gives Notice of Intended Action to amend Chapter 66, “Livestock Movement,” Iowa Administrative Code.

These proposed amendments are intended to clarify the permitting requirements for a person engaged in the business of buying, selling, or assembling livestock for resale. These individuals are currently permitted as livestock dealers or livestock dealer’s agents. These proposed amendments require that the licensee must maintain a bond and clarify other requirements in the permitting process. The proposed amendments also add domestically raised deer, elk, and moose to the definition of livestock.

Any interested person may make written suggestions or comments on the following proposed amendments prior to 4:30 p.m. on July 19, 2000. Such written material should be directed to Dr. John Schiltz, State Veterinarian, Animal Industry Bureau, Department of Agriculture and Land Stewardship, Wallace State Office Building, Des Moines, Iowa 50319. Comments can also be submitted by fax to (515) 281-4282 or by E-mail to John.Schiltz@idals.state.ia.us.

The proposed amendments do not contain any waiver provisions because the Department does not believe that waiver is appropriate for these requirements. However, the proposed bonding requirement is waived, if the licensee can show proof of a comparable bond provided to the United States Packers and Stockyards Administration.

These proposed amendments are intended to implement Iowa Code chapter 163.

The following amendments are proposed.

ITEM 1. Amend **21—Chapter 66** by rescinding the introductory note.

ITEM 2. Rescind rule 21—66.1(163) and adopt in lieu thereof the following **new** rule:

21—66.1(163) Definitions and permits.

66.1(1) Definition. As used in this chapter, the following term is defined to have the following meaning:

“Livestock” means cattle, horses, sheep, goats, swine (other than feeder swine), or any other animals of the bovine, equine, ovine, caprine or porcine species. “Livestock” also includes all species of deer, elk, and moose raised under confinement or agricultural conditions for the production of meat, the production of other agricultural products, sport, or exhibition.

66.1(2) Livestock dealer permit required. Any person engaged in the business of buying, selling or assembling livestock by consignment for the purpose of resale, other than for resale directly to slaughter, either interstate or intrastate, shall first obtain a permit from the department to conduct business. A separate permit must be obtained for each sepa-

rate location even though operated under the same management or person.

66.1(3) Livestock dealer’s agent permit required. An individual working for a person holding a permit required by subrule 66.1(2) shall obtain, in lieu of a livestock dealer permit, a permit as a livestock dealer’s agent. A person shall not act as an agent for more than one dealer at the same time. A person shall not act as an agent for a dealer and also hold a livestock dealer permit in the person’s own name.

66.1(4) Permitting period. A livestock dealer permit and a livestock dealer’s agent permit shall be issued for a time period commencing on July 1 and ending June 30 of the following year.

66.1(5) Fee for permit. The following nonrefundable fee shall accompany each application for a permit or the renewal of a permit:

1. Livestock dealer permit—\$50
2. Livestock dealer’s agent permit—\$10

66.1(6) Bonding requirement. An applicant for a livestock dealer permit shall submit a bond to the department with the secretary of agriculture named as trustee. The bond shall be payable for the use and benefit of any person damaged as a result of a violation of this chapter. The amount of the bond shall be calculated in the same manner and contain the same condition clauses as required by the United States Packers and Stockyards Administration as adopted in Sections 201.30 and 201.31 of Title 9, Chapter II, of the Code of Federal Regulations, revised as of May 1, 2000. However, a person applying for a permit is exempt from providing a bond if the person can show that the person has a valid bond on file and maintained with the United States Packers and Stockyards Administration in an amount equivalent to or greater than that required by federal regulations by this rule.

66.1(7) Information required. An applicant for a livestock dealer permit or a livestock dealer’s agent permit or a renewal of a permit shall provide the department with information required on the permit application including, but not limited to, the name, address, and telephone number of the applicant; a listing of any state, country, or province in which the applicant is licensed or permitted to engage in a similar business; and any past or pending legal or administrative action or investigation conducted or ongoing regarding that license or permit.

ARC 9895A

BANKING DIVISION[187]

Notice of Intended Action

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

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

Pursuant to the authority of Iowa Code sections 17A.3 and 524.213, the Banking Division of the Commerce Department hereby gives Notice of Intended Action to amend Chapter 7, “Public Records and Fair Information Practices,” Iowa Administrative Code.

The amendments provide that shareholder lists forwarded to the Superintendent pursuant to Iowa Code section 524.541 are to be treated as reports relating to the supervision and regulation of a state bank under Iowa Code section 524.215

BANKING DIVISION[187](cont'd)

and the reports shall not be public records and shall not be open for examination or copying by the public or for examination or publication by the news media.

Interested persons may make written comments on the proposed amendments on or before July 18, 2000. Such written material should be directed to the Superintendent of Banking, Banking Division, Department of Commerce, 200 East Grand Avenue, Suite 300, Des Moines, Iowa 50309. Persons who want to convey their views orally should contact the Superintendent of Banking, Department of Commerce, at (515)281-4014 or at 200 East Grand Avenue, Suite 300.

Also, a public hearing will be held on Tuesday, July 18, 2000, at 10 a.m. in the Banking Division Conference Room at 200 East Grand Avenue. Persons may present their views at this public hearing either orally or in writing. Persons who wish to make oral presentations at the public hearing should contact the Superintendent of Banking at least one day prior to the date of the public hearing.

These amendments are intended to implement Iowa Code sections 524.215 and 524.541.

The following amendments are proposed.

ITEM 1. Amend paragraph 7.13(2)“f” as follows:

f. All papers, documents, reports (*including shareholder lists furnished to the superintendent pursuant to Iowa Code section 524.541*), reports of examinations and other writings relating specifically to the supervision and regulation of any state bank or other person by the superintendent pursuant to the laws of this state (Iowa Code section 524.215).

ITEM 2. Amend subrule 7.15(8) as follows:

7.15(8) Officers, and directors and shareholders. Lists of *officers and directors* filed with the superintendent pursuant to the provisions of Iowa Code section ~~524.515~~ 524.541. These reports are considered open records.

ARC 9918A

CORRECTIONS DEPARTMENT[201]

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 904.508A, the Department of Corrections hereby gives Notice of Intended Action to amend Chapter 20, “Institutions Administration,” Iowa Administrative Code.

This amendment authorizes a central office account and establishes standards for the review and expenditure of revenues received from the Department’s inmate telephone system.

This amendment modifies the expenditure process and creates an approval process for institutional expenditures by the appropriate Regional Deputy Director and the Corrections Board.

Written comments may be submitted to the Office of Policy and Legal Services, 420 Keo Way, Des Moines, Iowa 50309, on or before July 18, 2000.

This amendment was approved by the Department of Corrections on June 8, 2000.

This amendment is intended to implement Iowa Code section 904.508A.

The following amendment is proposed.

Rescind rule 201—20.20(904) and adopt the following **new** rule in lieu thereof:

201—20.20(904) Offender telephone commissions.**20.20(1) Definitions.**

“Corrections board” means the department of corrections board.

“Deputy director of administration” means the person responsible for budgeting and planning.

“Director” means the chief executive officer of the department of corrections.

“Regional deputy director” means the person responsible for regional operation of both institution and community corrections services in either the eastern or western portions of Iowa.

“Warden/superintendent” means the chief executive officer of the institution or correctional facility.

20.20(2) Deposit of funds. The department of corrections shall deposit and account for all telephone commissions in a separate account within central office.

20.20(3) Request for funds. Each warden/superintendent will determine recurring needs and special projects and submit a written proposal to the respective regional deputy director of institutions for all expenditures and encumbrances.

20.20(4) Review and approval of expenditures. The regional deputy director of operations and the deputy director of administration will review the proposals for a quarterly presentation by the director to the corrections board for approval. All expenditures and encumbrances shall require prior approval from the corrections board and the respective regional deputy director of operations. Institutions shall not be allowed to encumber or expend funds without approval. Revenues generated by telephone commissions at each institution shall be used to determine the availability of funds for each project.

20.20(5) Permitted expenditures. The director shall advance to the corrections board for approval only projects that benefit offenders. Expenditures may include, but are not limited to, projects that provide educational, vocational or recreational services or projects, or work or treatment programs for offenders. Expenditures may also be used to initiate new programs, services, or projects. Institutions shall give spending priority to programs, services, and projects that promote the health and welfare of offenders.

This rule is intended to implement Iowa Code section 904.508A.

ARC 9927A

EDUCATIONAL EXAMINERS
BOARD[282]

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 272.2, the Board of Educational Examiners hereby gives Notice of Intended Action to amend Chapter 14, “Issuance of Practition-

EDUCATIONAL EXAMINERS BOARD[282](cont'd)

er's Licenses and Endorsements," Iowa Administrative Code.

The proposed amendment clarifies that a one-year conditional license is available only to those individuals who have completed a practitioner preparation program and who qualify under specific conditions.

There will be a public hearing on the proposed amendment at 1 p.m., Thursday, July 27, 2000, in Conference Room 3 South, Third Floor, Grimes State Office Building, East 14th and Grand Avenue, Des Moines, Iowa. Persons may present their views at the public hearing orally or in writing. Persons who wish to make oral presentations at the public hearing may contact the Executive Director, Board of Educational Examiners, Grimes State Office Building, East 14th and Grand Avenue, Des Moines, Iowa 50319-0147, telephone (515)281-5849, prior to the date of the public hearing.

Any interested person may make written comments or suggestions on the proposed amendment before 4:30 p.m., Friday, July 28, 2000. Written comments and suggestions should be addressed to Dr. Anne E. Kruse, Executive Director, Board of Educational Examiners, at the above address.

This amendment is intended to implement Iowa Code chapter 272.

The following amendment is proposed.

Amend rule 282—14.15(272), introductory paragraph, as follows:

282—14.15(272) Requirements for a one-year conditional license. A conditional license valid for one year may be issued to an individual *who has completed a practitioner preparation program* under the following conditions:

ARC 9929A

EDUCATIONAL EXAMINERS BOARD[282]

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 272.2, the Board of Educational Examiners hereby gives Notice of Intended Action to amend Chapter 14, “Issuance of Practitioner's Licenses and Endorsements,” Iowa Administrative Code.

The proposed amendment eliminates the requirement for an individual to teach one hour per day for 160 days if the individual does not meet the required teaching experience. The amendment also reduces the number of years of teaching experience to become a principal from five years to three years. The amendment clarifies that three years of teaching experience and three years of experience as a building principal or other PK-12 districtwide or intermediate agency experience are acceptable for becoming a superintendent.

There will be a public hearing on the proposed amendment at 2 p.m., July 27, 2000, Conference Room 3 South, Third Floor, Grimes State Office Building, East 14th and Grand Avenue, Des Moines, Iowa. Persons may present their views at the public hearing orally or in writing. Persons who wish to make oral presentations at the public hearing

may contact the Executive Director, Board of Educational Examiners, Grimes State Office Building, East 14th and Grand Avenue, Des Moines, Iowa 50319-0147; or at (515) 281-5849, prior to the date of the public hearing.

Any interested person may make written comments or suggestions on the proposed amendment before 4:30 p.m., July 28, 2000. Written comments and suggestions should be addressed to Dr. Anne E. Kruse, Executive Director, Board of Educational Examiners, at the above address.

This amendment is intended to implement Iowa Code chapter 272.

The following amendment is proposed.

Amend rule 282—14.16(272) as follows:

282—14.16(272) Requirements for a two-year conditional license. A conditional license valid for two years may be issued to an individual under the following conditions:

If a person is the holder of a valid license and is the holder of one or more endorsements, but is seeking to obtain some other endorsement, a two-year conditional license may be issued if requested by an employer and the individual seeking this endorsement has completed at least two-thirds of the content requirements or one-half of the content requirements in a state-designated shortage area, leading to completion of all requirements for that endorsement.

~~If teaching experience is a requirement of the endorsement sought, a maximum of one year of teaching experience may be earned within the term of the conditional license by teaching a minimum of one hour per day for a minimum of 160 days per year in a classroom for which the applicant holds the proper endorsement. For the principal's endorsement, three years of teaching experience must have been met prior to applying for the conditional license. For the superintendent's endorsement, all experience requirements three years of teaching experience and three years as a building principal or other PK-12 districtwide or intermediate agency experience are acceptable for becoming a superintendent, and must have been met prior to applying for the conditional license.~~

A school district administrator may file a written request with the board for an exception to the minimum content requirements on the basis of documented need and benefit to the instructional program. The board will review the request and provide a written decision either approving or denying the request.

This license is not renewable.

ARC 9920A

EDUCATIONAL EXAMINERS BOARD[282]

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 272.2, the Board of Educational Examiners hereby gives Notice of Intended Action to amend Chapter 14, “Issuance of Practitioner's Licenses and Endorsements,” Iowa Administrative Code.

EDUCATIONAL EXAMINERS BOARD[282](cont'd)

These proposed amendments revise the elementary and secondary school counselor competencies in subrules 14.20(5) and 14.20(6).

There will be a public hearing on the proposed amendments at 3:30 p.m., July 27, 2000, in Conference Room 3 South, Third Floor, Grimes State Office Building, East 14th and Grand Avenue, Des Moines, Iowa. Persons may present their views at the public hearing orally or in writing. Persons who wish to make an oral presentation at the public hearing may contact the Executive Director, Board of Educational Examiners, Grimes State Office Building, East 14th and Grand Avenue, Des Moines, Iowa 50319-0147, or at (515) 281-5849, prior to the date of the public hearing.

Any interested person may make written comments or suggestions on the proposed amendments before 4:30 p.m. on July 28, 2000. Written comments and suggestions should be addressed to Dr. Anne E. Kruse, Executive Director, Board of Educational Examiners, at the above address.

If approved, these amendments are expected to become effective August 31, 2002.

These amendments are intended to implement Iowa Code chapter 272.

The following amendments are proposed.

ITEM 1. Amend subrule 14.20(5) as follows:

14.20(5) Elementary counselor.

a. Authorization. The holder of this endorsement is authorized to serve as a *school guidance* counselor in kindergarten and grades one through six.

b. Program requirements.

~~(1) Degree—master's.~~

~~(2) Content. Completion of a sequence of courses and experiences which may have been a part of, or in addition to, the degree requirements. This sequence is to be at least 27 semester hours to include the following:~~

~~1. Human development (career, personal and social development of children and youth).~~

~~2. Elementary school guidance.~~

~~3. Theory of counseling.~~

~~4. Individual and group appraisal.~~

~~5. Group methods in guidance and counseling.~~

~~6. Educational psychology/learning theory/elementary curriculum.~~

~~7. Social, philosophical, or psychological foundations.~~

~~8. Child developmental studies.~~

~~9. Practicum in elementary school counseling.~~

~~e. Other.~~

~~(1) Have had one year of successful teaching experience.~~

~~(2) Be the holder of or eligible for one other teaching endorsement listed in 14.18(272).~~

~~(1) Master's degree from an accredited institution of higher education.~~

~~(2) Completion of an approved human relations component.~~

~~(3) Completion of an approved exceptional learner component.~~

~~c. Content. Completion of a sequence of courses and experiences which may have been a part of, or in addition to, the degree requirements to include the following:~~

~~(1) Nature and needs of individuals at all developmental levels.~~

~~1. Develop strategies for facilitating development through the transition from childhood to adolescence and from adolescence to young adult.~~

~~2. Apply knowledge of learning and personality development to assist students in developing their full potential.~~

~~(2) Social and cultural foundations.~~

1. Demonstrate awareness of and sensitivity to the unique social, cultural, and economic circumstances of students and their racial/ethnic, gender, age, physical, and learning differences.

2. Demonstrate sensitivity to the nature and the functioning of the student within the family, school and community contexts.

3. Demonstrate the counseling and consultation skills needed to facilitate informed and appropriate action in response to the needs of students.

(3) Fostering of relationships.

1. Employ effective counseling and consultation skills with students, parents, colleagues, administrators, and others.

2. Communicate effectively with parents, colleagues, students and administrators.

3. Counsel students in the areas of personal, social, academic, and career development.

4. Assist families in helping their children address the personal, social, and emotional concerns and problems that may impede educational progress.

5. Implement developmentally appropriate counseling interventions with children and adolescents.

6. Demonstrate the ability to negotiate and move individuals and groups toward consensus or conflict resolution or both.

7. Refer students for specialized help when appropriate.

8. Value the well-being of the students as paramount in the counseling relationship.

(4) Group work.

1. Implement developmentally appropriate interventions involving group dynamics, counseling theories, group counseling methods and skills, and other group work approaches.

2. Apply knowledge of group counseling in implementing appropriate group processes for elementary, middle school, and secondary students.

(5) Career development, education, and postsecondary planning.

1. Assist students in the assessment of their individual strengths, weaknesses, and differences, including those that relate to academic achievement and future plans.

2. Apply knowledge of career assessment and career choice programs.

3. Implement occupational and educational placement, follow-up and evaluation.

4. Develop a counseling network and provide resources for use by students in personalizing the exploration of post-secondary educational opportunities.

(6) Assessment and evaluation.

1. Demonstrate individual and group approaches to assessment and evaluation.

2. Demonstrate an understanding of the proper administration and uses of standardized tests.

3. Apply knowledge of test administration, scoring, and measurement concerns.

4. Apply evaluation procedures for monitoring student achievement.

5. Apply assessment information in program design and program modifications to address students' needs.

6. Apply knowledge of legal and ethical issues related to assessment and student records.

(7) Professional orientation.

1. Apply knowledge of history, roles, organizational structures, ethics, standards, and credentialing.

EDUCATIONAL EXAMINERS BOARD[282](cont'd)

2. *Maintain a high level of professional knowledge and skills.*

3. *Apply knowledge of professional and ethical standards to the practice of school counseling.*

4. *Articulate the counselor role to school personnel, parents, community, and students.*

(8) *School counseling skills.*

1. *Design, implement, and evaluate a comprehensive, developmental school guidance program.*

2. *Implement and evaluate specific strategies designed to meet program goals and objectives.*

3. *Consult and coordinate efforts with resource persons, specialists, businesses, and agencies outside the school to promote program objectives.*

4. *Provide information appropriate to the particular educational transition and assist students in understanding the relationship that their curricular experiences and academic achievements will have on subsequent educational opportunities.*

5. *Assist parents and families in order to provide a supportive environment in which students can become effective learners and achieve success in pursuit of appropriate educational goals.*

6. *Provide training, orientation, and consultation assistance to faculty, administrators, staff, and school officials to assist them in responding to the social, emotional, and educational development of all students.*

7. *Collaborate with teachers, administrators, and other educators in ensuring that appropriate educational experiences are provided that allow all students to achieve success.*

8. *Assist in the process of identifying and addressing the needs of the exceptional student.*

9. *Apply knowledge of legal and ethical issues related to child abuse and mandatory reporting.*

10. *Advocate for the educational needs of students and work to ensure that these needs are addressed at every level of the school experience.*

11. *Promote use of counseling and guidance activities and programs involving the total school community to provide a positive school climate.*

(9) *Classroom management.*

1. *Apply effective classroom management strategies as demonstrated in classroom guidance and large group guidance lessons.*

2. *Consult with teachers and parents about effective classroom management and behavior management strategies.*

(10) *Curriculum.*

1. *Write classroom lessons including objectives, learning activities, and discussion questions.*

2. *Utilize various methods of evaluating what students have learned in classroom lessons.*

3. *Demonstrate competency in conducting classroom and other large group activities, utilizing an effective lesson plan design, engaging students in the learning process, and employing age-appropriate classroom management strategies.*

4. *Design a classroom unit of developmentally appropriate learning experiences.*

5. *Demonstrate knowledge in writing standards and benchmarks for curriculum.*

(11) *Learning theory.*

1. *Identify and consult with teachers about how to create a positive learning environment utilizing such factors as effective classroom management strategies, building a sense*

of community in the classroom, and cooperative learning experiences.

2. *Identify and consult with teachers regarding teaching strategies designed to motivate students using small group learning activities, experiential learning activities, student mentoring programs, and shared decision-making opportunities.*

3. *Demonstrate knowledge of child and adolescent development and identify developmentally appropriate teaching and learning strategies.*

(12) *Teaching and counseling practicum. The school counselor demonstrates competency in conducting classroom sessions with elementary and middle school students. The practicum consisting of a minimum of 500 contact hours provides opportunities for the prospective counselor, under the supervision of a licensed professional school counselor, to engage in a variety of activities in which a regularly employed school counselor would be expected to participate including, but not limited to, individual counseling, group counseling, developmental classroom guidance, and consultation.*

ITEM 2. Amend subrule 14.20(6) as follows:

14.20(6) Secondary counselor.

a. *Authorization. The holder of this endorsement is authorized to serve as a school guidance counselor in grades seven through twelve.*

b. *Program requirements.*

~~(1) Degree—master's.~~

~~(2) Content. Completion of a sequence of courses and experiences which may have been a part of, or in addition to, the degree requirements. This sequence is to be at least 27 semester hours to include the following:~~

~~1. Human development (career, personal and social development of children and youth).~~

~~2. Secondary school guidance.~~

~~3. Theory of counseling.~~

~~4. Individual and group appraisal.~~

~~5. Group methods in guidance and counseling.~~

~~6. Educational psychology/learning theory/secondary curriculum.~~

~~7. Social, philosophical, or psychological foundations.~~

~~8. Adolescent developmental studies.~~

~~9. Practicum in secondary school counseling.~~

~~e. Other.~~

~~(1) Have had one year of successful teaching experience.~~

~~(2) Be the holder of or eligible for one other teaching endorsement listed in 14.18(272).~~

(1) Master's degree from an accredited institution of higher education.

(2) Completion of an approved human relations component.

(3) Completion of an approved exceptional learner component.

c. *Content. Completion of a sequence of courses and experiences which may have been a part of, or in addition to, the degree requirements to include the following:*

(1) Nature and needs of individuals at all developmental levels.

1. Develop strategies for facilitating development through the transition from childhood to adolescence and from adolescence to young adult.

2. Apply knowledge of learning and personality development to assist students in developing their full potential.

(2) Social and cultural foundations.

1. Demonstrate awareness of and sensitivity to the unique social, cultural, and economic circumstances of stu-

EDUCATIONAL EXAMINERS BOARD[282](cont'd)

dents and their racial/ethnic, gender, age, physical, and learning differences.

2. Demonstrate sensitivity to the nature and the functioning of the student within the family, school and community contexts.

3. Demonstrate the counseling and consultation skills needed to facilitate informed and appropriate action in response to the needs of students.

(3) Fostering of relationships.

1. Employ effective counseling and consultation skills with students, parents, colleagues, administrators, and others.

2. Communicate effectively with parents, colleagues, students and administrators.

3. Counsel students in the areas of personal, social, academic, and career development.

4. Assist families in helping their children address the personal, social, and emotional concerns and problems that may impede educational progress.

5. Implement developmentally appropriate counseling interventions with children and adolescents.

6. Demonstrate the ability to negotiate and move individuals and groups toward consensus or conflict resolution or both.

7. Refer students for specialized help when appropriate.

8. Value the well-being of the students as paramount in the counseling relationship.

(4) Group work.

1. Implement developmentally appropriate interventions involving group dynamics, counseling theories, group counseling methods and skills, and other group work approaches.

2. Apply knowledge of group counseling in implementing appropriate group processes for elementary, middle school, and secondary students.

(5) Career development, education, and postsecondary planning.

1. Assist students in the assessment of their individual strengths, weaknesses, and differences, including those that relate to academic achievement and future plans.

2. Apply knowledge of career assessment and career choice programs.

3. Implement occupational and educational placement, follow-up and evaluation.

4. Develop a counseling network and provide resources for use by students in personalizing the exploration of post-secondary educational opportunities.

(6) Assessment and evaluation.

1. Demonstrate individual and group approaches to assessment and evaluation.

2. Demonstrate an understanding of the proper administration and uses of standardized tests.

3. Apply knowledge of test administration, scoring, and measurement concerns.

4. Apply evaluation procedures for monitoring student achievement.

5. Apply assessment information in program design and program modifications to address students' needs.

6. Apply knowledge of legal and ethical issues related to assessment and student records.

(7) Professional orientation.

1. Apply knowledge of history, roles, organizational structures, ethics, standards, and credentialing.

2. Maintain a high level of professional knowledge and skills.

3. Apply knowledge of professional and ethical standards to the practice of school counseling.

4. Articulate the counselor role to school personnel, parents, community, and students.

(8) School counseling skills.

1. Design, implement, and evaluate a comprehensive, developmental school guidance program.

2. Implement and evaluate specific strategies designed to meet program goals and objectives.

3. Consult and coordinate efforts with resource persons, specialists, businesses, and agencies outside the school to promote program objectives.

4. Provide information appropriate to the particular educational transition and assist students in understanding the relationship that their curricular experiences and academic achievements will have on subsequent educational opportunities.

5. Assist parents and families in order to provide a supportive environment in which students can become effective learners and achieve success in pursuit of appropriate educational goals.

6. Provide training, orientation, and consultation assistance to faculty, administrators, staff, and school officials to assist them in responding to the social, emotional, and educational development of all students.

7. Collaborate with teachers, administrators, and other educators in ensuring that appropriate educational experiences are provided that allow all students to achieve success.

8. Assist in the process of identifying and addressing the needs of the exceptional student.

9. Apply knowledge of legal and ethical issues related to child abuse and mandatory reporting.

10. Advocate for the educational needs of students and work to ensure that these needs are addressed at every level of the school experience.

11. Promote use of counseling and guidance activities and programs involving the total school community to provide a positive school climate.

(9) Classroom management.

1. Apply effective classroom management strategies as demonstrated in classroom guidance and large group guidance lessons.

2. Consult with teachers and parents about effective classroom management and behavior management strategies.

(10) Curriculum.

1. Write classroom lessons including objectives, learning activities, and discussion questions.

2. Utilize various methods of evaluating what students have learned in classroom lessons.

3. Demonstrate competency in conducting classroom and other large group activities, utilizing an effective lesson plan design, engaging students in the learning process, and employing age-appropriate classroom management strategies.

4. Design a classroom unit of developmentally appropriate learning experiences.

5. Demonstrate knowledge in writing standards and benchmarks for curriculum.

(11) Learning theory.

1. Identify and consult with teachers about how to create a positive learning environment utilizing such factors as effective classroom management strategies, building a sense of community in the classroom, and cooperative learning experiences.

EDUCATIONAL EXAMINERS BOARD[282](cont'd)

2. *Identify and consult with teachers regarding teaching strategies designed to motivate students using small group learning activities, experiential learning activities, student mentoring programs, and shared decision-making opportunities.*

3. *Demonstrate knowledge of child and adolescent development and identify developmentally appropriate teaching and learning strategies.*

(12) *Teaching and counseling practicum. The school counselor demonstrates competency in conducting classroom sessions with middle and secondary school students. The practicum consisting of a minimum of 500 contact hours provides opportunities for the prospective counselor, under the supervision of a licensed professional school counselor, to engage in a variety of activities in which a regularly employed school counselor would be expected to participate including, but not limited to, individual counseling, group work, developmental classroom guidance and consultation.*

ARC 9928A

EDUCATIONAL EXAMINERS
BOARD[282]

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 272.2, the Board of Educational Examiners hereby gives Notice of Intended Action to amend Chapter 14, "Issuance of Practitioner's Licenses and Endorsements," Iowa Administrative Code.

The proposed amendment reinstates the general science endorsement currently issued by the Board of Educational Examiners which is scheduled to be rescinded July 1, 2000.

There will be a public hearing on the proposed amendment on July 27, 2000, at 3 p.m. in Conference Room 3 South, Third Floor, Grimes State Office Building, East 14th and Grand Avenue, Des Moines, Iowa. Persons may present their views at the public hearing orally or in writing. Persons who wish to make oral presentations at the public hearing may contact the Executive Director, Board of Educational Examiners, Grimes State Office Building, East 14th and Grand Avenue, Des Moines, Iowa 50319-0147, or at (515) 281-5849, prior to the date of the public hearing.

Any interested person may make written comments or suggestions on the proposed amendment before 4:30 p.m., July 28, 2000. Written comments and suggestions should be addressed to Dr. Anne E. Kruse, Executive Director, Board of Educational Examiners, at the above address.

This amendment is intended to implement Iowa Code chapter 272.

The following amendment is proposed.

Amend paragraph 14.21(17)"e" as follows:

e. General Science. 7-12. ~~Rescinded IAB 4/7/99, effective 7/1/00. Completion of 24 semester hours in science to include coursework in biological science, chemistry, and physics.~~

ARC 9923A

EDUCATIONAL EXAMINERS
BOARD[282]

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 272.2, the Board of Educational Examiners hereby gives Notice of Intended Action to amend Chapter 14, "Issuance of Practitioner's Licenses and Endorsements," Iowa Administrative Code.

The proposed amendments incorporate national standards for elementary and secondary principals along with Iowa requirements. These amendments modify the licensure requirements for principals from a total course-based system to a combination of courses and competencies. The rule change also reduces the required number of years of teaching experience from five years to three years.

If approved, the amendments will become effective September 1, 2002.

There will be two public hearings on the proposed amendments at 10 a.m., Friday, September 1, 2000, and at 1 p.m. on Wednesday, September 6, 2000. Each public hearing will be in Conference Room 3 North, Third Floor, Grimes State Office Building, East 14th and Grand Avenue, Des Moines, Iowa. Persons may present their views at the public hearings orally or in writing. Persons who wish to make oral presentation at the public hearing may contact the Executive Director, Board of Educational Examiners, Grimes State Office Building, East 14th and Grand Avenue, Des Moines, Iowa 50319-0147, telephone (515)281-5849, prior to the date of the public hearing.

Any interested person may make written comments or suggestions on the proposed amendments before 4:30 p.m., September 7, 2000. Written comments and suggestions should be addressed to Dr. Anne E. Kruse, Executive Director, Board of Educational Examiners, at the above address.

These amendments are intended to implement Iowa Code chapter 272.

The following amendments are proposed.

Amend subrules 14.23(1) and 14.23(2) as follows:

14.23(1) Elementary principal.

a. Authorization. The holder of this endorsement is authorized to serve as a principal of programs serving children from birth through grade six.

b. Program requirements.

(1) Degree—master's.

~~(2) Content: Completion of a sequence of courses and experiences which may have been a part of, or in addition to, the degree requirements. This sequence is to be at least 27 semester hours to include the following:~~

~~1. Early childhood, elementary and early adolescent level administration.~~

~~2. Early childhood, elementary and early adolescent level supervision and evaluation.~~

~~3. Knowledge and skill related to early childhood, elementary, early adolescent level curriculum development.~~

EDUCATIONAL EXAMINERS BOARD[282](cont'd)

~~4. Knowledge of current strategies and developmentally appropriate practices of early childhood and elementary education, including an observation practicum.~~

~~5. Knowledge of home-school-community relationships and interactions designed to promote parent education, family involvement, and interagency collaboration.~~

~~6. Knowledge of child growth and development from birth through early adolescence.~~

~~7. School law and legislative and public policy issues affecting children and families.~~

~~8. Historical, social, philosophical, and psychological foundations related to early childhood, elementary and early adolescence.~~

~~9. Knowledge of family support systems, factors which place families at risk, and child care issues.~~

~~10. Planned field experiences in early childhood and in elementary or early adolescent school administration.~~

~~11. Evaluator approval component.~~

~~(2) Content: Completion of a sequence of courses and experiences which may have been a part of, or in addition to, the degree requirements.~~

~~1. Knowledge of early childhood, elementary, and early adolescent level administration, supervision, and evaluation.~~

~~2. Knowledge and skill related to early childhood, elementary, and early adolescent level curriculum development.~~

~~3. Knowledge of child growth and development from birth through early adolescence and developmentally appropriate strategies and practices of early childhood, elementary, and early adolescence, to include an observation practicum.~~

~~4. Knowledge of family support systems, factors which place families at risk, child care issues, and home-school community relationships and interactions designed to promote parent education, family involvement, and interagency collaboration.~~

~~5. Knowledge of school law and legislative and public policy issues affecting children and families.~~

~~6. Planned field experiences in early childhood and elementary or early adolescent school administration.~~

~~7. Evaluator approval component.~~

~~(3) Competencies: Completion of a sequence of courses and experiences which may have been a part of, or in addition to, the degree requirements. A school administrator is an educational leader who promotes the success of all students by accomplishing the following competencies.~~

~~1. Facilitates the development, articulation, implementation, and stewardship of a vision of learning that is shared and supported by the school community.~~

~~2. Advocates, nurtures, and sustains a school culture and instructional program conducive to student learning and staff professional growth.~~

~~3. Ensures management of the organization, operations, and resources for a safe, efficient, and effective learning environment.~~

~~4. Collaborates with families and community members, responds to diverse community interests and needs, and mobilizes community resources.~~

~~5. Acts with integrity, fairness, and in an ethical manner.~~

~~6. Understands, responds to, and influences the larger political, social, economic, legal, and cultural context.~~

~~c. Other.~~

~~(1) Have had five three years of teaching experience, three years of which must have been at the early childhood through grade six level.~~

(2) Graduates from institutions in other states who are seeking initial Iowa licensure and the elementary principal's endorsement must meet the requirements for the educational license in addition to the experience requirements.

14.23(2) Secondary principal.

a. Authorization. The holder of this endorsement is authorized to serve as a principal in grades seven through twelve.

b. Program requirements.

(1) Degree—master's.

(2) Content: Completion of a sequence of courses and experiences which may have been a part of, or in addition to, the degree requirements. This sequence is to be at least 27 semester hours to include the following:

~~1. Secondary level administration and supervision.~~

~~2. Early adolescent level administration and supervision.~~

~~3. Secondary curriculum: Knowledge and skill related to secondary level curriculum development.~~

~~4. Knowledge of early adolescent curriculum development.~~

~~5. Knowledge of school-community relationships.~~

~~6. Early adolescent developmental studies or early adolescent psychology.~~

~~7. School law.~~

~~8. Social, philosophical, or psychological foundations.~~

~~9. Planned field experience in secondary school administration.~~

~~10. Evaluator approval component.~~

(2) Content: Completion of a sequence of courses and experiences which may have been a part of, or in addition to, the degree requirements.

1. Knowledge of early adolescent and secondary level administration, supervision, and evaluation.

2. Knowledge and skill related to early adolescent and secondary level curriculum development.

3. Knowledge of human growth and development from early adolescence through early adult development, to include an observation practicum.

4. Knowledge of family support systems, factors which place families at risk, child care issues, and home-school community relationships and interactions designed to promote parent education, family involvement, and interagency collaboration.

5. Knowledge of school law and legislative and public policy issues affecting children and families.

6. Planned field experiences in early adolescence or early adult school administration.

7. Evaluator approval component.

(3) Competencies: Completion of a sequence of courses and experiences which may have been a part of, or in addition to, the degree requirements. A school administrator is an educational leader who promotes the success of all students by accomplishing the following competencies.

1. Facilitates the development, articulation, implementation, and stewardship of a vision of learning that is shared and supported by the school community.

2. Advocates, nurtures, and sustains a school culture and instructional program conducive to student learning and staff professional growth.

3. Ensures management of the organization, operations, and resources for a safe, efficient, and effective learning environment.

4. Collaborates with families and community members, responds to diverse community interests and needs, and mobilizes community resources.

EDUCATIONAL EXAMINERS BOARD[282](cont'd)

5. Acts with integrity, fairness, and in an ethical manner.
6. Understands, responds to, and influences the larger political, social, economic, legal, and cultural context.
- c. Other.

(1) Have had ~~five~~ *three* years of teaching experience, ~~three years of which must have been~~ at the secondary level (7-12).

(2) Graduates from institutions in other states who are seeking initial Iowa licensure and the secondary principal's endorsement must meet the requirements for the educational license in addition to the experience requirements.

ARC 9921A**EDUCATIONAL EXAMINERS BOARD[282]****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 272.2, the Board of Educational Examiners hereby gives Notice of Intended Action to amend Chapter 14, "Issuance of Practitioner's Licenses and Endorsements," Iowa Administrative Code.

The proposed amendments modify the two-year administrator exchange license.

There will be a public hearing on the proposed amendments at 2:30 p.m. on July 27, 2000, in Conference Room 3 South, Third Floor, Grimes State Office Building, East 14th and Grand Avenue, Des Moines, Iowa.

Persons may present their views at the public hearing orally or in writing. Persons who wish to make an oral presentation at the public hearing may contact the Executive Director, Board of Educational Examiners, Grimes State Office Building, East 14th and Grand Avenue, Des Moines, Iowa 50319-0147, or at (515)281-5849, prior to the date of the public hearing. Fax communication may be sent to (515) 281-7669.

Any interested person may make written comments or suggestions on the proposed amendments before 4:30 p.m. on July 28, 2000. Written comments and suggestions should be addressed to Dr. Anne E. Kruse, Executive Director, Board of Educational Examiners, at the above address.

These amendments are intended to implement Iowa Code chapter 272.

The following amendments are proposed.

Amend rule 282—14.25(272) as follows:

282—14.25(272) Two-year administrator exchange license.

14.25(1) A two-year nonrenewable exchange license may be issued to an individual under the following conditions. The individual:

a. Has completed a state-approved teacher education program in a college or university approved by the state board of education or the state board of educational examiners in the individual's ~~home state~~ *preparation state*.

b. Has completed a state-approved administrator education program in a college or university approved by the state

board of education or the state board of educational examiners in the individual's ~~home state~~ *preparation state*.

c. Holds a valid regular administrative certificate or license.

d. Is not subject to any pending disciplinary proceedings in any state.

e. Meets the experience requirements for the administrative endorsements. Verified successful completion of ~~five~~ *three* years of full-time teaching ~~and administrative~~ experience in other states, on a valid license, shall be considered equivalent experience necessary for the principal endorsement. Verified successful completion of ~~eight~~ *six* years of full-time teaching and administrative experience in other states, on a valid license, shall be considered equivalent experience for the superintendent endorsement provided that *at least three years were as a teacher and at least three years were as a building principal or other PK-12 districtwide or area education agency administrator*.

14.25(2) Each exchange license shall be limited to the area(s) and level(s) of administration as determined by an analysis of the application, the transcripts, and the license or certificate held in the state in which the basic preparation for the administrative licensure was completed.

14.25(3) Each individual receiving the two-year exchange license will have to complete any identified licensure deficiencies in order to be eligible for a regular educational and administrative license in Iowa.

ARC 9930A**EDUCATIONAL EXAMINERS BOARD[282]****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 272.2, the Board of Educational Examiners hereby gives Notice of Intended Action to amend Chapter 14, "Issuance of Practitioner's Licenses and Endorsements," Iowa Administrative Code.

The proposed rule relates to the creation of a mentor endorsement for education personnel in grades PK-12.

There will be a public hearing on the proposed amendment at 8 a.m. on September 1, 2000, in Conference Room 3 North, Third Floor, Grimes State Office Building, East 14th and Grand Avenue, Des Moines, Iowa.

Persons may present their views at the public hearing either orally or in writing. Persons who wish to make oral presentations at the public hearing may contact the Executive Director, Board of Educational Examiners, Grimes State Office Building, East 14th and Grand Avenue, Des Moines, Iowa 50319-0147; telephone (515)281-5849, prior to the date of the public hearing.

Any interested person may make written comments or suggestions on the proposed rule before 4:30 p.m. on September 5, 2000. Written comments and suggestions should be addressed to Dr. Anne E. Kruse, Executive Director, Board of Educational Examiners, at the above address.

EDUCATIONAL EXAMINERS BOARD[282](cont'd)

This rule is intended to implement Iowa Code chapter 272.

The following amendment is proposed.

Re-number rule 282—14.34(272) as 282—14.35(272) and adopt the following **new** rule 282—14.34(272).

282—14.34(272) Mentor endorsement.

14.34(1) Authorization. The holder of this endorsement is authorized to serve as a mentor for education personnel in grades PK through 12.

14.34(2) Program requirements.

a. Hold a valid Iowa educational or professional teacher's license.

b. Have completed five years of verified teaching experience.

c. Have completed a state board of education-approved mentor training course of at least 40 clock hours to include the following:

- (1) Adult teacher development;
- (2) Styles of mentoring;
- (3) Coaching techniques;
- (4) Observation data gathering techniques;
- (5) Training that allows a mentor to assist a beginning teacher in meeting the requirements for successful teaching pursuant to 282—14.12(272).

ARC 9922A**EDUCATIONAL EXAMINERS
BOARD[282]****Notice of Termination**

Pursuant to the authority of Iowa Code section 272.2, the Board of Educational Examiners hereby terminates the rule making initiated by its Notice of Intended Action published in the Iowa Administrative Bulletin on March 8, 2000, as **ARC 9727A**, amending Chapter 14, "Issuance of Practitioner's Licenses and Endorsements," Iowa Administrative Code.

The Notice proposed to adopt new rule 282—14.35(272), a temporary one-year classroom monitor authorization, as a pilot program to see if the use of such monitors would have any impact on the availability of individuals who could monitor a teacher's classroom during the teacher's absence. Participation by districts was to have been voluntary.

Public hearings were held on March 28, 2000, March 30, 2000, and April 3, 2000. The majority both of the written comments and those received at time of hearing were opposed to the creation of this license, and the Board was divided in its support for such an authorization. The Board is therefore terminating the rule making commenced in **ARC 9727A**.

ARC 9936A**EDUCATION DEPARTMENT[281]****Notice of Intended Action**

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

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

Pursuant to the authority of Iowa Code section 256.7(5), the State Board of Education hereby gives Notice of Intended Action to amend Chapter 26, "Driver Education," Iowa Administrative Code.

This amendment clarifies that street or highway driving instruction may be provided by a person holding a teaching license at the elementary or secondary level or by a person certified by the Department of Transportation and authorized by the Board of Educational Examiners. The final field test for a student driver must, however, be administered by the licensed teacher.

Interested persons may comment on the proposed amendment on or before July 18, 2000. Written or oral comments should be directed to Ann McCarthy, Policy Consultant, Department of Education, Grimes State Office Building, Des Moines, Iowa 50319; ann.mccarthy@ed.state.ia.us; telephone (515)281-3399.

This amendment is intended to implement 2000 Iowa Acts, Senate File 2313.

The following amendment is proposed.

Amend rule 281—26.1(256) as follows:

281—26.1(256) Licensure and approval Qualifications for instructors. To be qualified as a classroom or laboratory driver education instructor, a person shall have satisfied the educational requirements for a teaching license at the elementary or secondary level and hold a valid license to teach driver education in the public schools of this state. Street or highway driving instruction may be provided by a person qualified as a classroom driver education instructor or a person certified by the department of transportation and authorized by the board of educational examiners. A final field test prior to a student's completion of an approved course shall be administered by a person qualified as a classroom driver education instructor.

ARC 9937A**EDUCATION DEPARTMENT[281]****Notice of Intended Action**

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

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

Pursuant to the authority of Iowa Code section 256.7(5), the State Board of Education hereby gives Notice of Intended Action to amend Chapter 63, "Educational Programs and Services for Pupils in Juvenile Homes," Iowa Administrative Code.

EDUCATION DEPARTMENT[281](cont'd)

This amendment increases flexibility for newly established juvenile homes requesting educational services from Area Education Agencies. Under current Iowa law, new and existing juvenile homes must file a request for educational services by December 1 of the school year prior to the year services are desired. 2000 Iowa Acts, Senate File 2294, allows newly established juvenile homes to request educational services 90 days prior to the requested delivery of the educational services.

Interested persons may comment on the proposed amendment on or before July 18, 2000. Written or oral comments should be directed to Ann McCarthy, Policy Consultant, Department of Education, Grimes State Office Building, Des Moines, Iowa 50319; ann.mccarthy@ed.state.ia.us; telephone (515)281-3399.

This amendment is intended to implement Iowa Code section 282.30 as amended by 2000 Iowa Acts, Senate File 2294.

The following amendment is proposed.

Amend rule 281—63.3(282) as follows:

281—63.3(282) Forms.

63.3(1) The department of education shall provide forms to area education agencies (AEAs) for submitting program and budget proposals and for submitting claims. The annual dates for filing forms with the department of education are January 1 of the prior fiscal year for AEAs to submit program and budget proposals, and August 1 of the subsequent fiscal year for AEAs to file claims. The department of education shall notify the AEA by February 1.

63.3(2) The department of education shall also provide forms to AEAs for use by the juvenile homes requesting educational services. These forms must be filed with the AEA annually by December 1 of the fiscal year prior to the school year for which the services are being requested *or 90 days prior to the beginning of the time for which the services are being requested if the facility is a newly established facility. An AEA shall file a budget amendment for a newly established juvenile home requesting educational services 90 days prior to the initial delivery of the educational services.*

ARC 9938A**EDUCATION DEPARTMENT[281]****Notice of Intended Action**

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

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

Pursuant to the authority of Iowa Code section 256.7(5), the State Board of Education hereby gives Notice of Intended Action to amend Chapter 69, "Waiver of School Breakfast Program Requirement," Iowa Administrative Code.

These amendments increase flexibility for school district breakfast programs by allowing districts to offer the breakfast program at a site other than a school building.

Interested persons may comment on the proposed amendments on or before July 18, 2000. Written or oral comments should be directed to Ann McCarthy, Policy Consultant, Department of Education, Grimes State Office Building, Des

Moines, Iowa 50319; ann.mccarthy@ed.state.ia.us; telephone (515)281-3399.

These amendments are intended to implement 2000 Iowa Acts, House File 2549.

The following amendments are proposed.

ITEM 1. Amend rule 281—69.14(78GA,ch147), introductory paragraph, as follows:

281—69.14(78GA,ch147) Criteria for a plan to provide safe, reasonable student access to a school breakfast program. A school board that wishes to provide safe, reasonable student access to a school breakfast program, rather than operate or provide for the operation of a school breakfast program at a specific attendance center within the district, shall develop an alternative site plan to operate the school breakfast program at another attendance center *or other site* within the school district and shall annually certify to the department that the plan meets the following criteria:

ITEM 2. Amend rule 281—69.15(78GA,ch147) as follows:

281—69.15(78GA,ch147) Notification requirements.

The school board that wishes to provide access to a school breakfast program in accordance with this provision shall notify the parent, guardian, or legal or actual custodian of a child enrolled in the school district of the school district's intention to develop and implement a plan to provide school breakfast programs only in certain attendance centers *or other sites*. At any time in which the school district proposes to make substantive changes to a plan certified with the department, the notification requirements of this rule shall apply.

ARC 9939A**EDUCATION DEPARTMENT[281]****Notice of Intended Action**

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

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

Pursuant to the authority of Iowa Code section 256.7(5), the State Board of Education hereby gives Notice of Intended Action to amend Chapter 83, "Beginning Teacher Induction Program," Iowa Administrative Code.

This amendment eliminates the requirement that grant funds be distributed based upon the geographic location of the applicant school districts when available funds are insufficient to meet the grant requests. Grants will continue to be awarded based upon school district population.

Interested persons may comment on the proposed amendment on or before July 18, 2000. Written or oral comments should be directed to Ann McCarthy, Policy Consultant, Department of Education, Grimes State Office Building, Des Moines, Iowa 50319; ann.mccarthy@ed.state.ia.us; telephone (515)281-3399.

This amendment is intended to implement 2000 Iowa Acts, Senate File 2452.

The following amendment is proposed.

Amend 281—83.5(78GA,SF464) as follows:

281—83.5(78GA,SF464) Funding for approved programs. The process to be followed in determining the

EDUCATION DEPARTMENT[281](cont'd)

amount of funds to be approved for this competitive program grant will be described in the grant application. The review criteria and point allocation for each criterion will also be described in the grant application material. The membership of the funding review committee shall be determined by the appropriate division administrator. Members shall, at minimum, include representatives from local school districts, area education agencies, and institutions of higher education. The review committee members shall allocate points per review criterion in rule 83.3(78GA,SF464). In the event the number of approved programs exceeds available funding, the department will award grants based on the geographic and district population of the school districts with approved plans. A district may receive funding for subsequent years if it has an approved plan on file with the department and also submits any additional program improvements or updates that have been implemented by the district.

to the department on forms and in the manner prescribed by the department.

96.2(1) First year of taxation *in fiscal year 2000-2001*. Within ten days after an election in a county where a sales tax has been adopted *which is effective on January 1, 2001*, each school district within the county shall report to the department the actual enrollment of the school district in ~~the year prior to the base year~~ *September 1999 by county of residency*. The department shall forward the actual enrollment to the department of management within 15 days of receipt.

96.2(2) ~~Second year and subsequent years of taxation~~ *Reporting by county of residency*. ~~In the second year and subsequent years of taxation, each~~ *Each* school district shall, by October 1, annually report the school district's actual enrollment by the student's county of residency according to the following:

a. to c. No change.

