



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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Schedule for Rule Making 2000

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

PRINTING SCHEDULE FOR IAB

ISSUE NUMBER

6

SUBMISSION DEADLINE

Friday, September 1, 2000

ISSUE DATE

September 20, 2000

7

Friday, September 15, 2000

October 4, 2000

8

Friday, September 29, 2000

October 14, 2000

PLEASE NOTE:

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

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

PUBLICATION PROCEDURES

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

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

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

The Administrative Rules Review Committee will hold its regular, statutory meeting on Tuesday, September 12, 2000, at 10 a.m. in House Committee Room 19, State Capitol, Des Moines, Iowa. The following rules will be reviewed:

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COMMERCE DEPARTMENT[181]"umbrella"

Interest in a retail establishment, 16.2, Notice ARC 0036B 8/9/00

BANKING DIVISION[187]

COMMERCE DEPARTMENT[181]"umbrella"

Shareholder lists, 7.13(2)"f," 7.15(8), Filed ARC 0061B 8/23/00

COLLEGE STUDENT AID COMMISSION[283]

EDUCATION DEPARTMENT[281]"umbrella"

Accelerated career education grant program, ch 19, Notice ARC 0049B 8/9/00

Approval of postsecondary schools, ch 21, Notice ARC 0050B 8/9/00

CORRECTIONS DEPARTMENT[201]

Visits to offenders, 20.3, Filed ARC 0041B 8/9/00

North central correctional facility, ch 26, Notice ARC 0042B 8/9/00

DENTAL EXAMINERS BOARD[650]

PUBLIC HEALTH DEPARTMENT[641]"umbrella"

Registration of dental assistants, 1.1, 6.13(2)"b" to "e," 6.14(2), 6.14(4) to 6.14(8), 10.1, 10.2, 14.3, 14.5,

15.1(12) to 15.1(14), 15.2(6) to 15.2(8), 15.3, 15.4, 21.1, 22.8(3), 22.9(1), 22.9(2), 25.1, 25.2, 25.2(4) to 25.2(7),

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Dental assistants, ch 20, Notice ARC 0038B 8/9/00

Standards of practice; record keeping, ch 27 title, 27.2, 27.11, Filed ARC 0037B 8/9/00

ECONOMIC DEVELOPMENT, IOWA DEPARTMENT OF[261]

Accelerated career education (ACE) program, ch 20, Notice ARC 0035B, also Filed Emergency ARC 0034B 8/9/00

Housing fund—application procedures, 25.5, 25.5(5), 25.5(6), Filed Emergency After Notice ARC 0033B 8/9/00

Rural resource coordination programs for fire services, ch 42, Notice ARC 0031B 8/9/00

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57.2, 57.6(2), 57.6(3), Notice ARC 0032B 8/9/00

EDUCATION DEPARTMENT[281]

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Substance abuse treatment programs, 21.31, 21.32, Filed Emergency ARC 0075B 8/23/00

Driver education—qualifications for instructors, 26.1, Filed ARC 0077B 8/23/00

Certified school to career program, ch 48 title, 48.2 to 48.4, Notice ARC 0085B 8/23/00

Educational programs and services for pupils in juvenile homes—forms, 63.3, Filed ARC 0084B 8/23/00

Waiver of school breakfast program requirement, 69.14, 69.15, Filed ARC 0083B 8/23/00

Standards for paraeducator preparation programs, ch 80, Notice ARC 0060B 8/23/00

Funding for approved beginning teacher induction programs, 83.5, Filed ARC 0082B 8/23/00

Local option sales and service tax for school infrastructure, 96.1, 96.2, Filed Emergency After Notice ARC 0081B 8/23/00

Supplementary weighting plan for at-risk students, 97.1, 97.2, 97.2(4), 97.2(5), 97.2(6)"1," 97.2(8), 97.3,

Notice ARC 0080B 8/23/00

Vision Iowa school infrastructure program, ch 100, Notice ARC 0076B 8/23/00

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Iowa senior living program—home- and community-based services for seniors, ch 28, Filed ARC 0027B 8/9/00

EMERGENCY MANAGEMENT DIVISION[605]

PUBLIC DEFENSE DEPARTMENT[601]"umbrella"

Organization, ch 1, Filed ARC 0018B 8/9/00

Uniform rules on agency procedure; Iowa emergency plan, chs 2 to 6 and 9, Filed ARC 0020B 8/9/00

Local emergency management, ch 7, Filed ARC 0019B 8/9/00

Criteria for awards or grants, ch 8, Filed ARC 0017B 8/9/00

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NATURAL RESOURCES DEPARTMENT[561]"umbrella"

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HUMAN RIGHTS DEPARTMENT[421]Public records and fair information practices, 2.13, 2.14(5), Notice **ARC 0021B** 8/9/00**HUMAN SERVICES DEPARTMENT[441]**Applying county institutional credit balances, 28.13, Filed **ARC 0007B** 8/9/00

Eligibility factors for FIP and Medicaid under FMAP and FMAP-related Medicaid coverage groups, 40.21, 41.21(5), 41.22(3)“c” and “d,” 41.22(5), 41.22(14), 41.23(3), 41.24(2)“d,” 41.24(8)“b,” 41.27(4)“a,” 41.27(8)“b,” 41.27(8)“b”(9) and (10), 41.28(1), 41.28(4), ch 42, ch 47 division I preamble, 47.1, 47.5(1), 47.5(1)“a,” 47.21, 47.41, 47.61, 47.65(4)“a,” 48.23(3), 60.4(1), 60.8(1)“c” and “d,” 75.1(7)“a”(4), 75.1(14)“c,” 75.1(15)“a” and “e,” 75.1(28)“h,” 75.1(31)“j”(1), 75.1(35)“a”(5), 75.12, 75.13(1), 75.14(5), 75.50, 75.52(4)“c”(5), 75.52(4)“d”(6), 75.53(4), 75.54(3), 75.54(4), 75.57(4)“a,” 75.57(8)“b,” 75.57(8)“b”(9) and (10), 75.57(9)“c”(2), 75.58(1), 75.58(2)“b”(4), 75.59(1)“d,” 75.59(2), ch 93 division II preamble, 93.103, 93.105(3), 93.109(1)“b” and “d” to “f,” 93.109(2)“a”(1), 93.109(2)“b”(2)“2,” 93.110(6)“e”(1), 93.111, 93.112(1)“c” and “e,” 93.112(3), 93.114(3)“d” to “f,” 93.122, 93.132“9,” 93.133(2)“b,” Notice **ARC 0058B** 8/23/00

State supplementary assistance (SSA) residential care facility (RCF) and in-home health-related care (IHHRC) reimbursement rates, 52.1(3), 177.4(3), 177.4(7), 177.4(8)“b,” Notice **ARC 0008B**, also Filed Emergency **ARC 0009B** 8/9/00

Cost-based reimbursement for RHCs and FQHCs, 79.1(2), 88.14, Notice **ARC 0059B** 8/23/00Child support guidelines and criteria, 99.2(3), 99.2(6), 99.4(5), Filed **ARC 0010B** 8/9/00Child support parental obligation pilot projects, ch 100, Filed **ARC 0011B** 8/9/00**INSPECTIONS AND APPEALS DEPARTMENT[481]**

Licensing actions for nonpayment of child support and student loan default/noncompliance with agreement for payment of obligation, ch 8 title, 8.2, 8.3, Filed **ARC 0074B** 8/23/00

Hospitals—annual submission of medical staff roster, 51.5(1), Notice **ARC 0040B** 8/9/00

Freedom of choice of physician and pharmacy, 57.19(1)“b”(5), 58.51, Notice **ARC 9657A**, Terminated **ARC 0016B** 8/9/00

INSURANCE DIVISION[191]

COMMERCE DEPARTMENT[181]“umbrella”

Accounting practices and procedures manual and annual statement instructions, 5.15, Notice **ARC 0073B** 8/23/00**IOWA FINANCE AUTHORITY[265]**

ECONOMIC DEVELOPMENT, IOWA DEPARTMENT OF[261]“umbrella”

Local contributing effort; contested case proceedings; low-income housing tax credits, 1.9, 9.29, 9.30, ch 12, Filed Emergency After Notice **ARC 0013B** 8/9/00

Low-income housing tax credits compliance manual, 12.3, 12.4, Notice **ARC 0062B** 8/23/00**LABOR SERVICES DIVISION[875]**

WORKFORCE DEVELOPMENT DEPARTMENT[871]“umbrella”

Waivers and variances from administrative rules, ch 1 division VI, 1.100, ch 1 division VII, 1.101 to 1.109, Filed **ARC 0030B** 8/9/00

MEDICAL EXAMINERS BOARD[653]

PUBLIC HEALTH DEPARTMENT[641]“umbrella”

Licensure of acupuncturists, ch 14 title, 14.1 to 14.29, Filed Emergency After Notice **ARC 0065B** 8/23/00Physician assistant supervision, ch 21, Notice **ARC 9794A** Terminated **ARC 0063B** 8/23/00Physician eligibility to supervise a physician assistant, ch 21, Notice **ARC 0064B** 8/23/00**NATURAL RESOURCE COMMISSION[571]**

NATURAL RESOURCES DEPARTMENT[561]“umbrella”

Electronic license sales; child support noncompliance, 15.1(1), 15.1(6), 15.6(9), 15.12, Filed Emergency **ARC 0053B** 8/9/00Annual reporting requirements for ginseng dealers, 78.3(2)“e,” 78.4, 78.5(3), 78.5(4), Filed **ARC 0054B** 8/9/00**PHARMACY EXAMINERS BOARD[657]**

PUBLIC HEALTH DEPARTMENT[641]“umbrella”

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Controlled substances—gamma-hydroxybutyric acid (GHB), 10.20(1), 10.20(2), Filed Emergency **ARC 0014B** 8/9/00

PROFESSIONAL LICENSURE DIVISION[645]

PUBLIC HEALTH DEPARTMENT[641]"umbrella"

- Waivers or variances from administrative rules, ch 18, Notice **ARC 0043B** 8/9/00
- Barber examiners, 20.12, 20.101 to 20.104, 20.104"25," 20.105, 20.107 to 20.113, 20.200, 20.212, 20.214, ch 23, Notice **ARC 0069B** 8/23/00
- Dietetic examiners, 80.1, 80.8(5), 80.8(6), 80.100 to 80.108, 80.214, 80.220, ch 81, Notice **ARC 0079B** 8/23/00

PUBLIC HEALTH DEPARTMENT[641]

- Lead professional certification, ch 70, Notice **ARC 0012B** 8/9/00

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)"1," 9.3(1)"a"(6), 10.2(6)"d"(2), 10.2(7)"1," 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, Filed **ARC 0028B** 8/9/00
- Thoroughbred and quarter horse racing, 8.3(12)"h," ch 10, Notice **ARC 0029B** 8/9/00

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Professional Licensing and Regulation Division[193]

COMMERCE DEPARTMENT[181]"umbrella"

- Registration fees—certified general and certified residential appraisers, 10.1, Notice **ARC 0066B** 8/23/00

REVENUE AND FINANCE DEPARTMENT[701]

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- Multilevel marketer agreements, ch 4, Notice **ARC 0047B** 8/9/00
- Freight, other transportation charges, and exclusions from the exemption applicable to these services, 15.13, Notice **ARC 0046B** 8/9/00
- Taxable use, local option sales and service tax, 28.1, 107.2(1), 108.2(5), Filed **ARC 0068B** 8/23/00
- Residential and commercial real estate; property tax exemption for barns and one-room schoolhouses, 71.1(4), 71.1(5), 74.6, 80.15, Notice **ARC 0044B** 8/9/00
- Cigarettes and tobacco—retail permits, 81.12(1), 82.1(7)"a," Notice **ARC 0048B** 8/9/00
- Hotel and motel tax, local option sales and service tax, 104.7, 107.15, 108.4, 108.7, Filed **ARC 0067B** 8/23/00

SECRETARY OF STATE[721]

- "Vote here" signs, 21.8, Notice **ARC 0022B** 8/9/00

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PUBLIC HEALTH DEPARTMENT[641]"umbrella"

- Licensure standards for substance abuse treatment programs, 3.1, 3.2, 3.5, 3.5(1) to 3.5(4), 3.7(1), 3.7(3), 3.8(1), 3.8(1)"a," 3.16, 3.17(1)"e," 3.18, 3.21(1), 3.21(1)"b" and "c," 3.21(2) to 3.21(6), 3.21(7)"d," 3.21(8) to 3.21(14), 3.21(16), 3.21(18)"d" to "i," 3.21(19) to 3.21(24), 3.22, 3.22(1), 3.22(2), 3.23, 3.24, 3.24(5)"a" and "b," 3.24(6), Notice **ARC 0026B** 8/9/00

TRANSPORTATION DEPARTMENT[761]

- Definition of "freeway" for the purpose of highway lighting, 150.2(3), Filed **ARC 0024B** 8/9/00
- Dealer and used vehicle wholesaler licensure—written evidence of compliance with zoning requirements, 425.10(6), 425.52(1), Filed **ARC 0023B** 8/9/00
- Fees for driver's licenses; pilot project for waiver or refund of license fees, 602.3, 605.9, 605.10, 630.2(6), Filed Emergency After Notice **ARC 0025B** 8/9/00

UTILITIES DIVISION[199]

COMMERCE DEPARTMENT[181]"umbrella"

- Rule waivers, 1.3, 2.2(17), Notice **ARC 9664A** Terminated also Notice **ARC 0070B** 8/23/00
- Self-generation, 15.1, 15.11(5), Notice **ARC 0071B** 8/23/00

WORKFORCE DEVELOPMENT DEPARTMENT[871]

- New employment opportunities fund, ch 13, Notice **ARC 0005B**, also Filed Emergency **ARC 0006B** 8/9/00
- New Iowan centers, ch 14, Notice **ARC 0056B**, also Filed Emergency **ARC 0057B** 8/23/00
- Request for waiver or variance of administrative rule, ch 41, Filed **ARC 0055B** 8/23/00

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.

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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

To All Agencies:

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

AGENCY	HEARING LOCATION	DATE AND TIME OF HEARING
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ALCOHOLIC BEVERAGES DIVISION[185]

Interest in a retail establishment, 16.2 IAB 8/9/00 ARC 0036B	Commerce Board Room 1918 SE Hulsizer Rd. Ankeny, Iowa	August 29, 2000 2 p.m.
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CORRECTIONS DEPARTMENT[201]

North central correctional facility, 26.1 to 26.3 IAB 8/9/00 ARC 0042B	Conference Room—2nd Floor 420 Keo Way Des Moines, Iowa	August 29, 2000 11 a.m. to 1 p.m.
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DENTAL EXAMINERS BOARD[650]

Registration of dental assistants, amendments to chs 1, 6, 10, 14, 15, 21, 22, 25, 27, 30 to 34 IAB 8/9/00 ARC 0039B	Board Conference Room Suite D 400 SW 8th St. Des Moines, Iowa	August 29, 2000 3 to 4 p.m.
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Dental assistants, ch 20 IAB 8/9/00 ARC 0038B	Board Conference Room Suite D 400 SW 8th St. Des Moines, Iowa	August 29, 2000 1 to 3 p.m.
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ECONOMIC DEVELOPMENT, IOWA DEPARTMENT OF[261]

Accelerated career education program, ch 20 IAB 8/9/00 ARC 0035B (See also ARC 0034B)	Main Conference Room 200 E. Grand Ave. Des Moines, Iowa	August 29, 2000 2 p.m.
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Rural resource coordination programs for fire services, ch 42 IAB 8/9/00 ARC 0031B	Northwest Conference Room Second Floor 200 E. Grand Ave. Des Moines, Iowa	August 29, 2000 10 a.m.
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VAAPFAP loan guarantee; loan or grant funds, 57.2, 57.6 IAB 8/9/00 ARC 0032B	Business Finance Conference Room First Floor 200 E. Grand Ave. Des Moines, Iowa	August 29, 2000 1 p.m.
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EDUCATIONAL EXAMINERS BOARD[282]

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.
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Conference Room 3 North Third Floor Grimes State Office Bldg. Des Moines, Iowa	September 6, 2000 1 p.m.
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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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EDUCATION DEPARTMENT[281]

Certified school to career program, 48.2 to 48.4 IAB 8/23/00 ARC 0085B	State Board Room—Second Floor Grimes State Office Bldg. Des Moines, Iowa	September 12, 2000 10 a.m.
Supplementary weighting; at-risk and alternative school programs, 97.1 to 97.3 IAB 8/23/00 ARC 0080B	State Board Room—Second Floor Grimes State Office Bldg. Des Moines, Iowa	September 12, 2000 3 p.m.
Vision Iowa school infrastructure program, ch 100 IAB 8/23/00 ARC 0076B (ICN Network)	Keystone AEA 1 1400 2nd St. NW Elkader, Iowa	September 12, 2000 12 noon
	NIACC - 3 500 College Dr. Mason City, Iowa	September 12, 2000 12 noon
	Emmetsburg High School 2nd and King St. Emmetsburg, Iowa	September 12, 2000 12 noon
	Northwest Iowa Community College 603 W. Park St. Sheldon, Iowa	September 12, 2000 12 noon
	Fort Dodge High School 819 N. 25th St. Fort Dodge, Iowa	September 12, 2000 12 noon
	AEA 6 909 S. 12th St. Marshalltown, Iowa	September 12, 2000 12 noon
	Schindler 130A University of Northern Iowa - 2 Hudson Rd. and 23rd St. Cedar Falls, Iowa	September 12, 2000 12 noon
	Scott Community College - 1 500 Belmont Rd. Bettendorf, Iowa	September 12, 2000 12 noon
	Kirkwood Community College - 2 6301 Kirkwood Blvd. NW Cedar Rapids, Iowa	September 12, 2000 12 noon
	Heartland AEA 11 6500 Corporate Dr. Johnston, Iowa	September 12, 2000 12 noon
	ICN Room—Second Floor Grimes State Office Bldg. Des Moines, Iowa	September 12, 2000 12 noon

EDUCATION DEPARTMENT[281]**(ICN Network) (Cont'd)**

East High School 5011 Mayhew Ave. Sioux City, Iowa	September 12, 2000 12 noon
Iowa Western Community College - 2 2700 College Rd. Council Bluffs, Iowa	September 12, 2000 12 noon
Green Valley AEA 14 1405 N. Lincoln Creston, Iowa	September 12, 2000 12 noon
Indian Hills Community College - 3 651 Indian Hills Dr. Ottumwa, Iowa	September 12, 2000 12 noon
Southeastern Community College - 2 1015 S. Gear Ave. West Burlington, Iowa	September 12, 2000 12 noon
State Board Room—Second Floor Grimes State Office Bldg. Des Moines, Iowa	September 12, 2000 2 p.m.

ENVIRONMENTAL PROTECTION COMMISSION[567]

Refunds for storm water general permit coverage—pilot project, 64.16(4) IAB 8/9/00 ARC 0052B (See also ARC 0051B)	Conference Room—Fifth Floor Wallace State Office Bldg. Des Moines, Iowa	September 1, 2000 1:30 p.m.
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HUMAN RIGHTS DEPARTMENT[421]

Confidential records, 2.13, 2.14(5) IAB 8/9/00 ARC 0021B	Director's Conference Room Lucas State Office Bldg. Des Moines, Iowa	August 29, 2000 10 a.m.
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INSURANCE DIVISION[191]

Accounting practices and procedures manual; annual statement instructions, 5.15 IAB 8/23/00 ARC 0073B	330 Maple St. Des Moines, Iowa	September 12, 2000 10 a.m.
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IOWA FINANCE AUTHORITY[265]

Low-income housing tax credits—compliance manual, 12.3, 12.4 IAB 8/23/00 ARC 0062B	Conference Room Suite 250 100 E. Grand Ave. Des Moines, Iowa	September 14, 2000 9 a.m.
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MEDICAL EXAMINERS BOARD[653]

Physician eligibility to supervise a physician assistant, ch 21 IAB 8/23/00 ARC 0064B	Suite C 400 SW 8th St. Des Moines, Iowa	September 14, 2000 3 p.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 (See also ARC 9915A)	Ballroom Kirkwood Civic Center Hotel Fourth and Walnut Des Moines, Iowa	September 7, 2000 5 p.m.
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Identification badge, 6.2(5), 6.3(9) IAB 7/12/00 ARC 9962A	Ballroom Kirkwood Civic Center Hotel Fourth and Walnut Des Moines, Iowa	September 6, 2000 5:30 p.m.
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PROFESSIONAL LICENSURE DIVISION[645]

Waivers or variances from administrative rules, ch 18 IAB 8/9/00 ARC 0043B	Board Conference Room—5th Floor Lucas State Office Bldg. Des Moines, Iowa	September 6, 2000 1 to 3 p.m.
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Barber examiners, 20.12, 20.101 to 20.105, 20.107 to 20.113, 20.200, 20.212, 20.214, ch 23 IAB 8/23/00 ARC 0069B	Board Conference Room—5th Floor Lucas State Office Bldg. Des Moines, Iowa	September 12, 2000 1:30 to 3:30 p.m.
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Dietetic examiners, 80.1, 80.8, 80.100 to 80.108, 80.214, 80.220, ch 81 IAB 8/23/00 ARC 0079B	Board Conference Room—5th Floor Lucas State Office Bldg. Des Moines, Iowa	September 12, 2000 9 to 11 a.m.
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PUBLIC HEALTH DEPARTMENT[641]

Lead professional certification, amendments to ch 70 IAB 8/9/00 ARC 0012B (ICN Network)	ICN Classroom A-H-S-T High School 768 S. Maple Avoca, Iowa	August 29, 2000 10 a.m.
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ICN Classroom Belmond-Klemme High School 411 10th Ave. NE Belmond, Iowa	August 29, 2000 10 a.m.
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ICN Room, Sixth Floor Lucas State Office Bldg. Des Moines, Iowa	August 29, 2000 10 a.m.
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ICN Classroom Mormon Trail Jr.-Sr. High School Main Street Garden Grove, Iowa	August 29, 2000 10 a.m.
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PUBLIC HEALTH DEPARTMENT[641]**(ICN Network) (Cont'd)**

ICN Classroom Lone Tree Jr.-Sr. High School 303 S. Devoes St. Lone Tree, Iowa	August 29, 2000 10 a.m.
ICN Room Office of Educational Services Archdiocesan Pastoral Center 1229 Mount Loretta Dubuque, Iowa	August 29, 2000 10 a.m.
ICN Classroom Sergeant Bluff-Luton Sr. High School Port Neal Road Sergeant Bluff, Iowa	August 29, 2000 10 a.m.
ICN Classroom Waverly-Shell Rock Community H.S. 1405 4th Ave. SW Waverly, Iowa	August 29, 2000 10 a.m.

PUBLIC SAFETY DEPARTMENT[661]

Fees for fire inspection; renewal of registration for aboveground petroleum storage tanks, 5.5, 5.307 IAB 7/26/00 ARC 9990A (See also ARC 9989A)	Conference Room—3rd Floor Wallace State Office Bldg. Des Moines, Iowa	September 8, 2000 9:45 a.m.
Residential occupancies; bed and breakfast inns, 5.800 to 5.810, 5.820 IAB 7/12/00 ARC 9970A	Conference Room—3rd Floor Wallace State Office Bldg. Des Moines, Iowa	September 8, 2000 9:30 a.m.
Sex offender registry, 8.303(2), 8.304(1) IAB 7/26/00 ARC 9986A (See also ARC 9988A)	Conference Room—3rd Floor Wallace State Office Bldg. Des Moines, Iowa	September 8, 2000 11 a.m.
Elevators in new apartment buildings, 16.705(3) IAB 7/26/00 ARC 9987A	Conference Room—3rd Floor Wallace State Office Bldg. Des Moines, Iowa	September 8, 2000 1:30 p.m.
Fire service training bureau, ch 53 IAB 7/12/00 ARC 9964A (See also ARC 9968A)	Conference Room—3rd Floor Wallace State Office Bldg. Des Moines, Iowa	September 8, 2000 10 a.m.
Firefighter certification, ch 54 IAB 7/12/00 ARC 9965A (See also ARC 9969A)	Conference Room—3rd Floor Wallace State Office Bldg. Des Moines, Iowa	September 8, 2000 10:15 a.m.
Volunteer emergency services provider death benefits, ch 59 IAB 7/12/00 ARC 9966A (See also ARC 9967A)	Conference Room—3rd Floor Wallace State Office Bldg. Des Moines, Iowa	September 8, 2000 10:30 a.m.

