



IOWA ADMINISTRATIVE BULLETIN

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STATE LAW LIBRARY
OF IOWA

MAR - 7 2002

CAPITOL BUILDING
DES MOINES, IA

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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.

Subscriptions and Distribution Telephone: (515)242-5120
Fax: (515)242-5974

KATHLEEN K. BATES, Administrative Code Editor Telephone: (515)281-3355
STEPHANIE A. HOFF, Assistant Editor (515)281-8157
Fax: (515)281-4424

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Department of General Services
Hoover State Office Building, Level A
Des Moines, IA 50319
Telephone: (515)242-5120

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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
Jan. 4 '02	Jan. 23 '02	Feb. 12 '02	Feb. 27 '02	Mar. 1 '02	Mar. 20 '02	Apr. 24 '02	July 22 '02
Jan. 18	Feb. 6	Feb. 26	Mar. 13	Mar. 15	Apr. 3	May 8	Aug. 5
Feb. 1	Feb. 20	Mar. 12	Mar. 27	Mar. 29	Apr. 17	May 22	Aug. 19
Feb. 15	Mar. 6	Mar. 26	Apr. 10	Apr. 12	May 1	June 5	Sept. 2
Mar. 1	Mar. 20	Apr. 9	Apr. 24	Apr. 26	May 15	June 19	Sept. 16
Mar. 15	Apr. 3	Apr. 23	May 8	May 10	May 29	July 3	Sept. 30
Mar. 29	Apr. 17	May 7	May 22	May 24	June 12	July 17	Oct. 14
Apr. 12	May 1	May 21	June 5	June 7	June 26	July 31	Oct. 28
Apr. 26	May 15	June 4	June 19	June 21	July 10	Aug. 14	Nov. 11
May 10	May 29	June 18	July 3	July 5	July 24	Aug. 28	Nov. 25
May 24	June 12	July 2	July 17	July 19	Aug. 7	Sept. 11	Dec. 9
June 7	June 26	July 16	July 31	Aug. 2	Aug. 21	Sept. 25	Dec. 23
June 21	July 10	July 30	Aug. 14	Aug. 16	Sept. 4	Oct. 9	Jan. 6 '03
July 5	July 24	Aug. 13	Aug. 28	Aug. 30	Sept. 18	Oct. 23	Jan. 20 '03
July 19	Aug. 7	Aug. 27	Sept. 11	Sept. 13	Oct. 2	Nov. 6	Feb. 3 '03
Aug. 2	Aug. 21	Sept. 10	Sept. 25	Sept. 27	Oct. 16	Nov. 20	Feb. 17 '03
Aug. 16	Sept. 4	Sept. 24	Oct. 9	Oct. 11	Oct. 30	Dec. 4	Mar. 3 '03
Aug. 30	Sept. 18	Oct. 8	Oct. 23	Oct. 25	Nov. 13	Dec. 18	Mar. 17 '03
Sept. 13	Oct. 2	Oct. 22	Nov. 6	Nov. 8	Nov. 27	Jan. 1 '03	Mar. 31 '03
Sept. 27	Oct. 16	Nov. 5	Nov. 20	Nov. 22	Dec. 11	Jan. 15 '03	Apr. 14 '03
Oct. 11	Oct. 30	Nov. 19	Dec. 4	Dec. 6	Dec. 25	Jan. 29 '03	Apr. 28 '03
Oct. 25	Nov. 13	Dec. 3	Dec. 18	Dec. 20	Jan. 8 '03	Feb. 12 '03	May 12 '03
Nov. 8	Nov. 27	Dec. 17	Jan. 1 '03	Jan. 3 '03	Jan. 22 '03	Feb. 26 '03	May 26 '03
Nov. 22	Dec. 11	Dec. 31	Jan. 15 '03	Jan. 17 '03	Feb. 5 '03	Mar. 12 '03	June 9 '03
Dec. 6	Dec. 25	Jan. 14 '03	Jan. 29 '03	Jan. 31 '03	Feb. 19 '03	Mar. 26 '03	June 23 '03
Dec. 20	Jan. 8 '03	Jan. 28 '03	Feb. 12 '03	Feb. 14 '03	Mar. 5 '03	Apr. 9 '03	July 7 '03
Jan. 3 '03	Jan. 22 '03	Feb. 11 '03	Feb. 26 '03	Feb. 28 '03	Mar. 19 '03	Apr. 23 '03	July 21 '03

PRINTING SCHEDULE FOR IAB

<u>ISSUE NUMBER</u>	<u>SUBMISSION DEADLINE</u>	<u>ISSUE DATE</u>
20	Friday, March 15, 2002	April 3, 2002
21	Friday, March 29, 2002	April 17, 2002
22	Friday, April 12, 2002	May 1, 2002

PLEASE NOTE:

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

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

PUBLICATION PROCEDURES

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

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

1. To facilitate the publication of rule-making documents, we request that you send your document(s) as an attachment(s) to an E-mail message, addressed to both of the following:

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2. Alternatively, you may send a PC-compatible diskette of the rule making. Please indicate on each diskette the following information: agency name, file name, format used for exporting, and chapter(s) amended. Diskettes may be delivered to the Administrative Code Division, First Floor South, Grimes State Office Building, or included with the documents submitted to the Governor's Administrative Rules Coordinator.

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

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

IOWA ADMINISTRATIVE RULES and IOWA COURT RULES on CD-ROM 2001 WINTER EDITION

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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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ACCOUNTANCY EXAMINING BOARD[193A]

General, chs 1 to 19 IAB 3/6/02 ARC 1408B	1918 SE Hulsizer Ankeny, Iowa	March 26, 2002 3 p.m.
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DEAF SERVICES DIVISION[429]

Organization, interpreting services, 1.2, 1.3, 2.1, 2.3, 2.4, 3.14(2), 4.1 IAB 2/20/02 ARC 1395B	Eleanor Conference Room Room 208, Second Floor Lucas State Office Bldg. Des Moines, Iowa	March 12, 2002 10 a.m.
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DENTAL EXAMINERS BOARD[650]

Administration, 1.1 to 1.6, ch 5 IAB 2/20/02 ARC 1403B	Conference Room, Suite D 400 SW Eighth St. Des Moines, Iowa	March 13, 2002 10 to 11 a.m.
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Display of license, registration, and renewal; authorized practice of a dental hygienist, 10.2 to 10.5 IAB 2/20/02 ARC 1401B	Conference Room, Suite D 400 SW Eighth St. Des Moines, Iowa	March 13, 2002 10 to 11 a.m.
Fees, 15.1, 15.4 to 15.9 IAB 2/20/02 ARC 1400B	Conference Room, Suite D 400 SW Eighth St. Des Moines, Iowa	March 13, 2002 10 to 11 a.m.
Dental assistant radiography qualification, ch 22 IAB 2/20/02 ARC 1404B	Conference Room, Suite D 400 SW Eighth St. Des Moines, Iowa	March 13, 2002 10 to 11 a.m.

EDUCATIONAL EXAMINERS BOARD[282]

Teacher intern license; alternative preparation license, 14.129, 14.130 IAB 2/6/02 ARC 1348B	Room 1 ABC, AEA 1 2300 Chaney Rd. Dubuque, Iowa	March 6, 2002 4 to 5 p.m.
	Halverson Conference Room AEA 13 24997 Hwy. 92 Council Bluffs, Iowa	March 6, 2002 4 to 5 p.m.
	Board Room, AEA 10 4401 Sixth St. SW Cedar Rapids, Iowa	March 7, 2002 4 to 5 p.m.

EDUCATIONAL EXAMINERS BOARD[282] (Cont'd)

Student Union Social Hall
Iowa Wesleyan College
601 N. Main
Mount Pleasant, Iowa

March 7, 2002
4 to 5 p.m.

EDUCATION DEPARTMENT[281]

Beginning teacher mentoring and
induction program; teacher quality
program, 83.1, 83.3, 83.4, 83.6
IAB 2/6/02 **ARC 1344B**
(ICN Network)

March 6, 2002
4 to 6 p.m.

(See Both Columns Below)

AEA 4
1382 Fourth Ave. NE
Sioux Center, Iowa

Western Hills AEA 12
1520 Morningside Ave.
Sioux City, Iowa

Maquoketa High School
600 Washington
Maquoketa, Iowa

AEA 6
909 S. 12th St.
Marshalltown, Iowa

Scott Community College - 1
500 Belmont Rd.
Bettendorf, Iowa

Loess Hills AEA 13
24997 Hwy. 92
Council Bluffs, Iowa

Washington High School
600 W. Bluff St.
Cherokee, Iowa

Great River AEA 16
3601 West Avenue Rd.
Burlington, Iowa

Kirkwood Community College - 2
6301 Kirkwood Blvd. SW
Cedar Rapids, Iowa

Carroll High School
2809 N. Grant Rd.
Carroll, Iowa

ICN Room, Second Floor
Grimes State Office Bldg.
Des Moines, Iowa

Anita Jr.-Sr. High School
Victory Park Rd.
Anita, Iowa

Arrowhead AEA 5
330 Avenue M
Fort Dodge, Iowa

Indian Hills Community College - 4
651 Indian Hills Dr.
Ottumwa, Iowa

Lakeland AEA 3
Hwy. 18 and Second St.
Cylinder, Iowa

AEA 7
3712 Cedar Heights Dr.
Cedar Falls, Iowa

Northern Trails AEA 2
9184B 265th St.
Clear Lake, Iowa

Creston High School
601 W. Townline Rd.
Creston, Iowa

Heartland AEA 11
6500 Corporate Dr.
Johnston, Iowa

Room 119
Central Community Jr.-Sr. High School
400 First St. NW
Elkader, Iowa

Turkey Valley Jr.-Sr. High School
3219 State Hwy. 24
Jackson Junction, Iowa

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

March 7, 2002
 11:30 a.m. to 1:30 p.m.

(See Both Columns Below)

New Hampton High School 710 W. Main New Hampton, Iowa	Green Valley AEA 14 1405 N. Lincoln Creston, Iowa
Keystone AEA 1 1400 Second St. NW Elkader, Iowa	Lakeland AEA 3 Hwy. 18 and Second St. Cylinder, Iowa
AEA 4 1382 Fourth Ave. NE Sioux Center, Iowa	Northern Trails AEA 2 9184B 265th St. Clear Lake, Iowa
Maquoketa High School 600 Washington Maquoketa, Iowa	Heartland AEA 11 6500 Corporate Dr. Johnston, Iowa
DMACC - Carroll Campus 906 N. Grant Rd. Carroll, Iowa	Western Hills AEA 12 1520 Morningside Ave. Sioux City, Iowa
Atlantic Middle School 1100 Linn St. Atlantic, Iowa	AEA 6 909 S. 12th St. Marshalltown, Iowa
Chariton High School 501 N. Grand Chariton, Iowa	Loess Hills AEA 13 24997 Hwy. 92 Council Bluffs, Iowa
ICN Room, Second Floor Grimes State Office Bldg. Des Moines, Iowa	Southern Prairie AEA 15 2814 N. Court St. Ottumwa, Iowa
Great River AEA 16 3601 West Avenue Rd. Burlington, Iowa	Fort Dodge High School 819 N. 25th St. Fort Dodge, Iowa
Cedar Rapids Comm. School District 346 Second Ave. SW Cedar Rapids, Iowa	Mississippi Bend AEA 9 729 21st St. Bettendorf, Iowa
AEA 7 3712 Cedar Heights Dr. Cedar Falls, Iowa	Aurelia High School 300 Ash St. Aurelia, Iowa
Mid-Prairie High School 1636 Hwy. 22 E Wellman, Iowa	

EMERGENCY MANAGEMENT DIVISION[605]

E911 telephone systems,
 10.7(2), 10.9, 10.15
 IAB 2/6/02 ARC 1347B

Conference Room
 Hoover State Office Bldg.
 Des Moines, Iowa

March 6, 2002
 1 p.m.

ENVIRONMENTAL PROTECTION COMMISSION[567]

Water quality—volunteer monitoring data requirements, 60.2, 61.10 to 61.13 IAB 2/6/02 ARC 1351B	Autumn Room, Grant Wood AEA 4401 Sixth St. SW Cedar Rapids, Iowa	March 7, 2002 6 p.m.
Fees for new or renewed certification of confinement site and commercial manure applicators, 65.19 IAB 2/20/02 ARC 1384B	Fifth Floor Conference Room Wallace State Office Bldg. Des Moines, Iowa	March 20, 2002 1 p.m.
Organic materials composting facilities, ch 105 IAB 2/20/02 ARC 1387B	Fifth Floor West Conference Room Wallace State Office Bldg. Des Moines, Iowa	March 14, 2002 11 a.m.
Waste tire management, chs 117, 219 IAB 2/20/02 ARC 1386B	Fifth Floor East Conference Room Wallace State Office Bldg. Des Moines, Iowa	March 12, 2002 1 p.m.

MEDICAL EXAMINERS BOARD[653]

Fee to take SPEX, 8.3 IAB 3/6/02 ARC 1449B	Suite C 400 SW Eighth St. Des Moines, Iowa	March 26, 2002 4:15 p.m.
Special physician licensure, 9.3(1), 10.4(1) IAB 3/6/02 ARC 1452B	Suite C 400 SW Eighth St. Des Moines, Iowa	March 26, 2002 3 p.m.
Physicians who must complete mandatory training on identifying and reporting abuse, 11.4(1) IAB 3/6/02 ARC 1441B	Suite C 400 SW Eighth St. Des Moines, Iowa	March 26, 2002 3 p.m.
Definition of “immediate family”; investigatory subpoenas, 12.4(19), 12.6(4), 12.21 IAB 3/6/02 ARC 1448B	Suite C 400 SW Eighth St. Des Moines, Iowa	March 26, 2002 3:45 p.m.

NATURAL RESOURCE COMMISSION[571]

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State game management areas, 51.9 IAB 3/6/02 ARC 1461B	Fourth Floor East Conference Room Wallace State Office Bldg. Des Moines, Iowa	April 10, 2002 10 a.m.
Waterfowl and coot hunting seasons, 91.1, 91.3, 91.4(2), 91.6 IAB 3/6/02 ARC 1460B	Fourth Floor East Conference Room Wallace State Office Bldg. Des Moines, Iowa	April 10, 2002 10 a.m.

NATURAL RESOURCE COMMISSION[571] (Cont'd)

Wild turkey fall hunting by residents—license procedures, 99.9, 99.11(6) IAB 3/6/02 ARC 1462B	Fourth Floor East Conference Room Wallace State Office Bldg. Des Moines, Iowa	April 10, 2002 10 a.m.
Deer hunting by residents, 106.1(5), 106.5(2), 106.6(3), 106.7(3), 106.8, 106.10(1), 106.11 IAB 3/6/02 ARC 1463B	Fourth Floor East Conference Room Wallace State Office Bldg. Des Moines, Iowa	April 18, 2002 10 a.m.

PERSONNEL DEPARTMENT[581]

IPERS, 17.3(1), 21.3(6), 21.5(1), 21.18(2), 21.24(14), 21.26, 21.29(2), 21.34, 31.1(2), 33.3 IAB 3/6/02 ARC 1409B (See also ARC 1410B herein)	7401 Register Dr. Des Moines, Iowa	March 26, 2002 9 a.m.
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PROFESSIONAL LICENSURE DIVISION[645]

Mandatory training on identifying and reporting child or dependent adult abuse, 31.1, 31.10(2) IAB 2/20/02 ARC 1389B	Conference Room Lucas State Office Bldg. Des Moines, Iowa	March 12, 2002 9 to 11 a.m.
Administrative and regulatory authority for the board of cosmetology arts and sciences examiners, ch 59 IAB 3/6/02 ARC 1412B	Fifth Floor Board Conference Room Lucas State Office Bldg. Des Moines, Iowa	March 28, 2002 9 to 11 a.m.
Hearing aid dispensers—licensure, continuing education, discipline, fees, chs 120 to 122, 124, 125 IAB 3/6/02 ARC 1440B	Fifth Floor Board Conference Room Lucas State Office Bldg. Des Moines, Iowa	March 26, 2002 1 to 3 p.m.
Administrative and regulatory authority for the board of psychology examiners, ch 239 IAB 3/6/02 ARC 1454B	Fifth Floor Board Conference Room Lucas State Office Bldg. Des Moines, Iowa	March 28, 2002 9 to 11 a.m.
Social workers—mandatory reporting of child and dependent adult abuse, 280.1, 280.8 IAB 3/6/02 ARC 1458B	Conference Room Lucas State Office Bldg. Des Moines, Iowa	March 26, 2002 1 to 3 p.m.

TRANSPORTATION DEPARTMENT[761]

Recreational trails program, 165.1, 165.2, 165.12(2), 165.15(1), 165.22, 165.23 IAB 2/20/02 ARC 1399B	Administration Third Floor Conference Room 800 Lincoln Way Ames, Iowa	March 14, 2002 10 a.m. (If requested)
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UTILITIES DIVISION[199]

Assessment allocation rules, 17.1 to 17.8 IAB 3/6/02 ARC 1457B (See also ARC 1279B , IAB 1/9/02)	Hearing Room 350 Maple St. Des Moines, Iowa	April 19, 2002 10 a.m.
Electric delivery reliability, 20.2(5), 20.5, 20.7, 20.18, 25.3, 25.4 IAB 3/6/02 ARC 1437B	Hearing Room 350 Maple St. Des Moines, Iowa	April 30, 2002 9 a.m.

CITATION of Administrative Rules

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

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

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

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

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

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

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

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

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Soil Conservation Division[27]

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AUDITOR OF STATE[81]

BEEF INDUSTRY COUNCIL, IOWA[101]

BLIND, DEPARTMENT FOR THE[111]

CITIZENS' AIDE[141]

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Credit Union Division[189]

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NATURAL RESOURCES DEPARTMENT[561]
 Energy and Geological Resources Division[565]
 Environmental Protection Commission[567]
 Natural Resource Commission[571]
 Preserves, State Advisory Board for[575]
PERSONNEL DEPARTMENT[581]
PETROLEUM UNDERGROUND STORAGE TANK FUND
 BOARD, IOWA COMPREHENSIVE[591]
PREVENTION OF DISABILITIES POLICY COUNCIL[597]
PUBLIC DEFENSE DEPARTMENT[601]
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 Military Division[611]
PUBLIC EMPLOYMENT RELATIONS BOARD[621]
PUBLIC HEALTH DEPARTMENT[641]
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ARC 1408B

ACCOUNTANCY EXAMINING
BOARD[193A]

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 542C.3, the Accountancy Examining Board hereby gives Notice of Intended Action to rescind Chapters 1 to 19 and adopt new Chapter 1, "Definitions"; Chapter 2, "Organization and Administration"; Chapter 3, "Certificate as a Certified Public Accountant"; Chapter 4, "License as a Licensed Public Accountant"; Chapter 5, "Registration and Renewal of Certificates and Licenses"; Chapter 6, "Attest Services"; Chapter 7, "Registration and Renewal of Certified Public Accounting Firms"; Chapter 8, "Licensed Public Accounting Firms"; Chapter 9, "Substantial Equivalency"; Chapter 10, "Continuing Education"; Chapter 11, "Peer Review"; Chapter 12, "Fees"; Chapter 13, "Rules of Professional Conduct"; Chapter 14, "Disciplinary Authority and Grounds for Discipline"; Chapter 15, "Disciplinary Investigations"; Chapter 16, "Disciplinary Proceedings"; Chapter 17, "Enforcement Proceedings Against Nonlicensees"; Chapter 18, "Licensees' Duty to Report"; and Chapter 19, "Transitional Rules," Iowa Administrative Code.

These rules are intended to implement 2001 Iowa Acts, chapter 55, which becomes effective July 1, 2002.

These rules are subject to waiver or variance pursuant to 193—Chapter 5.

During the process of drafting these rules, the board solicited participation from numerous constituent groups. A task force that included members of the board as well as members from the Iowa Society of Certified Public Accountants and the Accountant's Association of Iowa reviewed several drafts of this amendment prior to this Notice.

Given current controversy within the accounting industry regarding independence and objectivity, the Board has given special consideration to the rules proposed in this area to ensure protection of the public.

Consideration will be given to all written suggestions or comments on the proposed rules received on or before March 26, 2002. Comments should be addressed to Glenda Loving, Professional Licensing and Regulation Division, 1918 S.E. Hulsizer, Ankeny, Iowa 50021, or faxed to (515) 281-7411. E-mail may be sent to glenda.loving@comm7.state.ia.us.

A public hearing will be held on Tuesday, March 26, 2002, at 3 p.m. at the Board's office located at 1918 S.E. Hulsizer, Ankeny, Iowa 50021, at which time persons may present their views on the proposed rules either orally or in writing. At the hearing, persons wishing to speak will be asked to give their names and addresses for the record and confine their remarks to the subject of the proposed rules.

Anyone who wishes to attend a hearing and has special requirements such as hearing, vision or mobility impairments or other special needs should notify the Professional Licensing Division no later than 4 p.m. on Friday, March 22, 2002. Notice may be in writing or by telephone to (515)281-7362.

These rules are intended to implement 2001 Iowa Acts, chapter 55.

The following amendment is proposed.

Rescind 193A—Chapters 1 to 19 and adopt in lieu thereof of the following **new** chapters:

CHAPTER 1
DEFINITIONS

193A—1.1(79GA,ch55) Definitions. The following definitions shall be applicable to the rules of the board of accountancy.

"Act" means the Accountancy Act of 2001.

"AICPA" means the American Institute of Certified Public Accountants.

"Attest" or "attest service" means providing any of the following services:

1. An audit or other engagement to be performed in accordance with the statements on auditing standards.

2. A review of a financial statement to be performed in accordance with the statements on standards for accounting and review services.

3. An examination of prospective financial information to be performed in accordance with the statements on standards for attestation engagements. For purposes of these rules, the statements on standards for attestation engagements means those standards adopted by the board, by rule, by reference to the standards developed for general application by the AICPA or other recognized national accountancy organization.

"Attest engagement team" means the team of individuals participating in attest service, including those who perform concurring and second partner reviews. The "attest engagement team" includes all employees and contractors retained by the firm who participate in attest service, irrespective of their functional classification.

"Audit" means an examination of financial statements by a CPA, conducted in accordance with generally accepted auditing standards accompanied by the CPA's opinion as to whether the statements conform with generally accepted accounting principles or, if applicable, with another comprehensive basis of accounting.

"Board" means the accountancy examining board established by 2001 Iowa Acts, chapter 55, section 4.

"Certificate" means the certificate of a certified public accountant granted under 2001 Iowa Acts, chapter 55, section 6 or 19, or a certificate issued under prior corresponding law.

"Client" means a person or entity that agrees with a licensee or licensee's employer to receive a professional service.

"Commission" means any form of compensation in a fixed or variable amount or percent received for selling, recommending or referring any product or service of another. "Commission" includes a referral fee.

"Compensation" means anything of value received by a CPA or LPA while practicing public accounting for selling, recommending or referring a product or service of another.

"Compilation" means presenting in the form of a financial statement information that is the representation of any other person without the undertaking to express any assurance on the statement.

"Contingent fee" means a fee established for the performance of any service pursuant to an arrangement in which no fee will be charged unless a specified finding or result is attained, or in which the amount of the fee is otherwise dependent upon the finding or result of such service. "Contingent fee" does not mean a fee fixed by a court or other public au-

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thority or a fee related to any tax matter which is based upon the results of a judicial proceeding or the findings of a governmental agency.

"CPA" means certified public accountant.

"Division" means the professional licensing and regulation division of the department of commerce.

"Examination of prospective financial information" means an evaluation by a CPA of a forecast or projection, the support underlying the assumptions in the forecast or projection, whether the presentation of the forecast or projection is in conformity with AICPA presentation guidelines, and whether the assumptions in the forecast or projection provide a reasonable basis for the projection or forecast.

"FASB" means the Financial Accounting Standards Board.

"Financial statement" means a presentation of financial data, including accompanying notes derived from accounting records intended to communicate an entity's economic resources or obligations at a point in time or the changes therein for a period of time in conformity with a comprehensive basis of accounting but does not include incidental financial data included in management advisory services reports to support recommendations to a client, nor does it include tax returns and supporting documents.

"Firm" means a sole proprietorship, partnership, professional corporation, professional limited liability company, limited liability partnership or any other form of organization issued a permit to practice as a firm under 2001 Iowa Acts, chapter 55, section 7 or 8, or the office of the auditor of state, state of Iowa, when the auditor of state is a certified public accountant.

"Forecast" means prospective financial statements that present, to the best of the responsible party's knowledge and belief, an entity's expected financial position, results of operations, and changes in financial position or cash flows that are based on the responsible party's assumptions reflecting conditions it expects to exist and the course of action it expects to take.

"GASB" means the Governmental Accounting Standards Board.

"License" means a certificate issued under 2001 Iowa Acts, chapter 55, section 6 or 19, a permit issued under 2001 Iowa Acts, chapter 55, section 7, or a license or permit under 2001 Iowa Acts, chapter 55, section 8, or a certificate, permit or license issued under corresponding prior law.

"Licensed public accountant" means a person licensed by the board who does not hold a certificate as a certified public accountant under this chapter and who offers to perform or performs for the public any of the following services:

1. Recording financial transactions in books of record.
2. Making adjustments of financial transactions in books of record.
3. Making trial balances from books of record.
4. Preparing internal verification and analysis of books or accounts of original entry.
5. Preparing financial statements, schedules, or reports.
6. Devising and installing systems or methods of book-keeping, internal controls of financial data, or the recording of financial data.
7. Preparing compilations.

"Licensed public accounting firm" means a sole proprietorship, professional corporation, partnership, professional limited liability company, limited liability partnership or any other form of organization issued a permit to practice as a firm of licensed public accountants under 2001 Iowa Acts, chapter 55, section 8.

"Licensee" means the holder of a license.

"LPA" means licensed public accountant.

"Managing partner," "managing shareholder," or "managing member" means the designated individual with ultimate responsibility for the operation of a firm's practice.

"NASBA" means the National Association of State Boards of Accountancy.

"NSA" means the National Society of Accountants.

"Office" means any work space identified or advertised to the general public as being connected with any firm of CPAs or LPAs where business is conducted.

"Owner" means any person who has equity ownership interest in a CPA or LPA firm.

"Peer review," as used in Chapters 11 and 12 of these rules, means a study, appraisal, or review of one or more aspects of the professional work of a licensee or firm that issues attest or compilation reports, by a licensed person or persons not affiliated with the licensee or firm being reviewed. "Peer review" does not include a peer review conducted pursuant to Iowa Code chapter 272C in connection with a disciplinary investigation.

"Person," unless the context indicates otherwise, means individuals, sole proprietorships, partnerships, corporations, limited liability companies, limited liability partnerships or other forms of entities.

"Person associated with a CPA or LPA" means any owner, partner, shareholder, member, employee, assistant, or independent contractor of a CPA or LPA firm.

"Practice of public accounting" means the performance or the offering to perform, by a person holding oneself out to the public as a certified public accountant or a licensed public accountant, one or more kinds of professional services involving the use of accounting, attest, or auditing skills, including the issuance of reports on financial statements, or of one or more kinds of management advisory, financial advisory, or consulting services, or the preparation of tax returns or the furnishing of advice on tax matters. However, with respect to licensed public accountants, the "practice of public accounting" shall not include attest or auditing services or the rendering of an opinion attesting to the reliability of any representation embracing financial information.

"Projection" means prospective financial statements that present, to the best of the responsible party's knowledge and belief given one or more hypothetical assumptions, an entity's expected financial position, results of operations, and changes in financial position or cash flows that are based on the responsible party's assumptions reflecting conditions it expects would exist and the course of action it expects would be taken given such hypothetical assumptions.

"Report," when used with reference to financial statements, means a report, opinion, or other form of a writing that states or implies assurance as to the reliability of any financial statements and that includes or is accompanied by a statement or implication that the person or firm issuing the report has special knowledge or competence in accounting or auditing. Such statement or implication of special knowledge or competence may arise from use by the issuer of the report of names or titles indicating that the person or firm is an accountant or auditor, or from the language of the report itself. "Report" includes any form of language which disclaims an opinion when such form of language is conventionally understood to imply a positive assurance as to the reliability of the financial statements referred to or special knowledge or competence on the part of the person or firm issuing the language, and any other form of language that is

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conventionally understood to imply such assurance or such special knowledge or competence.

“Respondent” means any person against whom a formal statement of charges has been filed or any person whose legal right provided for in 2001 Iowa Acts, chapter 55, shall be determined or affected.

“Review” means to perform inquiry and analytical procedures that permit a CPA to determine whether there is a reasonable basis for expressing limited assurance that there are no material modifications that should be made to financial statements in order for them to be in conformity with generally accepted accounting principles or, if applicable, with another comprehensive basis of accounting.

“SAS” means statements on auditing standards.

“SSARS” means the statements on standards for accounting and review services.

“State” means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or Guam.

“Substantial equivalency” means a determination by the board that the education, examination, and experience requirements contained in the statutes and administrative rules of another jurisdiction are comparable to, or exceed, the education, examination, and experience requirements contained in these rules or that an individual licensee’s education, examination, and experience qualifications are comparable to or exceed the education, examination, and experience requirements contained 2001 Iowa Acts, chapter 55, section 6.

“Year,” when used in the context as a time measurement of experience in accounting work, means a period of 365 days.

This rule is intended to implement 2001 Iowa Acts, chapter 55.

CHAPTER 2 ORGANIZATION AND ADMINISTRATION

193A—2.1(79GA,ch55) Description.

2.1(1) The purpose of the accountancy examining board is to administer and enforce the provisions of 2001 Iowa Acts, chapter 55, (Accountancy Act of 2001) with regard to the practice of accountancy in the state of Iowa including the examining of candidates; issuing of certificates and licenses; granting of permits to practice accountancy; investigating violations and infractions of the accountancy law; disciplining certificate holders, licensees or permit holders; and imposing civil penalties against nonlicensees. To this end, the board has promulgated these rules to clarify the board’s intent and procedures.

2.1(2) The primary mission of the board is to protect the public interest. All board rules shall be construed as fostering the guiding policies and principles described in 2001 Iowa Acts, chapter 55, section 2. The board and its licensees shall strive at all times to protect the public interest by promoting the reliability of information that is used for guidance in financial transactions or accounting for or assessing the financial status or performance of commercial, noncommercial, and governmental enterprises.

2.1(3) All official communications, including submissions and requests, should be addressed to the board at 1918 S.E. Hulsizer, Ankeny, Iowa 52001.

193A—2.2(79GA,ch55) Administrative committees.

2.2(1) The board may appoint administrative committees of not less than two nor more than five members who shall be members of the board for the purpose of making recommendations on matters specified by the board.

2.2(2) An administrative committee may be appointed to make recommendations to the board concerning the board’s responsibilities as to examinations, registrations and licensing, continuing education, professional conduct, discipline and other board matters.

193A—2.3(79GA,ch55) Annual meeting. The annual meeting of the board shall be the first meeting scheduled after April 30. At this meeting the chairperson and secretary shall be elected to serve until their successors are elected. The newly elected officers shall assume the duties of their respective offices at the conclusion of the meeting at which they were elected.

193A—2.4(79GA,ch55) Other meetings. In addition to the annual meeting and subsequent meetings, the time and place of which may be fixed by resolution of the board, a meeting may be called by the chair of the board or by joint call of a majority of its members.

193A—2.5(79GA,ch55) Board administrator’s duties.

2.5(1) The board administrator shall ensure that complete records are kept of all applications for examination and registration, all certificates, licenses and permits granted, and all necessary information in regard thereto. The board administrator is the lawful custodian of the board records.

2.5(2) The board administrator shall determine when the legal requirements for licensure have been satisfied with regard to issuance of certificates, licenses or registrations; and the board administrator shall submit to the board any questionable application.

2.5(3) The board administrator shall keep accurate minutes of the meetings of the board. The board administrator shall keep a list of the names of persons issued certificates as certified public accountants, persons issued licenses as licensed public accountants, and all firms issued permits to practice.

2.5(4) The board administrator shall perform such additional administrative duties as are requested by the board or otherwise authorized by this chapter or the rules of the professional licensing and regulation division.

193A—2.6(79GA,ch55) Disclosure of confidential information.

2.6(1) 2001 Iowa Acts, chapter 55, section 4, prohibits members of the board from disclosing a final examination score to persons other than the one who took the examination. For the purposes of this rule, “final score” includes information as to whether the candidate “passed,” “failed,” or “conditioned” the examination. Persons who take the examination may consent to the publication of their names on a list of passing candidates.

2.6(2) Other information relating to the examination results, including the specific grades by subject matter, shall be given only to the person who took the examination, except that the board may:

a. Disclose the specific grades by subject matter to the regulatory authority of any other state or foreign country in connection with the candidate’s application for a reciprocal certificate or license from the other state or foreign country, but only if requested by the applicant.

b. Disclose the specific grades by subject matter to educational institutions, professional organizations, or others who have a legitimate interest in the information, provided the names of the persons taking the examination are not provided in conjunction with the scores.

193A—2.7(79GA,ch55,17A,21,22,272C) Uniform division rules. Administrative and procedural rules which are

ACCOUNTANCY EXAMINING BOARD[193A](cont'd)

common to all boards in the division can be found in the rules of the professional licensing and regulation division.

2.7(1) Person seeking waivers or variances from board rules should review the uniform division rules at 193—Chapter 5.

2.7(2) Rules outlining procedures regarding investigatory subpoenas can be found at 193—Chapter 6.

2.7(3) Rules regarding contested cases appear at 193—Chapter 7.

2.7(4) Rules regarding denial of issuance or renewal of license for nonpayment of child support or student loan appear at 193—Chapter 8.

2.7(5) Rules outlining procedures for petitions for rule making are at 193—Chapter 9.

2.7(6) Rules regarding procedures to be followed when seeking declaratory orders can be found at 193—Chapter 10.

2.7(7) Rules regarding sales of goods and services by board or commission members appear at 193—Chapter 11.

2.7(8) Rules regarding impaired licensee review committees appear at 193—Chapter 12.

2.7(9) Rules covering public records and fair information practices appear at 193—Chapter 13.

These rules are intended to implement chapters 17A, 21, 22, 272C and 2001 Iowa Acts, chapter 55.

CHAPTER 3
CERTIFICATE AS A
CERTIFIED PUBLIC ACCOUNTANT

193A—3.1(79GA,ch55) Qualifications for a certificate as a certified public accountant.

3.1(1) A person of good moral character who makes application pursuant to 2001 Iowa Acts, chapter 55, section 6, may be granted a certificate as a certified public accountant if the person satisfies all of the following qualifications:

a. Satisfactory completion of the educational requirements of 2001 Iowa Acts, chapter 55, section 5(7), and rule 193A—3.2(79GA,ch55);

b. No less than one year of verified experience including the types of services described in 2001 Iowa Acts, chapter 55, section 5(12), and rule 193A—3.11(79GA,ch55); and

c. Successful completion of the examination described in 2001 Iowa Acts, chapter 55, section 5(8), and rule 193A—3.6(79GA,ch55) and the ethics course and examination outlined in 193A—3.12(79GA,ch55).

3.1(2) An application may be denied if the applicant:

a. Has been convicted of a crime described in 2001 Iowa Acts, chapter 55, section 5(2);

b. Has had a professional license of any kind revoked in this or any other jurisdiction, as provided in 2001 Iowa Acts, chapter 55, section 5(3);

c. Makes a false statement of material fact on an application for a certificate or is otherwise implicated in the submission of a false application as provided in 2001 Iowa Acts, chapter 55, section 5(4); or

d. Demonstrates a lack of moral character in a manner which the board reasonably believes will impair the applicant's ability to practice public accountancy in full compliance with the public interest and state policies described in 2001 Iowa Acts, chapter 55, section 2. While it is not possible to itemize all actions or behaviors which may demonstrate a lack of moral character, the following nonexclusive list of factors will guide the board in making its determination:

(1) A pattern and practice of making false or deceptive representations, or of omitting material facts, while provid-

ing the public any of the services described in 2001 Iowa Acts, chapter 55, section 3(20).

(2) Fraud or dishonesty while advertising or selling goods or services to the public.

(3) Willful or repeated failure to timely file tax returns or other mandatory submittals due a governmental body.

(4) Fiscally irresponsible behavior in the absence of mitigating circumstances.

193A—3.2(79GA,ch55) Colleges or universities recognized by the board. 2001 Iowa Acts, chapter 55, section 5, in providing for educational qualifications for a certificate as certified public accountant, refers to colleges or universities "recognized by the board." For such purpose, the board recognizes educational institutions accredited by the American Assembly of Collegiate Schools of Business and the regional accrediting bodies listed in the current publication of the Accredited Institutions of Post Secondary Education, which listing is made a part of these rules by reference.

This rule is intended to implement 2001 Iowa Acts, chapter 55, section 5.

193A—3.3(79GA,ch55) Accounting concentration.

3.3(1) On or before December 31, 2000, Iowa Code section 542C.5 in providing for educational requirements for a certificate as a certified public accountant, refers to "substantially the equivalent of an accounting concentration, including related courses in other areas of business administration." The requirement for "substantially the equivalent of an accounting concentration" shall be deemed to have been met whether the candidate has a nonaccounting baccalaureate degree supplemented by additional courses or has a baccalaureate degree with a major in accounting provided the candidate has satisfactorily completed a minimum of 48 semester hours, or the equivalent thereof, in accounting and related subjects. Not less than 24 hours shall be in accounting courses, of which at least one course shall be in auditing; and the remainder may be in the subjects of economics, business statistics, business law, finance, business management, marketing, business communication, or other business-related subjects. Mathematics courses shall not qualify unless the course is business math.

A candidate for examination qualifying under this subrule must have passed at least one subject of the examination prior to January 1, 2001, and must successfully complete all subjects of the examination by December 31, 2003, or meet the requirements outlined in subrule 3.3(2).

3.3(2) On or after January 1, 2001, a candidate will be deemed to have met the educational requirement if, as part of the 150 semester hours of education as outlined in 2001 Iowa Acts, chapter 55, section 5, the candidate has met one of the following four conditions:

a. Earned a graduate degree with a concentration in accounting from a program that is accredited in accounting by an accrediting agency recognized by the board.

b. Earned a graduate degree in business from a program that is accredited in business by an accrediting agency recognized by the board and completed at least 24 semester hours in accounting including courses covering the subjects of financial accounting, auditing, taxation, and management accounting. Such accounting hours shall not include elementary accounting or principles of accounting, internships or life experience.

c. Earned a baccalaureate degree in business or accounting from a program that is accredited in business by an accrediting agency recognized by the board and completed at least 24 semester hours in accounting courses covering the

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subjects of financial accounting, auditing, taxation, and management accounting. Such accounting hours shall not include elementary accounting or principles of accounting, internships or life experience.

d. Earned a baccalaureate or higher degree and completed the following hours from an accredited institution recognized by the board:

(1) At least 24 semester hours in accounting courses above elementary accounting or principles of accounting covering the subjects of financial accounting, auditing, taxation, and management accounting, not including internships or life experience; and

(2) At least 24 additional semester hours in business-related courses, not including internships or life experience. Elementary accounting hours that do not qualify under subparagraph 3.3(2)“d”(1) may apply toward business-related courses.

Quarter hours will be accepted in lieu of semester hours at a 3:2 ratio; that is, three quarter hours is equivalent to two semester hours. Internships and life experience hours may apply toward the total 150 hours' requirement.

3.3(3) The board may admit to the examination a candidate who will complete the educational requirements for a baccalaureate degree with a concentration in accounting as provided in subrule 3.3(2) within 120 days immediately following the date of the examination or who has completed those requirements. However, the board shall not report the results of the examination until the candidate has met the educational requirements for a baccalaureate degree and shall not issue the certificate until the candidate has fully satisfied the requirements of 2001 Iowa Acts, chapter 55, sections 5(7) and 5(12).

3.3(4) The board will consider correspondence study and study in other schools not meeting the above requirements on an individual basis if the candidate can provide evidence that such study would be acceptable for credit by a college or university recognized by the board; provided, however, that at least 18 of the required hours in accounting and at least 16 of the required hours in business-related subjects must be obtained in a college or university recognized by the board.

3.3(5) The applicant's claim to college or university credits must be confirmed by an official transcript of credit issued by the institution in question. The applicant shall be responsible for having such transcripts sent to the board's test administrator at the time of making application. The applicant shall also be responsible for having any institution not listed under rule 193A—3.2(79GA,ch55) furnish the board evidence that it meets the accreditation requirements of the board. In addition, the applicant is responsible for all material being in possession of the test administrator by the deadline for filing applications. Otherwise, the application shall be considered incomplete and shall not be approved by the board.

3.3(6) Graduates of foreign colleges or universities shall have their education evaluated by a foreign credentials evaluation advisory service specified by the board.

193A—3.4(79GA,ch55) Examination applications.

3.4(1) An individual desiring to take the certified public accountant examination should apply on the form provided by the board's test administrator by the deadline established in rule 193A—3.5(79GA,ch55).

3.4(2) To be eligible to take the examination as a reexamination applicant, the candidate shall have fulfilled the requirements of rule 193A—3.3(79GA,ch55).

3.4(3) A candidate for the examination who has been convicted in a court of competent jurisdiction in this state, or

another state, territory, or a district of the United States, or in a foreign jurisdiction of forgery, embezzlement, obtaining money under false pretenses, theft, extortion, conspiracy to defraud, or other similar offense, or of any crime involving moral character or dishonesty may be denied admittance to the examination by the board on the grounds of the conviction. For purposes of this subrule, “conviction” means a conviction for an indictable offense and includes a guilty plea, deferred judgment from the time of entry of the deferred judgment until the time the defendant is discharged by the court without entry of judgment, or other finding of guilt by a court of competent jurisdiction.

3.4(4) A candidate for examination who has had a professional license of any kind revoked in this or any other jurisdiction may be denied admittance to the examination by the board on the grounds of the revocation.

3.4(5) A candidate who makes a false statement of material fact on an application for examination for a certificate, or who causes to be submitted or has been a party to preparing or submitting a false application for a certificate, may be denied a certificate by the board on the grounds of the false statement or submission.

3.4(6) A candidate may be considered as a reexamination applicant regardless of whether or not the candidate sat for the examination once initially approved. Reexamination applicants may apply by telephone to the board's test administrator or may apply on-line if the technology is available.

3.4(7) A nonrefundable proctoring fee shall be collected from a candidate who wishes to be proctored in Iowa.

193A—3.5(79GA,ch55) Deadline for filing applications. Examinations are ordinarily held in May and November of each year, and all applications to take the examinations must be filed during the period of January 1 to the last day of February for the May examination and during the period of July 1 to August 31 for the November examination. Applications will not be considered filed until they are complete in all respects. Applications shall be deemed filed on the date received by the board's test administrator or, if mailed, the date postmarked, but not the date metered. Late applications will not be accepted.

This rule is intended to implement 2001 Iowa Acts, chapter 55, section 5.

193A—3.6(79GA,ch55) Content and grading of the examination.

3.6(1) The board may make use of the uniform certified public accountant examination prepared by the American Institute of Certified Public Accountants under a plan of cooperation with the boards of all states and territories of the United States.

3.6(2) The board may also make use of the advisory grading service provided by the American Institute of Certified Public Accountants under a plan of cooperation with the boards of all states and territories of the United States.