ARC 9940A

EDUCATION DEPARTMENT[281]

Notice of Intended Action

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

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

Pursuant to the authority of Iowa Code section 256.7(5), the State Board of Education hereby gives Notice of Intended Action to amend Chapter 96, "Local Option Sales and Services Tax for School Infrastructure," Iowa Administrative Code.

These amendments will allow the Department to calculate the sales tax capacity per pupil for each school district as required under 2000 Iowa Acts, Senate File 2447. The sales tax capacity per pupil is one factor used to determine the local match a school district would be required to provide if applying to the Department for a grant under the School Infrastructure Program established in 2000 Iowa Acts, Senate File 2447.

Interested persons may comment on the proposed amendments on or before July 18, 2000. Written or oral comments should be directed to Ann McCarthy, Policy Consultant, Department of Education, Grimes State Office Building, Des Moines, Iowa 50319; ann.mccarthy@ed.state.ia.us; telephone (515)281-3399.

These amendments are intended to implement 2000 Iowa Acts, Senate File 2447.

The following amendments are proposed.

ITEM 1. Amend rule 281—96.1(77GA,ch1130), definition of "combined actual enrollment," as follows:

"Combined actual enrollment" means the sum of the students in each school district located in whole or in part in a county ~~imposing a sales tax~~ who are residents of that county as determined by rule 96.2(77GA,ch1130).

ITEM 2. Amend rule 281—96.2(77GA,ch1130) as follows:

281—96.2(77GA,ch1130) Reports to the department. Each school district ~~located in whole or in part in a county where a sales tax has been imposed~~ shall report the following

ARC 9892A

ELDER AFFAIRS
DEPARTMENT[321]

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 231.58, the Department of Elder Affairs hereby gives Notice of Intended Action to amend Chapter 16, "Long-Term Care Coordinating Unit," Iowa Administrative Code.

These amendments incorporate the "senior living coordinating unit" name change and provide for the addition of four legislative members and inclusion of responsibilities relating to the Senior Living Trust Fund Act as passed by the 78th General Assembly in 2000 Iowa Acts, Senate File 2193.

Any interested person may make written suggestions or comments on the proposed amendments on or before August 1, 2000. Written comments should be directed to Dr. Judith A. Conlin, Director, Department of Elder Affairs, Clemens Building, Third Floor, 200 Tenth Street, Des Moines, Iowa 50309-3609.

Oral or written comments may be submitted at a public hearing to be held at 10 a.m. on Tuesday, August 1, 2000, in the North Conference Room, Department of Elder Affairs. At the hearing, persons will be asked to give their names and addresses for the record and to confine their remarks to the subject of these amendments.

Anyone who wishes to attend the hearing and has special requirements such as hearing, vision, mobility impairments, or other special needs should notify the Department of Elder Affairs no later than 4 p.m. on Friday, July 28, 2000. Notice may be in writing or by telephone to (515)242-3325.

These amendments are intended to implement 2000 Iowa Acts, Senate File 2193.

The following amendments are proposed.

Amend 321—Chapter 16 as follows:

ELDER AFFAIRS DEPARTMENT[321](cont'd)

CHAPTER 16
LONG-TERM CARE SENIOR LIVING
COORDINATING UNIT

321—16.1(231) Purpose. The long-term care senior living coordinating unit shall develop mechanisms and procedures to improve long-term care in Iowa. In furthering this purpose, the long-term care senior living coordinating unit shall develop procedures, plans, rules and reports as identified in Iowa Code section 231.58, and shall provide direction and oversight for disbursement of moneys from the senior living trust fund established by 2000 Iowa Acts, Senate File 2193, section 4.

321—16.2(231) Organization. The long-term care senior living coordinating unit is created within the department of elder affairs.

16.2(1) Membership. The membership of the coordinating unit consists of:

- a. The director of the department of human services;
- b. The executive director of the department of elder affairs;
- c. The director of the department of public health;
- d. The director of the department of inspections and appeals; and
- e. Two members appointed by the governor to terms of three years beginning July 1 and ending June 30; and
- f. Four members of the general assembly, as ex officio, nonvoting members.

16.2(2) Legislative members. The legislative members of the unit shall be appointed by the majority leader of the senate, after consultation with the president of the senate and the minority leader of the senate, and by the speaker of the house, after consultation with the majority leader and the minority leader of the house of representatives.

16.2(3) Expenses. Nonlegislative members shall receive actual expenses incurred while serving in their official capacity and, if the holder of the position has an income level of 150 percent or less of the United States poverty level as defined in the most recently revised poverty income guidelines published by the United States Department of Health and Human Services, may also request to receive compensation of \$50 per diem as provided in Iowa Code section 7E.6. Legislative members shall receive compensation pursuant to Iowa Code section 2.12.

16.2(2) 16.2(4) Chairperson and vice-chairperson duties. The chairperson of the unit is chosen from among the voting members on an annual, rotating basis.

- a. Rotation is alphabetical by department name.
- b. The chairperson's duties include:
 - (1) Convening and chairing unit meetings;
 - (2) Ensuring that unit proceedings are recorded;
 - (3) Ensuring that minutes of meetings are prepared and distributed;
 - (4) Ensuring that tentative meeting agendas are prepared and distributed; and
 - (5) Ensuring that all notices required by Iowa Code section 28A.4 21.4 are given.

c. The vice-chairperson of the unit is chosen from the voting members on an annual basis. The vice-chairperson shall assume the chairperson's duties in the chairperson's absence.

16.2(3) 16.2(5) Quorum and action.

- a. A majority of the voting members of the unit constitutes a quorum.
- b. Action of the unit is not taken except upon the affirmative vote of a majority of the members of the unit. Other

materials considered are made a part of the unit's minutes by reference.

c. In cases not covered by these rules, Robert's Rules of Order, as amended, shall govern.

321—16.3(231) Meetings. The unit shall meet at least once during each calendar quarter. Meeting dates shall be set by members of the unit at the end of each meeting or by call of the chairperson upon five days' notice.

321—16.4(231) Operation.

16.4(1) The technical and administrative functions of the unit shall be apportioned among the departments of elder affairs, human services, public health, and inspections and appeals and other entities included in the CBAS committee by memorandum of agreement.

16.4(2) The unit shall establish an advisory work group to review and make recommendations to the unit regarding the awarding of grants under 2000 Iowa Acts, Senate File 2193, section 6.

a. The advisory work group shall consist of representatives from the member departments and other individuals with the knowledge and skills necessary to review grant applications, including a representative from the state fire marshal's office and the securities bureau of the department of commerce.

b. The advisory work group shall review all complete applications as provided in 441—Chapter 162 and make recommendations to the unit regarding the awarding of grants.

16.4(3) The unit shall consider the recommendations of the advisory work group in relation to the purpose of the senior living trust fund Act and make recommendations to the department of human services regarding the awarding of grants under 2000 Iowa Acts, Senate File 2193, section 6.

321—16.5(231) Communications. Communications to the unit shall be addressed to the department of elder affairs at the address identified in 321—subrule 2.1(2) of these rules unless otherwise specified.

These rules are intended to implement Iowa Code chapter 231 and 2000 Iowa Acts, Senate File 2193.

ARC 9899A

**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.

The Seventy-seventh General Assembly directed the Department to implement a three-year telemedicine pilot project effective July 1, 1997. Under this pilot, payment was made to physicians participating in a federally funded telemedicine waiver program for consultations done using the electronic transfer of medical information by interactive au-

HUMAN SERVICES DEPARTMENT[441](cont'd)

diovisuals and to hospitals participating in a federally funded telemedicine waiver program for costs associated with the provision of the teleconsultive medical services.

The Seventy-eighth General Assembly directed the Department to discontinue the telemedicine pilot program on July 1, 2000. This amendment removes the rule governing the telemedicine pilot program.

This amendment does not provide for waiver in specified situations because the General Assembly directed the Department to implement this change, with no provisions for exceptions.

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 July 19, 2000.

This amendment is intended to implement Iowa Code section 249A.4 and 2000 Iowa Acts, Senate File 2435, section 8, subsection 10, paragraph "a."

The following amendment is proposed.

Rescind and reserve rule **441—78.45(249A)**.

ARC 9896A**INSPECTIONS AND APPEALS
DEPARTMENT[481]****Notice of Intended Action**

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

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

Pursuant to the authority of Iowa Code section 261.126(2), the Department of Inspections and Appeals hereby gives Notice of Intended Action to amend Chapter 8, "Licensing Actions for Nonpayment of Child Support," Iowa Administrative Code.

The proposed amendments are intended to implement Iowa Code section 261.121 and relate to licensing sanctions against individuals who default on debt owed to or collected by the College Student Aid Commission. In addition to other grounds for suspension, revocation, or denial of issuance or renewal of a license, the Department of Inspections and Appeals will also include the receipt of a certification of non-compliance from the College Student Aid Commission.

Interested persons may make written comments or suggestions on the proposed amendments on or before July 18, 2000. Written materials should be addressed to the Director, Department of Inspections and Appeals, Lucas State Office Building, East 12th and Grand Avenue, Des Moines, Iowa 50319-0083; or faxed to (515)242-6863. E-mail may be sent to jkomos@dia.state.ia.us.

The proposed amendments are not subject to waiver because the sanctions are specifically mandated by statute.

These amendments are intended to implement Iowa Code section 261.126.

The following amendments are proposed.

ITEM 1. Amend **481—Chapter 8**, title, as follows:

**LICENSING ACTIONS FOR NONPAYMENT OF
CHILD SUPPORT AND STUDENT LOAN
DEFAULT/NONCOMPLIANCE WITH AGREEMENT
FOR PAYMENT OF OBLIGATION**

ITEM 2. Adopt the following **new** rules:

481—8.2(261) Student loan default/noncompliance with agreement for payment of obligation.

8.2(1) Definitions. For the purposes of these rules, the following definitions shall apply.

"Certificate of noncompliance" means written certification from the college student aid commission to the licensing authority certifying that the licensee has defaulted on an obligation owed to or collected by the commission.

"Commission" means the college student aid commission.

"Department" means department of inspections and appeals.

"Licensing authority" means the department of inspections and appeals.

8.2(2) Denial of issuance or renewal of a license. The department shall deny the issuance or renewal of a license upon receipt of a certificate of noncompliance from the college student aid commission according to the procedures set forth in Iowa Code sections 261.121 to 261.127. In addition to the procedures contained in those sections, the following shall apply:

a. In order to process the certificate of noncompliance received by the department, the department will maintain records of licensees by name, current known address and social security number.

b. Upon receipt of a certificate of noncompliance duly issued by the commission, the department shall initiate procedures for denial of issuance or renewal of a license.

c. The notice required by Iowa Code section 261.126(4) shall be served by restricted certified mail, return receipt requested, or by personal service in accordance with the Iowa Rules of Civil Procedure. Alternatively, the applicant or licensee may accept service personally or through authorized counsel.

d. The department's notice referred to in Iowa Code section 261.126(4) shall state all of the following:

(1) The licensing authority intends to deny issuance or renewal of an applicant/licensee's license due to the receipt of a certificate of noncompliance from the commission.

(2) The applicant/licensee must contact the commission to schedule a conference or to otherwise obtain a withdrawal of a certificate of noncompliance.

(3) Unless the commission furnishes a withdrawal of a certificate of noncompliance to the licensing authority within 30 days of the issuance of the notice under 8.2(2)"c," the applicant/licensee's license or application shall be denied.

e. The applicant or licensee served with a notice under 8.2(2)"c" shall not have a right to a hearing before the department but may request a court hearing pursuant to Iowa Code section 261.127. Such court hearing must be requested within 30 days of providing notice.

f. The effective date of the denial of the issuance or renewal of a license, as specified in the notice under 8.2(2)"c" and required by Iowa Code section 261.126(4), shall be 60 days following service of the notice upon the applicant or licensee.

g. The department is authorized to prepare and serve the notice required by Iowa Code section 261.126(4) upon the applicant or licensee.

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

h. All department fees required for application, license renewal, or license reinstatement must be paid by an applicant or licensee, and all continuing education requirements must be met before a license will be issued, renewed, or reinstated after the department has denied the issuance or renewal of a license pursuant to Iowa Code sections 261.121 to 261.127.

i. In the event an applicant or licensee timely files a district court action following service of a department notice pursuant to Iowa Code section 261.126(4), the department shall continue with the intended action described in the notice upon the receipt of a court order lifting the stay, dismissing the action, or otherwise directing the department to proceed.

j. Upon the filing of a district court action, the applicant or licensee shall promptly file with the department a copy of the petition filed with the district court. In addition, the applicant or licensee shall provide the department with copies of all court orders and rulings entered in such action, including copies of any order entered dismissing the action, and shall provide such copies to the department within seven days of the action taken by the district court.

k. For purposes of determining the effective date of the denial of the issuance or renewal of a license, the department shall count the number of days before the action was filed and the number of days after the action was disposed of by the court.

481—8.3(261) Suspension or revocation of a license. The department shall suspend or revoke a license upon receipt of a certificate of noncompliance from the college student aid commission according to the procedures set forth in Iowa Code sections 261.121 to 261.127. In addition to the provisions contained in those sections, the following shall apply:

8.3(1) In order to process the certificate of noncompliance received by the department, the department will maintain records of licensees by name, current known address and social security number.

8.3(2) Upon receipt of a certificate of noncompliance duly issued by the commission, the department shall initiate procedures for suspension or revocation of a license.

8.3(3) The notice required by Iowa Code section 261.126(4) shall be served by restricted certified mail, return receipt requested, or by personal service in accordance with Iowa Rules of Civil Procedure. Alternatively, the applicant or licensee may accept service personally or through authorized counsel.

8.3(4) The department's notice referred to in Iowa Code section 261.126(4) shall state all of the following:

a. The licensing authority intends to suspend or revoke an applicant/licensee's license due to the receipt of a certificate of noncompliance from the commission.

b. The applicant/licensee must contact the commission to schedule a conference or to otherwise obtain a withdrawal of a certificate of noncompliance.

c. Unless the commission furnishes a withdrawal of a certificate of noncompliance to the licensing authority within 30 days of the issuance of the notice under subrule 8.3(3), the applicant/licensee's license shall be revoked or suspended.

8.3(5) The applicant or licensee served with a notice under 8.3(3) shall not have a right to a hearing before the department but may request a court hearing pursuant to Iowa Code section 261.127. Such court hearing must be requested within 30 days of providing notice.

8.3(6) The effective date of suspension or revocation of the license, as specified in the notice required under 8.3(3) and required by Iowa Code section 261.126(4), shall be 60 days following service of the notice upon the applicant or licensee.

8.3(7) The department is authorized to prepare and serve the notice required by Iowa Code section 261.126(4) upon the licensee.

8.3(8) All department fees required for application, license renewal, or license reinstatement must be paid by the applicant or licensee and all continuing education requirements must be met before a licensee will be issued, renewed, or reinstated after the department has revoked or suspended a license pursuant to Iowa Code sections 261.121 to 261.127.

8.3(9) In the event an applicant or licensee timely files a district court action following service of a department notice pursuant to Iowa Code section 261.126(4), the department shall continue with the intended action described in the notice upon the receipt of a court order lifting the stay, dismissing the action, or otherwise directing the department to proceed.

8.3(10) Upon the filing of a district court action, the applicant or licensee shall promptly file with the department a copy of the petition filed with the district court. In addition, the applicant or licensee shall provide the department with copies of all court orders and rulings entered in such action, including copies of any order entered dismissing the action, and shall provide such copies to the department within seven days of the action taken by the district court.

8.3(11) For purposes of determining the effective date of the denial of the issuance or renewal of a license, the department shall count the number of days before the action was filed and the number of days after the action was disposed of by the court.

ITEM 3. Amend **481—Chapter 8**, implementation clause, as follows:

These rules are intended to implement Iowa Code ~~Supplement~~ chapter 252J and Iowa Code sections 261.121 to 261.127.

ARC 9933A**MEDICAL EXAMINERS
BOARD[653]****Notice of Termination**

Pursuant to the authority of Iowa Code sections 147.76 and 272C.3, the Board of Medical Examiners hereby terminates rule making initiated by its Notice of Intended Action published in the Iowa Administrative Bulletin on January 12, 2000, as **ARC 9605A**, proposing to adopt new Chapter 3, "Uniform Waiver and Variance," and to amend Chapter 11, "Licensure Requirements," Iowa Administrative Code.

The Notice proposed to adopt new Chapter 3 which would address uniform waivers and variances of the Board's rules and to amend Chapter 11. The Board voted on June 1, 2000, to terminate the rule making since it was unable to amend the noticed rules during the 180-day Notice period.

The Board is terminating the rule making commenced in **ARC 9605A** and will renote the proposed rules on uniform waivers and variances at a later date.

ARC 9932A
MEDICAL EXAMINERS
BOARD[653]

Notice of Intended Action

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

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

Pursuant to the authority of Iowa Code sections 272C.3 and 68B.4, the Board of Medical Examiners hereby gives Notice of Intended Action to amend Chapter 10, "Medical Examiners," Iowa Administrative Code.

The Board approved the amendment to Chapter 10 during its regularly held meeting on June 1, 2000.

The proposed amendment to Chapter 10 establishes a rule that identifies the conditions under which board members may sell, either directly or indirectly, any goods or services to individuals, associations, or corporations that are subject to the regulatory authority of the Department of Public Health. The rule specifies the conditions for a proper sale including what can be authorized for sale and the required application process, as well as the limitations of the consent.

Any interested person may present written comments on the proposed rule not later than 4 p.m. on July 18, 2000. Such written materials should be sent to Ann E. Mowery, Executive Director, Board of Medical Examiners, 400 S.W. 8th Street, Suite C, Des Moines, Iowa 50309-4686.

There will be a public hearing on July 18, 2000, at 1 p.m. in the Board office, at which time persons may present their views either orally or in writing. The Board of Medical Examiners office is located at 400 S.W. 8th Street, Suite C, Des Moines, Iowa.

This amendment is intended to implement Iowa Code section 68B.4.

The following amendment is proposed.

Adopt the following **new** rule:

653—10.11(68B) Selling of goods or services by members of the board or impaired physician review committee (IPRC).

10.11(1) Application of the rule. The board members and members of the IPRC shall not sell, either directly or indirectly, any goods or services to individuals, associations, or corporations that are subject to the regulatory authority of the department except as authorized by this rule.

10.11(2) Consent. Consent shall be given by a majority of the members of the board. Consent shall not be given to an official to sell goods or services to an individual, association, or corporation regulated by the department unless all of the following conditions are met:

a. The official requesting consent does not have authority to determine whether consent should be given.

b. The official's duties or functions are not related to the department's regulatory authority over the individual, association or corporation to whom the goods and services are being sold, or the selling of the good or service does not affect the official's duties or functions.

c. The selling of the good or service does not include acting as an advocate on behalf of the individual, association, or corporation to the department.

d. The selling of the good or service does not result in the official's selling a good or service to the department on behalf of the individual, association, or corporation.

10.11(3) Authorized sales. Sales may be authorized under the following conditions:

a. A member of the board or IPRC may sell goods or services to any individual, association, or corporation regulated by any division within the department, other than the board or committee on which that official serves. This consent is granted because the sale of such goods or services does not affect the member's duties or functions on the board or IPRC.

b. A member of the board may sell goods or services to any individual, association, or corporation regulated by the board if those goods or services are routinely provided to the public as part of that person's regular professional practice. This consent is granted because the sale of such goods or services does not affect the board or IPRC member's duties or functions on the board or IPRC, respectively. In the event an individual, association, or corporation regulated by the board, to whom a board or IPRC member sells goods or services is directly involved in any matter pending before the board, including a disciplinary matter, that board or IPRC member shall not participate in any deliberation or decision concerning that matter. In the event a complaint is filed with the board concerning the services provided by the board or IPRC member to a member of the public, that board or IPRC member is otherwise prohibited by law from participating in any discussion or decision by the licensing board in that case.

c. Individual application and approval are not required for the sales authorized by this rule unless there are unique facts surrounding a particular sale which would cause the sale to affect the seller's duties or functions, would give the buyer an advantage in dealing with the board or IPRC, or would otherwise present a conflict of interest.

10.11(4) Application for consent. Prior to selling a good or service to an individual, association, or corporation subject to the regulatory authority of the department, an official must obtain prior written consent unless the sale is specifically allowed in subrule 10.11(3). The request for consent must be in writing and signed by the official requesting consent. The application must provide a clear statement of all relevant facts concerning the sale. The application should identify the parties to the sale and the amount of compensation. The application should also explain why the sale should be allowed.

10.11(5) Limitation of consent. Consent shall be in writing and shall be valid only for the activities and the time period specifically described in the consent. Consent can be revoked at any time by a majority vote of the members of the board upon written notice to the board. A consent provided under this chapter does not constitute authorization for any activity which is a conflict of interest under common law or which would violate any other statute or rule. It is the responsibility of the official requesting consent to ensure compliance with all other applicable laws and rules.

This rule is intended to implement Iowa Code section 68B.4.

ARC 9924A

MEDICAL EXAMINERS BOARD[653]

Notice of Intended Action

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

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

Pursuant to the authority of Iowa Code sections 147.76 and 272C.4, the Board of Medical Examiners hereby gives Notice of Intended Action to amend Chapter 14, “Registration of Acupuncturists,” Iowa Administrative Code.

This proposed rule making amends the current chapter to comply with 2000 Iowa Acts, Senate File 182, which will become effective on July 1, 2000. The changes are described here:

- The new legislation eliminates registration and replaces it with licensure. This change is present throughout the proposed amendments. The proposed amendments provide a mechanism for transitioning those who have been registered to being licensed, as well as licensing those not formerly registered.

- The new legislation sets the licensure period as two years. The proposed amendments reflect this change, and the fees have been revised accordingly. In addition, the proposed amendments provide a mechanism to transition those registered annually by birth month to biennially on a date that is the same for everyone. Procedures for biennial license renewal are also included in the proposed amendments.

- The new legislation changes the definitions of “acupuncture” and “practice of acupuncture” and no longer requires physician referral. All of these changes are reflected in the proposed amendments.

- The new legislation changes the qualifications for acupuncture licensure and provides an alternate method for qualifying until July 1, 2001. The proposed amendments include the new qualifications and a mechanism by which individuals can meet the alternate method and receive Board approval and licensure by July 1, 2001.

In addition, the Board is extending continuing education to mean an array of professional development activities approved by a national organization rather than just classroom continuing education hours.

The Board approved the proposed amendments during its regularly held meeting on June 1, 2000.

Any interested person may present written comments on the proposed amendments not later than 4 p.m. on July 18, 2000. Such written materials should be sent to Ann E. Mowery, Executive Director, Board of Medical Examiners, 400 S.W. 8th Street, Suite C, Des Moines, Iowa 50309-4686.

There will be a public hearing on July 18, 2000, at 10 a.m. in the Board office, at which time persons may present their views either orally or in writing. The Board of Medical Examiners office is located at 400 S.W. 8th Street, Suite C, Des Moines, Iowa.

These amendments are intended to implement Iowa Code sections 147.1, 147.2, 147.74, and 147.80 as amended by 2000 Iowa Acts, Senate File 182, Iowa Code chapter 148E as amended by 2000 Iowa Acts, Senate File 182, and Iowa Code section 272C.3.

The following amendments are proposed.

Amend 653—Chapter 14 as follows:

CHAPTER 14

REGISTRATION LICENSURE OF ACUPUNCTURISTS

653—14.1(148E) Purpose. The ~~registration licensure~~ of acupuncturists is established to ensure that practitioners are qualified to provide Iowans with safe and healthful care. The provisions of Iowa Code chapters 147, 148E and 272C authorize the board of medical examiners to establish examination requirements for ~~registration licensure~~; evaluate the credentials of applicants for ~~registration licensure~~ (147.2, 148E.3); grant ~~certificates of registration licenses~~ to qualified applicants (148E.2); institute continuing education requirements (272C.2); investigate complaints and reports alleging ~~registrants that licensed acupuncturists~~ violated statutes and rules governing the practice of acupuncture (147.55, 148E.6); and discipline ~~registrants licensed acupuncturists~~ found guilty of infractions as provided in state law and board rules (147.55, 148E.6).

653—14.2(148E) Scope Licensure exceptions. In accordance with Iowa Code section ~~148E.8~~ 148E.3, the following rules govern those persons engaged in the practice of acupuncture not otherwise licensed by the state to practice medicine and surgery, osteopathy, osteopathic medicine and surgery, chiropractic, podiatry, or dentistry. *A student practicing acupuncture under the direct supervision of a licensed acupuncturist as part of a course of study approved by the board is not required to obtain a license.*

653—14.3(148E) Definitions.

“~~AAAOM~~” is the American Association of Acupuncture and Oriental Medicine.

“~~Acupuncture~~” is promoting, maintaining, or restoring health based on traditional oriental medical concepts of treating specific areas of the human body, known as acupuncture points or meridians, by performing any of the following practices:

1. ~~Inserting acupuncture needles.~~
2. ~~Moxibustion.~~
3. ~~Applying manual, conductive thermal, or electrical stimulation through the use of acupuncture needles or any other secondary therapeutic technique, except for the use of electromagnetic or ultrasound energy sources.~~

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

“*Applicant*” is means a person not otherwise authorized to practice acupuncture under Iowa Code section ~~148E.8~~ 148E.3 who applies to the board for a ~~certificate of registration license~~.

“*Board*” is means the board of medical examiners established in Iowa Code chapter 147.

“~~CCAOM~~” is the Council of Colleges of Acupuncture and Oriental Medicine.

“~~Certificate of registration~~” is a certificate issued by the board pursuant to Iowa Code section 148E.3.

“~~Certified~~” is a person deemed qualified to practice acupuncture by the NCCA by passing the written, practical examination of point location skills (PEPLS) and clean needle technique (CNT) portions of the NCCA acupuncture examination.

“*Committee*” is means the ~~allied health license and examination~~ committee of the board with oversight responsi-

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bility for administration of the ~~registration~~ licensure of acupuncturists.

"Current registrant" means a person who is registered to practice in Iowa and who submits an application for licensure within 60 days of receiving an application from the board by certified mail. A current registrant may practice acupuncture in Iowa until the board issues or denies a license.

"Department" is means the Iowa department of public health.

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

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

"English proficiency" is means sufficient knowledge of the English language as evidenced by achieving a passing score on one of the following examinations:

1. TOEFL, is the Test of English as a Foreign Language administered by the Educational Testing Service.

2. TOEIC, is the Test of English for International Communication administered by the Educational Testing Service.

3. TSE, is the Test of Spoken English administered by the Educational Testing Service.

"Former registrant" means a person whose acupuncture registration has lapsed or a person who did not apply for licensure within 60 days of receiving an application from the board by certified mail. A former registrant is not in good standing to practice acupuncture in Iowa.

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

"Licensed acupuncturist" or "licensee" means a person holding a license to practice acupuncture granted by the board under the provisions of Iowa Code chapter 148E.

~~"Medical evaluator" is a person licensed by the state to practice medicine and surgery, osteopathy, osteopathic medicine and surgery, chiropractic, podiatry, or dentistry who evaluates a patient's condition and makes a written referral to the registered acupuncturist within one year of the initial acupuncture treatment.~~

"National commission for the certification of acupuncturists" means the National Certification Commission for Acupuncture and Oriental Medicine (NCCAOM).

~~"NCCA" is the National Commission for the Certification of Acupuncturists.~~

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

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

~~"Registered acupuncturist" or "registrant" is a person holding a certificate of registration to practice acupuncture granted by the board under the provisions of Iowa Code chapter 148E.~~

653—14.4 5(147,148E) Application requirements.

14.5(1) Application required. All registered acupuncturists shall apply for a license within 60 days of receiving an application by certified mail. Failure to apply for licensure in that time frame shall deem the registration invalid and the individual no longer qualified to practice acupuncture in Iowa.

~~14.4(1) 14.5(2) Applicant qualifications~~ Application for licensure. To apply for a ~~certificate of registration~~ license to practice acupuncture, an applicant shall:

a. Submit the completed application form provided by the board, including required credentials and documents; and

b. Pay a nonrefundable initial application fee of \$300.

(1) For current registrants, the fee to become licensed is prorated based on the expiration date of the individual's registration. The board shall notify each registrant of the nonrefundable application fee when the board sends the application by certified mail.

(2) For former registrants, the fee to become licensed is a nonrefundable application fee of \$300.

~~14.4(2) 14.5(3)~~ Contents of the application form. Each applicant, other than current registrants, shall submit the following information on the application form provided by the board:

a. The applicant's name, date and place of birth, and home address, mailing address and principal business address;

b. A photograph of the applicant suitable for positive identification;

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

d. Full disclosure of the applicant's involvement in civil litigation related to the practice of acupuncture in any jurisdiction of the United States, other nations or territories;

e. Full disclosure of any disciplinary action taken against the applicant by, but not limited to, a regulatory authority, educational institution, or health facility in any jurisdiction of the United States, other nations or territories;

~~f. A certified statement indicating the results of any acupuncture examination the applicant has taken in any jurisdiction of the United States, other nations or territories; The NCCAOM score report verification form submitted directly to the board by the NCCAOM;~~

g. An official statement from NCCAOM that the applicant holds active status as a diplomate in NCCAOM;

h. An official statement showing successful completion of a course in clean needle technique approved by the NCCAOM;

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

j. A description of the applicant's clinical acupuncture training, work experience and, where applicable, supporting documentation;

k. An official transcript sent directly from the institution of higher education or acupuncture school attended by the applicant and, if necessary, an English translation of the official transcript; and

l. Proof of the applicant's proficiency in the English language, when deemed appropriate by the board or commit-

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~~tee.~~ the applicant has not passed the English version of the NCCAOM written and practical examinations; and

m. A copy of the disclosure sheet to be used in practice, as described in 14.5(5).

14.5(4) Contents of the application form for current registrants. Each current registrant shall submit the following information on the application form provided by the board:

a. The applicant's name, home address, mailing address and principal business address;

b. Full disclosure of the applicant's involvement in civil litigation related to the practice of acupuncture in any jurisdiction of the United States, other nations or territories;

c. Full disclosure of any disciplinary action taken against the applicant by, but not limited to, a regulatory authority, educational institution, or health facility in any jurisdiction of the United States, other nations or territories;

d. An official statement from NCCAOM that the registrant holds active status as a diplomate in NCCAOM;

e. An official statement showing successful completion of a course in clean needle technique approved by the NCCAOM;

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

g. A description of the applicant's work experience in the past five years and, where applicable, supporting documentation; and

h. A copy of the disclosure sheet used in practice, as described in 14.5(5).

~~14.4(3)~~ **14.5(5)** Disclosure sheet. Pursuant to Iowa Code section ~~148E.4~~ 148E.6, applicants shall also provide a copy of the disclosure sheet to be given to each patient that includes the following information:

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

b. A fee schedule;

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

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

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

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

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

~~14.4(4)~~ **14.5(6)** Application cycle. Applications for initial certificate of registration licensure, except for current registrants, shall be open for 120 days from the date the application form is received in the board's office.

a. After the 120 days, applicants shall update credentials and submit a nonrefundable reactivation of application fee of \$100 unless granted an extension in writing by the committee or the board. The period for requesting reactivation of the

application is limited to one year (~~365 days~~) from the date the application form is received by the board.

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

~~14.4(5)~~ **14.5(7)** Applicant responsibilities. An applicant for certificate of registration licensure to practice acupuncture bears full responsibility for each of the following:

a. Paying all fees charged by regulatory authorities, national testing or credentialing organizations, health facilities, and educational institutions providing the information specified in ~~14.4(2)~~ 14.5(3);

~~b. Reimbursing the board for any reasonable costs associated with handling incomplete or improperly prepared applications;~~

e b. Providing accurate, up-to-date, and truthful information on the application form including, but not limited to, that specified under ~~14.4(2)~~ 14.5(3) and ~~14.4(3)~~ 14.5(4) related to prior professional experience, education, training, examination scores, diplomate status, licensure or registration, and disciplinary history; and

d c. Submitting English translations of documents in foreign languages bearing the affidavit of the translator certifying that the translation is a true and complete translation of the foreign language original. The applicant shall bear the expense of the translation.

14.5(8) Board responsibilities. The board staff shall review new applications within two weeks of submission of all requested materials. If the individual clearly meets all of the requirements, staff may issue the license. If staff has any concern about the application, it shall be referred to committee at its next meeting. If the committee resolves the concern, staff may issue the license. If the committee recommends denial, the application will be referred to the board.

~~14.4(6)~~ **14.5(9)** Grounds for denial of application. The board, on the recommendation of the committee, may deny an application for registration licensure for any of the following reasons:

a. Failure to meet the requirements for registration licensure specified in rule 653—14.5 4(147,148E) as authorized by Iowa Code section ~~148E.3~~ 148E.2; or of this chapter of the board's rules.

b. Pursuant to Iowa Code section 147.4, upon any of the grounds for which registration licensure may be revoked or suspended as specified in Iowa Code sections 147.55 and ~~148E.6~~ 148E.8 or in rule 653—14.12(147,148E,272C).

653—14.5 4(147,148E) Eligibility for a certificate of registration licensure.

~~14.5(1)~~ **14.4(1)** Eligibility requirements for those who apply after July 1, 2001. To be registered and issued a certificate of registration licensed to practice acupuncture by the board, a person shall meet all of the following requirements:

a. Fulfill all the application requirements, as specified in 14.4- 5(147,148E).

~~b. Hold and provide documented evidence of NCCA certification by examination based upon a passing score on the following components of the NCCA written and practical acupuncture examination: current active status as a diplomate in NCCAOM.~~

(1) Comprehensive written examination including the acupuncture theory and clean needle technique (CNT) portions; and

(2) Point location practical examination (PEPLS);

c. Demonstrate sufficient knowledge of the English language to understand and be understood by patients, medical evaluators, and board and committee members.

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(1) An applicant who passed the ~~NCCA~~ *NCCAOM* written and practical examination components in English may be presumed to have sufficient proficiency in English.

(2) The board may, at the recommendation of the ~~allied health~~ committee, choose any of the following examinations to test the English proficiency of any ~~other~~ applicant: the TOEFL, TOEIC, or TSE administered by the ~~Educational Testing Service~~.

d. ~~Successfully complete and provide documented evidence of:~~

(1) ~~A minimum of 60 semester hours of postsecondary education with at least 30 semester hours from an accredited institution of higher education other than acupuncture school. Of the 60 semester hours, 12 shall be in the biosciences. Acceptable bioscience courses are those covering human anatomy, physiology, and general or advanced biology; and~~

(2) ~~A minimum of two years of education and training in acupuncture theory and practice from an acupuncture school accredited by the National Accreditation Commission for Schools and Colleges of Acupuncture and Oriental Medicine or approved by the board.~~

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

e. ~~Successfully complete a course in clean needle technique approved by the NCCAOM.~~

14.4(2) ~~Eligibility requirements for current registrants. To continue practicing and to be licensed to practice acupuncture by the board, a registrant shall meet all of the following requirements within 60 days of receiving the application by certified mail:~~

a. ~~Fulfill all the application requirements, as specified in 14.5(147,148E).~~

b. ~~Hold documented evidence of current active status as a diplomate in NCCAOM.~~

c. ~~Successfully complete a course in clean needle technique approved by NCCAOM.~~

14.4(3) ~~Eligibility requirements for former registrants who apply before July 1, 2001. To be licensed to practice acupuncture by the board, a former registrant shall meet all of the following requirements by July 1, 2001:~~

a. ~~Fulfill all the application requirements, as specified in 14.5(147,148E).~~

b. ~~Provide documented evidence of current active status as a diplomate in NCCAOM.~~

c. ~~Refrain from practice until a license is issued.~~

d. ~~Successfully complete a course in clean needle technique approved by NCCAOM.~~

14.4(4) ~~Eligibility requirements for individuals who apply before July 1, 2001, and who have not been registrants. To be licensed to practice acupuncture by the board, a person shall meet all of the following requirements:~~

a. ~~Fulfill all the application requirements, as specified in 14.5(147,148E).~~

b. ~~Hold current active status as a diplomate in NCCAOM.~~

c. ~~Successfully complete an acupuncture degree program approved by the board or an apprenticeship or tutorial program approved by the board.~~

d. ~~Demonstrate sufficient knowledge of the English language to understand and be understood by patients and board and committee members.~~

(1) An applicant who passed the *NCCAOM* written and practical examination components in English may be presumed to have sufficient proficiency in English.

(2) The board may, at the recommendation of the committee, choose any of the following examinations to test the English proficiency of any applicant: TOEFL, TOEIC, or TSE.

e. ~~Successfully complete a course in clean needle technique approved by the NCCAOM.~~

14.4(5) ~~Eligibility time limits. Registrants have a limited time in which to become licensees.~~

a. ~~Current registrants shall submit a completed application showing compliance with these eligibility requirements within 60 days of receiving the application by certified mail in order to continue practicing.~~

(1) ~~The board shall determine within 30 days of receiving an application for licensure if the current registrant meets the requirements in 14.4(147,148E) and 14.5(147,148E).~~

(2) ~~If the current registrant meets the requirements in 14.4(147,148E) and 14.5(147,148E), the board shall issue a license that will expire October 31, 2002, and the registration is no longer valid.~~

(3) ~~If the current registrant does not meet the requirements in 14.4(147,148E) and 14.5(147,148E), the board shall deny a license and shall invalidate the acupuncture registration. The individual may no longer practice acupuncture in Iowa.~~

(4) ~~Current registrants who do not apply in the 60-day period must discontinue practice until they submit an application and the board approves them for licensure.~~

b. ~~Former registrants shall be eligible for licensure if they submit a completed application showing compliance with 14.4(147,148E) and 14.5(147,148E) by July 1, 2001.~~

(1) ~~Former registrants shall not practice acupuncture until the board issues an acupuncture license.~~

(2) ~~The board shall determine within 30 days of receiving an application for licensure if the former registrant meets the requirements in 14.4(147,148E) and 14.5(147,148E). If so, the board shall issue the license to practice acupuncture.~~

(3) ~~If the former registrant does not meet the requirements in 14.4(147,148E) and 14.5(147,148E), the board shall deny the license.~~

c. ~~A registrant who does not qualify for licensure by July 1, 2001, shall meet the new requirements for licensure.~~

14.5(2) ~~Avenues for eligibility deemed unacceptable. The board shall not deem a person eligible for registration to practice acupuncture under this rule based upon the following:~~

a. ~~NCCA certification through credentials documentation review; and~~

b. ~~Reciprocal agreements between this state and any other state or national authority pursuant to Iowa Code sections 147.46 and 147.47.~~

653—14.6(147,148E) ~~Disclosure Display of license and disclosure of information to patients.~~

14.6(1) ~~Display of certificate license. Registered Licensed acupuncturists shall display the certificate of registration license issued by the board in a conspicuous place in their primary place of business.~~

14.6(2) ~~Approval of the disclosure sheet and time limit for revisions. Pursuant to Iowa Code section 148E.4 148E.6, upon issuing a certificate of registration license, the board shall provide notification to the registrant licensee of the approval or rejection of the disclosure sheet to be provided to patients on initial contact submitted subsequent to 14.4(3)-14.5(4) "m."~~

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

b. ~~Any revisions in the information required in 14.4(3) shall be made by the registrant in the mandatory disclosure sheet within five days of the date of notification by the board. Upon receiving the rejection, the licensee shall submit within 14 days a revised mandatory disclosure sheet to the board for its approval.~~

14.6(3) Distribution and retention of disclosure sheet. The registrant licensee shall distribute the disclosure sheet on initial contact with patients and retain a copy, signed and dated by the patient, for a period of at least ~~three~~ five years after termination of the treatment.

653—14.7(147,148E,272C) Annual Biennial renewal of registration license required. Pursuant to Iowa Code section 148E.2, registration a license is renewed annually every two years on November 1 for a fee of \$150 \$300 with documented evidence that the registrant licensee has completed the ~~15~~ 30 hours of continuing education required by the board. *Renewal shall require evidence of current active status as a diplomate in the National Commission for the Certification of Acupuncturists.*

14.7(1) Expiration date. Certificates of registration licensure to practice acupuncture shall expire annually on the first day of the birth month of registrant and may be renewed by the board without examination upon written request on October 31 in even years. *Those who are granted a license prior to October 31, 2000, shall receive a license that expires October 31, 2002.*

14.7(2) Prorated fees. The renewal fee for a certificate of registration license issued during a calendar year shall be prorated on a monthly basis according to the date of issue and the registrant's month and year of birth.

14.7(3) Renewal requirements and penalties for late renewal. Each registrant licensee shall be sent a renewal notice at least 60 days prior to the expiration date.

a. Pursuant to Iowa Code section 147.10, application for renewal shall be made in writing to the board accompanied by the required fee at least 30 days prior to the expiration date.

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

c. ~~A penalty of \$50 per calendar month shall be assessed by the board after the expiration date for failure to renew in a timely manner. A \$50 penalty shall be assessed for renewal in the grace period, a period up until January 1 when the license lapses if not renewed.~~

14.7(4) Lapsed registration license. Failure of a registrant licensee to renew within three months of the expiration date by January 1 will result in invalidation of the certificate of registration license and lapsed registration the license will become lapsed. Registrants are prohibited from engaging in the practice of acupuncture once registration is lapsed.

a. Licensees are prohibited from engaging in the practice of acupuncture once the license is lapsed.

b. Having an acupuncturist license in lapsed status does not preclude the board from taking disciplinary actions authorized in Iowa Code section 147.55 or 148E.8.

653—14.8(147,272C) Reinstatement of a lapsed registration license. Application for reinstatement of lapsed registration does not preclude the board from taking disciplinary actions otherwise authorized in Iowa Code section 147.55 or 148E.6.

14.8(1) Reinstatement requirements. Registrants Licensees who allow their registration licenses to lapse by failing to renew may apply for reinstatement of registration a license. Pursuant to Iowa Code section 147.11, applicants for reinstatement shall:

a. Submit a completed application for reinstatement of registration a license to practice acupuncture; that includes:

(1) The applicant's name, home address, mailing address, and principal business address.

(2) Full disclosure of the applicant's involvement in civil litigation related to the practice of acupuncture in any jurisdiction of the United States, other nations or territories.

(3) Full disclosure of any disciplinary action taken against the applicant by, but not limited to, a regulatory authority, educational institution, or health facility in any jurisdiction of the United States, other nations or territories.

(4) A practice history for the period of the lapsed license.

b. Pay all penalties and delinquent renewal fees determined by the board in addition to a reinstatement fee of \$150 \$400; and.

c. Provide documented evidence of successful completion of the required number of continuing education course hours 60 PDA points.

d. Provide an official statement from NCCAOM that the applicant holds current active status as a diplomate of NCCAOM.

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

14.8(2) Reinstatement restrictions. Pursuant to Iowa Code section 272C.3(2)"d," the allied health committee may require a registrant licensee who fails to renew for a period of three years from the expiration date to meet any or all of the following requirements prior to reinstatement of a lapsed registration license:

a. ~~Submit documented evidence of NCCA recertification and retake and pass any or all components of the NCCA examination including the NCCA comprehensive written acupuncture examination and PEPLS practical examination;~~

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

e b. Successfully complete continuing education or retraining programs in areas directly related to the safe and healthful practice of acupuncture deemed appropriate by the board or committee;

d c. Appear before the committee or board for an interview.

653—14.9(272C) Continuing education requirements—course approval. Pursuant to Iowa Code section 272C.2, a person registered and issued a certificate of registration licensure to practice acupuncture shall complete 15 hours of continuing education 30 PDA points to qualify for registration license renewal. Continuing education courses shall be certified by the AAAOM, a national organization representing state authorities that regulate acupuncturists, a professional health care association, or a medical education institution deemed appropriate by the committee or board.

1. A licensee may earn from 1 to 15 extra PDAs in a license period that may be carried over for credit in the next license period. A licensee desiring to obtain credit for carry-over hours shall report the carryover credit on the renewal application when the credit was earned.

2. It is the responsibility of each licensee to finance the costs of the licensee's PDAs.

653—14.10(148E) Evaluation and referral by medical evaluator required. A registrant shall not commence acupuncture treatment on a patient unless a medical evaluator li-

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censed to practice medicine and surgery, osteopathy, osteopathic medicine and surgery, chiropractic, podiatry, or dentistry has performed a medical evaluation of the patient and referred the patient to the registrant as specified in this rule. The medical evaluation and referral for acupuncture treatment are restricted to areas within the licensed evaluator's scope of practice.

~~14.10(1) Medical evaluation requirements. The medical evaluation shall be conducted within 90 days of the patient's initial contact with the registrant for acupuncture treatment and shall include:~~

~~a.—A diagnostic examination of the patient; and
b.—An assessment of the patient's medical history with specific reference to any ailment or condition within the medical evaluator's scope of practice.~~

~~14.10(2) Medical evaluator's responsibilities to the patient. Upon fulfilling the evaluation requirements, the medical evaluator shall advise the patient of the following:~~

~~a.—The findings of the medical evaluation;
b.—The specific ailment or condition to be treated by acupuncture and any alternative courses of treatment;
c.—Any restrictions on the course of acupuncture treatment the patient's condition requires as a matter of sound medical practice; and
d.—If acupuncture treatment is indicated, the patient is to consult with the medical evaluator if the ailment or condition worsens or changes unexpectedly or if a new ailment or condition develops during the course of acupuncture treatment.~~

~~14.10(3) Referral for acupuncture treatment requirements. Within 90 days of the date of the medical evaluation and before initial acupuncture treatment commences, the medical evaluator shall provide the registrant with a written referral that includes the following:~~

~~a.—The findings of the medical evaluation;
b.—The specific ailment or condition within the medical evaluator's scope of practice to be treated by acupuncture;
c.—Any restrictions on the course of acupuncture treatment the patient's condition requires as a matter of sound medical practice; and
d.—Notice to the registrant to promptly consult with the medical evaluator making the referral if the ailment or condition identified for acupuncture treatment worsens or changes unexpectedly or if a new ailment or condition develops during the course of acupuncture treatment. If the patient develops a condition or ailment outside the medical evaluator's scope of practice, the medical evaluator shall refer the patient to the appropriate professional licensed to practice medicine and surgery, osteopathy, osteopathic medicine and surgery, chiropractic, podiatry, or dentistry.~~

~~14.10(4) Registrant's restrictions and obligations to the patient. The registrant shall comply with the following:~~

~~a.—The scope of acupuncture treatment shall be limited to the condition or ailment in the medical evaluator's scope of practice identified in the written referral as specified in paragraph 14.10(3)"b."
b.—The registrant shall strictly comply with any conditions or restrictions placed on the course of acupuncture treatment specified by the medical evaluator in the referral in accordance with paragraph 14.10(3)"c."~~

~~c.—The registrant shall promptly consult with the medical evaluator making the referral if the ailment or condition identified for acupuncture treatment worsens or changes unexpectedly or if a new ailment or condition develops during the course of acupuncture treatment. The registrant shall cease performing acupuncture treatment until the patient's~~

condition is reexamined and reassessed by a medical evaluator in accordance with the requirements of this subrule.

~~d.—The registrant shall maintain the medical evaluator's written referral for initial acupuncture treatment as part of the patient's permanent record.~~

653—14.11 10(147,148E,272C) General provisions.

~~14.11(1) 14.10(1) Use and disposal of needles. A registrant licensee shall use only presterilized, disposable needles and shall provide for the disposal of used needles in accordance with the requirements of the department.~~

~~14.11(2) 14.10(2) Standard of care. A registrant licensee shall be held to the same standard of care as persons licensed to practice medicine and surgery, osteopathy, and osteopathic medicine and surgery. Pursuant to Iowa Code section 272C.3, any error or omission, unreasonable lack of skill, or failure to maintain a reasonable standard of care in the practice of acupuncture constitutes malpractice and is grounds for the revocation or suspension of registration a license to practice acupuncture in this state.~~

~~14.11(3) 14.10(3) Title. An acupuncturist registered licensed under this title may use the words "registered licensed acupuncturist" or "R.A." "L.Ac." to connote professional standing after the registrant's licensee's name in accordance with Iowa Code section 147.74(18).~~

~~14.11(4) 14.10(4) Change of residence. In accordance with Iowa Code section 147.9, registrants licensees shall notify the board of changes in residence and place of practice within 14 days of moving.~~

~~14.11(5) 14.10(5) Delegation of responsibilities prohibited. The registrant licensee shall perform all aspects of acupuncture treatment on a patient. Delegation of responsibility for acupuncture treatment is strictly prohibited.~~

653—14.12 11(147,148E,272C) General disciplinary provisions. The board of medical examiners is authorized to take disciplinary action against any registrant licensee who violates the provisions set forth in state law and administrative rules pertaining to the safe and healthful practice of acupuncture.