RACING AND GAMING COMMISSION[491]

Thoroughbred and quarter horse racing, 8.3(12), ch 10 IAB 8/9/00 ARC 0029B	Suite B 717 E. Court Des Moines, Iowa	August 30, 2000 9 a.m.
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REAL ESTATE APPRAISER EXAMINING BOARD[193F]

Registration fees for certified general and certified residential appraisers, 10.1 IAB 8/23/00 ARC 0066B	Conference Room Second Floor 1918 SE Hulsizer Ankeny, Iowa	September 12, 2000 9 a.m.
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SECRETARY OF STATE[721]

"Vote here" signs, 21.8 IAB 8/9/00 ARC 0022B	Second Floor Hoover State Office Bldg. Des Moines, Iowa	August 29, 2000 1:30 p.m.
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SUBSTANCE ABUSE COMMISSION[643]

Licensure standards for substance abuse treatment programs, amendments to ch 3 IAB 8/9/00 ARC 0026B (ICN Network)	Room 127B, Building B Western Iowa Tech Community College Sioux City, Iowa	August 29, 2000 10 a.m. to 12 noon
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Room 108 Advanced Technology Center Indian Hills Community College Ottumwa, Iowa	August 29, 2000 10 a.m. to 12 noon
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Department of Human Services Hoover State Office Bldg. Des Moines, Iowa	August 29, 2000 10 a.m. to 12 noon
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417 E. Kanesville Blvd. Council Bluffs, Iowa	August 29, 2000 10 a.m. to 12 noon
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Public Library 5001 1st St. SE Cedar Rapids, Iowa	August 29, 2000 10 a.m. to 12 noon
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UTILITIES DIVISION[199]

Natural gas marketer certification, 2.2(17), 19.13(6), 19.14 to 19.16 IAB 7/12/00 ARC 9976A	Board Hearing Room 350 Maple St. Des Moines, Iowa	August 23, 2000 10 a.m.
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Self-generation, 15.1, 15.11(5) IAB 8/23/00 ARC 0071B	Board Hearing Room 350 Maple St. Des Moines, Iowa	September 27, 2000 10 a.m.
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Disconnection and reconnection, 19.4(15), 20.4(15) IAB 8/23/00 ARC 0072B	Board Hearing Room 350 Maple St. Des Moines, Iowa	October 5, 2000 10 a.m.
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(See also **ARC 9717A**, IAB 3/8/00)

WORKFORCE DEVELOPMENT DEPARTMENT[871]

New employment opportunities fund, ch 13 IAB 8/9/00 ARC 0005B (See also ARC 0006B)	Room 106 150 Des Moines St. Des Moines, Iowa	August 29, 2000 9 to 11 a.m.
New Iowan centers, ch 14 IAB 8/23/00 ARC 0056B (See also ARC 0057B herein)	Room 104 150 Des Moines St. Des Moines, Iowa	September 12, 2000 9 to 11 a.m.

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]

Deaf Services Division[429]

Persons With Disabilities Division[431]

Latino Affairs Division[433]

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

Status of Women Division[435]

HUMAN SERVICES DEPARTMENT[441]

INSPECTIONS AND APPEALS DEPARTMENT[481]
 Employment Appeal Board[486]
 Foster Care Review Board[489]
 Racing and Gaming Commission[491]
 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]
 Emergency Management Division[605]
 Military Division[611]
PUBLIC EMPLOYMENT RELATIONS BOARD[621]
PUBLIC HEALTH DEPARTMENT[641]
 Substance Abuse Commission[643]
 Professional Licensure Division[645]
 Dental Examiners Board[650]
 Medical Examiners Board[653]
 Nursing Board[655]
 Pharmacy Examiners Board[657]
PUBLIC SAFETY DEPARTMENT[661]
RECORDS COMMISSION[671]
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]

ARC 0085B

DENTAL EXAMINERS BOARD[650]**Notice of Public Hearing**

Executive Order Number 8 directs each state agency with rule-making authority to comprehensively review its rules. The Board of Dental Examiners' plan for regulatory review provides for a public hearing to seek public input and comment on each group of the Board's rules.

Notice is hereby given that a public hearing will be held on Thursday, September 7, 2000, beginning at 1 p.m. to hear oral comments on the following:

- Chapter 11, "Applications";
- Chapter 12, "Examinations";
- Chapter 14, "Renewal";
- Chapter 22, "Minimum Standards for Dental Assistants Engaged in Dental Radiography";
- Chapter 25, "Continuing Education";
- Chapter 27, "Principles of Professional Ethics";
- Chapter 30, "Discipline";
- Chapter 31, "Complaints and Investigations"; and
- Chapter 51, "Contested Cases."

The public hearing will utilize the Iowa Communications Network (ICN). Sites participating in the hearing are as follows.

- Council Bluffs: Iowa Western Community College, 2700 College Road, Looff Hall-1.
- Des Moines: Department of Public Health, ICN Room, Sixth Floor, Lucas State Office Building, 321 East 12th Street; origination site.
- Iowa City: University of Iowa, Intersection of North Madison and West Davenport, North Hall, Room 107.
- Mason City: Northern Iowa Community College, 500 College Drive, Careers Building, Room 128.
- Peosta: Northeast Iowa Community College, 10250 Sundown Road, Room 139.
- Sioux City: Central Campus Individual Learning Center, 1121 Jackson Street.

In order to participate in the public hearing at an ICN site, a person must register no later than September 1, 2000, by contacting Jennifer Hart, Agency Rules Administrator, Board of Dental Examiners, 400 S.W. 8th Street, Suite D, Des Moines, Iowa 50309-4687; telephone (515)281-0997; fax (515)281-6473; or E-mail jhart@bon.state.ia.us. If no one has registered for a particular ICN site by September 1, 2000, the ICN site will be canceled. To ensure that everyone is accorded an opportunity to speak, the Board reserves the right to limit oral presentations at the public hearing.

In addition, any interested person may present written comments, data, views, and arguments no later than September 7, 2000, on any of the rules in these chapters. Written materials should be submitted to Jennifer Hart, Agency Rules Administrator, Board of Dental Examiners, 400 S.W. 8th Street, Suite D, Des Moines, Iowa 50309-4687; fax (515) 281-6473; or E-mail jhart@bon.state.ia.us.

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 48, "Certified School to Career Program Approval," Iowa Administrative Code.

These amendments increase flexibility for students seeking to enter the program by allowing program approval at the local level instead of the state level.

Interested persons may comment on the proposed amendments on or before September 12, 2000. A hearing will be held at 10 a.m. on September 12, 2000, in the State Board Room, Second Floor, Grimes State Office Building, Des Moines, Iowa. Written or oral comments should be directed to Jerda Garey, Chief, Bureau of Technical and Vocational Education, Iowa Department of Education, Grimes State Office Building, Des Moines, Iowa 50319; jerda.garey@ed.state.ia.us; telephone (515)281-3542.

These amendments are intended to implement 2000 Iowa Acts, House File 2179.

The following amendments are proposed.

ITEM 1. Amend **281—Chapter 48**, title, as follows:

**CHAPTER 48
CERTIFIED SCHOOL TO CAREER PROGRAM
APPROVAL**

ITEM 2. Amend rule **281—48.2(78GA, HF2179)** by rescinding the definition of "approved program," amending the definitions of "certified school to career program" and "participant," and adding in alphabetical sequence the definitions of "notice of intent" and "program of study" as follows:

~~"Approved program" means a program other than an apprenticeship program that has been reviewed and approved by the state board of education. A public or private secondary school or postsecondary institution, or both, is the entity responsible for submission of the program, coordination of the required parties, program development, and coordination of the training agreement(s).~~

"Certified school to career program" or "certified program" means a sequenced and articulated secondary and postsecondary program registered as an apprenticeship program under 29 CFR Subtitle A, Part 29, which is conducted pursuant to an agreement as provided in ~~1998 Iowa Acts, chapter 1225, section 18~~ *2000 Iowa Acts, House File 2179*, or a program approved by the state board of education, in conjunction with the department of economic development, as meeting the standards enumerated in ~~1998 Iowa Acts, chapter 1225, section 17~~, *an individual program of study which is developed jointly by a secondary school, postsecondary institution, and an employer and meets the standards enumerated in 2000 Iowa Acts, House File 2179*, that integrates a secondary school curriculum with private sector job training which places participants in job internships, and which is designed to continue into postsecondary education

EDUCATION DEPARTMENT[281](cont'd)

and that will result in teaching new skills and adding value to the wage-earning potential of participants and increase their long-term employability in the state and which is conducted pursuant to an agreement as provided in ~~1998 Iowa Acts, chapter 1225, section 18~~ *2000 Iowa Acts, House File 2179*.

"Notice of intent" means a notification that the high school agrees to operate a certified program as provided in 2000 Iowa Acts, House File 2179. The notice of intent shall be on a form furnished by the department of education and include the name of the contact person charged with overseeing the district's certified program. The high school shall maintain on file the certified program agreement required by Iowa Code section 15.364.

"Participant" means an individual between the ages of 16 and 24 who is enrolled in a public or private secondary school or postsecondary institution and who initiated participation in a certified school to career program as part of the individual's secondary school education no later than the start of the student's senior year in high school.

"Program of study" means a program other than an apprenticeship program that has been jointly developed by a secondary school, postsecondary institution, and an employer and meets the standards in Iowa Code section 15.363. A public or private secondary school or postsecondary institution, or both, is the entity responsible for submission of the program, coordination of the required parties, program development, and coordination of the training agreement(s).

ITEM 3. Amend rule 281—48.3(77GA,ch1225) as follows:

Amend the introductory paragraph and numbered paragraphs "1," "5," and "6" as follows:

281—48.3(77GA, ~~ch1225~~ 78GA, HF2179) Program requirements. An approved school to career program shall comply with the following requirements:

1. ~~Approval from the state board of education as a certified school to career program. An initial notice of intent to conduct a certified program, filed by the participant's high school with the department of education.~~

2. to 4. No change.

5. Specific career field content and related academic instruction during the junior and senior year of the secondary component *and the (one or two years) of postsecondary component.*

6. ~~One or more years of postsecondary education in the career field. Paid employment at a base wage for each participant beginning no earlier than the participant's junior year in high school and ending no later than the fall after the participant's second year of postsecondary education.~~

Further amend rule 281—48.3(77GA,ch1225) by striking paragraph "7" and renumbering paragraphs "8" to "16" as "7" to "15."

ITEM 4. Rescind rule 281—48.4(77GA,ch1225) and adopt in lieu thereof the following **new** rule:

281—48.4(78GA, HF2179) Notice of intent. The nonpublic or public secondary school shall submit to the department a notice of intent to conduct a certified program. The department shall notify the department of economic development of the receipt of the notice of intent.

ARC 0060B

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 adopt Chapter 80, "Standards for Paraeducator Preparation Programs," Iowa Administrative Code.

This chapter is being proposed to implement Iowa Code section 256.7 as amended by 2000 Iowa Acts, House File 2146, section 1, requiring the Department of Education to develop rules establishing licensing standards for paraeducators in the state of Iowa.

Any interested person may submit oral or written suggestions or comments on or before September 12, 2000, by addressing them to Bertha Caldwell, Consultant, Department of Education, Grimes State Office Building, Des Moines, Iowa 50319-0146; telephone (515)281-5296.

These rules are intended to implement Iowa Code section 256.7 as amended by 2000 Iowa Acts, House File 2146, section 1.

The following **new** chapter is proposed.

CHAPTER 80

STANDARDS FOR PARAEUCATOR PREPARATION PROGRAMS

281—80.1(272) General statement. Programs of preparation leading to certification of paraeducators in Iowa are subject to approval by the state board of education.

281—80.2(272) Definitions. The following definitions are used throughout this chapter:

"Department" means the department of education.

"Director" means director of the department of education.

"Institution" means a public school district, area education agency, community college, institution of higher education under the state board of regents or an accredited private institution as defined in Iowa Code section 261.9(1), offering paraeducator preparation program(s).

"Paraeducator candidate" means an individual who is enrolled in a paraeducator preparation program leading to certification as a generalist, generalist with area(s) of concentration, or advanced paraeducator.

"Paraeducator preparation program" means the program of paraeducator preparation leading to certification of paraeducators.

"State board" means Iowa state board of education.

"Unit" means the organizational entity within an institution with the responsibility of administering the paraeducator preparation program(s).

281—80.3(272) Institutions affected. All institutions engaged in preparation of paraeducators and seeking state board approval of their paraeducator preparation programs shall meet the standards contained in this chapter.

281—80.4(272) Criteria for Iowa paraeducator preparation programs. Each institution seeking approval of its paraeducator preparation program(s) shall file evidence of the ex-

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tent to which it meets the standards contained in this chapter. After the state board has approved an institution's paraeducator preparation program(s), students who complete the program(s) may be recommended by the authorized official of that institution for issuance of the appropriate certificate.

281—80.5(272) Approval of programs. Approval of paraeducator preparation programs by the state board shall be based on the recommendation of the director after study of the factual and evaluative evidence on record about each program in terms of the standards contained in this chapter.

Approval, if granted, shall be for a term of five years; however, approval for a lesser term may be granted by the state board if it determines conditions so warrant.

If approval is not granted, the applicant institution will be advised concerning the areas in which improvement or changes appear to be essential for approval. In this case, the institution shall be given the opportunity to present factual information concerning its programs at the next regularly scheduled meeting of the state board. The institution may also reapply at its discretion to show what actions have been taken toward suggested improvement.

281—80.6(272) Periodic reports. Institutions placed on the approved programs list may be asked to make periodic reports upon request of the department which shall provide basic information necessary to keep records of each paraeducator preparation program up-to-date, and to provide information necessary to carry out research studies relating to paraeducator preparation.

281—80.7(272) Reevaluation of paraeducator preparation programs. Every five years, or at any time deemed necessary by the director, an institution shall file a self-evaluation of its paraeducator preparation programs.

281—80.8(272) Approval of program changes. Upon application by an institution, the director is authorized to approve minor additions to, or changes within, the institution's approved paraeducator preparation program. When an institution proposes a revision that exceeds the primary scope of its programs, the revisions shall become operative only after having been approved by the state board.

281—80.9(272) Organizational and resources standards.

80.9(1) Unit faculty shall collaborate with members of the professional community, including the unit's advisory committee comprised of practitioners, to design, deliver, and evaluate programs to prepare paraeducators.

80.9(2) Unit faculty shall maintain ongoing actual involvement in settings where paraeducators are employed.

80.9(3) The unit's planning and evaluation system shall support paraeducator candidate performance and shall use assessment data to evaluate the effectiveness of the unit and its program.

281—80.10(272) Diversity.

80.10(1) Efforts toward racial, ethnic, and gender diversity among paraeducator candidates and unit faculty shall be documented. In addition, diversity efforts shall include persons with disabilities, persons from different language and socioeconomic backgrounds, and persons from different regions of the country and world.

80.10(2) Unit efforts in increasing or maintaining diversity shall be reflected in plans, monitoring of plans, and results.

281—80.11(272) Paraeducator candidate performance standards. Paraeducator candidate assessment and unit planning and evaluation shall include the following:

80.11(1) Performance of paraeducator candidates shall be measured against state certification standards adopted by the board of educational examiners under Iowa Code section 272.12 and the unit's learning outcomes.

80.11(2) Information on performance of paraeducator candidates shall be drawn from multiple assessments, including but not limited to unit assessment of content knowledge and its application as candidates work with students, teachers, parents, and other professional colleagues in school settings, and follow-up studies of certified paraeducators.

80.11(3) The unit's assessment system shall:

a. Provide paraeducator candidates with ongoing feedback about what elements of performance are being assessed and how performance is being assessed.

b. Demonstrate how the information gathered via the individual, paraeducator candidate assessment system is utilized to refine and revise the unit's framework and program goals, content, and delivery strategies.

c. Explain the process for reviewing and revising the assessment system.

80.11(4) An annual report including a composite of evaluative data collected by the unit shall be submitted to the department by September 30 of each year.

These rules are intended to implement Iowa Code section 256.7 as amended by 2000 Iowa Acts, House File 2146, section 1.

ARC 0080B

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 97, “Supplementary Weighting,” Iowa Administrative Code.

These amendments establish the procedures for school districts to generate funding for students in at-risk programs and alternative school programs. 2000 Iowa Acts, House File 2496, authorized a supplementary weighting plan for students in at-risk and alternative school programs based on enrollment and poverty factors.

Any interested person may make comments on the proposed amendments on or before September 12, 2000, by addressing them to Su McCurdy, Administrative Consultant, Department of Education, Grimes State Office Building, Des Moines, Iowa 50319-0146; E-mail su.mccurdy@ed.state.ia.us; fax (515)281-7700.

There will be a public hearing on September 12, 2000, beginning at 3 p.m. in the State Board Room, Second Floor, Grimes State Office Building, Des Moines, Iowa, at which persons may present their comments orally and 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.

Any persons who intend to attend the public hearing and have special requirements such as hearing or mobility im-

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pairments should contact the Department of Education and advise of the specific needs prior to August 28, 2000.

These amendments are intended to implement Iowa Code section 257.11 as amended by 2000 Iowa Acts, House File 2496.

The following amendments are proposed.

ITEM 1. Amend rule **281—97.1(257)** by adopting the following **new** definition in alphabetical order:

“Supplementary weighting plan for at-risk students” shall mean a plan as defined in this chapter to add a weighting for each resident student enrolled in the district and a weighting for each resident student enrolled in grades one through six, as reported by the school district on the basic educational data survey for the base year, who is eligible for free and reduced price meals under the federal National School Lunch Act and the federal Child Nutrition Act of 1966, 42 U.S.C. Sections 1751-1785, to generate funding to be used to develop or maintain at-risk programs, which may include alternative school programs.

ITEM 2. Amend rule 281—97.2(257), catchwords, as follows:

281—97.2(257) Supplementary weighting plan.

ITEM 3. Amend subrule 97.2(4) as follows:

97.2(4) Attend class taught by a teacher jointly employed with another school district. All of the following conditions must be met for any student attending class taught by a teacher jointly employed to be eligible for supplementary weighting under paragraph 97.2(1)“c.” The school districts jointly employing the teacher must have:

- a. A joint teacher evaluation process and instruments.
- b. A joint educational excellence phase III plan.
- e. ~~A joint seniority list.~~
- d. ~~One single, unified master contract which illustrates joint collective bargaining.~~
- e c. One single salary schedule.

Except for joint employment contracts which meet the requirements of paragraphs “a” to “e” “c” above, no two or more school districts shall list each other for the same classes and grade levels.

ITEM 4. Amend subrule 97.2(5), introductory paragraph, as follows:

97.2(5) Attend class in a community college. All of the following conditions must be met for any student attending class in a community college-offered class to be eligible for supplementary weighting under paragraph 97.2(1)“d.”

ITEM 5. Amend subrule **97.2(6)** by adopting the following **new** paragraph “1”:

1. Students enrolled in an at-risk program or alternative school program.

ITEM 6. Renumber rule **281—97.3(257)** as subrule **97.2(8)** and adopt the following **new** rule:

281—97.3(257) Supplementary weighting plan for at-risk students.

97.3(1) Uses of funds. Funding generated by the supplementary weighting plan for at-risk students shall be used to develop or maintain at-risk programs, which may include alternative school programs.

97.3(2) Calculation of funding. Funding for the supplementary weighting plan for at-risk students is calculated as follows:

- a. Adding a weighting for each resident student of one hundred fifty-six one-hundred-thousandths, and

- b. Adding a weighting of forty-eight ten-thousandths for each resident student enrolled in grades one through six, as reported by the school district on the basic educational data survey for the base year, who is eligible for free and reduced price meals under the federal National School Lunch Act and the federal Child Nutrition Act of 1966, 42 U.S.C. Sections 1751-1785.

97.3(3) Guarantee. Notwithstanding subrule 97.3(2), a school district which received supplementary weighting for an alternative high school program for the budget year beginning July 1, 1999, shall receive an amount of supplementary weighting for the next three budget years as follows:

- a. For budget year 2000-2001, the greater of the amount of supplementary weighting determined pursuant to subrule 97.3(2) or 65 percent of the amount received for the budget year 1999-2000.

- b. For budget year 2001-2002, the greater of the amount of supplementary weighting determined pursuant to subrule 97.3(2) or 40 percent of the amount received for the budget year 1999-2000.

- c. For budget year 2002-2003, and succeeding budget years, the amount of supplementary weighting determined pursuant to subrule 97.3(2).

- d. If a school district receives an amount under this subrule which exceeds the amount the district would otherwise have received pursuant to subrule 97.3(2), the department of management shall annually determine the amount of the excess that would have been state aid and the amount that would have been property tax if the school district had generated that amount pursuant to subrule 97.3(2), and shall include the amounts in the state aid payments and property tax levies of school districts.

97.3(4) Recalculation of funding. The department of management shall recalculate the supplementary weighting amount received each year to add the amount of the reduction in funding from one budget year to the next pursuant to subrule 97.3(3) into the statewide total amount generated. In making this recalculation, the department of management shall keep the statewide sum of the amount generated by weighting resident students approximately equal to the statewide sum of the amount generated by weighting resident students enrolled in grades one through six that are eligible for free and reduced price meals.

97.3(5) School-based youth services. For budget years 2000-2001 and 2001-2002, if the amount to be received under subrule 97.3(2) or subrule 97.3(3) by a school district or a consortium of school districts is less than \$50,000 and the school district or consortium received funding for school-based youth services during the budget year 1999-2000, that school district or consortium shall receive a total under this subrule of \$50,000 for each of the budget years beginning July 1, 2000, and beginning July 1, 2001. The department of management shall adjust the supplementary weighting of a school district or the school district acting as the fiscal agent for a consortium eligible under this subrule in a manner to ensure that the district or the consortium receives the total sum of \$50,000 as guaranteed in this subrule. If the consortium elects not to continue a school-based youth service program, the funds shall be distributed equally to the school districts in the consortium.

ARC 0076B**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 adopt a new Chapter 100, “Vision Iowa School Infrastructure Program,” Iowa Administrative Code.

These rules establish the procedures for school districts to apply for the Vision Iowa School Infrastructure Program grants and the criteria that will be used to select grantees. These rules establish a uniform format for applications and dates certain and ensure to the extent possible an unbiased selection of grantees.

Any interested person may comment on the proposed rules on or before September 20, 2000, by addressing comments to C. Milton Wilson, Consultant, School Facilities, Department of Education, Grimes State Office Building, Des Moines, Iowa 50319-0146; milt.wilson@ed.state.ia.us; fax (515)281-7700.

There will be a public hearing held over the ICN on September 12, 2000, beginning at 12 noon at which persons may present their comments orally. Sites will be available in each AEA and in the ICN Room, Second Floor, Grimes State Office Building, Des Moines, Iowa.

The sites for the ICN hearing are as follows:

AEA 1
Keystone AEA 1
1400 2nd Street NW
Elkader

AEA 2
North Iowa Area Community College - 3
500 College Drive
Mason City

AEA 3
Emmetsburg High School
2nd and King Street
Emmetsburg

AEA 4
Northwest Iowa Community College - 2
603 W. Park Street
Sheldon

AEA 5
Fort Dodge High School
819 N. 25th Street
Fort Dodge

AEA 6
AEA 6
909 South 12th Street
Marshalltown

AEA 7
University of Northern Iowa - 2
Schindler 130A
Corner of Hudson Road and 23rd Street
Cedar Falls

AEA 9
Scott Community College - 1
500 Belmont Road
Bettendorf

AEA 10
Kirkwood Community College - 2
6301 Kirkwood Boulevard NW
P.O. Box 2068
Cedar Rapids

AEA 11
Heartland AEA 11
6500 Corporate Drive
Johnston

ICN Room
Grimes State Office Building—2nd Floor
East 14th and Grand
Des Moines

AEA 12
East High School
5011 Mayhew Avenue
Sioux City

AEA 13
Iowa Western Community College - 2
2700 College Road
Council Bluffs

AEA 14
Green Valley AEA 14
1405 N. Lincoln
Creston

AEA 15
Indian Hills Community College - 3
651 Indian Hills Drive
Ottumwa

AEA 16
Southeastern Community College - 2
1015 South Gear Avenue
West Burlington

There will be a second public hearing on September 12, 2000, beginning at 2 p.m. in the State Board Room, Second Floor, Grimes State Office Building, Des Moines, Iowa, at which persons may present their comments orally and in writing.

At the hearings, persons will be asked to give their names and addresses for the record and to confine their remarks to the subject of the proposed rules. Any persons who intend to attend a public hearing and have special requirements such as hearing or mobility impairments should contact the Department of Education and advise of specific needs prior to August 28, 2000.

These rules are intended to implement 2000 Iowa Acts, Senate File 2447, sections 26 to 28.

The following new chapter is proposed.

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CHAPTER 100

VISION IOWA

SCHOOL INFRASTRUCTURE PROGRAM

281—100.1(78GA,SF2447) Purpose. The purpose of the vision Iowa school infrastructure program is to provide financing assistance in the form of competitive grants to Iowa school districts with school infrastructure needs.

281—100.2(78GA,SF2447) Definitions. For the purpose of this chapter, the following definitions apply.

“Capacity per pupil” means the sum of a school district’s property tax infrastructure capacity per pupil and the sales tax capacity per pupil.