3.6(3) The identity of the person taking the examination shall be concealed until after the examination papers have been graded by the advisory grading service. A grade of at least 75 in each subject shall be considered passing.

193A—3.7(79GA,ch55) Conditioning requirements.

3.7(1) A candidate must take all subjects at one sitting until the candidate achieves the status of conditional candidate or passes all subjects.

3.7(2) A candidate who at any examination passes two or more subjects and obtains a grade of not less than 50 in each subject failed shall be considered as a conditional candidate in the subjects successfully passed. However, the minimum

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grade requirement will be waived if three subjects are passed at a single sitting.

3.7(3) A candidate who achieves conditional standing shall be credited with the subjects in which the candidate received passing grades. A conditional candidate may, upon payment of the required fee, appear for reexamination in the subject or subjects failed at any of the next six semiannual examinations.

3.7(4) When a conditional candidate appears for reexamination, the candidate must take all subjects for which failing grades were received. To obtain credit for a subject or subjects passed upon reexamination, the conditional candidate must obtain a grade of not less than 50 in each subject failed. A grade of less than 50 shall have no effect on a prior condition.

3.7(5) If, on reexamination, the candidate fails to pass the remaining subject or subjects within the time provided for reexamination in subrule 3.7(3), such candidate shall revert to the status of a new applicant, take the entire examination, and pay the appropriate fee.

3.7(6) The time limit within which a candidate is required to pass all subjects under this rule shall not include any period during which the applicant was serving in the armed forces of the United States. This exception does not apply if the candidate takes an examination while so serving. The board may extend the time limit in particular instances on a case-by-case basis.

3.7(7) The time limit within which a candidate is required to pass all subjects under this rule may be extended for hardship cases, such as when the applicant for the examination is prevented from attending for such reasons as unexpected illness, verified by a medical doctor, or a death in the family, verified in writing.

3.7(8) A candidate requesting transfer of grades from any other jurisdiction will be subject to the same provisions of this rule as an Iowa candidate, provided the examination given by the licensing authority in the other state was an examination approved by the Iowa board.

3.7(9) A candidate requesting transfer of grades from any other jurisdiction who does not meet the provisions of this rule, but who meets all of the requirements for issuance of an original certificate in the examining state other than residency, may, at the board's discretion, be required to take at least one section of the examination designated by the board.

This rule is intended to implement 2001 Iowa Acts, chapter 55, section 5.

193A—3.8(79GA,ch55) Examination procedures.

3.8(1) At the examination, a candidate must provide evidence of the identification of the candidate with some official document, such as a driver's license, student identification, service identification, or passport that contains the candidate's photograph. The candidate will be known at the examination by the candidate identification number alone and the number shall be placed on every sheet containing computations for or answers to the examination questions.

Under no circumstances shall a candidate's name, initials, or any identifying mark, other than the assigned number be placed on any of the examination papers. Failure to comply with this requirement shall be deemed misconduct sufficient for rejecting the candidate's papers.

3.8(2) Answers must be submitted on blanks furnished by the board's test administrator and must be completed in the total time allotted for each subject.

3.8(3) Stationery and supplies furnished by the board's test administrator shall remain the administrator's property and must be returned whether used or not.

3.8(4) In the event that any examination papers are lost, the liability of the board or its test administrator will be limited to the fee paid by the applicant for the examination.

193A—3.9(79GA,ch55) Conduct of the examination.

3.9(1) Any individual who subverts or attempts to subvert the examination process may, at the discretion of the board, have the individual's examination scores declared invalid for the purpose of certification in Iowa, be barred from accountancy licensing and certification examinations in Iowa, or be subject to the imposition of other sanctions the board deems appropriate.

3.9(2) Conduct that subverts or attempts to subvert the examination process includes, but is not limited to:

a. Conduct which violates the security of the examination materials, such as removing from the examination room any of the examination materials; reproducing or reconstructing any portion of the licensing examination; aiding by any means in the reproduction or reconstruction of any portion of the licensing examination; selling, distributing, buying, receiving, or having unauthorized possession of any portion of a future, current, or previously administered licensing examination.

b. Conduct which violates the standards of test administration, such as communicating with any other examination candidate during the administration of the licensing examination; copying answers from another candidate or permitting one's answers to be copied by another candidate during the administration of the examination; having in one's possession during the administration of the licensing examination any books, notes, written or printed materials or data of any kind, other than the examination materials distributed.

c. Conduct which violates the examination process, such as falsifying or misrepresenting educational credentials or other information required for admission to the licensing examination; impersonating an examination candidate or having an impersonator take the licensing examination on one's behalf.

3.9(3) Any examination candidate who wishes to appeal a decision of the board under this rule may request a contested case hearing. The request for hearing shall be in writing, shall briefly describe the basis for the appeal, and shall be filed in the board's office within 30 days of the date of the board decision being appealed. Any hearing requested under this subrule shall be governed by the rules applicable to contested case hearings under 193—Chapter 7.

193A—3.10(79GA,ch55) Refunding of examination fees.

Examination fees shall not be refunded except as follows:

1. An applicant who is admitted but fails to attend the examination shall be rebated 50 percent of the prescribed fee provided notification that the applicant will not be present is received by the board 30 calendar days prior to the beginning of the examination.

2. Fifty percent of the prescribed fee shall be returned to an applicant whose application has been submitted and reviewed but who is found not qualified to take the examination.

3. In hardship cases, such as when the applicant for the examination is prevented from attending for such reasons as unexpected illness, verified by a medical doctor, a death in the family, or a call to active military service, 50 percent of the fee may be returned provided that under the circumstances it was not possible for the applicant to notify the board at least 30 calendar days prior to the beginning of the examination that the applicant could not be present. Written

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documentation of the hardship shall be provided to the board's test administrator.

193A—3.11(79GA,ch55) Experience for certificate.

3.11(1) Experience shall include providing any type of service or advice involving the use of accounting, attest, compilation, management advisory, financial advisory, tax or consulting skills. Experience may be gained through employment in government, industry, academia, or public practice.

3.11(2) One year of experience shall consist of full- or part-time employment that extends over a period of no less than one year and no more than three years and includes no fewer than 2,000 hours of performance of services outlined in subrule 3.11(1). Experience may be gained in more than one employment situation, including an internship.

3.11(3) An applicant seeking qualification as an attest CPA shall have at a minimum two years of experience as more fully described in 193A—subrule 6.3(1).

3.11(4) All experience shall be verified by a licensee with direct supervisory control over the applicant or by a licensee who can attest that the experience gained by the applicant meets the requirements of subrule 3.11(1) if the applicant is not supervised by a licensee.

3.11(5) Teaching experience shall be in the employment of an institution of higher education and shall include teaching a minimum of 24 semester hours of accounting courses for which the course participants receive credit on an official transcript. Teaching of noncredit continuing education courses shall not qualify under this rule.

193A—3.12(79GA,ch55) Ethics course and examination.

A successful candidate shall also be required to pass an examination covering the code of ethical conduct prior to issuance of the certificate.

193A—3.13(79GA,ch55) Obtaining the certificate.

A candidate who successfully passes the examination and meets the experience requirements outlined in rule 193A—3.11(79GA,ch55) shall make application for the certificate on a form which may be obtained from the board office. An applicant for certificate may be denied the certificate for reasons outlined in subrules 3.4(3), 3.4(4), and 3.4(5) regardless of when the incident occurred.

193A—3.14(79GA,ch55) Use of title.

3.14(1) Only a person holding a certificate may use or assume the title "certified public accountant" or the abbreviation "CPA" or any other title, designation, words, letters, abbreviation, sign, card, or device tending to indicate that such person is a certified public accountant.

3.14(2) Rules regarding the use of the title "CPA" in a firm name are found at 193A—subrule 13.6(5).

These rules are intended to implement 2001 Iowa Acts, chapter 55.

CHAPTER 4

LICENSE AS A LICENSED PUBLIC ACCOUNTANT

193A—4.1(79GA,ch55) Qualifications for a license as a licensed public accountant.

4.1(1) A person of good moral character who makes application pursuant to 2001 Iowa Acts, chapter 55, section 8, may be granted a license as a licensed public accountant if the person satisfies all of the following qualifications:

a. Satisfactory completion of the educational requirements of 2001 Iowa Acts, chapter 55, section 8(1), and rule 193A—4.2(79GA,ch55);

b. No less than one year of verified experience including the types of services described in 2001 Iowa Acts, chapter 55, section 8(8), and rule 193A—4.12(79GA,ch55); and

c. Successful completion of the examination described in 2001 Iowa Acts, chapter 55, section 8(3), and rule 193A—4.7(79GA,ch55) and the ethics course and examination outlined in 193A—4.13(79GA,ch55).

4.1(2) An application may be denied if the applicant:

a. Has been convicted of a crime;

b. Has had a professional license of any kind revoked in this or any other jurisdiction;

c. Makes a false statement of material fact on an application for a license or is otherwise implicated in the submission of a false application; or

d. Demonstrates a lack of moral character in a manner that the board reasonably believes will impair the applicant's ability to practice public accountancy in full compliance with the public interest and state policies described in 2001 Iowa Acts, chapter 55, section 2. While it is not possible to itemize all actions or behaviors which may demonstrate a lack of moral character, the following nonexclusive list of factors will guide the board in making its determination:

(1) A pattern and practice of making false or deceptive representations, or of omitting material facts, while providing the public any of the services.

(2) Fraud or dishonesty while advertising or selling goods or services to the public.

(3) Willful or repeated failure to timely file tax returns or other mandatory submittals due a governmental body.

(4) Fiscally irresponsible behavior in the absence of mitigating circumstances.

193A—4.2(79GA,ch55) Examination application.

4.2(1) An individual desiring to take the examination to qualify for a license as a licensed public accountant shall apply on a form that may be obtained from the board office or on the board's Web site. Different forms will be provided for original examinations and reexaminations.

4.2(2) To be eligible to take the examination, the applicant must meet the requirements of 2001 Iowa Acts, chapter 55, section 8(1)(b), at the time of filing the application.

4.2(3) A candidate for the examination who has been convicted in a court of competent jurisdiction in this state, or another state, territory, or a district of the United States, or in a foreign jurisdiction of forgery, embezzlement, obtaining money under false pretenses, theft, extortion, conspiracy to defraud, or other similar offense, or of any crime involving moral character or dishonesty may be denied admittance to the examination by the board on the grounds of the conviction. For purposes of this subrule, "conviction" means a conviction for an indictable offense and includes a guilty plea, deferred judgment from the time of entry of the deferred judgment until the time the defendant is discharged by the court without entry of judgment, or other finding of guilt by a court of competent jurisdiction.

4.2(4) A candidate for examination who has had a professional license of any kind revoked in this or any other jurisdiction may be denied admittance to the examination by the board on the grounds of the revocation.

193A—4.3(79GA,ch55) Major in accounting. In determining whether the requirement in 2001 Iowa Acts, chapter 55, section 8(1)(b)(2), as to a "major in accounting" has been met, the board will follow the rules associated with a "concentration in accounting" outlined in 193A—paragraph 3.3(2)"c."

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193A—4.4(79GA,ch55) Transcripts required. The applicant's claim to college, university, business school, or correspondence school credit must be confirmed by an official transcript issued by the institution. The applicant shall be responsible for having such transcripts sent to the board at the time of making application. The applicant shall also be responsible for having the institution furnish the board evidence that the institution meets the accreditation requirements of the board. The applicant is also responsible for all such material being in possession of the board by the deadline for filing the application; otherwise, the application shall be considered incomplete and disapproved by the board.

193A—4.5(79GA,ch55) Deadline for filing applications. Examinations are ordinarily held in June and December of each year, and all applications to take the examinations must be filed during the period of January 1 to March 31 for the June examination, and during the period of July 1 to September 30 for the December examination. Applications will not be considered as filed until they are complete in all respects. Applications shall be deemed filed on the date received by the board or, if mailed, the date postmarked, but not the date metered, whichever is earlier. Late applications will not be accepted.

193A—4.6(79GA,ch55) Admittance prior to completing educational requirements. The board may admit to the examination described in 2001 Iowa Acts, chapter 55, section 8(2), any candidate who will complete the educational requirements set forth in 2001 Iowa Acts, chapter 55, section 8(1)(b)(2), within 120 days immediately following the date of the examination. However, the board shall not report the results of the examination until the candidate has met the educational requirements or the experience requirements of 2001 Iowa Acts, chapter 55, section 8(1)(b)(2).

193A—4.7(79GA,ch55) Content and grading of the examination.

4.7(1) The board may use the examination prepared by the Accreditation Council for Accountancy and Taxation. The examination shall not include any questions regarding auditing or attest functions.

4.7(2) The board may use the grading services provided by the Accreditation Council for Accountancy and Taxation.

4.7(3) The identity of the person taking the examination shall be concealed until after the examination papers have been graded. A grade of at least 75 in each subject shall be passing.

4.7(4) Alternatively, an applicant may satisfy the examination requirement of this rule by passing the Financial Accounting and Reporting-Business Enterprises and Accounting and Reporting-Taxation, Managerial, Governmental and Not-for-Profit Organization sections of the CPA examination provided by the AICPA.

193A—4.8(79GA,ch55) Conditioning requirements.

4.8(1) An applicant must take all subjects at one sitting unless the applicant becomes a conditional candidate or passes all subjects.

4.8(2) If an applicant receives a passing grade in any of the subjects and obtains a grade of not less than 50 in the subject or subjects failed, the applicant shall be considered a conditional candidate entitled to receive credit for the subject or subjects passed and be reexamined in the subject or subjects not passed during the next six succeeding examinations upon payment of the required fee.

4.8(3) The time limit within which an applicant is required to pass all subjects under this rule shall not include

any period during which the applicant was serving in the armed forces of the United States, unless the applicant takes an examination while so serving, in which case such time shall be included in computing the time limitation.

4.8(4) The time limit within which a candidate is required to pass all subjects under this rule may be extended for hardship cases, such as when the applicant for the examination is prevented from attending for such reasons as unexpected illness, verified by a medical doctor, or a death in the family, verified in writing.

193A—4.9(79GA,ch55) Examination procedures. The examination procedures to be followed by a candidate for the certified public accountants' examination as outlined in rule 193A—3.8(79GA,ch55) shall also apply to a licensed public accountant examination candidate.

193A—4.10(79GA,ch55) Refunding of examination fees. Examination fees will not be refunded except as provided by the rules concerning the refunding of examination fees to an examination candidate for a certified public accountant certificate outlined in 193A—3.10(79GA,ch55).

193A—4.11(79GA,ch55) Credit for an examination taken in another state. A candidate who has partially passed an examination in another state will be given credit for the part or parts passed, provided the candidate meets the conditioning requirements of the board and further provided the examination given by the licensing authority in the other state was an examination prepared and graded by the Board of Examiners of the American Institute of Certified Public Accountants or the Accreditation Council for Accountancy and Taxation.

193A—4.12(79GA,ch55) Experience for license.

4.12(1) Experience shall include providing any type of service or advice involving the use of accounting, compilation, management advisory, financial advisory, tax or consulting skills. Experience may be gained through employment in government, industry, academia, or public practice.

4.12(2) One year of experience shall consist of full- or part-time employment that extends over a period of no less than one year and no more than three years and includes no fewer than 2,000 hours of performance of services outlined in subrule 4.12(1). Experience may be gained in more than one employment situation, including an internship.

4.12(3) All experience shall be verified by a licensee with direct supervisory control over the applicant or by a licensee who can attest that the experience gained by the applicant meets the requirements of subrule 4.12(1) if the applicant is not supervised by a licensee.

4.12(4) Teaching experience shall be in the employment of an institution of higher education and shall include teaching a minimum of 24 semester hours of accounting courses for which the course participants shall receive credit on an official transcript. Teaching of noncredit continuing education courses shall not qualify under this rule.

193A—4.13(79GA,ch55) Ethics course and examination. A successful candidate shall also be required to pass an examination covering the code of ethical conduct prior to issuance of the license.

193A—4.14(79GA,ch55) Statement on standards for accounting and review services (SSARS) education. An LPA license applicant who will be responsible for supervising compilation services or who signs or authorizes someone to sign the accountant's compilation report on the financial statements shall complete a minimum of seven hours of con-

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tinuing education devoted to statements on standards for accounting and review services (SSARS) prior to issuance of the license. An LPA license applicant is exempt from this requirement if the applicant has passed the CPA examination provided by the AICPA.

193A—4.15(79GA,ch55) Obtaining the license. A candidate who successfully passes the examination and completes requirements outlined in rules 193A—4.12(79GA,ch55), 4.13(79GA,ch55) and 4.14(79GA,ch55) shall make application for licensure on a form available from the board office. An applicant shall list on the application all states in which the applicant has applied for or holds a certificate, license or permit and shall also list any past denial, revocation, suspension, refusal to renew or voluntary surrender to avoid disciplinary action of a certificate, license or permit. An applicant shall notify the board in writing within 30 days after the occurrence of any issuance, denial, revocation, suspension, refusal to renew, or voluntary surrender to avoid disciplinary action of a certificate, license or permit by another state. An applicant for license may be denied the license for reasons outlined in subrule 4.1(2) regardless of when the incident occurred.

193A—4.16(79GA,ch55) Licensure by reciprocity.

4.16(1) The examination required by 2001 Iowa Acts, chapter 55, section 8, will be waived for an applicant who has passed the examination required under the laws of another state, provided the examination given by the licensing authority of the other state was an examination prepared and graded by the Board of Examiners of the American Institute of Certified Public Accountants or the Accreditation Council for Accountancy and Taxation.

4.16(2) For the purpose of 2001 Iowa Acts, chapter 55, section 8, the title by which such other state designates its accountants shall not be controlling, but the matter shall be controlled by substantive requirements, whether such accountants be called licensed public accountants, public accountants, accounting practitioners or any other similar title.

4.16(3) A person desiring a license as a licensed public accountant in this state on the basis of a licensed public accountant license issued by another state must apply upon a form that may be obtained from the board office. The burden is on the applicant to obtain information satisfactory to the board that the applicant's license in such other state is in full force and effect and that the requirements for obtaining such license were substantially equivalent to those of this state to obtain a license as a licensed public accountant.

4.16(4) An applicant shall list on the application all states in which the applicant has applied for or holds a certificate, license or permit and shall also list any past denial, revocation, suspension, refusal to renew or voluntary surrender to avoid disciplinary action of a certificate, license, or permit. An applicant shall notify the board in writing within 30 days after the occurrence of any issuance, denial, revocation, suspension, refusal to renew or voluntary surrender to avoid disciplinary action of a certificate, license or permit by another state.

4.16(5) An applicant shall affirm that all information provided on the form is true and correct. Providing false information shall be considered prima facie evidence of a violation of 2001 Iowa Acts, chapter 55. A nonrefundable application fee will be charged each applicant.

193A—4.17(79GA,ch55) Use of title. Only a person holding a license as a licensed public accountant shall use or assume the title "licensed public accountant" or the abbrevi-

ation "LPA" or any other title, designation, words, letters, abbreviation, sign, card, or device tending to indicate that such person is a licensed public accountant.

These rules are intended to implement 2001 Iowa Acts, chapter 55, section 8.

CHAPTER 5

RENEWAL OF CERTIFICATES AND LICENSES

193A—5.1(79GA,ch55) Biennial renewal. To maintain the certificate of certified public accountant granted by the board under 2001 Iowa Acts, chapter 55, section 6 or 19, or the license to practice as a licensed public accountant granted under 2001 Iowa Acts, chapter 55, section 8, certificates and licenses shall be renewed biennially. Licensees whose last names begin with A to K will renew in even-numbered years. Licensees whose last names begin with L to Z will renew in odd-numbered years. The renewal of certificates and licenses, as required by 2001 Iowa Acts, chapter 55, sections 6 and 8, shall be on the basis of a biennial expiration date of June 30, upon forms that may be obtained from the board office or on the board's Web site. A biennial renewal fee will be charged.

193A—5.2(79GA,ch55) Obtaining effective status.

5.2(1) A holder of a certificate as a certified public accountant or a license as an accounting practitioner issued under prior laws shall be permitted to restore the certificate or license to an effective status at some future date upon the payment of a penalty of \$100 and the current renewal fee and by providing evidence of completed continuing education even though the holder had, prior to that date, ceased to renew with the board.

5.2(2) An applicant who wishes to restore a certificate or license to effective status must meet the basic requirement of 120 hours earned in the preceding three-year period prior to the date of application to restore effective status. The hours claimed to restore effective status cannot again be used at the next renewal.

193A—5.3(79GA,ch55) Notices.

5.3(1) An application to renew a CPA certificate or LPA license can be obtained from the board office or on the board's Web site. While the board generally mails renewal applications in the May preceding certificate or license expiration, neither the board's failure to mail nor a licensee's failure to receive an application shall excuse the requirement to timely renew and pay the renewal fee.

5.3(2) A licensee shall notify the board within 30 days of any change of address or business connection.

193A—5.4(79GA,ch55) Renewal procedures.

5.4(1) A licensee shall file a timely and sufficient renewal application with the board by the June 30 deadline in the biennial renewal year. An application shall be deemed filed on the date received by the board or, if mailed, the date post-marked, but not the date metered.

5.4(2) An applicant for renewal under this chapter shall disclose on the application all background and character information requested by the board, including, but not limited to:

a. All states or foreign jurisdictions in which the applicant has applied for or holds a CPA certificate or license, an LPA license, or a substantially equivalent designation from a foreign country;

b. Any past denial, revocation, suspension, or refusal to renew a CPA certificate, license or permit to practice or LPA license, or the voluntary surrender of a CPA certificate, li-

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cense or permit or LPA license to resolve or avoid disciplinary action, or similar actions concerning a substantially equivalent foreign designation;

c. Any other form of discipline imposed against a CPA certificate, license or permit, LPA license, or a substantially equivalent foreign designation;

d. The conviction of any crime; and

e. The revocation of a professional license of any kind in this or any other jurisdiction.

5.4(3) A licensee who performs compilation services for the public other than through a certified public accounting or licensed public accounting firm shall submit a certificate of completion of a peer review conducted in accordance with 193A—Chapter 11 no less often than once every three years.

5.4(4) Within the meaning of Iowa Code subsection 17A.18(2), a timely and sufficient renewal application shall be:

a. Received by the board in person or electronic form or postmarked with a nonmetered United States Postal Service postmark on or before the date the license is set to expire or lapse;

b. Signed by the licensee if submitted in person or mailed, or certified as accurate if submitted electronically;

c. Fully completed, including continuing education, if applicable; and

d. Accompanied with the proper fee. The fee shall be deemed improper if, for instance, the amount is incorrect, the fee was not included with the application, the credit card number provided by the applicant is incorrect, the date of expiration of a credit card is omitted or incorrect, the attempted credit card transaction is rejected, or the applicant's check is returned for insufficient funds or a closed account.

5.4(5) The administrative processing of an application to renew an existing license shall not prevent the board from subsequently commencing a contested case to challenge the licensee's qualifications for continued licensure if grounds exist to do so.

5.4(6) If grounds exist to deny a timely and sufficient application to renew, the board shall send written notification to the applicant by restricted certified mail, return receipt requested. Grounds may exist to deny an application to renew if, for instance, the licensee failed to satisfy the continuing education as required as a condition for licensure. If the basis for denial is pending disciplinary action or disciplinary investigation which is reasonably expected to culminate in disciplinary action, the board shall proceed as provided in 193—Chapter 7. If the basis for denial is not related to a pending or imminent disciplinary action, the applicant may contest the board's decision as provided in 193—subrule 7.39(1).

5.4(7) When a licensee appears to be in violation of mandatory continuing education requirements, the board may, in lieu of proceeding to a contested case hearing on the denial of a renewal application as provided in rule 193—7.39(546,272C), offer a licensee the opportunity to sign a consent order. While the terms of the consent order will be tailored to the specific circumstances at issue, the consent order will typically impose a penalty between \$50 and \$250, depending on the severity of the violation; establish deadlines for compliance; and may impose additional educational requirements on the licensee. A licensee is free to accept or reject the offer. If the offer of settlement is accepted, the licensee will be issued a renewed certificate of registration and will be subject to disciplinary action if the terms of the consent order are not complied with. If the offer of settlement is rejected, the matter will be set for hearing, if timely requested by the applicant pursuant to 193—subrule 7.39(1).

5.4(8) Certificate or license holders who continue to practice public accounting as a CPA or an LPA in Iowa after their certificate or license has expired shall be subject to disciplinary action. Such unauthorized activity may also be grounds to deny a licensee's application for reinstatement.

193A—5.5(79GA,ch55) Failure to renew.

5.5(1) A person who fails to renew the certificate or license by the expiration date, but does so within 30 days following its expiration date, shall be assessed a penalty of 25 percent of the biennial renewal fee.

5.5(2) If the holder fails to renew the certificate or license within the 30-day grace period outlined in subrule 5.5(1) the certificate or license will lapse and the licensee shall be required to reinstate in accordance with subrule 5.5(3). The licensee is not authorized to practice during the period of time that the certificate or license is lapsed.

5.5(3) The board may reinstate the certificate or license upon the applicant's payment of a penalty of \$100 and provision of evidence of completed continuing education outlined in rule 193A—10.3(79GA,ch55).

193A—5.6(272C,79GA,ch55) Certificates and licenses property of the board. Every certificate or license granted by the board shall, while it remains in the possession of the holder, be preserved by the holder but shall, nevertheless, always remain the property of the board. In the event that the certificate or license is revoked, suspended, or is not renewed in the manner prescribed by 2001 Iowa Acts, chapter 55, or Iowa Code chapter 272C, it shall, on demand, be delivered by the holder to the administrator of the board.

193A—5.7(79GA,ch55) Licensee's continuing duty to report. A licensee shall notify the board in writing of the licensee's conviction of a crime within 30 days of the date of conviction. "Conviction" is defined in 2001 Iowa Acts, chapter 55, section 5(2). A licensee shall also notify the board in writing within 30 days of the date of any issuance, denial, revocation, or suspension of a certificate, license or permit by another state.

These rules are intended to implement Iowa Code chapter 272C and 2001 Iowa Acts, chapter 55.

CHAPTER 6 ATTEST SERVICE

193A—6.1(79GA,ch55) Applicability. The provisions of 2001 Iowa Acts, chapter 55, section 7, shall apply to each certificate holder who is responsible for supervising attest services and who signs or authorizes someone to sign the accountant's report on behalf of a certified public accounting firm. A person seeking attest qualification under these rules shall file an application with the board on a form available from the board. A nonrefundable application fee shall be charged.

193A—6.2(79GA,ch55) Attest services restricted to CPA firm. Attest services as defined in 193A—1.1(79GA,ch55) may be provided only through a firm holding a permit to practice under the provisions outlined in 2001 Iowa Acts, chapter 55, section 7, and 193A—Chapter 7.

193A—6.3(79GA,ch55) Experience or competency requirements. The rules of professional conduct rest upon the premise that the reliance of the public in general and of the business community in particular on sound financial reporting and on the implication of professional competence inherent in the authorized use of a legally restricted title relating to the practice of public accountancy, imposes on persons en-

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gaged in such practice certain obligations both to their clients and to the public. These obligations include the obligation to maintain independence of thought and action; to strive continuously to improve one's professional skills; to observe, where applicable, generally accepted accounting principles and generally accepted auditing standards; to promote sound and informative financial reporting; to hold the affairs of clients in confidence; and to maintain high standards of personal conduct in all matters affecting one's fitness to practice public accountancy. It is for these reasons that the board requires attest CPAs to gain experience as outlined in this chapter.

6.3(1) A certificate holder who is responsible for supervising attest services or who signs or authorizes someone to sign the accountant's report on financial statements on behalf of a firm shall have two years of full-time or part-time equivalent experience that extends over a period of no less than two years and no more than four years and includes no fewer than 4,000 hours, at least 2,000 of which shall be providing attest services under the supervision of one or more CPAs responsible for supervising attest services on behalf of a CPA firm that holds a permit to practice. Experience shall include all of the following:

- a. Experience in applying a variety of auditing procedures and techniques to the usual and customary financial transactions recorded in accounting records.
- b. Experience in the preparation of audit working papers covering the examination of the accounts usually found in accounting records.
- c. Experience in the planning of the program of audit work including the selection of the procedures to be followed.
- d. Experience in the preparation of written explanations and comments on the findings of the examinations and on the content of the accounting records.
- e. Experience in the preparation and analysis of financial statements together with explanations and notes thereon.

6.3(2) A supervising CPA shall verify that the applicant for attest qualification has met the requirements outlined in subrule 6.3(1).

6.3(3) An applicant seeking attest qualification through the substantial equivalency provision outlined in 2001 Iowa Acts, chapter 55, section 19, and 193A—Chapter 9 shall affirm that the applicant meets the requirements under subrule 6.3(1). Providing false information shall be considered prima facie evidence of a violation of 2001 Iowa Acts, chapter 55.

6.3(4) Any certificate holder who has been requested to submit to the board evidence of an applicant's experience and has refused to do so shall, upon request by the board, explain in writing or in person the basis for the refusal. The board may require any certificate holder who furnished the evidence of an applicant's experience to substantiate the information provided. An applicant may be required to appear before the board to supplement or verify evidence of experience. The board may inspect documentation relating to an applicant's claimed experience.

193A—6.4(79GA,ch55) Qualification under prior law. A person holding or having held an individual permit to practice as a CPA in this state issued prior to July 1, 2002, will be deemed to qualify to perform attest services on and after July 1, 2002, in a CPA firm holding a firm permit to practice, provided that appropriate continuing education is maintained as outlined in rule 193A—10.3(79GA,ch55).

These rules are intended to implement 2001 Iowa Acts, chapter 55, section 7.

CHAPTER 7

CERTIFIED PUBLIC ACCOUNTING FIRMS

193A—7.1(79GA,ch55) Initial permit to practice.

7.1(1) A new firm, as defined in rule 193A—1.1(79GA,ch55), about to engage in the practice of public accounting in this state under the requirements and provisions of 2001 Iowa Acts, chapter 55, section 7, shall make application for a permit to practice upon a form that may be obtained from the board office. A firm must hold a permit issued under 2001 Iowa Acts, chapter 55, section 7, and these rules in order to perform attest services or use the title "CPAs" or "CPA firm." A nonrefundable application fee shall be charged.

7.1(2) The application shall include information that discloses the highest level of accounting service offered, such as compilation or attest.

7.1(3) The application shall list the names of all owners, a simple majority of whom shall hold certificates issued under 2001 Iowa Acts, chapter 55, section 6 or 19, or issued in some other state.

7.1(4) The application shall list the name and certificate number of any licensee who is responsible for supervising attest or compilation services and who signs or authorizes someone to sign the accountant's report on financial statements on behalf of the firm. The application shall affirm that any licensee listed meets the competency requirements set forth in 193A—6.3(79GA,ch55).

7.1(5) The application shall list the number and location of offices within this state and name of the licensee in charge of such offices.

7.1(6) The application shall affirm that all attest and compilation services rendered in this state are under the charge of an individual who holds a valid certificate issued under 2001 Iowa Acts, chapter 55, section 6 or section 19(2), and who meets the competency requirements outlined in 193A—6.3(79GA,ch55).

7.1(7) The application shall designate an individual who holds a valid certificate issued under 2001 Iowa Acts, chapter 55, section 6 or 19, as the person responsible for ensuring that the firm has complied with all requirements for a permit to practice.

7.1(8) The application shall affirm that all nonlicensee owners are participants in the firm or an affiliated entity.

7.1(9) The application shall affirm that all nonlicensees who are by statute required to comply with continuing education imposed by a regulatory authority meet those requirements.

7.1(10) The application for initial issuance of a permit shall list all states in which the applicant has applied for or holds a permit as a certified public accounting firm and list any past denial, revocation, or suspension of a permit by another state.

7.1(11) The application shall list the names of all non-CPA owners and provide information regarding any owner who has been convicted of a crime described in 2001 Iowa Acts, chapter 55, section 5(2), or who has had a professional license of any kind revoked in this or any other jurisdiction. The board may deny the application if a non-CPA owner has been convicted of a crime described in 2001 Iowa Acts, chapter 55, section 5(2), or has had a professional license of any kind revoked in this or any other jurisdiction.

193A—7.2(79GA,ch55) Annual renewal of permit. Applications to renew a permit to practice may be obtained from the board office or on the board's Web site. While the board generally mails renewal applications in the May preceding

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permit expiration, neither the board's failure to mail an application nor a permit holder's failure to receive an application shall excuse the requirement to timely renew and pay the renewal fee.

193A—7.3(79GA,ch55) Renewal procedures.

7.3(1) The permit holder shall file a timely and sufficient renewal application with the board by the June 30 deadline each year. Applications shall be deemed filed on the date received by the board or, if mailed, the date postmarked, but not the date metered.

7.3(2) The permit holder shall list on the renewal application all states in which the applicant has applied for or holds a permit as a certified public accounting firm and list any past denial, revocation, suspension, refusal to renew or voluntary surrender to avoid disciplinary action of a permit to practice. Permit holders shall notify the board in writing within 30 days after the occurrence of any issuance, denial, revocation, suspension or refusal to renew or voluntary surrender of a permit to practice as a certified public accounting firm to avoid disciplinary action by another state.

7.3(3) Within the meaning of Iowa Code chapters 17A and 272C and 2001 Iowa Acts, chapter 55, a timely and sufficient renewal application shall be:

a. Received by the board in person or postmarked with a nonmetered United States Postal Service postmark on or before the date the permit is set to expire or lapse;

b. Signed by the licensee in charge of the firm's practice if submitted in person or mailed;

c. Fully completed and accompanied with the proper fee. The fee shall be deemed improper if, for instance, the amount is incorrect, the fee was not included with the application, the credit card number provided by the applicant is incorrect, the date of expiration of a credit card is omitted or incorrect, the attempted credit card transaction is rejected, or the applicant's check is returned for insufficient funds or a closed account.

193A—7.4(79GA,ch55) Failure to renew permit.

7.4(1) A firm that fails to renew the permit by the expiration date, but does so within 30 days following the expiration date, shall be assessed a penalty of 25 percent of the biennial renewal fee.

7.4(2) If the firm fails to renew the permit within the 30-day grace period outlined in subrule 7.4(1), the permit will lapse and the firm shall be required to reinstate in accordance with subrule 7.4(3). The firm is not authorized to practice during the period of time that the permit is lapsed.

7.4(3) The board may reinstate the permit upon the payment of the proper renewal fee and a penalty of \$100.

193A—7.5(79GA,ch55) Notices required. A holder of or applicant for a permit shall notify the board in writing within 30 days after an occurrence of any of the following:

1. A change in the identity of an owner, partner, officer, shareholder, member, or manager who performs professional services in this state or for clients in this state.

2. A change in the number or location of offices within this state.

3. A change in the identity of a person in charge of such offices.

4. The issuance, denial, revocation, or suspension of a permit by another state.

193A—7.6(79GA,ch55) Firms not in compliance with requirements. A firm which, after receiving or renewing a permit, is not in compliance with 2001 Iowa Acts, chapter 55, section 7, as a result of a change in firm ownership or person-

nel shall take corrective action to bring the firm back into compliance as quickly as possible or apply to modify or amend the permit. The board may grant a reasonable period of time, usually 90 days, for a firm to take such corrective action. Failure to comply within a reasonable period as deemed by the board shall result in the suspension or revocation of the firm permit.

193A—7.7(79GA,ch55) Peer review required. As a condition of renewal of a permit to practice as a certified public accounting firm, the firm shall undergo, at least once every three years, a peer review conducted under the provisions outlined in 193A—Chapter 11.

These rules are intended to implement Iowa Code chapters 17A and 272C and 2001 Iowa Acts, chapter 55.

CHAPTER 8

LICENSED PUBLIC ACCOUNTING FIRMS

193A—8.1(79GA,ch55) Initial registration.

8.1(1) A new firm, as defined in rule 193A—1.1(79GA,ch55), about to engage in the practice of public accounting in this state under the requirements and provisions of 2001 Iowa Acts, chapter 55, section 8, shall make application for registration and a permit to practice upon a form that may be obtained from the board office. A firm must hold a permit issued under 2001 Iowa Acts, chapter 55, section 8, and these rules in order to use the title "LPAs" or "LPA firm." A nonrefundable application fee shall be charged.

8.1(2) The application shall list the names of all owners, a simple majority of whom shall hold licenses issued under 2001 Iowa Acts, chapter 55, section 8, or issued in some other state.

8.1(3) The application shall list the name and license number of any licensee who is responsible for supervising compilation services and who signs or authorizes someone to sign the accountant's report on financial statements on behalf of the firm. The application shall affirm that any licensee listed meets the competency requirements set forth in SSARS.

8.1(4) The application shall list the number and location of offices within this state and the name of the licensee in charge of such offices.

8.1(5) The application shall affirm that all compilation services rendered in this state are under the charge of an individual who holds a valid license issued under 2001 Iowa Acts, chapter 55, section 8, and who meets the competency requirements outlined in SSARS.

8.1(6) The application shall designate an individual who holds a valid license issued under 2001 Iowa Acts, chapter 55, section 6, 8 or 19, as the person responsible for ensuring that the firm has complied with all of the requirements for a permit to practice.

8.1(7) The application shall affirm that all nonlicensee owners are active participants in the firm or an affiliated entity.

8.1(8) The application shall affirm that all nonlicensees who are by statute required to comply with continuing education imposed by a regulatory authority meet those requirements.

8.1(9) The application for initial issuance of a permit shall list all states in which the applicant has applied for or holds a permit as a licensed public accounting firm and list any past denial, revocation, or suspension of a permit by another state.

8.1(10) The application shall list the names of all nonlicensee owners and provide information regarding any owner

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who has been convicted of a crime or has had a professional license of any kind revoked in this or any other jurisdiction. For purposes of this subrule, "conviction" means a conviction for an indictable offense and includes a guilty plea, deferred judgment from the time of entry of the deferred judgment until the time the defendant is discharged by the court without entry of judgment, or other finding of guilt by a court of competent jurisdiction. The board may deny the application if a nonlicensee has been convicted of a crime or has had a professional license of any kind revoked in this or any other jurisdiction.

193A—8.2(79GA,ch55) Annual renewal of permit. A permit issued under the provisions of 2001 Iowa Acts, chapter 55, section 8, shall be renewed annually by June 30 upon forms provided by the board. Applications to renew a permit to practice may be obtained from the board office or on the board's Web site. While the board generally mails renewal applications in the May preceding permit expiration, neither the board's failure to mail an application nor a permit holder's failure to receive an application shall excuse the requirement to timely renew and pay the renewal fee.

193A—8.3(79GA,ch55) Renewal procedures.

8.3(1) The permit holder shall file a timely and sufficient renewal application with the board by the June 30 deadline each year. Applications shall be deemed filed on the date received by the board or, if mailed, the date postmarked, but not the date metered.

8.3(2) The permit holder shall list on the renewal application all states in which the applicant has applied for or holds a permit as a licensed public accounting firm and list any past denial, revocation, suspension, refusal to renew or voluntary surrender to avoid disciplinary action of a permit. Permit holders shall notify the board in writing within 30 days after the occurrence of any issuance, denial, revocation, suspension or refusal to renew or voluntary surrender to avoid disciplinary action of a permit to practice as a licensed public accounting firm by another state.

8.3(3) Within the meaning of Iowa Code chapters 17A and 272C and 2001 Iowa Acts, chapter 55, a timely and sufficient renewal application shall be:

- a. Received by the board in person or postmarked with a nonmetered United States Postal Service postmark on or before the date the permit is set to expire or lapse;
- b. Signed by the licensee in charge of the firm's practice if submitted in person or mailed;
- c. Fully completed and accompanied with the proper fee. The fee shall be deemed improper if, for instance, the amount is incorrect, the fee was not included with the application, the credit card number provided by the applicant is incorrect, the date of expiration of a credit card is omitted or incorrect, the attempted credit card transaction is rejected, or the applicant's check is returned for insufficient funds or a closed account.

193A—8.4(79GA,ch55) Failure to renew permit.

8.4(1) A firm that fails to renew the permit by the expiration date, but does so within 30 days following the expiration date, shall be assessed a penalty of 25 percent of the annual renewal fee.

8.4(2) If the firm fails to renew the permit within the 30-day grace period outlined in subrule 8.4(1), the permit will lapse and the firm shall be required to reinstate in accordance with subrule 8.4(3). The firm is not authorized to practice during the period of time that the permit is lapsed.

8.4(3) The board may reinstate the permit upon the payment of the proper renewal fee and a penalty of \$100.

193A—8.5(79GA,ch55) Notices required. A holder of or applicant for a permit shall notify the board in writing within 30 days after an occurrence of any of the following:

1. A change in the identity of an owner, partner, officer, shareholder, member, or manager who performs professional services in this state or for clients in this state.
2. A change in the number or location of offices within this state.
3. A change in the identity of a person in charge of such offices.
4. The issuance, denial, revocation, or suspension of a permit by another state.

193A—8.6(79GA,ch55) Firms not in compliance with requirements. A firm which, after receiving or renewing a permit, is not in compliance with 2001 Iowa Acts, chapter 55, section 8, as a result of a change in firm ownership or personnel shall take corrective action to bring the firm back into compliance as quickly as possible or apply to modify or amend the permit. The board may grant a reasonable period of time, usually 90 days, for a firm to take such corrective action. Failure to comply within a reasonable period as deemed by the board shall result in the suspension or revocation of the firm permit.

193A—8.7(79GA,ch55) Peer review required. As a condition for renewal of a permit to practice as a licensed public accounting firm, the firm shall undergo, at least once every three years, a peer review conducted under the provisions outlined in 193A—Chapter 11.

These rules are intended to implement Iowa Code chapters 17A and 272C and 2001 Iowa Acts, chapter 55.

CHAPTER 9

SUBSTANTIAL EQUIVALENCY

193A—9.1(79GA,ch55) Iowa CPA certificate required. Except as provided in 2001 Iowa Acts, chapter 55, section 7(1) or 13(11), a person who holds a certificate or license to practice as a CPA in another state or a substantially equivalent designation from a foreign jurisdiction who plans to practice public accounting as a CPA in Iowa or for Iowa clients or who otherwise desires to establish the person's principal place of business as a CPA in Iowa must first apply to the board for an Iowa CPA certificate.

193A—9.2(79GA,ch55) Application forms. Application forms may be obtained from the board office or on the board's Web site. An applicant shall attest that all information provided on the form is true and accurate. An application may be denied based on a false statement of material fact. A nonrefundable fee shall be charged each applicant as provided in 193A—Chapter 12.

193A—9.3(79GA,ch55) Background and character.

9.3(1) An applicant for a CPA certificate under this chapter shall disclose on the application all background and character information requested by the board including, but not limited to:

- a. All states or foreign jurisdictions in which the applicant has applied for or holds a CPA certificate or license, or a substantially equivalent designation from a foreign country;
- b. Any past denial, revocation, suspension, or refusal to renew a CPA certificate, license or permit to practice, or voluntary surrender of a CPA certificate, license or permit to re-

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solve or avoid disciplinary action, or similar actions concerning a substantially equivalent foreign designation;

c. Any other form of discipline imposed against the holder of a CPA certificate, license or permit, or a substantially equivalent foreign designation;

d. The conviction of any crime; and

e. The revocation of a professional license of any kind in this or any other jurisdiction.