14.12(1) 14.11(1) Methods of discipline. The board may impose any of the following disciplinary sanctions:

- a. Revocation of registration a license;
- b. Suspension of registration a license until further order of the board;
- c. Nonrenewal of registration a license;
- d. Restrict permanently or temporarily the performance of specific procedures, methods, acts or techniques;
- e. Probation;
- f. Additional or remedial education or training;
- g. Reexamination;
- h. Medical or physical evaluation, or alcohol or drug screening within a specific time frame at a facility or by a practitioner of the board's choice;
- i. Civil penalties not to exceed \$1,000;
- j. Citations and warnings as necessary; and
- k. Other sanctions allowed by law as deemed appropriate.

14.12(2) 14.11(2) Discretion of the board. The board may consider the following factors when determining the nature and severity of the disciplinary sanction to be imposed:

- a. The relative seriousness of the violation as it relates to assuring the citizens of Iowa a high standard of professional care.
- b. The facts of the particular violation.
- c. Any extenuating circumstances or other countervailing considerations.

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- d. Number of prior violations or complaints.
- e. Seriousness of prior violations or complaints.
- f. Whether remedial action has been taken.
- g. Such other factors as may reflect upon the competency, ethical standards and professional conduct of the ~~registrant licensee~~.

653—14.13 12(147,148E,272C) Grounds for discipline. The board may impose any of the disciplinary sanctions set forth in ~~14.12(1) 14.11(1)~~ upon determining that a ~~registrant licensee~~ is guilty of any of the following acts or offenses:

~~14.13(1) 14.12(1)~~ **14.13(1) 14.12(1)** Fraud in procuring ~~registration a license~~. Fraud in procuring ~~registration a license~~ is the deliberate distortion of facts or use of deceptive tactics in the application for ~~registration licensure~~ to practice acupuncture including, but not limited to:

- a. Making false or misleading statements in obtaining or seeking to obtain ~~registration licensure~~;
- b. Failing to disclose by deliberate omission or concealment any information the board deems relevant to the safe and healthful practice of acupuncture pursuant to Iowa Code chapters 147 and 148E;
- c. Misrepresenting any fact or deed to meet the application or eligibility requirements established by this ~~rule chapter~~; or
- d. Filing or attempting to file a false, forged or altered diploma, certificate, affidavit, translated or other official or certified document, including the application form, attesting to the applicant's eligibility for ~~registration licensure~~ to practice acupuncture in Iowa.

~~14.13(2) 14.12(2)~~ **14.13(2) 14.12(2)** Professional incompetence. Professional incompetence includes, but is not limited to:

- a. Substantial lack of knowledge or ability to discharge professional obligations within the scope of the acupuncturist's practice;
- b. Substantial deviation by the ~~registrant licensee~~ from the standards of learning or skill ordinarily possessed and applied by other acupuncturists when acting in the same or similar circumstances;
- c. Failure by an acupuncturist to exercise in a substantial respect the degree of care which is ordinarily exercised by the average acupuncturist when acting in the same or similar circumstances; or
- d. Willful or repeated departure from or the failure to conform to the minimal standard of acceptable and prevailing practice of acupuncture; or

~~Failure to fulfill the responsibilities and obligations to the patient as specified in 14.10(4).~~

~~14.13(3) 14.12(3)~~ **14.13(3) 14.12(3)** Fraud in the practice of acupuncture. Fraud in the practice of acupuncture includes, but is not limited to, any misleading, deceptive, untrue or fraudulent representation in the practice of acupuncture, made orally or in writing, that is contrary to the acupuncturist's legal or equitable duty, trust or confidence and is deemed by the board to be contrary to good conscience, prejudicial to the public welfare, and potentially injurious to another. Proof of actual injury need not be established.

~~14.13(4) 14.12(4)~~ **14.13(4) 14.12(4)** Unethical conduct. Unethical conduct in the practice of acupuncture includes, but is not limited to:

- a. Failing to provide patients with the information required in Iowa Code section ~~148E.4 148E.6~~ or providing false information to patients;
- b. Accepting remuneration for referral of patients to other health care professionals;
- c. Offering or providing remuneration for the referral of patients, excluding paid advertisements or marketing services;

d. Engaging in sexual activity or genital contact with a patient while acting or purporting to act within the scope of the acupuncture practice, whether or not the patient consented to the sexual activity or genital contact;

e. Disclosing confidential information about a patient without proper authorization; or

f. Abrogating the boundaries of acceptable conduct in the practice of acupuncture established by the profession that the board deems appropriate for ensuring that acupuncturists provide Iowans with safe and healthful care.

~~14.13(5) 14.12(5)~~ **14.13(5) 14.12(5)** Practice harmful to the public. Practice harmful or detrimental to the public in the practice of acupuncture includes, but is not limited to:

- a. Failing to possess and exercise the degree of skill, learning and care expected of a reasonable, prudent acupuncturist acting in the same or similar circumstances;
- b. Practicing acupuncture without reasonable skill and safety as the result of a mental or physical impairment, chemical abuse or chemical dependency;
- c. Prescribing, dispensing or administering any controlled substance or prescription medication for human use; or

d. Performing any treatment or healing procedure not authorized in Iowa Code section ~~148E.1 or subrule 14.10(4) chapter 148E or this chapter~~.

~~14.13(6) 14.12(6)~~ **14.13(6) 14.12(6)** Habitual intoxication or addiction. Habitual intoxication or addiction to the use of drugs includes, but is not limited to, the inability to practice acupuncture with reasonable skill and safety as a result of the excessive use of alcohol, drugs, narcotics, chemicals or other substances on a continuing basis, or the excessive use of the same in a way which may impair the ability to practice acupuncture with reasonable skill and safety.

~~14.13(7) 14.12(7)~~ **14.13(7) 14.12(7)** Felony conviction. A felony conviction related to the practice of acupuncture or that affects the ability to practice the profession includes, but is not limited to:

a. Any conviction for any public offense directly related to or associated with the practice of acupuncture that is classified as a felony under the statutes of any jurisdiction of the United States, the United States government, or another nation or its political subdivisions; or

b. Any conviction for a public offense affecting the ability to practice acupuncture that is classified as a felony under the statutes of any jurisdiction of the United States, the United States government, or another nation or its political subdivisions and that involves moral turpitude, civility, honesty, or morals.

A copy of the record of conviction or plea of guilty or nolo contendere shall be conclusive evidence of the felony conviction.

~~14.13(8) 14.12(8)~~ **14.13(8) 14.12(8)** Misrepresentation of scope of practice by ~~registrants licensees~~. Misrepresentation of a ~~registrant's licensee's~~ scope of practice includes, but is not limited to, misleading, deceptive or untrue representations about competency, education, training or skill as a ~~registered licensed~~ acupuncturist or the ability to perform services not authorized under ~~the scope of this rule or subrule 14.10(4) this chapter~~.

~~14.13(9) 14.12(9)~~ **14.13(9) 14.12(9)** False advertising. False advertising is the use of fraudulent, deceptive or improbable statements in information provided to the public. False advertising includes, but is not limited to:

a. Unsubstantiated claims about the ~~registrant's licensee's~~ skills or abilities, the healing properties of acupuncture or specific techniques or treatments therein;

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b. Presenting words, phrases, or figures which are misleading or likely to be misunderstood by the average person; or

c. Claiming extraordinary skills that are not recognized by the acupuncture profession.

14.13(10) 14.12(10) General grounds. The board may also take disciplinary action against an acupuncturist for any of the following reasons:

a. Failure to comply with the provisions of Iowa Code chapter 148E or the applicable provisions of Iowa Code chapter 147, or the failure of an acupuncturist to comply with rules adopted by the board pursuant to Iowa Code chapter 148E;

b. Failure to notify the board of any adverse judgment or settlement of a malpractice claim or action within 30 days of the date of the judgment or settlement;

c. Failure to report to the board any acts or omissions of another acupuncturist authorized to practice in Iowa that would constitute grounds for discipline under 14.13(3) 14.12(147,148E,272C) within 30 days of the date the acupuncturist initially became aware of the information;

d. Failure to comply with a subpoena issued by the board;

e. Knowingly submitting a false report of continuing education or failing to submit a required continuing education report;

f. Failure to adhere to the disciplinary sanctions imposed upon the acupuncturist by the board; or

g. Violating any of the grounds for revocation or suspension of registration licensure listed in Iowa Code chapter 147 or 148E.

653—14.14 13(272C) Procedure for peer review. Rules Rule 653—12.5 7(272C) to 12.8(272C) shall apply to peer review procedures in matters related to registered licensed acupuncturists.

653—14.15 14(272C) Reporting duties and investigation of reports. Rules 653—12.9(272C) to 12.12(272C) 12.1 (272C) to 12.3(272C) and 12.5(272C) shall apply to certain reporting responsibilities of registered licensed acupuncturists and the investigation of malpractice cases involving registered licensed acupuncturists.

653—14.16 15(272C) Immunities Complaints, immunities and privileged communications. Rules Rule 653—12.13(272C) and 12.14(272C) 12.5(17A,147,148, 272C) shall apply to matters relating to registered licensed acupuncturists.

653—14.17 16(272C) Confidentiality of investigative files. Rule 653—12.15 10(272C) shall apply to investigative files relating to registered licensed acupuncturists.

Rules 14.1(148E) to 14.17(272C) are intended to implement Iowa Code sections 147.55, 148E.6, 272C.3, 272C.4, 272C.6, 272C.8 and 272C.9.

653—14.18 17 to 14.29 28 Reserved.

653—14.30 29(17A,147,148E,272C) Disciplinary procedures. Rule Rules 653—12.50(17A,147,148,272C) 12.11 (17A) to 12.43(272C), subrules 12.50(1) to 12.50(37), shall apply to disciplinary actions against registered licensed acupuncturists.

This rule is These rules are intended to implement Iowa Code sections 17A.10 to 17A.20, 147.55, 148E.6, and 272C.5 272C.3 to 272C.6, 272C.8 and 272C.9 and Iowa Code chapter 148E as amended by 2000 Iowa Acts, Senate File 182.

ARC 9946A

NATURAL RESOURCE COMMISSION[571]

Notice of Intended Action

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

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

Pursuant to the authority of Iowa Code subsection 455A.5(6), the Natural Resource Commission hereby gives Notice of Intended Action to amend Chapter 52, “Wildlife Refuges,” Iowa Administrative Code.

This amendment adds the Spring Run and Henderson areas in Dickinson County to the list of wildlife refuges.

Any interested person may make written suggestions or comments on the proposed amendment on or before July 19, 2000. Such written materials should be directed to the Wildlife Bureau Chief, Department of Natural Resources, Wallace State Office Building, Des Moines, Iowa 50319-0034; fax (515)281-6794. Persons who wish to convey their views orally should contact the Wildlife Bureau at (515)281-6156 or at the Bureau offices on the fourth floor of the Wallace State Office Building.

There will be a public hearing on July 19, 2000, at 10 a.m. in the Fourth Floor Conference Room of the Wallace State Office Building at which time persons may present their views either orally or in writing. At the hearing, persons will be asked to give their names and addresses for the record and to confine their remarks to the subject of the amendment.

Any persons who intend to attend the public hearing and have special requirements such as hearing or mobility impairments should contact the Department of Natural Resources and advise of specific needs.

This amendment is intended to implement Iowa Code sections 456A.24 and 481A.6.

The following amendment is proposed.

Amend subrule 52.1(2), paragraph “a,” by adding the following new areas to the list of wildlife refuges:

- Henderson Dickinson
- Spring Run Dickinson

ARC 9917A

NURSING BOARD[655]

Notice of Intended Action

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

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

Pursuant to the authority of Iowa Code sections 17A.3 and 147.76, the Board of Nursing hereby gives Notice of Intended Action to amend Chapter 2, “Nursing Education Programs,” Chapter 3, “Licensure to Practice - Registered Nurse/Licensed Practical Nurse,” Chapter 6, “Nursing Practice for Registered Nurses/Licensed Practical Nurses,”

NURSING BOARD[655](cont'd)

Chapter 7, "Advanced Registered Nurse Practitioners," and adopt new Chapter 16, "Nurse Licensure Compact," Iowa Administrative Code.

These amendments implement 2000 Iowa Acts, House File 2105, Nurse Licensure Compact. Amendments expand the definition of licensure to include licensure in another party state when that state is the home state. The new chapter enacts the model rules used by compact states to further define licensure in home state and multistate practice privilege and the Board's authority to regulate.

Any interested person may make written comments or suggestions on or before September 7, 2000. Such written materials should be directed to the Executive Director, Board of Nursing, RiverPoint Business Park, 400 S.W. 8th Street, Suite B, Des Moines, Iowa 50309-4685. Persons who want to convey their views orally should contact the Executive Director at (515)281-3256, or in the Board office at 400 S.W. 8th Street, by appointment.

There will be a public hearing on September 7, 2000, at 5 p.m. in the Ballroom, Kirkwood Civic Center Hotel, Fourth and Walnut, Des Moines, Iowa. Persons may present their views at the public hearing either orally or in writing. At the hearing, persons will be asked to give their names and addresses for the record and to confine their remarks to the subject of the proposed amendments.

These amendments are intended to implement 2000 Iowa Acts, House File 2105.

These amendments were also Adopted and Filed Emergency and are published herein as **ARC 9915A**. The content of that submission is incorporated by reference.

ARC 9898A**PAROLE BOARD[205]****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 904A.4(2) and 906.3, the Board of Parole hereby gives Notice of Intended Action to amend Chapter 14, "Executive Clemency," Iowa Administrative Code.

There have been substantial changes in the Iowa Code regarding commutation procedures for Class "A" felons since the Board's present rules became effective on March 29, 1989. These amendments establish a new uniform procedure for the commutation procedures for Class "A" felons.

Any interested person may submit written comments on or before July 20, 2000, addressed to James C. Twedt, Senior Administrative Parole and Probation Judge, Board of Parole, Holmes Murphy Building, 420 Keo Way, Des Moines, Iowa 50309.

These amendments were also Adopted and File Emergency and are published herein as **ARC 9897A**. The content of that submission is incorporated by reference.

These amendments are intended to implement Iowa Code chapters 17A and 902.

ARC 9931A**PROFESSIONAL LICENSURE
DIVISION[645]****Notice of Intended Action**

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

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

Pursuant to the authority of Iowa Code section 147.76, the Board of Examiners for Massage Therapy hereby gives Notice of Intended Action to amend Chapter 130, "Massage Therapists," and Chapter 131, "Continuing Education and Disciplinary Procedures," and adopt new Chapter 132, "Continuing Education," Iowa Administrative Code.

The proposed amendments rescind the current continuing education rules; adopt a new chapter for continuing education; renumber the rules regarding license fees and discipline; amend cross references to rules; and adopt rules implementing 2000 Iowa Acts, Senate File 2113.

Any interested person may make written comments on the proposed amendments no later than July 18, 2000, addressed to Rosalie Steele, Professional Licensure Division, Department of Public Health, Lucas State Office Building, Des Moines, Iowa 50319-0075.

The Division revised these rules according to Executive Order Number 8. The Division sent letters to the public for comment and six letters were received in return. Division staff also had input on these rules. The comments received were discussed by the Board and decisions were based on need, clarity, intent and statutory authority, cost and fairness.

A public hearing will be held on July 18, 2000, from 9 to 11 a.m. in the Fifth Floor Board Conference Room, Lucas State Office Building, at which time persons may present their views either orally or in writing. At the hearing, persons will be asked to give their names and addresses for the record and to confine their remarks to the subject of the proposed amendments.

These amendments are intended to implement Iowa Code section 147.76, chapter 152C as amended by 2000 Iowa Acts, Senate File 2113, and chapter 272C.

The following amendments are proposed.

ITEM 1. Rescind rules **645—130.1(152C)**, **645—130.3(152C)** and **645—130.4(152C)** and adopt **new** rules **645—130.1(152C)** to **645—130.4(152C)** as follows:

645—130.1(152C) Definitions. For the purpose of these rules, the following definitions apply:

"Board" means the board of examiners for massage therapy.

"Department" means the department of public health.

"Massage therapist" means a person licensed to practice the health care service of the healing art of massage therapy.

"Massage therapy" means performance for compensation of massage, myotherapy, massotherapy, bodywork, bodywork therapy, superficial hot and cold applications, vibration and topical applications, or other therapy which involves manipulation of the muscle and connective tissue of the body, excluding osseous tissue, to treat the muscle tonus system for the purpose of enhancing health, providing muscle relaxation, increasing range of motion, reducing stress, relieving pain, or improving circulation.

PROFESSIONAL LICENSURE DIVISION[645](cont'd)

“Reciprocal license,” for purposes of this chapter, means that an applicant has been licensed under laws of another jurisdiction and has applied for a license from the state of Iowa.

645—130.2(152C) Description and organization of the board.

130.2(1) The board is composed of seven persons appointed by the governor as follows:

- a. Four members shall be massage therapists.
- b. Three members who are not licensed massage therapists shall be representatives of the general public.

130.2(2) The board shall have the duties and responsibilities as outlined in Iowa Code chapters 130, 272C, 17A, 21, 22, 68B, and section 69.15.

130.2(3) Organization. Annually, the board shall elect a chairperson, vice-chairperson and secretary and establish standing committees as needed from its membership.

130.2(4) Meetings. The board shall:

a. Hold special meetings called by the chairperson or upon the request by four members of the board to the chairperson or board administrator. Special meetings may be held by electronic means in accordance with Iowa Code section 21.8.

b. Make available to the public the date, time, and location of board meetings. Specific information may be obtained from the Board Administrator, Professional Licensure Division, Department of Public Health, Lucas State Office Building, Des Moines, Iowa 50319-0075.

c. Make available to the public the date that board materials are due in the board office for the agenda of regularly scheduled meetings. Materials received two weeks prior to a scheduled board meeting shall be placed on the agenda. Materials from emergency or unusual circumstances may be added to the agenda with the chairperson's approval.

d. Hold meetings that are open to the public.

(1) Anyone who has submitted materials for the agenda or who has requested to be present shall be given the opportunity to address the board.

(2) At every regularly scheduled board meeting, time shall be designated for public comment.

(3) Anyone who has not asked to address the board during public comment may be recognized by the chairperson. Acknowledgment and an opportunity to speak shall be at the discretion of the chairperson.

e. Conduct meetings following Robert's Rules of Order.

f. Conduct business only if a quorum is present. A majority of this board shall constitute a quorum.

645—130.3(152C) Availability of forms. Copies of all forms and information may be obtained by writing to the Iowa Board of Massage Therapy Examiners, Department of Public Health, Lucas State Office Building, Des Moines, Iowa 50319-0075.

645—130.4(152C) Requirements for licensure. All persons acting or serving in the capacity of a massage therapist shall hold a massage therapist's license issued by the board.

130.4(1) All applications must be made on forms supplied by the Massage Therapy Office, Professional Licensure Division, Department of Public Health, Lucas State Office Building, Des Moines, Iowa 50319-0075.

130.4(2) Application requirements are as follows:

a. Initial licensure. Applicants shall submit all of the following:

- (1) A completed application form and the certificate of diploma from a board-approved school;
- (2) The required license fee as stated in rule 130.7(152C);

(3) An official transcript sent directly from the school(s) to the board office; and

(4) Proof of passing the National Certification Examination for Therapeutic Massage and Bodywork administered by the testing service contracting with the National Certification Board for Therapeutic Massage and Bodywork. Proof of passing must be sent directly from the testing service to the division of professional licensure. The passing score on the written examination shall be the passing point criterion established by the national testing authority at the time the test was administered.

b. Licensure by reciprocity. An individual from another state seeking a license to practice massage therapy in Iowa will be considered on an individual basis. The applicant shall submit:

(1) An official copy of the license with the application;

(2) Verification of the license to practice massage therapy issued by the other state(s);

(3) A statement from the licensing board(s) of the other state(s) outlining the licensure requirements of that state;

(4) A certified copy of scores from the appropriate professional examination to be sent to the board, if applicable; and

(5) The required fee as stated in rule 130.7(152C).

c. Temporary license by reciprocity. The requirements for licensees of states with license requirements less stringent than those of Iowa shall submit:

(1) An official copy of the license with the application;

(2) Verification of the license to practice massage therapy issued by the other state(s);

(3) A statement from the licensing board(s) of the other state(s) outlining the licensure requirements of that state;

(4) A certified copy of scores from the appropriate professional examination to be sent to the board, if applicable;

(5) The required fee as stated in rule 130.7(152C).

The individual shall receive a temporary license by reciprocity that shall be valid for a period of up to one year and may not be renewed.

d. The board may consider applications on a case-by-case basis which do not appear on their face to meet requirements if the requirements may be alternatively satisfied by demonstrated equivalency. The burden shall be on the applicant to document that the applicant's education and experience are substantially equivalent to the requirements which may be alternatively satisfied.

ITEM 2. Rescind rule **645—130.7(152C)** and renumber **645—130.10(152C)** as **645—130.7(152C)**.

ITEM 3. Rescind rule **645—130.8(152C)** and adopt the following **new** rule in lieu thereof:

645—130.8(152C) Transition provisions. Prior to July 1, 2002, an applicant shall complete the following for:

130.8(1) Initial licensure.

a. Be required to pass the board-approved national certification examination;

b. Pay the applicable licensing fee; and

c. Not be required to meet the completion of curriculum of massage therapy requirements contained in Iowa Code section 152C.3, subsection 1, paragraph “a.”

130.8(2) Lapsed license.

a. Applicants with a license that has lapsed prior to July 1, 2000, who apply for reinstatement prior to July 1, 2002, shall be required to complete a reinstatement application and pay a renewal fee and reinstatement fee pursuant to Iowa Code section 147.11 and section 147.80, subsection 26. Penalty fees otherwise incurred pursuant to Iowa Code section

PROFESSIONAL LICENSURE DIVISION[645](cont'd)

147.10, and continuing education requirements applicable to the period prior to licensure reinstatement, shall be waived by the board; or

b. Applicants with a license that has lapsed prior to July 1, 2000, who do not apply for reinstatement prior to July 1, 2002, shall be required to apply for reinstatement in accordance with lapsed license reinstatement provisions established by rule 645—132.6(152C).

ITEM 4. Rescind and reserve rule **645—130.9(152C)**.

ITEM 5. Amend **645—Chapter 131**, title, as follows:

CHAPTER 131
CONTINUING EDUCATION AND
DISCIPLINARY PROCEDURES

ITEM 6. Rescind rule **645—131.1(152C)** and renumber **645—131.17(152C)** as **645—131.1(152C)**.

ITEM 7. Amend renumbered paragraph **131.1(2)“k”** as follows:

k. Failure to pay any civil penalties assessed pursuant to ~~rule 131.18(152C) or 131.19(152C)~~ *the rules*.

ITEM 8. Rescind rule 645—131.2(152C) and adopt the following new rule in lieu thereof:

645—131.2(152C) Civil penalties.

131.2(1) Civil penalties may be imposed upon a person or business that employs an individual who is not licensed as a massage therapist. Civil penalties may be imposed upon a person or business that employs an individual who uses the initials “L.M.T.” or the words “licensed massage therapist,” “massage therapist,” “masseur,” or “masseuse,” or any other words or titles which imply or represent that the employed person practices massage therapy but is not licensed as a massage therapist. Failure to follow the above may result in:

a. A civil penalty not to exceed \$1000 on a person or business that violates this rule:

(1) Each violation is a separate offense.

(2) Each day a continued violation occurs after citation by the board is a separate offense with the maximum penalty not to exceed \$10,000;

b. The board’s inspection of any facility which advertises or offers services purporting to be delivered by massage therapists;

c. A citation being sent to the alleged violator by certified mail, return receipt requested; and

d. The board’s consideration of the following in determining civil penalties:

(1) Whether the amount imposed will be a substantial economic deterrent to the violation.

(2) The circumstances leading to or resulting in the violation.

(3) The severity of the violation and the risk of harm to the public.

(4) The economic benefits gained by the violator as a result of noncompliance.

(5) The welfare or best interest of the public.

131.2(2) Civil penalties may be imposed upon a person who is practicing as a massage therapist without a license. Civil penalties may be imposed upon a person who practices as an individual and uses the initials “L.M.T.” or the words “licensed massage therapist,” “massage therapist,” “masseur,” or “masseuse,” or any other words or titles which imply or represent that the person practices massage therapy but is not licensed as a massage therapist. A person must be

licensed as a massage therapist to practice in this state as a massage therapist. Failure to follow the above may result in:

a. A civil penalty not to exceed \$1000 on a person who violates this rule:

(1) Each violation is a separate offense.

(2) Each day a continued violation occurs after citation by the board is a separate offense with the maximum penalty not to exceed \$10,000;

b. The board’s inspection of any facility which advertises or offers services purporting to be delivered by massage therapists;

c. A citation being sent to the alleged violator by certified mail, return receipt requested;

d. The board’s consideration of the following in determining civil penalties:

(1) Whether the amount imposed will be a substantial economic deterrent to the violation.

(2) The circumstances leading to or resulting in the violation.

(3) The severity of the violation and the risk of harm to the public.

(4) The economic benefits gained by the violator as a result of noncompliance.

(5) The welfare or best interest of the public.

131.2(3) Issuing an order or citation.

a. The board shall provide a written notice and the opportunity to request a hearing on the record.

b. The hearing must be requested within 30 days of the issuance of the notice and shall be conducted according to Iowa Code chapter 17A.

c. The board may, in connection with a proceeding under this subrule, issue subpoenas to require the attendance and testimony of witnesses and the disclosure of evidence and may request the attorney general to bring an action to enforce the subpoena.

131.2(4) Judicial review.

a. A person aggrieved by the imposition of a civil penalty under this rule may seek a judicial review in accordance with Iowa Code section 17A.19.

b. The board shall notify the attorney general of the failure to pay a civil penalty within 30 days after entry of an order or within 10 days following final judgment in favor of the board if an order has been stayed pending appeal.

c. The attorney general may commence an action to recover the amount of the penalty, including reasonable attorney fees and costs.

d. An action to enforce an order under this rule may be joined with an action for an injunction.

131.2(5) A person is not in violation of the statute or rules if that person practices massage therapy for compensation while in attendance at a school offering a curriculum meeting the requirements of rule 645—130.5(152C) and is under the supervision of a member of the school’s faculty.

ITEM 9. Rescind and reserve rules **645—131.3(152C)** to **645—131.5(152C)**, **645—131.18(152C)** and **645—131.19(152C)**.

ITEM 10. Adopt new 645—Chapter 132 as follows:

CHAPTER 132
CONTINUING EDUCATION

645—132.1(152C) Definitions. For the purpose of these rules, the following definitions shall apply:

PROFESSIONAL LICENSURE DIVISION[645](cont'd)

"Active license" means the license of a person who is acting, functioning, and working in compliance with license requirements.

"Administrator" means the administrator of the board of examiners for massage therapy.

"Approved program/activity" means a continuing education program/activity meeting the standards set forth in these rules, which has received advance approval by the board pursuant to these rules.

"Approved sponsor" means a person or an organization sponsoring continuing education activities that has been approved by the board as a sponsor pursuant to these rules. During the time an organization, educational institution, or person is an approved sponsor, all continuing education activities of such organization, educational institution, or person may be deemed automatically approved.

"Audit" means the selection of licensees for verification of satisfactory completion of continuing education requirements during a specified time period or the selection of providers for verification of adherence to continuing provider requirements during a specified time period.

"Board" means the board of examiners for massage therapy.

"Continuing education" means planned, organized learning acts acquired during initial licensure designed to maintain, improve, or expand a licensee's knowledge and skills in order for the licensee to develop new knowledge and skills relevant to the enhancement of practice, education, or theory development to improve the safety and welfare of the public.

"Hour of continuing education" means a clock hour spent by a licensee in actual attendance at and completion of an approved continuing education activity.

"Inactive license" means the license of a person who is not engaged in practice in the state of Iowa.

"Lapsed license" means a license that a person has failed to renew as required, or the license of a person who has failed to meet stated obligations for renewal within a stated time.

"License" means license to practice.

"Licensee" means any person licensed to practice as a massage therapist in the state of Iowa.

645—132.2(152C) Continuing education requirements.

132.2(1) The biennial continuing education compliance period shall be run concurrently with each renewal period. Each biennium, each person who is licensed to practice as a licensee in this state shall be required to complete a minimum of 12 hours of continuing education approved by the board.

132.2(2) Requirements of new licensees. Those persons licensed for the first time shall not be required to complete continuing education as a prerequisite for the first renewal of their licenses. Continuing education hours acquired anytime from the initial licensing until the second license renewal may be used. The new licensee will be required to complete a minimum of 12 hours of continuing education per biennium for each subsequent license renewal.

132.2(3) Hours of continuing education credit may be obtained by attending and participating in a continuing education activity. These hours must be approved by the board or otherwise meet the requirements herein and be approved by the board pursuant to statutory provisions and the rules that implement them.

132.2(4) No hours of continuing education shall be carried over into the next biennium.

132.2(5) It is the responsibility of each licensee to finance the cost of continuing education.

645—132.3(152C) Standards for approval.

132.3(1) General criteria. A continuing education activity which meets all of the following criteria is appropriate for continuing education credit if it is determined by the board that the continuing education activity:

a. Constitutes an organized program of learning which contributes directly to the professional competency of the licensee;

b. Pertains to subject matters which integrally relate to the practice of the profession;

c. Is conducted by individuals who have specialized education, training and experience by reason of which said individuals should be considered qualified concerning the subject matter of the program. The application must be accompanied by a paper, manual or outline which substantively pertains to the subject matter of the program and reflects program schedule, goals and objectives. The board may request the qualifications of presenters;

d. Fulfills stated program goals, objectives, or both; and

e. Provides proof of attendance to licensees in attendance including:

(1) Date, place, course title, presenter(s);

(2) Numbers of program contact hours. (One contact hour equals one hour of continuing education credit.); and

(3) Official signature or verification by program sponsor.

132.3(2) Specific criteria.

a. Continuing education hours of credit may be obtained by attending:

(1) Programs listed but not limited to: hydrotherapy; superficial hot and cold applications; vibration and topical applications; contraindications; pathology; HIV/AIDS education. Also included is therapy which involves manipulation of the muscle and connective tissue of the body to treat the muscle tonus system for the purpose of enhancing health, providing muscle relaxation, increasing range of motion, reducing stress, relieving pain, or improving circulation.

(2) Courses on herbology, aromatherapy, homeopathy and other similar areas are eligible for approval only if they specifically teach topical application techniques for professional practitioners. Only the number of hours spent on teaching, explaining or demonstrating topical application are eligible for continuing education credit and must be specifically described and scheduled in the continuing education program application.

(3) Continuing education activities of an approved sponsor.

b. The maximum number of hours in each category in each biennium is as follows:

(1) Two hours of credit per biennium may be granted for each of the following topics: professional ethics; CPR/first aid.

(2) Six hours of credit per biennium may be granted for home study courses, which include written and electronically transmitted material or video, if the following criteria are met:

1. There is an approved sponsoring person, group or agency;

2. The program meets all the criteria set forth in standards for approval of continuing education;

3. The program is accompanied by a certificate of post-course testing which includes the participant's examination score and the passing examination score; and

4. The program is accompanied by a certificate of completion which includes:

• Course title;

• Date of completion;

PROFESSIONAL LICENSURE DIVISION[645](cont'd)

- Number of program hours; and
- Verification that the course was conducted by home study delivery.

c. Unacceptable subject matter may include but is not limited to: meditation, feng shui, personal development, practice management, communication, government regulation, insurance, collective bargaining, community service presentations or courses that do not deal with manipulation. Courses about energy-based techniques performed without physical manipulation of tissue are not eligible for approval.

645—132.4(152C) Approval of sponsors, programs, and activities for continuing education.

132.4(1) Approval of sponsors. An applicant who desires approval as a sponsor of courses, programs, or other continuing education activities shall, unless exempted elsewhere in these rules, apply for approval to the board on the form designated by the board stating the applicant's educational history for the preceding two years or proposed plan for the next two years.

- a. The form shall include the following:
- (1) Date(s), location, course title(s) offered and program description;
 - (2) Total hours of instruction presented;
 - (3) Names and qualifications of instructors including résumés or vitae; and
 - (4) Evaluation form(s).
- b. Records shall be retained by the sponsor for four years.

c. *Attendance record report.* The person or organization sponsoring an approved continuing education activity shall provide a certificate of attendance or verification to the licensee providing the following information:

- (1) Program date(s);
- (2) Course title and presenter;
- (3) Location;
- (4) Number of clock hours attended and continuing education hours earned;
- (5) Name of sponsor and sponsor number;
- (6) Licensee's name; and
- (7) Method of presentation.

d. All approved sponsors shall maintain a copy of the following:

- (1) The continuing education activity;
- (2) List of enrolled licensees' names and license numbers; and
- (3) Number of continuing education clock hours awarded for a minimum of four years from the date of the continuing education activity.

The sponsor shall submit a report of all continuing education programs conducted in the previous year during the assigned month for reporting designated by the board. The report shall include a summary of the evaluations completed by the licensees.

132.4(2) Prior approval of programs/activities. An organization or person other than an approved sponsor that desires prior approval of a course, program or other educational activity or that desires to establish approval of such activity prior to attendance shall apply for approval to the board on a form provided by the board at least 60 days in advance of the commencement of the activity. The board shall approve or deny such application in writing within 30 days of receipt of such application. The application shall state:

- a. The date(s);
- b. Course(s) offered;
- c. Program itinerary;
- d. Total hours of instruction; and

- e. Names and qualifications of speakers and other pertinent information.

The organization or person shall be notified of approval or denial by ordinary mail.

132.4(3) Review of programs. Continuing education programs/activities shall be reported every year at the designated time assigned by the board. The board may at any time reevaluate an approved sponsor or program. If, after reevaluation, the board finds there is cause for revocation of the approval of an approved sponsor, the board shall give notice of the revocation to that sponsor by certified mail. The sponsor shall have the right to hearing regarding the revocation. The request for hearing must be sent within 20 days after the receipt of the notice of revocation. The hearing shall be held within 90 days after the receipt of the request for hearing. The board shall give notice by certified mail to the sponsor of the date set for the hearing at least 30 days prior to the hearing. The board shall conduct the hearing in compliance with rule 645—11.9(17A).

132.4(4) Postapproval of activities. A licensee seeking credit for attendance and participation in an educational activity which was not conducted by an approved sponsor or otherwise approved shall submit to the board, within 60 days after completion of such activity, the following:

- a. The date(s);
- b. Course(s) offered;
- c. Program description;
- d. Total hours of instruction and credit hours requested;
- e. Names and qualifications of speakers and other pertinent information;
- f. Request for credit which includes a brief summary of the activity; and
- g. Certificate of attendance or verification.

Within 90 days after receipt of such application, the board shall advise the licensee in writing by ordinary mail whether the activity is approved and the number of hours allowed. A licensee not complying with the requirements of this subrule may be denied credit for such activity.

132.4(5) Voluntary relinquishment. The approved sponsor may voluntarily relinquish sponsorship by notifying the board office in writing.

645—132.5(152C) Reporting continuing education by licensee. At the time of license renewal, each licensee shall be required to submit a report on continuing education to the board on a board-approved form.

132.5(1) The information on the form shall include:

- a. Title of continuing education activity;
- b. Date(s);
- c. Sponsor of the activity;
- d. Board-approved sponsor number;
- e. Number of continuing education hours earned; and
- f. Teaching method used.

132.5(2) Audit of continuing education report. After each educational biennium, the board will audit a percentage of the continuing education reports before granting the renewal of licenses to those being audited.

- a. The board will select licensees to be audited.
- b. The licensee shall make available to the board for auditing purposes a copy of the certificate of attendance or verification for all reported activities that includes the following information:

- (1) Date, location, course title, schedule (brochure, pamphlet, program, presenter(s)), and method of presentation;
- (2) Number of contact hours for program attended; and
- (3) Certificate of attendance or verification indicating successful completion of course.

PROFESSIONAL LICENSURE DIVISION[645](cont'd)

c. For auditing purposes, the licensee must retain the above information for two years after the biennium has ended.

d. Submission of a false report of continuing education or failure to meet continuing education requirements may cause the license to lapse and may result in formal disciplinary action.

e. All renewal license applications that are submitted late (after the end of the compliance period) may be subject to audit of the continuing education report.

f. Failure to receive the renewal application shall not relieve the licensee of responsibility of meeting continuing education requirements and submitting the renewal fee by the end of the compliance period.

645—132.6(152C) Reinstatement of lapsed license. Failure of the licensee to renew within 30 days after expiration date shall cause the license to lapse. A person who allows the license to lapse cannot engage in practice in Iowa without first complying with all regulations governing reinstatement as outlined in the board rules. A person who allows the license to lapse may apply to the board for reinstatement of the license. Reinstatement of the lapsed license may be granted by the board if the applicant:

1. Submits a written application for reinstatement to the board;
2. Pays all of the renewal fees then due;
3. Pays all penalty fees which have been assessed by the board for failure to renew;
4. Pays reinstatement fee;
5. Provides evidence of satisfactory completion of continuing education requirements during the period since the license lapsed. The total number of continuing education hours required for license reinstatement is computed by multiplying 12 by the number of bienniums since the license lapsed to a maximum of five bienniums or 60 continuing education hours; and
6. Completes the National Certification Examination for Therapeutic Massage and Bodywork successfully within one year immediately prior to the submission of such application for reinstatement.

645—132.7(152C,272C) Continuing education waiver for active practitioners. A massage therapist licensed to practice massage therapy shall be deemed to have complied with the continuing education requirements of this state during the period that the licensee serves honorably on active duty in the military services or as a government employee outside the United States as a practicing massage therapist.

645—132.8(152C,272C) Continuing education exemptions for inactive practitioners. A licensee who is not engaged in practice in the state of Iowa may be granted a waiver of continuing education compliance and obtain a certificate of waiver upon written application to the board. The application shall contain a statement that the applicant will not engage in the practice of massage therapy in Iowa without first complying with all regulations governing reinstatement after waiver. The application for a certificate of waiver shall be submitted upon forms provided by the board.

645—132.9(152C,272C) Continuing education waiver for disability or illness. The board may, in individual cases involving disability or illness, grant waivers of the minimum education requirements or extension of time within which to fulfill the same or make the required reports. No waiver or extension of time shall be granted unless written application therefor shall be made on forms provided by the board and

signed by the licensee and appropriate licensed health care practitioners. The board may grant waiver of the minimum educational requirements for any period of time not to exceed one calendar year from the onset of disability or illness. In the event that the disability or illness upon which a waiver has been granted continues beyond the period of waiver, the licensee must reapply for an extension of the waiver. The board may, as a condition of any waiver granted, require the applicant to make up a certain portion or all of the minimum educational requirements waived by such methods as may be prescribed by the board.

645—132.10(152C,272C) Reinstatement of inactive practitioners. Inactive practitioners who have been granted a waiver of compliance with these rules and obtained a certificate of waiver shall, prior to engaging in the practice of massage therapy in the state of Iowa, satisfy the following requirements for reinstatement.

132.10(1) Submit written application for reinstatement to the board upon forms provided by the board with appropriate reinstatement fee; and

132.10(2) Furnish in the application evidence of one of the following:

a. Satisfactory completion of continuing education requirements during the period since the license became inactive. The total number of continuing education hours required for license reinstatement is computed by multiplying 12 by the number of bienniums since the license lapsed to a maximum of five bienniums or 60 continuing education hours.

b. Successful completion of the National Certification Examination for Therapeutic Massage and Bodywork within one year immediately prior to the submission of such application for reinstatement.

645—132.11(272C) Hearings. In the event of denial, in whole or part, of any application for approval of a continuing education program or credit for continuing education activity, the applicant, licensee or program provider shall have the right within 20 days after the sending of the notification of denial by ordinary mail to request a hearing which shall be held within 90 days after receipt of the request for hearing. The hearing shall be conducted by the board or an administrative law judge designated by the board, in substantial compliance with the hearing procedure set forth in rule 645—11.9(17A).

These rules are intended to implement Iowa Code section 272C.2, chapter 152C as amended by 2000 Iowa Acts, Senate File 2113, and chapter 272C.

ARC 9934A

REVENUE AND FINANCE DEPARTMENT[701]

Notice of Intended Action

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

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

Pursuant to the authority of Iowa Code sections 421.14 and 422.68, the Department of Revenue and Finance hereby gives Notice of Intended Action to amend Chapter 28, "Defi-

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

nitions," Chapter 107, "Local Option Sales and Service Tax," and Chapter 108, "Local Option School Infrastructure Sales and Service Tax," Iowa Administrative Code.

Item 1 amends 701—28.1(423) to implement a new provision found in 2000 Iowa Acts, Senate File 2315, section 3, which states that a return of a vehicle to a manufacturer under Iowa's lemon law provisions is not a "use" in Iowa. Items 2 and 3 implement 2000 Iowa Acts, House File 2136, by amending 701—107.2(422B) and 108.2(5), respectively, to require that the notice by the county auditor to the director regarding the imposition, repeal, or change in the rate of the tax be made by providing the director a copy of the abstract of votes.

The proposed amendments will not necessitate additional expenditures by political subdivisions or agencies and entities which contract with political subdivisions.

Any person who believes that the application of the discretionary provisions of these amendments would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any.

The Department has determined that these proposed amendments may have an impact on small business. The Department has considered the factors listed in Iowa Code Supplement section 17A.4A. The Department will issue a regulatory analysis as provided in Iowa Code Supplement section 17A.4A if a written request is filed by delivery or by mailing postmarked no later than July 31, 2000, to the Policy Section, Compliance Division, Department of Revenue and Finance, Hoover State Office Building, P.O. Box 10457, Des Moines, Iowa 50306. The request may be made by the Administrative Rules Review Committee, the Administrative Rules Coordinator, at least 25 persons signing that request who qualify as a small business, or an organization representing at least 25 such persons.

Any interested person may make written suggestions or comments on these proposed amendments on or before July 28, 2000. Such written comments should be directed to the Policy Section, Compliance Division, Department of Revenue and Finance, Hoover State Office Building, P.O. Box 10457, Des Moines, Iowa 50306.

Persons who want to convey their views orally should contact the Policy Section, Compliance Division, Department of Revenue and Finance, at (515)281-4250 or at the Department of Revenue and Finance offices on the fourth floor of the Hoover State Office Building.

Requests for a public hearing must be received by July 21, 2000.

These amendments are intended to implement Iowa Code section 322G.12 as amended by 2000 Iowa Acts, Senate File 2315, section 3, Iowa Code section 422B.1(6) and section 422E.2(4) as amended by 2000 Iowa Acts, House File 2136, sections 36 and 37.

The following amendments are proposed.

ITEM 1. Amend rule 701—28.1(423) by adopting the following **new** second unnumbered paragraph:

Laws governing the return of defective vehicles by a purchaser, commonly known as "lemon laws," are found in Iowa Code chapter 322G. Under Iowa Code chapter 322G, the return of a qualifying defective vehicle to a manufacturer is not a taxable "use." Consequently, the transfer of the vehicle from a purchaser to a manufacturer pursuant to Iowa Code chapter 322G and the titling and registration of that vehicle by the manufacturer are not subject to Iowa use tax. For refund of use tax paid by a purchaser of a vehicle that is returned under Iowa Code chapter 322G, see 701—34.3(423).

ITEM 2. Amend 701—107.2(422B) as follows:

Amend subrule 107.2(1) by adopting the following **new** second unnumbered paragraph:

Within ten days of the election at which a majority of those voting in favor of the question of imposition, repeal, or change in the rate of tax, the county auditor must give notice of the election results to the director in the form of a copy of the abstract of votes.

Amend the implementation clause as follows:

This rule is intended to implement Iowa Code ~~sections~~ section 422B.1 as amended by 2000 Iowa Acts, House File 2136, section 36, and Iowa Code Supplement section 422B.8 as amended by 1999 Iowa Acts, chapter 151, section 31, and Iowa Code section 422B.9 as amended by 1999 Iowa Acts, chapter 156.

ITEM 3. Amend rule 701—108.2(422E) as follows:

Amend subrule 108.2(5) as follows:

108.2(5) Notice of election results. The county auditor must give written notice by certified mail to the director of the results of an election in which a majority of those voting on the question favors the imposition, repeal, or change in the rate of the tax, within ten days of the date of the election. This written notice must consist of a copy of the abstract of ~~ballot votes~~ from the favorable election. ~~For the purposes of this rule, "abstract of ballot" means abstract of votes as set forth in 721—21.803(4).~~ For a definition of "abstract of votes" see 721—21.803(4).

Amend the implementation clause as follows:

This rule is intended to implement Iowa Code Supplement section 422E.2 as amended by 1999 Iowa Acts, chapters 151 and 156 2000 Iowa Acts, House File 2136, section 37.

ARC 9935A

REVENUE AND FINANCE
DEPARTMENT[701]

Notice of Intended Action

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

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

Pursuant to the authority of Iowa Code sections 421.17(19) and 422.68, the Department of Revenue and Finance hereby gives Notice of Intended Action to amend Chapter 104, "Hotel and Motel—Filing Returns, Payment of Tax, Penalty, and Interest," Chapter 107, "Local Option Sales and Service Tax," and Chapter 108, "Local Option School Infrastructure Sales and Service Tax," Iowa Administrative Code.

Item 1 amends rule 701—104.7(422A) to implement application of payments based on a ratio formula for payments of tax received on a combined state sales and hotel and motel tax return. Items 2 and 3 amend chapters 107 and 108 to add new rule 701—107.15(422B) and amend existing rule 701—108.4(422E), respectively, to implement application of payments received based on a ratio formula for payments of tax received on a combined state sales and local option return. Item 4 amends rule 701—108.7(422E) to provide that the enrollment numbers for the distribution formula for local option school infrastructure sales and service tax are based on

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

the actual enrollments reported for the previous fiscal year from the date of implementation of the tax.

The proposed amendments will not necessitate additional expenditures by political subdivisions or agencies and entities which contract with political subdivisions.

Any person who believes that the application of the discretionary provisions of these amendments would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions.

The Department has determined that these proposed amendments may have an impact on small business. The Department has considered the factors listed in Iowa Code section 17A.4A [1998 Iowa Acts, chapter 1202, section 10]. The Department will issue a regulatory analysis as provided in Iowa Code section 17A.4A [1998 Iowa Acts, chapter 1202, section 10] if a written request is filed by delivery or by mailing postmarked no later than July 31, 2000, to the Policy Section, Compliance Division, Department of Revenue and Finance, Hoover State Office Building, P.O. Box 10457, Des Moines, Iowa 50306. The request may be made by the Administrative Rules Review Committee, the Administrative Rules Coordinator, at least 25 persons signing that request who each qualify as a small business or an organization representing at least 25 such persons.

Any interested person may make written suggestions or comments on these proposed amendments on or before July 28, 2000. Such written comments should be directed to the Policy Section, Compliance Division, Department of Revenue and Finance, Hoover State Office Building, P.O. Box 10457, Des Moines, Iowa 50306.

Persons who want to convey their views orally should contact the Policy Section, Compliance Division, Department of Revenue and Finance, at (515)281-4250 or at the Department of Revenue and Finance offices on the fourth floor of the Hoover State Office Building.

Requests for a public hearing must be received by July 21, 2000.

These amendments are intended to implement Iowa Code chapters 422A, 422B, and 422E.

The following amendments are proposed.

ITEM 1. Amend rule 701—104.7(422A) as follows:

701—104.7(422A) Application of payments. ~~Since a combined hotel and motel tax and quarterly sales tax return is utilized by the department, all payments received will be first applied to satisfy hotel and motel tax liabilities.~~ *Since a combined hotel and motel tax and quarterly state sales tax return is utilized by the department, all payments received with the return will be applied to satisfy state sales tax and hotel and motel tax liabilities, which include penalty and interest. Application of partial payments received with the tax return and any subsequent partial payment received for that tax period will be applied based on a ratio formula, unless properly designated by the taxpayer as provided in Iowa Code section 421.60(2) "d." The denominator in the ratio shall be the total of the hotel and motel tax due and the state sales tax due less any monthly sales tax deposits. The numerators in the ratio formula shall be the amounts of hotel and motel tax due and the net state sales tax due.*

EXAMPLE: XYZ hotel owes a total of \$1,000 in net state sales tax and hotel and motel tax for the quarter. Of the \$1,000 owed, \$600 is for hotel and motel tax and \$400 is for state sales tax. XYZ files its quarterly sales tax return accompanied by a \$500 partial payment. The \$500 partial

payment would be applied based on the following computation:

$$\frac{600}{1000} \times 500 = \$300 \text{ Hotel and motel tax}$$

$$\frac{400}{1000} \times 500 = \$200 \text{ State sales tax}$$

All revenues received under Iowa Code chapter 422A are to be credited to the "local transient guest tax fund." Revenues include all interest and penalties applicable to any hotel and motel tax report or remittance, whether resulting from delinquencies or audits. All revenues received or moneys refunded 180 days after the date on which a city or county terminates its local hotel and motel tax shall be deposited in or withdrawn from the state general fund. The 180-day limitation applies to actual receipts or disbursements and not to accrued but unpaid tax liabilities or potential refunds.