“Conditional approval” means the awarding of a grant contingent upon the school district’s obtaining its local match if the local match has not been obtained at the time of the application.

“Department” means the department of education.

“Initiated” means that the board has taken formal action by board resolution on or after July 1, 2000, to submit a referendum to the voters, to use accumulated funds, or to pursue other funding sources for the project that is the subject of the application.

“Innovative collaboration” means an activity jointly undertaken by the school district with one or more public or private entities which is new to the school district and which has been implemented by no other or few other school districts.

“Local match percentage” means a percentage equivalent to either of the following, whichever is less:

1. Fifty percent.

2. The quotient of a school district’s capacity per pupil divided by the capacity per pupil of the school district at the fortieth percentile, multiplied by 50 percent, except that the percentage in this paragraph shall not be less than 20 percent. The school district with the lowest capacity per pupil in the state shall be the school district with the lowest percentile rank.

“Local match requirement” means the total investment of a project multiplied by the school district’s local match percentage. The source of the local match must be one or more of the following:

1. The issuance of bonds pursuant to Iowa Code section 298.18.

2. Local option sales and services tax for school infrastructure received pursuant to Iowa Code section 422E.3.

3. A physical plant and equipment levy pursuant to Iowa Code chapter 298.

4. Other moneys locally obtained by the school district for school infrastructure excluding other state or federal moneys.

“Program” means the school infrastructure program established in 2000 Iowa Acts, Senate File 2447, section 27.

“Project” means a school infrastructure activity of one school district, or the school district’s portion of a school infrastructure activity in collaboration with one or more other public or private entities, that is one of the following:

1. Construction of a separate facility for an attendance center.

2. A grouping of school infrastructure activities at one or more attendance centers.

“Property tax infrastructure capacity per pupil” means the sum of a school district’s levies under Iowa Code sections 298.2 and 298.18 when the levies are imposed to the maximum extent allowable under law in the budget year divided by the school district’s basic enrollment for the budget year.

“Sales tax capacity per pupil” means the estimated amount of revenues that a school district receives or would receive if a local option sales and services tax for school infrastructure is imposed at 1 percent pursuant to Iowa Code section 422E.2, divided by the school district’s basic enrollment for the budget year. For the budget year beginning July 1, 2000, the school district’s actual enrollment shall be used in the calculation in place of the school district’s basic enrollment for the budget year.

“School budget review committee” means the committee established under Iowa Code section 257.30.

“School infrastructure” means one or more of the following activities initiated on or after July 1, 2000: purchasing, building, furnishing, reconstructing, repairing, improving or remodeling a schoolhouse or schoolhouses and additions to schoolhouses, gymnasium, field house, procuring a site or sites therefor, or purchasing land to add to a site already owned. “School infrastructure” does not include those activities related to stadiums, bus barns, a home or homes of a teacher or superintendent, procuring and improving a site for an athletic field, or improving a site already owned for an athletic field.

“Statewide average sales and services tax capacity per pupil” means the estimated sum of revenues that all school districts receive or would receive if a local option sales and services tax for school infrastructure is imposed at 1 percent pursuant to Iowa Code section 422E.2, divided by the sum of the basic enrollments in all school districts for the budget year. For the budget year beginning July 1, 2000, the actual enrollment in all school districts shall be used in the calculation in place of the basic enrollment in all school districts for the budget year.

281—100.3(78GA,SF2447) Application process.

100.3(1) Application period. School districts may submit applications for approval for financial assistance under the program between 8 a.m. and 4:30 p.m. on working days during the following application periods.

a. For the fiscal year beginning July 1, 2000, applications may be submitted to the department on or after November 1, 2000, and hand-delivered or postmarked not later than March 1, 2001.

b. For the fiscal year beginning July 1, 2001, and every fiscal year thereafter in which funding is appropriated, applications may be submitted to the department on or after July 1 and hand-delivered or postmarked not later than October 31.

100.3(2) Application form. The department shall provide an application form. The application form shall be made available to Iowa public school districts at least 15 days prior to the beginning of the application period. Each applicant school district shall use the form prepared for this purpose and in the manner prescribed by the department. A school district may submit only one application during an application period. The application form shall include, but shall not be limited to, the following information:

a. The total capital investment of the project. If the project is in collaboration with other public or private entities, the total capital investment for purposes of this program shall be limited to the school district’s portion of the project. The school district shall include the following information:

(1) Identification of the collaborating public or private entities;

(2) Total cost of the collaborative project; and

(3) Total capital investment of the school district’s portion of the project.

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b. The amount, source, and percentage of money that the school district will be providing for the project, which shall not include any other state or federal funding. Only funds in the physical plant and equipment levy fund or capital project funds can be used toward the local match requirement. If the project is in collaboration with other public or private entities, the state, federal, or private funds received by the other entities cannot be used toward the local match requirement.

c. The infrastructure needs of the school district specific to the project, especially the fire and health safety needs, including the extent to which the project would allow the school district to meet its infrastructure needs on a long-term basis. If the school district's needs include fire and health safety needs, the school district shall attach to its application form a copy of the citation by the fire marshal for the safety deficiency or evidence of consultation with the fire marshal related to the safety deficiency.

d. The financial assistance needed by the school district based upon the capacity per pupil. The capacity per pupil for each school district will be calculated by the department, and this information will be made available to the applicants.

e. Any previous efforts within the past five years, successful or unsuccessful, by the school district to secure infrastructure funding from federal, state, and local resources. If the previous effort includes a bond issue or a voter-approved physical plant and equipment levy, the school district shall include a copy of the ballot with the application. If the previous effort includes a regular physical plant and equipment levy, the school district shall include a statement to that effect.

f. Evidence that the school district meets or will meet the local match requirement. The local match requirement for each school district will be calculated by the department, and this information will be made available to the applicants. The local match requirement shall be met not later than nine months from the date of notification of conditional approval from the department. The local match for any other grant program shall not be the same money used as the local match for this grant program.

g. A description of the nature of the project and its relationship to improving educational opportunities for students including the school district's ability to meet or exceed the educational standards and a list of waivers applied for and granted to the school district.

h. Evidence that the school district receives local option sales and services tax for school infrastructure under Iowa Code chapter 422E or local option sales and services tax under Iowa Code chapter 422B.

i. A statement identifying the final year of the bonded indebtedness or the final year of the levy or tax if the school district currently has bonded indebtedness, the voter-approved physical plant and equipment levy, or the local option sales and services tax for school infrastructure. The school district shall describe its expenditures from any bond issue, voter-approved physical plant and equipment levy, regular plant and equipment levy, or local option sales and services tax for school infrastructure which it has in place at the time of the application and list any obligations against those current balances and future revenues.

j. A comprehensive, districtwide infrastructure plan if the school district has an infrastructure plan. The school district shall include the date that the plan was adopted by the board, an executive summary of the plan, and a description of how the project fits within the infrastructure plan.

k. A five-year history of infrastructure maintenance and repair.

l. A budget and timeline for the project. If the local match requirement has not been met at the time of the application, the school district shall include in the timeline a schedule of the steps in its plan to obtain the local match.

m. Evidence that the school district has entered into an innovative collaboration with another school district or school districts, has reorganized pursuant to Iowa Code chapter 275 on or after July 1, 2000, or has initiated a resolution to reorganize by July 1, 2004.

n. A statement certifying the accuracy of the information contained in the application.

100.3(3) Board minutes. A school district shall submit with its application for financial assistance under the program a copy of the minutes of the board of director's meeting showing that the board has authorized the application and the project and has made a commitment to the source and amount for the local match. The section of the board minutes containing this information shall be marked in such a way as to make it easily identifiable.

100.3(4) Number of copies. A school district shall submit with its application for financial assistance under the program three complete sets of the application forms and board minutes with original signatures on all application forms.

100.3(5) Number of grant awards possible. A school district shall not receive more than one grant under the program.

100.3(6) Reapplication. An applicant that is not successful in obtaining financial assistance under the program may apply for financial assistance under the program in succeeding fiscal years.

100.3(7) Maximum request for financial assistance. The maximum amount of financial assistance under the program that can be requested by a school district is the lesser of:

- a. One million dollars, or
- b. The total capital investment of the project minus the local match requirement.

100.3(8) Project timeline. The project shall be completed not later than three fiscal years from the date on which the grant is approved.

100.3(9) Project restrictions. Special restrictions apply to certain projects.

a. If the project is in collaboration with other public or private entities, the school district is eligible to apply only for the school district's portion of the project. The school district must own or retain ownership of the infrastructure for which the application is submitted. This restriction does not preclude shared facility use. State, federal, or private funds received by the other entities cannot be used toward the local match requirement. The application for one school district shall not be contingent upon one or more other school districts receiving an award under this program.

b. A school district may submit an application for a project that includes activities at more than one attendance center. However, if the activities are related to new construction, the project shall only relate to one attendance center. New construction for purposes of this subrule means a separate, new attendance center.

c. A school district receiving financial assistance under the vision Iowa program pursuant to a joint application submitted under Iowa Code section 15F.302, subsection 3, shall not be eligible to receive financial assistance under the program.

d. A school district that has a local option sales and services tax for school infrastructure imposed at the maximum rate and has local option sales and services tax for school infrastructure revenue per pupil of more than the statewide average of local option sales and services tax capacity per pupil

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shall not be eligible for financial assistance under the program.

e. All projects must be consistent with the provisions of the Americans with Disabilities Act and the Rehabilitation Act of 1973, Section 504, and Iowa Code chapter 104A.

281—100.4(78GA,SF2447) Review process.

100.4(1) Task force. The department shall form a task force to review applications for financial assistance and to provide recommendations to the school budget review committee. The department shall invite participants from large, medium, and small school districts, the state fire marshal's office, education and professional organizations, and other individuals knowledgeable in school infrastructure and construction issues. The department, in consultation with the task force, shall establish the parameters and criteria for awarding grants based on the information listed in 2000 Iowa Acts, Senate File 2447, sections 26 to 28, which includes greater priority to be given to the following:

- a. A school district with a lower capacity per pupil.
- b. A school district whose plans address specific occupant fire and health safety issues.
- c. A school district collaborating or reorganizing as described in subrule 100.3(2)“m.”
- d. A school district for which a local option sales and services tax for school infrastructure has not been imposed or a school district that receives minimal revenues from a local option sales and services tax for school infrastructure when the total enrollment of the school district is considered.

100.4(2) Task force review. The task force, or a subcommittee of the task force and its designees, shall review each application and make recommendations to the school budget review committee regarding awards of financial assistance based on the evidence provided by the applicant pursuant to subrule 100.3(2) and the criteria listed in subrule 100.4(3). A reviewer shall not review any application in which the reviewer has an interest, direct or indirect. The identity of the reviewer shall remain confidential.

100.4(3) Ranking of applicants. Applicants shall be ranked on a point system within each size category, and awards shall be recommended in rank order beginning with highest points. Applicants which do not receive funding within the applicable size categories will be grouped and ranked on the same point system without regard to size category, and awards will be recommended in rank order beginning with highest points. In the event that two or more school districts tie for a grant award, the applications will be reviewed by one or more additional reviewers until the tie is broken.

The maximum points for an application shall be 505 points. The maximum points for each criterion shall be as follows:

a. The maximum number of points that can be awarded for the description of the infrastructure needs and the project proposed to alleviate those needs is 50 points with a maximum of 25 points for the description of infrastructure needs and 25 points for the project proposed to alleviate those needs.

b. The maximum number of points that can be awarded for evidence that the infrastructure need is related to fire or health safety issues and for the severity of the deficiency is 75 points.

c. The maximum number of points that can be awarded for need based on capacity per pupil is 75 points. The points will be calculated as follows $[(1 - (\text{the school district's capacity per pupil} / \text{the capacity per pupil at the fortieth percentile})) \times \text{maximum points possible}] \times \text{adjustment factor}$.

The minimum number of points that can be awarded for need based on capacity per pupil is 0 points. The points will be awarded in relationship to the rank order with the highest points awarded for the lowest capacity per pupil. For the purpose of this paragraph, the adjustment factor is 75 points divided by the result of the formula prior to multiplying by the adjustment factor for the lowest ranked district. The purpose of the adjustment factor is to allow 75 points to be awarded to the lowest capacity district.

d. The maximum number of points that can be awarded for previous efforts to secure funding within the past five years is 50 points awarded as follows:

(1) The maximum number of points that can be awarded for previous efforts to secure funding within the past five years using a bond issue referendum is 15 points for previously attempted and passed, 10 points for previously attempted and failed, and 0 points for not previously attempted.

(2) The maximum number of points that can be awarded for previous efforts to secure funding within the past five years using the voter-approved physical plant and equipment levy is 10 points for previously attempted and passed, 5 points for previously attempted and failed, and 0 points for not previously attempted.

(3) The maximum number of points that can be awarded for previous efforts to secure funding within the past five years using the regular physical plant and equipment levy is 5 points with 1 point for each year that the board has imposed the levy during the past five years, and 0 points for not previously imposed.

(4) The maximum number of points that can be awarded for efforts to utilize past, current, and future resources for school infrastructure activities is 20 points.

e. The maximum number of points that can be awarded for the description of the nature of the project, its relationship to improving educational opportunities for students, and its ability to meet or exceed educational standards is 60 points.

f. The maximum number of points that can be awarded for the comprehensive, districtwide infrastructure plan and the description of how this project fits within that plan is 40 points.

g. The maximum number of points that can be awarded for the evidence that the school district has entered into an innovative collaboration with one or more other school districts, has reorganized, or has initiated a resolution to reorganize is 80 points.

h. The maximum number of points that can be awarded because the school district receives no revenues or minimal revenues from a local option sales and services tax for school infrastructure is 75 points. The points will be calculated as follows $[(1 - (\text{school district local option sales and services tax per pupil} / \text{statewide average local option sales and services tax capacity per pupil})) \times \text{maximum points possible}] \times \text{adjustment factor}$. The minimum number of points that can be awarded because the school district receives no revenues or minimal revenues from a local option sales and services tax for school infrastructure is 0 points. The number of pupils for this calculation will be the same enrollment number used for the calculation of sales tax capacity per pupil. For the purpose of this paragraph, the adjustment factor is 75 points divided by the result of the formula prior to multiplying by the adjustment factor for the lowest ranked district. The purpose of the adjustment factor is to allow 75 points to be awarded to the lowest capacity district.

100.4(4) School budget review committee. The school budget review committee shall review the recommendations

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for awards from the task force. The committee shall make recommendations on awards to the department for final consideration.

281—100.5(78GA,SF2447) Grant award process.

100.5(1) Department determination. The department shall make the final determination on grant awards.

100.5(2) Total amount of awards.

a. For the fiscal year beginning July 1, 2000, the department shall provide grants in an amount of not more than \$10 million.

b. For the fiscal year beginning July 1, 2001, and for the fiscal year beginning July 1, 2002, the department shall provide grants in an amount of not more than \$20 million.

c. If the amount of the grants awarded in a fiscal year is less than the maximum amount provided for grants for that fiscal year, the amount of the difference shall be carried forward to subsequent fiscal years for purposes of providing grants under the program, and the maximum amount of the grants for each fiscal year shall be adjusted accordingly.

d. If a school district does not meet the local match requirement within nine months of notification of conditional approval from the department, then the department shall deny the financial assistance to the applicant; the financial assistance shall be carried forward to the next available grant cycle; and the maximum amount of the grants for the fiscal year to which the financial assistance is carried forward shall be adjusted accordingly.

100.5(3) Distribution of the awards. The grants shall be allocated in the following manner:

a. Twenty-five percent of the financial assistance each year shall be awarded to school districts with a certified enrollment of 1,199 or fewer students.

b. Twenty-five percent of the financial assistance each year shall be awarded to school districts with a certified enrollment of more than 1,199 students but not more than 4,750 students.

c. Twenty-five percent of the financial assistance each year shall be awarded to school districts with a certified enrollment of more than 4,750 students.

d. Twenty-five percent of the financial assistance each year plus the financial assistance not awarded in "a" through "c" above and any financial assistance not awarded in previous fiscal years shall be awarded to school districts with any size certified enrollment.

100.5(4) Notification. The department shall notify applicants by the following dates.

a. For the fiscal year beginning July 1, 2000, the department shall notify all approved applicants by May 1, 2001, regarding the approval or conditional approval of the application.

b. For the fiscal years beginning July 1, 2001, and every year thereafter in which there is an application period, the department shall notify all approved applicants by December 15 regarding the approval or conditional approval of the application.

100.5(5) Payment. The grant award will be paid to the successful applicant school district following official notification from the school district that the local match requirement has been met.

281—100.6(78GA,SF2447) Grantee responsibilities.

100.6(1) Notification of local match. If the local match requirement is not met at the time of the application, the grantee shall notify the department that the local match requirement has been met within ten working days of meeting the requirement.

a. If the local match is a bond issue, the local match requirement is met when the bonds are sold.

b. If the local match is a voter-approved physical plant and equipment levy, the local match requirement is met on the date the votes are canvassed and the election is declared successful.

c. If the local match is a regular physical plant and equipment levy, the local match requirement is met when the total of unobligated resources on hand and certified by the board for the subsequent fiscal year equals the amount of the local match requirement.

d. If the local match is gifts, donations, or other resources, the local match requirement is met when the total of unobligated resources on hand equals the amount of the local match requirement.

100.6(2) Notification of change in local match source. If the source of the local match is not met at the time of the application and the school district changes the proposed source of the local match to other eligible sources of local match, the school district shall notify the department within ten working days of the change in sources.

100.6(3) Accounting for the grant. All revenues associated with the project, including interest revenue on fund balance, and all expenditures associated with the project shall be accounted for in a capital projects fund established for this grant program.

100.6(4) Progress report. A grantee shall submit a progress report to the department as requested by the department. The report shall include a description of the activities under the project, the status of the implementation of the projects, and any other information required by the department.

100.6(5) Actual project cost. If the total actual cost of the project is less than the estimated cost included in the application, the school district shall notify the department within 20 working days following the completion of the project. The allowable grant award and the local match shall be recalculated using the actual costs of the project and the award reduced accordingly. If the award payment to the school district exceeds the recalculated allowable grant award amount, the school district shall return the overpayment to the department with the notification.

100.6(6) Withdrawal from the program. If a school district is granted an award and the school district elects not to continue with the project, the school district shall notify the department within ten working days following the board action to discontinue the project. If the award payment has been made to the school district, the school district shall return the award payment to the department with the notification.

100.6(7) Forfeiture of grant award. Failure to comply with any of the rules in this chapter or with the assurances and information included in the grant application can result in the forfeiture of the grant award.

281—100.7(78GA,SF2447) Appeal of grant denial. Any applicant may appeal the denial of a properly submitted grant application to the director of the department. Appeals must be in writing and received within ten working days of the date of the notice of the decision to deny. Appeals must be based on a contention that the process was conducted outside of statutory authority; violated state or federal law, policy, or rule; did not provide adequate public notice; was altered without adequate public notice; or involved conflict of interest by staff or committee members. The hearing and appeals procedures found in 281—Chapter 6 that govern director's decisions shall be applicable to any appeal of denial.

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These rules are intended to implement 2000 Iowa Acts, Senate File 2447, sections 26 to 28.

ARC 0058B

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 sections 239B.4(4) and 249A.4, the Department of Human Services proposes to amend Chapter 40, "Application for Aid," Chapter 41, "Granting Assistance," Chapter 47, "Pilot Diversion Initiatives," Chapter 48, "Family Investment Program Eligibility Under Self-Employment Demonstration Projects," Chapter 60, "Refugee Cash Assistance," Chapter 75, "Conditions of Eligibility," and Chapter 93, "PROMISE JOBS Program," and to rescind Chapter 42, "Unemployed Parent," appearing in the Iowa Administrative Code.

These amendments eliminate deprivation as an eligibility factor for the Family Investment Program (FIP) and for Medicaid under the Family Medical Assistance Program (FMAP) and FMAP-related Medicaid coverage groups.

Currently, to be eligible for FIP or Medicaid under FMAP and most FMAP-related coverage groups, a child must be determined to be deprived of parental support or care.

Deprivation for FIP is considered to exist when one or both parents are continually absent from the home or are deceased. For two-parent FIP households, deprivation is considered to exist when one or both of the parents are physically or mentally incapacitated or when both parents meet the specific requirements of the FIP-Unemployed Parent (FIP-UP) program.

A family is considered eligible for FIP-UP assistance when both of the parents:

- Complete the referral to Iowa Workforce Development (IWD) at the time of FIP application;
- Comply with IWD requirements at the time of FIP application;
- Apply for and draw unemployment benefits when eligible;
- Are not involved in a labor dispute; and
- Accept a bona fide offer of employment or training.

These criteria are in addition to all other FIP eligibility factors applicable to both one- and two-parent families.

Currently, one parent from any FIP-Unemployed Parent case must also participate in the FIP-UP work program as part of the family investment agreement.

These amendments eliminate the special requirements of the FIP-UP program, including the FIP-UP work program and designated parent responsibilities in the PROMISE JOBS program. Families with two parents in the home will be subject to the same eligibility requirements as one-parent families. For example:

- The parents will still be subject to PROMISE JOBS and family investment agreement requirements. The family's FIP benefits will terminate when either parent chooses a

limited benefit plan rather than cooperate with PROMISE JOBS and family investment agreement activities.

- The family will be ineligible for FIP if either parent is on strike.

- A parent's needs will be removed from the FIP grant for failure to apply for benefits (e.g., unemployment benefits) when eligible, but FIP could be issued for the remaining family members.

A small number of two-parent families will be ineligible for FIP due to the changes. The families which may be affected are two-parent families which include both common children and children from previous relationships. Under current policy, if one of the two parents in such a household refuses to cooperate with the special FIP-UP program requirements, that parent and that parent's children are ineligible for FIP. However, the other parent, and that parent's children from a previous relationship, may be eligible for FIP. Under the rule changes, both parents will be required to be included in the FIP eligible group. Both parents' income and resources will be considered in determining eligibility and benefits for the entire family.

The Seventy-eighth General Assembly in 2000 Iowa Acts, Senate File 2368, section 2, granted the Department's request to eliminate the special requirements of the FIP-UP program. Eliminating these special requirements makes access to FIP more equitable, as families with two parents in the home will be subject to the same eligibility requirements as one-parent families. In addition, eliminating the special requirements of the FIP-UP program simplifies program policies and procedures thereby expediting eligibility determination and service delivery.

Currently, deprivation for FMAP and FMAP-related Medicaid is considered to exist when a parent is deceased, absent, incapacitated, or when both parents are unemployed. All parents in meeting the financial requirements of the Medicaid program are considered unemployed.

The elimination of the deprivation factor for Medicaid will align FMAP-related Medicaid programs with FIP. This also simplifies program policies and procedures. Programs will be more consistent and it will be easier for the field to administer the programs.

These amendments also update language, legal references and form numbers in existing rules.

These amendments do not provide for waivers in specific situations as the FIP amendments implement state law and the Medicaid amendments confer a benefit on Medicaid applicants and recipients.

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 September 13, 2000.

These amendments are intended to implement Iowa Code sections 239B.2 as amended by 2000 Iowa Acts, Senate File 2368, section 2, and 249A.4.

The following amendments are proposed.

ITEM 1. Amend rule **441—40.21(239B)** as follows:

Amend the definition of "assistance unit" as follows:

"Assistance unit" includes any person whose income is considered when determining eligibility or the *family investment program grant* amount of assistance for aid to dependent children.

Adopt the following **new** definitions in alphabetical order:

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"Dependent" means an individual who can be claimed by another individual as a dependent for federal income tax purposes.

"Dependent child" or "dependent children" means a child or children who meet the nonfinancial eligibility requirements of the family investment program.

"Needy specified relative" means a nonparental specified relative, listed in 441—subrule 41.22(3), who meets all the eligibility requirements to be included in the family investment program.

"Parent" means a legally recognized parent, including an adoptive parent, or a biological father if there is no legally recognized father.

"Stepparent" means a person who is not the parent of the dependent child, but is the legal spouse of the dependent child's parent, by ceremonial or common-law marriage.

ITEM 2. Rescind and reserve subrule **41.21(5)**.

ITEM 3. Amend rule 441—41.22(239B) as follows:

Amend subrule **41.22(3)** by adopting new paragraphs "**c**" and "**d**" as follows:

c. The family investment program is available to a child of unmarried parents the same as to a child of married parents when all eligibility factors are met.

d. The presence of an able-bodied stepparent in the home shall not disqualify a child for assistance, provided that other eligibility factors are met.

Amend subrule 41.22(5) as follows:

41.22(5) Referral to child support recovery unit. The ~~local~~ county office shall provide prompt notice to the child support recovery unit whenever assistance is furnished with respect to a child ~~whose eligibility is based on the continued absence of a~~ with a parent who is absent from the home or when any member of the eligible group is entitled to support payments.