9.3(2) The board may deny an application based on prior discipline imposed against the holder of a CPA certificate, license or permit, or a substantially equivalent foreign designation, or on any of the grounds listed in 193A—subrule 3.1(2).

193A—9.4(79GA,ch55) Verification of state licensure.

An applicant holding a CPA certificate or license from another state or states shall submit verification that the applicant's CPA certificate or license is valid and in good standing in the state in which the applicant's principal place of business is located. An applicant applying for a CPA certificate under the substantial equivalency provisions of 2001 Iowa Acts, chapter 55, section 19(1)(a), and paragraph 9.5(1)"a" who is not relocating to Iowa may attach a letter of good standing to the application. Such letter of good standing shall be prepared by the state in which the applicant's principal place of business is located and shall be dated within six months of the date of the application. To expedite the application process, the board will accept verification from another state's board by facsimile or E-mail. The board reserves the right to request an original verification document directly from another state board.

193A—9.5(79GA,ch55) Qualifications for a CPA certificate.

9.5(1) A person who holds in good standing a valid CPA certificate or license from another state shall be deemed qualified for an Iowa CPA certificate if the person satisfies one of the following three conditions:

a. Substantially equivalent state. The licensing standards on education, examination and experience of the state which issued the applicant's CPA certificate or license were, at the time of licensure, comparable or superior to the education, examination and experience requirements of 2001 Iowa Acts, chapter 55, in effect at the time the application is filed in Iowa. The board may accept the determination of substantial equivalency made by the National Association of State Boards of Accountancy or may make an independent determination of substantial equivalency.

b. Individual substantial equivalency. The applicant's individual qualifications on education, examination and experience are comparable or superior to the education, examination and experience requirements of 2001 Iowa Acts, chapter 55, in effect at the time the application is filed in Iowa.

c. "Four-in-ten rule." The applicant satisfies all of the following:

(1) The applicant passed the examination required for issuance of the applicant's certificate or license with grades that would have been passing grades at the time in this state.

(2) The applicant has had at least four years of experience within the ten years immediately preceding the application which occurred after the applicant passed the examination upon which the CPA certificate or license was based and which in the board's opinion is substantially equivalent to that required by 2001 Iowa Acts, chapter 55, section 5(12).

(3) If the applicant's CPA certificate or license was issued more than four years prior to the filing of the application in this state, the applicant has fulfilled the continuing profes-

sional education requirements described in 2001 Iowa Acts, chapter 55, section 6(3), and 193A—Chapter 10.

9.5(2) A person who holds in good standing a certificate, license or designation from a foreign authority that is substantially equivalent to an Iowa CPA certificate shall be deemed qualified for an Iowa CPA certificate if the person satisfies all of the provisions of 2001 Iowa Acts, chapter 55, section 19(3). The burden is on the applicant to demonstrate that such certificate, license or foreign designation is in full force and effect and that the requirements for that certificate, license or foreign designation are comparable or superior to those required for a CPA certificate in this state. Original verification from the foreign authority which issued the certificate, license or designation shall be required to demonstrate that such certificate, license or designation is valid and in good standing. If the applicant cannot establish comparable or superior qualifications, the board shall require that the applicant pass the uniform certified public accountant examination designed to test the applicant's knowledge of practice in this state and country. If the applicant is a Canadian Chartered Accountant, Australian Chartered Accountant or Australian Certified Practising Accountant, the applicant may be required to take the International Uniform CPA Qualification Examination (IQEX) in lieu of the uniform certified public accountant examination.

9.5(3) An applicant seeking an Iowa CPA certificate based on the provisions of 9.5(1)"b," 9.5(1)"c," or 9.5(2) shall submit such supporting information on education, examination or experience as the board deems reasonable to determine whether the applicant qualifies for licensure in Iowa.

193A—9.6(79GA,ch55) Continuing requirements.

A person issued a CPA certificate under this chapter is subject to all laws and rules governing persons holding CPA certificates issued in this state including, without limitation, those concerning continuing education, peer review, and notification of crimes and professional discipline. However, a person issued a CPA certificate under this chapter who maintains the principal place of business in a different state and who maintains in good standing a valid CPA certificate or license in that state shall be deemed to have satisfied the continuing education and peer review requirements described in 193A—Chapters 10 and 11 if the person satisfies similar requirements in the state in which the principal place of business is located.

193A—9.7(79GA,ch55) Expedited application processing.

A person applying for a CPA certificate under the substantial equivalency provisions of 2001 Iowa Acts, chapter 55, section 19(1)(a), and paragraph 9.5(1)"a" who is not relocating to Iowa often desires expedited application processing to facilitate cross-border practice. Applications by such persons are especially suitable for rapid processing given the substantially equivalent standards previously enforced in another state. Unless such application reveals grounds to deny the application under subrule 9.3(2), the board is otherwise aware of such grounds, or the application is unaccompanied by the proper fee, the board's administrator shall approve an application which qualifies under 2001 Iowa Acts, chapter 55, section 19(1)(a) and paragraph 9.5(1)"a" as rapidly as feasible and shall deem the effective date of approval to practice in Iowa to be the date the board received the completed application with timely letter of good standing in a substantially equivalent state.

These rules are intended to implement 2001 Iowa Acts, chapter 55, section 19.

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CHAPTER 10
CONTINUING EDUCATION

193A—10.1(79GA,ch55) Applicability. The continuing education rules that follow rest upon the premise that (1) the increasing complexity of the practice of public accountancy makes it essential that CPAs and LPAs continue their professional education; (2) the public interest requires that CPAs and LPAs practicing before the public keep themselves continually up to date on all developments affecting the areas of their practice; and (3) formal programs of continuing education provide CPAs and LPAs with the opportunity to continually update themselves on the expanding body of knowledge required to practice public accountancy. Each certificate holder or license holder is required to comply with the continuing education requirements as a condition precedent to the renewal of the certificate or license.

193A—10.2(79GA,ch55) Cost of continuing education. All costs of complying with the continuing education requirements of the board are the responsibility of the certificate or license holder wishing to maintain registration in this state.

193A—10.3(79GA,ch55) Basic requirement. During the three-year period ending on the December 31 preceding the July 1 renewal date of the certificate or license, an applicant for renewal shall have completed 120 hours of acceptable continuing education subject to the following exceptions:

10.3(1) At the first biennial renewal date of July 1 that is less than 12 months from the date of filing the initial application for the certificate or license, the certificate or license holder shall not be required to report continuing education.

10.3(2) At the biennial renewal date of July 1 which is more than 12 months, but less than 24 months, from the date of filing the initial application for the certificate or license, the certificate or license holder shall report 40 hours of continuing education earned in the one-year period ending December 31 prior to the July 1 renewal date.

10.3(3) At the biennial renewal date of July 1 which is more than 24 months, but less than 36 months, from the date of filing the initial application for the certificate or license, the certificate or license holder shall report 80 hours of continuing education earned in the two-year period ending December 31 prior to the July 1 renewal date.

10.3(4) An applicant who wishes to restore a certificate or license to effective status must meet the basic requirement of 120 hours earned in the preceding three-year period prior to the date of application to restore effective status. The hours claimed to restore effective status cannot again be used at the next renewal.

10.3(5) A licensee shall be deemed to have complied with the requirements of rule 193A—10.3(79GA,ch55) if, for the period that the licensee is a resident of another state or district having a continuing education requirement, the licensee met the resident state's mandatory requirement.

10.3(6) The board shall have authority to make exceptions for reasons of individual hardship including health, certified by a medical doctor, military service, foreign residency, retirement, or other good cause. No exceptions shall be made solely because of age.

193A—10.4(79GA,ch55) Measurement standards. The following standards will be used to measure the hours of credit to be given for acceptable continuing education programs completed by individual applicants:

10.4(1) Credit is measured with one 50-minute period equaling one contact hour of credit. Half-hour credits may be allowed (equal to no less than 25 minutes) after the first hour of credit has been earned.

10.4(2) Only class hours or the equivalent, and not student hours devoted to preparation, will be counted.

10.4(3) Credit expressed as continuing education units (CEUs) shall be counted as ten contact hours for each continuing education unit.

10.4(4) Service as lecturer or discussion leader of continuing education programs will be counted to the extent that it contributes to the applicant's professional competence.

193A—10.5(79GA,ch55) SSARS education required. In each biennial period in which compilation reports are issued, every CPA certificate holder or LPA license holder who is responsible for supervising compilation services or who signs or authorizes someone to sign the accountant's compilation report on the financial statements on behalf of a firm shall complete, as a condition of certificate or license renewal, a minimum of seven hours of continuing education devoted to statements on standards for accounting and review services (SSARS). When required, the SSARS continuing education shall be completed within the two-year period ending on the December 31 preceding the application for certificate or license renewal.

193A—10.6(79GA,ch55) Programs that qualify—limitations.

10.6(1) The overriding consideration in determining whether a specific program qualifies as acceptable continuing education is that it be a formal program of learning which contributes directly to the professional competence of an individual registered in this state. It will be left to each individual licensee to determine the course of study to be pursued. Thus, the auditor may study accounting and auditing, the tax practitioner may study taxes, and the management advisory services practitioner may study subjects related to such practice.

10.6(2) Continuing education programs will qualify only if:

a. An outline of the program is prepared in advance and preserved.

b. The program is at least one hour (50-minute period) in length.

c. The program is conducted by a qualified instructor, discussion leader or lecturer. A qualified instructor, discussion leader or lecturer is anyone whose background, training, education or experience makes it appropriate for that person to lead a discussion on the subject matter of the particular program.

d. A record of attendance is maintained.

10.6(3) The following programs are deemed to qualify provided all other requirements of this rule are met.

a. Professional development programs of recognized national and state accounting organizations.

b. Technical sessions at meetings of recognized national and state accounting organizations and their chapters.

c. Distance learning programs or webcast programs.

d. Universities or college courses meet the continuing education requirements of those attending. Each semester hour shall be equal to 15 contact hours of credit. Each quarter hour shall be equal to 10 contact hours of credit.

10.6(4) Formal correspondence and formal individual study programs contributing directly to the professional competence of an individual that require registration and provide evidence of satisfactory completion will be consid-

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ered for credit. The amount of credit to be allowed for correspondence and formal individual study programs (including tested study programs) is to be recommended by the program sponsor and based upon appropriate "field tests" and shall not exceed 50 percent of the renewal requirement. If the program sponsor has not designated the amount of credit to be claimed for completing the course of study, the licensee must estimate the equivalent number of hours and justify the amount of hours claimed. A licensee claiming credit for correspondence or formal self-study courses is required to obtain evidence of satisfactory completion of the course from the program sponsor. Credit will be allowed in the renewal period in which the course is completed.

10.6(5) Credit may be allowed for interactive self-study programs on the basis of one hour of credit for each 50 minutes spent on the interactive study program if the developer of such programs is approved by either the national continuing professional education registry or by the NASBA continuing education registry.

10.6(6) The credit allowed an instructor, discussion leader, or speaker will be on the basis of two hours for subject preparation for each hour of teaching. Credit for teaching college or university coursework may be claimed for courses taught above the elementary accounting or principles of accounting level. Repetitious presentations shall not be considered. The maximum credit for such preparation and teaching will not exceed 50 percent of the renewal period requirement.

10.6(7) Credit may be awarded for published articles and books. The amount of credit so awarded will be determined by the board. Credit may be allowed for published articles and books provided they contribute to the professional competence of the licensee. Credit for preparation of such publications may be given on a self-declaration basis up to 25 percent of the renewal period requirement. In exceptional circumstances a licensee may request additional credit by submitting the article(s) or book(s) to the board with an explanation of the circumstances that the licensee feels justify a greater credit.

10.6(8) Participation in committee meetings or recognized professional societies, which are structured as educational programs, may qualify if they meet the appropriate requirements.

10.6(9) Credit may be allowed for the successful completion of examinations for certified management accountant (CMA), certified information systems auditor (CSA), certified financial planner (CFP), enrolled agent (EA), as well as other similar examinations approved by the board. Credit will be allowed at a rate of five times the length of each examination, which is presumed to include all preparation time, claimed in the calendar year of the examination, and limited to 50 percent of the total renewal requirement.

10.6(10) Dinner, luncheon and breakfast meetings of recognized organizations may qualify if they meet the appropriate requirements.

10.6(11) Firm meetings for staff or for management groups may qualify if they meet the appropriate requirements. Portions of such meetings devoted to administrative and firm matters cannot be included.

10.6(12) The board may look to recognized state or national accounting organizations for assistance in interpreting the acceptability of and credit to be allowed for individual courses.

10.6(13) The right is specifically reserved to the board to approve or disapprove credit for continuing education claimed under these rules.

193A—10.7(79GA,ch55) Controls and reporting.

10.7(1) An applicant for renewal may be requested to provide, in such manner and at such time as prescribed by the board, a signed statement, under penalty of perjury, on forms provided by the board, setting forth the continuing education in which the licensee has participated. The board may allow for attestation that the licensee has met the requirements in lieu of providing a listing in certain instances. If requested to provide a listing of the continuing education completed, the information may include:

- a. School, firm or organization conducting the course.
- b. Location of course.
- c. Title of course or description of content.
- d. Principal instructor.
- e. Dates attended.
- f. Hours claimed.

10.7(2) The board may require sponsors of courses to furnish an attendance list or any other information the board deems essential for administration of these continuing education rules.

10.7(3) The board will verify on a test basis information submitted by licensees. If an application for renewal is not approved, the applicant will be so notified and may be granted a period of time by the board in which to correct the deficiencies noted.

10.7(4) Primary responsibility for documenting the requirements rests with the licensee, and evidence to support fulfillment of those requirements must be retained for a period of three years subsequent to submission of the report claiming the credit. Satisfaction of the requirements, including retention of attendance records and written outlines, may be accomplished as follows:

- a. For courses taken for scholastic credit in accredited universities and colleges (state, community, or private) or high school districts, evidence of satisfactory completion of the course will be sufficient; for noncredit courses taken, a statement of the hours of attendance, signed by the instructor, must be obtained by the licensee.
- b. For correspondence and formal independent study courses, written evidence or a certificate of completion from the sponsor or course provider shall be obtained by the licensee.
- c. In all other instances, the licensee must maintain a record of the information listed in subrule 10.7(1) and a copy of the course outline prepared by the course sponsor.

These rules are intended to implement Iowa Code chapter 272C and 2001 Iowa Acts, chapter 55.

CHAPTER 11
PEER REVIEW

193A—11.1(79GA,ch55) Peer review required. As a condition of renewal for a CPA or LPA who issues compilation reports other than through a CPA or LPA firm which holds a permit to practice and, as a condition of permit renewal for LPA firms which issue compilation reports or CPA firms which provide attest services or issue compilation reports, the applicant shall submit certification of completion of a peer review issued pursuant to this chapter. Such review shall be completed at the highest level of service provided by the firm or licensee.

193A—11.2(79GA,ch55) How often required. During the three-year period ending December 31 preceding the application for renewal of a certificate, license, or permit to practice, the firm shall have completed a peer review in accordance

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with this chapter. A peer review shall be completed no less often than once every three years.

193A—11.3(79GA,ch55) System of internal quality control. If the firm has not issued reports on financial statements prior to the application for renewal, the firm shall have in place a system of internal quality control prior to the commencement of a financial reporting engagement and shall come into compliance within 18 months of completion of a financial reporting engagement.

193A—11.4(79GA,ch55) Peer review programs that qualify. A firm's completion of a peer review program endorsed or supported by the AICPA, National Society of Accountants or other substantially similar review programs in Iowa or other states approved by the board shall satisfy the requirements of this chapter.

193A—11.5(79GA,ch55) Waiver of peer review requirement. At the time of renewal a licensee or firm may request, in writing upon a form provided by the board, a waiver from the requirements of this chapter, as provided in 2001 Iowa Acts, chapter 55, sections 7(9) and 8(19).

These rules are intended to implement 2001 Iowa Acts, chapter 55.

CHAPTER 12
FEES

193A—12.1(79GA,ch55) Required fees. The following is a schedule of the fees for examinations, certificates, licenses, permits and renewals adopted by the board:

Initial CPA examination application:	
Paid directly to CPA examination services	..... \$285
Reexamination:	
Paid directly to CPA examination services	
Four subjects	..... \$255
Three subjects	..... N/A
Two subjects	..... \$170
One subject	..... \$125
Nonrefundable proctoring fee	
for out-of-state candidates	..... \$100
Initial LPA examination application	..... \$120
Reexamination:	
Two subjects	..... \$80
One subject	..... \$60
Original issuance of CPA certificate or LPA license by examination (fee includes wall certificate)	..... \$100
Original issuance of CPA certificate by reciprocity or substantial equivalency	..... \$100
CPA wall certificate issued by reciprocity or substantial equivalency	..... \$50
Replacement of lost or destroyed CPA certificate or LPA license	..... \$50
Original issuance of attest qualification	..... \$100
Biennial renewal of CPA certificate or LPA license	..... \$100
Penalty for failure to comply with continuing education requirements	... \$50 to \$250
Reinstatement of lapsed CPA certificate or LPA license	..... \$100 + renewal fee
Original issuance of a firm permit to practice	..... \$50
Annual renewal of firm permit to practice	..... \$50
Reinstatement of lapsed firm permit to practice	..... \$100 + renewal fee

193A—12.2(79GA,ch55) Prorating of certain fees. Fees for issuance of original certificates or licenses for less than one year to the biennial renewal date as provided in 193A—5.1(79GA,ch55) may be prorated on an annual basis for the remainder of time covered by the certificate or license. For example, if a CPA certificate or LPA license holder applies for the original certificate or license and would be required to renew the certificate or license in 12 months or less, the fee would be \$50. If the original certificate or license is not scheduled to be renewed for more than 12 months, the fee would be \$100.

These rules are intended to implement 2001 Iowa Acts, chapter 55.

CHAPTER 13
RULES OF PROFESSIONAL CONDUCT

193A—13.1(79GA,ch55) Definitions. The following definitions shall be applicable to the rules of this chapter.

“Covered member” means:

1. An individual on the attest engagement team;
 2. An individual in a position to influence the attest engagement team;
 3. A partner or manager who provides nonattest services to the attest client once the partner or manager has provided ten hours of nonattest services to the client within any fiscal year;
 4. A partner in the office in which the lead attest engagement partner primarily practices in connection with the attest engagement;
 5. The firm, including the firm's employee benefit plan;
- or
6. An entity whose operating, financial, or accounting practice can be controlled by any of the individuals described in “1” through “5.”

“Covered member's immediate family” means:

1. The covered member's spouse (or spousal equivalent), and
2. The covered member's dependents.

193A—13.2(79GA,ch55) Applicability.

13.2(1) The rules of professional conduct which follow rest upon the premise that the reliance of the public in general and of the business community in particular on sound financial reporting and on the implication of professional competence inherent in the authorized use of a legally restricted title relating to the practice of public accountancy, imposes on persons engaged in such practice certain obligations both to their clients and to the public. These obligations, which the rules of professional conduct are intended to enforce where necessary, include the obligation to maintain independence of thought and action, to strive continuously to improve one's professional skills, to observe applicable generally accepted accounting principles and generally accepted auditing standards, to promote sound and informative financial reporting, to hold the affairs of clients in confidence, and to maintain high standards of personal conduct in all matters affecting one's fitness to practice public accountancy.

13.2(2) Acceptance of a certificate as a CPA or a license as an LPA to practice public accounting involves acceptance by the CPA or LPA of the obligations set forth in the preceding subrule and accordingly a duty to abide by the rules of professional conduct.

13.2(3) The rules of professional conduct are intended to have application to all kinds of professional services performed in the practice of public accountancy and to apply as well to all CPAs and LPAs whether or not engaged in the

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practice of public accountancy, except where the wording of a rule clearly indicates that the applicability is more limited.

13.2(4) A CPA or LPA who is engaged in the practice of public accountancy outside the United States will not be subject to discipline by the board for departing, with respect to such foreign practice, from any of the rules, so long as the CPA's or LPA's conduct is in accordance with the standards of professional conduct applicable to the practice of public accountancy in the country in which the CPA or LPA is practicing. However, even in such a case, if a CPA's or LPA's name is associated with financial statements in such manner as to imply that the CPA or LPA is acting as an independent public accountant and under circumstances that would entitle the reader to assume that United States practices are followed, the CPA or LPA will be expected to comply with subrules 13.4(2) and 13.4(3).

13.2(5) In the interpretation and enforcement of the rules of professional conduct, the board will give consideration, but not necessarily dispositive weight, to relevant interpretations, rulings and opinions issued by other state boards of accountancy and by appropriately authorized committees on ethics of professional organizations.

13.2(6) A CPA or LPA may be held responsible for compliance with the rules of professional conduct by all persons associated with the accountant in the practice of public accounting who are either under the accountant's supervision or are members, partners or shareholders in the accountant's practice.

13.2(7) A covered member's immediate family is also subject to these rules, except that:

a. Employment with the attest client is permitted if the family member is not in a "key position" which allows the person to influence the client's financial statements; or

b. A financial interest may be held through an attest client's employee benefit plan in certain instances if the covered member is not on the attest engagement team or in a position to influence the engagement.

193A—13.3(79GA,ch55) Independence, integrity and objectivity.

13.3(1) Independence. A CPA or LPA or firm of which a CPA or LPA is an owner, partner, officer, shareholder, member or manager shall not issue a report on financial statements of a client in such a manner as to imply that the CPA or LPA is acting as an independent public accountant with respect thereto unless the CPA or LPA is independent with respect to such client. Independence will be considered to be impaired if, for example:

a. During the period of the professional engagement, or at the time of expressing an opinion, a CPA, LPA or covered member:

(1) Had, or was committed to acquire, any direct or material indirect financial interest in the client; or was a trustee of any trust or executor or administrator of any estate if such trust or estate had, or was committed to acquire, any direct or material indirect financial interest in the client; or

(2) Had any joint closely held business investment with the client or any officer, director or principal stockholder which was material to the CPA, LPA, or covered member; or

(3) Had any loan to or from the client or any officer, director or principal stockholder thereof other than loans of the following kinds made by a financial institution under normal lending procedures, terms and requirements: loans which are not material in relation to the net worth of the CPA, LPA or covered member; home mortgages; and other secured loans, except those secured solely by a guarantee of the CPA, LPA or covered member.

b. During the period covered by the financial statements, during the period of the professional engagement, or at the time of expressing an opinion, the covered member:

(1) Was connected with the client as a promoter, underwriter or voting trustee, a director or officer or in any capacity equivalent to that of a member of management or of an employee; or

(2) Was a trustee for any pension or profit-sharing trust of the client.

The foregoing examples are not intended to be all-inclusive.

13.3(2) Integrity and objectivity. A CPA or LPA shall not, in the performance of professional services, knowingly misrepresent facts, subordinate judgment to others, or allow professional judgment to be impaired by self-interest. In tax practice, however, a CPA or LPA may resolve doubt in favor of the client as long as there is reasonable support for this position.

13.3(3) Commissions. A CPA or LPA may accept a commission subject to the prohibitions set forth in 2001 Iowa Acts, chapter 55, section 13(15), and the restrictions set forth in these rules.

a. A CPA or LPA engaged in the practice of public accounting must act in the best interests of the client and shall not allow integrity, objectivity or professional judgment to be impaired by the self-interest a commission-based fee may create.

b. A CPA or LPA who anticipates receiving a commission in connection with the recommendation, referral or sale of a product or service must establish such procedures as are reasonably necessary to avoid the prohibitions set forth in 2001 Iowa Acts, chapter 55, section 13(15).

c. A CPA or LPA engaged in the practice of public accounting who is paid or expects to be paid a commission shall disclose that fact to any person or entity to whom the CPA or LPA recommends, refers or sells a product or service to which the commission relates.

d. To ensure full and effective disclosure, a CPA or LPA shall substantially adhere to the following guidelines when recommending, referring or selling a product or service to which a commission relates:

(1) The disclosure shall be in writing, signed and dated by the person to whom a product or service is recommended, referred or sold, and a copy shall be provided to the client.

(2) The disclosure shall be made at or prior to the time the product or service is recommended, referred or sold.

(3) The disclosure shall be legible, clear and conspicuous, and on a separate form.

(4) A copy of the disclosure shall be retained by the CPA or LPA for as long as the CPA or LPA deems appropriate to the transaction; however, the board recommends a minimum of three years.

(5) In the event of a continuing engagement or series of related transactions involving similar products or services, one written disclosure may cover more than one recommendation, referral or sale as long as the disclosure is provided at least annually and is not misleading.

This rule does not prohibit payments for the purchase of all, or a material part, of an accounting practice, or retirement payments to persons formerly engaged in the practice of public accountancy, or payments to heirs or estates of such persons.

13.3(4) Contingent fees. A CPA or LPA may accept contingent fees as defined in rule 193A—1.1(79GA,ch55) subject to the prohibitions set forth in 2001 Iowa Acts, chapter 55, section 13(15), and restrictions set forth in these rules.

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193A—13.4(79GA,ch55) Competence and technical standards.

13.4(1) Competence. A CPA or LPA shall not undertake any engagement for the performance of professional services which the accountant or accountant's firm cannot reasonably expect to complete with due professional competence, including compliance, where applicable, with subrules 13.4(2) and 13.4(3).

13.4(2) Engagement standards. CPAs or LPAs shall not permit their names to be associated with financial statements unless they have complied with the applicable generally accepted engagement standards. The board will consider the American Institute of Certified Public Accountants Professional Standards, SAS, and SSARS as sources of interpretations of generally accepted engagement standards.

13.4(3) Accounting principles. A CPA or LPA shall not state in the CPA's or LPA's report on financial statements that the financial statements are presented in conformity with generally accepted accounting principles if such financial statements contain any departure from such accounting principles which has a material effect on the financial statements taken as a whole, unless the CPA or LPA can demonstrate that by reason of unusual circumstances the financial statements would otherwise have been misleading. In such cases the accountant's report must describe the departure, the approximate effects thereof, if practicable, and the reasons why compliance with the principle(s) would result in a misleading statement. The board will consider the pronouncements issued by the Financial Accounting Standards Board and its predecessor entities as sources of interpretations of generally accepted accounting principles.

13.4(4) Standards and procedures or other requirements in governmental audits. A CPA shall not accept a governmental audit unless the CPA undertakes an obligation to follow specified government audit standards, guides, procedures, statutes, rules and regulations in addition to generally accepted auditing standards unless the CPA discloses in the accountant's report the fact that such requirements were not followed and the reasons therefor.

13.4(5) Requirements of governmental bodies, commissions, or other regulatory agencies. Many governmental bodies, commissions, or other regulatory agencies have established requirements such as audit standards, guides, rules and regulations that CPAs are required to follow in preparation of financial statements or related information, such as management's discussion or analysis, in performing attest or similar services for entities subject to the jurisdiction of the governmental bodies, commissions or regulatory agencies. For example, the Securities and Exchange Commission, General Accounting Office, office of auditor of state, state insurance commission and other regulatory agencies have established such requirements.

A CPA shall not prepare financial statements or related information for the purposes of reporting to such bodies, commissions, or regulatory agencies, unless the CPA agrees to follow the requirements of such organizations in addition to generally accepted auditing standards, where applicable, unless the CPA discloses in the financial statements or the accountant's report that such requirements were not followed.

13.4(6) Negligence in the preparation of financial statements or records. A CPA or LPA shall be considered negligent if, in conjunction with the preparation of financial statements or records, any of the following infractions occur:

a. The CPA or LPA makes or permits another to make materially false or misleading entries in financial statements or records; or

b. The CPA or LPA fails to correct financial statements that are materially false or misleading when the member has the authority to record an entry; or

c. The CPA or LPA signs, or permits or directs another to sign, a document containing materially false or misleading information.

13.4(7) Forecasts. A CPA shall not in the performance of professional services permit the CPA's name to be used in conjunction with any forecast of future transactions in a manner which may lead to the belief that the accountant vouches for the achievability of the forecast.

193A—13.5(79GA,ch55) Responsibilities to clients.

13.5(1) Confidential client information. A CPA or LPA shall not, without the consent of the accountant's client, disclose any confidential information pertaining to the client obtained in the course of performing professional services. This rule does not:

a. Relieve a CPA or LPA of any obligations under subrules 13.4(2) and 13.4(3); or

b. Affect in any way a CPA's or LPA's obligation to comply with a validly issued subpoena or summons enforceable by order of a court; or

c. Prohibit disclosures in the course of a peer review of a CPA's or LPA's professional services; or

d. Preclude a CPA or LPA from responding to any inquiry made by the board or any investigative or disciplinary body established by law or formally recognized by the board. Members of the board and professional practice reviewers shall not disclose any confidential information which comes to their attention from a CPA or LPA in disciplinary proceedings or otherwise in carrying out their responsibilities, except that they may furnish such information to an investigative or disciplinary body of the kind referred to above.

13.5(2) Records. A CPA or LPA shall furnish to a client or former client, upon request made within a reasonable time:

a. Any accounting or other records belonging to, or obtained from or on behalf of, the client which a CPA or LPA removed from the client's premises or received for the client's account, including a copy of all disclosures required by subrule 13.3(4). The accountant may make and retain copies of such documents when they form the basis for work done by a CPA or LPA.

b. In addition, the CPA or LPA shall furnish to a client, after the original issuance of the document in question to the client or former client, the following items, provided all fees due to the CPA or LPA are paid:

(1) A copy of tax return of the client;

(2) A copy of any report, or other document, issued by the CPA or LPA to or for such client; and

(3) A copy of the working papers of the CPA or LPA to the extent that such working papers include records which would ordinarily constitute part of the client's books and records and are not otherwise available to the client.

193A—13.6(79GA,ch55) Other responsibilities and practices.

13.6(1) Acts discreditable. A CPA or LPA shall not commit any act that reflects adversely on the CPA's or LPA's fitness to engage in the practice of public accountancy. The board may consider discipline by any other agency or jurisdiction when determining probable cause to take action against a CPA or LPA for acts discreditable.

13.6(2) Advertising. A CPA or LPA shall not use or participate in the use of any form of public communication having reference to professional services that contains a false,

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fraudulent, misleading, deceptive or unfair statement or claim. A false, fraudulent, misleading, deceptive or unfair statement or claim includes but is not limited to a statement or claim which:

- a. Contains a misrepresentation of fact; or
- b. Is likely to mislead or deceive because it fails to make full disclosure of relevant facts; or
- c. Contains any testimonial or laudatory statement or other statement or implication that the CPA's or LPA's professional services are of exceptional quality; or
- d. Is intended to likely create false or unjustified expectations of favorable results; or
- e. Implies educational or professional attainments or licensing recognition not supported in fact; or
- f. States or implies that the CPA or LPA has received formal recognition as a specialist in any aspect of the practice of public accountancy, if this is not the case; or
- g. Represents that professional services can or will be competently performed for a stated fee when this is not the case, or makes representations with respect to fees for professional services that do not disclose all variables affecting the fees that will in fact be charged; or
- h. Contains other representations or applications that in reasonable probability will cause an ordinarily prudent person to misunderstand or be deceived.

13.6(3) Solicitation. A CPA or LPA shall not by any direct personal communication solicit an engagement to perform professional services:

- a. If the communication would violate subrule 13.6(2) if it were a public communication; or
- b. By the use of coercion, duress, compulsion, intimidation, threats, overreaching, or harassing conduct; or
- c. If the solicitation communication contains proposals which would be in violation of rule 193A—13.3(79GA, ch55) or 193A—13.4(79GA, ch55).

13.6(4) Acting through others. A CPA or LPA shall not permit others to carry out on the CPA's or LPA's behalf, either with or without compensation, acts which, if carried out by the CPA or LPA, would violate the rules of professional conduct.

13.6(5) Misleading firm names. A firm name is misleading within the meaning of 2001 Iowa Acts, chapter 55, section 13, if, among other things:

- a. The firm name implies the existence of a corporation when the firm is not a corporation.
- b. The firm name implies the existence of a partnership when there is not a partnership, e.g., "Smith & Jones, CPAs" or "Smith and Jones, LPAs."
- c. The CPA firm name includes the name of a person who is not a CPA if the title "CPAs" or "Certified Public Accountants" is included in the firm name.
- d. The LPA firm name includes the name of a person who is not an LPA if the title "LPAs" or "Licensed Public Accountants" is included in the firm name.

13.6(6) Communications. A CPA or LPA shall, when requested, respond to communications from the board within 30 days of the mailing of such communications by certified mail.

These rules are intended to implement Iowa Code chapter 272C and 2001 Iowa Acts, chapter 55.

CHAPTER 14
DISCIPLINARY AUTHORITY AND
GROUNDS FOR DISCIPLINE

193A—14.1(17A,272C,79GA,ch55) Disciplinary authority. The board is empowered to administer Iowa Code chap-

ters 17A and 272C and 2001 Iowa Acts, chapter 55, and related administrative rules for the protection and well-being of those persons who may rely upon licensed individuals and firms for the performance of public accounting services within this state or for clients in this state. To perform these functions, the board is broadly vested with authority to review and investigate alleged acts or omissions of licensees, determine whether disciplinary proceedings are warranted, initiate and prosecute disciplinary proceedings, establish standards of professional conduct, and impose discipline, pursuant to Iowa Code sections 17A.13, 272C.3 to 272C.6 and 272C.10 and 2001 Iowa Acts, chapter 55, sections 4 and 10 through 16. In exercising its disciplinary authority and in construing the meaning of the phrase "conduct discreditable to the public accounting profession" as used in 2001 Iowa Acts, chapter 55, section 10(1)(i), the board shall be guided by the legislative policies, goals and standards set forth in 2001 Iowa Acts, chapter 55, section 2.

193A—14.2(17A,272C,79GA,ch55) Grounds for discipline. The board may initiate disciplinary action against a CPA, LPA, or a firm of CPAs or LPAs, on any of the following grounds:

1. All grounds set forth in 2001 Iowa Acts, chapter 55, section 10.
2. Acts or omissions constituting unlawful acts under 2001 Iowa Acts, chapter 55, section 13, whether committed before or after licensure as a CPA or LPA.
3. A violation of 2001 Iowa Acts, chapter 55, section 17.
4. A violation of 2001 Iowa Acts, chapter 55, section 18.
5. A violation of any of the rules of professional conduct set forth in 193A—Chapter 13.
6. A violation of Iowa Code subsection 272C.9(2) or 272C.9(3), or any of the provisions of 193A—Chapter 18.
7. Failure to comply with an order of the board imposing discipline.
8. Violation of Iowa Code subsection 272C.3(2).
9. Continuing to practice public accounting without satisfying the continuing education mandated by 2001 Iowa Acts, chapter 55, sections 6(3) and 8(9)(b), and 193A—Chapter 10, absent express waiver granted by the board.
10. As applicable, performing attest services or issuing compilation reports without satisfying the peer review required by 2001 Iowa Acts, chapter 55, sections 6(6), 8(17) and 13(13), and 193A—Chapter 11.
11. Violation by a CPA or CPA firm of 2001 Iowa Acts, chapter 55, section 5(4), 5(5), 6(5), 7(3), 7(6) or 7(7).
12. Violation by an LPA or LPA firm of 2001 Iowa Acts, chapter 55, section 8(12), 8(15) or 8(16).
13. Knowingly aiding or abetting a licensee, license applicant or unlicensed person in committing any act or omission which is grounds for discipline under this rule or is an unlawful act by a nonlicensee under 2001 Iowa Acts, chapter 55, section 13, or otherwise knowingly aiding or abetting the unlicensed practice of public accounting by a person who either improperly uses a title restricted under 2001 Iowa Acts, chapter 55, or performs attest services or issues compilation reports without proper licensure.
14. Failure to fully cooperate with a licensee disciplinary investigation or investigation against a nonlicensee, including failure to respond to a board inquiry within 30 calendar days of the date of mailing by certified mail of a written communication directed to the licensee's last address on file at the board office.

These rules are intended to implement Iowa Code chapters 17A and 272C and 2001 Iowa Acts, chapter 55.

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CHAPTER 15
DISCIPLINARY INVESTIGATIONS

193A—15.1(17A,272C,79GA,ch55) Investigative authority. The board is authorized by Iowa Code sections 17A.13(1), 272C.3, 272C.4 and subsection 272C.6(4) and 2001 Iowa Acts, chapter 55, section 11, to conduct disciplinary investigations to determine whether grounds exist to initiate a disciplinary proceeding against a licensee.

193A—15.2(17A,272C,79GA,ch55) Initiation of disciplinary investigations. The board may initiate a licensee disciplinary investigation upon the board's receipt of information suggesting that a licensee may have violated a law or rule enforced by the board which, if true, would constitute grounds for licensee discipline. The board may also review the publicly available work product of licensees on a general or random basis to determine whether reasonable grounds exist to initiate disciplinary proceedings or to conduct a more specific investigation.

193A—15.3(272C,79GA,ch55) Sources of information. Without limitation, the following nonexclusive list of information sources may form the basis for the initiation of a disciplinary investigation or proceeding:

1. General or random review of financial statements submitted to or filed with local, state or federal governmental bodies, or other publicly available work product.
2. News articles or other media sources.
3. Reports filed with the board by the commissioner of insurance pursuant to Iowa Code subsection 272C.4(9).
4. Complaints filed with the board by any member of the public.
5. License applications or other documents submitted to the board.
6. Reports to the board from any regulatory or law enforcement agency from any jurisdiction.
7. Board audits of licensee compliance with conditions for licensure, such as continuing education or peer review.

193A—15.4(17A,272C,79GA,ch55) Conflict of interest. If the subject of a complaint is a member of the board, or if a member of the board has a conflict of interest in any disciplinary matter before the board, that member shall abstain from participation in any consideration of the complaint and from participation in any disciplinary hearing that may result from the complaint.

193A—15.5(272C,79GA,ch55) Complaints. Written complaints may be submitted to the board office by mail, E-mail, facsimile, or personal delivery by members of the public, including clients, business organizations, nonprofit organizations, governmental bodies, licensees, or other individuals or entities with knowledge of possible law or rule violations by licensees.

15.5(1) Contents of a written complaint. Written complaints may be submitted on forms provided by the board which are available from the board office and on the board's Web site. Written complaints, whether submitted on a board complaint form or in other written medium, shall contain the following information:

- a. The full name, address, and telephone number of the complainant (person complaining).
- b. The full name, address, and telephone number of the respondent (licensee against whom the complaint is filed).
- c. A statement of the facts and circumstances giving rise to the complaint, including a description of the alleged acts

or omissions which the complainant believes demonstrate that the respondent has violated or is violating laws or rules enforced by the board.

d. If known, citations to the laws or rules allegedly violated by the respondent.

e. Evidentiary supporting documentation.

f. Steps, if any, taken by the complainant to resolve the dispute with the respondent prior to filing a complaint.

15.5(2) Immunity. As provided by Iowa Code section 272C.8, a person shall not be civilly liable as a result of filing a report or complaint with the board unless such act is done with malice, nor shall an employee be dismissed from employment or discriminated against by an employer for filing such a report or complaint.

15.5(3) Role of complainant. The role of the complainant in the disciplinary process is limited to providing the board with factual information relative to the complaint. A complainant is not party to any disciplinary proceeding which may be initiated by the board based in whole or in part on information provided by the complainant.

15.5(4) Role of the board. The board does not act as an arbiter of disputes between private parties, nor does the board initiate disciplinary proceedings to advance the private interest of any person or party. The role of the board in the disciplinary process is to protect the public by investigating complaints and initiating disciplinary proceedings in appropriate cases. The board possesses sole decision-making authority throughout the disciplinary process, including the authority to determine whether a case will be investigated, the manner of the investigation, whether a disciplinary proceeding will be initiated, and the appropriate licensee discipline to be imposed, if any.

15.5(5) Initial complaint screening. All written complaints received by the board shall be initially screened by the board's administrator to determine whether the allegations of the complaint fall within the board's investigatory jurisdiction and whether the facts presented, if true, would constitute a basis for disciplinary action against a licensee. Complaints which are clearly outside the board's jurisdiction, which clearly do not allege facts upon which disciplinary action would be based, or which are frivolous shall be referred by the board administrator to the board for closure at the next scheduled board meeting. All other complaints shall be referred by the board administrator to the board's disciplinary committee for committee review as described in rule 193A—15.8(17A,272C,79GA,ch55).

193A—15.6(272C,79GA,ch55) Case numbers. Whether based on a written complaint received by the board or a complaint initiated by the board, all complaint files shall be tracked by a case numbering system. Complaints are assigned case numbers in chronological order with the first two digits representing the year in which the complaint was received or initiated, and the second two digits representing the order in which the case file was opened (e.g., 01-01, 01-02, 01-03, etc.). The board's administrator shall maintain a case file log noting the date each case file was opened, whether disciplinary proceedings were initiated in the case, and the final disposition of the case. Once a case file number is assigned to a complaint, all persons communicating with the board regarding that complaint are encouraged to include the case file number to facilitate accurate records and prompt response.

193A—15.7(272C,79GA,ch55) Confidentiality of complaint and investigative information. All complaint and investigative information received or created by the board is

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privileged and confidential pursuant to Iowa Code subsection 272C.6(4). Such information shall not be released to any person except as provided in that section.

193A—15.8(17A,272C,79GA,ch55) Investigation procedures.

15.8(1) Disciplinary committee. The board chair shall annually appoint two to four members of the board to serve on the board's disciplinary committee. The disciplinary committee is a purely advisory body which shall review complaint files referred by the board's administrator, generally supervise the investigation of complaints, and make recommendations to the full board on the disposition of complaints. Members of the committee shall not personally investigate complaints, but they may review the investigative work product of others in formulating recommendations to the board.

15.8(2) Committee screening of complaints. Upon the referral of a complaint from the board's administrator or from the full board, the committee shall determine whether the complaint presents facts which, if true, suggest that a licensee may have violated a law or rule enforced by the board. If the committee concludes that the complaint does not present facts which suggest such a violation or that the complaint does not otherwise constitute an appropriate basis for disciplinary action, the committee shall refer the complaint to the full board with the recommendation that it be closed with no further action. If the committee determines that the complaint does present a credible basis for disciplinary action, the committee may either immediately refer the complaint to the full board recommending that a disciplinary proceeding be commenced or initiate a disciplinary investigation.

15.8(3) Committee procedures. If the committee determines that additional information is necessary or desirable to evaluate the merits of a complaint, the committee may assign an investigator or expert consultant, appoint a peer review committee, provide the licensee an opportunity to appear before the disciplinary committee for an informal discussion as described in rule 193A—15.9(17A,272C,79GA,ch55) or request board staff to conduct further investigation. Upon completion of an investigation, the investigator, expert consultant, peer review committee or board staff shall present a report to the committee. The committee shall review the report and determine what further action is necessary. The committee may:

- a. Request further investigation.
- b. Determine there is not probable cause to believe a disciplinary violation has occurred and refer the case to the full board with the recommendation of closure.
- c. Determine there is probable cause to believe that a law or rule enforced by the board has been violated, but that disciplinary action is unwarranted on other grounds, and refer the case to the full board with the recommendation of closure. The committee may also recommend that the licensee be informally cautioned or educated about matters which could form the basis for disciplinary action in the future.
- d. Determine there is probable cause to believe a disciplinary violation has occurred and refer the case to the full board with the recommendation that the board initiate a disciplinary proceeding (contested case).