This rule is intended to implement Iowa Code section 422A.1.

ITEM 2. Amend 701—Chapter 107 by adopting **new** rule 701—107.15(422B) as follows:

701—107.15(422B) Application of payments. Since a combined state sales and local option return is utilized by the department, all payments received will be applied to satisfy state sales tax and local option sales and service tax, which include tax, penalty and interest. Application of payments received with the tax return and any subsequent payments received will be applied based on a ratio formula, unless properly designated by the taxpayer as provided in Iowa Code section 421.60(2)"d." The ratio for applying all payments received with the return and all subsequent payments for the given tax period will be based upon the calculated total of state sales and local option sales and service tax due for the given tax period in relation to combined total payment of sales and local option sales and service tax actually received for that tax period.

This rule is intended to implement Iowa Code Supplement section 422B.10.

ITEM 3. Amend rule 701—108.4(422E) as follows:

701—108.4(422E) Similarities to the local option sales and service tax imposed in Iowa Code chapter 422B and 701—Chapter 107. The administration of the tax imposed under this chapter is similar to the local option tax imposed under Iowa Code chapter 422B and 701—Chapter 107. As a result, a few of the rules set forth in 701—Chapter 107 are also applicable and govern the local option sales and service school infrastructure tax as well. Accordingly, the following rules are incorporated by reference into this chapter and will govern their respective topics in relation to the local option sales and service school infrastructure tax:

1. 701—107.7(422B) Special rules regarding utility payments.
2. 701—107.8(422B) Contacts with county necessary to impose collection obligation upon a retailer.
3. 701—107.12(422B) Computation of local option tax due from mixed sales on excursion boats.
4. 701—107.13(421,422B) Officers and partners, personal liability for unpaid tax.
5. 701—107.15(422B) *Application of payments.*

This rule is intended to implement Iowa Code section 422E.3.

ITEM 4. Amend rule 701—108.7(422E) as follows:

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

701—108.7(422E) Local option school infrastructure sales and service tax payments to school districts. The director of revenue and finance within 15 days of the beginning of each fiscal year shall send to each school district where the local option school infrastructure *sales and service* tax is imposed an estimate of the tax moneys each school district will receive for the year and for each month of the year. At the end of each month, the director may revise the estimates for the year and remaining months. The director shall remit 95 percent of the estimated monthly tax receipts for the school district to the school district on or before August 31 of the fiscal year and the last day of each month thereafter. The director shall remit a final payment of the remainder of tax money due for the fiscal year before November 10 of the next fiscal year. If an overpayment has resulted during the previous fiscal year, the first payment of the new fiscal year shall be adjusted to reflect any overpayment. Effective on or after May 20, 1999, an adjustment for an overpayment that has resulted during the previous fiscal year will be reflected beginning with the November payment.

If more than one school district or a portion of a school district is located within the county, tax receipts shall be remitted to each school district or portion of a school district in which the county tax is imposed in a pro-rata share based upon the ratio which the percentage of actual enrollment for the school district that attends school in the county bears to the percentage of the total combined actual enrollments for all school districts that attend school in the county. A student's enrollment is based on the residency of the student. The formula to compute this ratio is the following:

$$\frac{\text{actual enrollment for the school district at issue}}{\text{actual combined actual enrollment for the county}}$$

The combined actual enrollment for the county, for purposes of this tax, shall be determined for each county imposing the tax under this rule by the Iowa department of management based on the actual enrollment figures reported by October 1 of each year to the department of management by the department of education pursuant to Iowa Code section 257.6(1). Enrollment figures to be used for the purpose of this formula are the enrollment figures reported by the department of education for the *fiscal year preceding the favorable vote by a county to implement date of implementation* of the local option school infrastructure sales and service tax.

EXAMPLE: In November of ~~1998~~ 1999, Polk County holds a valid election that results in a favorable vote to impose the local option school infrastructure *sales and service* tax. *The tax will be implemented in Polk County on July 1, 2000. The fiscal year preceding the implementation of the tax is July 1, 1999, through June 30, 2000.* To determine the proper ratio of funds to be distributed to the multiple school districts located in Polk County, the enrollment figures reported by the department of education to the department of management by October of ~~1997~~ 1999 must be obtained to compute the formula as set forth.

For additional information regarding the formula for tax revenues to be distributed to the school districts, see the department of education's rules regarding this tax under 281—Chapter 96, Iowa Administrative Code.

This rule is intended to implement Iowa Code Supplement section 422E.3 as amended by 1999 Iowa Acts, chapter 156, section 19.

ARC 9890A

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 52.5, the Secretary of State hereby gives Notice of Intended Action to amend Chapter 22, "Alternative Voting Systems," Iowa Administrative Code.

Iowa Code section 52.5 requires that before actual use by a county of a particular electronic voting system which has been approved for use in this state, the state commissioner shall formulate, with the advice and assistance of the examiners, and adopt rules governing the development of vote counting programs and all procedures used in actual counting of votes by means of that system. These proposed amendments reflect changes made to the AIS 100 precinct ballot counter and approved for use in Iowa by the Iowa Board of Examiners for Voting Machines and Electronic Voting Systems on May 12, 2000.

Due to a change in the ownership of the vendor, this voting equipment is now called "ES&S Model 100." The proposed amendments to rule 22.261(52) reflect technical additions, changes and deletions made by the vendor to messages that are displayed on the machine. Instructions to the precinct election officials have also been revised to provide guidance in responding to the messages. The most significant change is the addition of the "unidentified mark" error message. If the ballot scanner detects a mark within a voting target that is not dark enough to meet the technical standard to be considered and counted as a vote, the machine will return the ballot to the voter so the voter can decide whether the mark should be darkened, or whether the mark was unintended and the ballot should be replaced and remarked.

Any interested person may make written suggestions or comments on the proposed amendments on or before Tuesday, July 18, 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)242-5953. 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, July 18, 2000, at 1:30 p.m. at the office of the Secretary of State, Second Floor, Hoover State Office Building. People may comment orally or in writing. Persons 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 rule. Persons planning to attend the hearing shall notify the Director of Elections by telephone at (515)281-5823 or by fax at (515)242-5953 no later than 4:30 p.m. on Monday, July 17, 2000.

These amendments are intended to implement Iowa Code section 52.5.

These amendments were also Adopted and Filed Emergency and are published herein as ARC 9891A. The content of that submission is incorporated by reference.

ARC 9893A

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 sections 17A.3, 490.135 and 504A.91, the Secretary of State hereby gives Notice of Intended Action to amend Chapter 40, “Corporations,” Iowa Administrative Code.

The amendments are proposed in response to new legislation contained in 2000 Iowa Acts, House File 2545, section 32, which authorizes the Secretary of State to conduct a pilot project permitting the refund of fees notwithstanding Iowa Code section 490.122, subsection 1, paragraphs “a” and “s,” and Iowa Code section 504A.85, subsections 1 and 9. In conducting the pilot project, the Secretary may refund fees for certain corporate filings if the Secretary determines that the service standard for timely filing has not been met. The service standard is set by rule.

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 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 Secretary of State’s Office, Business Services Division, Attn: Rob Berntsen, Hoover Building, 2nd Floor, Des Moines, Iowa 50319; Internet E-mail address rberntsen@sos.state.ia.us.
5. Be received by the Business Services Division no later than July 18, 2000.

A meeting to hear requested oral presentations is scheduled for July 18, 2000, at 10 a.m. in the O’Connor Conference Room, Hoover Building, Second Floor, Des Moines, Iowa 50319.

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

These amendments were also Adopted and Filed Emergency and are published herein as **ARC 9894A**. The content of that submission is incorporated by reference.

These amendments are intended to implement 2000 Iowa Acts, House File 2545, section 32.

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 June is 8.00%.

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 June 10, 2000, setting the minimums that may be paid by Iowa depositories on public funds are listed below.

TIME DEPOSITS

- 7-31 days Minimum 5.60%
- 32-89 days Minimum 5.80%
- 90-179 days Minimum 6.20%
- 180-364 days Minimum 6.20%
- One year Minimum 6.20%
- More than one year Minimum 6.50%

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 9901A

**HUMAN SERVICES
DEPARTMENT[441]**

Adopted and Filed Emergency After Notice

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

The Council on Human Services adopted this amendment June 8, 2000. Notice of Intended Action regarding this amendment was published in the Iowa Administrative Bulletin on April 19, 2000, as **ARC 9780A**.

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.

The Department finds that this amendment confers a benefit on persons applying for or receiving emergency food by increasing the income limits and making more persons eligible. Therefore, this amendment is filed pursuant to Iowa Code section 17A.5(2)"b"(2).

This amendment is identical to that published under Notice of Intended Action.

This amendment is intended to implement Iowa Code section 234.12.

This amendment shall become effective July 1, 2000.

The following amendment is adopted.

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:

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

8

	51,763	4,314	996
	53,003	4,417	1,020
For each additional	\$ 5,217	\$ 435	\$ 101
household member add:	\$ 5,365	\$ 448	\$ 104

[Filed Emergency After Notice 6/8/00, effective 7/1/00]
[Published 6/28/00]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 6/28/00.

ARC 9902A

**HUMAN SERVICES
DEPARTMENT[441]**

Adopted and Filed Emergency

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

The Seventy-eighth General Assembly directed the Department to increase the medical assistance eligibility income limit for pregnant women and infants under the Mothers and Children Program to 200 percent of the federal poverty level, effective July 1, 2000. Federal law does not allow an increase in the current eligibility income limit of 185 percent of the federal poverty level, but does allow additional deductions.

This amendment allows pregnant women and infants Medicaid eligibility up to 200 percent of the federal poverty level by providing a deduction equal to 15 percent of the federal poverty level for the family size.

This amendment does not provide for waiver in specified situations because it confers a benefit by allowing the Department of Human Services to provide for coverage of medical services for more pregnant women and infants under the Mothers and Children Program.

The Department of Human Services finds that notice and public participation are impracticable and unnecessary because of the legislative directive and because there is not time to allow for notice and public participation prior to the effective date of July 1, 2000. Therefore, this amendment is filed pursuant to Iowa Code section 17A.4(2).

The Department finds that this amendment confers a benefit by providing medical coverage to more pregnant women and infants. Therefore, this amendment is filed pursuant to Iowa Code section 17A.5(2)"b"(2).

This amendment was also published under Notice of Intended Action in the Iowa Administrative Bulletin on June 14, 2000, as **ARC 9867A** to allow for public comment.

The Council on Human Services adopted this amendment June 8, 2000.

This amendment is intended to implement 2000 Iowa Acts, Senate File 2435, section 8, subsection 12, and Iowa Code section 249A.3(1)"k" as amended by 2000 Iowa Acts, Senate File 2435, section 41.

This amendment shall become effective July 1, 2000.

The following amendment is adopted.

Amend subrule **75.1(28)**, paragraph "a," subparagraph (1), as follows:

(1) Family income shall not exceed 185 percent of the federal poverty level for pregnant women when establishing

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initial eligibility under these provisions and for infants (under one year of age) when establishing initial and ongoing eligibility. Family income shall not exceed 133 percent of the federal poverty level for children who have attained one year of age but who have not attained 19 years of age. Income to be considered in determining eligibility for pregnant women, infants, and children shall be determined according to family medical assistance program (FMAP) methodologies except that the three-step process for determining initial eligibility and the two-step process for determining ongoing eligibility, as described at rule 441—75.57(249A), shall not apply. Family income is the income remaining after disregards and deductions have been applied in accordance with the provisions of rule 441—75.57(249A).

In determining eligibility for pregnant women and infants, after the aforementioned disregards and deductions have been applied, an additional disregard equal to 15 percent of the applicable federal poverty level shall be applied to the family's income.

[Filed Emergency 6/8/00, effective 7/1/00]
[Published 6/28/00]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 6/28/00.

ARC 9903A**HUMAN SERVICES
DEPARTMENT[441]****Adopted and Filed Emergency After Notice**

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

The Council on Human Services adopted these amendments June 8, 2000.

Notice of Intended Action regarding these amendments was published in the Iowa Administrative Bulletin on April 19, 2000, as **ARC 9781A**.

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 a higher level 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 \$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).

The Department finds that these amendments confer a benefit on persons applying for Medicaid by establishing a more equitable period of ineligibility and raising the income level for persons needing to establish a Medicaid qualifying trust to become eligible for some type of facility care. Therefore, these amendments are filed pursuant to Iowa Code section 17A.5(2)"b"(2).

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

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

These amendments shall become effective July 1, 2000.

The following amendments are adopted.

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:

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(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.

[Filed Emergency After Notice 6/8/00, effective 7/1/00]

[Published 6/28/00]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 6/28/00.

ARC 9905A

HUMAN SERVICES DEPARTMENT[441]

Adopted and Filed Emergency

Pursuant to the authority of Iowa Code section 249A.4 and 2000 Iowa Acts, House File 2555, sections 1(1) and 11; Senate File 2193, section 21; and Senate File 2435, sections 8(16), 31(15), and 44, the Department of Human Services hereby amends 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 81, "Nursing Facilities," and Chapter 83, "Medicaid Waiver Services," appearing in the Iowa Administrative Code.

These amendments implement the following changes to the Medicaid program as mandated by the General Assembly:

1. Policy is revised to allow for Medicaid reimbursement for family and pediatric nurse practitioners who are employed by a hospital and are providing services in a hospital-owned facility or in another location that is not on or part of the hospital's licensed premises.

Currently, hospitals employing family and pediatric nurse practitioners are not reimbursed for services provided by these practitioners, when the practitioners are providing services in a satellite location (i.e., not on the licensed premises of the hospital). This amendment allows hospitals employing family and pediatric nurse practitioners to receive reimbursement for the practitioners' services when these practitioners are providing services in a setting in which the hospital cannot receive reimbursement for "outpatient hospital services" (e.g., a satellite clinic) and when these practitioners are not able to bill for their services "incident-to" their supervising physician (i.e., because they are not employed by that physician and because "incident-to" billing is a function of an employment relationship between a physician and auxiliary practitioner, such as a nurse practitioner, not an employment relationship between a hospital and an auxiliary practitioner).

2. All of the reimbursement rates for the following non-institutional providers are increased by 7/10 of 1 percent (hereinafter referred to as "0.7 percent" or "0.7%"): ambu-

lances; area education agencies; birth centers; certified registered nurse anesthetists; community mental health centers; durable medical equipment, prosthetic devices and medical supply dealers; family planning clinics; hearing aid dealers; lead inspection agencies; maternal health centers; opticians; orthopedic shoe dealers; rehabilitation agencies; and screening centers.

3. The reimbursement rate for dentists is increased to 75 percent of the "usual and customary rate."

4. The dispensing fee for pharmacists is increased by 0.7 percent.

5. The reimbursement rate for community mental health centers is increased by 16.63 percent and the 0.7 percent increase provided above for noninstitutional providers, for a total of 17.33 percent.

6. Home health agency providers shall be paid the maximum Medicare rate.

7. The reimbursement rate for psychiatric medical institutions for children is increased to rates based on actual costs on June 30, 2000, not to exceed a maximum of \$147.20 per day.

8. The reimbursement rate for hospitals is increased by 3 percent.

9. The maximum reimbursement rate for nursing facilities is increased by changing the maximum from the seventieth percentile of facility costs based on 1999 cost reports to the same percentile based on June 30, 2000, cost reports. It is estimated the maximum Medicaid nursing facility rate will increase from \$85.93 to \$87.86 effective July 1, 2000.

10. Nursing facilities are required to include expenses attributable to the home or principal office or headquarters in their cost reports. They are also required to conduct prior to admission a resident assessment of all persons seeking nursing facility placement. The assessment information shall be similar to the data in the minimum data set (MDS) resident assessment tool.

11. A case-mix add-on factor is added for nursing facilities providing intermediate and skilled care. Participating nursing facilities with higher than average patient care service expenses and higher than average aggregate care needs of residents will receive an add-on of \$5.20 per day to their reimbursement rate. Participating nursing facilities with lower than average patient care service expenses and higher than average aggregate care needs of residents will receive an add-on of \$2.60 per day to their reimbursement rate. Free-standing nursing facilities providing skilled care that exceeds the Iowa case-mix nursing facility average will receive an add-on of \$5.20 per day to their reimbursement rate.

The current reimbursement system for Iowa nursing facilities provides a facility rate and maximum rate based only on costs. Many states, with federal encouragement, have adopted reimbursement systems which factor in the care needs of residents, providing a higher rate of reimbursement to facilities that care for residents with greater care needs. The Department, with the support of the Iowa nursing home industry, plans to begin moving the Iowa reimbursement system in this direction.

It is believed this change will encourage facilities to accept and retain more difficult-to-care-for residents. A consultant has been hired on contract to make recommendations for further changes in the reimbursement system. Additional changes to the reimbursement system will likely be sought for the next fiscal year.

12. The following changes are made to policy governing skilled nursing and home health aide services and to the

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Home- and Community-Based Services waivers as mandated by the Seventy-eighth General Assembly:

- The definitions of skilled nursing and home health aide services that meet the intermittent guidelines for payment under Medicaid are being expanded.

Daily skilled nursing visits or multiple daily visits for wound care or insulin injections are covered when ordered by a physician and included in the plan of care.

Home health aide services provided for four to seven days per week, not to exceed 28 hours per week when ordered by a physician and included in a plan of care, are allowed as intermittent services under certain conditions.

- An interim medical monitoring and treatment service is added to the ill and handicapped, mental retardation, and brain injury waivers.

Interim medical monitoring and treatment services are monitoring and treatment of a medical nature requiring specially trained caregivers. The services allow the consumer's usual caregivers to be employed. Interim medical monitoring and treatment services may also be provided for a limited period of time for academic or vocational training of a usual caregiver; due to the hospitalization, treatment for physical or mental illness, or death of a usual caregiver; or during a search for employment by a usual caregiver.

Interim medical monitoring and treatment services provide experiences for each consumer's social, emotional, intellectual, and physical development, include comprehensive developmental care and any special services for a consumer with special needs, and include medical assessment, medical monitoring, and medical intervention as needed on a regular or emergency basis. Services may include transportation to and from school.

A maximum of 12 one-hour units of service is available per day. Interim medical monitoring and treatment services may not duplicate any regular Medicaid or waiver services provided under the state plan. They may be provided only in the consumer's home, in a registered group child care home, in a registered family child care home, in a licensed child care center, or during transportation to and from school. The staff-to-consumer ratio shall not be less than one to six.

The following providers may provide interim medical monitoring and treatment services: licensed child care centers, registered group and family child care homes, and home health agencies certified to participate in the Medicare program.

Staff members providing interim medical monitoring and treatment services to consumers are to meet all of the following requirements: be at least 18 years of age, not be the spouse of the consumer or a parent or stepparent of the consumer if the consumer is aged 17 or under, not be a usual caregiver of the consumer, and be qualified by training or experience, as determined by the usual caregivers and a licensed medical professional on the consumer's interdisciplinary team, to provide medical intervention or intervention in a medical emergency necessary to carry out the consumer's plan of care.

- Assisted living programs certified or voluntarily accredited by the Iowa Department of Elder Affairs are clearly identified as an agency provider of consumer-directed attendant care in the elderly waiver program and a separate unit of service is identified.

When provided by an assisted living program, a unit of consumer-directed attendant care service is one calendar month. If services are provided by an assisted living program for less than one full calendar month, the monthly re-

imbursement rate shall be prorated based on the number of days service is provided.

- The aggregate monthly cost limit in the elderly waiver program for a person needing the nursing facility level of care is increased from \$852 to \$1,052.

- Respite services available under the HCBS waiver programs are expanded by adding medical respite, expanding potential providers, and increasing rates for all providers. In addition, criteria are added to require safety procedures during the provision of respite care.

Respite is a basic service that gives the caregiver of a person with a disability or an elderly person a necessary break from care. Respite is available under all of the HCBS waivers with the exception of the physical disability waiver.

Respite services provided by home health agencies, home care agencies, and other nonfacility providers are divided into specialized respite, group respite, and basic individual respite, with separate rates of payment. "Specialized respite" means respite provided on a staff-to-consumer ratio of one to one or higher to individuals with specialized medical needs requiring the care, monitoring or supervision of a licensed registered nurse or licensed practical nurse. "Group respite" is respite provided on a staff-to-consumer ratio of less than one to one and "basic individual respite" means respite provided on a staff-to-consumer ratio of one to one or higher to individuals without specialized needs requiring the care of a licensed registered nurse or licensed practical nurse.

- The reimbursement rates for the following providers are increased by 7/10 of 1 percent (hereinafter referred to as "0.7 percent" or "0.7%"): HCBS AIDS/HIV waiver counseling, homemaker, nursing, home-delivered meals, adult day care, and consumer-directed attendant care providers; HCBS Brain Injury waiver personal emergency response, adult day care, case management, consumer-directed attendant care, behavioral programming, family counseling and training, and prevocational services providers; HCBS Elderly waiver adult day care, emergency response, homemaker, nursing, chore, home-delivered meals, nutritional counseling, assistive devices, senior companion, and consumer-directed attendant care providers; HCBS Ill and Handicapped waiver homemaker, adult day care, nursing care, counseling, and consumer-directed attendant care providers; HCBS MR waiver personal emergency response and consumer-directed attendant care providers; and HCBS Physical Disability waiver consumer-directed attendant care and personal emergency response providers.

- Home- and Community-Based Services (HCBS) waiver home health providers shall be paid the maximum Medicare rate.

The amendments explained in numbers 1 to 11 above do not provide for waiver in specified situations because they confer a benefit on providers by allowing additional Medicaid reimbursement for family and pediatric nurse practitioners and increasing reimbursement to affected providers. The General Assembly directed the Department to implement these changes with no provisions for exceptions. All providers of the same category should be reimbursed on the same basis.

The amendments explained in number 12 above do not provide for waivers because the legislature directed these changes and they confer a benefit. Exceptions to the amended limits and from particular requirements regarding these services can be requested under the Department's general rule on exceptions at rule 441—1.8(17A).

In compliance with Iowa Code section 17A.4(2), the Department of Human Services finds that notice and public par-

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ticipation are unnecessary because these amendments implement 2000 Iowa Acts, House File 2555, sections 1 and 11; Senate File 2193, section 21; and Senate File 2435, sections 8(16), 31(15), and 44, which authorize the Department to adopt rules without notice and public participation.

The Department also finds, pursuant to Iowa Code section 17A.5(2)"b"(1), that the normal effective date of these amendments should be waived and these amendments made effective July 1, 2000, as authorized by 2000 Iowa Acts, House File 2555, sections 1 and 11; Senate File 2193, section 21; and Senate File 2435, sections 8(16), 31(15), and 44.

These amendments were also published under Notice of Intended Action in the Iowa Administrative Bulletin on June 14, 2000, as **ARC 9882A** (numbers 1 through 11) and **ARC 9881A** (number 12) to allow for public comment.

The Council on Human Services adopted these amendments June 8, 2000.

These amendments are intended to implement Iowa Code section 249A.4 and 2000 Iowa Acts, House File 2555, section 1, subsection 1, paragraphs "b," "e," "f," "h," "i," and "j"; Senate File 2193, sections 12 and 20(3); and Senate File 2435, sections 8(16), 31(1)"h," 31(2)"c," and 31(13), and 39.

These amendments shall become effective July 1, 2000.

The following amendments are adopted.

ITEM 1. Amend rule 441—77.30(249A) as follows:

Amend subrule 77.30(5) as follows:

77.30(5) Respite care providers.

a. The following ~~providers~~ agencies may provide respite ~~care services~~:

a. (1) Home health agencies ~~which meet the conditions of participation set forth in 77.30(2) above that are certified to participate in the Medicare program.~~

b. (2) Respite providers certified under the HCBS MR waiver.

c. (3) Nursing facilities, intermediate care facilities for the mentally retarded, and hospitals ~~certified to participate enrolled as providers~~ in the Iowa Medicaid program.

d. (4) ~~Child Group living~~ foster care facilities for children licensed by the department according to 441—Chapters 112 and 114 to 116 and ~~child care centers licensed according to 441—Chapter 109.~~

e. (5) Camps ~~accredited~~ certified by the American Camping Association.

f. (6) Home care agencies ~~which~~ that meet the conditions of participation set forth in subrule 77.30(1).

g. (7) Adult day care providers ~~which~~ that meet the conditions of participation set forth in subrule 77.30(3).

(8) ~~Residential care facilities for persons with mental retardation (RCF/PMR) licensed by the department of inspections and appeals.~~

b. Respite providers shall meet the following conditions:

(1) Providers shall maintain the following information that shall be updated at least annually:

1. The consumer's name, birth date, age, and address and the telephone number of each parent, guardian, or primary caregiver.

2. An emergency medical care release.

3. Emergency contact telephone numbers such as the number of the consumer's physician and the parents, guardian, or primary caregiver.

4. The consumer's medical issues, including allergies.

5. The consumer's daily schedule which includes the consumer's preferences in activities or foods or any other special concerns.

(2) Procedures shall be developed for the dispensing, storage, authorization, and recording of all prescription and nonprescription medications administered. Home health agencies must follow Medicare regulations for medication dispensing.

All medications shall be stored in their original containers, with the accompanying physician's or pharmacist's directions and label intact. Medications shall be stored so they are inaccessible to consumers and the public. Nonprescription medications shall be labeled with the consumer's name.

In the case of medications that are administered on an ongoing, long-term basis, authorization shall be obtained for a period not to exceed the duration of the prescription.

(3) Policies shall be developed for:

1. Notifying the parent, guardian, or primary caregiver of any injuries or illnesses that occur during respite provision. A parent's, guardian's, or primary caregiver's signature is required to verify receipt of notification.

2. Requiring the parent, guardian, or primary caregiver to notify the respite provider of any injuries or illnesses that occurred prior to respite provision.

3. Documenting activities and times of respite. This documentation shall be made available to the parent, guardian, or primary caregiver upon request.

4. Ensuring the safety and privacy of the individual. Policies shall at a minimum address threat of fire, tornado, and flood and bomb threats.

c. A facility providing respite under this subrule shall not exceed the facility's licensed capacity, and services shall be provided in locations consistent with licensure.

d. Respite provided outside the consumer's home or the facility covered by the licensure, certification, accreditation, or contract must be approved by the parent, guardian, or primary caregiver and the interdisciplinary team and must be consistent with the way the location is used by the general public. Respite in these locations shall not exceed 72 continuous hours.

Adopt the following new subrule:

77.30(8) Interim medical monitoring and treatment providers.

a. The following providers may provide interim medical monitoring and treatment services:

(1) Licensed child care centers.

(2) Registered group child care homes.

(3) Registered family child care homes.

(4) Home health agencies certified to participate in the Medicare program.

b. Staff requirements. Staff members providing interim medical monitoring and treatment services to consumers shall meet all of the following requirements:

(1) Be at least 18 years of age.

(2) Not be the spouse of the consumer or a parent or step-parent of the consumer if the consumer is aged 17 or under.

(3) Not be a usual caregiver of the consumer.

(4) Be qualified by training or experience, as determined by the usual caregivers and a licensed medical professional on the consumer's interdisciplinary team and documented in the service plan, to provide medical intervention or intervention in a medical emergency necessary to carry out the consumer's plan of care.

ITEM 2. Amend subrule 77.33(6) as follows:

77.33(6) Respite care providers.

a. The following ~~providers~~ agencies may provide respite ~~care services~~:

a. (1) Home health agencies ~~certified by Medicare that are certified to participate in the Medicare program.~~

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b. (2) Nursing facilities and hospitals ~~certified to participate~~ ~~enrolled as providers~~ in the Iowa Medicaid program.

e. (3) Camps ~~accredited~~ ~~certified~~ by the American Camping Association.

d. (4) Respite providers certified under the HCBS MR waiver.

e. (5) Home care agencies ~~which that~~ meet the conditions of participation set forth in subrule 77.33(4).

f. (6) Adult day care providers ~~which that~~ meet the conditions set forth in subrule 77.33(1).

b. *Respite providers shall meet the following conditions:*

(1) *Providers shall maintain the following information that shall be updated at least annually:*

1. *The consumer's name, birth date, age, and address and the telephone number of the spouse, guardian, or primary caregiver.*

2. *An emergency medical care release.*

3. *Emergency contact telephone numbers such as the number of the consumer's physician and the spouse, guardian, or primary caregiver.*

4. *The consumer's medical issues, including allergies.*

5. *The consumer's daily schedule which includes the consumer's preferences in activities or foods or any other special concerns.*

(2) *Procedures shall be developed for the dispensing, storage, authorization, and recording of all prescription and nonprescription medications administered. Home health agencies must follow Medicare regulations for medication dispensing.*

All medications shall be stored in their original containers, with the accompanying physician's or pharmacist's directions and label intact. Medications shall be stored so they are inaccessible to consumers and the public. Nonprescription medications shall be labeled with the consumer's name.

In the case of medications that are administered on an ongoing, long-term basis, authorization shall be obtained for a period not to exceed the duration of the prescription.

(3) *Policies shall be developed for:*

1. *Notifying the spouse, guardian, or primary caregiver of any injuries or illnesses that occur during respite provision. A spouse's, guardian's, or primary caregiver's signature is required to verify receipt of notification.*

2. *Requiring the spouse, guardian, or primary caregiver to notify the respite provider of any injuries or illnesses that occurred prior to respite provision.*

3. *Documenting activities and times of respite. This documentation shall be made available to the spouse, guardian, or primary caregiver upon request.*

4. *Ensuring the safety and privacy of the individual. Policies shall at a minimum address threat of fire, tornado, and flood and bomb threats.*

c. *A facility providing respite under this subrule shall not exceed the facility's licensed capacity, and services shall be provided in locations consistent with licensure.*

d. *Respite provided outside the consumer's home or the facility covered by the licensure, certification, accreditation, or contract must be approved by the spouse, guardian, or primary caregiver and the interdisciplinary team and must be consistent with the way the location is used by the general public. Respite in these locations shall not exceed 72 continuous hours.*

ITEM 3. Amend subrule 77.34(5) as follows:

77.34(5) Respite care providers. ~~Respite care providers shall be:~~

a. *The following agencies may provide respite services:*

a. (1) Home health agencies ~~which meet the conditions of participation set forth in 77.34(2)~~ ~~that are certified to participate in the Medicare program.~~

b. (2) Nursing facilities, intermediate care facilities for the mentally retarded, or hospitals ~~certified to participate enrolled as providers~~ in the Iowa Medicaid program.

e. (3) Respite providers certified under the HCBS MR waiver.

d. (4) ~~Child Group living~~ foster care facilities for children licensed by the department according to 441—Chapters 112 and 114 to 116 and child care centers licensed according to 441—Chapter 109.

e. (5) Camps ~~accredited~~ ~~certified~~ by the American Camping Association.

f. (6) Home care agencies ~~which that~~ meet the conditions of participation set forth in subrule 77.34(3).

g. (7) Adult day care providers ~~which that~~ meet the conditions of participation set forth in subrule 77.34(7).

b. *Respite providers shall meet the following conditions:*

(1) *Providers shall maintain the following information that shall be updated at least annually:*

1. *The consumer's name, birth date, age, and address and the telephone number of each parent, guardian, or primary caregiver.*

2. *An emergency medical care release.*

3. *Emergency contact telephone numbers such as the number of the consumer's physician and the parents, guardian, or primary caregiver.*

4. *The consumer's medical issues, including allergies.*

5. *The consumer's daily schedule which includes the consumer's preferences in activities or foods or any other special concerns.*

(2) *Procedures shall be developed for the dispensing, storage, authorization, and recording of all prescription and nonprescription medications administered. Home health agencies must follow Medicare regulations for medication dispensing.*

All medications shall be stored in their original containers, with the accompanying physician's or pharmacist's directions and label intact. Medications shall be stored so they are inaccessible to consumers and the public. Nonprescription medications shall be labeled with the consumer's name.

In the case of medications that are administered on an ongoing, long-term basis, authorization shall be obtained for a period not to exceed the duration of the prescription.

(3) *Policies shall be developed for:*

1. *Notifying the parent, guardian, or primary caregiver of any injuries or illnesses that occur during respite provision. A parent's, guardian's, or primary caregiver's signature is required to verify receipt of notification.*

2. *Requiring the parent, guardian, or primary caregiver to notify the respite provider of any injuries or illnesses that occurred prior to respite provision.*

3. *Documenting activities and times of respite. This documentation shall be made available to the parent, guardian, or primary caregiver upon request.*

4. *Ensuring the safety and privacy of the individual. Policies shall at a minimum address threat of fire, tornado, and flood and bomb threats.*

c. *A facility providing respite under this subrule shall not exceed the facility's licensed capacity, and services shall be provided in locations consistent with licensure.*

d. *Respite provided outside the consumer's home or the facility covered by the licensure, certification, accreditation, or contract must be approved by the parent, guardian, or primary caregiver and the interdisciplinary team and must be*

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consistent with the way the location is used by the general public. Respite in these locations shall not exceed 72 continuous hours.

ITEM 4. Amend rule 441—77.37(249A) as follows:

Amend the introductory paragraph as follows:

441—77.37(249A) HCBS MR waiver service providers. Supported community living and supported employment providers shall be eligible to participate as approved HCBS MR service providers in the Medicaid program based on the outcome-based standards set forth below in subrules 77.37(1) and 77.37(2) evaluated according to subrules 77.37(10) to 77.37(12), the requirements of subrules 77.37(3) to 77.37(9), and the applicable subrules pertaining to the individual service. Respite providers shall meet the conditions set forth in subrules 77.37(1) and 77.37(15). Home and vehicle modification shall meet the conditions set forth in subrule 77.37(17). Personal emergency response system providers shall meet the conditions set forth in subrule 77.37(18). Nursing providers shall meet the conditions set forth in subrule 77.37(19). Home health aide providers shall meet the conditions set forth in subrule 77.37(20). Consumer-directed attendant care providers shall meet the conditions set forth in subrule 77.37(21). *Interim medical monitoring and treatment providers shall meet the conditions set forth in subrule 77.37(22).*

Amend subrule 77.37(15) as follows:

77.37(15) Respite care providers. ~~The department will contract only with public or private agencies to provide respite services. The department does not recognize individuals as service providers under the respite program.~~

a. The following agencies may provide HCBS MR respite services:

a. (1) ~~Providers of services meeting the definition of foster care or day care licensed according to applicable 441—Chapters 108, 109, 112, 114, 115, and 116. Group living foster care facilities for children licensed by the department according to 441—Chapters 112 and 114 to 116 and child care centers licensed according to 441—Chapter 109.~~

~~Providers of services may employ or contract with individuals meeting the definition of foster family homes or family or group day care homes to provide respite services. These individuals shall be licensed according to applicable 441—Chapters 110, 112, and 113.~~

b. (2) Nursing facilities, intermediate care facilities for the mentally retarded, and hospitals certified to participate enrolled as providers in the Iowa Medicaid program.

c. (3) ~~RCF/MR facilities certified~~ Residential care facilities for persons with mental retardation (RCF/PMR) licensed by the department of inspections and appeals.

d. (4) Home health agencies ~~provided they that~~ are certified to participate in the Medicare program (Title XVIII of the Social Security Act).

e. (5) ~~Day camps provided they are~~ Camps certified by the American Camping Association.

f. (6) Adult day health services accredited by the Joint Commission on Accreditation of Healthcare Organizations (JCAHO) or the Commission on Accreditation of Rehabilitation Facilities (CARF).

(7) Home care agencies that meet the home care standards and requirements set forth in department of public health rules 641—80.5(135) through 641—80.7(135).

(8) Agencies certified by the department to provide respite services in the consumer's home that meet the requirements of 77.37(1) and 77.37(3) through 77.37(9).

b. Respite providers shall meet the following conditions:

(1) Providers shall maintain the following information that shall be updated at least annually:

1. The consumer's name, birth date, age, and address and the telephone number of each parent, guardian, or primary caregiver.

2. An emergency medical care release.

3. Emergency contact telephone numbers such as the number of the consumer's physician and the parents, guardian, or primary caregiver.

4. The consumer's medical issues, including allergies.

5. The consumer's daily schedule which includes the consumer's preferences in activities or foods or any other special concerns.

(2) Procedures shall be developed for the dispensing, storage, authorization, and recording of all prescription and nonprescription medications administered. Home health agencies must follow Medicare regulations for medication dispensing.

All medications shall be stored in their original containers, with the accompanying physician's or pharmacist's directions and label intact. Medications shall be stored so they are inaccessible to consumers and the public. Nonprescription medications shall be labeled with the consumer's name.

In the case of medications that are administered on an ongoing, long-term basis, authorization shall be obtained for a period not to exceed the duration of the prescription.

(3) Policies shall be developed for:

1. Notifying the parent, guardian, or primary caregiver of any injuries or illnesses that occur during respite provision. A parent's, guardian's, or primary caregiver's signature is required to verify receipt of notification.

2. Requiring the parent, guardian, or primary caregiver to notify the respite provider of any injuries or illnesses that occurred prior to respite provision.

3. Documenting activities and times of respite. This documentation shall be made available to the parent, guardian, or primary caregiver upon request.

4. Ensuring the safety and privacy of the individual. Policies shall at a minimum address threat of fire, tornado, and flood and bomb threats.

c. A facility providing respite under this subrule shall not exceed the facility's licensed capacity, and services shall be provided in locations consistent with licensure.

d. Respite provided outside the consumer's home or the facility covered by the licensure, certification, accreditation, or contract must be approved by the parent, guardian, or primary caregiver and the interdisciplinary team and must be consistent with the way the location is used by the general public. Respite in these locations shall not exceed 72 continuous hours.

Adopt the following **new** subrule:

77.37(22) Interim medical monitoring and treatment providers.

a. The following providers may provide interim medical monitoring and treatment services:

(1) Licensed child care centers.

(2) Registered group child care homes.

(3) Registered family child care homes.

(4) Home health agencies certified to participate in the Medicare program.

b. Staff requirements. Staff members providing interim medical monitoring and treatment services to consumers shall meet all of the following requirements:

(1) Be at least 18 years of age.

(2) Not be the spouse of the consumer or a parent or step-parent of the consumer if the consumer is aged 17 or under.

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(3) Not be a usual caregiver of the consumer.

(4) Be qualified by training or experience, as determined by the usual caregivers and a licensed medical professional on the consumer's interdisciplinary team and documented in the service plan, to provide medical intervention or intervention in a medical emergency necessary to carry out the consumer's plan of care.

ITEM 5. Amend rule 441—77.39(249A) as follows:

Amend the introductory paragraph as follows:

441—77.39(249A) HCBS brain injury waiver service providers. Adult day care, behavioral programming, case management, consumer-directed attendant care, family counseling and training, home and vehicle modification, *interim medical monitoring and treatment*, personal emergency response, prevocational service, respite, specialized medical equipment, supported community living, supported employment, and transportation providers shall be eligible to participate as approved brain injury waiver service providers in the Medicaid program based on the applicable subrules pertaining to the individual service and provided that they and each of their staff involved in direct consumer service have training regarding or experience with consumers who have a brain injury. In addition, behavioral programming, supported community living, and supported employment providers shall meet the outcome-based standards set forth below in subrules 77.39(1) and 77.39(2) evaluated according to subrules 77.39(8) to 77.39(10), and the requirements of subrules 77.39(3) to 77.39(7). Respite providers shall also meet the standards in subrule 77.39(1).

Amend subrule 77.39(14) as follows:

77.39(14) Respite service providers. ~~The department shall enter into a formal agreement only with public or private agencies to provide respite services. The department does not recognize individuals as service providers under the respite program. The following Respite providers are eligible to be providers of respite service in the HCBS brain injury waiver if they have documented training or experience with persons with a brain injury.~~

a. The following agencies may provide respite services:

~~a. (1) Respite providers certified under the HCBS mental retardation waiver.~~

~~b. (2) Providers of respite services which have been approved as a Medicaid vendor may provide in-home home health aid respite services or out-of-home medical facility respite services. Adult day health service providers accredited by the Joint Commission on Accreditation of Healthcare Organizations (JCAHO) or the Commission on Accreditation of Rehabilitation Facilities (CARF).~~

~~c. (3) Child Group living foster care facilities for children licensed by the department according to 441—Chapters 112 and 114 to 116 and child care centers licensed according to 441—Chapter 109.~~

~~d. (4) Camps accredited certified by the American Camping Association.~~

~~e. (5) Home care providers meeting agencies that meet the conditions of participation set forth in subrule 77.30(1).~~

~~f. Providers of services meeting the definition of foster care or day care shall also be licensed according to applicable standards of 441—Chapters 108, 109, 112, 114, 115, and 116.~~

~~g. Providers of services may employ or contract with individuals meeting the definition of foster family homes or family or group day care homes to provide respite services. These individuals shall be licensed according to applicable 441—Chapters 110, 112, and 113.~~

~~h. (6) Nursing facilities, intermediate care facilities for the mentally retarded, and hospitals certified to participate enrolled as providers in the Iowa Medicaid program.~~

~~i. (7) RCF/PMR Residential care facilities for persons with mental retardation (RCF/PMR) certified licensed by the department of inspections and appeals.~~

~~j. (8) Home health agencies provided they that are certified to participate in the Medicare program (Title XVIII of the Social Security Act).~~

~~(9) Agencies certified by the department to provide respite services in the consumer's home that meet the requirements of subrules 77.39(1) and 77.39(3) through 77.39(7).~~

~~b. Respite providers shall meet the following conditions:~~

~~(1) Providers shall maintain the following information that shall be updated at least annually:~~

~~1. The consumer's name, birth date, age, and address and the telephone number of each parent, guardian, or primary caregiver.~~

~~2. An emergency medical care release.~~

~~3. Emergency contact telephone numbers such as the number of the consumer's physician and the parents, guardian, or primary caregiver.~~

~~4. The consumer's medical issues, including allergies.~~

~~5. The consumer's daily schedule which includes the consumer's preferences in activities or foods or any other special concerns.~~

~~(2) Procedures shall be developed for the dispensing, storage, authorization, and recording of all prescription and nonprescription medications administered. Home health agencies must follow Medicare regulations for medication dispensing.~~

~~All medications shall be stored in their original containers, with the accompanying physician's or pharmacist's directions and label intact. Medications shall be stored so they are inaccessible to consumers and the public. Nonprescription medications shall be labeled with the consumer's name.~~

~~In the case of medications that are administered on an ongoing, long-term basis, authorization shall be obtained for a period not to exceed the duration of the prescription.~~

~~(3) Policies shall be developed for:~~

~~1. Notifying the parent, guardian, or primary caregiver of any injuries or illnesses that occur during respite provision. A parent's, guardian's, or primary caregiver's signature is required to verify receipt of notification.~~

~~2. Requiring the parent, guardian, or primary caregiver to notify the respite provider of any injuries or illnesses that occurred prior to respite provision.~~

~~3. Documenting activities and times of respite. This documentation shall be made available to the parent, guardian, or primary caregiver upon request.~~

~~4. Ensuring the safety and privacy of the individual. Policies shall at a minimum address threat of fire, tornado, and flood and bomb threats.~~

~~c. A facility providing respite under this subrule shall not exceed the facility's licensed capacity, and services shall be provided in locations consistent with licensure.~~

~~d. Respite provided outside the consumer's home or the facility covered by the licensure, certification, accreditation, or contract must be approved by the parent, guardian, or primary caregiver and the interdisciplinary team and must be consistent with the way the location is used by the general public. Respite in these locations shall not exceed 72 continuous hours.~~

~~Adopt the following new subrule:~~

~~**77.39(25) Interim medical monitoring and treatment providers.**~~

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a. The following providers may provide interim medical monitoring and treatment services:

- (1) Licensed child care centers.
- (2) Registered group child care homes.
- (3) Registered family child care homes.
- (4) Home health agencies certified to participate in the Medicare program.

b. Staff requirements. Staff members providing interim medical monitoring and treatment services to consumers shall meet all of the following requirements:

- (1) Be at least 18 years of age.
- (2) Not be the spouse of the consumer or a parent or step-parent of the consumer if the consumer is aged 17 or under.
- (3) Not be a usual caregiver of the consumer.
- (4) Be qualified by training or experience, as determined by the usual caregivers and a licensed medical professional on the consumer's interdisciplinary team and documented in the service plan, to provide medical intervention or intervention in a medical emergency necessary to carry out the consumer's plan of care.

ITEM 6. Amend rule 441—78.9(249A) as follows:

Amend subrule 78.9(3), introductory paragraph, as follows:

78.9(3) Skilled nursing services. Skilled nursing services are services that when performed by a home health agency require a licensed registered nurse or licensed practical nurse to perform. Situations when a service can be safely performed by the recipient or other nonskilled person who has received the proper training or instruction or when there is no one else to perform the service are not considered a "skilled nursing service." Skilled nursing services shall be available only on an intermittent basis. Intermittent services for skilled nursing services shall be defined as a medically predictable recurring need requiring a skilled nursing service at least once every 60 days, *not to exceed five days per week (except as provided below)*, with an attempt to have a predictable end. Daily visits (*six or seven days per week*) that are reasonable and necessary and show an attempt to have a predictable end shall be covered for up to three weeks. Coverage of additional daily visits beyond the initial anticipated time frame may be appropriate for a short period of time, based on the medical necessity of service. Medical documentation shall be submitted justifying the need for continued visits, including the physician's estimate of the length of time that additional visits will be necessary. *Daily skilled nursing visits or multiple daily visits for wound care or insulin injections shall be covered when ordered by a physician and included in the plan of care.* ~~Daily~~ Other daily skilled nursing visits which are ordered for an indefinite period of time and designated as daily skilled nursing care do not meet the intermittent definition and shall be denied.

Amend subrule **78.9(7)**, paragraph "c," introductory paragraph, as follows:

c. Services shall be provided on an intermittent basis. "Intermittent basis" for home health agency services is defined as services that are usually two to three times a week for two to three hours at a time. *Services provided for four to seven days per week, not to exceed 28 hours per week, when ordered by a physician and included in a plan of care shall be allowed as intermittent services.* Increased services provided when medically necessary due to unusual circumstances on a short-term basis of two to three weeks may also be allowed as intermittent services when the home health agency documents the need for the excessive time required for home health aide services.

ITEM 7. Amend rule 441—78.31(249A) as follows:

Amend subrule 78.31(1), introductory paragraph, as follows:

78.31(1) Covered hospital outpatient services. Payment will be approved only for the following outpatient hospital services and medical services when provided on the licensed premises of the hospital *or pursuant to subrule 78.31(5)*. Hospitals with alternate sites approved by the department of inspections and appeals are acceptable sites. All outpatient services listed in paragraphs "g" to "m" are subject to a random sample retrospective review for medical necessity by the Iowa Foundation for Medical Care. All services may also be subject to a more intensive retrospective review if abuse is suspected. Services in paragraphs "a" to "f" shall be provided in hospitals on an outpatient basis and are subject to no further limitations except medical necessity of the service.

Adopt the following new subrule:

78.31(5) Services rendered by family or pediatric nurse practitioners employed by a hospital. Hospitals may be reimbursed for services rendered by family or pediatric nurse practitioners who are employed by the hospital and providing services in a facility or other location that is owned by the hospital, but is not on or part of the hospital's licensed premises, if reimbursement is not otherwise available for the services rendered by these employed nurse practitioners. As a condition of reimbursement, employed family and pediatric nurse practitioners rendering these services must enroll with the Medicaid program, receive a provider number, and designate the employing hospital to receive payment. Claims for services shall be submitted by the employed family or pediatric nurse practitioner. Payment shall be at the same fee-schedule rates as those in effect for independently practicing family or pediatric nurse practitioners under 441—subrule 79.1(2).