A referral to the child support recovery unit shall not be made when a parent's absence is occasioned solely by reason of the performance of active duty in the uniformed services of the United States. "Uniformed service" means the Army, Navy, Air Force, Marine Corps, Coast Guard, National Oceanographic and Atmospheric Administration, or Public Health Service of the United States.

"Prompt notice" means within two working days of the date assistance is approved.

Rescind and reserve subrule **41.22(14)**.

ITEM 4. Amend subrule 41.23(3) as follows:

41.23(3) ~~Temporary absence~~ Absence from the home.

a. *An individual who is absent from the home shall not be included in the assistance unit, except as described in paragraph "b."*

(1) *A parent who is a convicted offender but is permitted to live at home while serving a court-imposed sentence by performing unpaid public work or unpaid community service during the workday is considered absent from the home.*

(2) *A parent whose absence from the home is due solely to a pattern of employment is not considered to be absent.*

(3) *A parent whose absence is occasioned solely by reason of the performance of active duty in the uniformed services of the United States is considered absent from the home, notwithstanding the provisions of subrule 41.22(5). "Uniformed service" means the Army, Navy, Air Force, Marine Corps, Coast Guard, National Oceanographic and Atmospheric Administration, or Public Health Service of the United States.*

b. The needs of an individual who is temporarily out of the home are included in the ~~assistance grant~~ eligible group,

if otherwise eligible. A temporary absence exists in the following circumstances:

a. (1) An individual is anticipated to be in the medical institution for less than a year, as verified by a physician's statement. Failure to return within one year will result in the individual's needs being removed from the grant.

b. (2) ~~When an~~ An individual is out of the home to secure education or training, as defined for children in 41.24(2)"e" and for adults in 441—subrule 93.114(1), first sentence, as long as the caretaker relative retains supervision of the child.

c. (3) An individual is out of the home for reasons other than reasons in paragraphs "**a**" and "**b**" subparagraphs (1) and (2) and the payee intends that the individual will return to the home within three months. Failure to return within three months will result in the individual's needs being removed from the grant.

ITEM 5. Amend rule 441—41.24(239B) as follows:

Amend subrule **41.24(2)**, paragraph "**d**," as follows:

d. A person who is disabled, according to the Americans with Disabilities Act, and unable to participate. Medical evidence of disability may be obtained from either an independent physician or psychologist or the state rehabilitation agency ~~in the same manner specified in 41.21(5)"c."~~

(1) *The evidence may be submitted either by letter from the physician or on Form 470-0447, Report on Incapacity.*

(2) *When an examination is required and other resources are not available to meet the expense of the examination, the physician shall be authorized to make the examination and submit the claim for payment on Form 470-0502, Authorization for Examination and Claim for Payment.*

(3) *A finding of eligibility for social security benefits or supplemental security income benefits based on disability or blindness is acceptable proof of disability for family investment program purposes.*

Amend subrule **41.24(8)**, paragraph "**b**," as follows:

b. The limited benefit plan shall be applied to participants responsible for the family investment agreement and other members of the participant's family as follows:

(1) When the participant responsible for the family investment agreement is a parent or needy ~~caretaker~~ specified relative, the limited benefit plan shall apply to the entire FIP eligible group as defined at subrule 41.28(1).

(2) When the participant choosing a limited benefit plan is a needy *specified* relative who acts as payee when the parent is in the home but is unable to act as payee, or is a dependent child's stepparent who is in the FIP eligible group because of incapacity ~~or caregiving~~, the limited benefit plan shall apply only to the individual participant choosing the plan.

(3) When the FIP eligible group includes a minor parent living with the minor parent's adult parent or needy ~~caretaker~~ specified relative who receives FIP benefits and both the minor parent and the adult parent or needy ~~caretaker~~ specified relative are responsible for developing a family investment agreement, each parent or needy ~~caretaker~~ specified relative is responsible for a separate family investment agreement, and the limited benefit plan shall be applied as follows:

1. When the adult parent or needy ~~caretaker~~ specified relative chooses the limited benefit plan, the requirements of the limited benefit plan shall apply to the entire eligible group, even though the minor parent has not chosen the limited benefit plan. However, the minor parent may reapply for FIP benefits as a minor parent living with self-supporting parents or as a minor parent living independently and continue in the family investment agreement process.

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2. When the minor parent chooses the limited benefit plan, the requirements of the limited benefit plan shall apply to the minor parent and any child of the minor parent.

3. When the minor parent is the only eligible child in the adult parent's or needy ~~caretaker specified~~ relative's home and the minor parent chooses the limited benefit plan, the adult parent's or needy ~~caretaker specified~~ relative's FIP eligibility ceases in accordance with subrule 41.28(1). The adult parent or needy ~~caretaker specified~~ relative shall become ineligible beginning with the effective date of the minor parent's limited benefit plan.

(4) When the FIP eligible group includes children who are mandatory PROMISE JOBS participants, the children shall not have a separate family investment agreement but shall be asked to sign the eligible group's family investment agreement and to carry out the responsibilities of that family investment agreement. A limited benefit plan shall be applied as follows:

1. When the parent or needy ~~caretaker specified~~ relative responsible for a family investment agreement meets those responsibilities but a child who is a mandatory PROMISE JOBS participant chooses an individual limited benefit plan, the limited benefit plan shall apply only to the individual child choosing the plan.

2. When the child who chooses a limited benefit plan under numbered paragraph "1" above is the only child in the eligible group, the parents' or needy ~~caretaker specified~~ relative's eligibility ceases in accordance with subrule 41.28(1). The parents or needy ~~caretaker specified~~ relative shall become ineligible beginning with the effective date of the child's limited benefit plan.

(5) When the FIP eligible group includes parents or needy ~~caretaker specified~~ relatives who are exempt from PROMISE JOBS participation and children who are mandatory PROMISE JOBS participants, the children are responsible for completing a family investment agreement. If a child who is a mandatory PROMISE JOBS participant chooses the limited benefit plan, the limited benefit plan shall be applied in the manner described in subparagraph (4).

(6) When both parents of a FIP child are in the home, a limited benefit plan shall be applied as follows:

1. When only one parent of a child in the eligible group is responsible for a family investment agreement and that parent chooses the limited benefit plan, the limited benefit plan applies to the entire family and cannot be ended by the voluntary participation in a family investment agreement by the exempt parent.

2. When both parents of a child in the eligible group are responsible for a family investment agreement, both are expected to sign the agreement. If either parent chooses the limited benefit plan, the limited benefit plan cannot be ended by the participation of the other parent in a family investment agreement.

3. When the parents from a two-parent family in a limited benefit plan separate, the limited benefit plan shall follow only the parent who chose the limited benefit plan and any children in the home of that parent.

4. A subsequent limited benefit plan applies when either parent in a two-parent family previously chose a limited benefit plan.

ITEM 6. Amend rule 441—41.27(239B) as follows:

Amend subrule 41.27(4), paragraph "a," as follows:

a. Nonexempt earned and unearned income of the parent shall be diverted to meet the unmet needs, including special needs, of the ~~dependent, but ineligible~~ child(ren) of the parent living in the family group *who meets the age and school*

attendance requirements specified in subrule 41.21(1). Income of the parent shall be diverted to meet the unmet needs of the ineligible child(ren) of the parent and a companion in the home only when the income and resources of the companion and the child(ren) are within family investment program standards. The maximum income that shall be diverted to meet the needs of the ~~dependent, but ineligible~~ child(ren) shall be the difference between the needs of the eligible group if the ineligible child(ren) were included and the needs of the eligible group with the child(ren) excluded, except as specified in 41.27(8)"a"(2) and 41.27(8)"b."

Amend subrule 41.27(8), paragraph "b," introductory paragraph and subparagraphs (9) and (10), as follows:

b. Treatment of income in stepparent cases. The income of a stepparent who is not included in the eligible group, but is living with the parent in the home of the eligible child(ren), shall be given the same consideration and treatment as that of a ~~natural~~ parent subject to the limitations of subparagraphs (1) to (10) below.

(9) When the income of the stepparent, not in the eligible group, is insufficient to meet the needs of the stepparent and the stepparent's ~~dependent, but ineligible, child(ren)~~ *dependents* living in the home, *who are not eligible for FIP*, the income of the parent may be diverted to meet the unmet needs of the child(ren) of the current marriage except as described at 41.27(11).

(10) When the needs of the stepparent, living in the home, are not included in the eligible group, the eligible group and any ~~dependent but ineligible~~ child(ren) of the parent *living in the home who is not eligible for FIP* shall be considered as one unit, and the stepparent and the stepparent's dependents, other than the spouse, shall be considered a separate unit.

ITEM 7. Amend rule 441—41.28(239B) as follows:

Amend subrule 41.28(1) as follows:

41.28(1) Definition of the eligible group. The eligible group consists of all eligible persons *specified below and living together*, except when one or more of these persons has elected to receive supplemental security income under Title XVI of the Social Security Act. There shall be at least one child in the eligible group except when the only eligible child is receiving supplemental security income. The unborn child is not considered a member of the eligible group for purposes of establishing the number of persons in the eligible group.

a. The following persons shall be included (except as otherwise provided in these rules), *without regard to the person's employment status, income or resources*:

(1) ~~The dependent child and any brother or sister of the child~~ *All dependent children who are siblings, of whole or half blood or adoptive, if the brother or sister meets the eligibility requirements of age and school attendance specified in subrule 41.21(1) and is deprived as specified in subrule 41.21(5), or rule 441—42.22(239B) if the brother or sister is living in the same home as the dependent child.*

(2) Any ~~natural or adoptive~~ parent of such ~~child~~ *children*, if the parent is living in the same home as the dependent ~~child~~ *children*.

b. The following persons may be included:

(1) The needy *specified* relative who assumes the role of parent.

(2) The needy *specified* relative who acts as payee when the parent is in the home, but is unable to act as payee.

(3) ~~The~~ *An* incapacitated stepparent, upon request, when the stepparent is the legal spouse of the ~~natural or adoptive~~ parent by ceremonial or common-law marriage and the inca-

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pacitated stepparent does not have a child in the eligible group.

1. *A stepparent is considered incapacitated when a clearly identifiable physical or mental defect has a demonstrable effect upon earning capacity or the performance of the homemaking duties required to maintain a home for the stepchild. The incapacity shall be expected to last for a period of at least 30 days from the date of application.*

2. *The determination of incapacity shall be supported by medical or psychological evidence. The evidence may be submitted in the same manner specified in paragraph 41.24(2) "d."*

Rescind and reserve subrule **41.28(4)**.

ITEM 8. Rescind and reserve **441—Chapter 42**.

ITEM 9. Amend **441—Chapter 47, Division I**, Preamble, as follows:

DIVISION I

PILOT FIP-APPLICANT DIVERSION PROGRAM

PREAMBLE

The pilot FIP-applicant diversion program provides a voluntary alternative to ongoing cash assistance to families through the family investment program (FIP) as provided under 441—Chapters 40, and 41 and 42. The purpose of the pilot FIP-applicant diversion program is to provide immediate, short-term assistance to a family in lieu of ongoing FIP cash assistance. Assistance under this division may postpone or prevent the need to apply for FIP.

ITEM 10. Amend rule **441—47.1(239B)**, definition of "family investment program," as follows:

"Family investment program" or "FIP" means the cash grant program provided by 441—Chapters 40, and 41 and 42, designed to sustain Iowa families.

ITEM 11. Amend subrule **47.5(1)**, introductory paragraph and paragraph "a," as follows:

47.5(1) Otherwise FIP eligible. Candidates cannot receive both FIP and assistance under this division in the same calendar month. Candidates for the pilot FIP-applicant diversion program must meet the following FIP eligibility criteria and any other FIP eligibility criteria found in 441—Chapters 40, and 41, and 42 included in the local plan of an approved pilot project:

a. Requirements related to a child's age, deprivation and living with a specified relative as described at rules 441—41.21(239B), and 441—41.22(239B) and 441—42.22(239B).

ITEM 12. Amend rule **441—47.21(239B)**, definition of "family investment program," as follows:

"Family investment program" or "FIP" means the cash grant program provided by 441—Chapters 40, and 41, and 42, designed to sustain Iowa families.

ITEM 13. Amend rule **441—47.41(239B)**, definition of "family investment program," as follows:

"Family investment program" or "FIP" means the cash grant program provided by 441—Chapters 40, and 41, and 42, designed to sustain Iowa families.

ITEM 14. Amend rule **441—47.61(239B)**, definition of "family investment program," as follows:

"Family investment program" or "FIP" means the cash grant program provided by 441—Chapters 40, and 41, and 42, designed to sustain Iowa families.

ITEM 15. Amend subrule **47.65(4)**, paragraph "a," as follows:

a. Requirements related to a child's age, deprivation and living with a specified relative as described at rules 441—41.21(239B), and 441—41.22(239B), and 441—42.22(239B).

ITEM 16. Rescind and reserve subrule **48.23(3)**.

ITEM 17. Amend subrule 60.4(1) as follows:

60.4(1) Family investment program. A refugee applicant or recipient shall accept a family investment program (FIP) grant or a FIP-unemployed parent grant if eligible under 441—Chapters 40, and 41, and 42.

ITEM 18. Amend subrule **60.8(1)**, paragraphs "c" and "d," as follows:

c. A refugee who is caring for another member of the household who has a physical or mental impairment which requires, as determined by a physician or licensed or certified psychologist and verified by the department, care in the home on a substantially continuous basis, and no other appropriate member of the household is available. The condition shall be established as specified in 441—paragraph 41.21(5) "c," 41.24(2) "d."

d. A woman who is pregnant if it has been medically verified that the child is expected to be born in the month in which registration would otherwise be required or within the next six months. Verification of the pregnancy and estimated date of birth shall be obtained in the same manner as specified in 441—paragraph 41.21(5) "a," 41.24(2) "d."

ITEM 19. Amend rule 441—75.1(249A) as follows:

Amend subrule **75.1(7)**, paragraph "a," subparagraph (4), as follows:

(4) Either meet all supplemental security income (SSI) eligibility requirements except for income or are under age 21. FMAP policies regarding income, and age, and deprivation of parental care and support do not apply when determining eligibility for persons under the age of 21.

Amend subrule **75.1(14)** by rescinding and reserving paragraph "c."

Amend subrule **75.1(15)**, paragraph "a," introductory paragraph, and paragraph "e," as follows:

a. Financial eligibility shall be determined for the family size of which the child is a member using the income standards in effect for the family medical assistance program (FMAP) unless otherwise specified. Income shall be considered as provided in rule 441—75.57(249A). Additionally, the earned income disregards as provided in paragraphs 75.57(2) "a," "b," "c," and "d" shall be allowed for those persons whose income is considered in establishing eligibility for the persons under the age of 21 and whose needs must be included in accordance with paragraph 75.58(1) "a" but who are not eligible for Medicaid. Resources of all persons in the eligible group, regardless of age, shall be disregarded. All persons in the household under the age of 21 shall be considered as though they were dependent children. Unless a family member is voluntarily excluded in accordance with the provisions of rule 441—75.59(249A), family size shall be determined as follows:

e. Living with a specified relative as provided in subrule 75.54(2) and deprivation requirements as provided in subrule 75.54(3) shall not be considered when determining eligibility for persons under this coverage group.

Amend subrule **75.1(28)**, paragraph "h," as follows:

h. When determining eligibility under this coverage group, the deprivation requirements specified at subrule

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75.54(3), living with a specified relative as specified at subrule 75.54(2), and the student provisions specified in subrule 75.54(1) do not apply.

Amend subrule 75.1(31), paragraph “j,” subparagraph (1), as follows:

(1) Any ~~natural or adoptive~~ parent who is in the home. This includes parents who are included in the eligible group as well as those who are not.

Amend subrule 75.1(35), paragraph “a,” subparagraph (5), as follows:

(5) FMAP-specified relatives. Persons whose income or resources exceed the family medical assistance program’s limit and who are a specified relative as defined at subrule 75.55(1) living with a child who is determined dependent ~~(or would be if needy) because the child is deprived of parental support or care.~~

ITEM 20. Amend rule 441—75.12(249A) as follows:

441—75.12(249A) Persons who enter jails or penal institutions or are on work release. A person who enters a jail or penal institution, including a work release center, shall not be eligible for Medicaid. *A person who is a convicted offender but is permitted to live at home while serving a court-imposed sentence by performing unpaid public work or unpaid community service during the workday shall not be eligible.*

ITEM 21. Amend subrule 75.13(1) as follows:

75.13(1) FMAP-related Medicaid eligibility. Medicaid eligibility for persons who are under the age of 21, pregnant women, ~~children,~~ or specified relatives of dependent children who are not blind or disabled shall be determined using the income criteria in effect for the family medical assistance program (FMAP) as provided in subrule 75.1(14) unless otherwise specified. Income shall be considered prospectively.

ITEM 22. Amend subrule 75.14(5) as follows:

75.14(5) Referrals to the child support recovery unit for Medicaid applicants or recipients. The county office shall provide prompt notice to the child support recovery unit whenever assistance is furnished with respect to a child ~~whose eligibility is based on the continued absence of a parent with a parent who is absent from the home or when any member of the eligible group is entitled to support payments.~~

A referral to the child support recovery unit shall not be made when a parent’s absence is occasioned solely by reason of the performance of active duty in the uniformed services of the United States. “Uniformed service” means the Army, Navy, Air Force, Marine Corps, Coast Guard, National Oceanographic and Atmospheric Administration, or Public Health Service of the United States.

“Prompt notice” means within two working days of the date assistance is approved.

ITEM 23. Amend rule 441—75.50(249A) as follows:

Amend the definitions of “parent” and “stepparent” as follows:

“Parent” means ~~the natural or~~ a legally recognized parent, including an adoptive parent, or a biological father if there is no legally recognized father.

“Stepparent” means a person who *is not the parent of the dependent child, but is the legal spouse of the dependent child’s* ~~natural or adoptive~~ parent by ceremonial or common-law marriage.

Adopt the following **new** definitions in alphabetical order:

“Dependent” means an individual who can be claimed by another individual as a dependent for federal income tax purposes.

“Dependent child” or “dependent children” means a child or children who meet the nonfinancial eligibility requirements of the applicable FMAP-related coverage group.

“Needy specified relative” means a nonparental specified relative, listed in 75.55(1), who meets all the eligibility requirements of the FMAP coverage group, listed in 75.1(14).

ITEM 24. Amend subrule 75.52(4) as follows:

Amend paragraph “c,” subparagraph (5), as follows:

(5) ~~Becoming incapacitated or recovery~~ A stepparent recovering from an incapacity.

Amend paragraph “d” by rescinding and reserving subparagraph (6).

ITEM 25. Amend subrule 75.53(4) as follows:

75.53(4) Temporary absence Absence from the home.

a. *An individual who is absent from the home shall not be included in the eligible group, except as described in paragraph “b.”*

(1) *A parent who is a convicted offender but is permitted to live at home while serving a court-imposed sentence by performing unpaid public work or unpaid community service during the workday is considered absent from the home.*

(2) *A parent whose absence from the home is due solely to a pattern of employment is not considered to be absent.*

(3) *A parent whose absence is occasioned solely by reason of the performance of active duty in the uniformed services of the United States is considered absent from the home. “Uniformed service” means the Army, Navy, Air Force, Marine Corps, Coast Guard, National Oceanographic and Atmospheric Administration, or Public Health Service of the United States.*

b. The needs of an individual who is temporarily out of the home are included in the eligible group ~~unless the person is in a jail or penal institution, including a work release center, in accordance with the provisions of rule 441—75.12(249A) or is excluded from the eligible group in accordance with the provisions of rule 441—75.59(249A) if otherwise eligible.~~ A temporary absence exists in the following circumstances:

a. (1) An individual is anticipated to be in the medical institution for less than a year, as verified by a physician’s statement. Failure to return within one year from the date of entry into the medical institution will result in the individual’s needs being removed from the eligible group.

b. (2) ~~When an~~ An individual is out of the home to secure education or training, as defined for children in paragraph 75.54(1)“b” and for adults in 441—subrule 93.114(1), first sentence, as long as the specified relative retains supervision of the child.

c. (3) An individual is out of the home for reasons other than reasons in paragraphs “a” and “b” subparagraphs (1) and (2) and intends to return to the home within three months. Failure to return within three months from the date the individual left the home will result in the individual’s needs being removed from the eligible group.

ITEM 26. Rescind and reserve subrules 75.54(3) and 75.54(4).

ITEM 27. Amend rule 441—75.57(249A) as follows:

Amend subrule 75.57(4), paragraph “a,” as follows:

a. Nonexempt earned and unearned income of the parent shall be diverted to meet the unmet needs of the ~~dependent,~~ but ineligible children of the parent living in the family

HUMAN SERVICES DEPARTMENT[441](cont'd)

group who meet the age and school attendance requirements specified in subrule 75.54(1). Income of the parent shall be diverted to meet the unmet needs of the ineligible children of the parent and a companion in the home only when the income and resources of the companion and the children are within family medical assistance program standards. The maximum income that shall be diverted to meet the needs of the ~~dependent but ineligible children~~ shall be the difference between the needs of the eligible group if the ineligible children were included and the needs of the eligible group with the ineligible children excluded, except as specified at paragraph 75.57(8)“b.”

Amend subrule 75.57(8), paragraph “b,” introductory paragraph and subparagraphs (9) and (10), as follows:

b. Treatment of income in stepparent cases. The income of a stepparent who is not included in the eligible group, but is living with the parent in the home of the eligible child(ren), shall be given the same consideration and treatment as that of a ~~natural~~ parent subject to the limitations of subparagraphs (1) through (10) below.

(9) When the income of the stepparent, not in the eligible group, is insufficient to meet the needs of the stepparent and the stepparent’s ~~dependent but ineligible children~~ dependents living in the home who are not eligible for FMAP-related Medicaid, the income of the parent may be diverted to meet the unmet needs of the children of the current marriage except as described at subrule 75.57(10).

(10) When the needs of the stepparent, living in the home, are not included in the eligible group, the eligible group and any ~~dependent but ineligible~~ children of the parent living in the home who are not eligible for FMAP-related Medicaid shall be considered as one unit, and the stepparent and the stepparent’s dependents, other than the spouse, shall be considered a separate unit.

Amend subrule 75.57(9), paragraph “c,” subparagraph (2), as follows:

(2) Nonrecurring lump sum income. Moneys received as a nonrecurring lump sum, except as specified in subrules 75.56(4) and 75.56(7) and at paragraphs 75.57(8)“b” and “c,” shall be treated in accordance with this rule. Nonrecurring lump sum income shall be considered as income in the budget month and counted in computing eligibility in the benefit month, unless the income is exempt. When countable income exclusive of the family investment program grant but including countable lump sum income exceeds the needs of the eligible group under their current coverage group, the countable lump sum income shall be prorated. The number of full months for which a monthly amount of the lump sum shall be counted as income in the eligibility determination is derived by dividing the income by the schedule of living costs, as identified at subrule 75.58(2), for the eligible group. This period of time is referred to as the period of proration. Any income remaining after this calculation shall be applied as income to the first month following the period of ineligibility and disregarded as income thereafter.

The period of proration shall be shortened when the schedule of living costs as defined at subrule 75.58(2) increases.

The period of proration shall be shortened by the amount which is no longer available to the eligible group due to a loss, a theft or because the person controlling the lump sum no longer resides with the eligible group and the lump sum is no longer available to the eligible group.

The period of proration shall also be shortened when there is an expenditure of the lump sum made for the following circumstances unless there was insurance available to meet the

expense: Payments made on medical services for the former eligible group or their dependents for services listed in 441—Chapters 78, 81, 82, and 85 at the time the expense is reported to the department; the cost of necessary repairs to maintain habitability of the homestead requiring the spending of over \$25 per incident; cost of replacement of exempt resources as defined in subrule 75.56(1) due to fire, tornado, or other natural disaster; or funeral and burial expenses. The expenditure of these funds shall be verified. ~~A dependent is an individual who is claimed or could be claimed by another individual as a dependent for federal income tax purposes.~~

When countable income, including the lump sum income, is less than the needs of the eligible group in accordance with the provisions of their current coverage group, the lump sum shall be counted as income for the budget month. For purposes of applying the lump sum provision, the eligible group is defined as all eligible persons and any other individual whose lump sum income is counted in determining the period of proration. During the period of proration, individuals not in the eligible group when the lump sum income was received may be eligible as a separate eligible group. Income of this eligible group plus income, excluding the lump sum income already considered, of the parent or other legally responsible person in the home shall be considered as available in determining eligibility.