15.8(4) Subpoena authority. Pursuant to Iowa Code subsections 17A.13(1) and 272C.6(3) and 2001 Iowa Acts, chapter 55, section 11(1), the board is authorized in connection with a disciplinary investigation to issue subpoenas to compel witnesses to testify or persons to produce books, papers, records and any other real evidence, whether or not privileged or confidential under law, which the board deems

necessary as evidence in connection with a disciplinary proceeding or relevant to the decision of whether to initiate a disciplinary proceeding. Board procedures concerning investigative subpoenas are set forth in 193—Chapter 6.

193A—15.9(17A,272C,79GA,ch55) Informal discussion. If the disciplinary committee considers it advisable, or if requested by the affected licensee, the committee may grant the licensee an opportunity to appear before the committee for a voluntary informal discussion of the facts and circumstances of an alleged violation, subject to the provisions of this rule.

15.9(1) An informal discussion is intended to provide a licensee an opportunity to share the licensee's side of a complaint in an informal setting before the board determines whether probable cause exists to initiate a disciplinary proceeding. A licensee is not required to attend an informal discussion. Because disciplinary investigations are confidential, the licensee may not bring other persons to an informal discussion, but licensees may be represented by legal counsel. Where an allegation is made against a firm, the firm may be represented by a managing partner, member or other firm representative.

15.9(2) Unless disqualification is waived by the licensee, board members or staff who personally investigate a disciplinary complaint are disqualified from making decisions or assisting the decision makers at a later formal hearing. Because board members generally rely upon investigators, peer review committees, or expert consultants to conduct investigations, the issue rarely arises. An informal discussion, however, is a form of investigation because it is conducted in a question and answer format. In order to preserve the ability of all board members to participate in board decision making and to receive the advice of staff, a licensee who desires to attend an informal discussion must therefore waive the right to seek disqualification of a board member or staff based solely on the board member's or staff's participation in an informal discussion. A licensee would not be waiving the right to seek disqualification on any other ground. By electing to attend an informal discussion, a licensee accordingly agrees that participating board members or staff are not disqualified from acting as a presiding officer in a later contested case proceeding or from advising the decision maker.

15.9(3) Because an informal discussion constitutes a part of the board's investigation of a pending disciplinary case, the facts discussed at the informal discussion may be considered by the board in the event the matter proceeds to a contested case hearing and those facts are independently introduced into evidence.

15.9(4) The disciplinary committee, subject to board approval, may propose a consent order at the time of the informal discussion. If the licensee agrees to a consent order, a statement of charges shall be filed simultaneously with the consent order, as provided in rule 193—7.4(17A,272C).

193A—15.10(17A,272C,79GA,ch55) Closing complaint files.

15.10(1) Grounds for closing. Upon the recommendation of the administrator pursuant to subrule 15.5(4), the recommendation of the disciplinary committee pursuant to rule 193A—15.8(17A,272C,79GA,ch55), or on its own motion, the board may close a complaint file, with or without prior investigation. Given the broad scope of matters members of the public may complain about, it is not possible to catalog all possible reasons why the board may close a complaint file. The following nonexclusive list is, however, illustrative of the grounds upon which the board may close a complaint file:

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a. The complaint alleges matters outside the board's jurisdiction.

b. The complaint does not allege a reasonable or credible basis to believe that the subject of the complaint violated a law or rule enforced by the board.

c. The complaint is frivolous or trivial.

d. The complaint alleges matters more appropriately resolved in a different forum, such as civil litigation to resolve a contract dispute, or more appropriately addressed by alternative procedures, such as outreach education or rule making.

e. The matters raised in the complaint are situational, isolated, or unrepresentative of a licensee's typical practice, and the licensee has taken appropriate steps to ensure future compliance and prevent public injury.

f. Resources are unavailable or better directed to other complaints or board initiatives in light of the board's overall budget and mission.

g. Other extenuating factors which weigh against the imposition of public discipline consistent with the legislative policies, goals, and standards set forth in 2001 Iowa Acts, chapter 55, section 2.

15.10(2) Indexed orders. The board's administrator shall enter an order stating the basis for the board's decision to close a complaint file. The order shall not contain the identity of the complainant or the respondent and shall not disclose confidential complaint or investigative information. The orders shall be indexed by case number and shall be a public record pursuant to Iowa Code subsection 17A.3(1)(d). A copy of the order shall be mailed to the complainant, if any, and to the respondent.

15.10(3) Cautionary letters. The board may issue a confidential letter of caution to a licensee when a complaint file is closed which informally cautions or educates the licensee about matters which could form the basis for disciplinary action in the future if corrective action is not taken by the licensee. Informal cautionary letters do not constitute disciplinary action, but the board may take such letters into consideration in the future if a licensee continues a practice about which the licensee has been cautioned.

15.10(4) Reopening closed complaint files. The board may reopen a closed complaint file if additional information arises after closure which provides a basis to reassess the merits of the initial complaint.

These rules are intended to implement Iowa Code chapters 17A and 272C and 2001 Iowa Acts, chapter 55.

CHAPTER 16 DISCIPLINARY PROCEEDINGS

193A—16.1(17A,272C,79GA,ch55) Initiation of disciplinary proceedings. Disciplinary proceedings may be initiated only by the affirmative vote of a majority of a quorum of the board at a public meeting. Board members who are disqualified shall not be included in determining whether a quorum exists. If, for example, two members of the board are disqualified, four members of the board shall constitute a quorum of the remaining six board members for purposes of voting on the case in which the two members are disqualified. When three or more members of the board are disqualified or otherwise unavailable for any reason, the administrator may request the special appointment of one or more substitute board members pursuant to Iowa Code section 17A.11, subsection 5.

193A—16.2(17A,272C,79GA,ch55) Disciplinary contested case procedures. Unless in conflict with a provision

of 2001 Iowa Acts, chapter 55, or board rules in this chapter, all of the procedures set forth in 193—Chapter 7 shall apply to disciplinary contested cases initiated by the board.

193A—16.3(272C,79GA,ch55) Disciplinary sanctions.

16.3(1) Type of sanctions. The board has authority to impose the following disciplinary sanctions:

a. Revoke a license issued by the board. In the event of a revocation, the licensee shall not be allowed to remain a member, partner or shareholder of a business entity if the law requires that all members, partners or shareholders of such an entity be actively involved.

b. Suspend a license issued by the board. A CPA or LPA who is under suspension shall refrain, during the period of the suspension, from all facets of the ordinary practice of public accounting.

c. Revoke or suspend the privilege to engage in one or more areas of the practice of public accounting.

d. Impose a period of probation. As a condition to a period of probation, the board may impose terms and conditions deemed appropriate by the board which may include, but are not limited to, the following:

(1) The board may require the licensee to undergo a quality review or peer review under the board's supervision. The licensee shall select, subject to approval by the board, a CPA, LPA, or a firm of CPAs or LPAs, or a review program which would qualify as a peer review program under 193A—Chapters 11 and 12. The costs of the review shall be paid by the licensee. The board shall be furnished a copy of the report issued by the reviewing party and may require remedial actions or education as a result of the report findings.

(2) The board may require the licensee to enter into an agreement with a CPA, an LPA, or a firm of CPAs or LPAs to obtain a preissuance review of any audits, compilations, or reviews issued by the licensee or other public accounting services performed during the period of probation. The agreement shall be preapproved by the board. The board may require the licensee to report regularly concerning the preissuance reviews conducted pursuant to the agreement. Any cost incurred in obtaining preissuance review shall be paid by the licensee.

(3) A substance abuse evaluation and such care and treatment as are recommended in the evaluation or otherwise appropriate under the circumstances.

e. Impose requirements regarding continuing education. The board may specify that a designated amount of continuing education be taken in specific subjects and may specify the time period for completing these courses. The board may also specify whether that continuing education be in addition to the continuing education routinely required for license renewal. The board may also specify that additional continuing education be a condition for the termination of any suspension or reinstatement of a certificate, permit, license, or registration. The board may also specify that current reference materials be obtained and maintained.

f. Require reexamination, using one or more parts of the CPA or LPA examination given to candidates for the CPA certificate or the LPA license.

g. Impose civil penalties, the amount of which shall be at the discretion of the board, but which shall not exceed \$1,000 per violation. Civil penalties may be imposed for any of the disciplinary violations specified in rule 193A—14.2(17A, 272C,79GA,ch55).

h. Issue a reprimand.

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i. Order the licensee to alter a professional practice or refrain from engaging in a particular act or practice in the future.

16.3(2) Imposing discipline. Discipline may be imposed against a licensee only by the affirmative vote of a majority of the members of the board who are not disqualified.

16.3(3) Voluntary surrender. The board may accept the voluntary surrender of a license to resolve a pending disciplinary contested case or pending disciplinary investigation. The board shall not accept a voluntary surrender of a license to resolve a pending disciplinary investigation unless a statement of charges will be filed along with the order accepting the voluntary surrender. Such a voluntary surrender is considered disciplinary action and shall be published in the same manner as is applicable to any other form of disciplinary order.

16.3(4) Notification requirements. Whenever a license is revoked, suspended, restricted, or voluntarily surrendered under this chapter, the licensee shall:

a. Within 15 days of receipt of the board's final order, notify in writing all clients of the fact that the license has been revoked, suspended or voluntarily surrendered or that the practice of the licensee has been restricted; for example, the licensee may agree to discontinue governmental audits. Such notice shall advise the client to obtain alternative professional services, unless the restriction at issue would not impact the public accounting services provided for that client;

b. Within 30 days of receipt of the board's final order, the licensee shall file with the board copies of the notices sent pursuant to paragraph 16.3(4)"a." Compliance with this requirement shall be a condition for an application for reinstatement.

16.3(5) Civil penalties. Factors the board may consider when determining whether to assess and the amount of civil penalties include:

a. Whether other forms of discipline are being imposed for the same violation.

b. Whether the amount imposed will be a substantial deterrent to the violation.

c. The circumstances leading to the violation.

d. The severity of the violation and the risk of harm to the public.

e. The economic benefits gained by the licensee as a result of the violation.

f. The interest of the public.

g. Evidence of reform or remedial action.

h. Time lapsed since the violation occurred.

i. Whether the violation is a repeat offense following a prior cautionary letter, disciplinary order, or other notice of the nature of the infraction.

j. The clarity of the issues involved.

k. Whether the violation was willful and intentional.

l. Whether the licensee acted in bad faith.

m. The extent to which the licensee cooperated with the board.

n. Whether the licensee improperly used a title restricted by 2001 Iowa Acts, chapter 55, performed attest services or issued a compilation report when not properly licensed to do so, or with a lapsed, inactive, suspended, restricted or revoked license, engaged in practices which require licensure.

193A—16.4(272C,79GA,ch55) Publication of decisions.

16.4(1) The board shall publish in the board's newsletter, or in another professional publication designated by the board, the name of each licensee disciplined by the board,

along with a brief description of the underlying circumstances, regardless of the nature of the violation.

16.4(2) The board shall issue a formal press release in those instances in which a certificate, permit, or license has been suspended or revoked.

16.4(3) The board shall notify other state boards of accountancy that have issued a similar license to an Iowa licensee of disciplinary action taken against the Iowa licensee. The board shall also notify the National Association of State Boards of Accountancy of disciplinary action taken against an Iowa licensee.

193A—16.5(272C,542C) Reinstatement.

16.5(1) The term "reinstatement" as used in this rule and in rule 193—7.38(17A,272C) shall include the reinstatement of a suspended license, the modification or removal of a practice restriction, the issuance of a license following the denial of an application to renew a license, and the issuance of a new license following the revocation or voluntary surrender of a license.

16.5(2) Any person whose license has been revoked, suspended or restricted by the board, or who has voluntarily surrendered a license to conclude a disciplinary investigation or proceeding, or whose application to renew a license has been denied may apply to the board to modify or terminate the suspension, issue or reissue the license, or modify or remove the restriction in accordance with 2001 Iowa Acts, chapter 55, section 12, rule 193—7.38(17A,272C), the provisions of this rule, and the terms of the order of revocation, suspension or restriction, denial of license renewal, or acceptance of voluntary surrender of a license.

16.5(3) If the applicable order did not establish terms upon which the licensee may apply for reinstatement, an initial application for reinstatement may not be made until one year has elapsed from the date of the order which revoked, suspended or restricted the license, denied license renewal, or accepted a voluntary surrender.

16.5(4) All proceedings for reinstatement shall be initiated by the respondent and shall be subject to the procedures set forth in rule 193—7.38(17A,272C). In addition, the board may grant an applicant's request to appear informally before the board prior to the issuance of a notice of hearing on the application if the applicant requests an informal appearance in the application and agrees not to seek to disqualify on the ground of personal investigation board members or staff before whom the applicant appears.

16.5(5) An order granting an application for reinstatement may impose such terms and conditions as the board deems desirable, which may include one or more of the types of disciplinary sanctions described in rule 193A—16.3(272C,79GA,ch55).

16.5(6) The board shall not grant an application for reinstatement when the initial order which revoked, suspended or restricted the license, denied license renewal, or accepted a voluntary surrender was based on a criminal conviction and the applicant cannot demonstrate to the board's satisfaction that:

a. All terms of the sentencing or other criminal order have been fully satisfied;

b. The applicant has been released from confinement and any applicable probation or parole; and

c. Restitution has been made or is reasonably in the process of being made to any victims of the crime.

These rules are intended to implement Iowa Code chapters 17A and 272C and 2001 Iowa Acts, chapter 55.

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CHAPTER 17
ENFORCEMENT PROCEEDINGS
AGAINST NONLICENSEES

193A—17.1(79GA,ch55) Civil penalties against nonlicensees. The board may impose civil penalties by order against a person who is not licensed by the board pursuant to 2001 Iowa Acts, chapter 55, based on the unlawful practices specified in 2001 Iowa Acts, chapter 55, section 13. In addition to the procedures set forth in 2001 Iowa Acts, chapter 55, section 14, this chapter shall apply.

193A—17.2(17A,79GA,ch55) Investigations. The board is authorized by Iowa Code subsection 17A.13(1) and 2001 Iowa Acts, chapter 55, section 11, to conduct such investigations as are needed to determine whether grounds exist to impose civil penalties against a nonlicensee. Such investigations shall conform to the procedures outlined in 193A—Chapter 15. Complaint and investigatory files concerning nonlicensees are not confidential except as may be provided in Iowa Code chapter 22.

193A—17.3(17A,79GA,ch55) Notice of intent to impose civil penalties. The notice of the board's intent to issue an order to require compliance with 2001 Iowa Acts, chapter 55, section 13, and to impose a civil penalty shall be served upon the nonlicensee by restricted certified mail, return receipt requested, or personal service in accordance with Iowa R. Civ. P. 1.305. Alternatively, the nonlicensee may accept service personally or through authorized counsel. The notice shall include the following:

1. A statement of the legal authority and jurisdiction under which the proposed civil penalty would be imposed.
2. Reference to the particular sections of the statutes and rules involved.
3. A short, plain statement of the alleged unlawful practices.
4. The dollar amount of the proposed civil penalty and the nature of the intended order to require compliance with 2001 Iowa Acts, chapter 55, section 13.
5. Notice of the nonlicensee's right to a hearing and the time frame in which hearing must be requested.
6. The address to which written request for hearing must be made.

193A—17.4(17A,79GA,ch55) Requests for hearings.

17.4(1) Nonlicensees must request a hearing within 30 days of the date the notice is mailed if served through restricted certified mail to the last-known address, or within 30 days of the date of service if service is accepted or made in accordance with Iowa R. Civ. P. 1.305. A request for hearing must be in writing and is deemed made on the date of the nonmetered United States Postal Service postmark or the date of personal service.

17.4(2) If a request for hearing is not timely made, the board chair or the chair's designee may issue an order imposing the civil penalty and requiring compliance with 2001 Iowa Acts, chapter 55, section 13, as described in the notice. The order may be mailed by regular first-class mail or served in the same manner as the notice of intent to impose civil penalty.

17.4(3) If a request for hearing is timely made, the board shall issue a notice of hearing and conduct a hearing in the same manner as applicable to disciplinary cases against licensees.

17.4(4) A nonlicensee may waive the right to hearing and all attendant rights and enter into a consent order imposing a civil penalty and requiring compliance with 2001 Iowa Acts,

chapter 55, section 13, at any stage of the proceeding upon mutual consent of the board.

17.4(5) The notice of intent to issue an order and the order are public records available for inspection and copying in accordance with Iowa Code chapter 22. Copies may be published as provided in rule 193A—16.4(272C,79GA,ch55). Hearings shall be open to the public.

193A—17.5(79GA,ch55) Factors to consider. In addition to the factors set forth in 2001 Iowa Acts, chapter 55, section 14(3), the board may consider the following when determining the amount of civil penalty to impose, if any:

1. The time lapsed since the unlawful practice occurred.
2. Evidence of reform or remedial actions.
3. Whether the violation is a repeat offense following a prior warning letter or other notice of the nature of the infraction.
4. Whether the violation involved an element of deception.
5. Whether the unlawful practice violated a prior order of the board, court order, cease and desist agreement, consent order, or similar document.
6. The clarity of the issue involved.
7. Whether the violation was willful and intentional.
8. Whether the nonlicensee acted in bad faith.
9. The extent to which the nonlicensee cooperated with the board.

193A—17.6(79GA,ch55) "Safe harbor" language. Persons who do not hold a CPA certificate or LPA license and firms which do not hold a CPA or LPA firm permit to practice shall not use in any statement relating to the financial affairs of a person or entity language which is conventionally used by CPAs or LPAs in reports on financial statements. Pursuant to the Iowa Accountancy Act of 2001, 2001 Iowa Acts, chapter 55, section 13(8), such persons or firms may use the following "safe harbor" language:

"I (we) have prepared the accompanying (financial statements) of (name of entity) as of (time period) for the (period) then ended. This presentation is limited to preparing in the form of financial statements information that is the representation of management (owners). I (we) have not audited, reviewed or compiled the accompanying financial statements and accordingly do not express an opinion or any other form of assurance on them."

193A—17.7(79GA,ch55) Enforcement options. In addition, or as an alternative, to the administrative process described in these rules, the board may seek an injunction in district court, refer the matter for criminal prosecution, or enter into a consent order as provided in 2001 Iowa Acts, chapter 55, section 14.

These rules are intended to implement Iowa Code chapter 17A and 2001 Iowa Acts, chapter 55.

CHAPTER 18
LICENSEES' DUTY TO REPORT

193A—18.1(79GA,ch55) Reporting acts or omissions committed by licensees.

18.1(1) Iowa Code subsection 272C.9(2) requires one who is licensed by the board to report acts or omissions of others licensed by the board that demonstrate a lack of qualifications which are necessary to assure the residents of this state of a high standard of professional and occupational care. For the purposes of this rule, the failure to perform an engagement for a client in accordance with professional

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standards is a demonstration by a CPA or LPA that the CPA or LPA may lack such qualifications. These professional standards are set forth in the following:

- a. 193A—subrule 13.3(1) as to the independence of a CPA when expressing opinions on financial statements.
- b. 193A—subrule 13.3(3) as to the integrity and objectivity of a CPA or LPA when performing services for clients.
- c. 193A—subrule 13.3(4) as to the independence and objectivity of a CPA or LPA who pays or accepts commissions.
- d. 193A—subrule 13.3(5) as to the independence and objectivity of a CPA or LPA who performs services for a contingent fee.
- e. 193A—subrule 13.4(1) as to the competence of a CPA or LPA.
- f. 193A—subrule 13.4(2) as to the compliance with generally accepted engagement standards.
- g. 193A—subrule 13.4(3) as to the compliance with generally accepted accounting principles.
- h. 193A—subrule 13.4(4) as to associating the CPA's name with forecasts.

18.1(2) When a licensee observes a violation of any of the subrules referenced in subrule 18.1(1), the licensee shall report the violation in writing to the board office setting forth the name of the CPA or LPA alleged to have committed the violation and the rule(s) violated, together with a copy of all material that evidences the violation.

193A—18.2(79GA,ch55) Reporting judgments and settlements alleging malpractice.

18.2(1) Iowa Code subsection 272C.9(3) requires a licensee to report to the board every adverse judgment in a professional malpractice action to which the person is a party and every settlement of a claim against the licensee. For the purposes of this rule, malpractice actions brought against a firm registered with the board will be deemed to have been brought against the individual(s) registered with the board provided the individual(s) is a partner, member or owner in the office that performed the services that led to the malpractice action.

18.2(2) When a CPA or LPA is a party to an adverse judgment resulting from a professional malpractice action or is a party to a settlement of a claim resulting from an allegation of malpractice, the CPA or LPA shall file a report in writing forwarded to the board office, setting forth the name and address of the client, the date the claim was originally made, a brief description of the circumstances precipitating the claim and a copy of the judgment or settlement agreement resulting from the claim. It is the intent of this rule to require the reporting of all judgments or settlements resulting from claims that were initiated by court action and not claims of malpractice that are made against a CPA or LPA that are not filed in a court of law.

193A—18.3(79GA,ch55) Timely reporting. The reports required by rules 193A—18.1(79GA,ch55) and 193A—18.2(79GA,ch55) are to be forwarded to the board within a reasonable period of time from the initial obtaining of the information required to be reported. A period of less than 30 days will be considered to be a reasonable period of time.

193A—18.4(79GA,ch55) Failure to make reports. Upon obtaining information that a CPA or LPA failed to file a report required by rule 193A—18.1(79GA,ch55) or 193A—18.2(79GA,ch55) within a reasonable period of time, the board shall initiate a disciplinary proceeding against the CPA or LPA who failed to make the required report.

These rules are intended to implement Iowa Code chapter 272C.

**CHAPTER 19
TRANSITION RULES**

193A—19.1(542C,79GA,ch55) Purpose and timing. The transition rules in this chapter initially became effective December 19, 2001, to aid transitional planning for those persons holding CPA certificates, AP licenses or permits to practice issued in Iowa prior to July 1, 2002. 2001 Iowa Acts, chapter 55, replaces Iowa Code chapter 542C as of July 1, 2002. Because the transition rules may impact the legal rights and duties of some persons for a period of time, the chapter will remain in place until July 1, 2004.

193A—19.2(542C,79GA,ch55) CPA certificates and permits to practice. 2001 Iowa Acts, chapter 55, eliminates the distinction between CPA certificates and permits to practice. As of July 1, 2002, all persons holding CPA certificates may use the title "CPA" without the need for a separate individual permit to practice. CPAs wishing to perform attest services or use the title "CPA" in a firm name, however, may do so only within a CPA firm which holds a firm permit to practice.

19.2(1) Certificate holders deemed qualified. A person holding a CPA certificate issued in Iowa prior to July 1, 2002, is deemed to have satisfied the education, examination and experience qualifications for a CPA certificate under the Iowa Accountancy Act of 2001.

19.2(2) Certificates remain valid. CPA certificates issued prior to July 1, 2002, remain valid on and after July 1, 2002, if properly renewed and in good standing.

19.2(3) Biennial renewal. CPA certificates issued prior to July 1, 2002, will continue to be renewed on a biennial schedule:

- a. CPA certificates held by persons whose last names begin with A to K expire on June 30, 2002, if not renewed on or prior to June 30, 2002. The biennial renewal fee for the period between July 1, 2002, and June 30, 2004, is \$100.

- b. CPA certificates held by persons whose last names begin with L to Z expire on June 30, 2003, if not renewed on or prior to June 30, 2003. The biennial renewal fee for the period between July 1, 2003, and June 30, 2005, is \$100.

19.2(4) Reinstating lapsed certificates. A CPA certificate which has lapsed may be restored to effective status at any time prior to July 1, 2002, upon the board's receipt of a proper application accompanied by a reinstatement fee of \$100 and a renewal fee of \$25 for persons whose last names begin with A to K or \$50 for persons whose last names begin with L to Z. A person who fails to reinstate a lapsed CPA certificate prior to July 1, 2002, may reinstate on or after July 1, 2002, but in addition to payment of applicable renewal fees and a \$100 reinstatement fee, the applicant must satisfy continuing education requirements as described in subrule 19.4(3).

19.2(5) Continuing education. Commencing July 1, 2002, every CPA certificate holder is required to complete continuing education as a condition of certificate renewal. Continuing education requirements are described in rule 193A—19.4(79GA,ch55).

19.2(6) Peer review. Commencing July 1, 2002, a CPA certificate holder who issues compilation reports other than through a CPA or LPA firm which holds a firm permit to practice is required to complete compilation peer review as a condition of certificate renewal. Peer review requirements are described in rule 193A—19.5(542C,79GA,ch55).

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19.2(7) Permits to practice phased out. As of July 1, 2002, the board will no longer issue or renew individual permits to practice as a CPA. Permits to practice will continue to be issued to CPA firms as described in subrule 19.2(9).

19.2(8) Attest services. A CPA certificate holder who is responsible for supervising attest services or who signs, or authorizes someone to sign, the accountant's attest report on the financial statements on behalf of a CPA firm must be qualified to perform attest services. The board is in the process of developing experience and competency standards for attest services. While additional methods of attaining proper qualification may accordingly be developed, CPAs holding an individual permit to practice will qualify as follows:

a. A person holding or having held an individual permit to practice as a CPA issued prior to July 1, 2002, will be deemed to qualify to perform attest services on and after July 1, 2002, in a CPA firm holding a firm permit to practice, provided that appropriate continuing education is maintained as provided in subrule 19.4(4).

b. A CPA certificate holder who is in the process of attaining the two years of full-time, supervised experience as required to hold an individual permit to practice will be deemed qualified to perform attest services if the certificate holder fully satisfies the requirements outlined in 193A—6.3(79GA,ch55) and thereafter maintains appropriate continuing education. Such experience must be attained in a CPA firm holding a firm permit to practice and under the supervision of a CPA in the following areas of practice:

(1) Application of a variety of auditing procedures and techniques to the usual and customary financial transactions recorded in accounting records;

(2) Preparation of audit working papers covering the examination of the accounts usually found in accounting records;

(3) Planning of the program of audit work including the selection of the procedures to be followed;

(4) Preparation of written explanations and comments on the findings of the examinations and on the content of accounting records; and

(5) Preparation and analysis of financial statements together with explanations and notes thereon.

19.2(9) Firm permits to practice. Firm permits to practice are renewed annually and expire June 30, 2002. Each firm must file an initial application for a firm permit to practice for the period beginning July 1, 2002.

a. Initial firm permits to practice will be issued for the period beginning July 1, 2002, and ending June 30, 2003.

b. An application for an initial firm permit to practice will be deemed timely if hand-delivered or postmarked by July 31, 2002, and, if granted, be effective as of July 1, 2002. Application forms for firm permits to practice will be available by May 15, 2002, and may be filed prior to enactment of the new law.

c. CPA firms holding or having held firm permits to practice issued prior to July 1, 2002, are deemed to qualify for a firm permit to practice under the Iowa Accountancy Act of 2001.

d. Firm permits to practice will be renewed annually on a fiscal year ending June 30. The initial application fee will be \$50. The annual renewal fee will be \$50.

193A—19.3(542C,79GA,ch55) AP licenses and permits to practice. 2001 Iowa Acts, chapter 55, creates a new license of licensed public accountant (LPA) to replace the current license of accounting practitioner (AP). A person holding a license as an LPA may practice nonattest public accounting using the title "LPA" without the need for a separate

individual permit to practice. An LPA wishing to use the title "LPA" in a firm name, however, may do so only within an LPA firm which holds a firm permit to practice.

19.3(1) AP license holders deemed qualified. A person holding an AP license in full force and effect on July 1, 2002, is deemed qualified to hold an LPA license under the Iowa Accountancy Act of 2001.

19.3(2) Licenses remain valid. An AP license issued prior to July 1, 2002, remains valid on and after July 1, 2002, if properly renewed and in good standing. Such license shall be treated for all purposes as an LPA license and shall be renewed as an LPA license. The board shall issue at no charge a replacement license reflecting the new LPA title and retaining the previously issued license number.

19.3(3) Biennial renewal. An AP license issued prior to July 1, 2002, will be renewed as an LPA license on a biennial schedule:

a. Licenses held by persons whose last names begin with A to K expire on June 30, 2002, if not renewed on or prior to June 30, 2002. The biennial renewal fee for the period between July 1, 2002, and June 30, 2004, is \$100.

b. Licenses held by persons whose last names begin with L to Z expire on June 30, 2003, if not renewed on or prior to June 30, 2003. The biennial renewal fee for the period between July 1, 2003, and June 30, 2005, is \$100.

19.3(4) Reinstating lapsed licenses. An AP license which has lapsed may be restored to effective status at any time prior to July 1, 2002, upon the board's receipt of a proper application accompanied by a reinstatement fee of \$100, prorated renewal fee, and evidence of completion of satisfactory continuing education. A person who fails to reinstate a lapsed AP license prior to July 1, 2002, must reapply for an LPA license, pay applicable application and reinstatement fees, and satisfy continuing education requirements, but the person will be deemed to be qualified for an LPA license.

19.3(5) Continuing education. Continuing education requirements applicable to a person holding an AP license shall remain applicable to a person holding an LPA license. In addition, an LPA who issues compilation reports shall complete compilation continuing education as provided in subrule 19.4(2).

19.3(6) Peer review. Commencing July 1, 2002, an LPA license holder who issues compilation reports other than through a CPA firm or LPA firm which holds a firm permit to practice is required to complete compilation peer review as a condition of license renewal. Peer review requirements are described in rule 193A—19.5(542C,79GA,ch55).

19.3(7) Permits to practice phased out. As of July 1, 2002, the board will no longer issue or renew individual permits to practice. Permits to practice will continue to be issued to LPA firms as described in subrule 19.3(8).

19.3(8) Firm permits to practice. Firm permits to practice are renewed annually and expire June 30, 2002. Every firm must file an initial application for a firm permit to practice for the period beginning July 1, 2002.

a. Initial firm permits to practice will be issued for the period beginning July 1, 2002, and ending June 30, 2003.

b. An application for an initial firm permit to practice will be deemed timely and, if granted, be effective as of July 1, 2002, if hand-delivered or postmarked by July 31, 2002. Application forms for firm permits to practice will be available by May 15, 2002, and may be filed prior to enactment of the new law.

c. An LPA firm holding or having held a firm permit to practice issued prior to July 1, 2002, is deemed to qualify for

ACCOUNTANCY EXAMINING BOARD[193A](cont'd)

a firm permit to practice under the Iowa Accountancy Act of 2001.

d. Firm permits to practice will be renewed annually on a fiscal year ending June 30. The initial application fee will be \$50. The annual renewal fee will be \$50.

193A—19.4(79GA,ch55) Continuing education. Commencing July 1, 2002, a person holding a CPA certificate or LPA license must complete, as a condition of certificate or license renewal, 120 hours of qualifying continuing education as outlined in rule 193A—10.5(79GA,ch55) within the three-year period ending on the December 31 preceding the application for certificate or license renewal. This requirement mirrors the continuing education required as a condition to renew an individual CPA or AP permit to practice.

19.4(1) Transition period for persons holding CPA certificates. A substantial number of persons holding CPA certificates have not previously been subject to continuing education requirements because they have not held a permit to practice. In light of that circumstance, a CPA certificate holder will be deemed to be in compliance with continuing education requirements if the certificate holder has completed qualifying continuing education in the amounts and within the time periods stated in the following chart:

Biennial renewal period ending with:	Last names begin with:	Time period within which continuing education shall be completed:	Number of qualifying hours:
6/30/03	L-Z	1/1/01-12/31/02	40
6/30/04	A-K	1/1/01-12/31/03	80
6/30/05	L-Z	1/1/02-12/31/04	120
6/30/06	A-K	1/1/03-12/31/05	120

19.4(2) Commencing with the biennial renewal period ending June 30, 2003, in each biennial period in which compilation reports are issued, a CPA certificate holder or LPA license holder who is responsible for supervising compilation services or who signs or authorizes someone to sign the accountant's compilation report on the financial statements on behalf of a firm shall complete as a condition of certificate or license renewal a minimum of seven hours of continuing education devoted to SSARS. When required, the SSARS continuing education shall be completed within the two-year period ending on the December 31 preceding the application for certificate or license renewal.

19.4(3) Lapsed certificates or licenses. In addition to any other applicable requirement, a person filing an application between July 1, 2002, and June 30, 2004, to reinstate a CPA certificate which was initially issued prior to July 1, 2002, shall complete qualifying continuing education as follows: The applicant must have completed either 120 hours of qualifying education in the three years preceding the date of the application, 80 hours of qualifying education in the two years preceding the date of the application, or 40 hours of qualifying education in the one year preceding the date of the application. After the application is granted, continuing education will be required as a condition of biennial renewal on the schedule outlined in subrule 19.4(1).

19.4(4) Special caution for CPAs performing attest services. A CPA performing attest services is cautioned that the minimum requirements for qualifying continuing education under this rule may or may not satisfy other standards applicable to the performance of attest services, such as "yellow book" standards applicable to government audits.

193A—19.5(542C,79GA,ch55) Peer review. Under the Iowa Accountancy Act of 2001, peer review is required as a

condition of renewal for a CPA or LPA who issues compilation reports other than through a CPA firm or LPA firm which holds a permit to practice, and as a condition of firm permit renewal for LPA firms which issue compilation reports and CPA firms which provide attest services or issue compilation reports.

19.5(1) Because of the expanded peer review requirements and the need for peer review programs to accommodate increased demand, persons or firms subject to peer review for the first time when the law changes on July 1, 2002, shall have until June 30, 2004, to complete their first peer review program.

19.5(2) Persons or firms which have already been subject to peer review prior to July 1, 2002, shall continue with the schedule outlined in 193A—Chapter 11.

19.5(3) Persons or firms which are initially issued a certificate, license or permit on or after July 1, 2002, or which become subject to peer review for the first time after June 30, 2002, due to changes in their practice, shall complete peer review within 18 months of the initial engagement, as described in rule 193A—11.1(79GA,ch55), or by June 30, 2004, whichever date is later.

19.5(4) Satisfactory completion of existing peer review programs for compilation services administered by the Iowa Society of Certified Public Accountants, the National Society of Accountants, or substantially similar peer review programs in Iowa or other states will satisfy the compilation peer review requirement.

These rules are intended to implement 2001 Iowa Acts, chapter 55.

ARC 1435B**ELDER AFFAIRS
DEPARTMENT[321]****Notice of Intended Action**

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

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

Pursuant to the authority of Iowa Code section 231.44, the Department of Elder Affairs hereby gives Notice of Intended Action to amend Chapter 9, “Resident Advocate Committees,” Iowa Administrative Code.

The proposed amendments are intended to modify distribution of reports of committee meetings to include submittal to the Department of Elder Affairs by the resident advocate coordinator.

The proposed amendments also include a new rule in Chapter 9 related to accountability measures. This rule provides a protocol for resolution of issues and concerns, as well as a process for handling unresolved issues and concerns.

Consideration will be given to all written suggestions or comments on the proposed amendments received on or before March 26, 2002. Comments should be addressed to Mary Ann Young, Administrative Rules Coordinator, Iowa Department of Elder Affairs, 200 Tenth Street, Suite 300, Des Moines, Iowa 50309-3609; fax (515)242-3300; telephone (515)242-3312.

These amendments are intended to implement Iowa Code section 231.44.

ELDER AFFAIRS DEPARTMENT[321](cont'd)

The following amendments are proposed.

ITEM 1. Amend paragraph 9.6(2)“c” as follows:

c. The secretary shall ~~submit written minutes~~ *complete a report on the committee meeting on the report form designated by the department. Copies of the report shall be submitted to the administrator and to the resident advocate coordinator if the facility is a nursing facility or residential care facility. Copies of each report shall be sent by the coordinator to the office of long-term care resident advocate/ombudsman.*

ITEM 2. Amend 321—Chapter 9 by adopting the following new rule:

321—9.15(231) Accountability measures.

9.15(1) The department shall develop a standardized report form to be used by resident advocate committee secretaries. The form shall specify issues and concerns identified by the committee, the facility’s response, and whether the issue or concern was resolved.

9.15(2) An issue or concern shall be designated as resolved when both the committee and the facility agree that the issue or concern has been resolved. If the facility disagrees with the committee’s determination that an issue or concern has not been resolved, the aggrieved party may request a review by the office of the long-term care resident advocate/ombudsman by submitting a written request within 20 calendar days of the issuance of the form described in 9.6(2)“c.”

9.15(3) Upon receipt of a request, the office of the long-term care resident advocate/ombudsman shall contact the facility administrator and the chairperson of the resident advocate committee to discuss the request. The office of the long-term care resident advocate/ombudsman shall have the discretion to uphold the committee’s determination that the issue or concern is unresolved, designate the issue or concern as resolved, or redefine the issue or concern as a means to negotiate a compromise.

9.15(4) The decision of the office of the long-term care resident advocate/ombudsman shall be made within 20 calendar days of the receipt of a request for review. Additional time may be allowed upon agreement by the resident advocate committee and the facility administrator.

9.15(5) An aggrieved party has 30 calendar days from the receipt of written notice of the decision of the office of the long-term care resident advocate/ombudsman to request a hearing. The department shall transmit the request to the department of inspections and appeals pursuant to 481 IAC 10.4(10A).

9.15(6) The hearing shall be conducted by the department of inspections and appeals pursuant to 481 IAC 10.1(10A) to 10.24(10A,17A).

9.15(7) All appeals shall be conducted pursuant to 321 IAC 2.7(4).

9.15(8) Judicial review. Procedures for judicial review shall be conducted pursuant to 321 IAC 2.7(6).

9.15(9) For each committee, the office of the long-term care resident advocate/ombudsman shall record the number of issues and concerns listed on the form designated under 9.6(2)“c” and the number resolved. Once a year, the office of the long-term care resident advocate/ombudsman shall calculate the percentage of issues and concerns identified by the committee that are resolved based on the total number of issues and concerns identified during the reporting period.

9.15(10) By May 1, 2002, the office of the long-term care resident advocate/ombudsman shall report to the department of human services the resolution rate of each facility based

on resident advocate committee reports generated between October 1, 2001, and March 31, 2002.

9.15(11) By May 1 of each subsequent year, the office of the long-term care resident advocate/ombudsman shall report to the department of human services the resolution rate of each facility based on resident advocate committee reports generated between January 1 and December 31 of the preceding year.

ARC 1418B**HUMAN SERVICES
DEPARTMENT[441]****Notice of Intended Action**

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

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

Pursuant to the authority of Iowa Code section 234.6, the Department of Human Services proposes to amend Chapter 14, “Offset of County Debts Owed Department,” appearing in the Iowa Administrative Code.

These amendments correct organizational references related to offset of county debts owed the Department. These incorrect references were identified by the Department while completing the rule assessment mandated by Executive Order Number 8.

These amendments do not provide for waivers in specific situations because these amendments merely correct organizational references.

Any interested person may make written comments or suggestions on the proposed amendments on or before March 27, 2002. Comments or suggestions should be addressed to the Office of Policy Analysis, Department of Human Services, Hoover State Office Building, 1305 East Walnut, Des Moines, Iowa 50319-0114. Comments may be sent by fax to (515)281-4980 or by electronic mail to policyanalysis@dhs.state.ia.us.

These amendments are intended to implement Iowa Code section 234.6.

The following amendments are proposed.

ITEM 1. Amend rule 441—14.2(234) as follows:

Amend subrule 14.2(1), paragraph “c,” as follows:

c. Require the county to send a written response to the ~~bureau of finance~~ *division of fiscal management* within 20 calendar days of the date of notification.

Amend subrule 14.2(2), introductory paragraph, as follows:

14.2(2) Response from county regarding debt. The written response from the county to the ~~bureau of finance~~ *division of fiscal management* shall state the position of the county regarding the amount due.

Amend subrule 14.2(3) as follows:

14.2(3) Review of county response regarding debt. The ~~bureau of finance~~ *division of fiscal management* shall review within ten calendar days of receipt of the written response the basis for the bill and the county’s position as stated in the written response.

a. The ~~bureau of finance~~ *division of fiscal management* shall make the necessary adjustments to subsequent billings

HUMAN SERVICES DEPARTMENT[441](cont'd)

sent to the county when the ~~bureau of finance~~ *division of fiscal management* agrees with the county's position regarding the liability and shall so notify the county.

b. The ~~bureau of finance~~ *division of fiscal management* shall forward to the appropriate departmental division all information regarding the basis for the bill and the county's written response when the ~~bureau of finance~~ *division of fiscal management* disagrees with the county's position.

(1) The division shall establish the department's final decision regarding the amount owed in accordance with established procedures.

(2) The division shall notify the county and the ~~bureau of finance~~ *division of fiscal management* within 30 calendar days of receipt of the appeal by the division of the department's final decision regarding the amount owed.

(3) The ~~bureau of finance~~ *division of fiscal management* shall make the necessary adjustments to subsequent billings sent to the county regarding the liability and shall so notify the county.

ITEM 2. Amend rule 441—14.3(234) as follows:

441—14.3(234) List of counties with amounts owed.

14.3(1) Notification to department of revenue and finance. The ~~bureau of finance~~ *division of fiscal management* shall provide to the department of revenue and finance a list of the counties with amounts owed as established through rule 441—14.2(234). This list shall be maintained by the department of revenue and finance in a liability file.

14.3(2) Notification of change. The ~~bureau of finance~~ *division of fiscal management* shall notify the department of revenue and finance of any change in the status of a debt in the liability file within 30 calendar days from the occurrence of the change.

14.3(3) Certification of file. The ~~bureau of finance~~ *division of fiscal management* shall certify the file to the department of revenue and finance semiannually in a manner prescribed by the department of revenue and finance.

ITEM 3. Amend subrule 14.4(1) as follows:

Amend the introductory paragraph as follows:

14.4(1) Notice. The ~~bureau of finance~~ *division of fiscal management* shall send notification to the county within ten calendar days from the date the ~~bureau of finance~~ *division of fiscal management* is notified by the department of revenue and finance of a potential offset. This notification shall include:

Amend paragraph "e," subparagraph (1), as follows:

(1) The county shall send a written response to the ~~bureau of finance~~ *division of fiscal management* within 20 calendar days of the date of the notification.

Amend paragraph "g" as follows:

g. The ~~bureau of finance~~ *division of fiscal management* telephone number for the county to contact in the case of questions.

ITEM 4. Amend rule 441—14.5(234) as follows:

441—14.5(234) Review of county response regarding offset. The ~~bureau of finance~~ *division of fiscal management* shall review within ten calendar days of receipt of the written response the basis for the offset and the county's position as stated in the written appeal.

14.5(1) Agreement with county. The ~~bureau of finance~~ *division of fiscal management* shall not respond to the department of revenue and finance if the ~~bureau of finance~~ *division of fiscal management* agrees with the county's position. The amount of the payment shall be released to the county by

the department of revenue and finance as prescribed in department of revenue and finance rule 701—150.5(421).

14.5(2) Disagreement with county. The ~~bureau of finance~~ *division of fiscal management* shall certify to the department of revenue and finance that the requirements of Iowa Code section 421.17 have been met.

ITEM 5. Amend subrule 14.6(2) as follows:

14.6(2) Notification to county. Once the offset has been completed, the ~~bureau of finance~~ *division of fiscal management* shall notify the county of the action taken along with the balance, if any, still due to the department.

ARC 1416B**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 225C.6, the Department of Human Services proposes to amend Chapter 25, "Disability Services Management," appearing in the Iowa Administrative Code.