ITEM 8. Amend rule 441—78.34(249A) as follows:

Amend subrule 78.34(5) as follows:

78.34(5) Respite care services. Respite care services are ~~temporary care to a client to provide relief to the usual informal caregiver and provide all the care the usual caregiver would provide services provided to the consumer that give temporary relief to the usual caregiver and provide all the necessary care that the usual caregiver would provide during that time period. The purpose of respite care is to enable the consumer to remain in the consumer's current living situation.~~

a. ~~If the respite care is provided in the client's home, only the cost of care is reimbursed. Services provided outside the consumer's home shall not be reimbursable if the living unit where respite is provided is reserved for another person on a temporary leave of absence.~~

b. ~~If the respite care is provided outside of the client's home, charges may include room and board. Staff-to-consumer ratios shall be appropriate to the individual needs of the consumer as determined by the consumer's interdisciplinary team.~~

c. A unit of service is either ~~one 24-hour day for out-of-home respite care provided by a facility or camp, one 4- to 8-hour period of time for in-home respite care provided by a home health agency, or one hour for respite care provided by an adult day care provider, HCBS MR waiver provider, home care agency, day camp, or home health agency when the home health agency provides one to three hours of respite service one hour.~~

d. Respite care is not to be provided to persons ~~aged 17 or under~~ during the hours in which the usual caregiver is

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employed except when the provider is a camp providing a 24-hour service.

e. *The interdisciplinary team shall determine if the consumer will receive basic individual respite, specialized respite, or group respite as defined in rule 441—83.1(249A).*

f. *A maximum of 14 consecutive days of 24-hour respite care may be reimbursed.*

g. *Respite services provided for a period exceeding 24 consecutive hours to three or more individuals who require nursing care because of a mental or physical condition must be provided by a health care facility licensed as described in Iowa Code chapter 135C.*

Adopt the following new subrule:

78.34(8) Interim medical monitoring and treatment services. Interim medical monitoring and treatment services are monitoring and treatment of a medical nature requiring specially trained caregivers beyond what is normally available in a day care setting. The services must be needed to allow the consumer's usual caregivers to be employed or, for a limited period of time, for academic or vocational training of a usual caregiver; due to the hospitalization, treatment for a physical or mental illness, or death of a usual caregiver; or during a search for employment by a usual caregiver.

a. Service requirements. Interim medical monitoring and treatment services shall:

(1) Provide experiences for each consumer's social, emotional, intellectual, and physical development;

(2) Include comprehensive developmental care and any special services for a consumer with special needs; and

(3) Include medical assessment, medical monitoring, and medical intervention as needed on a regular or emergency basis.

b. Interim medical monitoring and treatment services may include supervision to and from school.

c. Limitations.

(1) A maximum of 12 one-hour units of service is available per day.

(2) Covered services do not include a complete nutritional regimen.

(3) Interim medical monitoring and treatment services may not duplicate any regular Medicaid or waiver services provided under the state plan.

(4) Interim medical monitoring and treatment services may be provided only in the consumer's home, in a registered group child care home, in a registered family child care home, in a licensed child care center, or during transportation to and from school.

(5) The staff-to-consumer ratio shall not be less than one to six.

d. A unit of service is one hour.

ITEM 9. Amend rule 441—78.37(249A) as follows:

Amend subrule 78.37(6) as follows:

78.37(6) Respite care services. Respite care services are ~~temporary care to a client to provide relief to the usual informal caregiver and provide all the care the usual caregiver would provide services provided to the consumer that give temporary relief to the usual caregiver and provide all the necessary care that the usual caregiver would provide during that time period. The purpose of respite care is to enable the consumer to remain in the consumer's current living situation.~~

a. ~~If the respite care is provided in the client's home, only the cost of care is reimbursed. Services provided outside the consumer's home shall not be reimbursable if the living unit where respite is provided is reserved for another person on a temporary leave of absence.~~

b. ~~If the respite care is provided outside of the client's home, charges may include room and board. Staff-to-consumer ratios shall be appropriate to the individual needs of the consumer as determined by the consumer's interdisciplinary team.~~

c. ~~A unit of service is either one 24-hour day for out-of-home respite care provided by a facility or camp, one 4- to 8-hour period of time for in-home respite care provided by a home health agency, or one hour for respite care provided by an adult day care provider, HCBS MR waiver provider, home care agency, day camp, or home health agency when the home health agency provides one to three hours of respite service one hour.~~

d. ~~Rescinded IAB 3/30/94, effective 6/1/94. The interdisciplinary team shall determine if the consumer will receive basic individual respite, specialized respite or group respite as defined in rule 441—83.21(249A).~~

e. When respite care is provided, the provision of, or payment for, other duplicative services under the waiver is precluded.

f. *A maximum of 14 consecutive days of 24-hour respite care may be reimbursed.*

g. *Respite services provided for a period exceeding 24 consecutive hours to three or more individuals who require nursing care because of a mental or physical condition must be provided by a health care facility licensed as described in Iowa Code chapter 135C.*

h. *Respite care is not to be provided to persons during the hours in which the usual caregiver is employed except when the provider is a camp.*

Amend subrule **78.37(15)**, paragraph "c," as follows:

c. ~~A unit of service provided by an individual or an agency, other than an assisted living program, is 1 hour, or one 8- to 24-hour day provided by an individual or an agency. When provided by an assisted living program, a unit of service is one calendar month. If services are provided by an assisted living program for less than one full calendar month, the monthly reimbursement rate shall be prorated based on the number of days service is provided. Each Except for services provided by an assisted living program, each service shall be billed in whole units.~~

ITEM 10. Amend subrule 78.38(5) as follows:

78.38(5) Respite care services. ~~Respite care services are temporary care to a client to provide relief to the usual informal caregiver and provide all the care the usual caregiver would provide services provided to the consumer that give temporary relief to the usual caregiver and provide all the necessary care that the usual caregiver would provide during that time period. The purpose of respite care is to enable the consumer to remain in the consumer's current living situation.~~

a. ~~If the respite care is provided in the client's home, only the cost of care is reimbursed. Services provided outside the consumer's home shall not be reimbursable if the living unit where respite is provided is otherwise reserved for another person on a temporary leave of absence.~~

b. ~~If the respite care is provided outside of the client's home, charges may include room and board. Staff-to-consumer ratios shall be appropriate to the individual needs of the consumer as determined by the consumer's interdisciplinary team.~~

c. ~~A unit of service is either one 24-hour day for out-of-home respite care provided by a facility or camp, one 4- to 8-hour period of time for in-home respite care provided by a home health agency, or one hour for respite care provided by an adult day care provider, HCBS MR waiver provider,~~

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~~home care agency, day camp, or home health agency when the home health agency provides one to three hours of respite service one hour.~~

~~d. Rescinded IAB 3/30/94, effective 6/1/94. The interdisciplinary team shall determine if the consumer will receive basic individual respite, specialized respite or group respite as defined in rule 441—83.41(249A).~~

~~e. When respite care is provided, the provision of, or payment for, other duplicative services under the waiver is precluded.~~

~~f. A maximum of 14 consecutive days of 24-hour respite care may be reimbursed.~~

~~g. Respite services provided for a period exceeding 24 consecutive hours to three or more individuals who require nursing care because of a mental or physical condition must be provided by a health care facility licensed as described in Iowa Code chapter 135C.~~

~~h. Respite care is not to be provided to persons during the hours in which the usual caregiver is employed except when the provider is a camp.~~

ITEM 11. Amend rule 441—78.41(249A) as follows:

Amend subrule 78.41(2) as follows:

~~78.41(2) Respite services. Respite services are those services provided to consumers who are unable to care for themselves living with persons manually providing their care. Respite is short-term relief provided in the absence of the family or legal representative normally providing the care. Service activities shall be documented in the consumer record. Respite care services are services provided to the consumer that give temporary relief to the usual caregiver and provide all the necessary care that the usual caregiver would provide during that time period. The purpose of respite care is to enable the consumer to remain in the consumer's current living situation.~~

~~a. Services provided outside the consumer's home shall not be reimbursable if the living unit where the respite is provided is otherwise reserved for persons another person on a temporary leave of absence.~~

~~b. For respite services provided in the consumer's home, only the cost of care is reimbursed. Room and board is excluded from reimbursement. Staff-to-consumer ratios shall be appropriate to the individual needs of the consumer as determined by the consumer's interdisciplinary team.~~

~~c. For respite services provided out of the home, charges may include room and board.~~

~~d. A unit of service is one hour for nonfacility care or one day for facility care. One day equals 24 hours.~~

~~e. A maximum of 576 hours are available per 12-month period. A maximum of 336 hours may be used in any calendar month. One unit of nonfacility care counts as one hour. One unit of facility care counts as 24 hours. Payment for respite services shall not exceed \$7,050 per the consumer's waiver year.~~

~~f. The service shall be identified in the consumer's individual comprehensive plan.~~

~~g. Respite services shall not be simultaneously reimbursed with other residential or respite services, HCBS MR waiver supported community living services, Medicaid or HCBS MR nursing, or Medicaid or HCBS MR home health aide services.~~

~~h. Respite care is not to be provided to persons during the hours in which the usual caregiver is employed except when the provider is a camp.~~

~~i. The interdisciplinary team shall determine if the consumer will receive basic individual respite, specialized respite or group respite as defined in rule 441—83.60(249A).~~

~~i. A maximum of 14 consecutive days of 24-hour respite care may be reimbursed.~~

~~j. Respite services provided for a period exceeding 24 consecutive hours to three or more individuals who require nursing care because of a mental or physical condition must be provided by a health care facility licensed as described in Iowa Code chapter 135C.~~

Adopt the following new subrule:

78.41(9) Interim medical monitoring and treatment services. Interim medical monitoring and treatment services are monitoring and treatment of a medical nature requiring specially trained caregivers beyond what is normally available in a day care setting. The services must be needed to allow the consumer's usual caregivers to be employed or, for a limited period of time, for academic or vocational training of a usual caregiver; due to the hospitalization, treatment for physical or mental illness, or death of a usual caregiver; or during a search for employment by a usual caregiver.

a. Service requirements. Interim medical monitoring and treatment services shall:

(1) Provide experiences for each consumer's social, emotional, intellectual, and physical development;

(2) Include comprehensive developmental care and any special services for a consumer with special needs; and

(3) Include medical assessment, medical monitoring, and medical intervention as needed on a regular or emergency basis.

b. Interim medical monitoring and treatment services may include supervision to and from school.

c. Limitations.

(1) A maximum of 12 one-hour units of service is available per day.

(2) Covered services do not include a complete nutritional regimen.

(3) Interim medical monitoring and treatment services may not duplicate any regular Medicaid or waiver services provided under the state plan.

(4) Interim medical monitoring and treatment services may be provided only in the consumer's home, in a registered group child care home, in a registered family child care home, in a licensed child care center, or during transportation to and from school.

(5) The staff-to-consumer ratio shall not be less than one to six.

d. A unit of service is one hour.

ITEM 12. Amend rule 441—78.43(249A) as follows:

Amend subrule 78.43(3) as follows:

~~78.43(3) Respite services. Respite services are those services provided to consumers who are unable to care for themselves living with their family or legal representative. Respite is short-term relief provided in the absence of the family or legal representative normally providing the care. Service activities shall be documented in the consumer record. Respite care services are services provided to the consumer that give temporary relief to the usual caregiver and provide all the necessary care that the usual caregiver would provide during that time period. The purpose of respite care is to enable the consumer to remain in the consumer's current living situation.~~

~~a. Rescinded IAB 12/3/97, effective 2/1/98. Services provided outside the consumer's home shall not be reimbursable if the living unit where respite is provided is reserved for another person on a temporary leave of absence.~~

~~b. If the respite care is provided in the consumer's home, only the cost of care is reimbursed. Staff-to-consumer ratios~~

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shall be appropriate to the individual needs of the consumer as determined by the consumer's interdisciplinary team.

~~e. If the respite care is provided outside of the consumer's home, charges may include room and board.~~

~~d c. A unit of service is either one 24-hour day for out-of-home respite care provided by a facility or camp, one 4- to 8-hour day for in-home respite care provided by a home health aid agency, or one hour for respite care provided by an HCBS MR or HCBS brain injury waiver provider, home-maker agency, or camp one hour.~~

~~e d. Respite care is not to be provided to persons aged 17 or under during the hours in which the usual caregiver is employed except when the provider is a camp providing a 24-hour service.~~

~~f e. Respite services shall not be simultaneously reimbursed with other residential or respite services, HCBS brain injury waiver supported community living services, Medicaid nursing, or Medicaid home health aide services.~~

~~g f. For respite services provided through in-home health or through an out-of-home medical facility, the consumer must have medical needs, meet skilled level of care criteria, or be technologically dependent. The interdisciplinary team shall determine if the consumer will receive basic individual respite, specialized respite or group respite as defined in rule 441—83.81(249A).~~

~~g. A maximum of 14 consecutive days of 24-hour respite care may be reimbursed.~~

~~h. Respite services provided for a period exceeding 24 consecutive hours to three or more individuals who require nursing care because of a mental or physical condition must be provided by a health care facility licensed as described in Iowa Code chapter 135C.~~

Adopt the following **new** subrule:

78.43(14) Interim medical monitoring and treatment services. Interim medical monitoring and treatment services are monitoring and treatment of a medical nature requiring specially trained caregivers beyond what is normally available in a day care setting. The services must be needed to allow the consumer's usual caregivers to be employed or, for a limited period of time, for academic or vocational training of a usual caregiver; due to the hospitalization, treatment for physical or mental illness, or death of a usual caregiver; or during a search for employment by a usual caregiver.

a. Service requirements. Interim medical monitoring and treatment services shall:

(1) Provide experiences for each consumer's social, emotional, intellectual, and physical development;

(2) Include comprehensive developmental care and any special services for a consumer with special needs; and

(3) Include medical assessment, medical monitoring, and medical intervention as needed on a regular or emergency basis.

b. Interim medical monitoring and treatment services may include supervision to and from school.

c. Limitations.

(1) A maximum of 12 one-hour units of service is available per day.

(2) Covered services do not include a complete nutritional regimen.

(3) Interim medical monitoring and treatment services may not duplicate any regular Medicaid or waiver services provided under the state plan.

(4) Interim medical monitoring and treatment services may be provided only in the consumer's home, in a registered group child care home, in a registered family child care home, in a licensed child care center, or during transportation to and from school.

(5) The staff-to-consumer ratio shall not be less than one to six.

d. A unit of service is one hour.

ITEM 13. Amend rule 441—79.1(249A) as follows:

Amend subrule **79.1(2)**, Basis of reimbursement provider categories "Ambulance," "Area education agencies," "Birth centers," "Certified registered nurse anesthetists," "Clinics," "Community mental health centers," "Dentists," "Durable medical equipment, prosthetic devices and medical supply dealers," "Family planning clinics," "HCBS AIDS/HIV waiver service providers," "HCBS brain injury waiver service providers," "HCBS elderly waiver service providers," "HCBS ill and handicapped waiver service providers," "HCBS MR waiver service providers," and "HCBS physical disability waiver service providers," "Hearing aid dealers," "Home health agencies," "Hospitals (Inpatient)," "Hospitals (Outpatient)," "Intermediate care facilities for the mentally retarded," "Lead inspection agency," "Maternal health centers," "Nursing facilities," "Orthopedic shoe dealers," "Prescribed drugs," "Psychiatric medical institutions for children," "Rehabilitation agencies," and "Screening centers," as follows:

<u>Provider category</u>	<u>Basis of reimbursement</u>	<u>Upper limit</u>
Ambulance	Fee schedule	Ground ambulance: Fee schedule in effect 6/30/99 6/30/00 plus 2% 0.7%. Air ambulance: A base rate of \$208.08 \$209.54 plus \$7.80 \$7.85 per mile for each mile the patient is carried.
Area education agencies	Fee schedule	Fee schedule in effect 6/30/99 6/30/00 plus 2% 0.7%
Birth centers	Fee schedule	Fee schedule in effect 6/30/99 6/30/00 plus 2% 0.7%
Certified registered nurse anesthetists	Fee schedule	Fee schedule in effect 6/30/99 6/30/00 plus 2% 0.7%
Clinics	Fee schedule	Fees as determined by the physician fee schedule Maximum physician reimbursement rate
Community mental health centers	Fee schedule	Reimbursement rate for center in effect 6/30/99 6/30/00 plus \$ 17.33%

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<u>Provider category</u>	<u>Basis of reimbursement</u>	<u>Upper limit</u>
Dentists	Fee schedule	Fee schedule in effect 6/30/99 plus 2% 75% of usual and customary rate
Durable medical equipment, prosthetic devices and medical supply dealers	Fee schedule. See 79.1(4)	Fee schedule in effect 6/30/99 6/30/00 plus 2% 0.7%
Family planning clinics	Fee schedule	Fees in effect 6/30/99 6/30/00 plus 2% 0.7%
HCBS AIDS/HIV waiver service providers, including:		
1. Counseling		
Individual:	Fee schedule	\$10 \$10.07 per unit
Group:	Fee schedule	\$39.98 \$40.26 per hour
2. Home health aide	Retrospective cost-related	Maximum Medicaid Medicare rate in effect on 6/30/99 plus 2%
3. Homemaker	Fee schedule	\$18.36 \$18.49 per hour
4. Nursing care	Agency's financial and statistical cost report and Medicare percentage rate per visit	Cannot exceed \$74.25 \$74.77 per visit
5. Respite care providers, including:		
In-home:		
Home health agency	Fee schedule	\$106.08 per 4- to 8-hour unit
Out-of-home:		
Nursing facility, or intermediate care facility for the mentally retarded	Prospective reimbursement	Limit for nursing facility level of care
Hospital or skilled nursing facility	Prospective reimbursement	Limit for skilled nursing facility level of care
Foster group care	Prospective reimbursement	P.O.S. contract rate
Foster family care	Fee schedule	(See 441—subrule 156.11(2))
Camps	Fee schedule	\$117.30 per day
Hourly rate providers:		
Adult day care	Fee schedule	\$12.24 per hour
HCBS-MR waiver	Fee schedule See 79.1(15)	\$12.24 per hour
Home care agency	Fee schedule	\$12.24 per hour
Home health agency	Fee schedule	\$12.24 per hour
Day camp	Fee schedule	\$12.24 per hour
Home health agency:		
Specialized respite	Rate for nursing services provided by a home health agency (encounter services-intermittent services)	Maximum Medicare rate converted to an hourly rate not to exceed \$294 per day
Basic individual respite	Rate for home health aide services provided by a home health agency (encounter services-intermittent services)	Maximum Medicare rate converted to an hourly rate not to exceed \$294 per day
Group respite	Retrospectively limited prospective rates. See 79.1(15)	\$12.24 per hour not to exceed \$294 per day
Home care agency:		
Specialized respite	Retrospectively limited prospective rates. See 79.1(15)	\$31.50 per hour not to exceed \$294 per day
Basic individual respite	Retrospectively limited prospective rates. See 79.1(15)	\$16.80 per hour not to exceed \$294 per day
Group respite	Retrospectively limited prospective rates. See 79.1(15)	\$12.24 per hour not to exceed \$294 per day

HUMAN SERVICES DEPARTMENT[441](cont'd)

<u>Provider category</u>	<u>Basis of reimbursement</u>	<u>Upper limit</u>
<i>Nonfacility care:</i>		
Specialized respite	Retrospectively limited prospective rates. See 79.1(15)	\$31.50 per hour not to exceed \$294 per day
Basic individual respite	Retrospectively limited prospective rates. See 79.1(15)	\$16.80 per hour not to exceed \$294 per day
Group respite	Retrospectively limited prospective rates. See 79.1(15)	\$12.24 per hour not to exceed \$294 per day
<i>Facility care:</i>		
Hospital or nursing facility providing skilled care	\$12.24 per hour	\$12.24 per hour not to exceed daily per diem for skilled nursing facility level of care
Nursing facility	\$12.24 per hour	\$12.24 per hour not to exceed daily per diem for nursing facility level of care
Intermediate care facility for the mentally retarded	\$12.24 per hour	\$12.24 per hour not to exceed daily per diem for ICF/MR level of care
Foster group care	\$12.24 per hour	\$12.24 per hour not to exceed daily per diem rate for rehabilitative treatment and supportive services
Camps	Retrospectively limited prospective rates. See 79.1(15)	\$12.24 per hour not to exceed \$294 per day
Adult day care	\$12.24 per hour	\$12.24 per hour not to exceed rate for regular adult day care services
Child care facilities	\$12.24 per hour	\$12.24 per hour not to exceed contractual daily per diem
6. Home-delivered meal providers	Fee schedule	\$7.14 \$7.19 per meal. Maximum of 14 meals per week
7. Adult day care	Fee schedule	Veterans administration contract rate or \$20.40 \$20.54 per half day, \$40.80 \$41.09 per full day, or \$61.20 \$61.63 per extended day if no veterans administration contract.
8. Consumer-directed attendant care:		
Agency provider	Fee agreed upon by consumer and provider	\$18.36 \$18.49 per hour \$106.08 \$106.82 per day
Individual provider	Fee agreed upon by consumer and provider	\$12.24 \$12.33 per hour \$71.40 \$71.90 per day
HCBS brain injury waiver service providers, including:		
1. Supported community living	No change	
2. Respite care providers, including:		
<i>Nonfacility care:</i>		
	Retrospectively limited prospective rates. See 79.1(15)	\$12.24 per hour. \$106.08 per 4 to 8-hour day
<i>Facility care:</i>		
Hospital or skilled nursing facility	Prospective reimbursement	Limit for skilled nursing facility level of care
Nursing facility, or intermediate care facility for the mentally retarded	Prospective reimbursement	Limit for nursing facility level of care
Foster group care	Prospective reimbursement. See 441—185.106(234)	Rehabilitative treatment and supportive services rate
<i>Home health agency:</i>		
Specialized respite	Rate for nursing services provided by a home health agency (encounter services-intermittent services)	Maximum Medicare rate converted to an hourly rate not to exceed \$294 per day

HUMAN SERVICES DEPARTMENT[441](cont'd)

<u>Provider category</u>	<u>Basis of reimbursement</u>	<u>Upper limit</u>
<i>Basic individual respite</i>	<i>Rate for home health aide services provided by a home health agency (encounter services-intermittent services)</i>	<i>Maximum Medicare rate converted to an hourly rate not to exceed \$294 per day</i>
<i>Group respite</i>	<i>Retrospectively limited prospective rates. See 79.1(15)</i>	<i>\$12.24 per hour not to exceed \$294 per day</i>
<i>Home care agency:</i>		
<i>Specialized respite</i>	<i>Retrospectively limited prospective rates. See 79.1(15)</i>	<i>\$31.50 per hour not to exceed \$294 per day</i>
<i>Basic individual respite</i>	<i>Retrospectively limited prospective rates. See 79.1(15)</i>	<i>\$16.80 per hour not to exceed \$294 per day</i>
<i>Group respite</i>	<i>Retrospectively limited prospective rates. See 79.1(15)</i>	<i>\$12.24 per hour not to exceed \$294 per day</i>
<i>Nonfacility care:</i>		
<i>Specialized respite</i>	<i>Retrospectively limited prospective rates. See 79.1(15)</i>	<i>\$31.50 per hour not to exceed \$294 per day</i>
<i>Basic individual respite</i>	<i>Retrospectively limited prospective rates. See 79.1(15)</i>	<i>\$16.80 per hour not to exceed \$294 per day</i>
<i>Group respite</i>	<i>Retrospectively limited prospective rates. See 79.1(15)</i>	<i>\$12.24 per hour not to exceed \$294 per day</i>
<i>Facility care:</i>		
<i>Hospital or nursing facility providing skilled care</i>	<i>\$12.24 per hour</i>	<i>\$12.24 per hour not to exceed daily per diem for skilled nursing facility level of care</i>
<i>Nursing facility</i>	<i>\$12.24 per hour</i>	<i>\$12.24 per hour not to exceed daily per diem for nursing facility level of care</i>
<i>Intermediate care facility for the mentally retarded</i>	<i>\$12.24 per hour</i>	<i>\$12.24 per hour not to exceed daily per diem for ICF/MR level of care</i>
<i>Residential care facilities for persons with mental retardation</i>	<i>\$12.24 per hour</i>	<i>\$12.24 per hour not to exceed contractual daily per diem</i>
<i>Foster group care</i>	<i>\$12.24 per hour</i>	<i>\$12.24 per hour not to exceed daily per diem rate for rehabilitative treatment and supportive services</i>
<i>Camps</i>	<i>Retrospectively limited prospective rates. See 79.1(15)</i>	<i>\$12.24 per hour not to exceed \$294 per day</i>
<i>Adult day care</i>	<i>\$12.24 per hour</i>	<i>\$12.24 per hour not to exceed rate for regular adult day care services</i>
<i>Child care facilities</i>	<i>\$12.24 per hour</i>	<i>\$12.24 per hour not to exceed contractual daily per diem</i>
3. Personal emergency response system	Fee schedule	Initial one-time fee of \$45.90 \$46.22. Ongoing monthly fee of \$35.70 \$35.95.
4. Case management	Fee schedule	\$571.49 \$575.49 per month
5. Supported employment	No change	
6. Transportation	No change	
7. Adult day care	Fee schedule	\$20.40 \$20.54 per half day, \$40.80 \$41.09 per full day, or \$61.20 \$61.63 per extended day
8. Consumer-directed attendant care:		
Agency provider	Fee agreed upon by consumer and provider	\$18.36 \$18.49 per hour \$106.08 \$106.82 per day
Individual provider	Fee agreed upon by consumer and provider	\$12.24 \$12.33 per hour \$71.40 \$71.90 per day
9. Home and vehicle modification	No change	

HUMAN SERVICES DEPARTMENT[441](cont'd)

<u>Provider category</u>	<u>Basis of reimbursement</u>	<u>Upper limit</u>
10. Specialized medical equipment	No change	
11. Behavioral programming	Fee schedule	\$10.07 per 15 minutes
12. Family counseling and training	Fee schedule	\$39.98 \$40.26 per hour
13. Prevocational services	Fee schedule. See 79.1(17)	\$34.70 \$34.94 per day
14. <i>Interim medical monitoring and treatment:</i>		
<i>Home health agency:</i>		
<i>Provided by home health aide</i>	<i>Rate for home health aide services provided by a home health agency (encounter services-intermittent services)</i>	<i>Maximum Medicare rate converted to an hourly rate</i>
<i>Provided by nurse</i>	<i>Rate for nursing services provided by a home health agency (encounter services-intermittent services)</i>	<i>Maximum Medicare rate converted to an hourly rate</i>
<i>Provided by a registered group child care home, registered family child care home, or licensed child care center</i>	<i>Contractual rate. See 441—subrule 170.4(7)</i>	<i>\$12.24 per hour</i>
HCBS elderly waiver service providers, including:		
1. Adult day care	Fee schedule	Veterans administration contract rate or \$20.40 \$20.54 per half day, \$40.80 \$41.09 per full day, or \$61.20 \$61.63 per extended day if no veterans administration contract.
2. Emergency response system	Fee schedule	Initial one-time fee \$45.90 \$46.22. Ongoing monthly fee \$35.70 \$35.95.
3. Home health aides	Retrospective cost-related	Maximum Medicaid Medicare rate in effect on 6/30/99 plus 2%
4. Homemakers	Fee schedule	Maximum of \$18.36 \$18.49 per hour
5. Nursing care	Fee schedule as determined by Medicare	\$74.25 \$74.77 per visit
6. Respite care providers, including:		
<i>In-home:</i>		
<i>Home health agency</i>	<i>Fee schedule</i>	<i>\$106.08 per 4- to 8-hour unit</i>
<i>Out-of-home:</i>		
<i>Nursing facility</i>	<i>Prospective reimbursement</i>	<i>Limit for nursing facility level of care</i>
<i>Hospital or skilled nursing facility</i>	<i>Prospective reimbursement</i>	<i>Limit for skilled nursing facility level of care</i>
<i>Hourly rate providers:</i>		
<i>Adult day care</i>	<i>Fee schedule</i>	<i>\$12.24 per hour</i>
<i>Day camp</i>	<i>Fee schedule</i>	<i>\$12.24 per hour</i>
<i>Home care agency</i>	<i>Fee schedule</i>	<i>\$12.24 per hour</i>
<i>Home health agency</i>	<i>Fee schedule</i>	<i>\$12.24 per hour</i>
<i>HCBS MR waiver</i>	<i>Fee schedule. See 79.1(15)</i>	<i>\$12.24 per hour</i>
<i>Home health agency:</i>		
<i>Specialized respite</i>	<i>Rate for nursing services provided by a home health agency (encounter services-intermittent services)</i>	<i>Maximum Medicare rate converted to an hourly rate not to exceed \$294 per day</i>
<i>Basic individual respite</i>	<i>Rate for home health aide services provided by a home health agency (encounter services-intermittent services)</i>	<i>Maximum Medicare rate converted to an hourly rate not to exceed \$294 per day</i>

HUMAN SERVICES DEPARTMENT[441](cont'd)

<u>Provider category</u>	<u>Basis of reimbursement</u>	<u>Upper limit</u>
Group respite	Retrospectively limited prospective rates. See 79.1(15)	\$12.24 per hour not to exceed \$294 per day
Home care agency:		
Specialized respite	Retrospectively limited prospective rates. See 79.1(15)	\$31.50 per hour not to exceed \$294 per day
Basic individual respite	Retrospectively limited prospective rates. See 79.1(15)	\$16.80 per hour not to exceed \$294 per day
Group respite	Retrospectively limited prospective rates. See 79.1(15)	\$12.24 per hour not to exceed \$294 per day
Nonfacility care:		
Specialized respite	Retrospectively limited prospective rates. See 79.1(15)	\$31.50 per hour not to exceed \$294 per day
Basic individual respite	Retrospectively limited prospective rates. See 79.1(15)	\$16.80 per hour not to exceed \$294 per day
Group respite	Retrospectively limited prospective rates. See 79.1(15)	\$12.24 per hour not to exceed \$294 per day
Facility care:		
Hospital or nursing facility providing skilled care	\$12.24 per hour	\$12.24 per hour not to exceed daily per diem for skilled nursing facility level of care
Nursing facility	\$12.24 per hour	\$12.24 per hour not to exceed daily per diem for nursing facility level of care
Camps	Retrospectively limited prospective rates. See 79.1(15)	\$12.24 per hour not to exceed \$294 per day
Adult day care	\$12.24 per hour	\$12.24 per hour not to exceed rate for regular adult day care services
7. Chore providers	Fee schedule	\$7.14 \$7.19 per half hour
8. Home-delivered meal providers	Fee schedule	\$7.14 \$7.19 per meal. Maximum of 14 meals per week.
9. Home and vehicle modification providers	No change	
10. Mental health outreach providers	No change	
11. Transportation providers	No change	
12. Nutritional counseling	Fee schedule	\$7.65 \$7.70 per quarter hour
13. Assistive devices	Fee schedule	\$102 \$102.71 per unit
14. Senior companion	Fee schedule	\$6.12 \$6.16 per hour
15. Consumer-directed attendant care:		
Agency provider <i>other than an assisted living program</i>	Fee agreed upon by consumer and provider	\$18.36 \$18.49 per hour \$106.08 \$106.82 per day
Assisted living provider	Fee agreed upon by consumer and provider	\$1,052 per calendar month. Rate must be prorated per day for a partial month, at a rate not to exceed \$34.60 per day.
Individual provider	Fee agreed upon by consumer and provider	\$12.24 \$12.33 per hour \$71.40 \$71.90 per day
HCBS ill and handicapped waiver service providers, including:		
1. Homemakers	Fee schedule	Maximum of \$18.36 \$18.49 per hour
2. Home health aides	Retrospective cost-related	Maximum Medicaid Medicare rate in effect on 6/30/99 plus 2%
3. Adult day care	Fee schedule	Veterans administration contract rate or \$20.40 \$20.54 per half day, \$40.80 \$41.09 per full day, or \$60.20 \$61.63 per extended day if no veterans administration contract.

HUMAN SERVICES DEPARTMENT[441](cont'd)

<u>Provider category</u>	<u>Basis of reimbursement</u>	<u>Upper limit</u>
4. Respite care providers, including:		
In-home:		
Home health agency	Fee schedule	\$106.08 per 4- to 8-hour unit
Out-of-home:		
Hospital or skilled nursing facility	Prospective reimbursement	Limit for skilled nursing facility level of care
Nursing facility, or intermediate care facility for the mentally retarded	Prospective reimbursement	Limit for nursing facility level of care
Foster group care	Prospective reimbursement—See 441—185.106(234)	Rehabilitative treatment and supportive services rate
Foster family home	Fee schedule	Emergency care rate (See 441—subrule 156.11(2))
Camps	Fee schedule	\$117.30 per day
Hourly rate providers:		
Adult day care	Fee schedule	\$12.24 per hour
HCBS MR waiver	Fee schedule. See 79.1(15)	\$12.24 per hour
Home care agency	Fee schedule	\$12.24 per hour
Home health agency	Fee schedule	\$12.24 per hour
Day camp	Fee schedule	\$12.24 per hour
Home health agency:		
Specialized respite	Rate for nursing services provided by a home health agency (encounter services-intermittent services)	Maximum Medicare rate converted to an hourly rate not to exceed \$294 per day
Basic individual respite	Rate for home health aide services provided by a home health agency (encounter services-intermittent services)	Maximum Medicare rate converted to an hourly rate not to exceed \$294 per day
Group respite	Retrospectively limited prospective rates. See 79.1(15)	\$12.24 per hour not to exceed \$294 per day
Home care agency:		
Specialized respite	Retrospectively limited prospective rates. See 79.1(15)	\$31.50 per hour not to exceed \$294 per day
Basic individual respite	Retrospectively limited prospective rates. See 79.1(15)	\$16.80 per hour not to exceed \$294 per day
Group respite	Retrospectively limited prospective rates. See 79.1(15)	\$12.24 per hour not to exceed \$294 per day
Nonfacility care:		
Specialized respite	Retrospectively limited prospective rates. See 79.1(15)	\$31.50 per hour not to exceed \$294 per day
Basic individual respite	Retrospectively limited prospective rates. See 79.1(15)	\$16.80 per hour not to exceed \$294 per day
Group respite	Retrospectively limited prospective rates. See 79.1(15)	\$12.24 per hour not to exceed \$294 per day
Facility care:		
Hospital or nursing facility providing skilled care	\$12.24 per hour	\$12.24 per hour not to exceed daily per diem for skilled nursing facility level of care
Nursing facility	\$12.24 per hour	\$12.24 per hour not to exceed daily per diem for nursing facility level of care
Intermediate care facility for the mentally retarded	\$12.24 per hour	\$12.24 per hour not to exceed daily per diem for ICF/MR level of care

HUMAN SERVICES DEPARTMENT[441](cont'd)

<u>Provider category</u>	<u>Basis of reimbursement</u>	<u>Upper limit</u>
<i>Residential care facilities for persons with mental retardation</i>	\$12.24 per hour	\$12.24 per hour not to exceed contractual daily per diem
<i>Foster group care</i>	\$12.24 per hour	\$12.24 per hour not to exceed daily per diem rate for rehabilitative treatment and supportive services
<i>Camps</i>	<i>Retrospectively limited prospective rates. See 79.1(15)</i>	\$12.24 per hour not to exceed \$294 per day
<i>Adult day care</i>	\$12.24 per hour	\$12.24 per hour not to exceed rate for regular adult day care services
<i>Child care facilities</i>	\$12.24 per hour	\$12.24 per hour not to exceed contractual daily per diem
5. Nursing care	Agency's financial and statistical cost report and Medicare percentage rate per visit	Cannot exceed \$74.25 \$74.77 per visit
6. Counseling		
Individual:	Fee schedule	\$10 \$10.07 per unit
Group:	Fee schedule	\$39.98 \$40.26 per hour
7. Consumer-directed attendant care:		
Agency provider	Fee agreed upon by consumer and provider	\$18.36 \$18.49 per hour \$106.08 \$106.82 per day
Individual provider	Fee agreed upon by consumer and provider	\$12.24 \$12.33 per hour \$71.40 \$71.90 per day
8. <i>Interim medical monitoring and treatment:</i>		
<i>Home health agency:</i>		
<i>Provided by home health aide</i>	<i>Rate for home health aide services provided by a home health agency (encounter services-intermittent services)</i>	<i>Maximum Medicare rate converted to an hourly rate</i>
<i>Provided by nurse</i>	<i>Rate for nursing services provided by a home health agency (encounter services-intermittent services)</i>	<i>Maximum Medicare rate converted to an hourly rate</i>
<i>Provided by a registered group child care home, registered family child care home, or licensed child care center</i>	<i>Contractual rate. See 441—subrule 170.4(7)</i>	\$12.24 per hour
HCBS MR waiver service providers, including:		
1. Supported community living	No change	
2. Respite care providers, including:		
Nonfacility care:	Retrospectively limited prospective rates. See 79.1(15)	\$12.24 per hour
Facility care:		
Hospital or skilled nursing facility	Prospective reimbursement	Limit for skilled nursing facility level of care
Nursing facility, or intermediate care facility for the mentally retarded	Prospective reimbursement	Limit for nursing facility level of care
Foster group care	Prospective reimbursement. See 441—185.106(234)	Rehabilitative treatment and supportive services rate
Home health agency:		
Specialized respite	<i>Rate for nursing services provided by a home health agency (encounter services-intermittent services)</i>	<i>Maximum Medicare rate converted to an hourly rate not to exceed \$294 per day</i>

HUMAN SERVICES DEPARTMENT[441](cont'd)

<u>Provider category</u>	<u>Basis of reimbursement</u>	<u>Upper limit</u>
<i>Basic individual respite</i>	<i>Rate for home health aide services provided by a home health agency (encounter services-intermittent services)</i>	<i>Maximum Medicare rate converted to an hourly rate not to exceed \$294 per day</i>
<i>Group respite</i>	<i>Retrospectively limited prospective rates. See 79.1(15)</i>	<i>\$12.24 per hour not to exceed \$294 per day</i>
<i>Home care agency:</i>		
<i>Specialized respite</i>	<i>Retrospectively limited prospective rates. See 79.1(15)</i>	<i>\$31.50 per hour not to exceed \$294 per day</i>
<i>Basic individual respite</i>	<i>Retrospectively limited prospective rates. See 79.1(15)</i>	<i>\$16.80 per hour not to exceed \$294 per day</i>
<i>Group respite</i>	<i>Retrospectively limited prospective rates. See 79.1(15)</i>	<i>\$12.24 per hour not to exceed \$294 per day</i>
<i>Nonfacility care:</i>		
<i>Specialized respite</i>	<i>Retrospectively limited prospective rates. See 79.1(15)</i>	<i>\$31.50 per hour not to exceed \$294 per day</i>
<i>Basic individual respite</i>	<i>Retrospectively limited prospective rates. See 79.1(15)</i>	<i>\$16.80 per hour not to exceed \$294 per day</i>
<i>Group respite</i>	<i>Retrospectively limited prospective rates. See 79.1(15)</i>	<i>\$12.24 per hour not to exceed \$294 per day</i>
<i>Facility care:</i>		
<i>Hospital or nursing facility providing skilled care</i>	<i>\$12.24 per hour</i>	<i>\$12.24 per hour not to exceed daily per diem for skilled nursing facility level of care</i>
<i>Nursing facility</i>	<i>\$12.24 per hour</i>	<i>\$12.24 per hour not to exceed daily per diem for nursing facility level of care</i>
<i>Intermediate care facility for the mentally retarded</i>	<i>\$12.24 per hour</i>	<i>\$12.24 per hour not to exceed daily per diem for ICF/MR level of care</i>
<i>Residential care facilities for persons with mental retardation</i>	<i>\$12.24 per hour</i>	<i>\$12.24 per hour not to exceed contractual daily per diem</i>
<i>Foster group care</i>	<i>\$12.24 per hour</i>	<i>\$12.24 per hour not to exceed daily per diem rate for rehabilitative treatment and supportive services</i>
<i>Camps</i>	<i>Retrospectively limited prospective rates. See 79.1(15)</i>	<i>\$12.24 per hour not to exceed \$294 per day</i>
<i>Adult day care</i>	<i>\$12.24 per hour</i>	<i>\$12.24 per hour not to exceed rate for regular adult day care services</i>
<i>Child care facilities</i>	<i>\$12.24 per hour</i>	<i>\$12.24 per hour not to exceed contractual daily per diem</i>
3. Supported employment	No change	
4. Nursing	Fee schedule as determined by Medicare	Maximum Medicare rate converted to an hourly rate
5. Home health aides	Retrospective cost-related	Maximum Medicare rate in effect on 6/30/99 plus 2% converted to an hourly rate
6. Personal emergency response system	Fee schedule	Initial one-time fee of \$38.15 \$38.42 Ongoing monthly fee of \$26.04 \$26.19
7. Home and vehicle modifications	No change	
8. Consumer-directed attendant care:		
Agency provider	Fee agreed upon by consumer and provider	\$18.36 \$18.49 per hour \$106.08 \$106.82 per day
Individual provider	Fee agreed upon by consumer and provider	\$12.24 \$12.33 per hour \$71.40 \$71.90 per day

HUMAN SERVICES DEPARTMENT[441](cont'd)

<u>Provider category</u>	<u>Basis of reimbursement</u>	<u>Upper limit</u>
9. Interim medical monitoring and treatment:		
Home health agency:		
<i>Provided by home health aide</i>	<i>Rate for home health aide services provided by a home health agency (encounter services-intermittent services)</i>	<i>Maximum Medicare rate converted to an hourly rate not to exceed the maximum daily per diem for ICF/MR level of care</i>
<i>Provided by nurse</i>	<i>Rate for nursing services provided by a home health agency (encounter services-intermittent services)</i>	<i>Maximum Medicare rate converted to an hourly rate not to exceed the maximum daily per diem for ICF/MR level of care</i>
<i>Provided by a registered group child care home, registered family child care home, or licensed child care center</i>	<i>Contractual rate. See 441—subrule 170.4(7)</i>	<i>\$12.24 per hour not to exceed the maximum daily per diem for ICF/MR level of care</i>
HCBS physical disability waiver service providers, including:		
1. Consumer-directed attendant care:		
Agency provider	Fee agreed upon by consumer and provider	\$18.36 \$18.49 per hour \$106.08 \$106.82 per day
Individual provider	Fee agreed upon by consumer and provider	\$12.24 \$12.33 per hour \$71.40 \$71.90 per day
2. Home and vehicle modification providers	No change	
3. Personal emergency response system	Fee schedule	Initial one-time fee of \$45.90 \$46.22. Ongoing monthly fee of \$35.70 \$35.95.
4. Specialized medical equipment	No change	
5. Transportation	No change	
Hearing aid dealers	Fee schedule plus product acquisition cost	Fee schedule in effect 6/30/99 6/30/00 plus 2% 0.7%
Home health agencies		
(Encounter services-intermittent services)	Retrospective cost-related	Maximum Medicaid Medicare rate in effect on 6/30/99 plus 2%
(Private duty nursing or personal care and VFC vaccine administration for persons aged 20 and under)	Interim fee schedule with retrospective cost settling based on Medicaid Medicare methodology	Retrospective cost settling according to Medicaid Medicare methodology not to exceed the rate in effect on 6/30/99 plus 2%
Hospitals (Inpatient)	Prospective reimbursement. See 79.1(5)	Reimbursement rate in effect 6/30/99 6/30/00 increased by 2% 3%
Hospitals (Outpatient)	Prospective reimbursement for providers listed at 441—paragraphs 78.31(1)“a” to “f.” See 79.1(16) Fee schedule for providers listed at 441—paragraphs 78.31(1)“g” to “n.” See 79.1(16)	Ambulatory patient group rate (plus an evaluation rate) and assessment payment rate in effect on 6/30/99 6/30/00 increased by 2% 3% Rates in effect on 6/30/99 6/30/00 increased by 2% 3%
Intermediate care facilities for the mentally retarded	Prospective reimbursement. See 441—82.5(249A)	Eightieth percentile of facility costs as calculated from 12/31/98 12/31/99 cost reports
Lead inspection agency	Fee schedule	Fee schedule in effect 6/30/99 6/30/00 plus 2% 0.7%

HUMAN SERVICES DEPARTMENT[441](cont'd)

<u>Provider category</u>	<u>Basis of reimbursement</u>	<u>Upper limit</u>
Maternal health centers	Reasonable cost per procedure on a prospective basis as determined by the department based on financial and statistical data submitted annually by the provider group	Fee schedule in effect 6/30/99 6/30/00 plus 2% 0.7%
Nursing facilities		
1. Nursing facility care	Prospective reimbursement. See 441—subrule 81.10(1) and 441—81.6(249A)	Seventieth percentile of facility costs as calculated from all 6/30/99 6/30/00 cost reports
2. Skilled nursing care	No change	
Opticians	Fee schedule. Fixed fee for lenses and frames; other optical materials at product acquisition cost	Reimbursement rate for provider in effect 6/30/99 6/30/00 plus 2% 0.7%
Orthopedic shoe dealers	Fee schedule	Reimbursement rate for provider in effect 6/30/99 6/30/00 plus 2% 0.7%
Prescribed drugs	See 79.1(8)	\$4.10 \$4.13 or \$6.38 \$6.42 dispensing fee (See 79.1(8)“a” and “e”)
Psychiatric medical institutions for children		
(Inpatient)	Prospective reimbursement	Reimbursement rate for provider based on per diem rates for actual costs on 6/30/99 6/30/00, not to exceed a maximum of \$145.74 \$147.20 per day
(Outpatient day treatment)	Fee schedule	Fee schedule in effect 6/30/99 6/30/00 plus 2% 0.7%
Rehabilitation agencies	Retrospective cost-related	Reimbursement rate for agency in effect 6/30/99 6/30/00 plus 2% 0.7%
Screening centers	Fee schedule	Reimbursement rate for center in effect 6/30/99 6/30/00 plus 2% 0.7%

Amend subrule **79.1(8)**, paragraph “a,” second and third unnumbered paragraphs, as follows:

The basis of payment for prescribed drugs for which the MAC has been established shall be the lesser of the MAC plus a professional dispensing fee of ~~\$4.10~~ \$4.13 or the pharmacist’s usual and customary charge to the general public.

The basis of payment for drugs for which the MAC has not been established shall be the lesser of the EAC plus a professional dispensing fee of ~~\$6.38~~ \$6.42 or the pharmacist’s usual and customary charge to the general public.

Amend subrule **79.1(9)** by adopting the following **new** paragraph:

j. Freestanding skilled facilities with a case-mix index above the statewide average for the previous reporting period shall receive a case-mix adjustment of \$5.20 added to their daily rate for a six-month period. The case-mix index of each facility and the statewide average case-mix index are calculated by the United States Health Care Financing Administration from the minimum data set (MDS) report submitted by each facility pursuant to 441—subrule 81.13(9).

Amend subrule 79.1(15) as follows:

Amend the catchwords as follows:

79.1(15) Reimbursement for HCBS MR and BI supported community living, ~~respite~~, and supported employment and HCBS AIDS/HIV, BI, elderly, ill and handicapped, and MR respite when basis of reimbursement is retrospectively limited prospective rate. This includes home health agencies providing group respite; nonfacility providers of specialized, basic individual, and group respite; camps; and

home care agencies providing specialized, basic individual, and group respite.

Amend paragraph “b,” by adopting the following **new** subparagraphs:

(6) For respite care provided in the consumer’s home, only the cost of care is reimbursed.

(7) For respite care provided outside the consumer’s home, charges may include room and board.

Amend paragraph “c,” catchwords, as follows:

c. Prospective rates for new providers *other than respite*.

Amend paragraph “d,” catchwords, and subparagraph (5), as follows:

d. Prospective rates for established providers *other than respite*.

(5) Prospective rates for services *other than respite* shall be subject to retrospective adjustment as provided in paragraph “e f.”

Reletter paragraphs “e” and “f” as “f” and “g” and adopt the following **new** paragraph “e”:

e. Prospective rates for respite. Prospective rates for respite shall be agreed upon between the consumer, interdisciplinary team and the provider up to the maximum, subject to retrospective adjustment as provided in paragraph “f.”

ITEM 14. Amend rule **441—81.1(249A)** by adopting the following **new** definitions in alphabetical order:

“Case-mix add-on” means additional Medicaid reimbursement based on the acuity and care need level of residents of a nursing facility.

HUMAN SERVICES DEPARTMENT[441](cont'd)

"Minimum data set" or "MDS" refers to a federally required resident assessment tool. Information from the MDS is used by the federal Health Care Financing Administration to determine the facility's case-mix index for purposes of the case-mix add-on provided by paragraph 81.6(16)"f." MDS is described in subrule 81.13(9).

ITEM 15. Amend rule 441—81.6(249A) as follows:

Amend subrule **81.6(16)**, paragraphs "c" and "e," as follows:

c. For non-state-owned nursing facilities, the reimbursement rate shall be established by determining, on a per diem basis, the allowable cost plus the established inflation factor ~~plus~~ and the established incentive factor, subject to the maximum allowable cost ceiling, *plus any applicable case-mix add-on*.

e. Effective ~~January 1, 1999~~ *July 1, 2000*, the basis for establishing the maximum reimbursement rate for non-state-owned nursing facilities shall be the seventieth percentile of participating facilities' per diem rates as calculated from the ~~December 31, 1998~~ *June 30, 2000*, report of "unaudited compilation of various costs and statistical data."