ITEM 28. Amend rule 441—75.58(249A) as follows:

Amend subrule 75.58(1) as follows:

75.58(1) Definition of eligible group. The eligible group consists of all eligible persons specified below and living together, except when one or more of these persons have elected to receive supplemental security income under Title XVI of the Social Security Act or are voluntarily excluded in accordance with the provisions of rule 441—75.59(249A). There shall be at least one child, which may be an unborn child, in the eligible group except when the only eligible child is receiving supplemental security income.

a. The following persons shall be included (except as otherwise provided in these rules) without regard to the person’s employment status, income or resources:

(1) ~~The dependent child and any sibling of the child, All dependent children who are siblings of whole or half blood or adoptive, if the sibling is living in the same home as the dependent child and if the sibling meets the eligibility requirements of age and school attendance specified at subrule 75.54(1). When eligibility is being established under subrule 75.1(14), subparagraph 75.1(35)“a”(2), or 75.1(35)“a”(5), the child must be deprived as specified at subrule 75.54(3).~~

(2) Any ~~natural or adoptive~~ parent of such child children, if the parent is living in the same home as the dependent child children.

b. The following persons may be included:

(1) The needy specified relative who assumes the role of parent.

(2) The needy specified relative who acts as caretaker when the parent is in the home but is unable to act as caretaker.

(3) ~~The An~~ incapacitated stepparent, upon request, when the stepparent is the legal spouse of the ~~natural or adoptive~~ parent by ceremonial or common-law marriage and the stepparent does not have a child in the eligible group.

1. A stepparent is considered incapacitated when a clearly identifiable physical or mental defect has a demonstrable effect upon earning capacity or the performance of the homemaking duties required to maintain a home for the

HUMAN SERVICES DEPARTMENT[441](cont'd)

stepchild. The incapacity shall be expected to last for a period of at least 30 days from the date of application.

2. The determination of incapacity shall be supported by medical or psychological evidence. The evidence may be submitted either by letter from the physician or on Form 470-0447, Report on Incapacity.

3. When an examination is required and other resources are not available to meet the expense of the examination, the physician shall be authorized to make the examination and submit the claim for payment on Form 470-0502, Authorization for Examination and Claim for Payment.

4. A finding of eligibility for social security benefits or supplemental security income benefits based on disability or blindness is acceptable proof of incapacity for the family medical assistance program (FMAP) and FMAP-related program purposes.

5. A stepparent who is considered incapacitated and is receiving Medicaid shall be referred to the department of education, division of vocational rehabilitation services, for evaluation and services. Acceptance of these services is optional.

(4) The stepparent who is not incapacitated when the stepparent is the legal spouse of the natural or adoptive parent by ceremonial or common-law marriage and the stepparent is required in the home to care for the dependent children. These services must be required to the extent that if the stepparent were not available, it would be necessary to allow for care as a deduction from earned income of the parent.

Amend subrule 75.58(2), paragraph "b," subparagraph (4), as follows:

(4) When two individuals, married to each other, are living in a common household and the children of each of them are recipients of Medicaid, the eligibility shall be computed on the basis of their comprising one eligible group. ~~This rule shall not be construed to require that an application be made for children who are not the natural or adoptive children of the applicant.~~

ITEM 29. Amend rule 75.59(249A) as follows:

Amend subrule 75.59(1), paragraph "d," as follows:

d. Children living with a specified relative, as listed at subrule 75.55(1), ~~who are dependent due to deprivation of parental support or care.~~

Amend subrule 75.59(2) as follows:

75.59(2) Needs, income, and resource exclusions. The needs, income, and resources of persons who are excluded shall also be excluded. If the income of the self-supporting parents of a minor unmarried parent is excluded, then the needs of the minor unmarried parent shall also be excluded. However, the income and resources of the minor unmarried parent shall not be excluded. If the income of the stepparent is excluded, ~~the need needs~~ of the natural or adoptive parent shall also be excluded.

ITEM 30. Amend 441—Chapter 93, Division II, Preamble, as follows:

DIVISION II

FAMILY INVESTMENT PROGRAM—TREATMENT GROUP

PREAMBLE

This chapter implements the PROMISE JOBS* program which is designed to increase the availability of employment and training opportunities to family investment program (FIP) recipients. It implements the family investment agreement (FIA) as directed in legislation passed by the Seventy-fifth General Assembly and signed by the governor on May

4, 1993, and approved under federal waiver August 13, 1993. The program also implements the federal Job Opportunities and Basic Skills (JOBS) program of the Family Support Act of 1988.

The program assigns responsibility for the provision of services to the department of workforce development (DWD) and the department of economic development (DED) as the administrative entity for the Job Training Partnership Act (JTPA) program, Iowa's two primary providers of employment-oriented services. In addition, the bureau of refugee services (BRS) of the department of human services is assigned the responsibility of providing program services, to the extent compatible with resources available, to all refugees.

PROMISE JOBS services, which are also FIA options, include orientation, assessment, job-seeking skills training, group and individual job search, classroom training programs ranging from basic education to postsecondary education opportunities, PROMISE JOBS on-the-job training, work experience, unpaid community service, parenting skills training, monitored employment, ~~the FIP-unemployed parent work program~~, referral for family planning counseling, and FaDSS, ~~and or~~ other family development services. In addition, participants have access to all services offered by the provider agencies. Persons in other work and training programs outside of PROMISE JOBS or not approvable by PROMISE JOBS can use those as FIA options.

ITEM 31. Amend rule 441—93.103(239B) as follows:

441—93.103(239B) Contracts with provider agencies for provision of services. The department of human services shall contract with the ~~departments~~ department of workforce development and economic development to provide PROMISE JOBS and FIA services to FIP recipients. Services shall include orientation, assessment, job-seeking skills training, group and individual job search, job placement and job development, high school completion, adult basic education (ABE), general educational development (GED), and English as a second language (ESL), vocational classroom training, postsecondary education *including entrepreneurial training*, PROMISE JOBS on-the-job training (OJT), work experience, unpaid community service, parenting skills training, *life skills training*, monitored employment, *volunteer mentoring*, FaDSS, or other family development services, *and* referral for family planning counseling, ~~and the FIP-UP work program.~~

The bureau of refugee services shall provide the above services, to the extent compatible with resources available, to persons who entered the United States with refugee status.

ITEM 32. Amend subrule 93.105(3), introductory paragraph, as follows:

93.105(3) Waiting lists. Because of state and federal budgetary limitations, federal mandatory work requirements and minimum participation rate requirements, and other TANF requirements on the PROMISE JOBS program, the department shall have the administrative authority to determine agency and geographical breakdowns for service, to designate specific groups for priority services, or to designate specific PROMISE JOBS components or supportive service levels for a waiting list. Persons shall be removed from these waiting lists and placed in components at the discretion of state-level PROMISE JOBS administrators in order to help participants achieve self-sufficiency in the shortest possible time, meet budgetary limitations, enable participants to make maximum use of other programs, fulfill the federal minimum participation rate requirements and meet other

HUMAN SERVICES DEPARTMENT[441](cont'd)

TANF requirements. ~~Persons who are designated parents on FIP-UP cases shall not be placed on a waiting list provided sufficient funds are available to serve them.~~

ITEM 33. Amend rule 441—93.109(239B) as follows:

Amend subrule 93.109(1), paragraphs “b,” “d,” “e,” and “f,” as follows:

b. In addition, any other adults or a minor nonparental ~~caretaker~~ *specified* relative whose needs are included in the FIP grant shall be responsible for the FIA.

d. When the FIP-eligible group holds a minor parent living with a parent or needy ~~caretaker~~ *specified* relative who receives FIP, as described at 441—paragraph 41.28(2)“b”(2), and both are referred to PROMISE JOBS, each parent or needy ~~caretaker~~ *specified* relative is responsible for a separate FIA.

e. When the FIP-eligible group holds a parent or parents or needy ~~caretaker~~ *specified* relative and a child or children who are all mandatory PROMISE JOBS participants, each parent or needy ~~caretaker~~ *specified* relative and each child would not have a separate FIA. All would be asked to sign one FIA with the family and to carry out the activities of that FIA. Copies of the FIA would be placed in individual case files.

f. When the FIP-eligible group holds a parent or parents or needy ~~caretaker~~ *specified* relative who are exempt from PROMISE JOBS and a child or children who are mandatory PROMISE JOBS participants, each child is responsible for completing a separate FIA.

Amend subrule 93.109(2), paragraph “a,” subparagraph (1), as follows:

(1) The options of the FIA shall include, but are not limited to, all of the following: assessment, self-directed job search, job-seeking skills training, group and individual job search, ~~the FIP-UP work program~~, high school completion activities, GED, ABE, ESL, postsecondary classroom training *including entrepreneurial training*, work experience, PROMISE JOBS on-the-job training, unpaid community service, parenting skills training, *life skills training*, monitored part-time or full-time employment, referral for family planning counseling, *volunteer mentoring*, and participation in FaDSS or other family development programs.

Amend subrule 93.109(2), paragraph “b,” subparagraph (2), numbered paragraph “2,” as follows:

2. It shall stipulate specific services to be provided by the PROMISE JOBS program, including ~~the FIP-UP work program for designated parents on FIP-UP cases~~, child care *assistance*, transportation *assistance*, family development services, and other supportive services.

ITEM 34. Amend subrule 93.110(6), paragraph “e,” subparagraph (1), as follows:

(1) Medical evidence of disability or incapacity may be obtained from either an independent physician or psychologist or the state rehabilitation agency in the same manner specified in 441—paragraph ~~41.24(5)“e.”~~ 41.24(2)“d.”

ITEM 35. Amend rule 441—93.111(239B), introductory paragraph, as follows:

441—93.111(239B) Assessment and assignment to other activities and components. PROMISE JOBS components and FIA options include assessment, job-seeking skills training, job search activities, monitored employment, basic education services, PROMISE JOBS OJT, work experience, unpaid community service, parenting skills training, *life skills training*, postsecondary classroom training *including entrepreneurial training, volunteer mentoring, and FaDSS*

and or other family development services, and the FIP-UP work program.

ITEM 36. Amend rule 441—93.112(239B) as follows:

Amend subrule 93.112(1), paragraph “c,” as follows:

c. Job club participants ~~other than designated parents on FIP-UP cases~~ who obtain employment of 86 or more but less than 129 hours per month may discontinue job club if part-time employment was the FIA goal.

Rescind and reserve subrule 93.112(1), paragraph “e.”

Amend subrule 93.112(3), introductory paragraph, as follows:

93.112(3) Self-directed job search. PROMISE JOBS participants who indicate, during assessment I, a desire to complete a short-term FIA or who have achieved an FIA interim goal which should lead to employment shall be provided the option of first engaging in self-directed job search activities before beginning other FIA options. This option does not apply to parents under the age of 20 who are required to participate in high school completion activities and ~~FIP-UP designated parents who are aged 20 and over.~~

ITEM 37. Amend subrule 93.114(3) as follows:

Amend paragraph “d” as follows:

d. ~~Except for designated parents on FIP-UP cases, participants~~ *Participants* who are not in subsidized employment shall be allowed to maintain less than a full-time training workload provided that the months required to complete the training plan would not exceed 30 fiscal months for two-year degree programs and other vocational programs or 40 fiscal months for three- or four-year degree programs.

Rescind and reserve paragraph “e.”

Amend paragraph “f” as follows:

f. ~~Except for designated parents on FIP-UP cases, participants~~ *Participants* who are in unsubsidized employment and in a classroom training component simultaneously for a total of 24 hours per week or more shall be allowed to maintain less than a full-time, but at least a half-time, training workload provided that the months required to complete the training plan would not exceed 40 fiscal months for two-year degree programs and other vocational programs or 50 fiscal months for three- or four-year degree programs.

ITEM 38. Rescind and reserve rule 441—93.122(239B).

ITEM 39. Amend rule 441—93.132(239B), numbered paragraph “9,” as follows:

9. Participants who do not accept work experience assignments when the work experience option is part of the FIA ~~or required under the FIP-UP work program.~~

ITEM 40. Amend subrule 93.133(2), paragraph “b,” as follows:

b. Except as described in 441—subrule 41.25(5), and ~~441—paragraph 42.24(1)“c,”~~ work offered is at a site subject to a strike or lockout, unless the strike has been enjoined under Section 208 of the Labor-Management Relations Act (29 U.S.C. 78A) (commonly known as the Taft-Hartley Act), or unless an injunction has been issued under Section 10 of the Railway Labor Act (45 U.S.C. 160).

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**HUMAN SERVICES
DEPARTMENT[441]**

Notice of Intended Action

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

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

Pursuant to the authority of Iowa Code section 249A.4, the Department of Human Services proposes to amend Chapter 79, “Other Policies Relating to Providers of Medical and Remedial Care,” and Chapter 88, “Managed Health Care Providers,” appearing in the Iowa Administrative Code.

The Seventy-eighth General Assembly in 1999 Iowa Acts, chapter 203, section 51, amended Iowa Code section 249A.18 to require that rural health clinics (RHCs) and federally qualified health centers (FQHCs) receive cost-based reimbursement for 100 percent of the reasonable costs for the provision of services to recipients of medical assistance. These amendments revise policy regarding reimbursement for RHCs and FQHCs to agree with statute and mandate RHCs’ and FQHCs’ use of Form 470-3495, Managed Care Wraparound Payment Request Form, to obtain supplemental payment for the difference between payments from a managed care organization and 100 percent of their reasonable

cost, as determined by Medicare cost reimbursement principles.

In the case of services provided pursuant to a contract between an FQHC or RHC and a managed care organization, the managed care organization is required to provide payment to the FQHC or RHC that is not less than the amount of payment that it would make for the services if furnished by a provider other than an FQHC or RHC. The Department is required by federal law to supplement the payment from the managed care organization to the FQHC or RHC if the payment is less than 100 percent of their reasonable cost as determined by Medicare cost reimbursement principles. The form is used to document Medicaid encounters and the difference between payments from the managed care organization and 100 percent of the RHCs’ or FQHCs’ reasonable cost.

These amendments do not provide for waivers in specified situations because these amendments confer a benefit on FQHCs and RHCs by clarifying policy and providing a mechanism to reimburse these providers for services provided to recipients enrolled in managed care organizations at 100 percent of reasonable cost as determined by Medicare cost reimbursement principles.

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 September 13, 2000.

These amendments are intended to implement Iowa Code section 249A.18.

The following amendments are proposed.

ITEM 1. Amend subrule 79.1(2), provider categories of “federally qualified health centers (FQHCs)” and “rural health centers (RHCs),” as follows:

<u>Provider category</u>	<u>Basis of reimbursement</u>	<u>Upper limit</u>
Federally qualified health centers (FQHCs)	Retrospective cost-related <i>See 441—88.14(249A)</i>	1. Reasonable 100% of reasonable cost as determined by Medicare cost reimbursement principles 2. In the case of services provided pursuant to a contract between an FQHC and a managed care organization (MCO), reimbursement from the MCO shall be supplemented to achieve “1” above
Rural health clinics (RHCs)	Retrospective cost-related <i>See 441—88.14(249A)</i>	1. Reasonable 100% of reasonable cost as determined by Medicare cost reimbursement principles 2. In the case of services provided pursuant to a contract between an RHC and a managed care organization (MCO), reimbursement from the MCO shall be supplemented to achieve “1” above

ITEM 2. Amend rule 441—88.14(249A) as follows:

441—88.14(249A) Contracts with federally qualified health centers (FQHCs) and rural health clinics (RHCs). In the case of services provided pursuant to a contract between an FQHC or RHC and a managed care organization, the organization shall provide payment to the FQHC or RHC that is not less than the amount of payment that it would make for the services if furnished by a provider other than an FQHC or RHC. The payment from the managed care organization to the FQHC or RHC shall be supplemented by a direct payment from the department to the FQHC or RHC to provide reimbursement at 100 percent of reasonable cost reimbursement as determined by Medicare cost reimbursement principles. FQHCs and RHCs shall be required to submit Form 470-3495, Managed Care Wraparound Payment Request Form, to the Iowa Medicaid fiscal agent to document Medicaid encounters and differences between payments by the managed care organization and 100 percent of reasonable

cost as determined by Medicare cost reimbursement principles.

INSURANCE DIVISION[191]

Notice of Public Hearings

Pursuant to Executive Order Number 8, the Insurance Division is in the process of reviewing all administrative rules within its jurisdiction. As part of the review process, the Division shall conduct a series of public hearings to receive comments of interested individuals or parties. The hearings are for the sole purpose of receiving comments on existing administrative rules. The Division has scheduled the following hearings:

INSURANCE DIVISION[191](cont'd)

1. Health Insurance Regulations—Chapters 27, 29, 34 to 44, and 70 to 99.

Wednesday, September 20, 2000, 9 a.m. in the Iowa Utilities Division Hearing Room, 330 Maple Street, Des Moines, Iowa.

Contact person: Susan E. Voss, Deputy Commissioner.

2. Agents and Trade Practices—Chapters 9 to 16.

Friday, September 29, 2000, 10 a.m. in the Lobby Conference Room of the Iowa Insurance Division, 330 Maple Street, Des Moines, Iowa.

Contact person: Rosanne Mead, Assistant Commissioner.

For further information on these hearings, please telephone the named contact person at (515)281-5705.

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INSURANCE DIVISION[191]

Notice of Intended Action

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

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

Pursuant to the authority of Iowa Code section 505.8, the Insurance Division hereby gives Notice of Intended Action to amend Chapter 5, “Regulation of Insurers—General Provisions,” Iowa Administrative Code.

The proposed rule adopts a comprehensive guide to statutory accounting principles promulgated by the National Association of Insurance Commissioners referred to as the Accounting Practices and Procedures Manual. Additionally, the proposed rule adopts by reference the annual statement instructions promulgated by the National Association of Insurance Commissioners.

Any person may make written comments on the proposed rule on or before September 12, 2000. Comments should be directed to Kimberlee Cross, Insurance Division, Department of Commerce, 330 Maple Street, Des Moines, Iowa 50319. Comments may also be transmitted by E-mail to Kim.Cross@comm6.state.ia.us or may be transmitted via facsimile to (515)281-3059.

A public hearing will be held at 10 a.m. on September 12, 2000, at the offices of the Insurance Division, 330 Maple Street, Des Moines, Iowa 50319. Persons wishing to provide oral comments should contact Kimberlee Cross no later than September 11, 2000, to be placed on the agenda.

This rule is intended to implement Iowa Code sections 508.11(43), 512B.24, 514.9, 514B.12, 515.63 and 520.10.

The following amendment is proposed.

Adopt the following **new** rule:

191—5.15(508,512B,514,514B,515,520) Accounting practices and procedures manual and annual statement instructions.

5.15(1) Purpose. The purpose of this rule is to adopt the National Association of Insurance Commissioners’ accounting practices and procedures manual which has been revised to provide a comprehensive guide to statutory accounting principles, commonly referred to as the “codification project.” Additionally, the rule adopts by reference the annual

statement instructions promulgated by the National Association of Insurance Commissioners.

5.15(2) Financial statements. Effective January 1, 2001, all information reflected in the financial statements of insurance companies authorized to do business in Iowa shall conform with the accounting practices and procedures manual of the National Association of Insurance Commissioners.

All annual financial statements filed with the commissioner shall conform to the annual statement instructions and manuals promulgated by the National Association of Insurance Commissioners.

This rule is intended to implement Iowa Code sections 508.11(43), 512B.24, 514.9, 514B.12, 515.63 and 520.10.

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IOWA FINANCE AUTHORITY[265]

Notice of Intended Action

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

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

Pursuant to the authority of Iowa Code sections 17A.3(1)“b” and 16.5(17), the Iowa Finance Authority (Authority) proposes to amend Chapter 12, “Low-Income Housing Tax Credits,” Iowa Administrative Code.

This rule making adds a provision incorporating by reference the compliance manual for the low-income housing tax credit program.

The compliance manual incorporates the Authority’s policies for monitoring compliance in the low-income housing tax credit program (Program). The manual also contains copies of the operative federal regulations, revenue rulings, revenue procedures, technical advice and other information low-income housing tax credit project owners may need as they complete the necessary forms to facilitate compliance with the Program. Copies of the compliance manual are available upon request from the Authority and are available electronically on the Authority’s Web site at <http://www.ifa-home.com>. It is the Authority’s intent to incorporate each of these documents by reference consistent with Iowa Code chapter 17A and 265—subrules 17.4(2) and 17.12(2).

The Authority does not intend to grant waivers under the provisions of any of these rules. The compliance manual is subject to federal requirements that cannot be waived. Waiver would result in noncompliance with federal law and could endanger the tax credit available to a particular project. (See IRC Section 42 and Iowa Code section 16.52.)

Consistent with Executive Order Number 9, the Authority has considered the regulatory principles identified in the Order and finds that the proposed amendments will serve an important public need in furthering the housing policy of the state and encouraging the production of affordable housing in Iowa consistent with the federal law governing the Program.

The Authority will receive written comments on the proposed amendments until the close of business on September 12, 2000. Comments may be addressed to David Binner, Iowa Finance Authority, 100 East Grand, Suite 250, Des Moines, Iowa 50309. Comments may be faxed to David

IOWA FINANCE AUTHORITY[265](cont'd)

Binner at (515)242-4957. Comments may be E-mailed to David Binner at David.Binner@ifa.state.ia.us.

The Authority will hold a public hearing on September 14, 2000, to receive public comments on these amendments. The public hearing will be held at 9 a.m. in the Conference Room, Iowa Finance Authority, 100 East Grand, Suite 250, Des Moines, Iowa 50309.

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

These amendments are intended to implement Iowa Code sections 16.4(3), 16.52, 17A.12, and 17A.16 and IRC Section 42.

The following **new** rules are proposed.

265—12.3(16) Compliance manual. The compliance manual for all low-income housing tax credit projects monitored by the authority for compliance with IRC Section 42, effective November 22, 2000, is incorporated by reference pursuant to Iowa Code section 17A.6 and 265—subrules 17.4(2) and 17.12(2).

265—12.4(16) Location of copies of the manual. The compliance manual can be reviewed and copied in its entirety on the authority's Web site at <http://www.ifahome.com>. Copies of the compliance manual shall be deposited with the administrative rules coordinator and at the state law library. The compliance manual incorporates by reference IRC Section 42 and the regulations in effect as of November 22, 2000. Additionally, the compliance manual incorporates by reference Iowa Code section 16.52. These documents are available from the state law library, and links to these statutes, regulations and rules are on the authority's Web site. Copies are available from the authority upon request at no charge.

ARC 0063B**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 the rule making initiated by its Notice of Intended Action published in the Iowa Administrative Bulletin on May 3, 2000, as **ARC 9794A**, proposing to rescind Chapter 21, "Physician Assistant Supervision," Iowa Administrative Code, and replace it with a new chapter with the same title.

The Notice proposed to adopt a new Chapter 21 which would address physician eligibility to supervise a physician assistant. The Board voted on July 27, 2000, to terminate the rule making and commence a new rule making because the chapter has had several changes based on public comment, and the public has indicated its concern about filing for adoption despite the level of comment it has been afforded.

The Board is terminating the rule making commenced in **ARC 9794A** and will notice new proposed rules on this subject.

ARC 0064B**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, 148.13 and 272C.3, the Board of Medical Examiners hereby gives Notice of Intended Action to rescind Chapter 21, "Physician Assistant Supervision," Iowa Administrative Code, and adopt a new Chapter 21, "Physician Eligibility to Supervise a Physician Assistant," Iowa Administrative Code.

The Board approved proposed Chapter 21 during its regularly held meeting on July 27, 2000. The proposed chapter establishes:

- A physician's authority to supervise a physician assistant;
- Terms under which a physician is deemed ineligible to supervise a physician assistant;
- Criteria for determining a physician's ineligibility to practice;
- Grounds for disciplinary action against a physician who supervises a physician assistant;
- The disciplinary sanction the Board may impose on a physician who supervises a physician assistant; and
- The communication that the Board expects from the physician to the physician assistant supervisees when the physician becomes ineligible to supervise a physician assistant.

Any interested person may present written comments on the proposed chapter not later than 4 p.m. on September 14, 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 September 14, 2000, at 3 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 sections 148.13 and 272C.3.

The following amendment is proposed.

Rescind 653—Chapter 21 and adopt the following **new** chapter in lieu thereof:

CHAPTER 21
PHYSICIAN ELIGIBILITY TO SUPERVISE A
PHYSICIAN ASSISTANT

653—21.1(148,272C) Authority to supervise a physician assistant. A physician with an active, permanent Iowa license who is actively engaged in the practice of medicine in Iowa may supervise a physician assistant.

653—21.2(148,272C) Ineligibility determinants. A physician is ineligible to supervise a physician assistant for any of the following reasons:

21.2(1) The physician does not hold an active, permanent Iowa license.

MEDICAL EXAMINERS BOARD[653](cont'd)

21.2(2) The physician is not actively practicing medicine in Iowa.

21.2(3) The physician has assigned to the physician assistant diagnostic and therapeutic medical tasks not common to the physician's practice.

21.2(4) The physician is subject to a disciplinary order of the board that restricts the physician from supervising a physician assistant.

653—21.3(148,272C) Criteria for determining a physician's eligibility or ineligibility to practice.