These amendments reinstate the criteria for the Mental Health and Developmental Disabilities Commission to grant a waiver from the Iowa Code requirement that a county must be affiliated with a community mental health center to qualify for receiving a payment from the Community Services Fund appropriation. These criteria were inadvertently rescinded from the Iowa Administrative Code, but are still used by the Commission.

These criteria were previously found in 441—Chapter 23, "Mental Illness, Mental Retardation, Developmental Disabilities, and Brain Injury Community Services," at subrule 23.4(3). This chapter was written to establish policy for the creation and composition of the county or multicounty mental illness, mental retardation, developmental disabilities, and brain injury (MI/MR/DD/BI) planning councils and to define the responsibility of the planning councils. The chapter was rescinded effective July 1, 1999, since planning councils were no longer required to develop a services plan to apply for state MI/MR/DD/BI funds. (See **ARC 8932A** in the May 5, 1999, Iowa Administrative Bulletin.)

These amendments do not provide for waivers because this is an Iowa Code requirement that cannot be waived.

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, 1305 East Walnut, Des Moines, Iowa 50319-0114, on or before March 27, 2002.

These amendments are intended to implement Iowa Code section 225C.7.

The following amendments are proposed.

ITEM 1. Reserve rules **441—25.78** to **441—25.80**.

ITEM 2. Amend 441—Chapter 25 by adopting the following **new** Division VII:

HUMAN SERVICES DEPARTMENT[441](cont'd)

DIVISION VII

COMMUNITY MENTAL HEALTH CENTER WAIVER REQUEST

PREAMBLE

This division establishes a process for the mental health and developmental disabilities commission to grant a waiver to any county not affiliated with a community mental health center.

441—25.81(225C) Waiver request. Counties that have not established or that are not affiliated with a community mental health center under Iowa Code chapter 230A are required to expend a portion of the money received from the MI/MR/DD/BI community services fund to contract with a community mental health center for services. When a county determines that a contractual arrangement is undesirable or unworkable, it may request a waiver from this requirement for a fiscal year. The waiver request and justification may be submitted to the mental health and developmental disabilities commission with the application for MI/MR/DD/BI community services funds on Form 470-0887, Waiver Request, or it may be submitted separately. The commission may grant a waiver if the request successfully demonstrates that all of the following conditions are met:

25.81(1) Accreditation of provider. The provider or network of providers that the county has contracted with to deliver the identified mental health services is accredited as another mental health provider pursuant to 441—Chapter 24.

25.81(2) Contracted services. The county has contracted to provide services that are equal to or greater than the smallest set of services provided by an accredited community mental health center in the department's service area for that county.

25.81(3) Eligible populations. The county contract includes the following eligible populations:

- a. Children.
- b. Adults.
- c. Elderly.
- d. Chronically mentally ill.
- e. Mentally ill.

This rule is intended to implement Iowa Code section 225C.7.

ARC 1425B**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 234.6 and 249A.4, the Department of Human Services proposes to amend Chapter 78, "Amount, Duration and Scope of Medical and Remedial Services," appearing in the Iowa Administrative Code.

2002 Iowa Acts, House File 2245, limits Medicaid coverage for dental services for adults aged 21 and over. Adult Medicaid recipients in need of crowns, posts, cores, perio-

dontal treatment, endodontic treatment, and orthodontia will need to identify alternative sources of funding or do without these services.

Early and Periodic Screening, Diagnosis and Treatment requirements mandate dental services for children. Adult dental services are an optional Medicaid service. Eliminating all adult dental services would increase other Medicaid expenditures for more costly emergency care, infection, and pain control. Cost-effective dental preventative services are being maintained for adults. Reducing all dental fees for children and adults would worsen the serious access problem already existing due to the relationship between access and fees.

These amendments do not provide for waivers in specified situations because of the underlying budget constraints. Needed savings would not be achieved if waivers were provided.

Any interested person may make written comments or suggestions on the proposed amendments on or before March 27, 2002. Address comments or suggestions to the Office of Policy Analysis, Department of Human Services, 1305 East Walnut, Des Moines, Iowa 50319-0114; by fax to (515)281-4980; or by E-mail to policyanalysis@dhs.state.ia.us.

The substance of these amendments is also Adopted and Filed Emergency and is published herein as **ARC 1426B**. The purpose of this Notice is to solicit comment on that submission, the subject matter of which is incorporated by reference.

These amendments are intended to implement Iowa Code sections 234.6 and 249A.4.

ARC 1449B**MEDICAL EXAMINERS
BOARD[653]****Notice of Intended Action**

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

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

Pursuant to the authority of Iowa Code sections 147.76 and 272C.3, the Board of Medical Examiners hereby gives Notice of Intended Action to amend Chapter 8, "Fees," Iowa Administrative Code.

The Board approved the proposed amendment to current Chapter 8 during its regularly held meeting on February 7, 2002.

The proposed amendment will eliminate the fee for the Special Purpose Examination (SPEX) since it is no longer administered directly by the Board.

Any interested person may present written comments on this proposed amendment not later than 4 p.m. on March 26, 2002. Such written materials should be sent to Ann E. Mowery, Executive Director, Board of Medical Examiners, 400 S.W. Eighth Street, Suite C, Des Moines, Iowa 50309-4686, or ann.mowery@ibme.state.ia.us.

There will be a public hearing on March 26, 2002, at 4:15 p.m. in the Board office, at which time persons may present their views either orally or in writing. The Board of Medical

MEDICAL EXAMINERS BOARD[653](cont'd)

Examiners office is located at 400 S.W. Eighth Street, Suite C, Des Moines, Iowa.

This amendment is intended to implement Iowa Code section 147.80.

The following amendment is proposed.

Amend rule 653—8.3(147,148,272C) as follows:

653—8.3(147,148,272C) Examination fees for physicians.

~~8.3(1) Fee to take USMLE Step 3.~~ The fee for taking the United States Medical Licensing Examination Step 3 administered by the board's designated testing service is the fee established by the Federation of State Medical Boards plus \$50. See 653—subrule 9.4(2) for information about the examination.

~~8.3(2) Fee to take SPEX.~~ The fee for taking the Special Purpose Examination administered by the board is \$350.

ARC 1450B**MEDICAL EXAMINERS
BOARD[653]****Notice of Termination**

Pursuant to the authority of Iowa Code section 147.76, the Medical Examiners Board hereby terminates the rule making initiated by its Notice of Intended Action published in the Iowa Administrative Bulletin on January 9, 2002, as **ARC 1265B**, amending Chapter 8, "Fees," Chapter 9, "Permanent Physician Licensure," and Chapter 10, "Resident, Special and Temporary Physician Licensure," Iowa Administrative Code.

The Board approved the termination in a regularly scheduled meeting on February 7, 2002.

The Notice proposed to amend Chapters 8, 9, and 10 by increasing fees for initial and renewed permanent licenses and initial and renewed resident licenses.

The Board is terminating the rule making commenced in **ARC 1265B** and may renounce proposed rules if determined appropriate following further review.

ARC 1452B**MEDICAL EXAMINERS
BOARD[653]****Notice of Intended Action**

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

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

Pursuant to the authority of Iowa Code sections 147.76 and 272C.3, the Board of Medical Examiners hereby gives Notice of Intended Action to amend Chapter 9, "Permanent Physician Licensure," and Chapter 10, "Resident, Special and Temporary Physician Licensure," Iowa Administrative Code.

The Board approved the proposed amendments to Chapters 9 and 10 during its regularly held meeting on February 7, 2002.

The proposed amendments reduce the total number of special physician licenses a foreign medical graduate may hold to five one-year licenses. The amendments affect anyone who applies for a special license for the first time after July 1, 2002. The amendments assist those with special licensure in qualifying for permanent licensure by allowing credit for postgraduate training for the years spent practicing under a special license.

Any interested person may present written comments on these proposed amendments not later than March 26, 2002, at 4 p.m. Such written materials should be sent to Ann E. Mowery, Executive Director, Board of Medical Examiners, 400 S.W. Eighth Street, Suite C, Des Moines, Iowa 50309-4686, or ann.mowery@ibme.state.ia.us.

There will be a public hearing on March 26, 2002, 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. Eighth Street, Suite C, Des Moines, Iowa.

These amendments are intended to implement Iowa Code sections 148.3 and 148.11.

The following amendments are proposed.

ITEM 1. Amend paragraph **9.3(1)"d"** by adopting **new** subparagraph **(4)** as follows:

(4) The board shall accept each 12 months of practice as a special licensee as equivalent to one year of postgraduate training in a hospital-affiliated program approved by the board.

ITEM 2. Amend paragraph **10.4(1)"b"** as follows:

b. A special license may be issued for a period of not more than one year and may be renewed annually prior to expiration. The number of renewals granted by the board is not limited *for those holding a special license on July 1, 2002; thereafter, the board shall limit special licensure to no more than five years total.* The renewal of any special license granted for the first time after July 1, 2001, shall be limited to those physicians who continue to meet the requirements of paragraph "a" of this subrule and subrule 10.4(5). ~~Academic institutions are encouraged to assist special licensees in qualifying for permanent licensure if the physician is to remain in Iowa long term.~~

ITEM 3. Amend paragraph **10.4(1)** by adopting **new** paragraph **"i"** as follows:

i. The board shall accept each 12 months of practice as a special licensee as equivalent to one year of postgraduate training in a hospital-affiliated program approved by the board for the purposes of permanent licensure.

ARC 1441B
MEDICAL EXAMINERS
BOARD[653]

Notice of Intended Action

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

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

Pursuant to the authority of Iowa Code sections 147.76 and 272C.3, the Board of Medical Examiners hereby amends Chapter 11, "Licensure Requirements," Iowa Administrative Code.

The proposed amendment defines which physicians must take the mandatory training on identifying and reporting child and adult abuse.

The Board approved the amendment to Chapter 11 during its regularly held meeting on February 7, 2002.

Any interested person may present written comments on this proposed amendment not later than 4 p.m. on March 26, 2002. 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 or ann.mowery@ibme.state.ia.us.

There will be a public hearing on March 26, 2002, 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 chapter 272C.

The following amendment is proposed.

Amend paragraph 11.4(1)"c" as follows:

c. Mandatory training for identifying and reporting abuse for permanent or special license renewal. The licensee shall complete the training as part of a category 1 activity or an approved training program. The licensee may utilize category 1 activity credit received for this training during the license period in which the training occurred to meet continuing education requirements in paragraph 11.4(1)"a."

(1) A licensee who regularly provides primary health care to children shall indicate on the renewal application the completion of two hours of training in child abuse identification and reporting in the previous five years. "A licensee who regularly provides primary health care to children" means all emergency physicians, family practitioners, general practice physicians, pediatricians, and psychiatrists, and any other physician who regularly provides care to children.

(2) A licensee who regularly provides primary health care to adults shall indicate on the renewal application the completion of two hours of training in dependent adult abuse identification and reporting in the previous five years. "A licensee who regularly provides primary health care to adults" means all emergency physicians, family practitioners, general practitioners, internists, obstetricians, gynecologists, and psychiatrists, and any other physician who regularly provides care to adults.

(3) A licensee who regularly provides primary health care to adults and children shall indicate on the renewal application the completion of training on abuse identification

and reporting in dependent adults and children. This training may be completed through separate courses as identified in subparagraphs (1) and (2) above or in one combined two-hour course that includes curricula for identifying and reporting child abuse and dependent adult abuse. "A licensee who regularly provides primary health care to children and adults" means all emergency physicians, family practitioners, general practitioners, internists, and psychiatrists, and any other physician who regularly provides care to children and adults.

(4) A licensee shall maintain a file containing records documenting mandatory training for identifying and reporting abuse, including dates, subjects, duration of programs, and proof of participation, for five years after the date of the training. The board may audit this information at any time within the five-year period.

ARC 1448B

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, 272C.3, 272C.4, and 272C.5, the Board of Medical Examiners hereby gives Notice of Intended Action to amend Chapter 12, "Mandatory Reporting and Grounds for Discipline," Iowa Administrative Code.

The Board approved the proposed amendments during its regularly held meeting on February 7, 2002.

The proposed amendment in Item 1 specifies relatives to whom a physician may not prescribe or dispense controlled substances.

The proposed amendments in Items 2 and 3 allow the Board to subpoena information that is privileged or confidential, as allowed under Iowa Code chapter 272C, for investigations or in contested cases.

Any interested person may present written comments on the proposed amendments not later than 4 p.m. on March 26, 2002. Such written materials should be sent to Ann E. Mowery, Executive Director, Board of Medical Examiners, 400 S.W. Eighth Street, Suite C, Des Moines, Iowa 50309-4686, or ann.mowery@ibme.state.ia.us.

There will be a public hearing on March 26, 2002, at 3:45 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. Eighth Street, Suite C, Des Moines, Iowa.

The following amendments are proposed.

ITEM 1. Rescind subparagraph 12.4(19)"b"(2) and adopt the following new subparagraph in lieu thereof:

(2) Immediate family means the following individuals:

1. The physician's spouse or domestic partner and either of the physician's, spouse's, or domestic partner's parents, stepparents or grandparents,

MEDICAL EXAMINERS BOARD[653](cont'd)

2. The physician's natural or adopted children or step-children and any child's spouse, domestic partner or children,
3. The siblings of the physician or the physician's spouse or domestic partner and the sibling's spouse or domestic partner, or
4. Anyone else living with the physician.

ITEM 2. Amend subrule 12.6(4) as follows:

Amend the introductory paragraph as follows:

12.6(4) Issuance of investigatory subpoenas. *Pursuant to Iowa Code sections 17A.13(1) and 272C.6(3), the board has the authority to issue subpoenas to compel the production of professional records, books, papers, correspondence and other records or real evidence which are deemed necessary as evidence in connection with a licensee disciplinary investigation. A subpoena issued by the board in connection with a licensee disciplinary investigation may seek evidence whether or not privileged or confidential under law.*

Amend paragraph "a," introductory paragraph, as follows:

a. The board administrator or designee may, upon the written request of a board investigator or on the administrator's own initiative, ~~issue a subpoena for evidence books, papers, records, and other real evidence~~ which is necessary for the board to decide whether to institute a contested case proceeding. In the case of a subpoena for mental health records, each of the following conditions shall be satisfied prior to the issuance of a subpoena:

ITEM 3. Amend rule 653—12.21(17A,272C) as follows:

Amend the introductory paragraph as follows:

653—12.21(17A,272C) **Subpoenas in a contested case.** *Pursuant to Iowa Code sections 17A.13(1) and 272C.6(3), the board has the authority to issue subpoenas to compel the attendance of witnesses at depositions or hearing and to compel the production of professional records, books, papers, correspondence and other records which are deemed necessary as evidence in connection with a contested case. A subpoena issued in a contested case under the board's authority may seek evidence whether or not privileged or confidential under law.*

Amend subrule 12.21(1) as follows:

~~**12.21(1)** Subpoenas issued in a contested case may compel the attendance of witnesses at depositions or hearing, and may compel the production of books, papers, records, and other real evidence. The board administrator or designee may, upon the written request of the licensee or the state, issue a subpoena to compel the attendance of witnesses or to obtain evidence which is deemed necessary in connection with a contested case. A command to produce evidence or to permit inspection may be joined with a command to appear at deposition or hearing, or may be issued separately. Subpoenas shall be issued by the board administrator or designee upon written request. A request for a subpoena of mental health records must confirm that the conditions described in 12.6(4)"a" have been satisfied prior to the issuance of the subpoena.~~

Adopt the following new implementation sentence:

This rule is intended to implement Iowa Code sections 17A.13(1) and 272C.6(3).

ARC 1464B

NATURAL RESOURCE
COMMISSION[571]

Notice of Intended Action

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

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

Pursuant to the authority of Iowa Code subsection 455A.5(6), the Natural Resource Commission hereby gives Notice of Intended Action to amend Chapter 16, "Public, Commercial, Private Docks and Dock Management Areas," Iowa Administrative Code.

These proposed amendments address new issues involving roofing and enclosure of private docks. These amendments clarify that boat hoists and boat slips can be covered with soft-sided materials to protect boats from weather. These amendments prohibit roofing or enclosure of private docks. These amendments restate fees for commercial docks but do not change current fees.

Any interested person may make written suggestions or comments on the proposed amendments on or before March 26, 2002. Such written materials should be directed to Gregory Jones, Land Acquisition and Management Bureau, Department of Natural Resources, Wallace State Office Building, 900 East Grand Avenue, Des Moines, Iowa 50319-0034; fax (515)281-6629. Persons who want to convey their views orally should contact Gregory Jones at (515)281-5806 or at the Bureau offices on the fourth floor of the Wallace State Office Building.

There will be a public hearing on March 27, 2002, at 1 p.m. in the Fourth Floor East Conference Room of the Wallace State Office Building at which time persons may present their views either orally or in writing. At the hearing, persons will be asked to give their names and addresses for the record and to confine their remarks to the subject of the amendments.

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

These amendments are intended to implement Iowa Code sections 461A.4, 461A.25, 461A.27 and 462A.2.

The following amendments are proposed.

ITEM 1. Amend rule **571—16.1(461A)**, definition of "catwalk," as follows:

"Catwalk" means a walkway constructed for access from the dock to moored vessels or boat storage structures *and is considered a part of the dock.*

ITEM 2. Amend rule **571—16.1(461A)** by adopting the following new definition in alphabetical order:

"Slip" means a mooring site adjacent to a dock.

ITEM 3. Amend rule 571—16.3(461A) by adopting the following new subrule:

16.3(5) Enclosed docks. Sides or roofs shall not enclose private docks on lakes.

ITEM 4. Amend rule 571—16.4(461A) by adopting the following new subrule:

NATURAL RESOURCE COMMISSION[571](cont'd)

16.4(6) Enclosed docks. Sides or roofs shall not enclose private docks on rivers or river impoundments.

ITEM 5. Amend subrule 16.5(13) as follows:

16.5(13) Permanent structures. All docks, piers, or wharves which cannot be removed or stored in an approved location shall be considered permanent structures and shall be subject to 571—Chapter 18 or 571—Chapter 13, Iowa Administrative Code, *as appropriate*, and other regulations covering permanent structures.

ITEM 6. Amend rule 571—16.5(461A) by adopting the following **new** subrule:

16.5(14) Enclosed hoists and slips. Hoists and slips may be enclosed by roofs and sides constructed of soft-sided natural fiber or synthetic fiber materials for the purpose of protecting watercraft.

ITEM 7. Amend rule 571—16.8(461A) by adopting the following **new** subrule:

16.8(10) Enclosed commercial docks. Commercial docks will be considered for enclosure by roofs and sides on an individual basis, and in doing so the department will take into consideration the natural features including the water area, the size of the applicant's land area, degree of interference with navigation and other approved activities for the area, the public need for such service and public safety.

ITEM 8. Amend rule 571—16.9(461A) by adopting the following **new** subrule:

16.9(3) Commercial docks in dock management areas. Commercial docks in dock management areas are considered concession operations and shall be subject to 571—Chapter 14, Iowa Administrative Code. Commercial docks in dock management areas that are also under management of a political subdivision under Iowa Code chapter 28E may be subject to concession operations regulations of the political subdivision in lieu of 571—Chapter 14, Iowa Administrative Code.

ITEM 9. Amend rule 571—16.10(461A), catchwords, as follows:

571—16.10(461A) Fees for commercial docks, enclosed commercial docks, docks in dock management areas and private docks requiring an individual permit.

ITEM 10. Rescind subrule 16.10(1) and adopt the following **new** subrule in lieu thereof:

16.10(1) Fees for commercial docks. The following annual fees shall apply to each commercial dock that provides slips for boats other than those owned by the applicant and is used to carry on commerce under riparian rights.

1. \$2 per slip to accommodate boats up to 26 feet in length.
2. \$4 per slip to accommodate boats over 26 feet in length.

ITEM 11. Rescind subrule 16.10(2) and adopt the following **new** subrule in lieu thereof:

16.10(2) Fees for enclosed commercial docks. The following annual fees shall apply to each commercial dock constructed with a roof or one or more sides enclosed, in addition to all other required fees.

1. \$50 for docks up to 15 feet wide and not more than 20 feet long.
2. \$75 for docks over 15 feet wide and not more than 20 feet wide and not more than 24 feet long.
3. \$100 for docks over 20 feet wide and not more than 25 feet wide and not more than 28 feet long.

4. Proportionate to the above width and length fees for docks over 25 feet wide and over 28 feet long.

ARC 1461B**NATURAL RESOURCE
COMMISSION[571]****Notice of Intended Action**

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

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

Pursuant to the authority of Iowa Code subsection 455A.5(6), the Natural Resource Commission hereby gives Notice of Intended Action to amend Chapter 51, “Game Management Areas,” Iowa Administrative Code.

These rules give the regulations for public use of state game management areas. This amendment adds the Iowa River Corridor in Benton, Iowa and Tama Counties, all areas in Franklin County, and eliminates the exceptions in Worth and Wright Counties.

Any interested person may make written suggestions or comments on the proposed amendment on or before April 10, 2002. Such written materials should be directed to Richard Bishop, Department of Natural Resources, Wallace State Office Building, Des Moines, Iowa 50319-0034; fax (515)281-6794. Persons who wish to convey their views orally should contact the Wildlife Bureau at (515)281-6156 or at the Bureau offices on the fourth floor of the Wallace State Office Building.

There will be a public hearing on April 10, 2002, at 10 a.m. in the Fourth Floor East Conference Room of the Wallace State Office Building at which time persons may present their views either orally or in writing. At the hearing, persons will be asked to give their names and addresses for the record and to confine their remarks to the subject of the amendment.

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

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

The following amendment is proposed.

Amend rule 571—51.9(481A) as follows:

571—51.9(481A) Use of nontoxic shot on wildlife areas. It shall be unlawful to hunt any migratory game bird or resident game or furbearers, except deer and turkeys, or target shoot with a shotgun while having in one's possession any shot other than nontoxic shot approved by the U.S. Fish and Wildlife Service on the following wildlife areas:

<u>County</u>	<u>Wildlife Area</u>
Benton	Iowa River Corridor
Boone	Harrier Marsh
Buena Vista	All state and federal areas except Bluebird Access

NATURAL RESOURCE COMMISSION[571](cont'd)

Calhoun	South Twin Lake
Cerro Gordo	All state and federal areas
Clay	All state and federal areas except Burr Access, Dry Mud Lake, Little Sioux, Highbridge, Fen Valley, and the Ocheyedan wildlife area target shooting range
Dickinson	All state and federal areas except the Spring Run target shooting range
Emmet	All state and federal areas except Birge Lake, Grass Lake, Ryan Lake, and the East Des Moines River Access
Franklin	Cooter Marsh <i>All state and federal areas</i>
Greene	All state and federal areas except Rippey Access and McMahon Access
Guthrie	McCord Pond, Lakin Slough and Bays Branch, except the target shooting range at Bays Branch
Hamilton	Little Wall Lake, Gordon Marsh and Bauer Slough
Hancock	All state and federal areas except Schuldt and Goodell
Humboldt	All state and federal areas except Bradgate Access and Willows Access
Iowa	<i>Iowa River Corridor</i>
Jasper	Chichaqua
Kossuth	All state and federal areas except Seneca Access
Osceola	All state and federal areas
Palo Alto	All state and federal areas
Pocahontas	All state and federal areas except Kalsow Prairie
Polk	Paul Errington Marsh and Chichaqua
Sac	All state and federal areas except White Horse Access and Sac City Access
Tama	<i>Iowa River Corridor</i>
Winnebago	All state and federal areas
Worth	All state and federal areas except Brights Lake
Wright	All state and federal areas except White Tail Flats

ARC 1460B

NATURAL RESOURCE
COMMISSION[571]

Notice of Intended Action

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

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

Pursuant to the authority of Iowa Code subsection 455A.5(6), the Natural Resource Commission hereby gives Notice of Intended Action to amend Chapter 91, “Waterfowl and Coot Hunting Seasons,” Iowa Administrative Code.

These rules give the regulations for hunting waterfowl and coot and include season dates, bag limits, possession limits, shooting hours, and areas open to hunting. Season dates are adjusted annually to comply with federal law and to ensure that seasons open on a weekend.

Any interested person may make written suggestions or comments on the proposed amendments on or before April 10, 2002. Such written materials should be directed to the Wildlife Bureau Chief, Department of Natural Resources, Wallace State Office Building, Des Moines, Iowa 50319-0034; fax (515)281-6794. Persons who wish to convey their views orally should contact the Wildlife Bureau at (515)281-6156 or at the Bureau offices on the fourth floor of the Wallace State Office Building.

There will be a public hearing April 10, 2002, at 10 a.m. in the Fourth Floor East Conference Room of the Wallace State Office Building at which time persons may present their views either orally or in writing. At the hearing, persons will be asked to give their names and addresses for the record and to confine their remarks to the subject of the amendments.

These amendments are intended to implement Iowa Code sections 481A.38, 481A.39 and 481A.48.

The following amendments are proposed.

ITEM 1. Amend rule 571—91.1(481A), introductory paragraph, as follows:

571—91.1(481A) Ducks (split seasons). Open season for hunting ducks shall be September ~~22~~ *21* to September ~~26~~, *2001 25, 2002*; October ~~13~~ *12* to December ~~6~~, *2001 5, 2002*, in that portion of the state lying north of a line beginning on the Nebraska-Iowa border at State Highway 175, southeast to State Highway 37, east to U.S. Highway 59, south to I-80 and along I-80 east to the Iowa-Illinois border; and September ~~22~~ *21* to September ~~26~~, *2001 25, 2002*; October ~~13~~ *12* to December ~~6~~, *2001 5, 2002*, in that portion of the state lying south of a line beginning on the Nebraska-Iowa border at State Highway 175, southeast to State Highway 37, east to U.S. Highway 59, south to I-80 and along I-80 east to the Iowa-Illinois border. Shooting hours are one-half hour before sunrise to sunset each day. The season for canvasbacks will be open only from October ~~27~~, *2001 26, 2002*, to November ~~15~~, *2001 14, 2002*, in the north zone and November ~~17~~, *2001 16, 2002*, to December ~~6~~, *2001 5, 2002*, in the south zone.

ITEM 2. Amend rule 571—91.3(481A) as follows:

571—91.3(481A) Geese. The north goose hunting zone is that part of Iowa north of a line beginning on the Nebraska-Iowa border at State Highway 175, east to State Highway 37, southeast to U.S. Highway 59, south to I-80 and along I-80 to

NATURAL RESOURCE COMMISSION[571](cont'd)

the Iowa-Illinois border. The south goose hunting zone is the remainder of the state. The open season for hunting Canada geese, white-fronted geese and brant, collectively referred to as dark geese, is September 29 28 to December 7, 2001 6, 2002, in the north goose hunting zone and September 29 28 to October 21 20 and November 10 9 to December 26, 2001 25, 2002, in the south goose hunting zone. The open season for hunting white and blue-phase snow geese and Ross' geese, collectively referred to as light geese, is September 29, 2001 28, 2002, to January 13, 2002 12, 2003, statewide. Light geese may also be taken under the conservation order from the U.S. Fish and Wildlife Service from February 2, 2002 1, 2003, through April 15, 2002 2003. Shooting hours are one-half hour before sunrise to sunset, except that during the conservation order shooting hours will be extended to one-half hour after sunset each day.

91.3(1) Bag limit. Daily bag limit is 2 Canada geese, 2 white-fronted geese, 2 brant, and 20 light geese.

91.3(2) Possession limit. Possession limit is twice the daily bag limit and no possession limit on light geese.

ITEM 3. Amend subrule **91.4(2)**, paragraphs "h," "k," "m," and "n," as follows:

h. Area eight. A portion of Adams County bounded as follows: Beginning at the intersection of State Highway 148 and Adams County Road N53 in Corning; thence east and north along Adams County Road N53 approximately 9.5 miles to Adams County Road H24 (including the right-of-way); thence west along Adams County Road H24 (including the right-of-way) about 8 6 miles to *Hickory Avenue*; thence south along ~~Elm~~ *Hickory Avenue (including the right-of-way)* about 6 miles to Adams County Road H34; thence east along Adams County Road H34 (including the right-of-way) to State Highway 148; thence north along State Highway 148 about three-fourths mile to the point of beginning.

k. Area eleven. Starting at the junction of the navigation channel of the Mississippi River and the mouth of the Maquoketa River in Jackson County, proceeding southwesterly along the high-water line on the west side of the Maquoketa River to U.S. Highway 52; thence south along U.S. Highway 52 (including the right-of-way) to the intersection with County Road Z-40; thence south on County Road Z-40 (including the right-of-way) to the junction with U.S. Highway 64; thence east on U.S. Highway 64 to 550th Avenue; thence north along 550th Avenue (including the right-of-way) to U.S. Highway 52; thence southeast along U.S. Highway 52 (including the right-of-way) to 607th Avenue; thence east along 607th Avenue to the Sioux Line Railroad at *Sabula*; thence north and west along the Sioux Line Railroad to the east edge of section 27, township 85N, range 6 east, north to the intersection of sections 27 and 22, west along the common boundary of sections 27 and 22 and sections 28 and 21, township 85N, range 6 east, to the Green Island levee; thence northeast along a line following the Green Island levee to the center of the navigational channel of the Mississippi River; thence north along the center of the navigational channel to the point of beginning.

m. Area thirteen. Portions of Van Buren and Davis Counties bounded as follows: Beginning at the junction of Iowa State Highway 16 and Iowa State Highway 98 in Van Buren County; thence east and south along State Highway 16 (including the right-of-way) to Iowa State Highway 1 in Van Buren County; thence south along Iowa State Highway 1 (including the right-of-way) to County Road J40 State Highway 2; thence east along County Road J40 State Highway 2 (including the right-of-way) to Iowa Highway 2 in Van Buren

County Road W20; thence south and east along Highway 2 County Road W20 (including the right-of-way) to Iowa Highway 81 in Van Buren County; thence south and west along Highway 81 (including the right-of-way) to the Iowa-Missouri border; thence west along the Iowa-Missouri border to Iowa State Highway 15 in Van Buren County; thence north along State Highway 15 (including the right-of-way) to Iowa State Highway 2 in Van Buren County; thence west along Iowa State Highway 2 (including the right-of-way) to County Road V42 in Davis County; thence north along County Road V42 (including the right-of-way) to County Road J40 in Davis County; thence east and south along County Road J40 (including the right-of-way) to County Road V64 in Van Buren County; thence north along County Road V64 (including the right-of-way) to Iowa State Highway 98 in Van Buren County; thence north along State Highway 98 (including the right-of-way) to the point of beginning.

n. Area fourteen. Portions of Bremer County bounded as follows: Beginning at the northeast corner of Section 4, township 93 north, range 11 west; thence south 16 miles, then east one-half mile, then south one mile along Bremer County Road V56; thence west 4 1/2 miles along a county road right-of-way to Bremer County Road V49; thence north 4 miles along Bremer County Road V49 to Iowa Highway 3; thence west 2 miles along Iowa Highway 3 to Bremer County Road V43; thence north 4 miles along Bremer County Road V43 to Bremer County Road C33; thence west 4 miles along Bremer County Road C33 to U.S. Highway 63; thence north 9 miles along U.S. 63 to the Bremer-Chickasaw County line; thence east 10 miles along the Bremer-Chickasaw County line to the point of beginning; intersection of County Road V56 and 120th Street; thence south along County Road V56 (including the right-of-way) to State Highway 3; thence west along State Highway 3 (including the right-of-way) to County Road V43; thence north along County Road V43 (including the right-of-way) to County Road C33; thence west along County Road C33 (including the right-of-way) to U.S. Highway 63; thence north 9 miles along U.S. Highway 63 (including the right-of-way) to the Bremer-Chickasaw County line; thence east 5.5 miles along the Bremer-Chickasaw County line road (including the right-of-way) to Quantum Avenue; thence south along Quantum Avenue (including the right-of-way) to 120th Street; thence east along 120th Street (including the right-of-way) to the point of beginning.

ITEM 4. Amend rule 571—91.6(481A) as follows:

571—91.6(481A) Youth waterfowl hunt. A special youth waterfowl hunt will be held statewide on October 6 and 7, 2001 5 and 6, 2002. Youth hunters must be 15 years old or younger. Each youth hunter must be accompanied by an adult 18 years old or older. The youth hunter does not need to have a hunting license or stamps. The adult must have a valid hunting license and habitat stamp if normally required to have them to hunt and a state waterfowl stamp. Only the youth hunter may shoot ducks, and coots and Canada geese. The adult may hunt for any other game birds for which the season is open. The daily bag and possession limits are the same as for the regular waterfowl season, as defined in subrule 91.1(1), except the season for light geese will not be open. The possession limit is the same as the daily bag limit. All other hunting regulations in effect for the regular waterfowl season apply to the youth hunt.

ARC 1462B

NATURAL RESOURCE COMMISSION[571]

Notice of Intended Action

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

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

Pursuant to the authority of Iowa Code section 455A.5, the Natural Resource Commission hereby gives Notice of Intended Action to amend Chapter 99, “Wild Turkey Fall Hunting by Residents,” Iowa Administrative Code.

These rules give the regulations for hunting wild turkeys by residents during the fall and include season dates, bag limits, possession limits, shooting hours, areas open to hunting, licensing procedures, means and method of take and procedures for obtaining licenses.

Any interested person may make written suggestions or comments on the proposed amendments prior to April 11, 2002. Such written materials should be directed to the Wildlife Bureau Chief, Department of Natural Resources, Wallace State Office Building, Des Moines, Iowa 50319-0034; fax (515)281-6794. Persons who wish to convey their views orally should contact the Wildlife Bureau at (515)281-6156 or at the Wildlife Bureau offices on the fourth floor of the Wallace State Office Building.

Also, there will be a public hearing on April 10, 2002, at 10 a.m. in the Fourth Floor East Conference Room of the Wallace State Office Building at which time persons may present their views either orally or in writing. At the hearing, persons will be asked to give their names and addresses for the record and to confine their remarks to the subject of the amendments.

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

These amendments are intended to implement Iowa Code sections 481A.38, 481A.39, 481A.48 and 483A.7.

The following amendments are proposed.

ITEM 1. Rescind rule 571—99.9(481A) and adopt in lieu thereof the following **new** rule:

571—99.9(481A) Procedures to obtain licenses. All paid and free resident fall turkey hunting licenses must be obtained using the electronic licensing system for Iowa (ELSI). Licenses may be purchased from ELSI license agents or by calling the ELSI telephone ordering system.

99.9(1) Licenses with quotas. All paid turkey hunting licenses for which a quota is established may be obtained from ELSI agents on a first-come, first-served basis beginning the first Saturday in August until the quota fills or through the last day of the hunting period for which the license is valid or until December 14, whichever occurs first.

99.9(2) Licenses without quotas. All paid and free turkey hunting licenses that have no quota may be obtained from ELSI agents beginning the first Saturday in August through the last day of the hunting period for which a license is valid or until December 14, whichever occurs first.

99.9(3) Providing false information. If anyone provides false information when obtaining any fall turkey hunting li-

cense, that license and transportation tag and any other fall turkey hunting license and transportation tag obtained during the same year shall be invalid.

ITEM 2. Amend subrule 99.11(6) as follows:

99.11(6) Where free licenses are valid. Free licenses are valid only on that portion of the farm unit that is in a zone open to turkey hunting. “Farm unit” means all parcels of land that are operated as a unit for agricultural purposes and are under lawful control of the landowner or tenant. Individual parcels of land do not need to be adjacent to one another to be included in the farm unit. *For purposes of obtaining a free turkey hunting license, all the land under the lawful control of a landowner and eligible family members or a tenant and eligible family members shall be considered as one farm unit, regardless of how that land is subdivided for agricultural or business purposes.* “Agricultural purposes” includes but is not limited to field crops, livestock, horticultural crops (e.g., nurseries, orchards, truck farms, or Christmas tree plantations), and land managed for timber production.

ARC 1463B

NATURAL RESOURCE COMMISSION[571]

Notice of Intended Action

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

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

Pursuant to the authority of Iowa Code subsection 455A.5(6), the Natural Resource Commission hereby gives Notice of Intended Action to amend Chapter 106, “Deer Hunting by Residents,” Iowa Administrative Code.

The rules in Chapter 106 give the regulations for hunting deer and include season dates, bag limits, possession limits, shooting hours, areas open to hunting, licensing procedures, means and methods of taking and transportation tag requirements.

Any interested person may make written suggestions or comments on the proposed amendments on or before April 18, 2002. Such written materials should be directed to the Wildlife Bureau Chief, Department of Natural Resources, Wallace State Office Building, Des Moines, Iowa 50319-0034; fax (515)281-6794. Persons who wish to convey their views orally should contact the Bureau at (515)281-6156 or at the Bureau offices on the fourth floor of the Wallace State Office Building.

There will be a public hearing on April 18, 2002, at 10 a.m. in the Fourth Floor East Conference Room of the Wallace State Office Building at which time persons may present their views either orally or in writing. At the hearing, persons will be asked to give their names and addresses for the record and to confine their remarks to the subject of the amendments.

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

These amendments are intended to implement Iowa Code sections 481A.38, 481A.39 and 481A.48.

The following amendments are proposed.

NATURAL RESOURCE COMMISSION[571](cont'd)

ITEM 1. Amend subrule 106.1(5) as follows:

106.1(5) Free licenses for landowners and tenants. Free licenses for eligible landowners and tenants shall be available for the youth/disabled hunter season, early ~~and~~ or late muzzleloader ~~seasons~~ *season*, or first and second regular gun seasons. These licenses shall be valid for hunting any deer in the season(s) designated on the license and only on the farm unit of the landowner/tenant. *For purposes of obtaining a free deer hunting license, all the land under the lawful control of a landowner and eligible family members or a tenant and eligible family members shall be considered as one farm unit, regardless of how that land is subdivided for agricultural or business purposes.* A second free license valid for taking only antlerless deer in the special late season may be issued to landowners and tenants who have a portion of their farm unit in a county open during that season. The second free license shall be valid only in that portion of the farm unit located in a county open during the special late season. *Landowners and tenants or their eligible family members that receive a free any deer license may also purchase up to two antlerless-only deer licenses for \$10 each. These antlerless-only licenses shall also be valid only on the farm unit.*

ITEM 2. Amend subrule **106.5(2)**, paragraph “b,” as follows:

b. Paid antlerless deer licenses for the special late season shall be valid only for antlerless deer and only in the following counties: Adair, Appanoose, Clarke, Davis, Decatur, Wayne, Van Buren, Ringgold, Taylor, Adams, Union, Fremont, Page and Montgomery. An antlerless deer is defined as a deer without a visible antler or with no antler longer than 7 inches.

ITEM 3. Amend subrule **106.6(3)**, paragraph “a,” as follows:

a. Early muzzleloader season. No more than 7,500 paid statewide licenses will be sold. Fifty additional licenses will be issued through and will be valid only for the Iowa Army Ammunition Plant. No one may purchase more than one paid license for the early muzzleloader season. A hunter obtaining a paid early muzzleloader season license shall not be eligible to purchase any other statewide gun season license *or antlerless-only licenses for the second gun or late muzzleloader season* but may purchase the following additional licenses: a statewide bow license; up to two antlerless bow licenses; and up to two antlerless licenses for the special late season.

ITEM 4. Amend subrule 106.7(3) as follows:

106.7(3) Muzzleloader seasons. Only muzzleloading rifles will be permitted for taking deer during the early muzzleloader season. During the late muzzleloader season, deer may be taken with a muzzleloader, handgun or bow. Muzzleloading rifles are defined as flintlock or percussion cap lock muzzleloaded rifles and muskets of not less than .44 and not larger than .775 caliber, shooting single projectiles only. Centerfire handguns must be .357 caliber or larger shooting straight-walled cartridges propelling an expanding-type bullet (no full-metal jacket) and complying with all other requirements provided in Iowa Code section 481A.48. *Legal handgun calibers are listed on the department of natural resources list of “acceptable handgun calibers for hunting deer in Iowa.”* Revolvers, pistols and black powder handguns must have a 4-inch minimum barrel length. There can be no shoulder stock or long-barrel modifications to handguns. Black powder handguns must be .44 caliber or larger, shooting single projectiles only.

ITEM 5. Rescind rule 571—106.8(481A) and adopt the following **new** rule in lieu thereof:

571—106.8(481A) Procedures to obtain licenses. All paid and free resident deer hunting licenses must be obtained using the electronic licensing system for Iowa (ELSI). Licenses may be purchased from ELSI license agents or by calling the ELSI telephone ordering system.

106.8(1) Licenses with quotas. All paid deer hunting licenses for which a quota is established may be obtained from ELSI agents on a first-come, first-served basis beginning the first Saturday in August until the quota fills, or through the last day of the hunting period for which the license is valid, or until December 14, whichever occurs first.

106.8(2) Licenses without quotas. All paid and free deer hunting licenses that have no quota may be obtained from ELSI agents beginning the first Saturday in August through the last day of the hunting period for which a license is valid or until December 14, whichever occurs first.

106.8(3) Providing false information. If anyone provides false information when obtaining any deer hunting license, that license and transportation tag and any other deer hunting license and transportation tag obtained during the same year shall be invalid.

ITEM 6. Amend subrule **106.10(1)**, paragraph “a,” as follows:

a. Youth deer hunt. A special youth deer license may be issued to any Iowa resident who is at least 12 years old but not over 15 years old ~~on September 1~~. The youth license may be paid or free to persons eligible for free licenses. If the youth obtains a free landowner/tenant license, it will count as the one free license for which the youth’s family is eligible. The youth must possess a valid hunter safety certificate to obtain a license.

Each participating youth must be accompanied by an adult who possesses a regular hunting license and has paid the habitat fee (if the adult is normally required to have a hunting license and to pay the habitat fee to hunt). Only one adult may participate for each youth hunter. The accompanying adult must not possess a firearm or bow and must be in direct company of the youth at all times. A person may obtain only one youth deer license but may also obtain one of the following additional licenses: one statewide bow or statewide gun license; up to two antlerless licenses for the bow, second regular gun or late muzzleloader season; and up to two antlerless licenses for the special late season.

ITEM 7. Amend subrules 106.11(4) and 106.11(5) as follows:

106.11(4) Depredation permits. Three types of permits may be issued under a depredation management plan.

a. Deer depredation licenses. Deer depredation licenses may be sold to resident hunters only for the regular deer license fee for use during one or more legal hunting seasons. Depredation licenses will be available to producers of agricultural and horticultural crops.

(1) Depredation licenses will be issued in blocks of five licenses up to the number specified in the management plan.

(2) Depredation licenses may be sold to individuals designated by the producer as having permission to hunt. No individual may obtain more than two depredation licenses *per management plan*. Licenses will be sold by designated department field employees.

(3) A depredation license issued to the producer or producer’s family member may be the one free license for which the ~~producer~~ *producer’s* family is eligible annually.

NATURAL RESOURCE COMMISSION[571](cont'd)

(4) Depredation licenses will be valid only for hunting antlerless deer, unless otherwise specified in the management plan, regardless of restrictions that may be imposed on regular deer hunting licenses in that county.

(5) Hunters may keep any deer legally tagged with a depredation license.

(6) All other regulations for the hunting season specified on the license will apply.