~~Beginning July 1, 1999, the basis for establishing the maximum reimbursement rate for non-state-owned nursing facilities shall be the seventieth percentile of participating facilities' per diem rates as calculated from the June 30, 1999, report of "unaudited compilation of various costs and statistical data" submitted by each facility on medical assistance cost reports. A facility which does not have a current cost report on file with the department as of June 30, 1999, shall continue to receive the per diem rate in effect for that facility on June 30, 1999, until the facility's costs are above that rate or until June 30, 2000, whichever is earlier.~~

Further amend subrule **81.6(16)** by relettering paragraphs "f" and "g" as "g" and "h," respectively, and adopting the following **new** paragraph "f":

f. Notwithstanding paragraph "e," a semiannual case-mix factor shall be calculated and applied to the payment rates for certain facilities as follows:

(1) A case-mix index for each facility and the statewide average case-mix index are calculated by the United States Health Care Financing Administration from the minimum data set (MDS) report submitted by each facility pursuant to 441—subrule 81.13(9). A patient care cost per patient day is calculated by the department from the facility's most recent financial and statistical cost report by dividing the facility's patient care costs by patient days. This is compared to the statewide average for patient care costs computed as of every June 30 and December 31.

(2) Facilities with a case-mix index derived from MDS reports that exceeds the Iowa nursing facility average and with a patient care service cost that exceeds the average for all participating nursing facilities for the previous reporting period shall receive an addition of \$5.20 to their payment rate for a six-month period.

(3) Facilities with a case-mix index that exceeds the Iowa nursing facility average and with a patient care service cost that is less than the average for all participating facilities for the previous reporting period shall receive an addition of \$2.60 to their payment rate for a six-month period.

Amend subrule 81.6(17), introductory paragraph, as follows:

81.6(17) Cost report documentation. ~~Beginning July 1, 1999, all~~ *All* nursing facilities shall submit semiannual cost reports based on the closing date of the facility's fiscal year and the midpoint of the facility's fiscal year, that incorporate ~~additional~~ documentation as set forth below. ~~Initially, the~~

~~additional documentation shall provide baseline information by describing the status of the facility with reference to the information requested as of July 1, 1999, and subsequently the additional documentation shall describe the status of the facility for the period of the cost report. The additional documentation to be incorporated in the cost reports shall include all of the following information:~~

Further amend subrule **81.6(17)** by adopting the following **new** paragraph:

c. An itemization of expenses attributable to the home or principal office or headquarters of the nursing facility included in the administrative cost line item.

ITEM 16. Amend subrule **81.13(9)** by adopting the following **new** paragraph:

g. Preadmission resident assessment. The facility shall conduct prior to admission a resident assessment of all persons seeking nursing facility placement. The assessment information gathered shall be similar to the data in the minimum data set (MDS) resident assessment tool.

ITEM 17. Amend rule **441—83.1(249A)** by adopting the following **new** definitions in alphabetical order:

"Basic individual respite" means respite provided on a staff-to-consumer ratio of one to one or higher to individuals without specialized needs requiring the care of a licensed registered nurse or licensed practical nurse.

"Group respite" is respite provided on a staff-to-consumer ratio of less than one to one.

"Medical assessment" means a visual and physical inspection of the consumer, noting deviations from the norm, and a statement of the consumer's mental and physical condition that can be amendable to or resolved by appropriate actions of the provider.

"Medical intervention" means consumer care in the areas of hygiene, mental and physical comfort, assistance in feeding and elimination, and control of the consumer's care and treatment to meet the physical and mental needs of the consumer in compliance with the plan of care in areas of health, prevention, restoration, and maintenance.

"Medical monitoring" means observation for the purpose of assessing, preventing, maintaining, and treating disease or illness based on the consumer's plan of care.

"Specialized respite" means respite provided on a staff-to-consumer ratio of one to one or higher to individuals with specialized medical needs requiring the care, monitoring or supervision of a licensed registered nurse or licensed practical nurse.

"Usual caregiver" means a person or persons who reside with the consumer and are available on a 24-hour-per-day basis to assume responsibility for the care of the consumer.

ITEM 18. Amend rule 441—83.2(249A) as follows:

Amend subrule **83.2(1)** by adopting the following **new** paragraph "e":

e. To be eligible for interim medical monitoring and treatment services the consumer must be:

(1) Under the age of 21;

(2) Currently receiving home health agency services under rule 441—78.9(249A) and require medical assessment, medical monitoring, and regular medical intervention or intervention in a medical emergency during those services. (The home health aide services for which the consumer is eligible must be maximized before the consumer accesses interim medical monitoring and treatment.);

(3) Residing in the consumer's family home or foster family home; and

HUMAN SERVICES DEPARTMENT[441](cont'd)

(4) In need of interim medical monitoring and treatment as ordered by a physician.

Amend subrule 83.2(2) by adopting the following **new** paragraph "c":

c. Interim medical monitoring and treatment services must be needed because all usual caregivers are unavailable to provide care due to one of the following circumstances:

(1) Employment. Interim medical monitoring and treatment services are to be received only during hours of employment.

(2) Academic or vocational training. Interim medical monitoring and treatment services provided while a usual caregiver participates in postsecondary education or vocational training shall be limited to 24 periods of no more than 30 days each per caregiver as documented by the service worker. Time spent in high school completion, adult basic education, GED, or English as a second language does not count toward the limit.

(3) Absence from the home due to hospitalization, treatment for physical or mental illness, or death of the usual caregiver. Interim medical monitoring and treatment services under this subparagraph are limited to a maximum of 30 days.

(4) Search for employment.

1. Care during job search shall be limited to only those hours the usual caregiver is actually looking for employment, including travel time.

2. Interim medical monitoring and treatment services may be provided under this paragraph only during the execution of one job search plan of up to 30 working days in a 12-month period, approved by the department service worker or targeted case manager pursuant to 441—subparagraph 170.2(2)"b"(5).

3. Documentation of job search contacts shall be furnished to the department service worker or targeted case manager.

ITEM 19. Amend rule 441—83.6(249A) as follows:

441—83.6(249A) Allowable services. Services allowable under the ill and handicapped waiver are homemaker services, home health services, adult day care services, respite care services, nursing services, counseling services, and consumer-directed attendant care services, and *interim medical monitoring and treatment services* as set forth in rule 441—78.34(249A).

ITEM 20. Amend rule 441—83.21(249A) by adopting the following **new** definitions in alphabetical order:

"Basic individual respite" means respite provided on a staff-to-consumer ratio of one to one or higher to individuals without specialized needs requiring the care of a licensed registered nurse or licensed practical nurse.

"Group respite" is respite provided on a staff-to-consumer ratio of less than one to one.

"Specialized respite" means respite provided on a staff-to-consumer ratio of one to one or higher to individuals with specialized medical needs requiring the care, monitoring or supervision of a licensed registered nurse or licensed practical nurse.

"Usual caregiver" means a person or persons who reside with the consumer and are available on a 24-hour-per-day basis to assume responsibility for the care of the consumer.

ITEM 21. Amend subrule 83.22(2), paragraph "b," as follows:

b. The total monthly cost of the elderly waiver services shall not exceed the established monthly cost of the level of care. Aggregate monthly costs are limited as follows:

<u>Skilled level of care</u>	<u>Nursing level of care</u>
\$2,480	\$852 \$1,052

ITEM 22. Amend rule 441—83.41(249A) by adopting the following **new** definitions in alphabetical order:

"Basic individual respite" means respite provided on a staff-to-consumer ratio of one to one or higher to individuals without specialized needs requiring the care of a licensed registered nurse or licensed practical nurse.

"Group respite" is respite provided on a staff-to-consumer ratio of less than one to one.

"Specialized respite" means respite provided on a staff-to-consumer ratio of one to one or higher to individuals with specialized medical needs requiring the care, monitoring or supervision of a licensed registered nurse or licensed practical nurse.

"Usual caregiver" means a person or persons who reside with the consumer and are available on a 24-hour-per-day basis to assume responsibility for the care of the consumer.

ITEM 23. Amend rule 441—83.60(249A) by adopting the following **new** definitions in alphabetical order:

"Basic individual respite" means respite provided on a staff-to-consumer ratio of one to one or higher to individuals without specialized needs requiring the care of a licensed registered nurse or licensed practical nurse.

"Group respite" is respite provided on a staff-to-consumer ratio of less than one to one.

"Medical assessment" means a visual and physical inspection of the consumer, noting deviations from the norm, and a statement of the consumer's mental and physical condition that can be amendable to or resolved by appropriate actions of the provider.

"Medical intervention" means consumer care in the areas of hygiene, mental and physical comfort, assistance in feeding and elimination, and control of the consumer's care and treatment to meet the physical and mental needs of the consumer in compliance with the plan of care in areas of health, prevention, restoration, and maintenance.

"Medical monitoring" means observation for the purpose of assessing, preventing, maintaining, and treating disease or illness based on the consumer's plan of care.

"Specialized respite" means respite provided on a staff-to-consumer ratio of one to one or higher to individuals with specialized medical needs requiring the care, monitoring or supervision of a licensed registered nurse or licensed practical nurse.

"Usual caregiver" means a person or persons who reside with the consumer and are available on a 24-hour-per-day basis to assume responsibility for the care of the consumer.

ITEM 24. Amend rule 441—83.61(249A) as follows:

Amend subrule 83.61(1) by adopting the following **new** paragraph "i":

i. To be eligible for interim medical monitoring and treatment services the consumer must be:

(1) Under the age of 21;

(2) Currently receiving home health agency services under rule 441—78.9(249A) and require medical assessment, medical monitoring, and regular medical intervention or intervention in a medical emergency during those services. (The home health aide services for which the consumer is eligible must be maximized before the consumer accesses interim medical monitoring and treatment.);

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(3) Residing in the consumer's family home or foster family home; and

(4) In need of interim medical monitoring and treatment as ordered by a physician.

Amend subrule **83.61(2)** by adopting the following **new** paragraph "h":

h. Interim medical monitoring and treatment services must be needed because all usual caregivers are unavailable to provide care due to one of the following circumstances:

(1) Employment. Interim medical monitoring and treatment services are to be received only during hours of employment.

(2) Academic or vocational training. Interim medical monitoring and treatment services provided while a usual caregiver participates in postsecondary education or vocational training shall be limited to 24 periods of no more than 30 days each per caregiver as documented by the service worker. Time spent in high school completion, adult basic education, GED, or English as a second language does not count toward the limit.

(3) Absence from the home due to hospitalization, treatment for physical or mental illness, or death of the usual caregiver. Interim medical monitoring and treatment services under this subparagraph are limited to a maximum of 30 days.

(4) Search for employment.

1. Care during job search shall be limited to only those hours the usual caregiver is actually looking for employment, including travel time.

2. Interim medical monitoring and treatment services may be provided under this paragraph only during the execution of one job search plan of up to 30 working days in a 12-month period, approved by the department service worker or targeted case manager pursuant to 441—subparagraph 170.2(2)"b"(5).

3. Documentation of job search contacts shall be furnished to the department service worker or targeted case manager.

ITEM 25. Amend rule 441—83.66(249A) as follows:

441—83.66(249A) Allowable services. Services allowable under the HCBS MR waiver are supported community living, respite, personal emergency response system, nursing, home health aide, home and vehicle modifications, supported employment, and consumer-directed attendant care services, and interim medical monitoring and treatment services as set forth in rule 441—78.41(249A).

ITEM 26. Amend rule **441—83.81(249A)** by adopting the following **new** definitions in alphabetical order:

"Basic individual respite" means respite provided on a staff-to-consumer ratio of one to one or higher to individuals without specialized needs requiring the care of a licensed registered nurse or licensed practical nurse.

"Group respite" is respite provided on a staff-to-consumer ratio of less than one to one.

"Medical assessment" means a visual and physical inspection of the consumer, noting deviations from the norm, and a statement of the consumer's mental and physical condition that can be amendable to or resolved by appropriate actions of the provider.

"Medical intervention" means consumer care in the areas of hygiene, mental and physical comfort, assistance in feeding and elimination, and control of the consumer's care and treatment to meet the physical and mental needs of the consumer in compliance with the plan of care in areas of health, prevention, restoration, and maintenance.

"Medical monitoring" means observation for the purpose of assessing, preventing, maintaining, and treating disease or illness based on the consumer's plan of care.

"Specialized respite" means respite provided on a staff-to-consumer ratio of one to one or higher to individuals with specialized medical needs requiring the care, monitoring or supervision of a licensed registered nurse or licensed practical nurse.

"Usual caregiver" means a person or persons who reside with the consumer and are available on a 24-hour-per-day basis to assume responsibility for the care of the consumer.

ITEM 27. Amend rule 441—83.82(249A) as follows:

Amend subrule **83.82(1)** by adopting the following **new** paragraph "j":

j. To be eligible for interim medical monitoring and treatment services the consumer must be:

(1) Under the age of 21;

(2) Currently receiving home health agency services under rule 441—78.9(249A) and require medical assessment, medical monitoring, and regular medical intervention or intervention in a medical emergency during those services. (The home health aide services for which the consumer is eligible must be maximized before the consumer accesses interim medical monitoring and treatment.);

(3) Residing in the consumer's family home or foster family home; and

(4) In need of interim medical monitoring and treatment as ordered by a physician.

Amend subrule **83.82(2)** by adopting the following **new** paragraph "b":

b. Interim medical monitoring and treatment services must be needed because all usual caregivers are unavailable to provide care due to one of the following circumstances:

(1) Employment. Interim medical monitoring and treatment services are to be received only during hours of employment.

(2) Academic or vocational training. Interim medical monitoring and treatment services provided while a usual caregiver participates in postsecondary education or vocational training shall be limited to 24 periods of no more than 30 days each per caregiver as documented by the service worker. Time spent in high school completion, adult basic education, GED, or English as a second language does not count toward the limit.

(3) Absence from the home due to hospitalization, treatment for physical or mental illness, or death of the usual caregiver. Interim medical monitoring and treatment services under this subparagraph are limited to a maximum of 30 days.

(4) Search for employment.

1. Care during job search shall be limited to only those hours the usual caregiver is actually looking for employment, including travel time.

2. Interim medical monitoring and treatment services may be provided under this paragraph only during the execution of one job search plan of up to 30 working days in a 12-month period, approved by the department service worker or targeted case manager pursuant to 441—subparagraph 170.2(2)"b"(5).

3. Documentation of job search contacts shall be furnished to the department service worker or targeted case manager.

ITEM 28. Amend rule 441—83.86(249A) as follows:

441—83.86(249A) Allowable services. Services allowable under the brain injury waiver are case management, respite,

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personal emergency response, supported community living, behavioral programming, family counseling and training, home and vehicle modification, specialized medical equipment, prevocational services, transportation, supported employment services, adult day care, and consumer-directed attendant care services, and *interim medical monitoring and treatment services* as set forth in rule 441—78.43(249A).

[Filed Emergency 6/8/00, effective 7/1/00]
[Published 6/28/00]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 6/28/00.

ARC 9907A**HUMAN SERVICES
DEPARTMENT[441]****Adopted and Filed Emergency**

Pursuant to the authority of Iowa Code section 252D.22 and 2000 Iowa Acts, House File 2135, section 3, the Department of Human Services hereby amends Chapter 95, "Collections," appearing in the Iowa Administrative Code.

These amendments require the Collection Services Center (CSC) to use the date of withholding, e.g., the employee's payday, rather than the day CSC receives the payment when crediting a support payment made by income withholding. These changes conform the rules to a recent amendment to state statute.

1998 Iowa Acts, chapter 1170, section 8, amended the income withholding statute to remove, as of October 1, 1999, the requirement that a payor of income (e.g., the employer) report the payday to CSC when the payment of income was submitted to CSC. In 1999, the Department adopted a rule change to implement that 1998 change in state statute. The rule would have used the date CSC received the support payment rather than the date the employer withheld the support from the wages as the date of the payment. However, the Administrative Rules Review Committee (ARRC) disagreed with the change and decided to delay implementation of the change until the legislature could revisit the issue. The Seventy-eighth General Assembly agreed with ARRC and adopted 2000 Iowa Acts, House File 2135, to continue the policy of using the obligor employee's payday to credit a payment made by income withholding. House File 2135 also directed the Department to rescind any rules in conflict with House File 2135 and provided that the Act's changes would be effective upon enactment. House File 2135 was enacted on April 20, 2000.

With two exceptions, these amendments replace the rescinded rules with the same language in effect before the 1999 rule change. The exceptions are that (1) these rules no longer refer to rebates since the \$50 rebate payments to families in the Family Investment Program were removed from state law in July 1998, and (2) these rules retain an exception for payments received at the end of the month from payors of income as well as obligors.

These amendments do not provide for waiver in specified situations because they confer a benefit on obligors. By requiring the CSC to use the date of withholding, the obligor will receive credit as of the date the obligor is paid and loses control of the funds.

The Department of Human Services finds that notice and public participation are impracticable and unnecessary be-

cause there is not time to allow for notice and public participation prior to the effective date of the amended statute (April 20, 2000) and these amendments make Department's rules consistent with state statute. Therefore, these amendments are filed pursuant to Iowa Code section 17A.4(2).

The Department finds that these amendments confer a benefit by giving the obligor credit for payment of child support as of the date the obligor is paid and loses control of the funds. Therefore, these amendments are filed pursuant to Iowa Code section 17A.5(2)"b"(2) and are effective upon filing with the Administrative Rules Coordinator on June 8, 2000.

These amendments were published under Notice of Intended Action in the Iowa Administrative Bulletin on June 14, 2000, as **ARC 9870A** to allow for public comment.

The Council on Human Services adopted these amendments June 8, 2000.

These amendments are intended to implement Iowa Code sections 252B.15 and 252D.17 as amended by 2000 Iowa Acts, House File 2135, section 2.

These amendments became effective June 8, 2000. The following amendments are adopted.

ITEM 1. Amend rule **441—95.1(252B)**, definition of "date of collection," as follows:

"Date of collection" shall mean the date that a support payment is received by the ~~unit~~ *department or the legal entity of any state or political subdivision actually making the collection, or the date that a support payment is withheld from the income of a responsible person by an employer or other income provider, whichever is earlier.*

ITEM 2. Rescind rule 441—95.3(252B) and adopt the following **new** rule in lieu thereof:

441—95.3(252B) Crediting of current and delinquent support. The amounts received as support from the obligor shall be credited as the required support obligation for the month in which they are collected. Any excess shall be credited as delinquent payments and shall be applied to the immediately preceding month, and then to the next immediately preceding month until all excess has been applied. Funds received as a result of federal tax offsets shall be credited according to rule 441—95.7(252B).

The date of collection shall be determined as follows:

95.3(1) Payments from income withholding. Payments collected as the result of income withholding are considered collected in the month in which the income was withheld by the income provider. The date of collection shall be the date on which the income was withheld.

a. For the purpose of reporting the date the income was withheld, the department shall notify income providers of the requirement to report the date income was withheld and shall provide Form 470-3221, "Income Withholding Return Document," to those income providers who manually remit payments. When reported on this form or through other electronic means or multiple account listings, the date of collection shall be used to determine support distributions. When the date of collection is not reported, support distributions shall initially be issued based on the date of the check. If proof of the date of collection is subsequently provided, any additional payments due the recipient shall be issued.

b. When the collection services center (CSC) is notified or otherwise becomes aware that a payment received from an income provider pursuant to 441—Chapter 98, Division II, includes payment amounts such as vacation pay or severance pay, these amounts are considered irrevocably withheld in the months documented by the income provider.

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95.3(2) Payments from state or political subdivisions. Payments collected from any state or political subdivision are considered collected in the same month the payments were actually received by that legal entity or the month withheld by an income provider, whichever is earlier. Any state or political subdivision transmitting payments to the department shall be responsible for reporting the date the payments were collected. When the date of collection is not reported, support distributions shall be initially issued based on the date of the state's or political subdivision's check. If proof of the date of collection is subsequently provided, any additional payments due the recipient shall be issued.

95.3(3) Additional payments. An additional payment in the month which is received within five calendar days prior to the end of the month shall be considered collected in the next month if:

- CSC is notified or otherwise becomes aware that the payment is for the next month, and
- Support for the current month is fully paid.

This rule is intended to implement Iowa Code section 252B.15 and section 252D.17 as amended by 2000 Iowa Acts, House File 2135, section 2.

[Filed Emergency 6/8/00, effective 6/8/00]

[Published 6/28/00]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 6/28/00.

ARC 9908A**HUMAN SERVICES
DEPARTMENT[441]****Adopted and Filed Emergency**

Pursuant to the authority of Iowa Code section 217.6 and 2000 Iowa Acts, Senate File 2435, section 31, subsection 15, and section 44, the Department of Human Services hereby amends Chapter 130, "General Provisions," and Chapter 170, "Child Care Services," appearing in the Iowa Administrative Code.

These amendments update income guidelines and the fees parents pay for child care services based on their monthly gross income to be consistent with the federal poverty guidelines for 2000 and implement new provider rate ceilings, except for nonregistered family day care homes.

The Seventy-eighth General Assembly directed the Department to set provider reimbursement rates based on the rate reimbursement survey completed in December 1998,

and to set rates in a manner so as to provide incentives for a nonregistered provider to become registered.

These amendments do not provide for any waivers in specific situations because these changes confer a benefit on consumers, by providing an increase in the income eligibility guidelines, and on providers, by increasing reimbursement rates. In addition, these changes were mandated by the legislature, with no provisions for exceptions.

In compliance with Iowa Code section 17A.4(2), the Department of Human Services finds that notice and public participation on the amendments implementing the increase in provider rates are unnecessary because these amendments implement 2000 Iowa Acts, Senate File 2435, section 31, subsection 15, and section 44, which authorize the Department to adopt rules without notice and public participation.

The Department also finds, pursuant to Iowa Code section 17A.5(2)"b"(1), that the normal effective date of the amendments implementing the increase in provider rates should be waived and these amendments made effective July 1, 2000, as authorized by 2000 Iowa Acts, Senate File 2435, section 31, subsection 15, and section 44.

The Department of Human Services finds that notice and public participation on the amendments updating the income guidelines and fee schedules are unnecessary and impracticable because the increase is mandated by 2000 Iowa Acts, Senate File 2435, section 14, and there is not time to obtain public comment and have these changes effective July 1, 2000. Therefore, these amendments are filed pursuant to Iowa Code section 17A.4(2).

The Department finds that the amendments updating the income guidelines and fee schedules confer a benefit on consumers by increasing the income guidelines and making more persons eligible for the services. Therefore, these amendments are filed pursuant to Iowa Code section 17A.5(2)"b"(2).

These amendments were also published under Notice of Intended Action in the Iowa Administrative Bulletin on June 14, 2000, as **ARC 9871A** to allow for public comment.

The Council on Human Services adopted these amendments June 8, 2000.

These amendments are intended to implement Iowa Code section 234.6, Iowa Code section 237A.1 as amended by 2000 Iowa Acts, Senate File 2344, section 14, and 2000 Iowa Acts, Senate File 2435, section 31, subsection 12.

These amendments shall become effective July 1, 2000.

The following amendments are adopted.

ITEM 1. Amend subrule **130.3(1)**, paragraph "**d**," subparagraph (2), as follows:

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

Family Size	For Child Care Monthly Gross Income			All Other Services Monthly Gross Income Below			
	A	B	C				
1 Member	\$ 687	\$ 696	\$ 961	\$ 974	\$1,202	\$1,219	\$ 583
2 Members	922	938	1,290	1,313	1,613	1,641	762
3 Members	1,157	1,179	1,619	1,651	2,024	2,064	942
4 Members	1,392	1,421	1,948	1,989	2,435	2,486	1,121
5 Members	1,627	1,663	2,277	2,328	2,847	2,910	1,299
6 Members	1,862	1,904	2,606	2,666	3,258	3,332	1,478
7 Members	2,097	2,146	2,935	3,004	3,669	3,755	1,510
8 Members	2,332	2,388	3,264	3,343	3,766	4,178	1,546

HUMAN SERVICES DEPARTMENT[441](cont'd)

Family Size	For Child Care Monthly Gross Income				All Other Services Monthly Gross Income Below		
	A		B		C		
9 Members	2,567	2,629	3,593	3,681	3,863	4,601	1,581
10 Members	2,802	2,871	3,922	4,019	3,960	4,701	1,612

For child care, Column A, add \$235 \$242 for each additional person over 10 members. For child care, Column B, add \$329 \$338 for each additional person over 10 members. For child care, Column C, add \$97 \$100 for each additional person over 10 members. For other services, add \$33 for each additional person over 10 members.

Column A is used to determine income eligibility when funds are insufficient to serve additional families beyond those already receiving services or requiring protective child care and applications are being taken from families who are at or below 100 percent of the federal poverty guidelines and in which the parents are employed at least 28 hours per week or are under the age of 21 and participating in an educational program leading to a high school diploma or equivalent or from parents under the age of 21 with a family income at or below 100 percent of the federal poverty guidelines who are participating, at a satisfactory level, in an approved training or education program. (See 441—paragraphs 170.2(3)“a” and “c.”)

Column B is used to determine income eligibility when funds are insufficient to serve additional families beyond those already receiving services or requiring protective child

care and applications are being taken from families with an income of more than 100 percent but not more than 140 percent of the federal poverty level whose members are employed at least 28 hours per week (see 441—paragraph 170.2(3)“d”) or when there is adequate funding and no waiting lists and applications are being taken from families applying for services, with the exception of families with children with special needs.

Column C is used to determine income eligibility for families with children with special needs.

ITEM 2. Amend subrule 130.4(3), introductory paragraph, and “Monthly Income Increment Levels According to Family Size” table, as follows:

130.4(3) Child care services. The monthly income chart and fee schedule for child care services in a licensed child care center, an exempt facility, a registered family or group child care home, a nonregistered family child care home, or in-home care, or relative care are shown in the following table:

Monthly Income Increment Levels According to Family Size

Income Increment Levels											Half-Day Fee
	1	2	3	4	5	6	7	8	9	10	
A	653	877	1100	1323	1546	1770	1993	2216	2440	2663	.00
	661	891	1120	1350	1579	1809	2039	2268	2498	2727	
B	688	923	1158	1393	1628	1863	2098	2333	2568	2803	.50
	696	938	1179	1421	1663	1904	2146	2388	2629	2871	
C	726	974	1222	1471	1719	1967	2215	2464	2712	2960	1.00
	735	990	1245	1500	1756	2011	2266	2521	2776	3032	
D	767	1029	1291	1553	1815	2077	2340	2602	2864	3126	1.50
	776	1045	1315	1584	1854	2123	2393	2662	2932	3201	
E	810	1087	1363	1640	1917	2193	2471	2747	3024	3301	2.00
	819	1104	1389	1673	1958	2242	2527	2811	3096	3381	
F	855	1147	1440	1732	2024	2316	2609	2901	3193	3486	2.50
	865	1166	1466	1767	2067	2368	2668	2969	3269	3570	
G	903	1212	1520	1829	2137	2446	2755	3064	3372	3681	3.00
	914	1231	1548	1866	2183	2500	2818	3135	3453	3770	
H	954	1279	1605	1931	2257	2583	2909	3235	3561	3887	3.50
	965	1300	1635	1970	2305	2641	2976	3311	3646	3981	
I	1007	1351	1695	2039	2383	2728	3072	3416	3760	4105	4.00
	1019	1373	1727	2081	2434	2788	3142	3496	3850	4204	
J	1063	1427	1790	2154	2517	2880	3244	3608	3971	4334	4.50
	1076	1450	1823	2197	2571	2945	3318	3692	4066	4439	
K	1123	1507	1890	2274	2658	3042	3426	3810	4193	4577	5.00
	1136	1531	1926	2320	2715	3109	3504	3899	4293	4688	
L	1186	1591	1996	2402	2807	3212	3618	4023	4428	4834	5.50
	1200	1617	2033	2450	2867	3284	3700	4117	4534	4950	
M	1252	1680	2108	2536	2964	3392	3820	4248	4676	5104	6.00
	1267	1707	2147	2587	3027	3467	3908	4348	4788	5228	

HUMAN SERVICES DEPARTMENT[441](cont'd)

ITEM 3. Amend subrule 170.4(7), paragraph "a," Table I and Table II, as follows:

Age Group	Day Care Center	Registered Family Home	Registered Group Home	Nonregistered Family Home
Infant and Toddler	\$11.50	\$9.00	\$8.50	\$8.19
	\$12.45	\$10.00	\$9.00	
Preschool	\$9.50	\$9.00	\$7.88	\$7.19
	\$10.50		\$8.55	
School Age	\$8.50	\$9.00	\$7.88	\$7.36
	\$9.00		\$8.33	

Age Group	Day Care Center	Registered Family Home	Registered Group Home	Nonregistered Family Home
Infant and Toddler	\$28.13	\$11.25	\$11.00	\$10.24
	\$48.00	\$15.75	\$12.38	
Preschool	\$28.55	\$9.72	\$10.28	\$8.99
	\$28.13		\$12.38	
School Age	\$29.93	\$13.50	\$11.47	\$9.20
	\$28.04		\$11.25	

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EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 6/28/00.

ARC 9909A

HUMAN SERVICES DEPARTMENT[441]

Adopted and Filed Emergency

Pursuant to the authority of Iowa Code section 234.6 and 2000 Iowa Acts, Senate File 2435, section 31, subsection 15, and section 44; and House File 2555, section 1, subsection 1, and section 11, the Department of Human Services hereby amends Chapter 150, "Purchase of Service," appearing in the Iowa Administrative Code.

These amendments update fiscal year changes and rate increases mandated by the Seventy-eighth General Assembly. Adoption, independent living, home studies, and shelter care providers are given a cost-of-living adjustment of 5 percent.

All current shelter care providers are currently reimbursed by the Department at the maximum rate of \$79.70 per day. In order for the current shelter care providers to realize the full 5 percent increase, it is necessary to apply the 5 percent increase to:

- The current maximum reimbursement per diem rate of \$79.70, raising the maximum to \$83.69.
- Each per diem (combined service and maintenance) provider rate currently reimbursed by the Department, resulting in a per diem increase of \$3.99.
- The provider's actual and allowable unit cost plus inflation based on the most recently submitted and audited financial and statistical report, increasing the cost by \$3.99.
- The statewide average actual and allowable unit cost plus inflation based upon the most recently submitted and audited financial and statistical reports as of May 15, 2000, increasing the rate by \$3.99.

These amendments do not provide for a waiver in specific situations because they confer a benefit by increasing reimbursement rates. All independent living, shelter care, and adoption providers should be reimbursed on the same basis.

In compliance with Iowa Code section 17A.4(2), the Department of Human Services finds that notice and public participation on these amendments are unnecessary because these amendments implement 2000 Iowa Acts, Senate File 2435, section 31, subsection 15, and section 44; and House File 2555, section 1, subsection 1, and section 11, which authorize the Department to adopt rules without notice and public participation.

The Department also finds, pursuant to Iowa Code section 17A.5(2)"b"(1), that the normal effective date of these amendments should be waived and these amendments made effective July 1, 2000, as authorized by 2000 Iowa Acts, Senate File 2435, section 31, subsection 15, and section 44; and House File 2555, section 1, subsection 1, and section 11.

These amendments were also published under Notice of Intended Action in the Iowa Administrative Bulletin on June 14, 2000, as **ARC 9872A** to allow for public comment.

The Council on Human Services adopted these amendments June 8, 2000.

These amendments will become effective on July 1, 2000.

These amendments are intended to implement Iowa Code section 234.6 and 2000 Iowa Acts, House File 2555, section 1, subsection 1, paragraph "d," and Senate File 2435, section 31, subsections 7 and 14.

The following amendments are adopted.

ITEM 1. Amend subrule 150.3(5), paragraph "p," as follows:

Amend subparagraph (1) as follows:

(1) Unless otherwise provided for in 441—Chapter 156, rates for shelter care shall not exceed ~~\$79.70~~ \$83.69 per day based on a 365-day year.

Amend subparagraph (2), introductory paragraph, and numbered paragraph "1," introductory paragraph, as follows:

(2) For the fiscal year beginning July 1, ~~1999~~ 2000, the maximum reimbursement rates for services provided under a purchase of social service agency contract (adoption; local

HUMAN SERVICES DEPARTMENT[441](cont'd)

purchase services including adult day care, adult support, adult residential, community supervised apartment living arrangement, sheltered work, work activity, and transportation; shelter care; family planning; and independent living) shall be the same as the rates in effect on June 30, 1999 2000, except under any of the following circumstances:

1. If a new service was added after June 30, 1999 2000, the initial reimbursement rate for the service shall be based upon actual and allowable costs. A new service does not include a new building or location or other changes in method of service delivery for a service currently provided under the contract.

Further amend subparagraph (2), numbered paragraph "3," as follows:

3. For the fiscal year beginning July 1, 1999 2000, the combined service and maintenance reimbursement rate paid to a shelter care provider shall be based on the financial and statistical report submitted to the department. The maximum reimbursement rate shall be \$79.70 83.69 per day. If the department reimburses the provider at less than the maximum rate, but the provider's cost report justifies a rate of at least \$79.70 83.69, the department shall readjust the provider's reimbursement rate to the actual and allowable cost plus the inflation factor or \$79.70 83.69, whichever is less.

Further amend subparagraph (2) by adopting the following **new** numbered paragraph "4" and rescinding numbered paragraph "5":

4. For the fiscal year beginning July 1, 2000, the purchase of service reimbursement rate for adoption, independent living services, and shelter care shall be increased by 5 percent of the rates in effect on June 30, 2000. The 5 percent increase in shelter care rates results in a per diem increase of \$3.99. The shelter care providers actual and allowable cost plus inflation shall be increased by \$3.99. For state fiscal year 2001 beginning July 1, 2000, the established statewide average actual and allowable rate shall be increased by \$3.99.

ITEM 2. Amend the implementation clause following **441—Chapter 150, Division I**, to read as follows:

These rules are intended to implement Iowa Code section 234.6 and ~~1999 Iowa Acts, House File 760, section 33, subsections 6, 8, and 9~~ 2000 Iowa Acts, House File 2555, section 1, subsection 1, paragraph "d," and Senate File 2435, section 31, subsection 7.

ITEM 3. Amend subrule 150.22(7), paragraph "p," as follows:

Amend subparagraph (1), introductory paragraph, and numbered paragraph "1," introductory paragraph, as follows:

(1) For the fiscal year beginning July 1, 1999 2000, the maximum reimbursement rates for local purchase services, including adult day care, adult support, adult residential, community supervised apartment living arrangement, sheltered work, work activity, and transportation shall be the same as the rates in effect on June 30, 1999 2000, except under any of the following circumstances:

1. If a new service was added after June 30, 1999 2000, the initial reimbursement rate for the service shall be based upon actual and allowable costs. A new service does not include a new building or location or other changes in method of service delivery for a service currently provided under the contract.

ITEM 4. Amend the implementation clause following **441—Chapter 150, Division II**, to read as follows:

These rules are intended to implement Iowa Code section 234.6 and ~~1999 Iowa Acts, House File 760, section 33, subsection 6~~ 2000 Iowa Acts, Senate File 2435, section 31, subsection 7.

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ARC 9910A**HUMAN SERVICES DEPARTMENT[441]****Adopted and Filed Emergency**

Pursuant to the authority of Iowa Code section 234.6 and 2000 Iowa Acts, Senate File 2435, section 31, subsection 15, and section 44, the Department of Human Services hereby amends Chapter 156, "Payments for Foster Care and Foster Parent Training," and Chapter 201, "Subsidized Adoptions," appearing in the Iowa Administrative Code.

These amendments implement the increases to foster family homes and adoptive homes mandated by the Seventy-eighth General Assembly.

The daily foster family care and adoption payment rates are increased as follows: for a child aged 0 through 5 from \$13.79 to \$14.00, for a child aged 6 through 11 from \$14.54 to \$14.78, for a child aged 12 through 15 from \$16.28 to \$16.53, and for a child aged 16 and over from \$16.32 to \$16.53.

The maximum foster family basic monthly maintenance rate and the maximum adoption subsidy rate for children remain at 70 percent of the United States Department of Agriculture's estimate of the cost to raise a child in the Midwest with a cost-of-living increase added for Fiscal Year 2001.

These amendments do not provide for any waivers in specified situations because these changes confer a benefit on foster parents and adoptive parents by increasing the foster family daily maintenance rate and the maximum adoption subsidy rate.

In compliance with Iowa Code section 17A.4(2), the Department of Human Services finds that notice and public participation on these amendments are unnecessary because these amendments implement 2000 Iowa Acts, Senate File 2435, section 31, subsection 15, and section 44, which authorizes the Department to adopt rules without notice and public participation.

The Department also finds, pursuant to Iowa Code section 17A.5(2)"b"(1), that the normal effective date of these amendments should be waived and these amendments made effective July 1, 2000, as authorized by 2000 Iowa Acts, Senate File 2435, section 31, subsection 15, and section 44.

These amendments were also published under Notice of Intended Action in the Iowa Administrative Bulletin on June 14, 2000, as **ARC 9873A** to allow for public comment.

The Council on Human Services adopted these amendments June 8, 2000.

These amendments are intended to implement Iowa Code section 234.6 and 2000 Iowa Acts, Senate File 2435, section 31, subsection 6.

These amendments shall become effective July 1, 2000. The following amendments are adopted.

HUMAN SERVICES DEPARTMENT[441](cont'd)

ITEM 1. Amend rule 441—156.6(234) as follows:

Amend subrule 156.6(1) as follows:

156.6(1) Basic rate. A monthly payment for care in a foster family home licensed in Iowa shall be made to the foster family based on the following schedule:

Age of child	Daily rate
0 through 5	\$13.79 \$14.00
6 through 11	14.54 14.78
12 through 15	16.28 16.53
16 and over	16.32 16.53

Further amend rule 441—156.6(234), implementation clause, to read as follows:

This rule is intended to implement Iowa Code section 234.38 and 1999 Iowa Acts, House File 760, section 33, subsection 5 2000 Iowa Acts, Senate File 2435, section 31, subsection 6.

ITEM 2. Amend 441—Chapter 201, implementation clause, to read as follows:

These rules are intended to implement Iowa Code sections 600.17 to 600.21 and 600.23; and 1999 Iowa Acts, House File 760, section 33, subsection 5 2000 Iowa Acts, Senate File 2435, section 31, subsection 6.

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ARC 9911A

HUMAN SERVICES DEPARTMENT[441]

Adopted and Filed Emergency

Pursuant to the authority of 2000 Iowa Acts, Senate File 2193, sections 4(5), 6(3) and (4), and 21, the Department of Human Services hereby adopts Chapter 161, "Iowa Senior Living Trust Fund," and Chapter 162, "Nursing Facility Conversion and Long-Term Care Services Development Grants," Iowa Administrative Code.

These rules implement provisions of 2000 Iowa Acts, Senate File 2193, the Iowa Senior Living Program Act. The goal of the Iowa Senior Living Program Act is to create a comprehensive long-term care system that is consumer-directed, provides a balance between the alternatives of institutionally and noninstitutionally provided services, and contributes to the quality of the lives of persons who are elderly or adults with disabilities in Iowa.

These rules implement the Iowa Senior Living Trust Fund created in the state treasury under the authority of the Department of Human Services and define and structure nursing facility conversion grants and long-term care services development grants to be made from the Iowa Senior Living Trust Fund by the Department.

The Iowa Senior Living Trust Fund is funded by receipt of federal revenue from public nursing facilities participating in the medical assistance program. The Department shall provide increased reimbursement to the participating public facilities for nursing facility services provided under the Medicaid program. The facilities shall retain \$5,000 of additional reimbursement received per agreement as a processing payment and shall refund the remainder of the additional

reimbursement through intergovernmental transfer to the Department. The Department shall deposit the federal share of the refund (less the \$5,000 retained by the nursing facility) in the Iowa Senior Living Trust Fund and shall credit the nonfederal share of the refund to the Department's medical assistance appropriation.

Under these rules, Iowa nursing facilities will be eligible to apply for grants for capital or other one-time expenditure costs to assist with the cost of converting all or a portion of the facility to an assisted living facility or other alternatives to nursing facility care, and providers of long-term care services and nursing homes will be eligible to apply for grants to develop additional needed long-term care alternatives other than assisted living. These alternatives can then be funded through a Medicaid Home- and Community-Based Services (HCBS) waiver.

The rules establish criteria for awarding grants and set limits on funding. The General Assembly appropriated \$20 million from the Senior Living Trust Fund for state fiscal year 2001 to provide these grants.

Conversion grants are limited to \$1 million per facility, with an additional \$100,000 if the provider agrees to also provide adult day care, child care for children with special needs, safe shelter for victims of dependent adult abuse, or respite care. The maximum conversion grant per assisted living unit is \$45,000. Service development grants are limited to \$150,000 for HCBS waiver services. These rules also provide for an architectural and financial feasibility study allowance for conversion or service development grants of up to \$15,000.

These rules do not provide for any waivers in specific situations because creation of the trust fund and awarding of grants will confer a benefit on providers and consumers. Participation by public nursing facilities in the creation of the trust fund is voluntary. All participants in the creation of the fund and all grant applicants should be subject to the same rules.

In compliance with Iowa Code section 17A.4(2), the Department of Human Services finds that notice and public participation are unnecessary because these rules implement 2000 Iowa Acts, Senate File 2193, section 21, which authorizes the Department to adopt rules without notice and public participation.

The Department also finds, pursuant to Iowa Code section 17A.5(2)"b"(1), that the normal effective date of these rules should be waived and these rules made effective July 1, 2000, as authorized by 2000 Iowa Acts, Senate File 2193, section 21.

These rules were also published under Notice of Intended Action in the Iowa Administrative Bulletin on June 14, 2000, as ARC 9883A to allow for public comment.

The Council on Human Services adopted these rules June 8, 2000.

These rules are intended to implement 2000 Iowa Acts, Senate File 2193, sections 4, 5, and 6.

These rules shall become effective July 1, 2000.

The following amendments are adopted.

ITEM 1. Adopt the following new chapter:

CHAPTER 161
IOWA SENIOR LIVING TRUST FUND

HUMAN SERVICES DEPARTMENT[441](cont'd)

PREAMBLE

These rules describe the Iowa senior living trust fund created by 2000 Iowa Acts, Senate File 2193, and explain how public nursing facilities can participate in a program for funding of the senior living trust fund.

441—161.1(78GA,SF2193) Definitions.

“Department” means the Iowa department of human services.

“Senior living coordinating unit” means the senior living coordinating unit created within the Iowa department of elder affairs pursuant to Iowa Code section 231.58 as amended by 2000 Iowa Acts, Senate File 2193, section 13.

“Senior living program” means the Iowa senior living program established by 2000 Iowa Acts, Senate File 2193.

“Senior living trust fund” or “trust fund” means the Iowa senior living trust fund created by 2000 Iowa Acts, Senate File 2193, section 4, in the state treasury under the authority of the department.

441—161.2(78GA,SF2193) Funding and operation of trust fund.

161.2(1) Moneys from intergovernmental agreements and other sources. Moneys received by the department through intergovernmental agreements for the senior living program and moneys received by the department from other sources for the senior living trust fund, including grants, contributions, and participant payments, shall be deposited in the senior living trust fund.

161.2(2) Use of moneys. Moneys deposited in the trust fund shall be used only for the purposes of the senior living program as specified in 2000 Iowa Acts, Senate File 2193, and in rule 441—161.3(78GA,SF2193).

441—161.3(78GA,SF2193) Allocations from the senior living trust fund. Moneys deposited in the senior living trust fund shall be used only as provided in appropriations from the trust fund to the department of human services and the department of elder affairs and for purposes, including the awarding of grants, as specified in 2000 Iowa Acts, Senate File 2193, section 6, and in 441—Chapter 162.

441—161.4(78GA,SF2193) Participation by government-owned nursing facilities.

161.4(1) Participation agreement. Iowa government-owned nursing facilities participating in the Iowa Medicaid program and wishing to participate in the funding of the senior living trust fund shall contact the Department of Human Services, Division of Medical Services, Fifth Floor, 1305 E. Walnut, Des Moines, Iowa 50319-0114, for information regarding the conditions of participation. Upon acceptance of the conditions of participation, the facility shall sign Form 470-3763, Participation Agreement.

161.4(2) Reimbursement. Upon acceptance of the participation agreement, the department shall authorize increased reimbursement to the participating facility for nursing facilities services provided under the Medicaid program. The facility shall retain \$5,000 of the additional reimbursement received per agreement as a processing payment and shall refund the remainder of the additional reimbursement through intergovernmental transfer to the department for deposit of the federal share (less the \$5,000 retained by the facility) in the Iowa senior living trust fund and the nonfederal share of money in the medical assistance appropriation.

These rules are intended to implement 2000 Iowa Acts, Senate File 2193, sections 4 and 5.

ITEM 2. Adopt the following new chapter:

CHAPTER 162
NURSING FACILITY CONVERSION
AND LONG-TERM CARE SERVICES
DEVELOPMENT GRANTS

PREAMBLE

These rules define and structure grants to be made from the Iowa senior living trust fund, hereafter referred to as the trust fund.

Grants are available to nursing facilities for capital or other one-time expenditure costs incurred for conversion of all or a portion of the facility to an assisted living facility or other alternatives to nursing facility care, and to noninstitutional providers of long-term care for development of other needed long-term care alternatives.

These rules implement provisions of 2000 Iowa Acts, Senate File 2193, which establishes an overall goal of moving toward a balanced, comprehensive, affordable, high quality long-term care system.

441—162.1(78GA,SF2193) Definitions.

“Adult day care” means structured social, habilitation, and health activities provided in a congregate setting to alleviate deteriorating effects of isolation; to aid in transition from one living arrangement to another; to provide a supervised environment while the regular caregiver is working or otherwise unavailable; or to provide a setting for receipt of multiple health services in a coordinated setting.

“Affordable” means rates for payment of services that do not exceed the rates established for providers of medical and health services under the medical assistance program. In relation to services provided by a home- and community-based waiver services provider, “affordable” means that the total monthly cost of the home- and community-based waiver services provided do not exceed the maximum cost for that level of care as established by rule by the department.

In relation to assisted living, “affordable” means rates for the costs not paid by medical assistance are less than or equal to 110 percent of the maximum prevailing fair market rent for the same size apartment under guidelines of the applicable United States Department of Housing and Urban Development (HUD) low-rent housing program in the area where the assisted living program is located, plus 185 percent of the maximum federal supplemental security income benefit for an individual or couple (as applicable). Rates for the costs paid by medical assistance may not exceed the rates established for payment under the medical assistance home- and community-based services (HCBS) elderly waiver program.

“Assisted living program” means an assisted living program certified or voluntarily accredited by the Iowa department of elder affairs under Iowa Code chapter 231C as amended by 2000 Iowa Acts, Senate File 2193, section 14.

“Child care for children with special needs” means physical, emotional, and social care delivered up to ten hours a day to children under the age of 18 by a service provider approved for participation in the medical assistance waivers in lieu of care by the parent or legal guardian.

“Department” means the Iowa department of human services.

“Director” means the director of the Iowa department of human services.

“Distinct portion of a nursing facility” means a clearly identifiable area or section within a nursing facility, consist-

HUMAN SERVICES DEPARTMENT[441](cont'd)

ing of at least a living unit, wing, floor, or building containing contiguous rooms.

“Efficient and economical care” means services provided within the reimbursement limits for the services under 441—subrule 79.1(2) for Medicaid home- and community-based services (HCBS) waivers and for less than the cost of comparable services provided in a nursing facility.

“Grantee” means the recipient of a grant.

“HCBS waivers” means Medicaid home- and community-based services waivers under 441—Chapter 83, which provide service funding for specific eligible consumer populations in Iowa.

“Long-term care alternatives” means those services specified under HCBS waivers as available services for elderly persons or adults with disabilities; elder group homes certified under Iowa Code chapter 231B; assisted living programs certified or voluntarily accredited under Iowa Code chapter 231C as amended by 2000 Iowa Acts, Senate File 2193, section 14; and the PACE program. These are services other than nursing facility care provided to the elderly and persons with disabilities.

“Long-term care service development” means either of the following:

1. The remodeling of existing space and, if necessary, the construction of additional space required to accommodate development of long-term care alternatives, excluding the development of assisted living programs or elder group home alternatives.

2. New construction for long-term care alternatives, excluding new construction of assisted living programs or elder group homes, if the senior living coordinating unit determines that new construction is more cost-effective for the grant program than the conversion of existing space.

“Medical assistance program” means the program established in Iowa Code chapter 249A and otherwise referred to as Medicaid or Title XIX.