21.3(1) The board deems the following person eligible to supervise a physician assistant: a physician who has a current active permanent Iowa license, actively practices medicine in Iowa, and has no current disciplinary order or restriction by the board against the licensee supervising a physician assistant.

21.3(2) The board shall allow the board of physician assistant examiners to accept a copy of a current active permanent license and a physician's attestation of eligibility as proof of eligibility to supervise a physician assistant.

21.3(3) The board deems a physician who does not actively practice medicine in Iowa as ineligible to supervise until the physician practices medicine with patients in Iowa on a regular basis. Part-time, voluntary practice with patients in Iowa meets the eligibility requirement.

21.3(4) The board deems a physician who has a resident, lapsed, delinquent, or inactive license as ineligible to supervise until the physician is issued a current active permanent license by the board.

653—21.4(148,272C) Grounds for discipline. A physician may be subject to disciplinary action for supervising a physician assistant in violation of these rules or the rules found in 653—Chapter 12 or 645—Chapter 325, which relate to duties and responsibilities for physician supervision of physician assistants.

653—21.5(148,272C) Disciplinary sanction. The board may restrict or rescind a physician's authority to supervise a physician assistant as part of a disciplinary sanction following a contested case proceeding, if the reason for the disciplinary action impacts the ability of the physician to supervise a physician assistant. The board shall notify the board of physician assistant examiners when it takes a disciplinary action against a physician's license that affects the physician's eligibility to supervise a physician assistant.

653—21.6(148,272C) Communication with physician assistant supervisees. The physician shall notify all physician assistant supervisees within one workday upon receiving disciplinary action from the board or any other change in status that affects the physician's eligibility to supervise a physician assistant.

These rules are intended to implement Iowa Code sections 148.13 and 272C.3.

ARC 0069B

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 Barber Examiners hereby gives Notice of Intended Action to amend Chapter 20, “Barber Examiners,” and adopt Chapter 23, “Continuing Education for Barbers,” Iowa Administrative Code.

The proposed amendments rescind the current continuing education rules; adopt a new chapter for continuing education; renumber the rules regarding grounds for discipline, examination of board members, reinstatement of an instructor's license, waiver from taking first examination, and license fees; and amend references to rules that are no longer in use.

Any interested person may make written comments on the proposed amendments no later than September 12, 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 one letter was 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 September 12, 2000, from 1:30 to 3:30 p.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 158.15 and chapter 272C.

The following amendments are proposed.

ITEM 1. Amend rule 645—20.12(158) as follows:

645—20.12(158) Application. All persons who practice barbering in the state of Iowa are required to be licensed as barbers. To be considered eligible for examination or licensure, or both, an applicant shall meet the licensure requirements of Iowa Code section 158.3 and submit fees and a completed application form prescribed by the board. An application for *barber or barber instructor* examination must be filed at least 45 30 days preceding the examination. Application forms may be obtained from the barber school at which the student is enrolled, or by contacting the Board of Barber Examiners, Department of Public Health, Fifth Floor, Lucas State Office Building, Des Moines, Iowa 50319-0075.

ITEM 2. Rescind rules 645—20.101(272C) to 645—20.103(272C) and renumber rules 645—20.111(272C) to 645—20.113(272C) as 645—20.101(272C) to 645—20.103(272C).

PROFESSIONAL LICENSURE DIVISION[645](cont'd)

ITEM 3. Rescind rule **645—20.104(272C)** and renumber rule **645—20.212(272C)** as **645—20.104(272C)**.

ITEM 4. Amend renumbered rule **645—20.104(272C)**, numbered paragraph “25,” as follows:

25. Failure to report to the board as provided in rule **645—20.212 104(272C)** any violation by another licensee of the reasons for disciplinary action as listed in this rule.

ITEM 5. Rescind rule **645—20.105(272C)** and renumber rule **645—20.214(147)** as **645—20.105(147)**.

ITEM 6. Rescind and reserve rules **645—20.107(272C)** to **645—20.110(272C)**.

ITEM 7. Rescind and reserve rule **645—20.200(272C)**.

ITEM 8. Adopt **new 645—Chapter 23** as follows:

CHAPTER 23

CONTINUING EDUCATION FOR BARBERS

645—23.1(158) Definitions. For the purpose of these rules, the following definitions shall apply:

“Active license” means the license of a person who is acting, practicing, functioning, and working in compliance with license requirements.

“Administrator” means the administrator of the board of barber examiners.

“Approved program/activity” means a continuing education program/activity meeting the standards set forth in these rules, which has received 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 shall 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 barber examiners.

“Continuing education” means planned, organized learning acts 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 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 barber in the state of Iowa.

645—23.2(158) Continuing education requirements.

23.2(1) The biennial continuing education compliance period shall extend for a two-year period beginning on July 1 and ending on June 30 of each even-numbered year. Each biennium, each person who is licensed to practice as a barber

licensee in this state shall be required to complete a minimum of eight hours of continuing education approved by the board.

23.2(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 eight hours of continuing education per biennium for each subsequent license renewal.

23.2(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 pursuant to statutory provisions and the rules that implement them.

23.2(4) No hours of continuing education shall be carried over into the next biennium except as stated for the second renewal.

23.2(5) It is the responsibility of each licensee to finance the cost of continuing education.

645—23.3(158) Standards for approval.

23.3(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(s), location, course title, presenter(s);

(2) Numbers of program contact hours. (One contact hour usually equals one hour of continuing education credit.); and

(3) Official signature or verification by program sponsor.

23.3(2) Specific criteria. Continuing education credit offered for cosmetology continuing education credit will be accepted for barber continuing education credit.

645—23.4(158) Approval of sponsors, programs, and activities for continuing education.

23.4(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, location, course title(s) offered and outline of content;

(2) Total hours of instruction presented;

(3) Names and qualifications of instructors including résumés or vitæ; and

PROFESSIONAL LICENSURE DIVISION[645](cont'd)

(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 for a minimum of four years from the date of the continuing education activity:

(1) The continuing education activity;

(2) List of enrolled licensees' names and license numbers; and

(3) Number of continuing education clock hours awarded.

e. The program instructors shall have successfully completed a board-approved 16-hour teaching class. Upon written request the board may grant a waiver of the 16-hour class upon demonstration by the instructor that the instructor has met the requirement by equivalency.

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.

23.4(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 accreditation of such activity prior to attendance shall apply to the board for approval 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. Course outline;

d. Total hours of instruction; and

e. Names and qualifications of speakers and other pertinent information. The speakers shall have successfully completed a board-approved 16-hour teaching class. Upon written request the board may grant a waiver of the 16-hour class upon demonstration by the instructor that the instructor has met the requirement by equivalency.

The organization or person shall be notified of approval or denial by ordinary mail.

23.4(3) Review of programs. Continuing education programs/activities shall be reported every year at the designated time as assigned by the board. The board may at any time reevaluate an approved sponsor. 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).

23.4(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. Course outline;

d. Total hours of instruction and credit hours requested;

e. Names and qualifications of speakers and other pertinent information. The speakers shall have successfully completed a board-approved 16-hour teaching class. Upon written request the board may grant a waiver of the 16-hour class upon demonstration by the instructor that the instructor has met the requirement by equivalency;

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.

23.4(5) Voluntary relinquishment. The approved sponsor may voluntarily relinquish sponsorship by notifying the board office in writing.

645—23.5(158) 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.

23.5(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.

23.5(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; and

(2) Number of contact hours for program attended.

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 an audit of the continuing education report.

f. Failure to receive the renewal application shall not relieve the licensee of responsibility of meeting continuing

PROFESSIONAL LICENSURE DIVISION[645](cont'd)

education requirements and submitting the renewal fee by the end of the compliance period.

645—23.6(158) 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 a 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. Provides evidence of satisfactory completion of Iowa 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 8 by the number of bienniums since the license lapsed. If the license had lapsed for three bienniums or less, the applicant for reinstatement may, in lieu of submitting the required continuing education, furnish evidence of successful completion, with a passing grade, of the Iowa license examinations conducted within one year immediately prior to the submission of the application for reinstatement. If the license has lapsed for more than three bienniums, the applicant shall complete 24 hours of approved continuing education. The applicant shall also be reexamined and show evidence of successful completion of the Iowa state barber license examination with a passing grade on the reexamination conducted within one year of the application for reinstatement.

5. If the applicant for reinstatement holds a current valid barber license in another state with which the state of Iowa has reciprocity, the applicant shall submit:

- A written application on a form provided by the state board;
- Proof of current valid barber license;
- The current renewal fee;
- The fee for failure to renew; and
- Proof of continuing education hours obtained equivalent to continuing education required in Iowa.

645—23.7(158,272C) Continuing education waiver for active practitioners. A barber licensed to practice barbering 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 barber.

645—23.8(158,272C) Continuing education waiver 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. If the licensee seeks an inactive status for the barber's license and the licensee also holds an instructor's license, the instructor's license shall automatically become inactive. If the licensee holds both a barber's license and instructor's license, the licensee may choose to seek an inactive license for the instructor's license alone. The application shall contain a statement that the applicant will not engage in practice 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—23.9(158,272C) Continuing education waiver for disability or illness. The board may, in individual cases involving disability or illness, grant waivers of the minimum educational 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 is 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—23.10(158,272C) 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 barbering in the state of Iowa, satisfy the following requirements for reinstatement:

23.10(1) Submit written application for reinstatement to the board upon forms provided by the board with current license fee; and

23.10(2) Furnish in the application evidence of one of the following:

- a. Full-time practice in another state of the United States or the District of Columbia and completion of continuing education for each biennium of inactive status substantially equivalent in the opinion of the board to that required under these rules; or
- b. Completion of a total number of hours of approved continuing education computed by multiplying 8 times the number of bienniums a certificate of exemption shall be in effect for such applicant not to exceed 90 hours; or
- c. Successful completion of any or all parts of the Iowa state license examination as deemed necessary by the board, successfully completed within one year immediately prior to the submission of such application for reinstatement.

d. If the applicant for reinstatement holds a current valid barber license in another state with which the state of Iowa has reciprocity, the applicant shall submit:

- (1) A written application on a form provided by the state board;
- (2) Proof of current valid barber license;
- (3) The current renewal fee; and
- (4) Proof of continuing education hours obtained equivalent to continuing education required in Iowa.

645—23.11(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 and chapter 158.

ARC 0079B

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 and 272C.3, the Board of Dietetic Examiners hereby gives Notice of Intended Action to amend Chapter 80, "Board of Dietetic Examiners," and adopt new Chapter 81, "Continuing Education for Dietitians," Iowa Administrative Code.

The proposed amendments rescind the current continuing education rules, adopt a new chapter for continuing education, amend a definition, and amend license renewal language.

Any interested person may make written comments on the proposed amendments no later than September 12, 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 three 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 September 12, 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 and chapters 152A and 272C.

The following amendments are proposed.

ITEM 1. Amend rule 645—80.1(152A) by rescinding the following definitions: "approved program or activity," "audit," "continuing education compliance biennium," "hour of continuing education," and "inactive licensee."

ITEM 2. Amend rule 645—80.1(152A), definition of "license renewal biennium" as follows:

"License renewal biennium" means *from* the fifteenth day of the licensee's birth month in an even-numbered year to the fifteenth day of the licensee's birth month ~~in the next even-numbered year~~ *two years later*.

ITEM 3. Amend subrule 80.8(5) as follows:

~~80.8(5) Beginning January 1, 2000, the~~ *The* continuing education biennium will be the same as the licensee's renewal biennium, which shall be for two years from the fifteenth day of the licensee's birth month ~~in every even-numbered year~~.

ITEM 4. Amend subrule 80.8(6) as follows:

~~80.8(6)~~ Licensees who were issued their initial license within six months prior to their birth month ~~in an even-numbered year~~ will not be required to renew their license until the fifteenth day of their birth month two years later. All

new licensees are exempt from meeting the continuing education requirement for the continuing education biennium in which the license is originally issued, but the renewal fee for the first renewal shall not be waived ~~except as stated herein~~. Licensees will be required to report 30 hours of continuing education for every renewal thereafter.

ITEM 5. Rescind rule 645—80.100(152A) and renumber rule 645—80.214(152A,272C) as 645—80.100(152A, 272C).

ITEM 6. Rescind rule 645—80.101(152A) and renumber rule 645—80.220(152A,272C) as 645—80.101(152A, 272C).

ITEM 7. Rescind and reserve rules 645—80.102(152A) to 645—80.108(152A).

ITEM 8. Adopt new 645—Chapter 81 as follows:

CHAPTER 81

CONTINUING EDUCATION FOR DIETITIANS

645—81.1(152A) Definitions. For the purpose of these rules, the following definitions shall apply:

"Active license" means the license of a person who is acting, practicing, functioning, and working in compliance with license requirements.

"Administrator" means the administrator of the board of dietetic examiners.

"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 shall 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 education provider requirements during a specified time period.

"Board" means the board of dietetic examiners.

"Continuing education" means planned, organized learning acts acquired during 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 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 dietitian in the state of Iowa.

645—81.2(152A) Continuing education requirements.

81.2(1) The biennial continuing education compliance period shall extend for a two-year period beginning on the fifteenth day of the licensee's birth month and ending on the

PROFESSIONAL LICENSURE DIVISION[645](cont'd)

fifteenth day of the birth month two years later. Each biennium, each person who is licensed to practice as a dietitian in this state shall be required to complete a minimum of 30 hours of continuing education approved by the board.

81.2(2) Requirements for 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 30 hours of continuing education per biennium for each subsequent license renewal.

81.2(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 and meet the requirements herein pursuant to statutory provisions and the rules that implement them.

81.2(4) No hours of continuing education shall be carried over into the next biennium except as stated for the second renewal.

81.2(5) It is the responsibility of each licensee to finance the cost of continuing education.

645—81.3(152A) Standards for approval.

81.3(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. An 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 the presenters;

d. Fulfills stated program goals, objectives, or both; and

e. Provides proof of attendance to licensees in attendance including:

(1) Date(s), location, 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.

81.3(2) Specific criteria.

a. Continuing education hours of credit may be obtained by completing programs/activities that reflect the educational needs of the dietitian and the nutritional needs of the consumer. Programs/activities may be offered within the state of Iowa and shall have prior approval by the board. If the program/activity is offered outside the state of Iowa, the hours can be accrued if the session meets the criteria in the rules and is approved by the Commission on Dietetic Registration of the American Dietetic Association. Continuing education programs/activities that are scientifically founded and offered at a level beyond entry-level dietetics for professional growth shall be approved for continuing education.

b. The licensee shall participate in other types of activities identified in the individual licensee's professional development portfolio for Commission on Dietetic Registration (CDR) certification. Programs or activities not otherwise prior approved by the board shall be subject to approval in the event of an audit.

c. The following areas are appropriate for continuing education credit:

(1) Sciences related to dietetic practice, education, or research including biological sciences, food and resource management and behavioral and social sciences to achieve and maintain people's health.

(2) Dietetic practice related to assessment, counseling, teaching, or care of clients in any setting.

(3) Management or quality assurance of nutritional care delivery systems.

(4) Dietetic practice related to community health needs.

d. Criteria for hours of credit are as follows:

(1) Academic coursework. Coursework for credit must be completed at a regionally accredited U.S. college or university. In order for the licensee to receive continuing education credit, the coursework must be beyond entry-level dietetics.

1 academic semester hour = 15 continuing education hours

1 academic quarter hour = 10 continuing education hours

(2) Scholarly publications. Publication may be approved if submitted in published form in the continuing education documentation file of the licensee. All publications must appear in refereed professional journals. Materials related to work responsibilities, such as diet and staff manuals, and publications for the lay public are unacceptable. Continuing education credit hours may be reported using the following guidelines:

1. Senior author: first of two or more authors listed.

2. Coauthor: second of two authors listed.

3. Contributing author: all but senior of the three or more authors.

4. Research papers:

• Single author 10 hours

• Senior author 8 hours

• Coauthor 5 hours

• Contributing author 3 hours

5. Technical articles:

• Single author 5 hours

• Senior author 4 hours

• Coauthor 3 hours

• Contributing author 2 hours

6. Information-sharing articles: 1 hour

7. Abstracts:

• Senior author 2 hours

• Coauthor 1 hour

(3) Poster sessions. Continuing education credit may be obtained for attending juried poster sessions at national meetings that meet the criteria for appropriate subject matter as required in these rules. One hour of continuing education credit is allowed for each 12 posters reviewed not to exceed 6 hours in a continuing education biennium. Credit for state meeting poster sessions must have prior approval from the board.

(4) Presenters. Presenters may receive continuing education credit. Presentations to the lay public shall not receive credit for continuing education. For each one hour of presentation two hours of credit for continuing education shall be earned. Presenters of poster sessions at national professional meetings shall receive a maximum of two hours of credit per topic. A copy of the abstract or manuscript and documentation of the peer review process must be included in the licensee's documentation list.

(5) Other professional education activities. Unless otherwise addressed in these rules, activities designed to address learning needs documented in the individual licensee's CDR

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professional development portfolio will be reviewed based on the following:

1. A narrative to explain how the activity relates to the individual learning plan.
2. A summary to explain how the activity will be evaluated to ensure achievement of the planned outcomes.

(6) Staff development training shall meet the criteria herein and be subject to board approval.

645—81.4(152A) Approval of sponsors, programs, and activities for continuing education.

81.4(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 outline of content;

(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, accredited 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:

1. Date(s), location, course title(s) offered and outline of content;

2. Total hours of instruction presented;

3. Names and qualifications of instructors including résumés or vitae;

4. Evaluation form(s); and

5. A summary of the evaluations completed by the licensees.

81.4(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. Course outline;

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.

81.4(3) Review of programs. Sponsors shall report continuing education programs every year at a time designated by the board. The board may at any time reevaluate an approved sponsor. The board shall notify the sponsor of the sponsor's status. 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).

81.4(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. Course outline;

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.

81.4(5) Voluntary relinquishment. The approved sponsor may voluntarily relinquish sponsorship by notifying the board office in writing.

645—81.5(152A) 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.

81.5(1) The information included on the form shall include:

a. Title of continuing education activity;

b. Date(s);

c. Sponsor of the activity;

d. Board-approved sponsor number; and

e. Number of continuing education hours earned.

81.5(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 ver-

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ification 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;
- (3) Reprints of journal articles;
- (4) Copy of official transcript of college courses; and
- (5) For activities not provided by an approved sponsor, the licensee shall submit a description of the program content which indicates that the content is integrally related to the practice and contributes directly to the provision of services to the public.

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 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—81.6(152A) 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 up to a maximum of two bienniums;
3. Pays all penalty fees which have been assessed by the board for failure to renew;
4. Pays reinstatement fees; and
5. Provides evidence of satisfactory completion of Iowa 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 30 by the number of bienniums since the license lapsed up to a maximum of 60 hours.

645—81.7(152A,272C) Continuing education waiver for active practitioners. A dietitian licensed to practice 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 dietitian.

645—81.8(152A,272C) Continuing education waiver 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 exemption upon written application to the board. The application shall contain a statement that the applicant will not engage in the practice of dietetics in Iowa without first complying with all regulations governing reinstatement after exemption. The application for a certificate of exemption shall be submitted upon forms provided by the board.

645—81.9(152A,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 a 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—81.10(152A,272C) Reinstatement of inactive practitioners. Inactive practitioners who have been granted a waiver of compliance with these rules and obtained a certificate of exemption shall, prior to engaging in the practice of dietetics in the state of Iowa, satisfy the following requirements for reinstatement.

81.10(1) Submit written application for reinstatement to the board upon forms provided by the board;

81.10(2) Submit the reinstatement fee;

81.10(3) Furnish evidence of completion of 30 hours of approved continuing education per biennium up to a maximum of 60 hours of continuing education. The continuing education hours must be completed within the two bienniums prior to the date of application for reinstatement; and

81.10(4) Furnish in the application evidence of one of the following:

a. Proof of a current valid dietetics license in another state of the United States or the District of Columbia and completion of continuing education for each year of inactive status substantially equivalent in the opinion of the board to that required under these rules; or

b. Completion of the total number of hours of approved continuing education computed by multiplying 30 by the number of bienniums a waiver of compliance shall have been in effect for the applicant up to a maximum of 60 hours; or

c. Proof of successful completion, with a passing grade, of the license examination conducted within one year immediately prior to the submission of the application for reinstatement.

645—81.11(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 and chapter 152A.

PUBLIC HEALTH DEPARTMENT

Notice—Scope of Practice Review Committee

The Department of Public Health hereby gives notice of the receipt of an application for a scope of practice review committee submitted by the Iowa Optometric Association. The application, received on July 24, 2000, proposes to modify Chapter 154 of the Iowa Code to include all classifications of pharmaceutical agents to diagnose and treat the human eye and adnexa in order for Iowa optometrists to protect the health and welfare of the public in the most appropriate manner.

In accordance with the provisions of Iowa Administrative Code 641—194.6(77GA, HF710), the Director of the Department of Public Health announces the appointment of a scope of practice review committee to consider the above application. Committee members are:

- Paul Schroeder, O.D., LeMars, representing the profession requesting the review;
- Thomas A. Oetting, M.D., Iowa City, representing the health profession most directly impacted by or opposed to the proposed change;
- Hazel Chuck, Mason City, representing an impartial health professional who is not directly or indirectly impacted by or opposed to the proposed change;
- Madonna M. Ryan, West Des Moines, representing the general public; and
- Jill Valde, R.N., Ph.D., Clive, representing the general public.

Pursuant to Iowa Administrative Code 641—194.6(77GA, HF710), second unnumbered paragraph, written comments on committee appointments must be received on or before September 5, 2000. Such written comments should be directed to Stephen C. Gleason, Director, Department of Public Health, Lucas State Office Building, Des Moines, Iowa 50319-0075.

PUBLIC SAFETY DEPARTMENT[661]

Public Notice

Pursuant to the authority of Executive Order Number 8, the Department of Public Safety hereby gives notice of public hearings scheduled to consider existing rules of the Department. The Department has adopted an Administrative Rules Improvement Plan, as provided in Executive Order 8, which specifies a schedule for consideration of all existing rules of the Department.

The following hearings are scheduled on September 22, 2000, in the Third Floor Conference Room (West Half) of the Wallace State Office Building, East Ninth and Grand, Des Moines, Iowa 50319:

Time	Subject Matter	Rules to Be Considered
9:00 a.m.	Special Railway Agents	661 Iowa Administrative Code, Chapter 13
9:30 a.m.	Explosive Materials	661 Iowa Administrative Code, Chapter 5, rules 661—5.850 to 5.899

10:00 a.m.	Fire Safety Rules for Child Care Facilities, School and College Buildings	661 Iowa Administrative Code, Chapter 5, rules 661—5.500 to 5.549 and 5.650 to 5.799
10:30 a.m.	Vehicle Impoundment	661 Iowa Administrative Code, Chapter 6
11:00 a.m.	Criminalistics Laboratory	661 Iowa Administrative Code, Chapter 12
11:30 a.m.	Complaint Against an Employee	661 Iowa Administrative Code, Chapter 9

Persons may present their views orally or in writing at each public hearing. Persons who wish to make oral presentations at a public hearing should contact the Agency Rules Administrator, Iowa Department of Public Safety, Wallace State Office Building, Des Moines, Iowa 50319, by mail, by telephone at (515)281-5524, or by electronic mail to admrule@dps.state.ia.us, at least one day prior to the public hearing. Any written comments or information regarding these proposed amendments may be directed to the Agency Rules Administrator by mail or electronic mail at the addresses indicated at least one day prior to the public hearing, or submitted at the public hearing. Persons who wish to convey their views orally other than at the public hearing may contact the Agency Rules Administrator by telephone or in person at the Bureau office at least one day prior to the public hearing.

The Department's Administrative Rules Improvement Plan, as well as copies of any of the rules to be reviewed may be obtained from the Department's World Wide Web site at <http://www.state.ia.us/government/dps/admrule/>.

ARC 0066B

REAL ESTATE APPRAISER EXAMINING BOARD[193F]

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 543D.5 and 543D.6, the Real Estate Appraiser Examining Board hereby gives Notice of Intended Action to amend Chapter 10, "Fees," Iowa Administrative Code.

The amendments to Chapter 10 increase registration fees for certified general and certified residential appraisers. Another amendment removes the term, "licensed real property appraiser," as the Board no longer issues this type of license.

Waivers from provisions of this rule may be sought pursuant to 193F—Chapter 12.

Consideration will be given to all written suggestions or comments on the proposed amendments received on or before September 12, 2000. Comments should be addressed to Susan Griffel, 1918 S.E. Hulsizer, Ankeny, Iowa 50021, or faxed to (515)281-7411. E-mail may be sent to susan.griffel@comm7.state.ia.us.

A public hearing will be held on September 12, 2000, at 9 a.m. in the Professional Licensing Conference Room on the second floor of the Department of Commerce Building, 1918 S.E. Hulsizer, Ankeny, Iowa. Persons may present

REAL ESTATE APPRAISER EXAMINING BOARD[193F](cont'd)

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 amendments.