(7) *Depredation licenses will be valid only on the land where damage is occurring and the immediately adjacent property unless land is within a designated block hunt area. Other parcels of land in the farm unit not adjacent to the parcels receiving damage will not qualify.*

b. Deer shooting permits. Permits for shooting deer outside an established hunting season may be issued to producers of high-value horticultural crops when damage cannot be controlled in a timely manner during the hunting seasons (such as late summer buck rubs in an orchard and winter browsing in a Christmas tree plantation) and to other agricultural producers and on areas such as airports where public safety may be an issue.

(1) Deer shooting permits will be issued at no cost to the applicant.

(2) The applicant or one or more designees approved by the department may take all the deer specified on the permit.

(3) Permits available to producers of high-value horticultural crops will allow taking deer from August 1 through March 31. Permits issued for August 1 through August 31 shall be valid only for taking antlered deer. Permits issued for September 1 through March 31 may be valid for taking any deer, antlerless deer or antlered deer, depending on the nature of the damage. ~~Permits available to other agricultural producers will allow taking deer from September 1 through October 31.~~

(4) Permits issued due to public safety concerns may be used for taking any deer, as necessary, to address unpredictable intrusion which could jeopardize public safety. Permits may be issued for an entire year (January 1 through December 31) if the facility involved maintains a deerproof fence. *Disposal of deer killed under these permits shall be coordinated with the local conservation officer.*

(5) The times, dates, place and other restrictions on the shooting of deer will be specified on the permit.

(6) Antlers from all deer recovered must be turned over to the conservation officer to be disposed of according to department rules.

(7) Shooters must wear blaze orange and comply with all other applicable laws and regulations pertaining to shooting and hunting.

c. Agricultural depredation *shooting* permits. Agricultural depredation *shooting* permits will be issued to a landowner or designated tenant who is a resident of Iowa who has sustained at least \$1,000 of damage to agricultural crops if the resident is cooperating with the U.S. Department of Agriculture's Animal and Plant Health Inspection Service (APHIS) to reduce crop damage by deer or has an approved DNR deer depredation plan.

(1) Agricultural depredation *shooting* permits will be issued to the resident landowner or designated tenant at no cost and shall be valid only on the farm unit where the damage is occurring.

(2) Permits issued to the resident landowner or designated tenant shall allow the taking of antlerless deer from September 1 through November 30. The number of permits issued to individual landowners or tenants will be determined by a department depredation biologist and will be part of the deer depredation management plan.

(3) Deer taken on these permits must be taken by the resident landowner or the designated tenant only.

(4) Times, places, and other restrictions will be specified on the permit.

(5) Shooters must wear blaze orange and comply with all other applicable laws and regulations.

(6) *For agricultural depredation shooting permits there are no shooting hour restrictions.*

(7) *Antlers from all deer recovered must be turned over to the conservation officer to be disposed of according to department rules.*

(8) *Agricultural depredation shooting permits will be valid only on the land where damage is occurring.*

~~d. Deer depredation licenses and shooting permits will be valid only on the land where damage is occurring or the immediately adjacent property. Other parcels of land in the farm unit not adjacent to the parcels receiving damage will not qualify.~~

e. Depredation licenses, agricultural depredation *shooting* permits and shooting permits will be issued in addition to any other licenses for which the hunters may be eligible.

f. Depredation licenses, *agricultural depredation shooting permits* and shooting permits will not be issued if the producer restricts the legal take of deer from the property sustaining damage by limiting hunter numbers below levels required to control the deer herd.

106.11(5) Disposal. It shall be the producer's responsibility for *shooting permits, excluding those issued for public safety, and for agricultural depredation shooting permits* to see that all deer are field dressed, ~~tagged with a DNR salvage tag,~~ and removed immediately from the field. Dead deer must be handled for consumption, and the producer must coordinate through the local conservation officer the disposal of deer offered to the public. Charitable organizations will have the first opportunity to take deer offered to the public. No producer shall keep more than two deer taken under ~~special~~ depredation permits. By express permission from a DNR enforcement officer, the landowner may dispose of deer carcasses through a livestock sanitation facility.

ARC 1409B**PERSONNEL DEPARTMENT[581]****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 97B.15, the Department of Personnel hereby gives Notice of Intended Action to amend Chapter 17, "Public Records and Fair Information Practices"; Chapter 21, "Iowa Public Employees' Retirement System"; Chapter 31, "Department Procedure for Rule Making"; and Chapter 33, "Uniform Rules for Waivers," Iowa Administrative Code.

The amendments are intended to change IPERS' contact address; to define covered employers for patient advocates apprenticed under Iowa Code section 229.19; to allow public K-12 school contract employees who retire after completing their contract obligation to receive trailing wages for the remainder of a school year without interfering with their first

PERSONNEL DEPARTMENT[581](cont'd)

month of entitlement (FME); to bring the rules into compliance with the Iowa Code regarding the fee that IPERS may charge for processing withheld funds; to define allowable alternate payee dividends; and to provide for the method for supplying information concerning successor alternate payees to IPERS. These amendments propose to adopt, in the form of a new rule, a procedure for cases involving chronic loss of benefits payment warrants.

New rule 581—21.34(97B) may be subject to requests for waivers; the other amendments will not be subject to requests for waivers. The proposed amendments to subrule 21.18(2) and to subparagraph 21.29(2)“c”(2) confer benefits; the remaining amendments are required by statute.

Any interested person may make written suggestions or comments on the proposed amendments on or before March 26, 2002. Such written suggestions or comments should be directed to the IPERS Administrative Rules Coordinator, IPERS, 7401 Register Drive, P.O. Box 9117, Des Moines, Iowa 50306-9117. Persons who wish to present their comments orally may contact the IPERS Administrative Rules Coordinator at (515)281-0089, or (800)622-3849, ext. 10089. Comments may also be submitted by fax to (515) 281-0045, or by E-mail to www.ipers.info.

There will be a public hearing on March 26, 2002, at 9 a.m. at IPERS, 7401 Register Drive, Des Moines, Iowa, 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 matter of the proposed amendments.

These amendments are intended to implement Iowa Code chapter 97B.

These amendments were also Adopted and Filed Emergency and are published herein as **ARC 1410B**. The content of that submission is incorporated here by reference.

ARC 1412B

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 Cosmetology Arts and Sciences Examiners hereby gives Notice of Intended Action to adopt a new Chapter 59, “Administrative and Regulatory Authority for the Board of Cosmetology Arts and Sciences Examiners,” Iowa Administrative Code.

The proposed amendment adopts new rules concerning the purpose of the Board, organization and proceedings of the Board, official communication, office hours, and public meetings.

Any interested person may make written comments on the proposed amendment no later than March 28, 2002, addressed to Ella Mae Baird, Professional Licensure Division, Department of Public Health, Lucas State Office Building, Des Moines, Iowa 50319-0075.

The Division revised these rules in accordance with Executive Order Number 8. Division staff and Board members had input on these rules. Decisions were made based on need, clarity, intent and statutory authority, cost and fairness.

A public hearing will be held on March 28, 2002, 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 amendment.

This amendment is intended to implement Iowa Code section 147.76 and chapters 17A, 157 and 272C.

The following **new** chapter is proposed.

CHAPTER 59

ADMINISTRATIVE AND REGULATORY AUTHORITY FOR THE BOARD OF COSMETOLOGY ARTS AND SCIENCES EXAMINERS

645—59.1(17A,157) Definitions.

“Board” means the board of cosmetology arts and sciences examiners.

“Board office” means the office of the administrative staff.

“Department” means the department of public health.

“Disciplinary proceeding” means any proceeding under the authority of the board pursuant to which licensee discipline may be imposed.

“License” means a license to practice cosmetology.

“Licensee” means a person licensed to practice cosmetology.

645—59.2(17A) Purpose of board. The purpose of the board is to administer and enforce the provisions of Iowa Code chapters 17A, 147, 157 and 272C with regard to the practice of cosmetology arts and sciences. The mission of the board is to protect the public health, safety and welfare by licensing qualified individuals who provide services to consumers and by fair and consistent enforcement of the statutes and regulations of the licensure board. Responsibilities include, but are not limited to:

59.2(1) Licensing of qualified applicants to practice cosmetology, by examination, renewal, endorsement, and reciprocity.

59.2(2) Developing and administering a program of continuing education to ensure the continued competency of individuals licensed by the board.

59.2(3) Imposing discipline on licensees as provided by statute or rule.

645—59.3(17A) Organization of board and proceedings.

59.3(1) The board is composed of seven members appointed by the governor and confirmed by the senate.

59.3(2) The members of the board shall include three who are licensed cosmetologists, one who is a licensed electrologist, esthetician, or nail technologist, one who is a licensed instructor of cosmetology arts and sciences at a public or private school and who does not own a school of cosmetology arts and sciences, and two who are not licensed in a practice of cosmetology arts and sciences and who shall represent the public.

59.3(3) The board shall elect a chairperson, vice chairperson, and secretary from its membership at the first meeting after April 30 of each year.

59.3(4) The board shall hold at least four meetings annually.

PROFESSIONAL LICENSURE DIVISION[645](cont'd)

59.3(5) A majority of the members of the board shall constitute a quorum.

59.3(6) Board meetings shall be governed in accordance with Iowa Code chapter 21, and the board's proceedings shall be conducted in accordance with Robert's Rules of Order, Revised.

59.3(7) The division of professional licensure shall furnish the board with the necessary facilities and employees to perform the duties required by this chapter, but shall be reimbursed for all costs incurred from funds appropriated to the board.

59.3(8) The board has the authority to:

a. Develop and implement a program of continuing education to ensure the continued competency of individuals licensed by the board.

b. Establish fees.

c. Establish committees of the board, the members of which shall be appointed by the board chairperson and shall not constitute a quorum of the board. The board chairperson shall appoint committee chairpersons.

d. Hold a closed session if the board votes to do so in a public roll call vote with an affirmative vote of at least two-thirds if the total board is present or a unanimous vote if fewer are present. The board will recognize the appropriate statute allowing for a closed session when voting to go into closed session. The board shall keep minutes of all discussion, persons present, and action occurring at a closed session and shall tape-record the proceedings. The records shall be stored securely in the board office and shall not be made available for public inspection.

e. Investigate alleged violations of statutes or rules that relate to the practice of cosmetology upon receipt of a complaint or upon the board's own initiation. The investigation will be based on information or evidence received by the board.

f. Initiate and impose licensee discipline.

g. Monitor licenses that are restricted by a board order.

645—59.4(17A) Official communications.

59.4(1) All official communications, including submissions and requests, may be addressed to the Board of Cosmetology Arts and Sciences Examiners, Professional Licensure Division, Fifth Floor, Lucas State Office Building, Des Moines, Iowa 50319-0075.

59.4(2) Notice of address. Each licensee shall notify the board in writing of a change of the licensee's current mailing address within 30 days after the change of address occurs.

645—59.5(17A) Office hours. The board office is open for public business from 8 a.m. to 4:30 p.m., Monday to Friday of each week, except holidays.

645—59.6(17A) Public meetings. Members of the public may be present during board meetings unless the board votes to hold a closed session. Dates and location of board meetings may be obtained from the board's Web site (<http://www.idph.state.ia.us/licensure>) or directly from the board office.

59.6(1) At every regularly scheduled board meeting, time will be designated for public comment. During the public comment period, any person may speak for up to two minutes. Requests to speak for two minutes per person later in the meeting when a particular topic comes before the board should be made at the time of the public comment period and will be granted at the discretion of the chairperson. No more than ten minutes will be allotted for public comment at any one time unless the chairperson indicates otherwise.

59.6(2) Persons who have not asked to address the board during the public comment period may raise their hands to be recognized by the chairperson. Acknowledgment and an opportunity to speak will be at the discretion of the chairperson.

These rules are intended to implement Iowa Code chapters 17A, 147, and 157.

ARC 1440B**PROFESSIONAL LICENSURE
DIVISION[645]****Notice of Intended Action**

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

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

Pursuant to the authority of Iowa Code section 147.76, the Board of Examiners for Licensing and Regulation of Hearing Aid Dispensers hereby gives Notice of Intended Action to rescind Chapter 120, “Board of Examiners for the Licensing and Regulation of Hearing Aid Dealers,” and adopt new Chapter 120, “Administrative and Regulatory Authority for the Board of Examiners for the Licensing and Regulation of Hearing Aid Dispensers”; renumber Chapter 121, “Continuing Education for Hearing Aid Dealers,” as Chapter 122, adopt new Chapter 121, “Licensure of Hearing Aid Dispensers,” and amend renumbered Chapter 122; adopt new Chapter 124, “Discipline for Hearing Aid Dispensers,” and new Chapter 125, “Fees,” Iowa Administrative Code.

The proposed amendments rescind the current licensure rules and fees and adopt new chapters for the administrative and regulatory authority of the Board and for licensure, discipline and fees, and renumber and amend the continuing education chapter.

Any interested person may make written comments on the proposed amendments no later than March 26, 2002, addressed to Ella Mae Baird, 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 four 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 March 26, 2002, from 1 to 3 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 147.76 and chapters 17A, 154A and 272C.

The following amendments are proposed.

ITEM 1. Rescind 645—Chapter 120 and adopt the following new chapter in lieu thereof:

PROFESSIONAL LICENSURE DIVISION[645](cont'd)

CHAPTER 120
ADMINISTRATIVE AND REGULATORY AUTHORITY
FOR THE BOARD OF EXAMINERS
FOR THE LICENSING AND REGULATION OF
HEARING AID DISPENSERS

645—120.1(17A,154A) Definitions.

“Board” means the board of examiners for the licensing and regulation of hearing aid dispensers.

“Board office” means the office of the administrative staff.

“Department” means the department of public health.

“Disciplinary proceeding” means any proceeding under the authority of the board pursuant to which licensee discipline may be imposed.

“License” means a license issued by the state to hearing aid dispensers.

“Licensee” means a person licensed to practice as a hearing aid dispenser in the state of Iowa.

645—120.2(17A,154A) Purpose of board. The purpose of the board is to administer and enforce the provisions of Iowa Code chapters 17A, 147, 154A and 272C with regard to the practice of fitting, dispensing and the sale of hearing aids and providing hearing aid services or maintenance. The mission of the board is to protect the public health, safety and welfare by licensing qualified individuals who provide services to consumers and by fair and consistent enforcement of the statutes and the rules of the licensure board. Responsibilities include, but are not limited to:

120.2(1) Licensing of qualified applicants as hearing aid dispensers through examination, renewal, endorsement, and reciprocity.

120.2(2) Developing and administering a program of continuing education to ensure continued competency of individuals licensed by the board.

120.2(3) Imposing discipline on licensees as provided by statute or rule.

645—120.3(17A,154A) Organization of board and proceedings.

120.3(1) The board is composed of five members appointed by the governor and confirmed by the senate.

120.3(2) The members of the board shall include three licensed hearing aid dispensers and two members who are not licensed hearing aid dispensers who shall represent the general public. Hearing aid dispensers appointed to the board shall:

a. Be actively employed as hearing aid dispensers for five years preceding the appointment; and

b. Have practiced in Iowa during the two years preceding the appointment.

120.3(3) The board shall elect a chairperson, vice chairperson and a secretary from its membership at the first meeting after April 30 of each year.

120.3(4) The board shall hold at least one meeting annually.

120.3(5) A majority of the members of the board shall constitute a quorum.

120.3(6) Board meetings shall be governed in accordance with Iowa Code chapter 21, and the board’s proceedings shall be conducted in accordance with Robert’s Rules of Order, Revised.

120.3(7) The division of professional licensure shall furnish the board with the necessary facilities and employees to perform the duties required by this chapter, but shall be reim-

bursed for all costs incurred from funds appropriated to the board.

120.3(8) The board has the authority to:

a. Develop and implement a program of continuing education to ensure continued competency of individuals licensed by the board.

b. Establish fees.

c. Establish committees of the board, the members of which shall be appointed by the board chairperson and shall not constitute a quorum of the board. The board chairperson shall appoint committee chairpersons.

d. Hold a closed session if the board votes to do so in a public roll call vote with an affirmative vote of at least two-thirds if the total board is present or a unanimous vote if less are present. The board will recognize the appropriate statute allowing for a closed session when voting to go into closed session. The board shall keep minutes of all discussion, persons present, and action occurring at a closed session and shall tape-record the proceedings. The records shall be stored securely in the board office and shall not be made available for public inspection.

e. Investigate alleged violations of statutes or rules that relate to the practice of fitting, dispensing and the sale of hearing aids and providing hearing aid services or maintenance upon receipt of a complaint or upon the board’s own initiation. The investigation will be based on information or evidence received by the board.

f. Initiate and impose licensee discipline.

g. Monitor licenses that are restricted by a board order.

645—120.4(17A) Official communications.

120.4(1) All official communications, including submissions and requests, may be addressed to the Board of Hearing Aid Dispensers, Professional Licensure Division, Fifth Floor, Lucas State Office Building, Des Moines, Iowa 50319-0075.

120.4(2) Notice of address. Each licensee shall notify the board in writing of a change of the licensee’s current mailing address within 30 days after the change of address occurs.

645—120.5(154A) Office hours. The board office is open for public business from 8 a.m. to 4:30 p.m., Monday to Friday of each week, except holidays.

645—120.6(17A) Public meetings. Members of the public may be present during board meetings unless the board votes to hold a closed session. Dates and location of board meetings may be obtained from the board’s Web site (<http://www.idph.state.ia.us/licensure>) or directly from the board office.

120.6(1) At every regularly scheduled board meeting, time will be designated for public comment. During the public comment period, any person may speak for up to two minutes. Requests to speak for two minutes per person later in the meeting when a particular topic comes before the board should be made at the time of the public comment period and will be granted at the discretion of the chairperson. No more than ten minutes will be allotted for public comment at any one time unless the chairperson indicates otherwise.

120.6(2) Persons who have not asked to address the board during the public comment period may raise their hands to be recognized by the chairperson. Acknowledgment and an opportunity to speak will be at the discretion of the chairperson.

These rules are intended to implement Iowa Code chapters 17A, 147, 154A, and 272C.

ITEM 2. Renumber **645—Chapter 121** as **645—Chapter 122** and adopt the following **new** Chapter 121:

PROFESSIONAL LICENSURE DIVISION[645](cont'd)

CHAPTER 121
LICENSURE OF HEARING AID DISPENSERS

645—121.1(154A) Definitions. For purposes of these rules, the following definitions shall apply:

“Board” means the board of examiners for the licensing and regulation of hearing aid dispensers.

“Department” means the department of public health.

“Dispense” or “sell” means a transfer of title or of the right to use by lease, bailment, or any other means, but excludes a wholesale transaction with a distributor or dispenser, and excludes the temporary, charitable loan or educational loan of a hearing aid without remuneration.

“Hearing aid dispenser” means any person engaged in the fitting, dispensing and the sale of hearing aids and providing hearing aid services or maintenance by means of procedures stipulated by Iowa Code chapter 154A or the board.

“Lapsed license” means a license that a person has failed to renew as required or the license of a person who failed to meet stated obligations for renewal within a stated time.

“License” means a license issued by the state to hearing aid dispensers.

“Licensee” means any person licensed to practice as a hearing aid dispenser in the state of Iowa.

“National examination” means the written licensing examination of the International Hearing Society or its successor organization.

“Reciprocal license” means the issuance of an Iowa license to practice as a hearing aid dispenser to an applicant who is currently licensed in another state that has a mutual agreement with the Iowa board of examiners for licensing and regulation of hearing aid dispensers to license persons who have the same or similar qualifications to those required in Iowa.

“Temporary permit” means a permit issued while the applicant is in training to become a licensed hearing aid dispenser.

“Trainee” means the holder of a temporary permit.

645—121.2(154A) Temporary permits.

121.2(1) An applicant shall send a completed application and fee to the board office. The application must be accompanied by a statement from the employer, which includes the following information:

- a. The type of supervision which shall be provided to the trainee;
- b. A list of the subjects to be covered;
- c. The books and other training materials to be used for training; and
- d. An outline of the training program to be followed in preparing the trainee for examination.

121.2(2) A temporary permit is valid for one year and shall not be renewable.

121.2(3) The board reserves the right to deny an application for a temporary permit or rescind a temporary permit once issued.

121.2(4) The licensed hearing aid dispenser employing the holder of a temporary permit shall be responsible for the following:

- a. Training of the temporary permit holder;
- b. Evaluating the audiograms and determining which hearing aid and ear mold will best compensate for hearing loss of a particular person; and
- c. Notifying the board of examiners for the licensing and regulation of hearing aid dispensers within 15 days of the termination of the holder of a temporary permit.

645—121.3(154A) Supervision requirements.

121.3(1) Supervision of temporary permit holders. The supervisor(s) shall:

- a. Have a current hearing aid dispenser license that has been valid for the immediately preceding 24 months;
- b. Have two years of actual experience in testing, fitting, and dispensing of hearing aids;
- c. Supervise not more than three trainees with temporary permits at the same time;
- d. For the first 90 days, provide a minimum of 20 hours of direct supervision per week in the physical presence of the trainee;
- e. Provide direct supervision of the trainee before completion of the first 90 days for any client activity that would require dispensing of hearing aids, including evaluation, selection, fitting or selling of hearing aids; and
- f. Cosign all audiometric evaluations and contracts processed by the trainee for the duration of the temporary permit.

121.3(2) A trainee with a temporary permit must notify the board in writing within ten days of an interruption of training due to loss of supervision. The trainee shall obtain a replacement supervisor for continuance of the training period and shall obtain and submit to the board a statement signed by the replacement supervisor, which states that the training program will be maintained.

121.3(3) If a statement by the replacement supervisor is not submitted, the trainee shall revert to new trainee status.

645—121.4(154A) Requirements for initial licensure.

The following criteria shall apply to licensure:

121.4(1) The applicant shall complete a board-approved application packet. Application forms may be obtained from the board's Web site (<http://www.idph.state.ia.us/licensure>) or directly from the board office. All applications shall be sent to Board of Hearing Aid Dispensers, Bureau of Professional Licensure, Fifth Floor, Lucas State Office Building, Des Moines, Iowa 50319-0075.

121.4(2) The applicant shall complete the application form according to the instructions contained in the application. If the application is not completed according to the instructions, the application will not be reviewed by the board.

121.4(3) Each application shall be accompanied by the appropriate fees, which include the following:

- a. Application fee payable to the Board of Hearing Aid Dispensers; and
- b. Examination fee payable to the International Hearing Society.

121.4(4) Exam score results must be received from the testing service.

121.4(5) Each applicant must successfully pass the national examination within the 12 months immediately prior to submission of the application.

121.4(6) Licensees who were issued their licenses within six months prior to the renewal date shall not be required to renew their licenses until the renewal month two years later.

121.4(7) Incomplete applications that have been on file in the board office for more than two years shall be:

- a. Considered invalid and shall be destroyed; or
- b. Maintained upon written request of the candidate. The candidate is responsible for requesting the file to be maintained.

121.4(8) Notification of eligibility for licensure shall be sent to the licensee by the board.

645—121.5(154A) Examination requirements.

PROFESSIONAL LICENSURE DIVISION[645](cont'd)

121.5(1) The following criteria shall apply to the written examination:

a. The supporting data and documentation must be received at least ten business days prior to the examination with check or money order made payable to the International Hearing Society in the amount specified in the application for the examination fee;

b. Applicants must pass the national examination with a minimum score of 75 percent. The passing score is set by the International Hearing Society.

121.5(2) Applicants who fail the national examination three times must apply to the board to retake the examination.

645—121.6(154A) **Licensure by endorsement.** An applicant who has been a licensed hearing aid dispenser under the laws of another jurisdiction shall file an application for licensure by endorsement with the board office. The board may receive by endorsement any applicant from the District of Columbia or another state, territory, province or foreign country who:

121.6(1) Submits to the board a completed application;

121.6(2) Pays the licensure fee;

121.6(3) Shows evidence of licensure requirements that are similar to those required in Iowa;

121.6(4) Provides verification of license(s) from every state in which the applicant has been licensed, sent directly from the state(s) to the board office;

121.6(5) Provides official verification of one of the following:

a. A passing score on the national examination. For the ten-part examination, the passing score is 70 percent on each subject or 75 percent overall. The International Hearing Society sets the passing score for the five-part competency examination;

b. A passing score on an examination that the board determines is equivalent to the national examination; or

c. Current certification from the National Board for Certification in Hearing Instrument Sciences; and

121.6(6) Provide copies of attendance certificates from continuing education activities completed during the 24 months immediately prior to endorsement or proof of current certification from the National Board for Certification in Hearing Instrument Sciences.

645—121.7(154A) **Licensure by reciprocal agreement.** The board may enter into a reciprocal agreement with the District of Columbia or any state, territory, province or foreign country with equal or similar requirements for licensure of hearing aid dispensers.

645—121.8(154A) **Display of license.** Persons licensed as hearing aid dispensers shall display their original licenses in a conspicuous public place at the primary site of practice.

645—121.9(154A) **License renewal.**

121.9(1) The biennial license renewal period for a license to dispense hearing aids shall begin on January 1 of each odd-numbered year and end on December 31 of the next

even-numbered year. All licensees shall renew on a biennial basis.

121.9(2) A renewal of license application and continuing education report form shall be mailed to the licensee at least 60 days prior to the expiration of the license. Failure to receive the renewal application shall not relieve the license holder of the obligation to pay the biennial renewal fee on or before the renewal date.

a. The licensee shall submit the completed application and continuing education report form with the renewal fee to the board office before the license expiration date.

b. An individual who was issued an initial license within six months of the license renewal date will not be required to renew the license until the next renewal month two years later.

c. An individual who was licensed for the first time shall not be required to complete continuing education as a prerequisite for the first renewal of the license.

d. Persons licensed to practice as hearing aid dispensers shall keep their renewal licenses displayed in a conspicuous public place at the primary site of practice.

121.9(3) **Late renewal.** If the renewal fee(s), continuing education report and renewal application are received within 30 days after the license renewal expiration date, the late fee for failure to renew before expiration is charged.

121.9(4) When all requirements for license renewal are met, the licensee shall be sent a license renewal card by regular mail.

645—121.10(272C) **Exemptions for inactive practitioners.**

121.10(1) A licensee who is not engaged in practice in the state of Iowa may be granted a waiver of 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 in the state of Iowa without first complying with all rules governing reinstatement after exemption. The application for a certificate of exemption shall be submitted within 30 days after the license expiration date upon the form provided by the board. A licensee must hold a current license to apply for exempt status. The licensee shall apply for inactive status prior to the license expiration date.

121.10(2) Reinstatement of exempted, inactive practitioners. Inactive practitioners who have requested and been granted a waiver of compliance with the renewal requirements and who have obtained a certificate of exemption shall, prior to engaging in the practice of the profession in Iowa, satisfy the requirements for reinstatement as outlined in 645—122.10(272C).

121.10(3) Licensees shall renew at the next scheduled renewal. Licensees whose licenses were reinstated within six months prior to the renewal shall not be required to renew their licenses until the renewal date two years later.

121.10(4) Reinstatement of inactive license after exemption. The following chart illustrates the requirements for reinstatement based on the length of time a license has been inactive.

An applicant shall satisfy the following requirements:	1 renewal	2 or more renewals
Submit written application for reinstatement to the board	Required	Required
Pay the current renewal fee	\$50	\$50
Pay the reinstatement fee	\$50	\$50

PROFESSIONAL LICENSURE DIVISION[645](cont'd)

An applicant shall satisfy the following requirements (cont'd):	1 renewal	2 or more renewals
Submit license verification(s) from every state in which the licensee has practiced since obtaining inactive status	Required	Required
Furnish evidence of completion of board-approved continuing education hours taken within the two bienniums immediately prior to the date of application for reinstatement	32 hours	64 hours
OR		
Furnish evidence of completion of continuing education hours equivalent to those required in Iowa if currently licensed in another state of the United States or the District of Columbia	May be required	May be required
OR		
Furnish evidence of completion of the national examination conducted within one year immediately prior to submitting the application for reinstatement	Successful completion of examination	Successful completion of examination
Total fees and continuing education hours required for reinstatement:	\$100 and 32 hours	\$100 and 64 hours

645—121.11(272C) Lapsed licenses.

121.11(1) If the renewal fee(s) and continuing education report are received more than 30 days after the license expiration date, the license is lapsed. An application for reinstatement must be filed with the board accompanied by the reinstatement fee, the renewal fee(s) for each biennium the license is lapsed and the late fee for failure to renew before expiration. The licensee may be subject to an audit of the licensee's continuing education report.

121.11(2) Licensees who have not fulfilled the requirements for license renewal or for an exemption in the required

time frame will have a lapsed license and shall not practice as hearing aid dispensers. Practicing without a license may be cause for disciplinary action.

121.11(3) To reinstate a lapsed license, licensees shall comply with all requirements for reinstatement as outlined in 645—122.6(272C).

121.11(4) After the reinstatement of a lapsed license, the licensee shall renew at the next scheduled renewal cycle.

121.11(5) Reinstatement of a lapsed license. The following chart illustrates the requirements for reinstatement based on the length of time a license has lapsed.

An applicant shall satisfy the following requirements:	30 days after expiration date up to 1 renewal	2 renewals	3 renewals	4 renewals	5 or more renewals
Submit written application for reinstatement	Required	Required	Required	Required	Required
Pay the renewal fee(s)	\$50	\$100	\$150	\$200	\$250
Pay the late fee	\$50	\$50	\$50	\$50	\$50
Pay the reinstatement fee	\$50	\$50	\$50	\$50	\$50
Submit license verification(s) from every state in which the licensee has practiced since the license lapsed	Required	Required	Required	Required	Required
Furnish evidence of completion of continuing education taken within the two bienniums immediately prior to date of application for reinstatement	32 hours	64 hours	96 hours	96 hours	96 hours
OR					
Furnish evidence of completion of continuing education hours equivalent to those required in Iowa if currently licensed in another state of the United States or the District of Columbia	May be required	May be required	May be required	May be required	May be required
OR					
Furnish evidence of successful completion of the national examination conducted within one year immediately prior to submitting application for reinstatement	Successful completion of examination	Successful completion of examination	Successful completion of examination	Successful completion of examination	Successful completion of examination
Total fees and continuing education hours required for reinstatement:	\$150 and 32 hours	\$200 and 64 hours	\$250 and 96 hours	\$300 and 96 hours	\$350 and 96 hours

PROFESSIONAL LICENSURE DIVISION[645](cont'd)

645—121.12(272C) License denial.

121.12(1) An applicant who has been denied licensure by the board may appeal the denial and request a hearing on the issues related to the licensure denial by serving a notice of appeal and request for hearing upon the board not more than 30 days following the date of mailing of the notification of licensure denial to the applicant. The request for hearing as outlined in these rules shall specifically describe the facts to be contested and determined at the hearing.

121.12(2) If an applicant who has been denied licensure by the board appeals the licensure denial and requests a hearing pursuant to this rule, the hearing and subsequent procedures shall be held pursuant to the process outlined in Iowa Code chapters 17A and 272C.

These rules are intended to implement Iowa Code chapters 17A, 147, 154A, and 272C.

ITEM 3. Amend renumbered **645—Chapter 122** by changing “dealer” to “dispenser,” “dealers” to “dispensers” and “dealer’s” to “dispenser’s” wherever they appear.

ITEM 4. Amend renumbered rule **645—122.6(154A)** by rescinding paragraphs “3,” “5” and “6” and adopting the following new paragraphs in lieu thereof:

3. Pays the late fee;

5. Provides verification of license(s) from each state in which the licensee has practiced since the Iowa license lapsed; and

6. Provides evidence of one of the following:

- Satisfactory completion of Iowa continuing education requirements taken within the two bienniums immediately prior to the date of application for reinstatement. The total number of continuing education hours required for license reinstatement is computed by multiplying 32 by the number of bienniums since the license lapsed to a maximum requirement of 96 hours;

- Current full-time practice in another state of the United States or the District of Columbia and completion of continuing education substantially equivalent in the opinion of the board to that required under these rules; or

- Successfully passing the national written examination conducted within one year immediately prior to the submission of the application for reinstatement.

ITEM 5. Amend renumbered rule 645—122.9(154A, 272C) as follows:

645—122.9(154A,272C) Continuing education waiver exemption for disability or illness. The board may, in individual cases involving disability or illness, grant ~~waivers exemptions~~ of the minimum *continuing* education requirements or extension of time within which to fulfill the same or make the required reports. No ~~waiver exemption~~ 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 ~~a waiver an exemption~~ of the minimum ~~educational~~ *continuing education* 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 an exemption~~ has been granted continues beyond the period of ~~waiver exemption~~, the licensee must reapply for an extension of the ~~waiver exemption~~. The board may, as a condition of any ~~waiver exemption~~ granted, require the applicant to make up a certain portion or all of the minimum ~~educational~~ *continuing education* requirements ~~waived exempted~~ by such methods as may be prescribed by the board.

ITEM 6. Rescind renumbered rule 645—122.10(154A, 272C) and adopt the following new rule in lieu thereof:

645—122.10(154A,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 practice as a hearing aid dispenser in the state of Iowa, satisfy the following requirements for reinstatement:

122.10(1) Submit written application for reinstatement to the board upon forms provided by the board;

122.10(2) Submit payment of the reinstatement fee;

122.10(3) Submit payment of the current renewal fee;

122.10(4) Furnish verification of license(s) from every state in which the licensee has practiced since the Iowa license lapsed; and

122.10(5) Furnish in the application evidence of one of the following:

a. Completion of 32 hours of approved continuing education taken within the two bienniums immediately prior to the date of application for reinstatement. The total number of continuing education hours required for license reinstatement is computed by multiplying 32 by the number of bienniums since the license lapsed, not to exceed 96 hours;

b. Proof of current valid hearing aid dispenser’s license 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

c. Proof of successfully passing the national written examination within one year immediately prior to the submission of the application for reinstatement.

ITEM 7. Adopt new 645—Chapter 124 as follows:

CHAPTER 124

DISCIPLINE FOR HEARING AID DISPENSERS

645—124.1(272C) Grounds for discipline.

124.1(1) The board hereby adopts by reference the Code of Ethics of the International Hearing Society as published by the International Hearing Society, 20361 Middlebelt Road, Livonia, Michigan 48152, revised October 1996.

124.1(2) The board may impose any of the disciplinary sanctions set forth in rule 645—13.1(272C), including civil penalties in an amount not to exceed \$1000, when the board determines that a licensee is guilty of any of the following acts or offenses:

a. Willful or repeated violations of the provisions of Iowa Code chapter 154.

b. Violation of the rules promulgated by the board.

c. Knowingly making misleading, deceptive, untrue or fraudulent representations in the practice of the profession or engaging in unethical conduct or practice harmful or detrimental to the public. Proof of actual injury need not be established.

d. Fraud in representations as to skill or ability.

e. Personal disqualifications:

(1) Mental or physical inability reasonably related to and adversely affecting the licensee’s ability to practice in a safe and competent manner.

(2) Involuntary commitment for treatment of mental illness, drug addiction or alcoholism.

f. Practicing the profession while the license is suspended or lapsed.

g. Violating the terms of probation, settlement or decision and order.

PROFESSIONAL LICENSURE DIVISION[645](cont'd)

h. Revocation, suspension, or other disciplinary action taken by a licensing authority of another state, territory, or country.

i. Negligence by the licensee in the practice of the profession, which is a failure to exercise due care including negligent delegation to or supervision of employees or other individuals, whether or not injury results; or any conduct, practice or conditions which impair the ability to safely and skillfully practice the profession.

j. Except in cases of selling replacement hearing aids of the same make or model within one year of the original sale, a hearing aid shall not be sold without adequate diagnostic testing and evaluation using established procedures. Instruments shall be calibrated to current standards at least annually or more often if necessary. The distributor shall keep with the instruments a certificate indicating the date of calibration. Established procedures mean use of pure tone air conduction and bone conduction and speech audiometry.

k. Prohibited acts consisting of the following:

(1) Permitting an unlicensed employee or person under the licensee's control to perform activities requiring a license.

(2) Permitting another person to use the licensee's license for any purpose.

(3) Practicing outside the scope of a license.

(4) Obtaining, possessing, or attempting to obtain or possess a controlled substance without lawful authority; or selling, prescribing, giving away, or administering controlled substances.

(5) Verbally or physically abusing clients.

l. Unethical business practices, consisting of any of the following:

(1) Betrayal of a professional confidence.

(2) Falsifying clients' records.

(3) Advertising that hearing testing or hearing screening is for the purpose of detection of or diagnosis of medical problems or medical screening for referral to a physician.

(4) Failure to place in an advertisement relating to hearing aids the hearing aid dispenser's name, office address, and telephone number.

m. Failure to report a change of name or address within 30 days after it occurs.

n. Submission of a false report of continuing education or failure to submit the biennial report of continuing education.

o. Failure to notify the board within 30 days after occurrence of any judgment or settlement of a malpractice claim or action.

p. Failure to comply with a subpoena issued by the board.

q. Failure to report to the board as provided in 645—Chapter 9 any violation by another licensee of the reasons for the disciplinary action as listed in this rule.

This rule is intended to implement Iowa Code section 147, 154A and 272C.

ITEM 8. Adopt new 645—Chapter 125 as follows:

CHAPTER 125
FEES

645—125.1(147,154A) License fees. All fees are nonrefundable.

125.1(1) Application fee for a license to practice by examination, endorsement, and reciprocity is \$130.

125.1(2) Examination fee (check or money order made payable to the International Hearing Society) is \$95.

125.1(3) Renewal of license fee is \$50.

125.1(4) Temporary permit fee is \$35.

125.1(5) Late fee for a lapsed license is \$50.

125.1(6) Reinstatement fee for a lapsed license or an inactive license is \$50

125.1(7) Duplicate license fee is \$10.

125.1(8) Verification of license fee is \$10.

125.1(9) Returned check fee is \$15.

125.1(10) Disciplinary hearing fee is a minimum of \$75. This rule is intended to implement Iowa Code chapter 154A.

ARC 1454B

**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 Psychology Examiners hereby gives Notice of Intended Action to rescind Chapter 239, "Board of Psychology Examiners," and adopt new Chapter 239, "Administrative and Regulatory Authority for the Board of Psychology Examiners," Iowa Administrative Code.

The proposed amendment rescinds the current rules about the organization and purpose of the Board and adopts new rules on the purpose of the Board, organization and proceedings of the Board, official communication, office hours, and public meetings.

Any interested person may make written comments on the proposed amendment no later than March 28, 2002, addressed to Ella Mae Baird, Professional Licensure Division, Department of Public Health, Lucas State Office Building, Des Moines, Iowa 50319-0075.

The Division revised these rules in accordance with Executive Order Number 8. Division staff and board members had input on these rules. Decisions were made based on need, clarity, intent and statutory authority, cost and fairness.

A public hearing will be held on March 28, 2002, 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 amendment.

This amendment is intended to implement Iowa Code section 147.76 and chapters 17A, 154B, and 272C.

The following amendment is proposed.

Rescind 645—Chapter 239 and adopt the following new chapter in lieu thereof:

CHAPTER 239
ADMINISTRATIVE AND REGULATORY AUTHORITY
FOR THE BOARD OF PSYCHOLOGY EXAMINERS

645—239.1(17A,154B) Definitions.

"Board" means the board of psychology examiners.

PROFESSIONAL LICENSURE DIVISION[645](cont'd)

“Board office” means the office of the administrative staff.

“Department” means the department of public health.

“Disciplinary proceeding” means any proceeding under the authority of the board pursuant to which licensee discipline may be imposed.

“License” means a license to practice psychology.

“Licensee” means a person licensed to practice psychology.

“Peer review” means evaluation of professional services rendered by a professional practitioner.

“Peer reviewer(s)” means one or more persons acting in a peer review capacity who have been appointed by the board for such purpose.

645—239.2(17A) Purpose of board. The purpose of the board is to administer and enforce the provisions of Iowa Code chapters 17A, 147, 154B and 272C with regard to the practice of psychology. The mission of the board is to protect the public health, safety and welfare by licensing qualified individuals who provide services to consumers and by fair and consistent enforcement of the statutes and the rules of the licensure board. Responsibilities include, but are not limited to:

239.2(1) Licensing of qualified applicants to practice psychology through examination, renewal, endorsement, and reciprocity.

239.2(2) Developing and administering a program of continuing education to ensure continued competency of individuals licensed by the board.

239.2(3) Imposing discipline on licensees as provided by statute or rule.

645—239.3(17A,147,272C) Organization of board and proceedings.

239.3(1) The board is composed of seven members appointed by the governor and confirmed by the senate.

239.3(2) The members of the board shall include five members who are licensed to practice psychology and two members not licensed to practice psychology and who shall represent the general public. Of the five members who are licensed to practice psychology, one member shall be primarily engaged in graduate teaching in psychology, two members shall provide services in psychology, one member shall represent areas of applied psychology and may be affiliated with training institutions and shall devote a major part of the member's time to providing service in psychology, and one member shall be primarily engaged in research psychology.

239.3(3) The board shall elect a chairperson, vice chairperson and a secretary from its membership at the first meeting after April 30 of each year.

239.3(4) The board shall hold at least four meetings annually.

239.3(5) A majority of the members of the board shall constitute a quorum.

239.3(6) Board meetings shall be governed in accordance with Iowa Code chapter 21, and the board's proceedings shall be conducted in accordance with Robert's Rules of Order, Revised.

239.3(7) The division of professional licensure shall furnish the board with the necessary facilities and employees to perform the duties required by this chapter, but shall be reimbursed for all costs incurred from funds appropriated to the board.

239.3(8) The board has the authority to:

a. Develop and implement a program of continuing education to ensure continued competency of individuals licensed by the board.

b. Establish fees.

c. Establish committees of the board, the members of which shall be appointed by the board chairperson and shall not constitute a quorum of the board. The board chairperson shall appoint committee chairpersons.

d. Hold a closed session if the board votes to do so in a public roll call vote with an affirmative vote of at least two-thirds if the total board is present or a unanimous vote if less are present. The board will recognize the appropriate statute allowing for a closed session when voting to go into closed session. The board shall keep minutes of all discussion, persons present, and action occurring at a closed session and shall tape-record the proceedings. The records shall be stored securely in the board office and shall not be made available for public inspection.

e. Investigate alleged violations of statutes or rules that relate to the practice of psychology upon receipt of a complaint or upon the board's own initiation. The investigation will be based on information or evidence received by the board.

f. Initiate and impose licensee discipline.

g. Monitor licenses that are restricted by a board order.

h. Establish and register peer reviewers.

i. Refer to one or more registered peer reviewers for investigation and review. The peer reviewers will review cases and recommend appropriate action. However, the referral of any matter shall not relieve the board of any of its duties and shall not divest the board of any authority or jurisdiction.

645—239.4(17A) Official communications.

239.4(1) All official communications, including submissions and requests, may be addressed to the Board of Psychology Examiners, Professional Licensure Division, Fifth Floor, Lucas State Office Building, Des Moines, Iowa 50319-0075.

239.4(2) Notice of address. Each licensee shall notify the board in writing of a change of the licensee's current mailing address within 30 days after the change of address occurs.

645—239.5(17A) Office hours. The board office is open for public business from 8 a.m. to 4:30 p.m., Monday to Friday of each week, except holidays.

645—239.6(17A) Public meetings. Members of the public may be present during board meetings unless the board votes to hold a closed session. Dates and location of board meetings may be obtained from the board's Web site (<http://www.idph.state.ia.us/licensure>) or directly from the board office.