“Nursing facility” means a licensed nursing facility as defined in Iowa Code section 135C.1 or a licensed hospital as defined in Iowa Code section 135B.1, a distinct part of which provides long-term care nursing facility beds.

“Nursing facility conversion” means either of the following:

1. The remodeling of nursing facility space existing on July 1, 1999, and certified for medical assistance nursing facility reimbursement and, if necessary, the construction of additional space required to accommodate an assisted living program.

2. New construction of an assisted living program if existing nursing facility beds are no longer licensed and the senior living coordinating unit determines that new construction is more cost-effective for the grant program than the conversion of existing space.

“PACE program” means a program of all-inclusive care for the elderly established pursuant to 42 U.S.C. Section 1396u-4 that provides delivery of comprehensive health and social services to seniors by integrating acute and long-term care services, and that is operated by a public, private, non-profit, or proprietary entity. “Pre-PACE program” means a PACE program in the initial start-up phase that provides the same scope of services as a PACE program.

“Persons with disabilities” means persons 18 years of age or older with disabilities as disability is defined in Iowa Code section 225B.2.

“Respite care” means temporary care of an aged adult, or an adult or child with disabilities, to relieve the usual caregiver from continuous support and care responsibilities.

Components of respite care services are supervision, tasks related to the individual’s physical needs, tasks related to the individual’s psychological needs, and social and recreational activities. A facility providing respite care must provide some respite care in the facility, but may also provide in-home respite.

“Safe shelter for victims of dependent adult abuse” means board, room, and services provided to persons identified by a department dependent adult abuse investigator as victims of dependent adult abuse.

“Senior” means elder as defined in Iowa Code section 231.4.

“Senior living coordinating unit” means the planning group established in Iowa Code section 231.58 as amended by 2000 Iowa Acts, Senate File 2193, section 13, or its designee.

“Senior living program” means the senior living program created by 2000 Iowa Acts, Senate File 2193, to provide for long-term care alternatives, long-term care service development, and nursing facility conversion.

“Trust fund” means the Iowa long-term care trust fund established by 2000 Iowa Acts, Senate File 2193, section 4.

“Underserved area” means a county in which the number of currently licensed nursing facility beds and certified or accredited assisted living units is less than or equal to 4.4 percent of the number of individuals 65 years of age or older according to the most current census data. In addition, the department, in determining if a county is underserved, may consider additional information gathered through its own research or submitted by an applicant including, but not limited to, any of the following:

1. Availability of and access to long-term care alternatives relative to individuals eligible for medical assistance.

2. The current number of seniors and persons with disabilities and the projected number of these individuals.

3. The current number of seniors and persons with disabilities requiring professional nursing care and the projected number of these individuals.

4. The current availability of long-term care alternatives and any anticipated changes in the availability of these alternatives.

441—162.2(78GA,SF2193) Availability of grants. In any year in which funds are available for new nursing facility conversion or long-term care services development grants, the department shall issue a request for applications for grants. The amount of money granted shall be contingent upon the funds available. The use of funds appropriated to award grants shall be in compliance with legislation and at the direction of the senior living coordinating unit.

There is no entitlement to any funds available for grants awarded pursuant to this chapter. The department may award grants to the extent funds are available and, within its discretion, to the extent that applications are approved.

441—162.3(78GA,SF2193) Grant eligibility.

162.3(1) Eligible applicants. A grant applicant shall be:

a. A licensed nursing facility that has been an approved provider under the medical assistance program under the same ownership for the three-year period prior to application for the grant.

b. A provider of long-term care services, including one not covered by the medical assistance program, that has been in business for at least three years under the same owner.

162.3(2) Types and amounts of grants.

a. Architectural and financial feasibility study allowance. An architectural and financial feasibility study allow-

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ance may be awarded solely for costs directly attributable to development of the architectural and financial review documentation associated with conversion or service development. Architectural and financial feasibility study allowances for conversion or service development grants are limited to \$15,000, not to exceed actual costs for each project.

b. Conversion grants. A conversion grant may be awarded to convert all or a portion of a licensed nursing facility to affordable certified assisted living units (limited to \$45,000 per unit) and for capital or one-time expenditures including, but not limited to, start-up expenses, training expenses, and operating losses for the first year of operation following conversion.

Conversion grants are limited to a total of \$1,000,000 per facility, with an additional \$100,000 if the provider agrees to also provide adult day care, child care for children with special needs, safe shelter for victims of dependent adult abuse, or respite care.

A grant application which expands resident capacity of an existing nursing facility shall not be considered. A grant that requires additional space to accommodate supportive services related to the functioning of the long-term care alternative, such as dining rooms, kitchen and recreation areas, or other community-use areas, may be considered.

c. Long-term care services development grant. A long-term care services development grant may be awarded for capital or one-time expenditures to develop needed long-term care services covered under a Medicaid HCBS waiver or to develop a PACE program. Expenditures may include, but are not limited to, start-up expenses, training expenses, and operating losses for the first year of operation. Service development grants are limited to \$1,000,000 per PACE program, and \$150,000 for HCBS waiver services.

162.3(3) Criteria for grant applicants. A grant shall be awarded only to an applicant meeting all of the following criteria:

a. The applicant is located in an area determined by the senior living coordinating unit to be underserved with respect to a particular long-term care alternative service.

b. The applicant is able to provide a minimum matching contribution of 20 percent of the total cost of any conversion, remodeling, or construction. Costs used by grantees to match grant funds shall be directly attributable to the costs of conversion or service development.

c. Grants applications from nursing facilities shall be considered only from facilities with an established history of providing quality long-term care services. Facilities shall be in substantial compliance with federal Medicaid participation requirements as evidenced at a minimum by all of the following:

(1) No identified deficiencies which pose a significant risk to resident health and safety at the time of application.

(2) No more than one isolated event resulting in actual harm to residents during the current Medicaid certification period.

(3) No citations for a pattern of events resulting in actual harm to residents for three years prior to application.

d. Grants to applicants other than nursing facilities shall be considered from applicants only when:

(1) There is substantial compliance with Medicare and Medicaid participation requirements or other applicable provider certification requirements at the time of application.

(2) Compliance exists with Medicare and Medicaid requirements, if applicable, for a three-year period prior to application.

(3) Compliance exists with the criminal background check system, if applicable.

e. The applicant agrees to do all of the following as applicable to the type of grant:

(1) Participate in the medical assistance program and maintain a medical assistance client participation rate of at least 40 percent, subject to the demand for participation by persons eligible for medical assistance. Applicants shall also agree that persons able to pay the costs of assisted living shall not be discharged from their living unit due to a change in payment source.

(2) Provide a service delivery package that is affordable for those persons eligible for services under the medical assistance home- and community-based services waiver program.

(3) Provide a refund of the grant to the senior living trust fund on a prorated basis if the applicant or the applicant's successor in interest: ceases to operate an affordable long-term care alternative within the first ten-year period of operation following the awarding of the grant; fails to maintain a participation rate of 40 percent in accordance with subparagraph (1) within the first ten-year period of operation following the awarding of the grant; or discharges persons able to pay the costs of assisted living from their living unit due to a change in payment source.

f. The applicant must demonstrate that the proposed method of construction, whether new or remodeling, is the most cost-effective for the grant program and, when developing assisted living units, must agree that a specified number of existing nursing facility beds will not continue to be licensed.

162.3(4) Allowable and nonallowable costs.

a. Examples of allowable costs include:

(1) Professional fees incurred specifically for conversion of facility or service development, including architectural, financial, legal, human resources, research, and marketing fees.

(2) Construction costs for the remodeling of existing space and, if necessary, the construction of additional space required to accommodate assisted living program services or other alternatives to nursing facility care or new construction of an assisted living facility or other alternative to nursing facility care if existing nursing facility beds are no longer licensed and the department determines that new construction is more cost-effective for the grant program than the conversion of existing space.

(3) Start-up and training expenses and operating losses for the first year.

b. Examples of nonallowable costs include:

(1) Costs of travel, personal benefits, and other facility programs or investments.

(2) Construction costs to remodel nursing facility space that will remain in use for nursing facility care.

(3) Any costs associated with operation and maintenance of a non-grant-related facility or service.

(4) Any costs incurred above per-unit grant amounts.

441—162.4(78GA,SF2193) Grant application process.

162.4(1) Public notice of grant availability. When funds are available for new grants, the department shall announce through public notice the opening of a competitive application period. The announcement shall include information on how agencies may obtain an application package and the deadlines for submitting an application.

162.4(2) Request for applications. The department shall distribute grant application packages for nursing facility conversion and long-term care service development grants

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upon request. Applicants desiring to apply for a grant shall submit Form 470-3759, Application for Nursing Facility Conversion Grant, or Form 470-3760, Application for Long-Term Care Service Development Grant, with accompanying documentation to the department by the date established in the application package. If an application does not include the information specified in the grant application package or if it is late, it will be disapproved.

The application must be submitted by the legal owner of the nursing facility or long-term care provider. In cases in which the provider licensee does not hold title to the real property in which the service is operated, both the licensee and the owner of the real property must submit a joint application. Form 470-3759 or Form 470-3760 must be signed by an individual authorized to bind the applicant to perform legal obligations. The title of the individual must be stated.

162.4(3) Application requirements.

a. Prior to submission of an application, the applicant must arrange and conduct a community assessment and solicit public comment on the plans proposed in the grant application. In soliciting public comment the applicant must at a minimum:

(1) Publish an announcement in a local or regional newspaper of the date, time, and location of a public meeting regarding the proposed project, with a brief description of the proposed project.

(2) Post notice of the meeting at the nursing facility or applicant's offices and at other prominent civic locations.

(3) Notify potentially affected clients and their families of the proposed project, of the potential impact on them, and of the public meeting at least two weeks prior to the public meeting.

(4) Advise the department of the public meeting date at least two weeks before the scheduled meeting.

(5) Address the following topics at the public meeting: a summary of the proposed project, the rationale for the project, and resident retention and relocation issues.

(6) Receive written and oral comments at the meeting and provide for a seven-day written comment period following the meeting.

(7) Summarize all comments received at the meeting or within the seven-day written comment period and submit the summary to the department as part of the application package.

b. Grant applications shall contain, at a minimum, the following information:

(1) Applicant identification and a description of the agency and its resources, which will demonstrate the ability of the applicant to carry out the proposed plan.

(2) Information to indicate the nursing facility applicant's extent of conversion of all or a portion of its facility to an assisted living program or development of other long-term care alternatives. Current and proposed bed capacity shall be given as well as the number of beds to be used for special services. Nursing facility and noninstitutional providers shall describe outpatient services they wish to develop.

(3) A request for an architectural and financial feasibility study allowance, if desired.

(4) Demonstration at a minimum of the following:

1. Public support for the proposal exists. Evidence of public support shall include, but not be limited to, the following: the summary of all comments received at the public meeting or within the seven-day written comment period and letters of support from the area agency on aging; the local board of health; local provider or consumer organizations

such as the local case management program for frail elders, resident advocate committee or Alzheimer's chapter; and consumers eligible to receive services from the developed long-term care alternative.

2. The proposed conversion or service development will have a positive impact on the overall goal of moving toward a balanced, comprehensive, high-quality, long-term care system.

3. Conversion of the nursing facility or a distinct portion of the nursing facility to an assisted living program or development of an alternative service will offer efficient and economical long-term care services in the service area described by the applicant.

4. The assisted living program or other alternative services are otherwise not likely to be available in the service area described by the applicant for individuals eligible for services under the medical assistance program.

5. If applicable, a resulting reduction in the availability of nursing facility services will not cause undue hardship to those individuals requiring nursing facility services for a period of at least ten years.

6. Conversion to an assisted living program or development of other alternative services will result in a lower per-client reimbursement to the grant applicant under the medical assistance program.

7. The service delivery package will be affordable for individuals eligible for services under the medical assistance home- and community-based services waiver program.

8. Long-term care alternatives will be available and accessible to individuals eligible for medical assistance and other individuals with low or moderate income.

9. Long-term care alternative services are needed based on the current and projected numbers of seniors and persons with disabilities, including those requiring assistance with activities of daily living in the service area described by the applicant.

10. Long-term care alternatives in the service area are needed based on the community needs assessment and upon current availability and any anticipated changes in availability.

162.4(4) Selection of grantees. All applications received by the department within the designated time frames and meeting the criteria set forth in rule 441—162.3(78GA, SF2193) and subrule 162.4(3) shall be reviewed by the department under the direction of the senior living coordinating unit.

If grant applications that meet the minimum criteria exceed the amount of available funds, scoring criteria shall be used to determine which applicants shall receive a grant. Scoring shall be based on the following:

1. The degree to which the county or counties in the service area described by the grant applicant are underserved - up to 20 points. If more than one county is in the service area, a weighted average shall be used.

2. The level of community support as identified by the community-based assessment, public meeting comments, and letters of support and the degree of collaboration among local service providers - up to 20 points.

3. For conversion grants, the number of licensed beds eliminated or converted to special needs beds, with evidence that the resulting reduction in licensed beds will not cause a hardship for persons requiring nursing services - up to 20 points.

4. The number of added services to fill a service need gap - up to 20 points.

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5. Evidence of an adequate plan to carry out the requirements of this chapter and regulations pertaining to the long-term care alternative service - up to 20 points.

6. Costs of long-term care alternative services to consumers - up to 30 points.

7. Evidence of the ability and commitment to make proposed alternatives accessible to low- and moderate-income persons - up to 20 points.

162.4(5) Notification of applicants. Applicants shall be notified whether the grant proposal is approved or denied. Denial of an application in one year does not preclude submission of an application in a subsequent year.

441—162.5(78GA,SF2193) Grant dispersal stages. Following approval of an applicant's grant proposal by the department, the grant process shall proceed through the following stages:

162.5(1) Completion of architectural and financial feasibility study.

a. An architectural and financial feasibility study shall be completed pursuant to the guidelines included in the applicable grant application package and applicable service regulations.

(1) For facility conversion, construction, or remodeling, the architectural plan shall provide schematic drawings at a minimum of one-eighth scale consisting of the building site plan, foundation plan, floor plan, cross section, wall sections, and exterior elevations.

(2) The grantee shall comply with all local, state and national codes pertaining to construction; and certification, licensure, or accreditation requirements applicable to the long-term care alternative.

(3) Construction documents, budget cost estimates, and related services must be rendered by a professional architect or engineer registered in Iowa.

b. Payment of up to \$15,000 may be issued to each approved applicant to proceed with the architectural and financial feasibility study if requested in the original application. By making a request for an architectural and financial feasibility study allowance, the applicant agrees that the funds will be used solely for costs directly attributable to development of the architectural and financial review documentation associated with conversion or service development.

c. All grantees must submit the completed study documents within the time frame identified in the request for application together with an itemized accounting of the expenditure of any allowance funds. Any unexpended architectural and financial review allowance funds shall be returned to the department.

162.5(2) Review of architectural and financial feasibility study. The department shall review the architectural and financial feasibility study materials and shall grant or deny approval to develop or obtain final budget estimates for the proposed project. Approval to proceed shall be granted only if the architectural and financial feasibility study supports the ability of the grantee to meet the minimum grant criteria and to complete the proposed project as set forth in the original application.

162.5(3) Completion of final budget estimate. Grantees approved to proceed with the final budget estimate shall submit the final budget estimates, any revisions to previously submitted materials, and a request for a grant in a specific amount. The matching fund amount to be paid by the grantee must be stated in the request.

162.5(4) Review of final budget estimate. The department shall review the final budget estimate and issue a notice of award for a grant in a specific amount if the final budget

estimate supports the ability of the grantee to meet the minimum grant criteria and to complete the proposed project as set forth in the original application.

441—162.6(78GA,SF2193) Project contracts. The funds for approved applications shall be awarded through a contract entered into by the department and the applicant.

441—162.7(78GA,SF2193) Grantee responsibilities.

162.7(1) Records and reports.

a. The grantee shall maintain the following records:

(1) Consumer participation records that identify persons by payment source.

(2) Complete and separate records regarding the expenditure of senior living trust funds for the grant amounts received.

b. Recipients of grants shall submit a bimonthly progress report to the department and senior living coordinating unit beginning the second month following project approval through project completion.

c. Recipients shall submit annual cost reports to the department, in conformance with policies and procedures established by the department, regarding the project for a period of ten years after the date the grantee begins operation of its facility as an assisted living facility or other long-term care alternative.

162.7(2) Reasonable access. The grantee shall allow access to records at reasonable times by duly authorized representatives of the department for the purpose of conducting audits and examinations and for preparing excerpts and transcripts. This access to records shall continue for a period of ten years from the date the grantee begins operation as an assisted living facility or other long-term care alternative.

162.7(3) Relinquishment of license. The grantee shall relinquish the nursing facility bed license for any facility space converted to assisted living or alternatives to nursing facility care for a ten-year period.

162.7(4) Acceptance of financial responsibility. The grantee shall accept financial responsibility for all costs over and above the grant amount which are related to project completion.

162.7(5) Participation in the medical assistance program. The grantee shall participate in the medical assistance program as a provider of nursing facility services if the grantee continues to provide any nursing facility services.

162.7(6) Segregation of medical assistance residents forbidden. The grantee shall not segregate medical assistance residents in an area, section, or portion of an assisted living program or long-term care alternative service. Grantees shall allow a resident who is converting from private-pay to medical assistance to remain in the resident's living unit if the resident is able to pay the rate and shall not relocate the resident solely due to a change in payment source.

441—162.8(78GA,SF2193) Offset. The department may deduct the amount of any refund due from a grantee from any money owed by the department to the grantee or the grantee's successor in interest.

441—162.9(78GA,SF2193) Appeals. Applicants dissatisfied with the department's actions regarding applications for grants and grantees dissatisfied with actions regarding a grant may file an appeal with the director. The letter of appeal must be received by the director within five working days of the date of the notice and must include a request for the director to review the action and the reasons for dissatisfaction. Within ten working days of the receipt of the appeal, the director shall review the appeal request and issue a final decision.

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No disbursements shall be made to any applicant for a period of five working days following the notice awarding the original grants. If an appeal is filed within the five days, all disbursements shall be held pending a final decision on the appeal.

These rules are intended to implement 2000 Iowa Acts, Senate File 2193, section 6.

[Filed Emergency 6/8/00, effective 7/1/00]
[Published 6/28/00]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 6/28/00.

ARC 9912A**HUMAN SERVICES
DEPARTMENT[441]****Adopted and Filed Emergency**

Pursuant to the authority of Iowa Code section 234.6, the Department of Human Services hereby amends Chapter 163, "Adolescent Pregnancy Prevention and Services to Pregnant and Parenting Adolescents Programs," appearing in the Iowa Administrative Code.

These amendments provide that grants to pregnancy prevention programs that are developed after July 1, 2000, shall be awarded to programs which are comprehensive in scope and which are based on existing models that have demonstrated positive outcomes. Priority in the awarding of grants shall be given to programs that serve areas of the state which demonstrate the highest percentage of unplanned pregnancies of females aged 13 or older but younger than the age of 18 within the geographic area to be served by the grant.

These amendments do not provide for waivers in specified situations because these changes were mandated by the Seventy-eighth General Assembly.

The Department of Human Services finds that notice and public participation are unnecessary and impracticable because the changes are mandated by 2000 Iowa Acts, Senate File 2435, section 3, subsection 11, and there is not time to obtain public comment and have these changes effective July 1, 2000. Therefore, these amendments are filed pursuant to Iowa Code section 17A.4(2).

The Department finds that the amendments confer a benefit on the public by targeting for assistance pregnancy programs that serve areas of the state which demonstrate the highest percentage of unplanned pregnancies of females aged 13 or older but younger than the age of 18. Therefore, these amendments are filed pursuant to Iowa Code section 17A.5(2)"b"(2).

These amendments were also published under Notice of Intended Action in the Iowa Administrative Bulletin on June 14, 2000, as **ARC 9874A** to allow for public comment.

The Council on Human Services adopted these amendments June 8, 2000.

These amendments are intended to implement Iowa Code section 234.6 and 2000 Iowa Acts, Senate File 2435, section 3, subsection 11.

These amendments shall become effective July 1, 2000. The following amendments are adopted.

ITEM 1. Amend rule **441—163.1(234)** by adopting the following **new** definition in alphabetical order:

"Percentage of pregnancies" means the total number of births to mothers aged 13 years of age and older but younger than 18 years of age in the service area for the most recent year for which data is available divided by the total number of births statewide for the same age group and the same year.

ITEM 2. Amend subrule 163.3(1) as follows:

163.3(1) Grants will be awarded to eligible applicants for specifically designed projects. Preference in awarding grants shall be given to projects which ~~utilize~~ use a variety of community resources and agencies. *Priority in awarding of points for community grants shall be given to programs that serve areas of the state which demonstrate the highest percentage of pregnancies of females aged 13 years of age or older but younger than the age of 18 within the geographic area to be served by the grant.* Projects selected for the adolescent pregnancy prevention statewide campaign, adolescent pregnancy evaluation grant, and state coalition grants will be eligible for noncompetitive funding for up to three years, pending availability of funds and based upon satisfactory progress toward program goals. Projects which do not make satisfactory progress toward program goals shall be required to competitively bid for refunding. After three years, all projects must competitively bid for refunding.

Projects funded *prior to July 2000* under the community adolescent pregnancy prevention and services grants are eligible for funding for up to nine years, pending availability of funds ~~and based upon satisfactory progress toward program goals if the programs are comprehensive in scope and have demonstrated positive outcomes.~~ *Grants awarded after July 2000 must be for projects that are comprehensive in scope and based on existing models that have demonstrated positive outcomes.*

An increasing grantee match will be required. A 5 percent grantee match will be required in year one. The match will increase by 5 percent each subsequent year a project receives funding. In-kind matches may be applied toward the grantee match. Projects which do not make satisfactory progress toward program goals shall be required to competitively bid for refunding.

ITEM 3. Amend subrule **163.4(2)**, paragraph "**d**," as follows:

d. Statement of problem and need, *including information demonstrating the percentage of pregnancies of females aged 13 years of age or older but younger than the age of 18 within the geographic area to be served.*

ITEM 4. Amend subrule 163.5(3), introductory paragraph, and paragraph "**i**," as follows:

163.5(3) ~~A-weighted~~ **Weighted** scoring criteria will be used to determine grant awards. The maximum ~~amount~~ number of points possible is ~~110~~ **125**. Determination of final point awards will be based on the following:

i. Overall quality and impact of program ~~and consideration of legislative preference areas~~—10 points.

Further amend subrule 163.5(3) by adding the following **new** paragraph "**k**":

k. Consideration of legislative priority area—15 points.

[Filed Emergency 6/8/00, effective 7/1/00]
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EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 6/28/00.

ARC 9913A**HUMAN SERVICES
DEPARTMENT[441]****Adopted and Filed Emergency**

Pursuant to the authority of Iowa Code section 217.6 and 2000 Iowa Acts, House File 2555, section 1, subsection 1, and section 11, and Senate File 2435, section 31, subsection 15, and section 44, the Department of Human Services hereby amends Chapter 185, "Rehabilitative Treatment Services," appearing in the Iowa Administrative Code.

This amendment discontinues during state fiscal year 2001 the practice of allowing individual rehabilitative treatment and supportive service (RTSS) rates to be renegotiated and implements a rate increase, both as mandated by the General Assembly. RTSS providers will receive a 5 percent across-the-board cost-of-living adjustment that shall be applied to each individual provider's state negotiated rate.

This amendment does not provide for any waivers in specific situations because these changes were mandated by the legislature, with no provisions for exceptions.

In compliance with Iowa Code section 17A.4(2), the Department of Human Services finds that notice and public participation are unnecessary because this amendment implements 2000 Iowa Acts, House File 2555, section 1, subsection 1, and section 11, and Senate File 2435, section 31, subsection 15, and section 44, which authorize the Department to adopt rules without notice and public participation.

The Department also finds, pursuant to Iowa Code section 17A.5(2)"b"(1), that the normal effective date of this amendment should be waived and this amendment made effective July 1, 2000, as authorized by 2000 Iowa Acts, House File 2555, section 1, subsection 1, and section 11, and Senate File 2435, section 31, subsection 15, and section 44.

This amendment was also published under Notice of Intended Action in the Iowa Administrative Bulletin on June 14, 2000, as **ARC 9875A** to allow for public comment.

The Council on Human Services adopted this amendment June 8, 2000.

This amendment is intended to implement Iowa Code section 234.6 and 2000 Iowa Acts, House File 2555, section 1, subsection 1, paragraph "c," and Senate File 2435, section 31, subsections 9 and 14.

This amendment shall become effective July 1, 2000.

The following amendment is adopted.

Amend subrule **185.112(1)**, paragraph "**k**," as follows:

k. Once a negotiated rate is established based on the provisions of this subrule, it shall not be changed or renegotiated during the time period of this rule except in the following circumstances:

(1) By mutual consent of the provider and the regional administrator of the host region based upon the factors delineated at paragraph 185.112(1)"f," *except that rates shall not be changed or renegotiated for the period of July 1, 2000, through June 30, 2001.*

(2) In accordance with paragraph 185.112(6)"b," *except that rates shall not be changed or renegotiated for services not assumed by a new provider for the period of July 1, 2000, through June 30, 2001.*

(3) ~~When Rates may be changed when funds are appropriated for an across-the-board increase.~~ Effective July 1, ~~1999~~ 2000, a \pm 5 percent across-the-board ~~increase cost-of-living adjustment~~ will be applied.

[Filed Emergency 6/8/00, effective 7/1/00]

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EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 6/28/00.

ARC 9915A**NURSING BOARD[655]****Adopted and Filed Emergency**

Pursuant to the authority of Iowa Code sections 17A.3 and 147.76, the Board of Nursing hereby adopts amendments to Chapter 2, "Nursing Education Programs," Chapter 3, "Licensure to Practice - Registered Nurse/Licensed Practical Nurse," Chapter 6, "Nursing Practice for Registered Nurses/Licensed Practical Nurses," Chapter 7, "Advanced Registered Nurse Practitioners," and adopts a new Chapter 16, "Nurse Licensure Compact," Iowa Administrative Code.

These amendments implement 2000 Iowa Acts, House File 2105, Nurse Licensure Compact. Amendments expand the definition of licensure to include licensure in another party state when that state is the home state. The new chapter enacts the model rules used by compact states to further define licensure in home state and multistate practice privilege and the Board's authority to regulate.

In compliance with Iowa Code section 17A.4(2), the Board finds that notice and public participation are unnecessary because the amendments confer a benefit on licensed nurses by making provision for practicing nursing in other compact states based on a home state license.

The Board also finds, pursuant to Iowa Code section 17A.5(2)"b"(2), that the normal effective date of the amendments should be waived and these amendments should be made effective June 30, 2000, as they confer a benefit on the licensed nurses.

The Board of Nursing adopted these amendments on June 8, 2000.

These amendments are also published herein under Notice of Intended Action as **ARC 9917A** to allow for public comment.

These amendments will become effective on June 30, 2000.

These amendments are intended to implement 2000 Iowa Acts, House File 2105.

The following amendments are adopted.

ITEM 1. Amend subrule **2.3(2)**, paragraph "**a**," as follows:

a. ~~Current licensure~~ *Currently licensed as a registered nurse in Iowa, including persons licensed in another state and recognized for licensure in Iowa pursuant to the nurse licensure compact contained in 2000 Iowa Acts, House File 2105, section 8.*

ITEM 2. Amend subrule **2.6(2)**, paragraph "**a**," as follows:

a. *Current licensure as a registered nurse in Iowa. Individuals are currently licensed when licensed in another state and recognized for licensure in this state, pursuant to the*

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nurse licensure compact contained in 2000 Iowa Acts, House File 2105, section 8.

ITEM 3. Amend rule **655—3.1(17A,147,152,272C)**, definition of “Fees,” numbered paragraph “4,” as follows:

4. For a ~~license~~ registration as an advanced registered nurse practitioner, \$21 per year, or any portion thereof.

ITEM 4. Amend subrule 3.2(1), introductory paragraph, as follows:

3.2(1) A person who practices nursing in the state of Iowa as defined in Iowa Code section 152.1, outside of one’s family, shall have a current Iowa license, whether or not the employer is in Iowa and whether or not the person receives compensation. The nurse shall maintain a copy of the license and shall be have it available for public inspection when engaged in the practice of nursing in Iowa.

ITEM 5. Amend subrule **3.2(2)**, by adopting the following new paragraph “a” and relettering paragraphs “a” to “d” as “b” to “e.”

a. A nurse who resides in another state is recognized for licensure in this state pursuant to the nurse licensure compact contained in 2000 Iowa Acts, House File 2105, section 8. The nurse shall maintain a copy of the license and shall have it available for inspection when engaged in the practice of nursing in Iowa.

ITEM 6. Amend subrule **3.5(2)**, paragraph “b,” by adopting the following new subparagraph (5) and renumbering subparagraph (5) as (6).

(5) Submission of evidence attesting that Iowa is the primary state of residence if the applicant is changing primary state of residence from another party state as outlined in rule **655—16.2(152)**.

ITEM 7. Amend subrule 3.6(1), introductory paragraphs, as follows:

3.6(1) Special licensure by endorsement. A short-term special license may be granted by the board on an individual basis. The intent of the special license is to allow nurses licensed in ~~another a nonparty~~ state to be licensed and to practice in Iowa for a fixed period of time and only under certain conditions. The purpose of the license is to allow those nurses not previously licensed in Iowa to provide care in a specialty area, to provide consultation or teaching where care is directed, or to obtain clinically based continuing education.

The application process for those currently licensed in ~~another a nonparty~~ state who are eligible for endorsement is as follows:

ITEM 8. Amend rule **655—6.1(152)**, definition of “Advanced registered nurse practitioner (ARNP),” as follows:

“Advanced registered nurse practitioner (ARNP)” means a nurse with current licensure as a registered nurse in Iowa or who is licensed in another state and recognized for licensure in this state pursuant to the nurse licensure compact contained in 2000 Iowa Acts, House File 2105, section 8, and is also registered in Iowa to practice in an advanced role. The ARNP is prepared for an advanced role by virtue of additional knowledge and skills gained through ~~an organized post-basie~~ a formal advanced practice education program of nursing in a specialty area approved by the board. In the advanced role, the nurse practices nursing assessment, intervention, and management within the boundaries of the nurse-client relationship. Advanced nursing practice occurs in a variety of settings, within an interdisciplinary health care team, which provide for consultation, collaborative manage-

ment, or referral. The ARNP may perform selected medically delegated functions when a collaborative practice agreement exists.

ITEM 9. Amend subrule 6.5(5) as follows:

6.5(5) To be eligible for intravenous therapy certification, the licensee shall hold a current unrestricted Iowa license and documentation of 2080 hours of practice as a licensed practical nurse and shall hold a current unrestricted Iowa license or an unrestricted license in another state recognized for licensure in this state pursuant to the nurse licensure compact contained in 2000 Iowa Acts, House File 2105, section 8.

ITEM 10. Amend rule **655—7.1(152)**, definition of “Advanced registered nurse practitioner (ARNP),” as follows:

“Advanced registered nurse practitioner (ARNP)” is means a nurse with current licensure as a registered nurse in Iowa or who is licensed in another state and recognized for licensure in this state pursuant to the nurse licensure compact contained in 2000 Iowa Acts, House File 2105, section 8, and is also registered in Iowa to practice in an advanced role. The ARNP is prepared for an advanced role by virtue of additional knowledge and skills gained through a formal advanced practice education program of nursing in a specialty area approved by the board. In the advanced role, the nurse practices nursing assessment, intervention, and management within the boundaries of the nurse-client relationship. Advanced nursing practice occurs in a variety of settings, within an interdisciplinary health care team, which provide for consultation, collaborative management, or referral. The ARNP may perform selected medically delegated functions when a collaborative practice agreement exists.

ITEM 11. Adopt the following new Chapter 16:

CHAPTER 16
NURSE LICENSURE COMPACT

655—16.1(152E) Definitions.

“Board” means a party state’s regulatory body responsible for issuing nurse licenses.

“Information system” means the coordinated licensure information system.

“Primary state of residence” means the state of a person’s declared fixed permanent and principal home for legal purposes; domicile.

“Public” means any individual or entity other than designated staff or representatives of party state boards or the National Council of State Boards of Nursing, Inc.

655—16.2(152E) Issuance of a license by a compact party state.

16.2(1) A nurse applying for a license in a home party state shall produce evidence of the nurse’s primary state of residence. Such evidence shall include a declaration signed by the licensee. Further evidence that may be requested may include, but is not limited to:

- a. A driver’s license with a home address;
- b. Voter registration card displaying a home address; or
- c. Federal income tax return declaring the primary state of residence.

16.2(2) A nurse changing primary state of residence, from one party state to another party state, may continue to practice under the former home state license and multistate licensure privilege during the processing of the nurse’s licensure application in the new home state for a period not to exceed 30 days.

16.2(3) The licensure application in the new home state of a nurse under pending investigation by the former home

NURSING BOARD[655](cont'd)

state shall be held in abeyance and the 30-day period set out in 16.2(2) of this rule shall be stayed until resolution of the pending investigation.

16.2(4) The former home state license shall no longer be valid upon the issuance of a new home state license.

16.2(5) If a decision is made by the new home state denying licensure, the new home state shall notify the former home state within ten business days, and the former home state may take action in accordance with that state's laws and rules.

655—16.3(152E) Limitations on multistate licensure privilege. All home state board disciplinary orders, agreed or otherwise, which limit the scope of the licensee's practice or require monitoring of the licensee as a condition of the order shall include the requirement that the licensee will limit the licensee's practice to the home state during the pendency of the order. This requirement may allow the licensee to practice in other party states with prior written authorization from both the home state and party state boards.

655—16.4(152E) Information system.

16.4(1) Levels of access.

a. The public shall have access to nurse licensure information limited to:

- (1) The nurse's name.
- (2) Jurisdiction(s) of licensure.
- (3) License expiration date(s).
- (4) Licensure classification(s) and status(es).
- (5) Public emergency and final disciplinary actions, as defined by contributing state authority.
- (6) The status of multistate licensure privileges.

b. Nonparty state boards shall have access to all information system data except current significant investigative information and other information as limited by contributing party state authority.

c. Party state boards shall have access to all information system data contributed by the party states and other information as limited by contributing nonparty state authority.

16.4(2) The licensee may request in writing to the home state board review of the data relating to the licensee in the information system. In the event a licensee asserts that any data relating to the licensee is inaccurate, the burden of proof shall be upon the licensee to provide evidence that substantiates such claim. The board shall verify and within ten business days correct inaccurate data in the information system.

16.4(3) The board shall report to the information system within ten business days, a disciplinary action, agreement or order which requires participation in alternative programs or which limits practice or requires monitoring (except agreements and orders relating to participation in alternative programs required to remain nonpublic by contributing state authority), dismissal of complaint, and changes in status of disciplinary action, or licensure encumbrance.

16.4(4) Current significant investigative information shall be deleted from the information system within ten business days upon report of disciplinary action, agreement or order requiring participation in alternative programs or agreements which limit practice or require monitoring or dismissal of a complaint.

16.4(5) Changes to licensure information in the information system shall be completed within ten business days upon notification by the board.

These rules are intended to implement 2000 Iowa Acts, House File 2105.

[Filed Emergency 6/9/00, effective 6/30/00]
[Published 6/28/00]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 6/28/00.

ARC 9897A

PAROLE BOARD[205]

Adopted and Filed Emergency

Pursuant to the authority of Iowa Code sections 904A.4(2) and 906.3, the Board of Parole hereby amends Chapter 14, "Executive Clemency," Iowa Administrative Code.

The amendments rescind current rule 14.2(902) and subrule 14.5(1) and add a new rule 14.6(902) which implements changes in policy governing the system of uniform procedures for commutation of Class "A" felons.

In compliance with Iowa Code section 17A.4(2), the Board finds that notice and public participation are impracticable because of the immediate need to implement changes in Iowa Code chapter 902.

The Board also finds, pursuant to Iowa Code section 17A.5(2)"b"(2), that the normal effective date of these amendments should be waived and these amendments should be made effective upon filing with the Administrative Rules Coordinator on June 8, 2000, as they confer a benefit upon Class "A" felons.

The Board of Parole adopted these amendments on June 8, 2000.

These amendments are also published herein under Notice of Intended Action as **ARC 9898A** to allow for public comment.

These amendments are intended to implement Iowa Code section 902.2.

These amendments became effective June 8, 2000.

The following amendments are adopted.

ITEM 1. Rescind and reserve rule **205—14.2(902)**.

ITEM 2. Rescind and reserve subrule **14.5(1)**.

ITEM 3. Adopt the following new rule:

205—14.6(902) Commutation procedure for class "A" felons.

14.6(1) Initial review. The board of parole, or its designee, will initially review an application for commutation to determine whether the inmate is eligible for a commutation pursuant to Iowa Code section 902.2. If the inmate is not eligible to apply for commutation pursuant to Iowa Code section 902.2, the board shall return the application to the governor and notify the governor of the reasons.

14.6(2) Parole board commutation investigation process.

a. If the applicant is eligible to apply for commutation pursuant to Iowa Code section 902.2, the board shall conduct an investigation pursuant to that section and subrule 14.6(2).

b. The board may consider any documents the board deems appropriate including, but not limited to, the application and attached documents, transcripts of judicial proceedings, corrections information, and written recommendations, statements, and interviews of public officials, victims, and witnesses.

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c. The board shall interview the applicant, pursuant to Iowa Code section 902.2, prior to submitting its recommendation to the governor. The board may interview any other person the board deems appropriate including, but not limited to, public officials, victims, and witnesses. The board may conduct any interview, including the interview of the applicant, through electronic means.

d. The board shall attempt to provide notice of the commutation investigation to any individual who would qualify as a victim under Iowa's victim's notification law. Notice shall be by regular mail to the last-known address. The notice shall provide a specified amount of time for the victim to provide a statement to the board regarding the application for commutation.

e. The board may utilize the resources of the department of public safety for assistance with any part of its investigation.

f. The board may hold a public hearing to receive comments from the general public on an application for commutation. The determination to hold a public hearing to receive public comments is solely at the discretion of the board.

14.6(3) Recommendation and report.

a. The board shall vote on a recommendation regarding the application. Any decision to recommend commutation shall be by unanimous vote. The board may continue the matter until such time as the board may determine by majority vote.

b. The board may consider any factor it deems appropriate when considering commutation including, but not limited to, the nature and circumstances of the crime, the number of years the applicant has served, the applicant's previous criminal record, the applicant's conduct while confined, the impact on the victim, and the public interest.

c. The board shall prepare a written report of its findings and recommendations and forward its report to the governor.

14.6(4) Board consideration following commutation. The board shall consider the parole and work release prospects of any inmate whose life sentence has been commuted by the governor. The grant of commutation does not require the board to grant parole or work release. The board shall consider parole or work release pursuant to the standards in 205—Chapter 8.

[Filed Emergency 6/8/00, effective 6/8/00]
[Published 6/28/00]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 6/28/00.

ARC 9914A**REAL ESTATE COMMISSION[193E]****Adopted and Filed Emergency**

Pursuant to the authority of Iowa Code sections 543B.9 and 543B.18, the Real Estate Commission hereby amends Chapter 1, "Business Conduct," Iowa Administrative Code.

The amendments to Chapter 1 rescind the definition of "referral fee" or "finder's fee" in rule 1.1(543B), delete the introductory paragraph of rule 1.41(543B), and rescind subrules 1.41(3) and 1.41(7).

In compliance with Iowa Code section 17A.4(2), the Commission finds that notice and public participation are

impracticable because the professional trade association has determined that the rules are unacceptable.

The Real Estate Commission also finds, pursuant to Iowa Code section 17A.5(2)"b"(2), that the normal effective date of these rules should be waived and the rules should be made effective June 9, 2000, as this rescission confers a benefit to the public by removing controversial language from the regulations.

These amendments were published January 12, 2000, under Notice of Intended Action as **ARC 9600A** and March 22, 2000, and Adopted and Filed as **ARC 9739A**. On April 7, 2000, the Administrative Rules Review Committee imposed a 70-day delay on these specific amendments.

These amendments are intended to implement Iowa Code sections 543B.9 and 543B.18.

These amendments became effective June 9, 2000.

The following amendments are adopted.

ITEM 1. Amend rule **193E—1.1(543B)** by rescinding the definition of "Referral fee" or "finder's fee."

ITEM 2. Amend rule 193E—1.41(543B), introductory paragraph, as follows:

193E—1.41(543B) Rebates and inducements. ~~With proper written disclosure, rebates and inducements may be paid to a party to the transaction, consistent with Iowa Code sections 543B.6 and 543B.34(9a), provided such party does not engage in any activity that requires a real estate license. A rebate or inducement shall not be made without the required written disclosures to the parties as provided in 193E—1.42(543B).~~

ITEM 3. Rescind and reserve subrules **1.41(3)** and **1.41(7)**.

[Filed Emergency 6/8/00, effective 6/9/00]
[Published 6/28/00]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 6/28/00.

ARC 9891A**SECRETARY OF STATE[721]****Adopted and Filed Emergency**

Pursuant to the authority of Iowa Code section 52.5, the Secretary of State hereby amends Chapter 22, "Alternative Voting Systems," Iowa Administrative Code.

Iowa Code section 52.5 requires that, before actual use by a county of a particular electronic voting system which has been approved for use in this state, the state commissioner shall formulate, with the advice and assistance of the examiners, and adopt rules governing the development of vote counting programs and all procedures used in actual counting of votes by means of that system. These amendments reflect changes made to the AIS 100 precinct ballot counter and approved for use in Iowa by the Iowa Board of Examiners for Voting Machines and Electronic Voting Systems on May 12, 2000.

Due to a change in the ownership of the vendor, this voting equipment is now called "ES&S Model 100." The amendments to rule 22.261(52) reflect technical additions, changes and deletions made by the vendor to messages that are displayed on the machine. Instructions to the precinct election officials have also been revised to provide guidance

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in responding to the messages. The most significant change is the addition of the "unidentified mark" error message. If the ballot scanner detects a mark within a voting target that is not dark enough to meet the technical standard to be considered and counted as a vote, the machine will return the ballot to the voter so the voter can decide whether the mark should be darkened, or whether the mark was unintended and the ballot should be replaced and remarked.

In compliance with Iowa Code section 17A.4(2), the Secretary of State finds that notice and public participation are impracticable due to the brief period of time between the approval of the changes to this system and the date of the primary election. One county in the state plans to use the upgraded Model 100 in the primary election. The county auditor and the board of examiners have been consulted and have commented upon these amendments.

These amendments are also published herein under Notice of Intended Action as **ARC 9890A** to provide an opportunity for additional comments.

The Secretary of State also finds, pursuant to Iowa Code section 17A.5(2)"b"(2), that the normal effective date of the amendments should be waived and these amendments should be made effective upon filing, as they confer a benefit upon the public by having this voting system available for use in the June 6, 2000, primary election.

These amendments became effective June 5, 2000.

These amendments are intended to implement Iowa Code section 52.5.

The following amendments are adopted.

721—22.261(52) AIS ES&S Model 100—system messages and solution codes. The numbers in the right-hand column of this chart correspond to solution codes printed after the chart. Precinct election officials and others working with this system shall be provided with the appropriate information from the chart.

System Message	When to expect this message	What to do
Accept blank ballot	Polls open: reading ballots	1
Audit log full	Polls open: reading ballots	4
Counter block failed CRC	Preelection testing and setup	6
Counters are full	Polls open: reading ballots	4
Counters are in overflow	Polls open: reading ballots	4
Counters cannot hold next count	Polls open: reading ballots	4
Counters cleared	Election day start-up	0
DRAM counter space bad	Polls open: reading ballots	4
Election definition failed CRC	Preelection testing and setup	4

Erroneous arithmetic operation	Any time	4
Error accessing NVRAM	Polls open: reading ballots	4
Error getting machine ID	Election day start-up	4
Error in initializing modem	Modem transmission of results	5
Error in opening modem	Modem transmission of results	5
Error in receiving command request	Modem transmission of results	5
Error in receiving login request	Modem transmission of results	5
Error in receiving password request	Modem transmission of results	5
Error reading PCMCIA card	Polls open: reading ballots	4
Error reading system audit log	Polls open: reading ballots	4
Error seeking on PCMCIA card	Preelection testing and setup	6
Error setting line parameters	Preelection testing and setup	6
Error setting real time clock	Preelection testing and setup	6
Error writing PCMCIA card	Polls open: reading ballots	4
Error writing system audit log	Polls open: reading ballots	4
Event log failed CRC	Preelection testing and setup	6
Host rejects password	Modem transmission of results	5
Incompatible PCMCIA card format	Preelection testing and setup	6
Incompatible system log format	Preelection testing and setup	6
Invalid instruction	Polls open: reading ballots	4

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Invalid memory reference	Polls open: reading ballots	4
Invalid Seq- Type-Split	Polls open: reading ballots	3
Memory parity error	Polls open: reading ballots	4
Missing precinct counter scanner block	Polls open: reading ballots	4
No ballots scanned	Preelection testing and setup	6
Overvote on race XXXXX	Polls open: reading ballots	2
Party preference race missing	Preelection testing and setup	6
PCMCIA card not inserted	Polls open: reading ballots	4
PCMCIA driver missing	Polls open: reading ballots	4
PCMCIA header section failed CRC	Polls open: reading ballots	6
Printer time-out	Polls open: reading ballots	4
Race results cross-check fail	Polls open: reading ballots	4
Reset to factory settings	Preelection testing and setup	0
Results sent successfully	Modem transmission of results	0
Status results cross-check fail	Polls open: reading ballots	4
Successfully scanned ballot	Polls open: reading ballots	0
System audit log failed CRC	Polls open: reading ballots	4
Test deck has not been processed	Election day start-up	run test
Unable to initialize diverter	Election day start-up	4
Unable to initialize scanning system	Election day start-up	4
Unable to load signal handlers	Election day start-up	4
Unable to update counters	Polls open: reading ballots	4
Unload election definition		4

UNKNOWN ERROR, CODE: XXX	Polls open: reading ballots	4
Voltage too low	Any time	check plug, then 4
100- Could not detect Missed orientation marks	Polls open: reading ballots	3
101- Paper jam Missed timing marks	Polls open: reading ballots	7 3
102-Missed orientation marks	Polls open: reading ballots	3
103- Paper not detected under sensor No data found	Polls open: reading ballots	3 or 4
104- No data on bottom sensor Missed back side data mark	Polls open: reading ballots	4
105- Time out error on data interrupt Scanner interrupted	Polls open: reading ballots	3
106- Error skipping black checks on start Skipped orientation mark	Polls open: reading ballots	4
107- Did not detect enough No timing marks found	Polls open: reading ballots	3
108-Inaccurate read	Polls open: reading ballots	3
109- Unable to set priority Inaccurate read	Election day start-up	4
110-Inaccurate read	Polls open: reading ballots	3
111- Unable to find leading timing bands Missed orientation marks	Polls open: reading ballots	3
112- Did not find the minimum number of rows Missed timing marks	Polls open: reading ballots	3
113-Invalid code mark	Polls open: reading ballots	3
114-Invalid code type	Polls open: reading ballots	3
115-Invalid code mark	Polls open: reading ballots	3
116- Unable to attach to data interrupt proxy Inaccurate read	Preelection testing and setup	6

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117-Unable to attach to hardware interrupt Scanner interrupted	Preelection testing and setup	6
118-Unable to attach to set clock resolution Scanner interrupted	Preelection testing and setup	6
119-Unable to create watchdog timer Scanner interrupted	Preelection testing and setup	6
120-Unable to set signal handler Scanner interrupted	Preelection testing and setup	6
121-Bottom side not found Missed back orientation mark	Polls open: reading ballots	3
123-Cache buffer overflow Scanner interrupted	Polls open: reading ballots	3 then 4
124-Scanner board failure interrupted	Polls open: reading ballots	4
125-Checksum failure Error reading CMOS memory ballot	Preelection testing and setup	0
126-Error reading ballot	Polls open: reading ballots	3
127-Double paper detected Multiple ballots detected	Polls open: reading ballots	3
128-Diverter not initialized	Polls open: reading ballots	4
129-Diverter run-on detection error	Polls open: reading ballots	4
130-Diverter not detected error	Polls open: reading ballots	4
131-Ballot skewed	Polls open: reading ballots	3
132-Ballot dragged	Polls open: reading ballots	3 then 4
Unknown error code: XXX	Polls open: reading ballots	3 then 4
??-Unknown error on decode	Polls open: reading ballots	3 and 4
Unidentified mark - check your ballot	Polls open: reading ballots	7

Solution Codes

0. This is okay—you don't need to do anything.
1. Ballot decision—BLANK BALLOT: See Solution Code 2.
2. Ballot decision—OVERVOTED BALLOT:

If the voter is still there, offer the voter the opportunity to mark the ballot using the proper pen or pencil. If the voter declines the offer, press “yes accept” and reinsert the ballot. If the voter wants to correct the ballot press “no reject.” Mark the unreadable ballot or overvoted ballot “SPOILED” and keep it with other spoiled ballots. If the voter asks to use the original ballot as a guide to marking the new ballot, be sure the voter returns the unreadable ballot to you before placing the new ballot in the counter. *If the voter has left the polling place, press “accept” and reinsert the ballot.*

3. Ballot decision—Ballot not read by counter.

First ask the voter to reinsert the ballot. If the message repeats, take the voter aside to allow other voters to insert their ballots into the counter. With the permission of the voter, a precinct official shall inspect the ballot by comparing it with another of the same ballot type. Assure the voter that you will not reveal to anyone how the ballot was marked. There are several possible reasons for this message to appear.