These amendments are intended to implement Iowa Code chapter 543D.

The following amendments are proposed.

Amend rule 193F—10.1(543D) as follows:

193F—10.1(543D) Required fees. The following fee schedule has been adopted by the board for the certified general and certified residential real property appraiser, the licensed real property appraiser and the associate real estate appraiser:

- 1. Initial examination application fee \$100
- 2. Examination fee 95
- 3. Reexamination fee 95
- 4. Biennial registration fee
 - General real property appraiser 250 260
 - Residential real property appraiser 225 260
 - Licensed real property appraiser 225
 - Associate real estate appraiser 150
- 5. Reciprocal application fee 50
- 6. Reciprocal registration fee 250
- 7. Reinstatement fee 100
- 8. Reissuance of a certificate or license or replacement of a lost, destroyed or stolen certificate or license 50

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 August 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 August 9, 2000, setting the minimums that may be paid by Iowa depositories on public funds are listed below.

TIME DEPOSITS

- 7-31 days Minimum 5.80%
- 32-89 days Minimum 5.90%
- 90-179 days Minimum 6.10%
- 180-364 days Minimum 6.10%
- One year to 397 days Minimum 6.10%
- More than 397 days Minimum 6.30%

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 0070B

UTILITIES DIVISION[199]

Notice of Termination and Notice of Intended Action

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

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

Pursuant to Iowa Code section 17A.4(1)“b,” the Utilities Board (Board) gives notice that on July 31, 2000, the Board issued an order in Docket No. RMU-00-1, In re: Rule Waivers, “Order Terminating Rule-making Proceeding and Commencing New Rule Making.”

On January 18, 2000, the Board issued an order commencing a rule making to receive public comment on the rescission of the Board’s waiver rule and the adoption of new waiver rules. The Notice of Intended Action was published in the Iowa Administrative Bulletin, Vol. XXII, No. 16 (02/09/00), p. 1240, as ARC 9664A. The proposed new waiver rules contained criteria for granting waivers based on Governor Vilsack’s Executive Order Number 11. The majority of those who commented based their written comments on the criteria as proposed.

After the Board issued its proposed rules, bills setting different criteria for waivers and rescinding Executive Order Number 11 were introduced in the legislature. In its written comments, the Consumer Advocate Division of the Department of Justice (Consumer Advocate) stated it was not taking those developments into account when providing comments. Consumer Advocate requested additional opportunity to comment prior to adoption of the final rules.

The legislature passed 2000 Iowa Acts, House File 2206, and the Governor signed the bill. The bill sets statutory criteria for granting waivers that are different from those in the Executive Order and the Board’s proposed rules. Given the level of activity in the legislature, the changed criteria, and the request for additional opportunity to comment, the Board deems it best to terminate its initial rule making and initiate a new one with a redrafted proposed rule. Since the Board already has a fully functioning waiver rule, the delay should not present a problem.

Pursuant to the authority of Iowa Code section 17A.4(1)“b,” the Board terminates the rule making initiated by Board order on January 18, 2000, and published as ARC 9664A.

UTILITIES DIVISION[199](cont'd)

The Board is hereby initiating a new waiver rule making, also identified as Docket No. RMU-00-1, In re: Rule Waivers. Pursuant to Iowa Code sections 17A.4, 474.5, 476.1, and 476.2(1), and 2000 Iowa Acts, House File 2206, the Utilities Board gives notice that on July 31, 2000, the Board issued an order in Docket No. RMU-00-1 proposing to rescind current 199—1.3(17A,474) and adopt new rule 199—1.3(17A,474,476). The Board is also proposing to adopt new subrule 2.2(17).

The Board's proposed new waiver rule is intended to modify its existing waiver rule by implementation of changes in 2000 Iowa Acts, House File 2206, and Executive Order Number 11, insofar as the Executive Order conforms to 2000 Iowa Acts, House File 2206.

The Board has a waiver rule which has functioned well for many years. The Board has successfully handled hundreds of waivers between 1988 and 1998. Most waiver requests were granted, and the Board issued some waivers without request when it was appropriate. Therefore, the Board has two goals in this rule making: (1) to conform its waiver rule to the requirements of the statute; and (2) as much as possible, to ensure that any modifications to the current rule improve it. The Board has tried to make the new rule as simple as possible, both in language and function.

2000 Iowa Acts, House File 2206, contains criteria that agencies must use when deciding whether or not to grant a waiver request. The Board has included the statutory criteria in its proposed waiver rule with slight simplification of the statutory language. In addition, the Board does not think there is a difference between a "waiver" and a "variance," and has therefore eliminated the reference to "variance" in the criteria.

Executive Order Number 11 contains a uniform waiver rule. In addition, the Governor provided a proposed waiver rule to agencies in January 2000. The uniform waiver rule and the proposed rule contain procedures for handling waiver requests and the issuance of waivers. (These rules also contain criteria for evaluating waiver requests that are no longer in effect because they are different from those in 2000 Iowa Acts, House File 2206.) The Board has included parts of these rules in its proposed waiver rule. However, the uniform and proposed rules also contain sections that are not applicable to the Board's process and are unnecessary. The Board modified the uniform and proposed rules in several respects. The language was simplified wherever possible.

In most cases before the Board, a waiver request will be made in a pleading in an already existing docket. There is normally no separate proceeding regarding the waiver request. For this reason, the Board will already have much of the information it needs to evaluate the request, and the information does not need to be restated in the waiver request. In addition, the Board does not need some of the information contained in the uniform rule to evaluate the request. Therefore, the Board has modified the uniform rule.

The Board recognizes there may be instances in which persons requesting a waiver may be unfamiliar with the Board's process or may wish to initiate a waiver request in a separate proceeding. For this reason, the Board proposes to offer requesters a choice of using the waiver request form in new subrule 199 IAC 2.2(17) or of submitting their request as a part of another pleading, as has been done most often in the past.

When it first proposed a new waiver rule, the Board stated that since the burden of persuasion is always on the petitioner, this did not need to be stated in the rule. In commenting on the Board's original proposed rule, the Iowa Association

of Municipal Utilities stated that it would strengthen the rule to include a statement regarding the burden of persuasion. The statute states that the burden is on the petitioner, so repetition in the rule is not required. However, to make it clear to petitioners who may not have the statutory language in front of them, the Board has decided to include in the rule that the requester has the burden of persuasion.

Paragraphs II.D and II.E of the uniform rule in Executive Order Number 11 that provide for waivers in other contexts are not needed and have not been included.

The procedural requirements have also been modified to reflect that notice of any waiver request or order granting or denying a waiver request will have already been given to other parties named in the docket. The Board has the inherent authority to request additional information, and this does not need to be stated in the rule. In addition, the Board publishes a weekly list of all orders issued by the Board and all filings made by parties. This list is provided to subscribers, including utility companies, Consumer Advocate, and others who have requested it. The list is also published on the Board's Web site. Therefore, anyone who wishes to know whether any waiver requests have been filed or any orders granting or denying a waiver request issued may obtain the information easily and quickly. The Board has not had problems in the past with implementation of its waiver rule.

The uniform rule requires orders granting waivers to describe the precise scope and operative period of the waiver. The statute states that waivers shall not be permanent unless the petitioner shows that a temporary waiver is impractical. These requirements are included in the Board's proposed rule. The remainder of paragraph III.E of the uniform rule and the procedural requirements in the Governor's proposed rule are not needed, as waiver requests are always granted or denied by written Board order, and there has not been a problem with timeliness of issuance. Notice requirements are not needed because Board orders are always sent to the petitioner and all other parties named in the docket.

The Board will comply with the requirement in 2000 Iowa Acts, House File 2206, and Iowa Code section 17A.3 that grants and denials of waiver requests will be indexed, filed, and available for public inspection, but it is not necessary that this be stated in the rule. Paragraphs III.H and III.I of the uniform rule, and similar statements in the statute, do not need to be restated in the rule.

The Board simplified the language in the Governor's proposed rule regarding termination of waivers, but did include the provision that the Board may cancel a waiver upon notice and an opportunity for hearing. The Board does not believe that appeals from waiver requests should be handled differently from appeals from any other Board order, particularly since rulings on waiver requests may be contained within a Board order on another topic. Therefore, no specific statement regarding appeals is included in the Board's proposed rule.

2000 Iowa Acts, House File 2206, states that the agency may place any condition on a waiver that the agency finds desirable to protect the public health, safety, and welfare. While some of the Board's rules protect the public safety, and some in a broad sense protect the public welfare, the Board thinks there is a clearer way to state what is meant by the statute. Therefore, the Board has included the provision that it may condition the grant of a waiver on such reasonable conditions as appropriate to achieve the objectives of the particular rule in question.

The Board has reviewed all comments made on its initial proposed waiver rule. The comments on the proposed rule

UTILITIES DIVISION[199](cont'd)

were generally favorable and supported the Board's statement that it has had a well-functioning waiver rule in place for many years.

MidAmerican Energy Company (MidAmerican) suggested a "public interest" standard be applied to waiver requests. At the time MidAmerican made the suggestion, there were no mandatory statutory criteria for evaluation of requests. 2000 Iowa Acts, House File 2206, contains the criteria agencies must use when evaluating waiver requests, and the Board's proposed rule contains these criteria. MidAmerican suggested that the Board amend its rules to incorporate precedent developed through waivers to eliminate the need for waiver requests when possible. It also suggested that the Board amend its rules to eliminate obsolete requirements. The Board has initiated a comprehensive review of its rules pursuant to Executive Order Number 8, and those suggestions are being followed in the review. MidAmerican further suggested that a method should be established to index waiver requests. 2000 Iowa Acts, House File 2206, requires agencies to index grants and denials of waiver requests, and this will be implemented by the Board.

Consumer Advocate and the Iowa Association of Municipal Utilities (IAMU) commented that the Board should clarify its proposed rule to make it clear that waivers would not be granted unless the criteria are met. This has been done. Consumer Advocate also requested that the Board include a provision that requests for waivers and orders granting or denying waivers contain a statement of the relevant facts and reasons. Since waiver requests are frequently included in another pleading in an already existing docket, the Board may already have the information. However, to the extent this is not the case, a provision requiring the information has been added. A provision that orders granting or denying waiver requests include facts and reasons for the decision has also been added.

The IAMU suggested the Board include a provision that the person requesting the waiver has the burden of persuasion. For the reasons discussed above, the Board has added this to the proposed rule.

Pursuant to Iowa Code sections 17A.4(1)"a" and "b," any interested person may file a written statement of position pertaining to the proposed amendments. The statement must be filed on or before September 12, 2000, by filing an original and ten copies in a form substantially complying with 199 IAC 2.2(2). All written statements should clearly state the author's name and address and should make specific reference to this docket. All communications should be directed to the Executive Secretary, Utilities Board, 350 Maple Street, Des Moines, Iowa 50319-0069.

If requested pursuant to Iowa Code section 17A.4(1)"b," or on its own motion after reviewing the statements, the Board will determine whether an opportunity for oral presentation should be provided.

These rules are intended to implement Iowa Code chapters 17A, 474, and 476 and 2000 Iowa Acts, House File 2206.

The following amendments are proposed.

ITEM 1. Rescind rule 199—1.3(17A,474) and adopt the following **new** rule in lieu thereof:

199—1.3(17A,474,476,78GA,HF2206) Waivers. In response to a request, or on its own motion, the board may grant a waiver from a rule adopted by the board, in whole or in part, as applied to a specific set of circumstances, if the board finds, based on clear and convincing evidence, that:

1. The application of the rule would pose an undue hardship on the person for whom the waiver is requested;

2. The waiver would not prejudice the substantial legal rights of any person;

3. The provisions of the rule subject to a petition for waiver are not specifically mandated by statute or another provision of law; and

4. Substantially equal protection of public health, safety, and welfare will be afforded by a means other than that prescribed in the rule for which the waiver is requested.

The burden of persuasion rests with the person who petitions the board for the waiver. If the above criteria are met, a waiver may be granted at the discretion of the board upon consideration of all relevant factors.

Persons requesting a waiver may use the form provided in 199—subrule 2.2(17), or may submit their request as a part of another pleading. The waiver request must state the relevant facts and reasons the requester believes will justify the waiver, if they have not already been provided to the board in another pleading. The waiver request must also state the scope and operative period of the requested waiver. If the request is for a permanent waiver, the requester must state reasons why a temporary waiver would be impractical.

The waiver shall describe its precise scope and operative period. Grants or denials of waiver requests shall contain a statement of the facts and reasons upon which the decision is based. The board may condition the grant of the waiver on such reasonable conditions as appropriate to achieve the objectives of the particular rule in question. The board may at any time cancel a waiver upon appropriate notice and opportunity for hearing.

This rule is intended to implement Iowa Code chapters 17A, 474, and 476 and 2000 Iowa Acts, House File 2206.

ITEM 2. Amend 199—2.2(17A,474) by adopting the following **new** subrule:

2.2(17) Waiver request.

STATE OF IOWA
BEFORE THE IOWA UTILITIES BOARD

(insert case title)	}	DOCKET NO. (insert docket no.)
		WAIVER REQUEST

COMES NOW (insert name of person requesting the waiver), and files this request for a waiver, and in support states:

1. (Insert the specific waiver requested, including a citation to the specific rule the requester wants to be waived, and the precise scope and operative period of the requested waiver. If the request is for a permanent waiver, state the reasons why a temporary waiver would be impractical.)

2. (Insert the relevant facts and reasons that show each of the following: (a) the application of the rule would pose an undue hardship on the person for whom the waiver is requested; (b) the waiver would not prejudice the substantial legal rights of any person; (c) the provisions of the rule subject to a petition for waiver are not specifically mandated by statute or another provision of law; and (d) substantially equal protection of public health, safety, and welfare will be afforded by a means other than that prescribed in the rule for which the waiver is requested.)

3. (Insert the names of the persons who may be adversely impacted by the grant of the waiver, if known.)

UTILITIES DIVISION[199](cont'd)

WHEREFORE, (insert name of requester) prays the board grant the request for a waiver of the rule specified above.

Respectfully submitted,

(Signature of requester)
(Name)
(Address and ZIP code)

ARC 0071B**UTILITIES DIVISION[199]****Notice of Intended Action**

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

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

Pursuant to Iowa Code sections 17A.4, 476.1, and 476.41, the Utilities Board (Board) gives notice that on August 3, 2000, the Board issued an order in Docket No. RMU-00-8, In re: Self-Generation. The Board is proposing to amend rule 199—15.1(476) and subrule 15.11(5) to clarify that a “qualifying facility” under the Public Utility Regulatory Policies Act of 1978 (PURPA) may or may not be an alternate energy production facility under Iowa law and that a small power producer is allowed to use some or all of its output.

The definition of “qualifying facility” in rule 199—15.1(476) currently provides that an alternate energy production facility under Iowa law may not be a PURPA qualifying facility. The proposed amendment would eliminate this restriction. In fact, Iowa Code section 476.42(1) states that a qualifying facility is not precluded from being an alternate energy production facility under Iowa law. The current rule, contrary to the statute, inadvertently excludes alternate energy production facilities under Iowa law from also being PURPA qualifying facilities.

The second paragraph of subrule 15.11(5) is ambiguous because it arguably can be read to require a small power producer to sell all of its production to the host utility. This is not the intent of the rule. The rule emphasizes choice for the facility and was not intended to require a producer to sell all of its output to the utility. A producer should be allowed to use some or all of its output and the amendment clarifies this intent.

In proposing these amendments, the Board recognizes that subrule 15.11(5) is the subject of pending litigation. The Polk County District Court found the first paragraph of the rule, which concerns net billing and is not being amended in this rule making, to be preempted by federal law. The Board and the Consumer Advocate Division of the Department of Justice appealed this ruling to the Iowa Supreme Court (Mid-American Energy Company v. Iowa Utilities Board, S.Ct. No. 99-1529). However, the Board notes that its interpretation of the second paragraph of the rule is consistent with the District Court’s discussion (Mid-American Energy Company v. Iowa Utilities Board, Nos. AA 3173, AA 3195, AA 3196 (8/26/99, Polk County District Court)). The Board does not believe the District Court’s decision invalidated the second paragraph of the rule.

Pursuant to Iowa Code section 17A.4(1)“a” and “b,” any interested person may file a written statement of position

pertaining to the proposed rules. The statement must be filed on or before September 12, 2000, by filing an original and ten copies in a form substantially complying with 199—subrule 2.2(2). All written statements should clearly state the author’s name and address and should make specific reference to this docket. All communications should be directed to the Executive Secretary, Utilities Board, 350 Maple Street, Des Moines, Iowa 50319-0069.

A public hearing to receive comments on the proposed amendments will be held at 10 a.m. on September 27, 2000, in the Board’s hearing room at the address listed above.

The Board does not find it necessary to propose a separate waiver provision in this rule making. The Board’s general waiver provision in rule 199—1.3(17A,474) is applicable to these rules.

These amendments are intended to implement Iowa Code sections 476.1 and 476.41.

The following amendments are proposed.

ITEM 1. Amend rule **199—15.1(476)**, definition of “qualifying facility,” as follows:

“Qualifying facility” means a cogeneration facility or a small power production facility which is a qualifying facility under 18 CFR Part 292, Subpart B, ~~and which is not a qualifying alternate energy production facility or a qualifying small hydro facility.~~

ITEM 2. Amend subrule **15.11(5)**, second paragraph, as follows:

In the alternative, by choice of the facility, the electric utility and facility shall operate in a ~~simultaneous~~ purchase and sale arrangement whereby ~~all any electricity produced provided to the utility~~ by the qualifying facility is sold to the utility at the fixed or negotiated buy-back rate, and ~~all any electricity used by provided to the qualifying facility by the utility~~ is sold to the facility at the tariffed rate.

ARC 0072B**UTILITIES DIVISION[199]****Amended Notice of Intended Action**

On February 8, 2000, the Utilities Board (Board) issued an order in Docket No. RMU-00-5, In re: Disconnection and Reconnection, to consider adopting amendments to current 199 IAC 19.4(15)“i”(2) and 20.4(15)“i”(2) to make them consistent with the Board’s standard customer notice forms contained in 199 IAC 19.4(15)“h”(3) and 20.4(15)“h”(3). The customer notice forms provide that electric and gas residential customers cannot be disconnected unless the utility is prepared to reconnect the same day if payment or other arrangements are made.

The proposed rule making was published in IAB Vol. XXII, No. 18 (3/8/00) p. 1359, as **ARC 9717A**. Written comments have been received from the Iowa Association of Municipal Utilities, the Iowa Association of Rural Electric Cooperatives, Peoples Natural Gas Company, Division of UtiliCorp United Inc., Alliant Energy, MidAmerican Energy Company, and the Consumer Advocate Division of the Department of Justice.

In the original Notice of Intended Action, the Board did not schedule an oral presentation. However, after reviewing the comments and the request for oral presentation filed by Alliant Utilities on July 13, 2000, the Board, by order issued August 3, 2000, scheduled an oral presentation. A public hearing to receive comments on the proposed amendments

UTILITIES DIVISION[199](cont'd)

will be held at 10 a.m. on October 5, 2000, in the Board's hearing room at 350 Maple Street, Des Moines, Iowa 50319-0069.

The proposed rules are simple: disconnection cannot occur unless the utility is prepared to reconnect the same day. However, after reviewing the comments, it appears that at least some of the investor-owned utilities, and perhaps some other utilities, are able to make payment arrangements with customers late in the evening or 24 hours a day. A customer's ability to make payment arrangements following disconnection outside normal office hours is a recent development. The Board invites comments at the oral presentation not only on the rules as proposed but also on alternatives that merit consideration, such as requiring same day reconnection if payment arrangements are made before 7 p.m. Under this alternative, if payment arrangements are made after 7 p.m., the utility must be prepared to reconnect by noon the following day.

Pursuant to Iowa Code sections 17A.4(1)"a" and "b," any interested person may file a written statement of position or a supplemental statement. The statement must be filed on or before September 12, 2000, by filing an original and ten copies in a form substantially complying with 199 IAC 2.2(2). All written statements should clearly state the author's name and address and should make specific reference to this docket. All communications should be directed to the Executive Secretary, Utilities Board, 350 Maple Street, Des Moines, Iowa 50319-0069.

ARC 0056B**WORKFORCE DEVELOPMENT
DEPARTMENT[871]****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 84A.1B, the Department of Workforce Development proposes to adopt Chapter 14, "New Iowan Centers," Iowa Administrative Code.

This chapter implements a program created to provide a broad array of services to deal with multiple issues related to immigration and employment. The program was established in 2000 Iowa Acts, Senate File 2428, section 12, subsection 2.

Public comments concerning the proposed new chapter will be accepted until 4:30 p.m. on Tuesday, September 12, 2000. Interested persons may submit written or oral comments by contacting Patti Curler, Workforce Development Center Administration, Iowa Workforce Development, 150 Des Moines Street, Des Moines, Iowa 50309; telephone (515)281-9029.

A public hearing to receive comments about the proposed new chapter will be held at the Workforce Development Center Administration Office, Room 104, 150 Des Moines Street, Des Moines, Iowa, on Tuesday, September 12, 2000, from 9 to 11 a.m. Individuals interested in providing comments at the hearing should contact Patti Curler at (515)281-9029 by 4 p.m. on Monday, September 11, 2000, to be placed on the hearing agenda.

This new chapter was also Adopted and Filed Emergency and is published herein as **ARC 0057B**. The content of that submission is incorporated by reference.

These rules are intended to implement 2000 Iowa Acts, Senate File 2428, section 12, subsection 2.

ARC 0078B

EDUCATION DEPARTMENT[281]

Adopted and Filed Emergency

Pursuant to the authority of Iowa Code section 256.7(5), the State Board of Education hereby amends Chapter 17, "Open Enrollment," Iowa Administrative Code.

An amendment to Chapter 17 adopted by the State Board in March 2000 incorrectly stated the last day an open enrollment application could be filed. The intent was to allow parents to file applications up until the day before the statutory K-12 enrollment count date of the third Friday in the following September. The rule amendment, however, set the application deadline at the third Thursday of the following September. This amendment corrects that error to accurately reflect the intent of the March 2000 amendment and the statute.

In compliance with Iowa Code section 17A.4(2), the Department of Education finds that notice and public participation are impracticable and unnecessary because the amendment reflects the intent of the original rule which was clearly communicated to the public during the Notice of Intended Action on the original rules and because of the need to clarify the application deadline prior to the September 15, 2000, student enrollment count date.

The Department finds that the amendment confers a benefit on parents and school districts by clarifying the deadline for an open enrollment application prior to the September 15, 2000, student enrollment count date. Therefore, the amendment is adopted and filed on an emergency basis pursuant to Iowa Code section 17A.5(2)"b"(2).

These amendments are intended to implement Iowa Code section 282.18.

These amendments became effective August 7, 2000.

The following amendments are adopted.

ITEM 1. Amend rule **281—17.2(282)**, definition of "timely filed application," as follows:

"Timely filed application" includes an open enrollment request postmarked or hand-delivered on or before January 1, an open enrollment request for "good cause" as defined in Iowa Code section 282.18(16), and an open enrollment request filed for a continuation of an educational program postmarked or hand-delivered on or before the ~~third~~ Thursday before the *third Friday* of the following September.

ITEM 2. Amend subrule **17.3(2)**, second unnumbered paragraph, as follows:

As an alternative procedure, either the resident board or the receiving board may by policy authorize the superintendent to approve, but not deny, timely filed applications. The board shall have the discretion to determine the scope of the authorization. The authorization may be for regular applications filed on or before January 1, good cause applications, kindergarten applications and continuation applications filed on or before the ~~third~~ Thursday before the *third Friday* of the following September, or any combination that the board determines. The same timelines for approval, forwarding, and notification shall apply.

ITEM 3. Amend rule **281—17.7(282)**, introductory paragraph, as follows:

281—17.7(282) Open enrollment for kindergarten. While the regular time frame in requesting open enrollment is that an application should be made no later than January 1 of the school year preceding the school year for which the enrollment is requested, a parent/guardian requesting to enroll a

kindergarten pupil in a district other than the district of residence may make such application on or before the ~~third~~ Thursday before the *third Friday* of September of that school year. In considering an application for a kindergarten pupil the resident and receiving district are not precluded from administering board-adopted policies related to enrollment loss caps, insufficient classroom space or the requirements of a desegregation plan or order.

ITEM 4. Amend subrule **17.8(6)**, second unnumbered paragraph, as follows:

If the pupil is to remain under open enrollment or to open enroll to another school district, the parent/guardian shall write a letter, delivered by mail or by hand on or before the ~~third~~ Thursday before the *third Friday* of the next September, to notify the original resident district, the new resident district, and the receiving district of this decision.