239.6(1) At every regularly scheduled board meeting, time will be designated for public comment. During the public comment period, any person may speak for up to two minutes. Requests to speak for two minutes per person later in the meeting when a particular topic comes before the board should be made at the time of the public comment period and will be granted at the discretion of the chairperson. No more than ten minutes will be allotted for public comment at any one time unless the chairperson indicates otherwise.

239.6(2) Persons who have not asked to address the board during the public comment period may raise their hands to be recognized by the chairperson. Acknowledgment and an opportunity to speak will be at the discretion of the chairperson.

These rules are intended to implement Iowa Code chapters 17A, 147, and 154B.

ARC 1458B

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 sections 147.76 and 272C.3, the Board of Social Work Examiners hereby gives Notice of Intended Action to amend Chapter 280, "Licensure of Social Workers," Iowa Administrative Code.

The proposed amendments will require social workers to report at the time of the renewal of their licenses that they have completed the mandatory training on identifying and reporting child and dependent adult abuse.

Any interested person may make written comments on the proposed amendments no later than March 26, 2002, addressed to Ella Mae Baird, Professional Licensure Division, Department of Public Health, Lucas State Office Building, Des Moines, Iowa 50319-0075.

A public hearing will be held on March 26, 2002, from 1 to 3 p.m. in the Professional Licensure 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 chapters 147 and 272C.

The following amendments are proposed.

ITEM 1. Amend rule **645—280.1(154C)** by adopting the following new definition in alphabetical order:

"Mandatory training" means training on identifying and reporting child abuse or dependent adult abuse required of social workers who are mandatory reporters. The full requirements on mandatory reporting of child abuse and the training requirements are found in Iowa Code section 232.69. The full requirements on mandatory reporting of dependent adult abuse and the training requirements are found in Iowa Code section 235B.16.

ITEM 2. Renumber subrules **280.8(3)** and **280.8(4)** as **280.8(4)** and **280.8(5)** and adopt the following new subrule **280.8(3)**:

280.8(3) Mandatory reporting of child abuse and dependent adult abuse.

a. A licensee who regularly examines, attends, counsels or treats children in Iowa shall indicate on the renewal application completion of two hours of training in child abuse identification and reporting in the previous five years or condition(s) for waiver of this requirement as identified in paragraph "f."

b. A licensee who regularly examines, attends, counsels or treats dependent adults in Iowa shall indicate on the renewal application completion of two hours of training in dependent adult abuse identification and reporting in the previous five years or condition(s) for waiver of this requirement as identified in paragraph "f."

c. A licensee who regularly examines, attends, counsels or treats both dependent adults and children in Iowa shall in-

dicating on the renewal application completion of training in abuse identification and reporting in dependent adults and children or condition(s) for waiver of this requirement as identified in paragraph "f."

d. Training may be completed through separate courses as identified in paragraphs "a" and "b" or in one combined two-hour course that includes curricula for identifying and reporting child abuse and dependent adult abuse.

e. The licensee shall maintain written documentation for five years after mandatory training as identified in paragraphs "a" to "c," including program date(s), content, duration, and proof of participation.

f. The requirement for mandatory training for identifying and reporting child and dependent adult abuse shall be suspended if the board determines that suspension is in the public interest or that a person at the time of license renewal:

(1) Is engaged in active duty in the military service of this state or the United States.

(2) Holds a current waiver by the board based on evidence of significant hardship in complying with training requirements, including waiver of continuing education requirements or extension of time in which to fulfill requirements due to a physical or mental disability or illness as identified in 645—Chapter 280.

g. The board may select licensees for audit of compliance with the requirements in paragraphs "a" to "e."

NOTICE—USURY

In accordance with the provisions of Iowa Code section 535.2, subsection 3, paragraph "a," the Superintendent of Banking has determined that the maximum lawful rate of interest shall be:

February 1, 2001 — February 28, 2001	8.00%
March 1, 2001 — March 31, 2001	7.25%
April 1, 2001 — April 30, 2001	7.00%
May 1, 2001 — May 31, 2001	7.00%
June 1, 2001 — June 30, 2001	7.25%
July 1, 2001 — July 31, 2001	7.50%
August 1, 2001 — August 31, 2001	7.25%
September 1, 2001 — September 30, 2001	7.25%
October 1, 2001 — October 31, 2001	7.00%
November 1, 2001 — November 30, 2001	6.75%
December 1, 2001 — December 31, 2001	6.50%
January 1, 2002 — January 31, 2002	6.75%
February 1, 2002 — February 28, 2002	7.00%
March 1, 2002 — March 31, 2002	7.00%

ARC 1456B

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, 68B.2A, and 476.2 (2001), the Utilities Board (Board) gives notice that on February 7, 2002, the Board issued an order in Docket No. RMU-02-4, In re: Sale of Goods and Services, "Order Commencing Rule Making."

UTILITIES DIVISION[199](cont'd)

The Board is proposing to amend 199 IAC 1.6(2) to make the provisions consistent with the provisions of the Department of Personnel rules at 581 IAC 18.2(1), with regard to the definition of selling goods and services by state employees.

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 amendment. The statement must be filed on or before March 26, 2002, 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.

No oral presentation is scheduled at this time. Pursuant to Iowa Code section 17A.4(1)"b," an oral presentation may be requested or the Board on its own motion after reviewing the statements may determine that an oral presentation should be scheduled.

This amendment is intended to implement Iowa Code sections 17A.4, 68B.4, 476.2.

The following amendment is proposed.

Amend subrule **1.6(2)**, definition of "selling goods or services," as follows:

"Selling goods or services" ~~may include "employment by" or "employment on behalf of."~~ *means the receipt of compensation by an employee for providing goods or services, except the selling of goods or services shall not apply to outside employment activities that constitute an employer-employee relationship.*

ARC 1455B

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 476.1, 476.2, 478.2, 479.5, 479.29, 479A.14, 479B.20, and 17A.4 (2001), the Utilities Board (Board) gives notice that on February 7, 2002, the Board issued an order in Docket No. RMU-02-2, In re: Update of Pipeline and Transmission Line Rules, "Order Commencing Rule Making." The Board is proposing to amend 199 IAC 10.2(1), 10.3(4)"a," 11.5(1)"a," and 13.2(1). The amendments to 10.2(1) and 13.2(1) will add the requirement of filing as Exhibit "I" the land restoration plan that must be filed if a company is proposing to construct a pipeline on agricultural land as defined in 199 IAC 9.1(3).

199 IAC 10.3(4)"a" is being amended to bring the notice requirements for informational meetings prior to filing a petition for a permit to construct a natural gas pipeline into compliance with Iowa Code section 479.5. 199 IAC 11.4(5)"a" is being amended to bring the notice requirements for informational meetings prior to the filing of a petition for a franchise to construct an electric transmission line into compliance with Iowa Code section 478.2.

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 March 26, 2002, 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, Iowa Utilities Board, 350 Maple Street, Des Moines, Iowa 50319-0069.

No oral presentation is scheduled at this time. Pursuant to Iowa Code section 17A.4(1)"b," an oral presentation may be requested or the Board on its own motion after reviewing the statements may determine that an oral presentation should be scheduled.

These amendments are intended to implement Iowa Code sections 476.1, 476.2, 478.2, 479.5, 479.29, 479A.14, 479B.20, and 17A.4.

The following amendments are proposed.

ITEM 1. Amend subrule **10.2(1)** by relettering paragraphs "i" and "j" as "j" and "k" and adopting **new** paragraph "i" as follows:

i. Exhibit "I." If pipeline construction on agricultural land as defined in 199—subrule 9.1(3) is proposed, a land restoration plan shall be prepared and filed as provided in rule 199—9.2(479,479A,479B).

ITEM 2. Amend paragraph **10.3(4)"a"** as follows:

a. ~~The meeting notice shall state the name of the prospective petitioner; state the address of the prospective petitioner's principal place of business; state the general description and purpose of the proposed project; state the general nature of the right-of-way desired; include a map showing the proposed route; advise that the affected party has the right to be present at the informational meeting and to file objections with the board; The notice shall set forth the name of the applicant; the applicant's principal place of business; the general description and purpose of the proposed project; the general nature of the right-of-way desired; the possibility that the right-of-way may be acquired by condemnation if approved by the board; a map showing the route of the proposed project; a description of the process used by the board in making a decision on whether to approve a permit including the right to take property by eminent domain; that the landowner has a right to be present at such meeting and to file objections with the board; and a designation of the time and place of the meeting; and contain the following statement: Persons with disabilities requiring assistive services or devices to observe or participate should contact the Utilities Board at (515)281-5256 in advance of the scheduled date to request the appropriate arrangements be made; and designate the date, time, and place of the meeting. Mailed notices shall also include a copy of the statement of damage claims as required by 10.2(3)"b."~~

ITEM 3. Amend paragraph **11.5(1)"a"** as follows:

a. ~~The meeting notice shall set forth the name of the prospective petitioner; state the address of the prospective petitioner's principal place of business; state the general description and purpose of the proposed project; state the general nature of the right-of-way desired; provide a map showing the route of the proposed project; advise that the affected party has the right to be present at the informational meeting and to file objections with the board; The notice shall set forth the name of the applicant; the applicant's principal place of business; the general description and purpose of the proposed project; the general nature of the right-of-way desired; the possibility that the right-of-way may be acquired by condemnation if approved by the utilities board; a map~~

UTILITIES DIVISION[199](cont'd)

showing the route of the proposed project; a description of the process used by the board in making a decision on whether to approve a franchise or grant the right to take property by eminent domain; that the landowner has a right to be present at such meeting and to file objections with the board; and a designation of the time and place of the meeting; and contain the following statement: Persons with disabilities requiring assistive services or devices to observe or participate should contact the Utilities Board at (515)281-5256 in advance of the scheduled date to request the appropriate arrangements be made; and designate the place, date, and time of the informational meeting.

ITEM 4. Amend subrule 13.2(1) by relettering paragraphs “i” and “j” as “j” and “k” and adopting new paragraph “i” as follows:

i. Exhibit “I.” If pipeline construction on agricultural land as defined in 199—subrule 9.1(3) is proposed, a land restoration plan shall be prepared and filed as provided for in rule 199—9.2(479,479A,479B).

ARC 1457B**UTILITIES DIVISION[199]****Amended Notice of Intended Action**

On December 14, 2001, the Utilities Board (Board) issued an order in Docket No. RMU-01-13, In re: Assessment Allocation Rules. The Board proposed to rescind the rules in 199—Chapter 17, “Assessments,” and to adopt new rules in lieu thereof. The rules in Chapter 17 describe and implement the method the Board uses to assess expenses incurred by the Board and the Consumer Advocate Division of the Department of Justice on utilities and other parties as authorized by Iowa Code chapter 476 and section 475A.6. The proposed rules are intended to implement the changes to the Board’s assessment allocation authority in Iowa Code section 476.10 as amended by 2001 Iowa Acts, chapter 9, section 1. In addition, the proposed rules are intended to clarify, correct, and update policy where needed, and to put assessment methods the Board used in two dockets pursuant to Iowa Code § 476.101(10) (2001) into rule form.

Notice of Intended Action regarding the proposed rules was published in the Iowa Administrative Bulletin on January 9, 2002, as **ARC 1279B**. Based on the public comment received on the proposed rules, the Board has determined that an opportunity for oral presentation is appropriate. On February 15, 2002, the Board issued an order setting an opportunity for oral presentation for Friday, April 19, 2002, beginning at 10 a.m. in the Board Hearing Room, 350 Maple Street, Des Moines, Iowa 50319. Persons requiring assistive services or devices to observe or participate should contact the Board at (515)281-5256 in advance of the scheduled date to request that appropriate arrangements be made.

ARC 1437B**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, 476.1A, 476.8, 478.1, 478.3, 478.4, 478.12, and 478.18, Utilities Board (Board) gives notice that on February 4, 2002, the Board issued an order in Docket No. RMU-02-3, In re: Electric Delivery Reliability. The Board is proposing extensive amendments to current 199 IAC Chapters 20 and 25 to maintain or improve electric distribution reliability as the electric industry continues to evolve.

The proposed amendments are the end result of an inquiry initiated by the Board on November 1, 2000, identified as Docket No. INU-00-4, into electric delivery system reliability. The inquiry focused on such issues as duration and frequency of outages, power quality, customer satisfaction, and public safety. Twenty-two organizational entities, including investor-owned utilities, electric cooperatives, municipal utilities, industrial interests, and labor groups, participated in the inquiry. The Board will not detail the reasons for proposing the amendments here because these reasons have been delineated in the exhaustive staff report dated December 2001 entitled, “Report on Electric Delivery Reliability Inquiry, A Staff Analysis, Docket No. INU-00-4.” That report has been made available to all inquiry participants and is available at the Board’s Web site, http://www.state.ia.us/government/com/util/docs/noi004/noi004_report.pdf. The report is also available in hard copy for review or purchase at the Board’s Records Center, 350 Maple Street, Des Moines, Iowa 50319; telephone (515)281-6240.

While the Board is proposing most of the amendments contained in the staff report, the Board is not adopting all of the recommendations contained in the report. The Board at this time is not proposing any rules regarding annual reporting of results of electric utilities’ customer satisfaction surveys. The Board is concerned that survey information, including the questions posed, can be easily manipulated and that therefore the results would be of little value.

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 March 26, 2002, 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.

A public hearing to receive comments on the proposed amendments will be held at 9 a.m. on April 30, 2002, 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 199 IAC 1.3(17A,474,476,78GA, HF2206) is applicable to these rules.

UTILITIES DIVISION[199](cont'd)

These amendments are intended to implement Iowa Code sections 476.1, 476.2, 476.1A, 476.8, 478.1, 478.3, 478.4, 478.12, and 478.18.

The following amendments are proposed.

ITEM 1. Rescind paragraph **20.2(5)“c”** and reletter paragraphs “d” to “k” as “c” to “j.”

ITEM 2. Amend **20.5(2)** by adopting **new** paragraphs “h” and “i” as follows:

h. IEEE Standard 1159-1995, IEEE Recommended Practice for Monitoring Electric Power Quality or any successor standard.

i. IEEE Standard 519-1992, IEEE Recommended Practices and Requirements for Harmonic Control in Electric Power Systems or its successor standard.

ITEM 3. Rescind subrule **20.5(4)** and renumber subrule **20.5(5)** as **20.5(4)**.

ITEM 4. Rescind subrule **20.7(11)** and renumber subrule **20.7(13)** as **20.7(11)**.

ITEM 5. Rescind subrule 20.7(12) and adopt the following **new** subrule in lieu thereof:

20.7(12) Power quality monitoring. Each utility shall investigate power quality complaints from its customers and determine the cause of the problem on the utility’s systems. In addressing these problems, each utility shall implement to the extent reasonably practical the practices outlined in the standard given at 20.5(2)“h.”

ITEM 6. Adopt **new** subrule 20.7(13) as follows:

20.7(13) Harmonics. A harmonic is a sinusoidal component of the 60 cycles per second fundamental wave having a frequency that is an integral multiple of the fundamental frequency. When excessive harmonics problems arise, each electric utility shall investigate and take actions to rectify the problem. In addressing harmonics problems, the utility and the customer shall implement to the extent practicable and in conformance with prudent operation the practices outlined in the standard at 20.5(2)“i.”

ITEM 7. Adopt **new** rule 199—20.18(476,478) as follows:

199—20.18(476,478) Service reliability requirements for electric utilities.

20.18(1) Applicability. Rule 20.18(476,478) is applicable to investor-owned electric utilities and electric cooperative corporations and associations operating within the state of Iowa subject to Iowa Code chapter 476 and to the construction, operation, and maintenance of electric transmission lines by electric utilities as defined in subrule 20.18(4) to the extent provided in Iowa Code chapter 478.

20.18(2) Purpose and scope. Reliable electric service is of high importance to the health, safety, and welfare of the citizens of Iowa. The purpose of rule 20.18(476,478) is to establish requirements for assessing the reliability of the transmission and distribution systems and facilities that are under the board’s jurisdiction. This rule establishes reporting requirements to provide consumers, the board, and electric utilities with methodology for monitoring reliability and ensuring quality of electric service within an electric utility’s operating area. This rule provides definitions and requirements for maintenance of interruption data, retention of records, and report filing.

20.18(3) General obligations.

a. Each electric utility shall make reasonable efforts to avoid and prevent interruptions of service. However, when

interruptions occur, service shall be reestablished within the shortest time practicable, consistent with safety.

b. The electric utility’s electrical transmission and distribution facilities shall be designed, constructed, maintained, and electrically reinforced and supplemented as required to reliably perform the power delivery burden placed upon them in the storm and traffic hazard environment in which they are located.

c. Each electric utility shall carry on an effective preventive maintenance program and shall be capable of emergency repair work on a scale which its storm and traffic damage record indicates as appropriate to its scope of operations and to the physical condition of its transmission and distribution facilities.

d. In appraising the reliability of the electric utility’s transmission and distribution system, the board will consider the condition of the physical property and the size, training, supervision, availability, equipment, and mobility of the maintenance forces, all as demonstrated in actual cases of storm and traffic damage to the facilities.

e. Each electric utility shall keep records of interruptions of service on its primary distribution system and shall make an analysis of the records for the purpose of determining steps to be taken to prevent recurrence of such interruptions.

f. Each electric utility shall make reasonable efforts to reduce the risk of future outages by taking into account the age, condition, design, and performance of transmission and distribution facilities, and providing adequate investment in the maintenance, repair, replacement, and upgrade of facilities and equipment.

g. Any electric utility unable to comply with applicable provisions of rule 20.18(476,478) may file a waiver request identifying the specific provisions, reasons for noncompliance, and a plan, if the electric utility has one, for future compliance with the applicable provisions.

20.18(4) Definitions. Terms and formulas when used in rule 20.18(476,478) are defined as follows:

“Critical loads” means loads for which electric service is considered crucial for the protection or maintenance of public safety, including but not limited to hospitals, police stations, fire stations, critical water, and wastewater facilities.

“Customer” means (1) any person, firm, association, or corporation, (2) any agency of the federal, state, or local government, or (3) any legal entity responsible by law for payment of the electric service from the electric utility which has a separately metered electrical service point for which a bill is rendered. Each meter equals one customer.

“Customer average interruption duration index (CAIDI)” means the average interruption duration for those customers who experience interruptions during the year. It is calculated by dividing the annual sum of all customer interruption durations by the total number of customer interruptions.

$$\text{CAIDI} = \frac{\text{Sum of All Customer Interruption Durations}}{\text{Total Number of Customer Interruptions}}$$

“Distribution system” means that part of the electric system owned or operated by an electric utility and designed to operate at a nominal voltage of 25,000 volts or less.

“Electric service point” means the point of connection between the electric utility’s equipment and the customer’s equipment.

“Electric utility” means investor-owned electric utilities and electric cooperative corporations and associations owning, controlling, operating, or using transmission and dis-

UTILITIES DIVISION[199](cont'd)

tribution facilities and equipment subject to the board's jurisdiction.

"GIS" means a geospatial information system. This is an information management framework that allows the integration of various data and geospatial information.

"Interrupting device" means a device capable of being reclosed whose purpose is to interrupt faults and restore service or disconnect loads. These devices can be manual, automatic, or motor-operated. Examples may include transmission breakers, feeder breakers, line reclosers, motor operated switches, fuses, or other devices.

"Interruption" means a loss of service to one or more customers or other facilities and is the result of one or more component outages. The types of interruption include momentary event, sustained, and scheduled. The following interruption causes shall not be included in the calculation of the reliability indices:

1. Interruptions intentionally initiated pursuant to the provisions of an interruptible service tariff or contract and affecting only those customers taking electric service under such tariff or contract;
2. Interruptions due to nonpayment of a bill;
3. Interruptions due to tampering with service equipment;
4. Interruptions due to denied access to service equipment located on the affected customer's private property;
5. Interruptions due to hazardous conditions located on the affected customer's private property;
6. Interruptions due to a request by the affected customer;
7. Interruptions due to a request by a law enforcement agency, fire department, other governmental agency responsible for public welfare, or any agency or authority responsible for bulk power system security;
8. Interruptions caused by the failure of a customer's equipment; the operation of a customer's equipment in a manner inconsistent with law, an approved tariff, rule, regulation, or an agreement between the customer and the electric utility; or the failure of a customer to take a required action that would have avoided the interruption, such as failing to notify the company of an increase in load when required to do so by a tariff or contract.

"Interruption duration" as used herein in regard to sustained outages means a period of time measured in one-minute increments, that starts when an electric utility is notified or becomes aware of an interruption and ends when an electric utility restores electric service. Durations of less than five minutes shall not be reported in sustained outages.

"Interruption, momentary" means single operation of an interrupting device that results in a voltage of zero. For example, two breaker or recloser operations equals two momentary interruptions. A momentary interruption is one in which power is restored automatically.

"Interruption, momentary event" means an interruption of electric service to one or more customers of duration limited to the period required to restore service by an interrupting device. Note: Such switching operations must be completed in a specified time not to exceed five minutes. This definition includes all reclosing operations that occur within five minutes of the first interruption. For example, if a recloser or breaker operates two, three, or four times and then holds, the event shall be considered one momentary event interruption.

"Interruption, scheduled" means an interruption of electric power that results when a transmission or distribution component is deliberately taken out of service at a selected

time, usually for the purposes of construction, preventative maintenance, or repair. If it is possible to defer the interruption, the interruption is considered a scheduled interruption.

"Interruption, sustained" means any interruption not classified as a momentary event interruption. It is an interruption of electric service that is not automatically or instantaneously restored, with duration of greater than five minutes.

"Loss of service" means the loss of electrical power, a complete loss of voltage, to one or more customers or meters. This does not include any of the power quality issues such as sags, swells, impulses, or harmonics. Also see definition of "interruption."

"Major event" will be declared whenever extensive physical damage to transmission and distribution facilities has occurred within an electric utility's operating area due to unusually severe and abnormal weather or event and:

1. Wind speed exceeds 90 mph for the affected area, or
2. One-half inch of ice is present and wind speed exceeds 40 mph for the affected area, or
3. Ten percent of the affected area total customer count is incurring a loss of service for a length of time to exceed five hours, or
4. 20,000 customers in a metropolitan area are incurring a loss of service for a length of time to exceed five hours.

"Meter" means, unless otherwise qualified, a device that measures and registers the integral of an electrical quantity with respect to time.

"Metropolitan area" means any community, or group of contiguous communities, with a population of 20,000 individuals or more.

"Momentary average interruption frequency index (MAIFI)" means the average number of momentary electric service interruptions for each customer during the year. It is calculated by dividing the total number of customer momentary interruptions by the total number of customers served.

$$\text{MAIFI} = \frac{\text{Total Number of Customer Momentary Interruptions}}{\text{Total Number of Customers Served}}$$

"OMS" is a computerized outage management system.

"Operating area" means a geographical area defined by the electric utility that is a distinct area for administration, operation, or data collection with respect to the facilities serving, or the service provided within, the geographical area.

"Outage" means the state of a component when it is not available to perform its intended function due to some event directly associated with that component. An outage may or may not cause an interruption of service to customers, depending on system configuration.

"Power quality" means the characteristics of electric power received by the customer, with the exception of sustained interruptions and momentary event interruptions. Characteristics of electric power that detract from its quality include waveform irregularities and voltage variations, either prolonged or transient. Power quality problems shall include, but are not limited to, disturbances such as high or low voltage, voltage spikes and transients, flickers and voltage sags, surges and short-time overvoltages, as well as harmonics and noise.

"Rural circuit" means a circuit not defined as an urban circuit.

"System average interruption duration index (SAIDI)" means the average interruption duration per customer served

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during the year. It is calculated by dividing the sum of the customer interruption durations by the total number of customers served during the year.

$$\text{SAIDI} = \frac{\text{Sum of All Customer Interruption Durations}}{\text{Total Number of Customers Served}}$$

“System average interruption frequency index (SAIFI)” means the average number of interruptions per customer during the year. It is calculated by dividing the total annual number of customer interruptions by the total number of customers served during the year.

$$\text{SAIFI} = \frac{\text{Total Number of Customer Interruptions}}{\text{Total Number of Customers Served}}$$

“Total number of customers served” means the total number of customers served on the last day of the reporting period.

“Urban circuit” means a circuit where both 75 percent or more of its customers and 75 percent or more of its primary circuit miles are located within a metropolitan area.

20.18(5) Record-keeping requirements.

a. Required records for electric utilities with over 25,000 Iowa customers.

(1) Each electric utility shall maintain a digitized, automated geospatial information system (GIS) and an automated outage management system (OMS) sufficient to determine a history of sustained electric service interruptions experienced by each customer. The OMS shall have the ability to access data for each customer in order to determine a history of electric service interruptions. Data shall be sortable by each of, and in any combination with, the following factors:

1. State jurisdiction,
2. Operating area (if any),
3. Substation,
4. Circuit,
5. Number of interruptions in reporting period, and
6. Number of hours of interruptions in reporting period.

(2) Records on interruptions shall be sufficient to determine the following:

1. Starting date and time the utility became aware of the interruption;
2. Duration of the interruption;
3. Date and time service was restored;
4. Number of customers affected;
5. Description of the cause of the interruption;
6. Operating areas affected;
7. Circuit number(s) of the distribution circuit(s) affected;
8. Service account number or other unique identifier of each customer affected;
9. Address of each affected customer location;
10. Weather conditions at time of interruption;
11. System component(s) involved (e.g., transmission line, substation, overhead primary main, underground primary main, transformer); and
12. Whether the interruption was planned or unplanned.

(3) Each electric utility shall maintain as much information as feasible on momentary outages and shall keep an annual count of recloser operations or equivalent information through application of monitoring technology.

(4) Each electric utility shall keep information on cause codes, weather codes, isolating device codes, and equipment failed codes.

1. The minimum interruption cause code set should include: animals, lightning, major event, scheduled, trees,

overload, error, supply, equipment, other, unknown, and earthquake.

2. The minimum interruption weather code set should include: wind, lightning, heat, ice/snow, rain, clear day, and tornado/hurricane.

3. The minimum interruption isolating device set should include: breaker, recloser, fuse, sectionalizer, switch, elbow, and network protectors.

4. The minimum interruption equipment failed code set should include: cable, joint, transformer, conductor, splice, lightning arrester, switches, cross arm, pole, insulator, connector, other, and unknown.

5. Utilities may augment the code sets listed above to enhance tracking.

(5) An electric utility shall retain for seven years the records required by this subrule.

(6) Each electric utility shall record the date of installation of facilities installed on or after April 1, 2002, and integrate that data into its GIS database.

b. Required records for other utilities.

(1) Each electric utility shall record and maintain sufficient records and reports that will enable it to calculate for the most recent seven-year period the average annual hours of interruption per consumer due to causes in each of the following four major categories: power supplier, major storm, scheduled, and all other.

The category “scheduled” refers to interruptions resulting when a distribution transformer, line or owned substation is deliberately taken out of service at a selected time for maintenance or other reasons.

The interruptions resulting from either scheduled or unscheduled outages on lines or substations owned by the power supplier are to be accounted for in the “power supplier” category.

The category “major storm” represents service interruptions from conditions that cause many concurrent outages because of snow, ice, or wind loads that exceed design assumptions for the lines.

The “all other” category includes outages primarily resulting from emergency conditions due to equipment breakdown, malfunction, or human error.

(2) When recording interruptions, each electric utility shall use detailed standard codes for interruption analysis recommended by the United States Department of Agriculture, Rural Utilities Service (RUS) Bulletin 161-1, Table 1 and 2, including the major cause categories of equipment or installation, age or deterioration, weather, birds or animals, member (or public), and unknown. The utility shall also include the subcategories recommended by RUS for each of these major cause categories.

(3) Each electric utility shall also maintain and record data sufficient to enable it to compute system-wide calculated indices for SAIFI-, SAIDI-, and CAIDI-type measurements, once with the data associated with “major storms” and once without.

c. Each electric utility shall make its records of customer interruptions available to board staff as needed.

20.18(6) Notification requirements and other reporting.

a. Notification. Each electric utility with over 25,000 Iowa customers shall notify the board of any major event as defined in subrule 20.18(4) and of any other widespread outage considered significant by the electric utility. The notice shall be provided as soon as is practical once the occurrence of a major event becomes known to the electric utility. Notice shall be made by telephone to the board’s customer services section, by electronic mail to the board’s general

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E-mail address, or by facsimile. The notice shall include, to the electric utility's best knowledge at the time:

- (1) The nature or cause of the major event;
- (2) The area affected by the major event;
- (3) The number of customers that have experienced a sustained interruption of service; and
- (4) The estimated time until service is restored.

The electric utility shall provide periodic updates to the board as new or improved information becomes available until all service is restored. The electric utility shall periodically report to the general public (via broadcasts or other media and by updating telephone answering machines) its best estimate as to when the service will be restored.

b. Major event report. Each electric utility with over 25,000 Iowa customers shall submit a report to the board within 20 business days after the end of a major event. The report shall include the following:

- (1) A description of the event;
- (2) The total number of customers out of service over the course of the major event at six-hour intervals, identified by operating area or circuit area;
- (3) The longest customer interruption;
- (4) The damage cost estimates to the electric utility's facilities;
- (5) The date and time when storm center opened and closed;
- (6) The number of people used to restore service; and
- (7) The name and telephone number of a utility employee who may be contacted about the outage.

20.18(7) Annual reliability and service quality report for utilities with more than 25,000 Iowa customers. Each electric utility with over 25,000 Iowa customers shall submit to the board and consumer advocate on or before May 1 of each year an annual reliability report for the previous calendar year for the Iowa jurisdiction. The report shall include the following information:

a. Description of service area. Urban and rural Iowa service territory customer count, Iowa operating area customer count, if applicable, and major communities served within each operating area.

b. System reliability performance.

(1) An overall assessment of the reliability performance, including the urban and rural SAIFI, SAIDI, and CAIDI reliability indices for the previous calendar year for the Iowa service territory and each defined Iowa operating area, if applicable. This assessment shall include outages at the substation, transmission, and generation levels of the system that directly result in sustained interruptions to customers on the distribution system. These indices shall be calculated twice, once with the data associated with major events and once without. This assessment should contain tabular and graphical presentations of the trend for each index as well as the trends of the major causes of interruptions.

(2) The urban and rural SAIFI, SAIDI, and CAIDI reliability average indices for the previous five calendar years for the Iowa service territory and each defined Iowa operating area, if applicable. The reliability average indices shall include outages at the substation, transmission, and generation levels of the system that directly result in sustained interruptions to customers on the distribution system. Calculation of the five-year average shall start with data from the year covered by the first Annual Reliability Report submittal so that by the fifth Annual Reliability Report submittal a complete five-year average shall be available. These indices shall be calculated twice, once with the data associated with major events and once without.

(3) The MAIFI reliability indices for the previous five calendar years for the Iowa service territory and each defined Iowa operating area for which momentary outages are tracked. The first annual report should specify which portions of the system are monitored for momentary outages, identify and describe the quality of data used, and update as needed in subsequent reports.

c. Reporting on customer outages.

(1) The reporting electric utility shall provide tables and graphical representations showing, in ascending order, the total number of customers that experienced set numbers of sustained interruptions during the year (i.e., the number of customers who experienced zero interruptions, the number of customers who experienced one interruption, two interruptions, three interruptions, and so on). The utility shall provide this for each of the following:

1. All Iowa customers, excluding major events.
2. All Iowa customers, including major events.

(2) The reporting electric utility shall provide tables and graphical representations showing, in ascending order, the total number of customers that experienced a set range of total annual sustained interruption duration during the year (i.e., the number of customers who experienced zero hours total duration, the number of customers who experienced greater than 0.0833 but less than 0.5 hour total duration, the number of customers who experienced greater than 0.5 but less than 1.0 hour total duration, and so on, reflecting half-hour increments of duration). The utility shall provide this for each of the following:

1. All Iowa customers, excluding major events.
2. All Iowa customers, including major events.

d. Major event summary. For each major event that occurred in the reporting period, the following information shall be provided:

- (1) A description of the area(s) impacted by each major event;
- (2) The total number of customers interrupted by each major event; and
- (3) The total number of customer-minutes interrupted by each major event.

e. Information on transmission and distribution facilities.

(1) The jurisdictional entity's expenditures for transmission construction and maintenance for the annual reporting period expressed both in constant 2000 dollars and nominal dollars.

(2) The jurisdictional entity's expenditures for distribution construction and maintenance for the annual reporting period expressed both in constant 2000 dollars and nominal dollars.

(3) Total circuit miles of electric distribution line in service at year's end, segregated by voltage level.

(4) Total circuit miles of electric transmission line in service at year's end, segregated by voltage level.

f. Plans and status report.

(1) A plan for future investment and safety, reliability, and service quality improvements (and associated costs) for the electric utility's transmission and distribution facilities that will ensure quality, safe, and reliable delivery of energy to customers.

1. The plan shall cover not less than the three years following the year in which the annual report was filed.

2. The plan shall identify all foreseeable reliability challenges and describe specific projects and projected costs for addressing each.

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3. Provide a timetable for achievement of the plan's goals.

4. The plan must cover all operating areas, including a description of the relevant characteristics of each operating area and the age and condition of the utility's equipment and facilities in each operating area.

(2) A report on the implementation of the improvements proposed in prior reports for which completion has not been previously reported. Also, the report shall include identification of significant deviations from the prior year's plan and the reasons for the deviations.

g. Capital expenditure information.

(1) Each electric utility shall report on an annual basis the capital investment approved and capital investment completed in the electric utility's Iowa-based transmission and distribution infrastructure to ensure reliable delivery of electricity. This report shall include a list of the projects over \$100,000 in capital expenditures with a description of each project. The description shall include a list and location of each transmission and distribution facility that was modified, upgraded, replaced, or constructed as well as the costs and scope of work involved in the facility modification, upgrade, replacement, or construction.

(2) Each electric utility shall report the same capital expenditure data from the past three years in the same fashion as in subparagraph (1). The data shall be provided in each company's first annual report.

h. Maintenance.

(1) Total distribution maintenance budget and expenditures for each operating area and for the electric utility's entire Iowa system for the reporting year, compared to budgets and expenses for the past five years.

(2) Tree trimming.

1. Total annual tree trimming budget and actual expenses for each operating area and for the electric utility's entire Iowa system for the reporting year, compared to tree trimming budgets and expenses for the past five years.

2. Total annual projected and actual miles of distribution line for which trees were trimmed for the reporting year for each operating area and for the electric utility's entire Iowa system for the reporting year, compared to the past five years.

3. In the event the utility's actual tree trimming performance, on a weighted system basis measured in circuit miles, lags behind its planned trimming schedule by more than six months, the utility shall be required to file for the board's approval additional tree trimming status reports on a quarterly basis. Such reports shall describe the steps the utility will take to remediate its tree trimming performance and backlog. The additional quarterly reports shall continue until the utility's backlog has been reduced to zero.

i. Customer satisfaction.

(1) An overview of the number and substance of customers' safety and reliability complaints for the annual reporting period in each operating area, if any, and for the electric utility's entire Iowa system.

(2) The total number of written and telephone customer complaints received by the electric utility (regardless of whether the complaint was or was not filed with the board) in the areas of safety, reliability, and power quality, by month received.

20.18(8) Annual report for utilities with 25,000 or fewer Iowa customers.

a. By July 1, 2002, each electric utility shall adopt and have approved by its board of directors or other governing authority a reliability plan and shall file an informational

copy of the plan with the board. The plan shall be updated not less than annually and shall describe the following:

(1) The utility's current reliability programs, including:

1. Tree trimming cycle, including descriptions and explanations of any changes to schedules and procedures reportable in accordance with 199 IAC 5.3(3)"c";

2. Animal contact reduction programs, if applicable;

3. Lightning outage mitigation programs, if applicable; and

4. Other programs the electric utility may identify as reliability-related.

(2) Current ability to track and monitor interruptions.

(3) How the electric utility plans to communicate its plan with customers/consumer owners.

b. By April 1, 2003, and each April 1 thereafter, each electric utility shall prepare for its board of directors or other governing authority a reliability report. A copy of the annual report shall be filed with the board for informational purposes, shall be made publicly available in its entirety to customers/consumer owners, and shall report on at least the following:

(1) Measures of reliability, including reliability indices as required in 20.18(5)"b"(3).

(2) Progress on any reliability programs identified in its plan, but not less than the applicable programs listed in 20.18(8)"a"(1).

20.18(9) Inquiries about electric service reliability.

a. For electric utilities with over 25,000 Iowa customers. A customer may request a report from an electric utility about the service reliability of the circuit supplying the customer's own meter. Within 20 working days of receipt of the request, the electric utility shall supply the report to the customer at a reasonable cost. The report should identify which interruptions (number and durations) are due to major events.

b. Other utilities are encouraged to adopt similar responses to the extent it is administratively feasible.

ITEM 8. Amend 199—25.3(476,478) as follows:

199—25.3(476,478) Inspection and maintenance plans.

25.3(1) Filing of plan. Each electric utility shall adopt and file with the board a written program for inspecting and maintaining its electric supply lines and substations (excluding generating stations) in order to determine the necessity for replacement, *maintenance* and repair, *and for tree trimming or other vegetation management*. If the plan is amended or altered, revised copies of the appropriate plan pages shall be filed.

25.3(2) Annual report. Each utility shall include as part of its annual report to the board, as required by 199—Chapter 23, certification of compliance with *each area* of the inspection plan or a detailed statement on areas of noncompliance.

25.3(3) Contents of plan. The inspection plan shall include the following elements:

a. General. A listing of all counties or parts of counties in which the utility has electric supply lines in Iowa. If the utility has district or regional offices responsible for implementation of a portion of the plan, the addresses of those offices and a description of the territory for which they are responsible shall also be included.

b. Inspection *schedule of lines, poles, and substations*.

(1) *Inspection schedules*. ~~A~~ *The plan shall contain a schedule for the periodic inspection of the various units of the utility's electric plant. The period between inspections shall be based on accepted good practice in the industry, but*

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for lines and substations shall not exceed ten years for any given line or piece of equipment. Lines operated at 34.5 kV or above shall be inspected at least annually for damage and to determine the condition of the overhead line insulators.

e. (2) Inspection coverage. The plan shall provide for the inspection of all supply line and substation units within the adopted inspection periods and shall include a complete listing of all categories of items to be checked during an inspection.

(3) Conduct of inspections. Inspections shall be conducted in a manner conducive to the identification of safety, maintenance, and reliability concerns or needs.

f. (4) Instructions to inspectors. Copies of instructions or guide materials used by utility inspectors in determining whether a facility is in acceptable condition or in need of corrective action or further investigation.

c. Tree trimming or vegetation management plan.

(1) Schedule. The plan shall contain a schedule for periodic tree trimming or other measures to control vegetation growth under or along the various units of the utility's electric plant. The period between inspections shall be based on accepted good practice in the industry and may vary depending on the nature of the vegetation at different locations.

(2) Manner of tree trimming. The plan shall include written procedures for the conduct of tree trimming or other forms of vegetation management. The procedures shall promote the safety and reliability of electric lines and facilities, and shall follow trimming practices that will protect the health of the tree and reduce undesirable regrowth patterns.

25.3(4) Records. Each utility shall keep sufficient records to demonstrate compliance with its inspection and tree trimming program programs. For each inspection unit, the records of line, pole, and substation inspections shall include the inspection date(s), the findings of the inspection, and the disposition or scheduling of repairs or maintenance found necessary during the inspection. For each inspection unit, the records of tree trimming shall include the date(s) during which the work was conducted. The record shall be kept until two years after the next periodic inspection or trimming is completed, or until all necessary repairs or maintenance are completed, whichever is longer.

25.3(5) No change.

ITEM 9. Amend 199—25.4(476,478) as follows:

199—25.4(476,478) Correction of problems found during inspections. Corrective action shall be taken within a reasonable period of time on all potentially hazardous conditions, instances of safety code noncompliance, maintenance needs, reliability considerations, or other concerns identified during inspections. Hazardous conditions shall be corrected promptly.

ARC 1447B

WORKERS' COMPENSATION DIVISION[876]

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 86.8, the Workers' Compensation Commissioner hereby gives Notice of Intended Action to amend Chapter 3, “Forms,” and Chapter 4, “Contested Cases,” Iowa Administrative Code.

These amendments provide for the procedure and form to be used for filing a prehearing conference report in workers' compensation contested case proceedings.

Item 1 amends the rule designating forms that the public uses in dealing with the agency.

Item 2 provides the procedure for filing a prehearing conference report.

The Division of Workers' Compensation has determined that these proposed amendments will not necessitate additional annual expenditures exceeding \$100,000 by political subdivisions or agencies which contract with political subdivisions. Therefore, no fiscal note accompanies this Notice.

The Division of Workers' Compensation has determined that these amendments will not have an impact on small business within the meaning of Iowa Code section 17A.4A.

Any interested person may make written suggestions or comments on these proposed amendments on or before March 26, 2002, to the Workers' Compensation Commissioner, Division of Workers' Compensation, 1000 East Grand Avenue, Des Moines, Iowa 50319.

The proposed amendments do not include a waiver provision because rule 876—12.4(17A) provides the specified situations for waiver of Workers' Compensation Division rules.

These amendments are intended to implement Iowa Code sections 17A.3(1), 86.17 and 86.18.

The following amendments are proposed.

ITEM 1. Amend rule 876—3.1(17A) by adopting the following new subrule:

3.1(20) Form—prehearing conference report. (Form No. 14-0049) This form is used by the parties in a contested case proceeding to inform the agency when a case may be scheduled for an evidentiary hearing and to identify issues in dispute.

ITEM 2. Amend rule 876—4.20(86) to read as follows:

876—4.20(86) Prehearing procedure.

4.20(1) A deputy commissioner or the workers' compensation commissioner may order parties in the case to either appear before the commissioner or a deputy commissioner for a conference, or communicate with the commissioner or the commissioner's designee and with each other in any manner as may be prescribed to consider, so far as applicable to the particular case:

4.20(1) a. The necessity or desirability of amending pleadings by formal amendment or prehearing order;

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4.20(2) b. Agreeing to admissions of facts, documents or records not really controverted, to avoid unnecessary proof;

4.20(3) c. Limiting the number of witnesses;

4.20(4) d. Settling any facts of which the commissioner or deputy commissioner is to be asked to take official notice;

4.20(5) e. Stating and simplifying the factual and legal issues to be determined;

4.20(6) f. Specifying the items and amounts of compensation claimed;

4.20(7) g. Specifying all proposed exhibits and proof thereof;

4.20(8) h. Consolidation, separation for hearing, and determination of points of law;

4.20(9) i. Specifying all witnesses expected to testify;

4.20(10) j. Possibility of settlement;

4.20(11) k. Filing of advance briefs, if any;

4.20(12) l. Setting or altering dates for completion of discovery or completion of medical evidence by each party;

4.20(13) m. Any other matter which may facilitate, expedite, or simplify any contested case.