- The ballot is flawed or misprinted. Solution: Replace ballot. Mark the unreadable ballot “SPOILED.” Keep it with other spoiled ballots. If the voter asks to use the original ballot as a guide to marking the new ballot, be sure the voter returns the unreadable ballot to you before placing the new ballot in the counter.

- The wrong ballots were provided to the precinct officials. Check other ballot packages to see if all ballots are wrong. If all of the offices and candidates are the same and only coding or rotation is different, allow voters to use the ballots on hand. Notify the auditor's office for replacement ballots. Follow the procedures for Solution Code 4 until the correct ballots are delivered.

- The voter has attempted to use a ballot other than the one provided by the precinct officials. This voter shall be challenged for using an illegal ballot. Place the ballot in the special ballot envelope.

- The wrong memory card is loaded in the machine. See Solution Code 4.

4. Equipment problem.

Call the auditor's office, report the message and ask for a new memory card or counter. Until a replacement arrives, place all ballots in a sealed ballot box. When the new memory card or counter has been installed, two precinct officials of different parties shall feed all ballots into the counter, including all previously counted ballots and ballots received while the counter was not working.

5. Modem transmission problem.

Try again to send election results. If the error message repeats, be prepared to read the election results over the telephone. Call the auditor's office to report the problem.

6. Precinct election officials do not need instructions for this message.

7. Paper jam problem.

~~Ask voter to try ballot again. If the error message repeats, follow the instructions in Solution Code 4. Faint mark in voting target.~~

If the voter is present, ask the voter to re-mark or darken the marks on the ballot. If the voter finds faint marks that the voter did not intend as votes, the voter should be given a new ballot. Replace ballot. Mark the unreadable ballot “SPOILED.” Keep it with other spoiled ballots. If the voter asks to use the original ballot as a guide to marking the new ballot, be sure the voter returns the unreadable ballot to you before placing the new ballot in the counter. If the voter has left the polling place, try to reinsert the ballot. If the message repeats, open the emergency ballot box and store the ballot until after the polls are closed, but before the results are prin-

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ted. Any ballots in the emergency ballot box shall be fed into the ballot reader by two precinct officials of different parties. All ballots rejected with the error code "faint mark in voting target" shall be duplicated by two precinct officials of different parties and substituted for the defective ballot. Using a red pen, duplicate ballots shall be clearly labeled as such, and shall bear a serial number which shall also be recorded on the defective ballot. The original, defective ballot shall be enclosed in the envelope designated for the return of disputed ballots.

[Filed Emergency 6/5/00, effective 6/5/00]
[Published 6/28/00]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 6/28/00.

ARC 9894A

SECRETARY OF STATE[721]

Adopted and Filed Emergency

Pursuant to the authority of Iowa Code sections 17A.3, 490.135 and 504A.91, the Secretary of State hereby amends Chapter 40, "Corporations," Iowa Administrative Code.

The amendments are the result of new legislation in 2000 Iowa Acts, House File 2545, section 32, which authorizes the Secretary of State to conduct a pilot project permitting the refund of fees notwithstanding Iowa Code section 490.122, subsection 1, paragraphs "a" and "s," and Iowa Code section 504A.85, subsections 1 and 9. In conducting the pilot project, the Secretary may refund fees for certain corporate filings if the Secretary determines that the service standard for timely filing has not been met. The service standard is set by rule.

In compliance with Iowa Code section 17A.4(2), the Secretary finds that notice and public participation are impracticable because of the immediate need for and the benefit conferred by the amendments.

The Secretary also finds, pursuant to Iowa Code section 17A.5(2)"b"(2), that the normal effective date of these amendments should be waived and the amendments should be made effective upon publication on June 28, 2000, as they confer a benefit to all corporate entities formed and on members of the public who experience service that does not meet the standard established by the amendments.

These amendments are also published herein under Notice of Intended Action as **ARC 9893A** to allow for public comment.

These amendments are intended to implement 2000 Iowa Acts, House File 2545, section 32.

These amendments become effective June 28, 2000.

The following amendments are adopted:

ITEM 1. Amend rule 721—40.4(491,496A,499,504A,548), parenthetical implementation, as follows:

721—40.4(490,491,496A,496C,497,498,499,504A,548) Payment and refund of fees.

ITEM 2. Amend rule 721—40.4(490,491,496C,497,498,499,504A) by adding the following **new** subrules:

40.4(4) This subrule implements the pilot project authorized by 2000 Iowa Acts, House File 2545, section 32, for fees required by Iowa Code section 490.122, subsection 1, paragraphs "a" and "s."

a. The secretary of state may refund payment of the corporate filing fees required pursuant to the provisions of Iowa Code section 490.122, subsection 1, paragraphs "a" and "s," if, within five business days from the time the corporate filing is received and date stamped, the entity has not been entered on the records of the secretary of state.

b. To receive a refund under this subrule, the corporate entity must make a written request with the business services division of the secretary of state's office. The written request must specify the reason(s) for the refund and provide evidence of entitlement to the refund.

c. The filing fee shall not be refunded if the corporate filing fails to satisfy all of the filing requirements of Iowa Code chapter 490.

d. The decision of the secretary of state not to issue a refund under this subrule is final and not subject to review pursuant to the provisions of the Iowa administrative procedures Act.

40.4(5) This subrule implements the pilot project authorized by 2000 Iowa Acts, House File 2545, section 32, for fees required by Iowa Code section 504A.85, subsections 1 and 9.

a. The secretary of state may refund payment of the corporate filing fees required pursuant to the provisions of Iowa Code section 504A.85, subsections 1 and 9, if, within five business days from the time the corporate filing is received and date stamped, the entity has not been entered on the records of the secretary of state.

b. To receive a refund under this subrule, the corporate entity must make a written request with the business services division of the secretary of state's office. The written request must specify the reason(s) for the refund and provide evidence of entitlement to the refund.

c. The filing fee shall not be refunded if the corporate filing fails to satisfy all of the filing requirements of Iowa Code chapter 504A.

d. The decision of the secretary of state not to issue a refund under this subrule is final and not subject to review pursuant to the provisions of the Iowa administrative procedures Act.

[Filed Emergency 6/8/00, effective 6/28/00]
[Published 6/28/00]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 6/28/00.

ARC 9947A

CORRECTIONS DEPARTMENT[201]

Adopted and Filed

Pursuant to the authority of Iowa Code section 904.804, the Department of Corrections adopts amendments to Chapter 37, "Iowa State Industries," Iowa Administrative Code.

New rule 37.5(904) outlines the application and approval processes for private sector employment projects and provides for Iowa Workforce Development to address and resolve disputes received from anyone who believes that the private sector work program established by the deputy director of prison industries has displaced employed workers, applies to skills, crafts, or trades in which there is a local surplus of labor, or impairs existing contracts for employment or services.

Notice of Intended Action was published in the Iowa Administrative Bulletin as **ARC 9775A** on April 5, 2000. The Administrative Rules Review Committee requested that subrule 37.5(2) be changed to clarify that an employer's 30-day job listing shall contain the prevailing wage determined by Workforce Development. The Committee also requested that subrule 37.5(9) be changed to clarify that the recommendation by Workforce Development in resolving a dispute will be binding on all parties. These changes have been incorporated. No other changes were made to the Notice of Intended Action.

A public hearing was held on April 25, 2000. No one attended the hearing, and no written or oral comments were received.

The Board of Corrections adopted this amendment on June 2, 2000.

This amendment will become effective on August 2, 2000.

This amendment is intended to implement Iowa Code section 904.809.

The following amendment is adopted.

Amend 201—Chapter 37 by adopting the following new rule:

201—37.5(904) Private sector employment projects.**37.5(1) Definitions.**

"Advisory board" means the prison industries advisory board.

"Deputy director of prison industries" means the department of corrections deputy director responsible for the day-to-day operations of prison industries including private sector individuals.

"Director" means the chief executive officer of the department of corrections.

"Workforce development board" means the state workforce development board.

"Workforce development director" means the chief executive officer of the department of workforce development.

37.5(2) Preapplication requirement. Prior to submitting an application to the deputy director of prison industries for a private sector employment project, the employer shall place a job order with a duration of at least 30 days with the nearest workforce development center. The job order will contain the prevailing wage determined by workforce development. The job order shall be listed statewide in all centers and on the department of workforce development's jobs Internet site.

37.5(3) Employer application.

a. Private sector employers requesting offender labor must submit the following to the deputy director of prison industries:

1. Work program, including job description;
2. Proposed wage rate;
3. Description of job site;
4. Duration of the work; and
5. Copy of the job order listing with workforce development.

b. Upon receiving a written proposal to use offenders in a private sector work program, the deputy director of prison industries shall provide a copy of the private sector work proposal including job descriptions and proposed wages to the workforce development director.

c. The deputy director of prison industries shall send a letter to the department of workforce development requesting verification of the employer's 30-day job listing, the average wage rate for the job(s) the offenders will perform, the current unemployment rate in the county where the employer is located, and the current employment level of the company that will employ the offenders.

d. The deputy director of prison industries and the warden/superintendent at the proposed institution shall review the proposed projects with the board of supervisors and the sheriff in the county where the project will be located.

37.5(4) Verification. The workforce development director shall verify the employment levels and prevailing wages paid for similar jobs in the area and provide to the deputy director of prison industries in writing:

1. Verification of the employer's 30-day job listing;
2. The number of qualified applicant referrals and hires made as a result of the job order;
3. The average wage rate for the proposed job(s);
4. The wage range;
5. The current unemployment rate for the county where the employer is located; and
6. The current employment levels of the company that will employ the offenders based upon the most recent quarter for which data is available.

37.5(5) Prevailing wages. The deputy director of prison industries shall obtain employment levels in the locale of the proposed job(s) and the prevailing wages for the job(s) in question from the department of workforce development prior to authorizing any private sector work program. The deputy director of prison industries will consider the average wage rate and wage range from the department of workforce development for the appropriate geographic area for which occupational wage information is available. The appropriate geographic area may be statewide.

To reduce possible displacement of civilian workers, the deputy director of prison industries shall advise prospective employers and eligible offenders of the following requirements:

1. Offenders shall not be eligible for unemployment compensation while incarcerated.
2. Before the employer initiates work utilizing offender labor, the deputy director of prison industries shall provide the baseline number of jobs as established by the department of workforce development.
3. In January and July of each year, the deputy director of prison industries shall receive from the department of workforce development the actual number of civilian workers by employer and shall compile a side-by-side comparison for each employer. A copy of the side-by-side comparison will be provided to the advisory board and workforce development director semiannually.

CORRECTIONS DEPARTMENT[201](cont'd)

37.5(6) Ineligible projects. The deputy director of prison industries shall evaluate the information from the department of workforce development to verify nondisplacement of civilian workers. Employment of offenders in private industry shall not displace employed workers, apply to skills, crafts, or trades in which there is a local surplus of labor, or impair existing contracts for employment or services.

37.5(7) Notification. The deputy director of prison industries shall provide a copy of the private sector work proposal and the department of workforce development review of the private sector work proposal to the following:

1. Governor's office;
2. Speaker of the house;
3. President of the senate;
4. Warden/superintendent at the proposed work site;
5. Local labor organization(s);
6. Director of workforce development; and
7. Department of Justice, Washington, DC.

Within 14 calendar days of receiving the department of workforce development review, the deputy director of prison industries will consolidate the recommendations for review and approval by the director of corrections.

37.5(8) Prison industries advisory board review. Following approval by the director of corrections, the deputy director of prison industries shall forward the final proposal to the prison industries advisory board with the recommendation to approve or disapprove the work program, including all correspondence from the department of workforce development, the Department of Justice, and any local official who has offered comments.

The deputy director of prison industries shall provide written documentation to the prison industries advisory board confirming that the proposed work project will not displace civilian workers. If displacement occurs, the deputy director of prison industries shall advise the private employer that the employer will be given 30 days to become compliant or the department of corrections will terminate the use of offender labor.

37.5(9) Disputes. Anyone who believes that the private sector work program violates this rule shall advise the department of workforce development. A written complaint may be filed in accordance with workforce development board rule 877—1.5(84A). The workforce development director shall consult with the deputy director of prison industries before the workforce development board makes a final recommendation(s) to resolve any complaint.

The deputy director of prison industries will assist the department of workforce development in compiling all information necessary to resolve the dispute. The workforce development board shall notify the deputy director of prison industries and interested parties in writing of the recommended action to resolve a complaint, which will be binding on all parties.

This rule is intended to implement Iowa Code section 904.809.

[Filed 6/9/00, effective 8/2/00]

[Published 6/28/00]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 6/28/00.

ARC 9919A

CORRECTIONS DEPARTMENT[201]

Adopted and Filed

Pursuant to the authority of Iowa Code section 904.701, the Department of Corrections adopts amendments to Chapter 37, "Iowa State Industries," Iowa Administrative Code.

New rule 37.6(904) establishes application procedures for employers wishing to use offender labor in construction or maintenance projects. This rule provides that the Workforce Development Department shall address and resolve disputes from anyone who believes that employers utilizing offender labor while working under contract with the state of Iowa have displaced employed workers, employed offenders in skills, crafts, or trades in which there is a local surplus of labor, or impaired existing contracts for employment or services.

Notice of Intended Action was published in the Iowa Administrative Bulletin as **ARC 9776A** on April 5, 2000. The Administrative Rules Review Committee requested that subrule 37.6(3) be changed to clarify that an employer's 30-day job listing shall contain the prevailing wage determined by Workforce Development. The Committee also requested that subrule 37.6(7) be changed to clarify that the corrective action plan recommended by Workforce Development in resolving a dispute will be binding on all parties. These changes have been incorporated. No other changes were made to the Notice of Intended Action.

A public hearing was held on April 25, 2000. No one attended the hearing, and no written or oral comments were received.

The Board of Corrections adopted this amendment on June 2, 2000.

This amendment will become effective on August 2, 2000.

This amendment is intended to implement Iowa Code section 904.701.

The following amendment is adopted.

Amend 201—Chapter 37 by adopting the following **new** rule:

201—37.6(904) Utilization of offender labor in construction and maintenance projects.

37.6(1) Definitions.

"Director" means the chief executive officer of the department of corrections.

"Employer" means a contractor or subcontractor providing maintenance or construction services under contract to the department of corrections or under the department of general services.

"Workforce development director" means the chief executive officer of the department of workforce development.

37.6(2) Scope. Utilization of offender labor applies only to contractors or subcontractors providing construction or maintenance services to the department of corrections. The contract authority for providing construction or maintenance services may be the department of general services.

37.6(3) Employer application. Employers working under contract with the state of Iowa may submit an application to the department of corrections to employ offenders. Requests for such labor shall not include work release offenders assigned to community-based corrections under Iowa Code chapter 905.

CORRECTIONS DEPARTMENT[201](cont'd)

a. Prior to submitting an application, the employer shall place with the nearest workforce development center a job order with a duration of at least 30 days. The job order will contain the prevailing wage determined by the department of workforce development. The job order shall be listed statewide in all centers and on the department of workforce development's jobs Internet site.

b. The employer's application shall include:

1. Scope of work, including type of work and required number of workers;
2. Proposed wage rate;
3. Location;
4. Duration; and
5. Reason for utilizing offender labor.

c. The department of corrections shall verify through the department of workforce development the employer's 30-day job listing, the average wage rate for the job(s) the offenders will perform, the current unemployment rate in the county where the employer is located, and the current employment level of the employer that will employ the offenders.

37.6(4) Verification. The director of workforce development shall verify the employment levels and prevailing wages paid for similar jobs in the area and provide to the director, in writing:

1. Verification of the employer's 30-day job listing;
2. The number of qualified applicant referrals and hires made as a result of the job order;
3. The average wage rate for the proposed job(s);
4. The wage range;
5. The prevailing wage as determined by the U.S. Department of Labor;
6. The current unemployment rate for the county where the employer is located;
7. The current employment levels of the employer that will employ the offenders based upon the most recent quarter for which data is available.

37.6(5) Safety training. The employer shall document that all offenders employed in construction and maintenance projects receive a 10-hour OSHA safety course provided free of charge by the department of workforce development.

37.6(6) Prevailing wages. The director will not authorize an employer to employ offenders in hard labor programs without obtaining from the department of workforce development employment levels in the locale of the proposed jobs and the prevailing wages for the jobs in question. The average wage rate and wage range from the department of workforce development will be based on the appropriate geographic area for which occupational wage information is available. The appropriate geographic area may be statewide.

To reduce any potential displacement of civilian workers, the director shall advise prospective employers and eligible offenders of the following requirements:

1. Offenders will not be eligible for unemployment compensation while incarcerated.
2. Before the employer initiates work utilizing offender labor, the director shall provide the baseline number of jobs as established by the department of workforce development.
3. If the contract to employ offender labor exceeds six months, the director shall request and receive from the workforce development director the average wage rates and wage ranges for jobs currently held by offenders and current employment levels of employers employing offenders and shall compile a side-by-side comparison of each employer.

37.6(7) Disputes. Anyone who believes that the employer's application violates this rule shall present concerns in

writing to the workforce development board. A written complaint may be filed with the workforce development board for any dispute arising from the implementation of the employer's application in accordance with the workforce development board's rule 877—1.6(84A). The workforce development board shall consult with the director prior to making recommendations. The director will assist the workforce development board in compiling all information necessary to resolve the dispute. The workforce development board shall notify the director and interested parties in writing of the corrective action plan to resolve the dispute, which will be binding on all parties.

This rule is intended to implement Iowa Code section 904.701.

[Filed 6/9/00, effective 8/2/00]

[Published 6/28/00]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 6/28/00.

ARC 9926A

EDUCATIONAL EXAMINERS BOARD[282]

Adopted and Filed

Pursuant to the authority of Iowa Code section 272.2, the Board of Educational Examiners hereby adopts amendments to Chapter 15, "Requirements for Special Education Endorsements," Iowa Administrative Code.

The purpose of these amendments is to clarify the educational requirements for student teaching in special education endorsement programs, thereby providing more options for the acceptance of out-of-state preparation experience; to modify the student teaching or practicum requirements for adding an instructional special education endorsement to an existing license, thereby eliminating the requirement for multiple student teaching or practicum experiences at the same instructional level; to eliminate the dual student teaching experience required for the "mild/moderate mental disabilities" endorsement; to clarify the name of the endorsement for those serving "severe and profound" students; and to provide another option for the issuance of the "multicategorical" endorsement.

The Board has documented the need for these amendments through its practical work with applicants from out-of-state institutions and with current classroom teachers of special education seeking to add new endorsements to their existing licenses.

Notice of Intended Action was published in the Iowa Administrative Bulletin on April 5, 2000, as **ARC 9766A**. A public hearing on the proposed amendments was held, and no one attended the hearing. No written comments were received. These amendments are identical to those published under Notice of Intended Action.

These amendments will become effective on August 2, 2000.

These amendments are intended to implement Iowa Code chapter 272.

EDITOR'S NOTE: Pursuant to recommendation of the Administrative Rules Review Committee published in the Iowa Administrative Bulletin, September 10, 1986, the text of these amendments [15.1, 15.2(2), 15.2(3), 15.2(8)] is be-

EDUCATIONAL EXAMINERS BOARD[282](cont'd)

ing omitted. These amendments are identical to those published under Notice as **ARC 9766A**, IAB 4/5/00.

[Filed 6/9/00, effective 8/2/00]
[Published 6/28/00]

[For replacement pages for IAC, see IAC Supplement 6/28/00.]

ARC 9925A**EDUCATIONAL EXAMINERS
BOARD[282]****Adopted and Filed**

Pursuant to the authority of Iowa Code section 272.2, the Board of Educational Examiners hereby adopts a new Chapter 22, "Paraeducator Certificates," Iowa Administrative Code.

This new chapter is intended to implement Iowa Code section 272.6 which requires the Board of Educational Examiners to adopt rules pursuant to Iowa Code chapter 17A relating to a multi-level voluntary licensing system ranging from paraeducator generalist to paraeducator specialist.

These rules were published under Notice of Intended Action on April 5, 2000, in the Iowa Administrative Bulletin as **ARC 9765A**. A public hearing on these proposed new rules was held. No one presented oral or written comments. There is one change from the Notice. The age of applicants has been changed from 21 to 18 to comply with 2000 Iowa Acts, House File 2549, section 31.

These rules are intended to implement Iowa Code section 272.6 as amended by 2000 Iowa Acts, House File 2146, section 4, and section 272.12 as amended by 2000 Iowa Acts, House File 2549, section 31.

These rules will become effective August 2, 2000.

The following new chapter is adopted:

CHAPTER 22
PARAEDUCATOR CERTIFICATES

282—22.1(272) Paraeducator certificates. Iowa paraeducator certificates are issued upon application filed on a form provided by the board of educational examiners.

282—22.2(272) Approved paraeducator certificate programs. An applicant for an initial paraeducator certificate who completes the paraeducator preparation program from a recognized Iowa paraeducator approved program shall have the recommendation from the designated certifying official at the recognized area education agency, local education agency, community college, or institution of higher education where the preparation was completed. A recognized Iowa paraeducator approved program is one which has its program of preparation approved by the state board of education according to standards established by the board.

282—22.3(272) Issue date on original certificate. A certificate is valid only from and after the date of issuance.

282—22.4(272) Validity. The paraeducator certificate shall be valid for five years.

282—22.5(272) Certificate fee.

22.5(1) Issuance of certificates. The fee for the issuance of the paraeducator certificate shall be \$25.

22.5(2) Adding areas of concentration. The fee for the addition of each area of concentration to a paraeducator certificate, following the issuance of the initial paraeducator certificate and any area(s) of concentration, shall be \$10.

282—22.6(272) Prekindergarten through grade 12 paraeducator generalist certificate.

22.6(1) Applicants must possess a minimum of a high school diploma or a graduate equivalent diploma.

22.6(2) Applicants shall be disqualified for any of the following reasons:

- a. The applicant is less than 18 years of age.
- b. The applicant has been convicted of child abuse or sexual abuse of a child.
- c. The applicant has been convicted of a felony.
- d. The applicant's application is fraudulent.
- e. The applicant's certification from another state is suspended or revoked.
- f. The applicant fails to meet board standards for application for an initial or renewed certificate.

22.6(3) Qualifications or criteria for the granting or revocation of a certificate or the determination of an individual's professional standing shall not include membership or non-membership in any teacher or paraeducator organization.

22.6(4) Applicants shall have successfully completed at least 90 clock hours of training in the areas of behavior management, exceptional child and at-risk child behavior, collaboration skills, interpersonal relations skills, child and youth development, technology, and ethical responsibilities and behavior.

22.6(5) Applicants shall have successfully completed the following list of competencies so that, under the direction and supervision of a qualified classroom teacher, the paraeducator will be able to:

a. Support a safe, positive teaching and learning environment including the following competencies:

- (1) Follow prescribed health, safety, and emergency school and classroom policy and procedures.
- (2) As directed, prepare and organize materials to support teaching and learning.
- (3) Use strategies and techniques for facilitating the integration of individuals with diverse learning needs in various settings.
- (4) Assist with special health services.
- (5) Assist in adapting instructional strategies and materials according to the needs of the learner.
- (6) Assist in gathering and recording data about the performance and behavior of individuals.
- (7) Assist in maintaining a motivational environment.
- (8) Assist in various instructional arrangements (e.g., large group, small group, tutoring).

b. Assist in the development of physical and intellectual development including the following competencies:

- (1) Assist with the activities and opportunities that encourage curiosity, exploration, and problem solving that are appropriate to the development levels and needs of all children.
- (2) Actively communicate with children and provide opportunities and support for children to understand, acquire, and use verbal and nonverbal means of communicating thoughts and feelings.
- (3) Actively communicate and support high expectations that are shared, clearly defined and appropriate.
- (4) Make and document observations appropriate to the individual with specific learning needs.
- (5) Use strategies that promote the learner's independence.

EDUCATIONAL EXAMINERS BOARD[282](cont'd)

(6) Assist in monitoring progress and providing feedback to the appropriate person.

c. Support social, emotional, and behavioral development including the following competencies:

(1) Provide a supportive environment in which all children, including children with disabilities and children at risk of school failure, can begin to learn and practice appropriate and acceptable behaviors as individuals and groups.

(2) Assist in developing and teaching specific behaviors and procedures that facilitate safety and learning in each unique school setting.

(3) Assist in the implementation of individualized behavior management plans, including behavior intervention plans for students with disabilities.

(4) Model and assist in teaching appropriate behaviors as a response to inappropriate behaviors.

(5) Use appropriate strategies and techniques in a variety of settings to assist in the development of social skills.

(6) Assist in modifying the learning environment to manage behavior.

d. Establish positive and productive relations including the following competencies:

(1) Demonstrate a commitment to a team approach to interventions.

(2) Maintain an open, friendly, and cooperative relationship with each child's family, sharing information in a positive and productive manner.

(3) Communicate with colleagues, follow instructions and use problem-solving skills that will facilitate working as an effective member of the school team.

(4) Foster respectful and beneficial relationships between families and other school and community personnel.

(5) Function in a manner that demonstrates a positive regard for the distinctions among roles and responsibilities of paraprofessionals, professionals, and other support personnel.

e. Integrate effectively the technology to support student learning including the following competencies:

(1) Establish an environment for the successful use of educational technology.

(2) Support and strengthen technology planning and integration.

(3) Improve support systems for technical integration.

(4) Operate computers and use technology effectively.

f. Practice ethical and professional standards of conduct on an ongoing basis including the following competencies:

(1) Demonstrate a commitment to share information in a confidential manner.

(2) Demonstrate a willingness to participate in ongoing staff development and self-evaluation, and apply constructive feedback.

(3) Abide by the criteria of professional practice and rules of the board of educational examiners.

22.6(6) An applicant for a certificate under these rules shall demonstrate that the requirements of the certificate have been met, and the burden of proof shall be on the applicant.

282—22.7(272) Paraeducator area of concentration. An area of concentration is not required but optional. Applicants must currently hold or have previously held an Iowa paraeducator generalist certificate. Applicants may complete one or more areas of concentration but must complete at least 45 clock hours in each area of concentration.

22.7(1) Early childhood—prekindergarten through grade 3. The paraeducator shall successfully complete the following list of competencies so that under the direction and su-

pervision of a qualified classroom teacher, the paraeducator will be able to:

a. Reinforce skills, strategies, and activities involving individuals or small groups.

b. Participate as a member of the team responsible for developing service plans and educational objectives for parents and their children.

c. Listen to and communicate with parents in order to gather information for the service delivery team.

d. Demonstrate knowledge of services provided by health care providers, social services, education agencies, and other support systems available to support parents and provide them with the strategies required to gain access to these services.

e. Demonstrate effective strategies and techniques to stimulate cognitive, physical, social, and language development in the student.

f. Gather information as instructed by the classroom teacher about the performance of individual children and their behaviors, including observing, recording, and charting, and share information with professional colleagues.

g. Communicate and work effectively with parents and other primary caregivers.

22.7(2) Special needs—prekindergarten through grade 12. The paraeducator shall successfully complete the following list of competencies so that under the direction and supervision of a qualified classroom teacher, the paraeducator will be able to:

a. Understand and implement the goals and objectives in an individualized education plan (IEP).

b. Demonstrate an understanding of the value of serving children and youth with disabilities and special needs in inclusive settings.

c. Assist in the instruction of students in academic subjects using lesson plans and instructional strategies developed by teachers and other professional support staff.

d. Gather and maintain data about the performance and behavior of individual students and confer with special and general education practitioners about student schedules, instructional goals, progress, and performance.

e. Use appropriate instructional procedures and reinforcement techniques.

f. Operate computers, use assistive technology and adaptive equipment that will enable students with special needs to participate more fully in general education.

22.7(3) English as a second language—prekindergarten through grade 12. The paraeducator shall successfully complete the following list of competencies so that, under the direction and supervision of a qualified classroom teacher, the paraeducator will be able to:

a. Operate computers and use technology that will enable students to participate effectively in the classroom.

b. Work with the classroom teacher as collaborative partners.

c. Demonstrate knowledge of the role and use of primary language of instruction in accessing English for academic purposes.

d. Demonstrate knowledge of instructional methodologies for second language acquisition.

e. Communicate and work effectively with parents or guardians of English as a second language students in their primary language.

f. Demonstrate knowledge of appropriate translation and interpretation procedures.

22.7(4) Career and transitional programs—grades 5 through 12. The paraeducator shall successfully complete

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the following list of competencies so that, under the direction and supervision of a qualified classroom teacher, the paraeducator will be able to:

- a. Assist in the implementation of career and transitional programs.
- b. Assist in the implementation of appropriate behavior management strategies for career and transitional students and those students who may have special needs.
- c. Assist in the implementation of assigned performance and behavior assessments including observation, recording, and charting for career and transitional students and those students who may have special needs.
- d. Provide training at job sites using appropriate instructional interventions.
- e. Participate in preemployment, employment, or transitional training in classrooms or at off-campus sites.
- f. Communicate effectively with employers and employees at work sites and with personnel or members of the public in other transitional learning environments.

282—22.8 to 22.11 Reserved.

282—22.12(272) Prekindergarten through grade 12 advanced paraeducator certificate. Applicants for the prekindergarten through grade 12 advanced paraeducator certificate shall have met the following requirements:

22.12(1) Currently hold or have previously held an Iowa paraeducator generalist certificate.

22.12(2) Possess an associate's degree or have earned 62 semester hours of college coursework from a regionally accredited institution of higher education.

22.12(3) Complete a minimum of two semester hours of coursework involving at least 100 clock hours of a supervised practicum with children and youth. These two semester hours of practicum may be part of an associate degree or part of the earned 62 semester hours of college coursework.

282—22.13(272) Renewal requirements. The paraeducator certificate may be renewed upon application, a \$25 renewal fee, and verification of successful completion of coursework totaling three units in any combination listed below.

1. One unit may be earned through a planned staff development renewal course related to paraeducators in accordance with guidelines approved by the board of educational examiners.

2. One unit may be earned for each semester hour of college credit.

These rules are intended to implement Iowa Code sections 272.6 and 272.12.

[Filed 6/9/00, effective 8/2/00]

[Published 6/28/00]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 6/28/00.

ARC 9900A**HUMAN SERVICES
DEPARTMENT[441]****Adopted and Filed**

Pursuant to the authority of Iowa Code sections 234.6, 239B.4(4), and 249A.4, the Department of Human Services hereby amends Chapter 41, "Granting Assistance," Chapter 65, "Administration," and Chapter 75, "Conditions of Eligibility," appearing in the Iowa Administrative Code.

The United States Department of Agriculture has notified the Department of Human Services that the Department has the option of exempting, for food stamp purposes, the earnings of persons who are temporarily employed by the Bureau of the Census during the period from April 1, 2000, through January 31, 2001. The United States Department of Agriculture is allowing this exemption at the request of the Bureau of the Census as an incentive for persons to take census employment. The Department of Human Services has decided to take this option and exempt census income for food stamp recipients.

The Department has made the decision to also exempt the census income for the Family Investment Program, the Family Medical Assistance Program, and for FMAP-related Medicaid programs to match food stamp policy.

These amendments do not provide for waiver in specified situations because federal food stamp law does not allow for any waivers and these amendments only provide additional benefits.

These amendments were previously Adopted and Filed Emergency and published in the April 5, 2000, Iowa Administrative Bulletin as **ARC 9751A**. Notice of Intended Action to solicit comments on that submission was published in the April 5, 2000, Iowa Administrative Bulletin as **ARC 9750A**.

The Council on Human Services adopted these amendments June 8, 2000.

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

These amendments are intended to implement Iowa Code sections 234.12, 239B.2(2), 239B.7, and 249A.4.

These amendments shall become effective September 1, 2000, at which time the Adopted and Filed Emergency rules are hereby rescinded.

The following amendments are adopted.

ITEM 1. Amend subrule **41.27(7)** by adopting the following **new** paragraph "**ak**":

ak. All census earnings received by temporary workers from the Bureau of the Census for Census 2000 during the period of April 1, 2000, through January 31, 2001.

ITEM 2. Amend subrule 65.29(3) as follows:

65.29(3) Exclusion of income from 1990 2000 census employment. ~~Any compensation~~ *All earnings* received from the United States Department of Commerce resulting from employment in the 1990 Decennial Census by temporary workers from the Bureau of the Census for Census 2000 during the period of April 1, 2000, through January 31, 2001, shall be excluded from income.

HUMAN SERVICES DEPARTMENT[441](cont'd)

ITEM 3. Amend subrule **75.57(7)** by adopting the following **new** paragraph "**ah**":

ah. All census earnings received by temporary workers from the Bureau of the Census for Census 2000 during the period of April 1, 2000, through January 31, 2001.

[Filed 6/8/00, effective 9/1/00]

[Published 6/28/00]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 6/28/00.

ARC 9904A**HUMAN SERVICES
DEPARTMENT[441]****Adopted and Filed**

Pursuant to the authority of Iowa Code section 249A.4, the Department of Human Services hereby amends 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.

The Council on Human Services adopted these amendments June 8, 2000. Notice of Intended Action regarding these amendments was published in the Iowa Administrative Bulletin on April 19, 2000, as **ARC 9782A**.

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.

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

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

These amendments shall become effective August 2, 2000.

The following amendments are adopted.

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 rescinding 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).

[Filed 6/8/00, effective 8/2/00]

[Published 6/28/00]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 6/28/00.

ARC 9906A**HUMAN SERVICES
DEPARTMENT[441]****Adopted and Filed**

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

The Council on Human Services adopted these amendments June 8, 2000. These amendments combine two Notices of Intended Action. Notices of Intended Action regarding these amendments were published in the Iowa Administrative Bulletin on January 26, 2000, as **ARC 9613A** and on April 19, 2000, as **ARC 9784A**. An amended Notice to schedule oral presentations on **ARC 9613A** was published on March 22, 2000, as **ARC 9738A**.

The amendment published under Notice as **ARC 9784A** revises Medicaid payment policy to allow chiropractors to be reimbursed for X-rays that 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

HUMAN SERVICES DEPARTMENT[441](cont'd)

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.

The amendment published under Notice as **ARC 9613A** expands the coverage of area education agency services under Medicaid to include social work, nursing, and vision services. This change was requested by the area education agencies.

The amendment noticed as **ARC 9784A** does not provide for waivers in specified situations because the amendment confers a benefit by providing for payment of these services by chiropractors. The amendment noticed as **ARC 9613A** does not provide for waivers in specified situations because the amendment only provides additional benefits.

The amendment to 78.8(3) regarding reimbursement to chiropractors for X-rays is identical to that published under Notice of Intended Action.

Eight public hearings were held around the state regarding the amendment to rule 441—78.32(249A) on area education agencies. One person attended. The following revision was made to the Notice of Intended Action as a result of the comments received:

Rule 441—78.32(249A) was revised to keep the word "psychotherapy" in the rule. It was the Department's belief that coverage of therapy and counseling would allow coverage for the situations identified in the comments, but the language restating coverage areas should not be a problem. The Department of Education agrees.

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

These amendments shall become effective September 1, 2000.

The following amendments are adopted.

ITEM 1. 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 X-rays so ordered shall be payable to the X-ray provider, consistent with the provisions in this paragraph.*

ITEM 2. Amend rule 441—78.32(249A) as follows:

441—78.32(249A) Area education agencies. Payment will be made for physical therapy, occupational therapy, psychological evaluations and counseling, psychotherapy, speech-language therapy, and audiological, nursing, and vision services provided by an area education agency (AEA). These services shall be provided by personnel who meet standards as set forth in department of education rules 281—41.8(256B,34CFR300) and to 281—41.9(256B,273,34CFR 300) 41.10(256B) to the extent that their certification or license allows them to provide these services. Services shall be provided directly by the AEA or through contractual arrangement with the AEA.

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

[Filed 6/8/00, effective 9/1/00]

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EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 6/28/00.

ARC 9942A

INSPECTIONS AND APPEALS DEPARTMENT[481]

Adopted and Filed

Pursuant to the authority of Iowa Code section 135C.14, the Department of Inspections and Appeals hereby adopts Chapter 54, "Quality Award for Health Care Facilities," Iowa Administrative Code.

The adopted chapter implements Iowa Code Supplement section 135C.20B, which established an annual Governor's Quality Care Award for a health care facility that demon-

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

strates a high quality of care and commitment to its residents. These rules establish the guidelines by which health care facilities applying for the quality award will be evaluated.

Notice of Intended Action was published in the Iowa Administrative Bulletin as **ARC 9610A** on January 12, 2000. A public hearing was held on February 8, 2000. Written comment was filed by ABCM Corporation and Nursing Care Management, Ltd., requesting clarification on the deadline for submission of nominations and applicant eligibility. These changes have been incorporated. At the February 4, 2000, meeting of the Administrative Rules Review Committee, revision was requested to expand the number of recipients of the Governor's Quality Award for Health Care Facilities. The adopted rules expand the number of recipients to include no more than two facilities from each Iowa congressional district. In addition, the chapter title, "Quality Award for Nursing Facilities," has been changed to "Quality Award for Health Care Facilities." The new title more appropriately encompasses the various types of facilities eligible for consideration.

A waiver provision has not been included in this new chapter. A waiver provision is not applicable to the Governor's Quality Care Award because a facility's participation is completely voluntary.

These rules will become effective on August 2, 2000.

These rules are intended to implement Iowa Code Supplement section 135C.20B.

The following new chapter is adopted.

CHAPTER 54

QUALITY AWARD FOR HEALTH CARE FACILITIES

481—54.1(135C) Purpose. This program is intended to recognize quality health care services being provided to facility residents by Iowa long-term care facilities, residential care facilities, and intermediate care facilities for the mentally retarded or persons with mental illness. The specific objective of the program is to establish a governor's award for quality care to recognize health care facilities in the state which demonstrate provision of the highest quality care to residents.

481—54.2(135C) Definitions.

"Advisory council" means the council appointed by the director to review all nominations received by the department. Members of the council shall include the director, or the director's designee, and members selected to represent the general public, health care providers, resident advocates, the long-term care ombudsman's office, residents, and other groups as deemed necessary by the director. When making appointments to the advisory council, the director may consult with the Iowa Partners for Resident Care or other groups representing the nursing home associations and resident advocates that oversee operation of a facility or group of facilities. No member of the advisory council shall be a provider of services to a facility or under contract to provide services to a facility.

"Community living training services" means those activities provided to assist a person to acquire or sustain the knowledge and skills essential to independent functioning to the person's maximum potential in the physical and social environment.

"Department" means the department of inspections and appeals.

"Director" means the director of the department of inspections and appeals, or the director's designee.

"Health care facility" or "facility" means a residential care facility, a nursing facility, an intermediate care facility

for persons with mental illness, or an intermediate care facility for persons with mental retardation.

"Nursing care" means those services which can be provided only under the direction of a registered nurse or a licensed practical nurse.

"Nursing facility" means an institution or a distinct part of an institution housing three or more individuals not related to the administrator or owner within the third degree of consanguinity, which is primarily engaged in providing health-related care and services including, but not limited to, rehabilitative services, personal care, or community living training services for a period exceeding 24 consecutive hours for individuals who, because of a mental or physical condition, require nursing care and other services in addition to room and board.

"Personal care" means assistance with the activities of daily living which the recipient can perform only with difficulty. Examples are help in getting in and out of bed, assistance with personal hygiene and bathing, help with dressing and feeding, and supervision over medications which can be self-administered.

"Rehabilitative services" means services to encourage and assist restoration of optimum mental and physical capabilities of the individual resident of a health care facility.

"Resident" means an individual admitted to a health care facility in the manner prescribed by Iowa Code section 135C.23.

"Social services" means services relating to the psychological and social needs of the individual in adjusting to living in a health care facility, and minimizing stress arising from that circumstance.

481—54.3(135C) Nomination. The director will prepare and make available a nomination application no later than June 30 of each year.

481—54.4(135C) Deadline for submission of nominations. Nominations will be taken during the first quarter of each fiscal year. The deadline for receipt of nominations is September 30 of each year.

481—54.5(135C) Applicant eligibility. Eligible nominations shall be made by a resident, family member of a resident, member of a resident advocacy committee, or another health care facility. A health care facility cannot nominate itself for the award; however, this prohibition shall not apply to facilities with common ownership. Only health care facilities licensed pursuant to Iowa Code chapter 135C shall be eligible for nomination.

481—54.6(135C) Administration. The quality awards program shall be administered by the director or the director's designee.

481—54.7(135C) Priority. All nominations submitted to the department and received on or before the deadline for receipt of nominations shall be given consideration.

481—54.8(135C) Nomination. Applications for the governor's quality award shall include but not be limited to the following information:

54.8(1) The reasons that the nominated facility should be considered.

54.8(2) Any unique or special care or services provided by the facility to its residents. Care or services include any unique or special nursing care, personal care, rehabilitative services, social services, or community living training services provided by the facility for its residents, or involvement with the local community.

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

54.8(3) Activities conducted by the facility to enhance the highest quality of life for its residents.

481—54.9(135C) Evaluation. The director shall appoint an advisory council to review all nominations received by the department. The members shall review all nominations and select finalists based upon the material(s) provided in the nomination forms. The council shall also consider the following factors in making its selections:

54.9(1) The facility report card completed pursuant to Iowa Code section 135C.20A.

54.9(2) Any unique services provided by a facility to its residents to improve the quality of care in the facility.

54.9(3) Any information submitted by resident advocacy committee members, residents, a resident's family members, or facility staff with regard to the quality of care provided by the facility to its residents.

54.9(4) Whether the facility accepts residents for whom costs are paid under Iowa Code chapter 249A.

481—54.10(135C) Selection of finalists. When reviewing the nominations, the advisory committee shall rank all facilities according to the above criteria. The ranked list of facilities shall be provided to the director for further review and consideration. When making the final selection, no more than two facilities from each congressional district shall be recognized as an award winner.

481—54.11(135C) Awarding of certificate. Prior to the final selection of facilities, representatives from the department and the governor's office will tour all finalists to determine the winners. The department will select the winners of the governor's quality award from the facilities recommended by the advisory council. The winners will receive a framed certificate in recognition of their designation as a quality health care provider of the year. The certificate shall be awarded by the governor or the governor's designee to the facility administrator in a recognition ceremony held at the facility's place of business.

These rules are intended to implement Iowa Code Supplement section 135C.20B.

[Filed 6/9/00, effective 8/2/00]

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EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 6/28/00.

ARC 9943A

NATURAL RESOURCE COMMISSION[571]

Adopted and Filed

Pursuant to the authority of Iowa Code subsection 455A.5(6), the Natural Resource Commission hereby amends Chapter 15, "General License Regulations," Iowa Administrative Code.

This amendment combines two rules dealing with volunteer safety/education instructor certification for bow and fur harvester, snowmobile and all-terrain vehicle, boating safety and hunter education. This will serve to simplify and provide more uniformity to the overall instructor certification process.

Notice of Intended Action was published in the Iowa Administrative Bulletin on April 5, 2000, as **ARC 9769A**. No comments were received during the comment period or at the public hearing held April 25, 2000. There are no changes from the Notice of Intended Action.

These amendments are intended to implement Iowa Code section 483A.27.

These amendments will become effective August 2, 2000.

EDITOR'S NOTE: Pursuant to recommendation of the Administrative Rules Review Committee published in the Iowa Administrative Bulletin, September 10, 1986, the text of these amendments [15.9 to 15.12] is being omitted. These amendments are identical to those published under Notice as **ARC 9769A**, IAB 4/5/00.

[Filed 6/9/00, effective 8/2/00]

[Published 6/28/00]

[For replacement pages for IAC, see IAC Supplement 6/28/00.]

ARC 9944A

NATURAL RESOURCE COMMISSION[571]

Adopted and Filed

Pursuant to the authority of Iowa Code subsection 455A.5(6), the Natural Resource Commission hereby amends Chapter 16, "Public, Commercial, Private Docks and Dock Management Areas," Iowa Administrative Code.

These amendments extend the current "general dock permit" expiration date from March 1, 1999, to March 1, 2005, for private docks in compliance with rule 16.3(461A) and set the term length for general permits at five years by definition. These amendments will not change the current private dock standards or required specifications.

Notice of Intended Action was published in the Iowa Administrative Bulletin on April 5, 2000, as **ARC 9768A**. No comments were received during the comment period or at the public hearing held April 25, 2000. There are no changes from the Notice of Intended Action.

These amendments are intended to implement Iowa Code section 461A.4.

These amendments will become effective August 2, 2000.

The following amendments are adopted.

ITEM 1. Amend rule **571—16.1(461A)**, definition of "general permit," as follows:

"General permit" means a permit issued as a rule of this chapter to authorize maintenance of an eligible class of private docks. The owner of a private dock that is eligible for coverage under a general permit need not file an individual dock permit application. *Unless otherwise specified, a general permit is valid for five years.*

ITEM 2. Amend rule **571—16.3(461A)**, introductory paragraph, as follows:

571—16.3(461A) General permit for certain private docks on lakes. This rule constitutes a general permit for certain private docks on lakes as defined in **571—16.1(461A)**.

NATURAL RESOURCE COMMISSION[571](cont'd)

This general permit expires March 1, 1999 2005. This general permit authorizes maintenance of private docks conforming to the standard conditions set forth in 571—16.5(461A) and the following additional criteria:

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EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 6/28/00.

ARC 9945A

NATURAL RESOURCE COMMISSION[571]

Adopted and Filed

Pursuant to the authority of Iowa Code subsection 455A.5(6), the Natural Resource Commission hereby amends Chapter 34, "Community Forestry Challenge Grant Program (CFCGP)," Iowa Administrative Code.

This amendment clarifies the rules for community tree planting grants and expands sources of funding.

This amendment was previously Adopted and Filed Emergency and published in the April 5, 2000, Iowa Administrative Bulletin as **ARC 9771A**. Notice of Intended Action to solicit comments on that submission was published in the Iowa Administrative Bulletin on April 5, 2000, as **ARC 9770A**. A public hearing on the proposed amendment was held April 25, 2000. There are no changes from the Notice of Intended Action.

This amendment is intended to implement Iowa Code sections 456A.20 and 461A.2.

This amendment will become effective August 2, 2000, at which time the Adopted and Filed Emergency rules are hereby rescinded.

EDITOR'S NOTE: Pursuant to recommendation of the Administrative Rules Review Committee published in the Iowa Administrative Bulletin, September 10, 1986, the text of this amendment [Ch 34] is being omitted. This amendment is identical to that published under Notice as **ARC 9770A**, IAB 4/5/00.

[Filed 6/9/00, effective 8/2/00]

[Published 6/28/00]

[For replacement pages for IAC, see IAC Supplement 6/28/00.]

ARC 9916A

NURSING BOARD[655]

Adopted and Filed

Pursuant to the authority of Iowa Code sections 17A.3 and 147.76, the Board of Nursing hereby adopts amendments to Chapter 6, "Nursing Practice for Registered Nurses/Licensed Practical Nurses," Iowa Administrative Code.

These amendments rescind a subrule prohibiting the initiation of infusion pumps by the LPN and amend a subrule regarding the hanging of hypertonic solutions by the LPN.

Notice of Intended Action regarding these amendments was published in the Iowa Administrative Bulletin on April 5, 2000, as **ARC 9762A**. These amendments are identical to those published under Notice.

These amendments will become effective August 2, 2000.

These amendments are intended to implement Iowa Code section 152.1.

The following amendments are adopted.

ITEM 1. Amend subrule **6.5(4)**, paragraph "b," as follows:

b. Administration of blood and blood products; vasodilators, vasopressors, oxytoxics, chemotherapy, colloid therapy, total parenteral nutrition; ~~hypertonic solutions~~, anticoagulants, antiarrhythmics, ~~and~~ thrombolytics *and solutions with a total osmolality of 600 or greater.*

ITEM 2. Rescind subrule **6.5(4)**, paragraph "c," and re-letter paragraphs "d" and "e" as "c" and "d."

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