ITEM 5. Amend subrule 17.8(7) as follows:

17.8(7) Change in residence when not participating in open enrollment. If a parent/guardian moves out of the school district of residence, and the pupil is not currently under open enrollment, the parent/guardian has the option for the pupil to remain in the original district of residence as an open enrollment pupil with no interruption in the education program or to open enroll to another school district. The parent/guardian exercising this option shall file an open enrollment request form with the new district of residence for processing and record purposes. This request shall be made on or before the ~~third~~ Thursday before the *third Friday* of the following September. Timely requests under this subrule shall not be denied. If the request is for a high school pupil, the pupil shall not be subject to the initial 90-school-day ineligibility period of subrule 17.8(2). If the move is on or after the third Friday in September, the new district of residence is not required to pay per-pupil costs or applicable weighting or special education costs to the receiving district until the first full year of the open enrollment transfer.

[Filed Emergency 8/4/00, effective 8/7/00]

[Published 8/23/00]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 8/23/00.

ARC 0075B

EDUCATION DEPARTMENT[281]

Adopted and Filed Emergency

Pursuant to the authority of Iowa Code section 256.7(5), the State Board of Education hereby amends Chapter 21, "Community Colleges," Iowa Administrative Code.

2000 Iowa Acts, House File 2511, section 5, added substance abuse treatment programs licensed under Iowa Code chapter 125 as eligible providers of courses required under law for persons convicted of operating a vehicle while intoxicated (OWI). Prior to this legislation, only community colleges were authorized to provide this course. House File 2511 also states that courses for persons under the age of 18 shall only be provided by substance abuse treatment programs licensed under Iowa Code chapter 125. These amendments allow the substance abuse treatment programs licensed under Iowa Code chapter 125 to charge tuition for their course offerings and stipulate that they are the providers of courses for individuals under the age of 18.

EDUCATION DEPARTMENT[281](cont'd)

In compliance with Iowa Code section 17A.4(2), the Department of Education finds that notice and public participation are impracticable and unnecessary because the amendments are necessary to allow the substance abuse treatment programs licensed under Iowa Code chapter 125 to charge tuition for the OWI course.

The Department finds that the amendments confer a benefit on community colleges, substance abuse treatment programs licensed under Iowa Code chapter 125 and OWI offenders. Therefore, the amendments are adopted and filed on an emergency basis pursuant to Iowa Code section 17A.5(2)"b"(2).

These amendments are intended to implement 2000 Iowa Acts, House File 2511.

These amendments became effective August 7, 2000.

The following amendments are adopted.

ITEM 1. Rescind 281—21.31(321J), introductory paragraph, and adopt in lieu thereof the following new paragraphs:

281—21.31(321J) Course. A course provided according to this chapter shall be offered on a regular basis at each community college or by a substance abuse treatment program licensed under Iowa Code chapter 125. However, a community college shall not be required to offer the course if a substance abuse treatment program licensed under Iowa Code chapter 125 offers the course within the merged area served by the community college.

Enrollment in the course is not limited to persons ordered to enroll, attend, and successfully complete the course required under Iowa Code sections 321J.1 and 321J.17, subsection 2. However, any person under the age of 18 who is required to attend the courses for violation of Iowa Code section 321J.2 or 321J.17 must attend a course offered by a substance abuse treatment program licensed under Iowa Code chapter 125.

Any instructional course shall be approved by the department of education in consultation with the community colleges and substance abuse treatment programs licensed under Iowa Code chapter 125. Each course of instruction shall establish the following:

ITEM 2. Amend rule 281—21.32(321J) as follows:

281—21.32(321J) Tuition fee established.

1. Each person enrolled in ~~the~~ *an* instructional course for drinking drivers shall pay to the community college *or to a substance abuse treatment program licensed under Iowa Code chapter 125* a tuition fee of \$75 for the approved 12-hour course, plus a reasonable book fee or \$175 for the *court-ordered* approved 28-hour weekend course, plus a reasonable book fee. For the *court-ordered* approved 28-hour weekend course, the community college *or the substance abuse treatment program licensed under Iowa Code chapter 125* shall set a reasonable fee for lodging, meals, and security.

2. A person shall not be denied enrollment in a course by reason of a person's indigency. For court-ordered placement, the court shall determine a person's indigency. In all other instances, the community college *or the substance*

abuse treatment program licensed under Iowa Code chapter 125 shall determine indigence upon application.

[Filed Emergency 8/4/00, effective 8/7/00]

[Published 8/23/00]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 8/23/00.

ARC 0081B

EDUCATION DEPARTMENT[281]

Adopted and Filed Emergency After Notice

Pursuant to the authority of Iowa Code section 256.7(5), the State Board of Education hereby amends 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 Vision Iowa School Infrastructure Program established in 2000 Iowa Acts, Senate File 2447.

Notice of Intended Action was published in the Iowa Administrative Bulletin on June 28, 2000, as **ARC 9940A**. No public comment was received regarding these amendments.

The Department finds that these amendments confer a benefit to school districts and must be effective prior to the statutory K-12 student enrollment count date of September 15, 2000. Therefore, these amendments are adopted and filed on an emergency basis 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 2000 Iowa Acts, Senate File 2447.

These amendments became effective August 7, 2000.

The following amendments are adopted.

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 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 10 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.

EDUCATION DEPARTMENT[281](cont'd)

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.

[Filed Emergency After Notice 8/4/00, effective 8/7/00]
[Published 8/23/00]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 8/23/00.

ARC 0065B

MEDICAL EXAMINERS BOARD[653]

Adopted and Filed Emergency After Notice

Pursuant to the authority of Iowa Code sections 147.76 and 272C.4, the Board of Medical Examiners hereby amends Chapter 14, "Registration of Acupuncturists," Iowa Administrative Code.

Notice of Intended Action was published in the Iowa Administrative Bulletin on June 28, 2000, as **ARC 9924A**.

The following revisions were made to the amendments published under Notice of Intended Action:

- The revision in rule 14.2(148E) clarifies that a course of study that the board will approve is one that leads a student to be eligible for licensure.
- In paragraphs 14.4(2)"b" and 14.4(4)"b" the wording is changed from "hold documented evidence" to "provide documented evidence".
- In paragraphs 14.4(2)"c," 14.4(3)"c," 14.4(4)"c," and 14.4(4)"e," the phrase "successfully complete" a course or program is changed to "provide documented evidence of having successfully completed" a course or program.
- Paragraph 14.4(5)"a" is clarified by providing a date by which a current registrant must discontinue practice if the registrant does not apply to become licensed.
- Subparagraph 14.4(5)"a"(3) is clarified by providing a date by which a current registrant must discontinue practice if the registrant applies for licensure but fails to meet the qualifications.

The Board 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 August 3, 2000, as they confer a benefit upon the acupuncturist community and the general public in that a physician referral for acupuncture services is no longer required. Further, acupuncturists will have to renew less often, every other year rather than annually.

These rules amend current Chapter 14 to comply with 2000 Iowa Acts, Senate File 182, which became effective on July 1, 2000. The changes are described below:

- The new legislation eliminates registration and replaces it with licensure. This change is present throughout the amendments. The 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 amendments reflect this change, and the fees have been revised accordingly. In addition, the 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 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 amendments.
- The new legislation changes the qualifications for acupuncture licensure and provides an alternate method for qualifying until July 1, 2001. The 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 amendments during a telephone conference call on August 3, 2000.

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.

These amendments became effective August 3, 2000. The following amendments are adopted.

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 as one that leads to eligibility for licensure 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:

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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" 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" 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" means the allied health license and examination committee of the board with oversight responsibility for administration of the registration licensure of acupuncturists.

"Current registrant" means a person who is registered to practice acupuncture 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" means the Iowa department of public health.

"Disclosure sheet" 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" 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;

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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 committee. ~~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;~~

c. 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. 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.

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~~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.

(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 fol-

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

c. Provide documented evidence of successful completion of 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. Provide documented evidence of successful completion of a course in clean needle technique approved by NCCAOM.

d. Refrain from practice until a license is issued.

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

c. Provide documented evidence of successful completion of 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. Provide documented evidence of successful completion of a course in clean needle technique approved by 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. A current registrant who fails to submit an application for licensure in this period shall cease practice by October 31, 2000.

(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 the license and shall invalidate the acupuncture registration. The individual may no longer practice acupuncture in Iowa after November 15, 2000.

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(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."

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 license 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-numbered 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 license.

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.

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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;

b. 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;

c. 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 licensed 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 PDA points in a license period that may be carried over for credit in the next license period. A licensee desiring to obtain credit for carryover 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 PDA points.

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 licensed 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 and the certificate 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).

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

~~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)** 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)** 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

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

~~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)** 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)** 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)** 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;

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)~~ **653—14.14 13(272C)** Procedure for peer review. Rules ~~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)~~ **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)~~ **653—14.16 15(272C)** Immunities Complaints, immunities and privileged communications. Rules ~~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)~~ **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)~~ **653—14.30 29(17A,147,148E,272C)** Disciplinary procedures. 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.~~

[Filed Emergency After Notice 8/3/00, effective 8/3/00]

[Published 8/23/00]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 8/23/00.

ARC 0057B

WORKFORCE DEVELOPMENT DEPARTMENT[871]

Adopted and Filed Emergency

Pursuant to the authority of Iowa Code section 84A.1B, the Department of Workforce Development hereby adopts Chapter 14, "New Iowan Centers," Iowa Administrative Code.

This chapter implements a program intended to provide a broad array of services to deal with multiple issues related to immigration and employment. This new program is the re-

WORKFORCE DEVELOPMENT DEPARTMENT[871](cont'd)

sult of legislation in 2000 Iowa Acts, Senate File 2428, section 12, subsection 2.

In compliance with Iowa Code section 17A.4(2), the Department finds that notice and public participation are impracticable because of the immediate need to implement the provisions of this law.

The Department also finds, pursuant to Iowa Code section 17A.5(2)"b"(2), that the normal effective date of the amendment should be waived and this amendment should be made effective upon filing with the Administrative Rules Coordinator on July 25, 2000, as it confers a benefit upon communities seeking to attract and resettle new immigrants.

The Department of Workforce Development adopted this chapter on July 24, 2000.

This amendment is also published herein under Notice of Intended Action as **ARC 0056B** to allow for public comment.

These rules are intended to implement 2000 Iowa Acts, Senate File 2428, section 12, subsection 2.

These rules became effective July 25, 2000.

The following **new** chapter is adopted:

CHAPTER 14
NEW IOWAN CENTERS

871—14.1(78GA,SF2428) Purpose. The program is designed to establish immigration service centers to provide a broad array of services to deal with the multiple issues related to immigration and employment. The new Iowan centers program offers one-stop service designed to support workers, businesses and communities. Services may include, but are not limited to, information, referral, job placement assistance, translation, language training, resettlement, and technical and legal assistance.

871—14.2(78GA,SF2428) Definitions.

"Department" means the department of workforce development.

"Immigrant" means a person who enters the country with the expectation of legally residing in the United States of America rather than returning to the person's country of origin.

"Regional workforce investment board" means a regional advisory board as defined in 877—Chapter 6.

"Workforce development region" means a region of the state designated by the state workforce development board as required by Iowa Code section 84B.2.

871—14.3(78GA,SF2428) Allocation of funds. Funds will be made available to a limited number of pilot projects in regions selected by the department, after consultation with other related state agencies. Matching funds shall be sought in the development of the pilot centers and special services needed to support the centers.

871—14.4(78GA,SF2428) Length of project. A proposed project may be designed for up to 18 months in duration, but must have an ending date no later than June 30 of the state fiscal year following the year funding is awarded.

871—14.5(78GA,SF2428) Allowable costs and limitations. A program coordinator shall be identified for each pilot site and shall work within the workforce development center system. Each pilot program shall provide training for local and workforce development center system partners, and supportive services for customers.

14.5(1) Allowable training activities and support services. The allowable training activities and support services under this program shall be jointly determined by the department and the program coordinator, and may include, but not be limited to, English as a second language programs in the workforce development center system, interpreter services, resources for legal services, facilitation of community meetings regarding immigrant issues, and development of specialized services specific to a community's needs.

14.5(2) Cost categories. Allowable costs must be consistently charged against the three cost categories of staff salary and fringe benefits, supportive services, and administrative support.

871—14.6(78GA,SF2428) Grant reporting and compliance review. Program operators shall be required to submit a monthly financial report detailing fund expenditures. Quarterly progress reports shall be submitted to the department detailing progress in accomplishing the goals and objectives of the project. Financial and quarterly progress report forms shall be in a format approved by the department.

These rules are intended to implement 2000 Iowa Acts, Senate File 2428, section 12, subsection 2.

[Filed Emergency 7/25/00, effective 7/25/00]

[Published 8/23/00]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 8/23/00.

ARC 0061B

BANKING DIVISION[187]

Adopted and Filed

Pursuant to the authority of Iowa Code sections 17A.3 and 524.213, the Banking Division of the Commerce Department hereby adopts amendments to 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 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.

Notice of Intended Action was published in the Iowa Administrative Bulletin on June 28, 2000, as **ARC 9895A**. A public hearing was held on July 18, 2000, at 10 a.m. in the Banking Division Conference Room at 200 East Grand Avenue, Suite 300, Des Moines, Iowa. The Division received seven written comments, all of which were supportive of the amendments. No parties attended the public hearing. Two oral comments were received prior to the hearing: one supportive of the amendments and one against the amendments.

These rules as amended do not provide for waivers in specified situations because the statutory provisions of Iowa Code section 524.215 require that reports relating to the supervision and regulation of a state bank are not public records. This requirement cannot be waived by rule.

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

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

These amendments will become effective September 27, 2000.

The following amendments are adopted.

ITEM 1. Amend paragraph **7.13(2)"F"** to read 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) to read 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 ~~524.545~~ 524.541. These reports are considered open records.

[Filed 8/2/00, effective 9/27/00]

[Published 8/23/00]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 8/23/00.

ARC 0077B

EDUCATION DEPARTMENT[281]

Adopted and Filed

Pursuant to the authority of Iowa Code section 256.7(5), the State Board of Education hereby adopts an amendment to 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.

Notice of Intended Action was published in the Iowa Administrative Bulletin on June 28, 2000, as **ARC 9936A**. One written comment was received in support of the amendment. This amendment is identical to that published under Notice of Intended Action.

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

This amendment will become effective September 27, 2000.

The following amendment is adopted.

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.*

[Filed 8/4/00, effective 9/27/00]

[Published 8/23/00]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 8/23/00.

ARC 0084B

EDUCATION DEPARTMENT[281]

Adopted and Filed

Pursuant to the authority of Iowa Code section 256.7(5), the State Board of Education hereby adopts an amendment to Chapter 63, "Educational Programs and Services for Pupils in Juvenile Homes," Iowa Administrative Code.

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 education-

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al services 90 days prior to the requested delivery of the educational services.

Notice of Intended Action was published in the Iowa Administrative Bulletin on June 28, 2000, as **ARC 9937A**. No public comment was received regarding this amendment. This amendment is identical to that published under Notice of Intended Action.

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

This amendment will become effective September 27, 2000.

The following amendment is adopted.

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 review and approve or modify the program and budget proposals and 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.*

[Filed 8/4/00, effective 9/27/00]

[Published 8/23/00]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 8/23/00.

ARC 0083B**EDUCATION DEPARTMENT[281]****Adopted and Filed**

Pursuant to the authority of Iowa Code section 256.7(5), the State Board of Education hereby adopts amendments to 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.

Notice of Intended Action was published in the Iowa Administrative Bulletin on June 28, 2000, as **ARC 9938A**. No public comment was received regarding these amendments. These amendments are identical to those published under Notice of Intended Action.

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

These amendments will become effective September 27, 2000.

The following amendments are adopted.

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.

[Filed 8/4/00, effective 9/27/00]

[Published 8/23/00]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 8/23/00.

ARC 0082B**EDUCATION DEPARTMENT[281]****Adopted and Filed**

Pursuant to the authority of Iowa Code section 256.7(5), the State Board of Education hereby adopts an amendment to 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.

Notice of Intended Action was published in the Iowa Administrative Bulletin on June 28, 2000, as **ARC 9939A**. No public comment was received regarding this amendment. This amendment is identical to that published under Notice of Intended Action.

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

This amendment will become effective September 27, 2000.

The following amendment is adopted.

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 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 ap-

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propriate 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.

[Filed 8/4/00, effective 9/27/00]

[Published 8/23/00]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 8/23/00.

ARC 0074B

INSPECTIONS AND APPEALS DEPARTMENT[481]

Adopted and Filed

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

The Department adopted these amendments on August 4, 2000.

Notice of Intended Action was published in the Iowa Administrative Bulletin on June 28, 2000, as **ARC 9896A**.

The amendments 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 certificate of noncompliance from the College Student Aid Commission.

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

No public comment was received during the comment period. These amendments are identical to those published under Notice of Intended Action.

These amendments are intended to implement Iowa Code section 261.126.

These amendments will become effective September 29, 2000.

The following amendments are adopted.

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's/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.

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 no-

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

tice 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's/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's/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 license 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.

[Filed 8/4/00, effective 9/29/00]

[Published 8/23/00]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 8/23/00.

ARC 0068B

**REVENUE AND FINANCE
DEPARTMENT[701]**

Adopted and Filed

Pursuant to the authority of Iowa Code section 421.14, the Department of Revenue and Finance hereby adopts amendments to Chapter 28, "Definitions," Chapter 107, "Local Option Sales and Service Tax," and Chapter 108, "Local Option School Infrastructure Sales and Service Tax," Iowa Administrative Code.

Notice of Intended Action was published in the Iowa Administrative Bulletin on June 28, 2000, as **ARC 9934A**.

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 2173, 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.

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

These amendments will become effective September 27, 2000, after filing with the Administrative Rules Coordinator and publication in the Iowa Administrative Bulletin.

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

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 adopted.

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 rule 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 ~~ballet~~ *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—subrule 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.*

[Filed 8/4/00, effective 9/27/00]

[Published 8/23/00]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 8/23/00.

ARC 0067B

**REVENUE AND FINANCE
DEPARTMENT[701]**

Adopted and Filed

Pursuant to the authority of Iowa Code section 421.14, the Department of Revenue and Finance hereby adopts amendments to 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.

Notice of Intended Action was published in the Iowa Administrative Bulletin on June 28, 2000, as **ARC 9935A**.

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 the actual enrollments reported for the previous fiscal year from the date of implementation of the tax.

These amendments are identical to those published as Notice of Intended Action.

These amendments will become effective September 27, 2000, after filing with the Administrative Rules Coordinator and publication in the Iowa Administrative Bulletin.

These amendments are intended to implement Iowa Code chapters 422A, 422B, and 422E.

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 [104.7, 107.15, 108.4, 108.7] is being omitted. These amendments are identical to those published under Notice as **ARC 9935A**, IAB 6/28/00.

[Filed 8/4/00, effective 9/27/00]

[Published 8/23/00]

[For replacement pages for IAC, see IAC Supplement 8/23/00.]

ARC 0055B

**WORKFORCE DEVELOPMENT
DEPARTMENT[871]**

Adopted and Filed

Pursuant to the authority of Iowa Code section 96.11, the Director of the Workforce Development Department hereby adopts Chapter 41, “Request for Waiver or Variance of Administrative Rule,” Iowa Administrative Code.

Notice of Intended Action regarding these rules was published in the January 26, 2000, Iowa Administrative Bulletin as **ARC 9630A**. Item 1 of the Notice, an amendment to 23.40(2)“a,” was Adopted and Filed and published in the

WORKFORCE DEVELOPMENT DEPARTMENT[871](cont'd)

March 22, 2000, Iowa Administrative Bulletin as ARC 9746A.

These rules have been changed from the Notice of Intended Action to conform to 2000 Iowa Acts, House File 2206. The Notice of Intended Action applied only to waivers, but the adopted rules apply to waivers and variances. The criteria for granting a waiver or variance has been expanded to include substantial protection of public health, welfare and safety.

These rules implement Executive Order Number 11 and 2000 Iowa Acts, House File 2206.

These rules will become effective September 27, 2000.

The following new chapter is adopted.

CHAPTER 41
REQUEST FOR WAIVER OR VARIANCE OF
ADMINISTRATIVE RULE

871—41.1(17A,ExecOrd11) Requests for waiver or variance of rules. Any person may file a request for waiver or variance of an administrative rule of the Workforce Development Department[871], Iowa Administrative Code, by writing a proper request which is received by the Division Administrator, Division of Unemployment Insurance Services, 1000 East Grand Avenue, Des Moines, Iowa 50319. All requests for waiver or variance of an administrative rule must be in writing and meet all requirements set out in this chapter. A request is deemed filed when it is received by the division administrator. The agency shall provide the requester with a file-stamped copy of the request if the requester provides the agency an extra copy for this purpose. The request must be typewritten or legibly handwritten in ink and must substantially conform to the following form:

IOWA WORKFORCE DEVELOPMENT

(Name of person requesting waiver or variance) } Request for waiver or variance of (specify rule for which waiver or variance is requested)

The petition must provide the following information:

- 1. The name and address of the person or entity for whom a waiver or variance is requested.
2. A description and citation of the specific rule for which a waiver or variance is requested.
3. The specific waiver or variance requested, including the precise scope and operative period that the waiver or variance will extend.
4. Relevant facts that the requester believes would justify a waiver or variance. This statement shall include a signed statement from the petitioner attesting to the accuracy of the facts provided in the petition, and a statement of reasons the petitioner believes will justify a waiver or variance.
5. A history of the agency's action relative to the requester.
6. Any information regarding the agency's treatment of similar cases, if known.
7. The name, address and telephone number of any person inside or outside state government who would be adversely affected by the grant of the request, or who otherwise possesses knowledge of the matter with respect to the waiver or variance request.
8. Signed release of information authorizing persons with knowledge regarding requests to furnish the agency

with information pertaining to the waiver or variance, if necessary.

871—41.2(17A,ExecOrd11) Procedural requirements.

41.2(1) The department shall acknowledge a request upon receipt. Within 30 days after receipt of a request for waiver or variance of an administrative rule, the agency shall ensure that the requester has provided a copy of the request to all persons who are required to receive one by provision of law. The agency may also require the requester to give notice to send a copy of the request to other persons who would have an interest in the subject matter.

41.2(2) The agency shall grant or deny a request for waiver or variance of all or a portion of a rule as soon as practical but, in any event, shall do so within 120 days of its receipt, unless requester agrees to a later date. However, if a waiver or variance request has been filed in a contested case proceeding, the agency shall grant or deny the request no later than the time at which the final decision in that contested case is issued. Failure of the agency to grant or deny such a request within the required time period shall be deemed a denial of that request by the agency. If the request for waiver or variance relates to a time requirement of an administrative rule, the request must be received before the time specified in the rule has expired. Within seven days of its issuance, any response issued under this rule shall be transmitted, normally by depositing it in the mail, to the requester or the person to whom the response pertains and to any other person entitled to such notice by any provision of law.

871—41.3(17A,ExecOrd11) Criteria for waiver or variance.

41.3(1) The director of the workforce development department shall make a decision as to whether circumstances justify the granting of a waiver or variance. Waivers or variances are granted at the discretion of the director after consideration of relevant facts. The requester shall assume the burden of persuasion with regard to a request for waiver or variance of an administrative rule. The person requesting the waiver or variance of the rule must provide clear and convincing evidence that compliance with the rule will create an undue hardship on the person for whom the waiver or variance is requested; the waiver or variance of the rule on the basis of the particular circumstances relevant to that specified person would be consistent with public interest; substantially equal protection of public health, safety, and welfare will be afforded for a means other than that prescribed in the particular rule for which the waiver or variance is requested; and the waiver or variance of the rule in the specific case would not prejudice the substantial legal rights of any person.

41.3(2) The agency shall deny a request for waiver or variance of an administrative rule if the request waives or varies any statute in whole or part. The agency shall deny any request if it does not comply with the provisions of this rule. The agency may grant waiver or variance of a rule if it finds that application of all or a portion of the rule to the circumstances of the specified person would not, to any extent, advance or serve any purposes of the rule. The agency will deny a request unless there are exceptional circumstances justifying an exception to the general application of the rule in otherwise similar circumstances. A waiver or variance shall be denied if the material facts presented in the request are not true or material facts have been withheld. The agency may request additional information from the requesting party relative to the application and surrounding circumstances.

WORKFORCE DEVELOPMENT DEPARTMENT[871](cont'd)

871—41.4(17A,ExecOrd11) Public inspection. All waiver or variance requests and responses shall be indexed by administrative rule number and available to members of the public for inspection at the administrative office of the Workforce Development Department, 1000 East Grand Avenue, Des Moines, Iowa. Identifying information concerning individuals as unemployment benefit claimants and taxpayers and other identifying information may be withheld by the agency in order to protect the confidentiality of parties as required by Iowa Code chapter 96.

These rules are intended to implement Iowa Code chapter 17A and Executive Order Number 11.

[Filed 7/24/00, effective 9/27/00]

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EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 8/23/00.

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