4.20(2) *Prehearing conference report. For petitions filed*

on or after (effective date of this rule), all parties, or their counsel if a party is represented, shall jointly complete and sign an original prehearing conference report, Form No. 14-0049, within 120 days of the date the original notice and petition is filed. Defendant(s) shall file the completed original report with the workers' compensation commissioner. The case preparation completion date specified in the prehearing conference report shall not be more than six months from the date the report is filed. If the report or any portion of the report is not filed as required by this rule, discovery shall be deemed completed, unless the parties mutually agree that discovery may continue. A hearing for three hours will be scheduled as soon as practicable, and rescheduling as provided in the hearing assignment order shall not be allowed. One report shall be filed for all claims that have been consolidated. A copy shall be filed for each case involved. The time in which to file the report for consolidated cases shall begin with the date the latest original notice and petition is filed. Failure to comply with this rule may result in sanctions as provided in 4.36(86).

This rule is intended to implement Iowa Code sections 86.17 and 86.18.

ARC 1436B

ELDER AFFAIRS
DEPARTMENT[321]

Adopted and Filed Emergency After Notice

Pursuant to the authority of Iowa Code sections 231.51 and 231.52, the Department of Elder Affairs hereby amends Chapter 1, "Introduction," Chapter 5, "Department Fiscal Policy," and Chapter 10, "Senior Community Service Employment Program (SCSEP)," and rescinds Chapter 11, "Retired Iowans Community Employment Program (RICEP)," and Chapter 12, "Coordination with the Job Training Partnership Act (JTPA)," Iowa Administrative Code.

The Commission for the Iowa Department of Elder Affairs adopted these amendments February 13, 2002. Notice of Intended Action regarding these amendments was published in the Iowa Administrative Bulletin on January 9, 2002, as **ARC 1273B**.

The amendments merge the Senior Community Service Employment Program (SCSEP) and the Retired Iowans Community Employment Program (RICEP) to create the Senior Internship Program (SIP). The Senior Internship Program (SIP) will encourage and promote the meaningful employment of Iowans aged 55 or older. The Department will subcontract with subproject sponsors through a competitive bid process. Subproject sponsors will administer the Senior Internship Program as described in 321—Chapter 10.

A public hearing was held on Tuesday, January 29, 2002, in Des Moines, Iowa. In response to comments, the following revisions were made to the Notice of Intended Action:

- Rule 321—1.7(231) was revised to conform with federal regulations; in the definition of "low income," the words "less than 125 percent" were changed to "not more than 125 percent" of the poverty guidelines as issued annually by the U.S. Department of Labor.

- Subrule 5.2(2), paragraph "b," was revised to clarify the funding source to subproject sponsors by replacing "SIP" with "state" and changing the word "between" to "among." Paragraph 5.2(2)"b" reads as follows:

b. Title V. ~~The department shall calculate Title V allotments to AAAs based on the existing distribution and the need for additional service in underserved areas.~~ *Title V funds and state funds shall be allotted among the SIP subproject sponsors according to the number of Title V slots designated for their project. If two or more subproject sponsors combine resources, the subproject sponsors shall be treated as one agency for funding purposes.*

- Subparagraph 10.4(2)"c"(20) was revised to broaden the meaning of "maintenance of effort" (MOE) requirements by removing the requirement that no more than 50 percent of part-time Title V-funded positions be directly employed by the project sponsor. This requirement does not fully address the intent of this OAA requirement which is to identify the appropriate position for the enrollee in Title V.

- Subrule 10.4(5), paragraph "b," subparagraphs (2) and (3), were revised to replace the word "officer" with the word "sponsor" for consistency with the legislative language.

- As suggested by the Administrative Rules Review Committee, subrule 10.5(2) was revised to include specific criteria for evaluating competing applications and provide greater detail on the criteria that subcontractors will be required to meet. Formal procedures for selecting a subproject sponsor include the rebidding of a contract for services every

five years. Contracts will be awarded following the request for proposal competition and renewed for one-year budget periods on a noncompetitive basis. Awards will be subject to availability of funds, satisfactory progress of the project and a determination that continued funding is in the best interest of the Department and the project. The adopted subrule reads as follows:

~~10.4(2) 10.5(2) Award. Upon approval by the department, an award of funds shall be made to subproject sponsors each fiscal year subject to funding by the U.S. Department of Labor and the requirements for equitable distribution. The department shall select subproject sponsors in accordance with the following criteria:~~

a. *The subproject sponsor shall be a public, private or not-for-profit organization with proven management and administrative capability to provide employment and training services to older workers;*

b. *The department may choose among competing proposers based upon its determination of their ability to comply with requirements set forth in a request for proposal;*

c. *Factors which may be considered include evaluations of the existing management and administrative capabilities of the organization;*

d. *Upon review and approval of the application by the department, applicant shall be notified of grant approval through a notification of grant award;*

e. *Formal procedures for selecting a subproject sponsor will include the rebidding of a contract for services every five years. Contracts will be awarded following the request for proposal competition and may be renewed for a one-year budget period on a noncompetitive basis. Awards will be subject to availability of funds, satisfactory progress of the project and a determination that continued funding is in the best interest of the department and the project;*

f. *Approved positions and funds from one subproject sponsor to another may be reallocated during the program year to further achieve the required placement levels.*

These amendments are intended to implement Iowa Code chapter 231.

In compliance with Iowa Code section 17A.5(2)"b"(2), the Department finds that the normal effective date for these amendments should be waived and the amendments should become effective February 15, 2002. The Department finds that these amendments confer a benefit on the potential vendors who apply for the Senior Internship Program and allow the employment program redesign to be implemented by July 1, 2002. This time line is consistent with the fiscal year for the federal and state funds used to support the Senior Internship Program.

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 [1.7, 5.1, 5.2(2), 5.7(3), 5.8(3), 5.9(5) to 5.9(7), 5.13, 5.14(11), Chs 10 to 12] is being omitted. With the exception of the changes noted above, these amendments are identical to those published under Notice as **ARC 1273B**, IAB 1/9/02.

[Filed Emergency After Notice 2/15/02, effective 2/15/02]
[Published 3/6/02]

[For replacement pages for IAC, see IAC Supplement 3/6/02.]

ARC 1426B

HUMAN SERVICES DEPARTMENT[441]

Adopted and Filed Emergency

Pursuant to the authority of Iowa Code sections 234.6 and 249A.4, the Department of Human Services hereby amends Chapter 78, "Amount, Duration and Scope of Medical and Remedial Services," appearing in the Iowa Administrative Code.

2002 Iowa Acts, House File 2245, limits Medicaid coverage for dental services for adults aged 21 and over to preventative services and dentures only. Adult Medicaid recipients in need of crowns, posts, cores, periodontal treatment, endodontic treatment, and orthodontia will need to identify alternative sources of funding or do without these services.

Early and Periodic Screening, Diagnosis and Treatment requirements mandate dental services for children. Adult dental services are an optional Medicaid service. Eliminating all adult dental services would increase other Medicaid expenditures for more costly emergency care, infection, and pain control. Cost-effective dental preventative services are being maintained for adults. Reducing all dental fees for children and adults would worsen the serious access problem already existing due to the relationship between access and fees.

This cut in spending is anticipated to affect the following number of clients and providers and to save the following in state and federal dollars.

Providers/ Clients Affected	4-Month Savings			State/ Federal Match
	State	Federal	Total	
1818 providers/ 42,000 clients*	\$733,608	\$1,238,987	\$1,972,595	37.19%/ 62.81%

*Number includes clients using preventative services

These amendments do not provide for waivers in specified situations because of the underlying budget constraints. Needed savings would not be achieved if waivers were provided.

In compliance with Iowa Code section 17A.4(2), the Department of Human Services finds that notice and public participation are unnecessary because these amendments implement 2002 Iowa Acts, House File 2245. Section 10 of House File 2245 authorizes the Department to adopt these rules without notice and public participation.

The Department also finds, pursuant to Iowa Code section 17A.5(2)"b"(1), that the normal effective date of these amendments should be waived, and these amendments should be made effective March 1, 2002, as authorized by 2002 Iowa Acts, House File 2245, subsection 10.

These amendments are also published herein under Notice of Intended Action as **ARC 1425B** to allow for public comment.

The Council on Human Services adopted these amendments February 13, 2002.

These amendments are intended to implement Iowa Code sections 234.6 and 249A.4.

These amendments became effective March 1, 2002.

The following amendments are adopted.

ITEM 1. Amend the introductory paragraph of rule 441—78.4(249A) as follows:

441—78.4(249A) Dentists. Payment will be made for medical and surgical services furnished by a dentist to the extent

these services may be performed under state law either by doctors of medicine, osteopathy, dental surgery or dental medicine and would be covered if furnished by doctors of medicine or osteopathy. Payment will also be made for the following dental procedures *subject to the exclusions for services to adults 21 years of age and older set forth in subrule 78.4(14)*:

ITEM 2. Adopt the following **new** subrule 78.4(14):

78.4(14) Services to adults 21 years of age and older. Effective March 1, 2002, the following dental services are not covered for adults 21 years of age and older:

- a. Crowns, posts, and cores.
- b. Periodontal services.
- c. Endodontic services.
- d. Orthodontic procedures.

[Filed Emergency 2/14/02, effective 3/1/02]

[Published 3/6/02]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 3/6/02.

ARC 1410B

PERSONNEL DEPARTMENT[581]

Adopted and Filed Emergency

Pursuant to the authority of Iowa Code section 97B.15, the Department of Personnel hereby amends Chapter 17, "Public Records and Fair Information Practices"; Chapter 21, "Iowa Public Employees' Retirement System"; Chapter 31, "Department Procedure for Rule Making"; and Chapter 33, "Uniform Rules for Waivers," Iowa Administrative Code.

Subrules 17.3(1) and 31.1(2) and rule 33.3(17A,19A, 97B) are amended to change IPERS' contact address to conform to Iowa Code section 17A.4 and afford interested persons an opportunity to respond to proposed changes.

New subrule 21.3(6) is adopted to define covered employers for patient advocates apprenticed under Iowa Code section 229.19.

Concurrently with the above amendment, paragraph 21.24(14)"a" is also amended to clarify that counties are the covered employer(s) for patient advocates' wage adjustments.

Paragraph 21.5(1)"a" is amended to correct the title of the Secretary of Health and Human Services.

Subrule 21.18(2) is amended to allow public K-12 school contract employees covered by IPERS to receive trailing wages through the end of their contract year without violating the first month of entitlement (FME) definition, retroactive to January 1, 2001.

Rule 21.26(97B) is amended to comply with Iowa Code chapter 252D regarding the fee that IPERS may charge for processing withheld funds.

Subparagraphs 21.29(2)"c"(2) and (4) are amended to further define types of dividends that may be paid to alternate payees and to clarify how information regarding successor alternate payees shall be provided to IPERS.

A new rule, 21.34(97B), is adopted to create a procedure for dealing with replacement of error-prone benefits payments.

In compliance with Iowa Code section 17A.4(2), the Department finds that because these amendments are beneficial to members and necessary to the current and ongoing admin-

PERSONNEL DEPARTMENT[581](cont'd)

istration of the System, additional notice and public participation prior to implementation are impracticable, unnecessary, and contrary to the public interest, and that these amendments should be implemented immediately.

The Department also finds, pursuant to Iowa Code section 17A.5(2)"b," that the normal effective date of these amendments should be waived and these amendments be made effective upon filing with the Administrative Rules Coordinator on February 14, 2002, because they confer benefits, or are required to implement the System's governing statutes, or both. A Notice of Intended Action regarding these amendments is published herein to give interested persons adequate notice of the changes and an opportunity to respond.

New rule 21.34(97B) may be subject to requests for waivers. None of the other amendments will be subject to requests for waivers. The proposed amendments to subrule 21.18(2) and to subparagraph 21.29(2)"c"(2) confer benefits; the remaining amendments are required by statute.

The Department adopted these amendments on February 14, 2002.

These amendments are also published herein under Notice of Intended Action as **ARC 1409B** to allow public comment.

These amendments are intended to implement Iowa Code chapter 97B.

These amendments became effective February 14, 2002. The following amendments are adopted.

ITEM 1. Amend subrule 17.3(1) as follows:

17.3(1) Location of records. A request for access to a record under the jurisdiction of the department shall be directed to the office where the record is kept. Requests for access to records pertaining to the Iowa public employees' retirement system (*IPERS*) shall be directed to the IPERS Division at ~~600 East Court Avenue, Des Moines, Iowa 50319-0154~~ *7401 Register Drive, P.O. Box 9117, Des Moines, Iowa 50306-9117*. If the location of the record is not known by the requester, the request shall be directed to the Iowa Department of Personnel, East 14th Street at Grand Avenue, Des Moines, Iowa 50319-0150. The department will forward the request appropriately. If a request for access to a record is misdirected, department personnel will forward the request to the appropriate person within the department.

ITEM 2. Amend rule 581—21.3(97B) by adopting the following new subrule:

21.3(6) For patient advocates apprenticed under Iowa Code section 229.19, the county or counties for whom services are performed shall be treated as the covered employer(s) of such individuals, and each such employer is responsible for withholding and forwarding the applicable IPERS contributions on wages paid by each employer.

ITEM 3. Amend paragraph 21.5(1)"a," first paragraph, as follows:

a. A person is in employment as defined by Iowa Code chapter 97B if the person and the covered employer enter into a relationship which both recognize to be that of employer/employee. A person is not in employment if the person volunteers services to a covered employer for which the person receives no remuneration. An employee is an individual who is subject to control by the agency for whom the individual performs services for wages. The term control refers only to employment and includes control over the way the employee works, where the employee works and the hours the employee works. The control need not be actually exercised for an employer/employee relationship to exist; the right to exercise control is sufficient. A public official

may be an "employee" as defined in the agreement between the state of Iowa and the Secretary of Health, ~~Education and Welfare and Human Services~~, without the element of direction and control.

ITEM 4. Amend subrule 21.18(2) as follows:

21.18(2) Effective January 1, 1993, the first month of entitlement of an employee who qualifies for retirement benefits shall be the first month after the employee is paid the last paycheck, if paid more than one calendar month after termination. If the final paycheck is paid within the month after termination, the first month of entitlement shall be the month following termination. *Effective January 1, 2001, public K-12 school contract employees who choose the number of months in which to receive their annual salary are allowed to receive trailing wages through the end of the contract year without violating FME rules.*

ITEM 5. Amend paragraph 21.24(14)"a," introductory paragraph, as follows:

a. Current and former patient advocates employed under Iowa Code section 229.19 shall be eligible for a wage adjustment under Iowa Code section 97B.9(4) for the four quarters preceding the date that the patient advocate began IPERS coverage, or effective July 1, 2000, whichever is earlier. *Counties shall be the covered employers responsible for contributing the employer share of such wage adjustment.* Additional service credit for employment as a patient advocate may be purchased as follows:

ITEM 6. Amend rule **581—21.26(97B)**, fifth unnumbered paragraph, as follows:

Funds withheld or garnished are taxable to the member. IPERS ~~will~~ *may* assess a fee of \$2 per payment in accordance with Iowa Code section ~~252D.18(1)"b"~~ *252D.18A(2)*. The fee will be deducted from the gross amount, less federal and state income tax, before a distribution is divided.

ITEM 7. Amend subparagraphs **21.29(2)"c"(2)**, introductory paragraph, and **21.29(2)"c"(4)** as follows:

(2) Specify that the alternate payee shall be entitled to a fixed dollar amount or percentage of dividend payments, *or cost-of-living increase or any other post-retirement benefit increase to the member (all known as dividend payments)*, as follows:

(4) Name a successor alternate payee to receive the amounts that would have been payable to the member's spouse or former spouse under the order, if the alternate payee dies before the member. The designation of a successor alternate payee in an order shall be void and be given no effect if ~~the order~~ *IPERS does not provide receive confirmation of the successor's name, Social Security number, and last-known mailing address in a cover letter or in a copy of the court's confidential information form.*

ITEM 8. Amend 581—Chapter 21 by adopting the following new rule:

581—21.34(97B) Error-prone replacement warrants. Effective July 1, 2002, a member or beneficiary who has benefits warrants replaced as a result of a mail loss, before or after delivery to the member, for two months in a six-month period, except when the loss occurs because of IPERS' failure to mail to the address specified by the recipient, payment shall be suspended until such time as the recipient establishes a direct deposit account in a bank, credit union or similar financial institution and provides IPERS with the information necessary to make electronic transfer of said monthly payments. Persons subject to said error-prone cases may be re-

PERSONNEL DEPARTMENT[581](cont'd)

quired to provide a face-to-face interview and additional documentation to prove that such a suspension would result in an undue hardship.

This rule is intended to implement Iowa Code chapter 97B.

ITEM 9. Amend subrule 31.1(2) as follows:

31.1(2) For matters relating to the Iowa public employees' retirement system: General Counsel, Iowa Public Employees' Retirement System (IPERS), ~~600 East Court Avenue, Des Moines, Iowa 50309~~ 7401 Register Drive, P.O. Box 9117, Des Moines, Iowa 50306-9117.

ITEM 10. Amend rule **581—33.3(17A,19A,97B)**, second paragraph, as follows:

A petition for a waiver must be submitted in writing to the administrative rules coordinator of the division of the department having jurisdiction over the particular issue. For IPERS issues, such petitions shall be directed to Administrative Rules Coordinator, Iowa Public Employees' Retirement System (IPERS), 7401 Register Drive, P.O. Box 9117, Des Moines, Iowa ~~50331-0150~~ 50306-9117. For all other department matters, such petitions shall be directed to Administrative Rules Coordinator, Department of Personnel, East 14th and Grand Avenue, Des Moines, Iowa 50319. If the request relates to a pending contested case, the request shall also be filed in the contested case proceedings. Waiver rulings shall be made by department staff having jurisdiction over the particular issue and having the authority to issue final rulings on appeals regarding such issues, provided that the director shall have final authority with respect to all waiver rulings.

[Filed Emergency 2/14/02, effective 2/14/02]

[Published 3/6/02]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 3/6/02.

ARC 1414B

REVENUE AND FINANCE DEPARTMENT[701]

Adopted and Filed Emergency

Pursuant to the authority of Iowa Code section 421.14, the Department of Revenue and Finance hereby amends Chapter 71, "Assessment Practices and Equalization," Iowa Administrative Code.

New subrule 71.5(2) requires the assessor to use the income approach as one of the appraisal methods used to establish the valuation of low-income housing property if the market value of the property cannot be established by using the comparable sales method of valuation. In this case, the assessor must use the productive and earning capacity from the actual rents received to value the property.

In compliance with Iowa Code section 17A.4(2), the Department finds that notice and public participation are impractical because of the time constraints city and county assessors face in valuing this type of property for tax purposes by April 15, 2002.

Pursuant to Iowa Code section 17A.5(2)"b"(2), the Department finds that the normal effective date for this rule should be waived because it confers a public benefit in that it permits the normal property tax assessment and tax collection process to proceed in a timely fashion, thereby avoiding

delays for local governments in collecting needed tax revenue.

This amendment is intended to implement Iowa Code Supplement section 441.21(2).

This rule became effective February 15, 2002.

The following amendment is adopted.

Amend rule 701—71.5(421,428,441) as follows:

701—71.5(421,428,441) Valuation of commercial real estate. Commercial real estate shall be assessed at its actual value as defined in Iowa Code section 441.21. ~~The director of revenue and finance shall assess the property of long distance telephone companies as defined in Iowa Code section 476.1D(10) which property is first assessed for taxation on or after January 1, 1996, in the same manner as commercial real estate.~~ In determining the actual value of commercial real estate, city and county assessors shall use the appraisal manual issued by the department of revenue and finance pursuant to Iowa Code section 421.17(18) as well as a locally conducted assessment/sales ratio study, an analysis of sales of comparable properties, and any other relevant data available.

71.5(1) Property of long distance telephone companies. The director of revenue and finance shall assess the property of long distance telephone companies as defined in Iowa Code section 476.1D(10) which property is first assessed for taxation on or after January 1, 1996, in the same manner as commercial real estate.

Further amend rule 701—71.5(421,428,441) by adopting the following **new** subrule:

71.5(2) Low-income housing subject to Section 42 of the Internal Revenue Code.

a. Income approach. In the event the market value of the property cannot be readily established by the comparable sales approach method of valuation considering only arm's length sales of other low-income housing properties subject to Section 42 of the Internal Revenue Code, the assessor shall use the income approach to valuation as one of the other uniform and recognized methods of appraisal to value the Section 42 property. However, properties under construction that are not expected to generate rental revenue during the current assessment year shall be valued pursuant to subrule 71.8(2), paragraph "f."

b. Direct capitalization method. The income approach to valuation shall be applied using the direct capitalization method. The assessor may use the discounted cash flow method as a test of the reasonableness of the results produced by the direct capitalization method. The direct capitalization method of the income approach involves dividing the Net Operating Income (NOI) on a cash basis by an overall capitalization rate to derive an indication of the value of the property for the assessment year.

In applying the direct capitalization method, the assessor shall develop a normalized measure of annual NOI based on the productive and earning capacity of the development utilizing (1) the actual rent schedule applicable for each of the available units as of January 1 of the year of assessment indicating the actual rent to be paid by the resident plus any Section 8 rental assistance or other direct cash rental subsidy provided to the resident by federal, state or local rent subsidy programs as limited pursuant to Section 42 of the Internal Revenue Code, (2) a normal vacancy/collection allowance, (3) the prior year's actual and current year's projected annual operating expenses associated with the property, excluding noncash items such as depreciation and amortization, but including property taxes and those actual costs expected to be incurred and paid as required by Internal Revenue Code Sec-

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

tion 42 regulations, provisions, and restrictions as applicable to the assessment year, and (4) an appropriate provision for replacement reserves.

If no separate line item is included for reserves for replacement in the historic income and expense data, then the maintenance and repair categories of the historic expense data must be itemized. For properties that have attained a normalized operating history, the NOI results of the prior three years (as represented in the statements variously named as the Income and Loss Statement, the Profit and Loss Statement, the Income Statement, the Actual to Budget Comparison Statement, Balance Sheet, or some name variation of these) may be used to provide the basis for determining the normalized NOI used for purposes of applying the direct capitalization method for the year of assessment, provided an appropriate replacement reserve is included in the NOI determination and provided any additional costs required as a result of Section 42 regulation or compliance changes for the assessment year are included as an operating expense in the NOI determination. In addition, the assessor may utilize the current year operating budget to develop a measure of NOI for the assessment year. The assessor, in developing the measure of annual NOI on a cash basis, shall not consider as income any potential rental income differential that could otherwise be received from the property if the rents were not limited pursuant to Section 42 of the Internal Revenue Code, any tax credit equity, any tax credit value, or other subsidized financing.

c. Filing of reports. It shall be the responsibility of the property owner to file income and expense data with the local assessor by February 1 of each year. The assessor may require the filing of additional information if deemed necessary.

d. Capitalization rate. The overall capitalization rate to be used in applying the direct capitalization method for a Section 42 property is developed through the band-of-investment technique. The capitalization rate will be calculated annually by the Iowa department of revenue and finance and distributed to all Iowa assessors. The capitalization rate is a composite rate weighted by the proportions of total property investment represented by debt and equity. The capital structure weights equity at 80 percent and debt at 20 percent unless actual market capital structure can be verified to the assessor. The yield, or market rate of return, for equity is calculated using the capital asset pricing model (CAPM). The yield for debt is equivalent to that of a 30-year

Treasury bond. An example of the band-of-investment technique to be utilized is as follows:

	% to Total	Yield	Composite
Equity	80 %	11.05 %	8.84 %
Debt	20 %	5.94 %	1.19 %
	100 %		10.03 %

e. Capital asset pricing model. The capital asset pricing model (CAPM) is utilized to develop the equity rate. The formula is:

$$R_e = B (R_m - R_f) + R_f$$

Where:	R_e	=	return on equity
	B	=	beta
	R_m	=	return on the market
	R_f	=	risk-free rate of return
	$R_m - R_f$	=	market-risk premium

The beta is assumed to be 1 which indicates the risk level to be consistent with the market as a whole. The risk-free rate is calculated by finding the average of the three-month and six-month Treasury bill. The return on the market is calculated by taking the average of the return on the market for the Merrill Lynch Universe and Standard and Poor's 500 or by reference to other published secondary sources.

f. Properties under construction. For Section 42 properties under construction, the assessor may value the property by applying the percentage of completion to the replacement cost new (RCN) as calculated from the Iowa Real Property Appraisal Manual and adding the fair market value of the land. Alternatively, projected income and expense data may be utilized if available.

g. Negative or minimal NOI. If the Section 42 property shows a negative or minimal net operating income (NOI), the indicator of value as set forth in these rules shall not be utilized.

This rule is intended to implement Iowa Code sections 421.17, 428.4 and 476.1D(10) and Iowa Code Supplement section 441.21.

[Filed Emergency 2/14/02, effective 2/15/02]

[Published 3/6/02]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 3/6/02.

ARC 1434B**ELDER AFFAIRS
DEPARTMENT[321]****Adopted and Filed**

Pursuant to the authority of Iowa Code sections 17A.3 and 231.14, the Department of Elder Affairs hereby amends Chapter 1, "Introduction," Iowa Administrative Code.

These amendments provide a uniform process for the granting of waivers and variances of rules adopted by the Department. These amendments are adopted in response to Governor Vilsack's Executive Order Number 11 and Iowa Code section 17A.9A.

Notice of Intended Action was published in the January 9, 2002, Iowa Administrative Bulletin as **ARC 1274B**. The adopted amendments are identical to those published under Notice.

These amendments were approved during the February 13, 2002, meeting of the Commission of the Department.

These amendments will become effective on April 10, 2002.

These amendments are intended to implement Iowa Code section 17A.9A.

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 [1.2(2), 1.2(3)] is being omitted. These amendments are identical to those published under Notice as **ARC 1274B**, IAB 1/9/02.

[Filed 2/15/02, effective 4/10/02]
[Published 3/6/02]

[For replacement pages for IAC, see IAC Supplement 3/6/02.]

ARC 1419B**HUMAN SERVICES
DEPARTMENT[441]****Adopted and Filed**

Pursuant to the authority of Iowa Code section 17A.3(1)"b," the Department of Human Services hereby amends Chapter 3, "Department Procedure for Rule Making," Chapter 4, "Petitions for Rule Making," and Chapter 5, "Declaratory Orders," appearing in the Iowa Administrative Code.

The Council on Human Services adopted these amendments February 13, 2002. Notice of Intended Action regarding these amendments was published in the Iowa Administrative Bulletin on January 9, 2002, as **ARC 1226B**.

These amendments revise the Department's rules governing procedures for rule making, petitions for rule making, and declaratory orders as follows. The amendments:

- Remove the provision for receiving notices electronically. Prior to developing its Web site, the Department would send electronic copies of its notices to persons who wrote the Department requesting the same. With the advent of the Department's Web site with its subscription feature, and the subsequent availability of all of the Department's no-

ted and adopted rules to anyone with Internet access, this provision was no longer necessary.

Persons subscribing to the Department's Web site receive a weekly memo via E-mail listing new rules under Notice by the Department. To subscribe, persons may go to the Department's Web site at <http://www.dhs.state.ia.us/policyanalysis/> or E-mail the Department's rules administrator at policyanalysis@dhs.state.ia.us indicating the E-mail address to which the memo shall be sent. This service is available without charge. Persons without Internet access may still request that copies of individual rules be sent to them.

- Update organizational references and addresses.
- Update Iowa Code references.

These needed corrections were identified by the Department while completing the rule assessment mandated by Executive Order Number 8.

These amendments do not provide for waivers in specified situations because these amendments are merely technical in nature.

The following revision was made to the Notice of Intended Action: Subrule 3.3(2) regarding the inclusion of anticipated rule making on the Department's rule-making docket was rescinded for consistency with Executive Order Number 9. Executive Order Number 9 requires that a docket be maintained listing each pending rule-making proceeding. A rule-making proceeding is pending from the time it is commenced, by publication of a notice of proposed rule adoption, to the time it is terminated, by publication of notice of termination, or the rule becomes effective. The Department's rule-making docket is maintained on its Web site, as required by Executive Order Number 9. Rules are entered on the docket when they have been assigned an ARC number by the Governor's office.

These amendments are intended to implement Iowa Code chapter 17A.

These amendments shall become effective May 1, 2002.

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 [3.3 to 3.6, 3.11(1), 3.12(1), 4.1, 4.3, 5.1, 5.3(3), 5.5, 5.6(2), 5.8(1), 5.9(1)] is being omitted. With the exception of the change noted above, these amendments are identical to those published under Notice as **ARC 1226B**, IAB 1/9/02.

[Filed 2/14/02, effective 5/1/02]
[Published 3/6/02]

[For replacement pages for IAC, see IAC Supplement 3/6/02.]

ARC 1420B**HUMAN SERVICES
DEPARTMENT[441]****Adopted and Filed**

Pursuant to the authority of Iowa Code section 217.6, the Department of Human Services hereby amends Chapter 11, "Overpayments," appearing in the Iowa Administrative Code.

The Council on Human Services adopted these amendments February 13, 2002. Notice of Intended Action regard-

HUMAN SERVICES DEPARTMENT[441](cont'd)

ing these amendments was published in the Iowa Administrative Bulletin on January 9, 2002, as **ARC 1227B**.

These amendments add a preamble explaining the purpose of 441—Chapter 11 regarding the collection of overpayments. The Department is adopting this preamble in response to comments received from Legal Services Corporation of Iowa during the rules review process mandated by Executive Order Number 8. In addition, a reference to the Transitional Child Care program is removed, as the program no longer exists.

These amendments do not provide for waivers because the amendments are merely technical in nature.

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

These amendments are intended to implement Iowa Code sections 217.34 and 421.17(21).

These amendments shall become effective May 1, 2002.

The following amendments are adopted.

ITEM 1. Amend 441—Chapter 11 by adopting the following **new** Preamble:

PREAMBLE

These rules define the department's policies regarding the collection of overpayments. These rules outline what information must be maintained for each claim for an overpayment and how the payments are to be applied. These rules also outline the criteria for withholding part or all of federal or state refunds or other state payments owed to the debtor and how they are applied to the debtor's claim for the overpayment.

ITEM 2. Amend rule 441—11.1(217,421), definition of "public assistance," as follows:

"Public assistance" shall mean family investment program, food stamps, medical assistance, state supplemental assistance, PROMISE JOBS, ~~transitional child care~~, child care assistance, and refugee cash assistance.

[Filed 2/14/02, effective 5/1/02]

[Published 3/6/02]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 3/6/02.

ARC 1421B**HUMAN SERVICES
DEPARTMENT[441]****Adopted and Filed**

Pursuant to the authority of Iowa Code subsection 239B.4(4), the Department of Human Services hereby amends Chapter 41, "Granting Assistance," Chapter 46, "Overpayment Recovery," and Chapter 93, "PROMISE JOBS Program," appearing in the Iowa Administrative Code.

On August 22, 1996, President Clinton signed into law Public Law 104-193, the Personal Responsibility and Work Opportunity Reconciliation Act (PRWORA) of 1996. The new law replaced the Aid to Families with Dependent Children (AFDC) program with a new block grant program to states, called Temporary Assistance for Needy Families (TANF). TANF provides funding to states for a number of assistance programs, including Iowa's Family Investment

Program (FIP) and the PROMISE JOBS work and training program.

As a result of Public Law 104-193, all states must limit TANF-funded cash assistance to a 60-month lifetime limit beginning with the dates on which states implemented TANF. However, federal law and regulations allow states the option of extending TANF-funded assistance beyond 60 months for families with hardship circumstances.

Current rules for providing FIP beyond 60 months require that requests for hardship exemptions and resulting six-month family investment agreements (FIA) be handled by a family support team made up of income maintenance, services, PROMISE JOBS, and Family Development and Self-Sufficiency (FaDSS) staff when FaDSS is involved with the family. After receiving information from all specified case workers involved with the family, the family support team was to meet with the family, determine eligibility for the hardship exemption, develop with the family the six-month FIA, and determine the method for monitoring the family's progress.

These amendments provide for hardship exemption eligibility to be determined by the local income maintenance staff and for the six-month FIA to be developed by the family and PROMISE JOBS staff, similar to the way that regular FIP eligibility is determined and FIAs are administered.

Specifically, these amendments:

- Add a cross-reference to the FIP hardship exemption rules in 441—subrule 41.24(2) identifying persons exempt from referral to PROMISE JOBS.

- Remove the reference to a family support team appointed by regional administrators or the director's designees determining eligibility for a hardship exemption for FIP beyond 60 months. Under these amendments, eligibility for a hardship exemption for FIP beyond 60 months shall be determined by income maintenance based upon information asserting a hardship barrier and supporting evidence provided by the family.

- Remove the reference to the requirement that families requesting a hardship exemption to FIP beyond 60 months meet face to face with a family support team. Under these amendments, the family shall meet as described below or in the ordinary course of business for approval of an application or for a regularly scheduled face-to-face case review.

- Remove the reference that income maintenance shall determine a hardship exemption when the family support team is unable to reach consensus. Under these amendments, income maintenance shall make all hardship exemption determinations.

- Remove the reference to the family support team assisting the family to develop a six-month family investment agreement (FIA). Under these amendments, PROMISE JOBS shall assist the family in developing the six-month FIA.

- Remove references to the family support team determining the method for monitoring the six-month FIA and making periodic contacts with the family. Under these amendments, PROMISE JOBS shall determine the method for monitoring the six-month FIA and how periodic contacts shall be made.

- Amend the definition of "procedural error" to remove the reference to 441—subrule 41.30(3) regarding the required face-to-face meetings. The definition of "procedural error" is further amended to include failure to secure a properly signed hardship exemption request form.

HUMAN SERVICES DEPARTMENT[441](cont'd)

• Add a cross-reference to the FIP hardship exemption rules in 441—subrule 93.111(1) concerning PROMISE JOBS assessments and activities.

These amendments do not provide for waivers in specific situations. Eligibility for a hardship exemption is determined based on the individual family’s circumstances and the decision is appealable. The exemption is a waiver to the 60-month FIP limit.

These amendments were previously Adopted and Filed Emergency and published in the December 12, 2001, Iowa Administrative Bulletin as **ARC 1159B**. Notice of Intended Action to solicit comments on that submission was published in the December 12, 2001, Iowa Administrative Bulletin as **ARC 1160B**. These amendments are identical to those published under Notice of Intended Action.

The Council on Human Services adopted these amendments February 13, 2002.

These amendments are intended to implement Iowa Code chapter 239B.

These amendments shall become effective May 1, 2002, at which time the Adopted and Filed Emergency amendments are hereby rescinded.

EDITOR’S NOTE: Pursuant to recommendation of the Administrative Rules Review Committee published in the Iowa Administrative Bulletin, September 10, 1986, the text of these amendments [41.24(2), 41.30(3), 46.21, 93.109, 93.111(1)] is being omitted. These amendments are identical to those published under Notice as **ARC 1160B** and Adopted and Filed Emergency as **ARC 1159B**, IAB 12/12/01.

[Filed 2/14/02, effective 5/1/02]
[Published 3/6/02]

[For replacement pages for IAC, see IAC Supplement 3/6/02.]

ARC 1422B

HUMAN SERVICES DEPARTMENT[441]

Adopted and Filed

Pursuant to the authority of Iowa Code sections 217.6 and 249A.4 and 2001 Iowa Acts, chapter 191, section 11, subsection 1, and section 49, the Department of Human Services hereby amends Chapter 51, “Eligibility,” Chapter 52, “Payment,” and Chapter 75, “Conditions of Eligibility,” appearing in the Iowa Administrative Code.

These amendments make adjustments to the State Supplementary Assistance and Medicaid programs based on annual cost-of-living adjustments. Specifically, these amendments make the following changes:

• The limit on the income of a dependent relative for purposes of a dependent relative allowance under the State Supplementary Assistance program is increased by 2.6 percent from \$266 per month to \$273 per month. This increase is based on the January 1, 2002, Supplemental Security Income (SSI) program cost-of-living adjustment. The Department of Human Services has received confirmation from the U. S. Department of Health and Human Services that the SSI cost-of-living adjustment effective January 1, 2002, will be 2.6 percent.

• The amount deducted to cover costs in determining earned income from furnishing room and board or providing family life home care for State Supplementary Assistance

purposes is also increased by 2.6 percent, from \$266 per month to \$273 per month, based on the January 1, 2002, SSI cost-of-living adjustment.

• The assistance standards for State Supplementary Assistance for persons living in a protective living arrangement are increased from a total of \$613.20 per month (\$538.20 care allowance and \$75 personal allowance) to \$627.20 per month (\$550.20 care allowance and \$77 personal allowance). The total assistance standard is equal to the SSI maximum benefit rate plus a maximum state payment of \$82.20. The maximum SSI benefit rate will be increased by 2.6 percent from \$531 to \$545, and the maximum state payment is not changed, resulting in the new total of \$627.20. The personal assistance portion of this total is based on an allowance for personal expenses and average Medicaid copayment expenses. The allowance for personal expenses is increased by 2.6 percent from \$69 to \$70, based on the SSI cost-of-living adjustment, and the average Medicaid copayment is increased from \$6 to \$7, based on average Medicaid copayment expenditures in state fiscal year 2001, resulting in a total increase in the personal allowance from \$75 to \$77. The new care allowance of \$550.20 is the difference between the new total (\$627.20) and the new personal allowance (\$77).

• The assistance standards for State Supplementary Assistance for dependent relative allowances are increased as follows:

	<u>OLD</u>	<u>NEW</u>
Aged or disabled client and a dependent relative	\$797	\$818
Aged or disabled client, eligible spouse, and a dependent relative	\$1062	\$1090
Blind client and a dependent relative	\$819	\$840
Blind client, aged or disabled spouse, and a dependent relative	\$1084	\$1112
Blind client, blind spouse, and a dependent relative	\$1106	\$1134

These amounts are based on the SSI benefit rate for an individual or couple, plus an allowance for the needs for the dependent, plus a blind allowance for a blind client and a blind spouse. The SSI benefit rates are being increased by 2.6 percent, from \$531 for an individual and \$796 for a couple to \$545 for an individual and \$817 for a couple. The allowance for a dependent is also being increased by 2.6 percent from \$266 to \$273. However, the blind allowance remains unchanged at \$22.

• The deduction from income for personal expenses and Medicaid copayments for purposes of determining the amount of payments for residential care under the State Supplementary Assistance program is increased from \$75 to \$77. The current amount is based on \$69 for personal expenses and \$6 for Medicaid copayments. The Seventy-ninth General Assembly in 2001 Iowa Acts, House File 732, section 11, subsection 1, directed the department to increase the personal expense portion of this deduction by the same percentage and at the same time as federal SSI and social security benefits are increased due to cost-of-living adjustments. Thus, the \$69 for personal expenses is increased by 2.6 percent, from \$69 to \$70. The \$6 for Medicaid copayments is increased to \$7, based on average Medicaid copayment expenses in state fiscal year 2001.

• For purposes of determining the Medicaid eligibility of an institutionalized spouse, the maximum amount of resources to be attributed to the community spouse is increased

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from \$87,000 to \$89,280, and the maintenance needs allowance for the community spouse is increased from \$2175 per month to \$2232 per month. These amounts are indexed annually by the consumer price index, and the Department has received notice of these increases from the U.S. Department of Health and Human Services.

The amendments dealing with the cost-of-living increases do not provide for any waivers in specified situations because the amendments confer a benefit on those affected. There is no provision for a waiver of the amounts set as everyone should be subject to the same amounts set by these amendments.

These amendments were previously Adopted and Filed Emergency and published in the January 9, 2002, Iowa Administrative Bulletin as **ARC 1234B**. Notice of Intended Action to solicit comments on that submission was published in the January 9, 2002, Iowa Administrative Bulletin as **ARC 1233B**.

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

The Council on Human Services adopted these amendments February 13, 2002.

These amendments are intended to implement Iowa Code sections 249.3, 249.4, and 249A.4 and 2001 Iowa Acts, Chapter 191, section 11, subsection 1.

These amendments shall become effective May 1, 2002, at which time the Adopted and Filed Emergency amendments are hereby rescinded.

EDITOR'S NOTE: Pursuant to recommendation of the Administrative Rules Review Committee published in the Iowa Administrative Bulletin, September 10, 1986, the text of these amendments [51.4(1), 51.7, 52.1, 75.5(3), 75.16(2)] is being omitted. These amendments are identical to those published under Notice as **ARC 1233B** and Adopted and Filed Emergency as **ARC 1234B**, IAB 1/9/02.

[Filed 2/14/02, effective 5/1/02]
[Published 3/6/02]

[For replacement pages for IAC, see IAC Supplement 3/6/02.]

ARC 1423B**HUMAN SERVICES
DEPARTMENT[441]****Adopted and Filed**

Pursuant to the authority of Iowa Code section 234.6, the Department of Human Services hereby amends Chapter 65, "Administration," appearing in the Iowa Administrative Code.

The Council on Human Services adopted these amendments on February 13, 2002. Notice of Intended Action regarding these amendments was published in the Iowa Administrative Bulletin on December 26, 2001, as **ARC 1202B**.

These amendments provide that all households eligible for expedited food stamp benefits will now receive their benefits through the mail rather than picking them up at the county office. This may mean that it may take these households longer to receive their food stamps. These households will still receive their food stamp benefits within the federal-mandated time period of seven days from the date the application is received. This change is being implemented be-

cause of the reduction in staff and in the number of full-time offices.

These amendments also make the following technical revisions to policy:

- A preamble is added to the rules to clarify the purpose of the chapter.
- Rules that are mandated by federal regulations and are not a state option are rescinded.
- References and form numbers are updated.

These technical changes were made in response to public comments and staff review during the rule assessment mandated by Executive Order Number 8.

These amendments do not provide for waivers in specified situations because federal food stamp law does not allow for any waivers.

The following changes were made to the amendments published under Notice of Intended Action:

- The address for obtaining a copy of federal law or regulations in rule 65.3(234) was updated to reflect department restructuring.
- A reference to "area offices" was removed in rule 65.4(234), due to department restructuring.
- A grammatical change was made in subrule 65.19(4).

These amendments are intended to implement Iowa Code section 234.12.

These amendments shall become effective May 1, 2002.

The following amendments are adopted.

ITEM 1. Amend **441—Chapter 65** by adopting the following **new** preamble:

PREAMBLE

The basis for the food stamp program is as provided in Title 7 of the Code of Federal Regulations. The purpose of this chapter is to provide for adoption of new and amended federal regulations as they are published, to establish a legal basis for Iowa's choice of administrative options when administrative options are given to the state in federal regulations, to implement the policy changes that the United States Department of Agriculture (USDA) directs states to implement that are required by law but not yet included in federal regulations, and to implement USDA-approved demonstration projects and waivers of federal regulations.

ITEM 2. Amend rule **441—65.1(234)** as follows:

Amend the definition of "notice of expiration" as follows: "Notice of expiration" means either a message printed on an application for continued program participation, Review/Recertification Eligibility Document (RRED), Form 470-2881, which is automatically issued to the household, or a hand-issued Form ~~FP-2310-0 470-0325~~, Notice of Expiration.

Rescind the definitions of "intentional failure to comply" and "X-PERT."

ITEM 3. Amend rule **441—65.2(234)**, introductory paragraph and first unnumbered paragraph, as follows:

441—65.2(234) Application. Persons in need of food stamps may file an application at an office in the administrative area in which they reside. An application is filed the day an appropriate food stamp office receives an application for food stamps on ~~Form 470-3112 or 470-3122 (Spanish), Application for Assistance, Part 1; Form FP-2101-0 470-0306 or FP-2101-1 470-0307 (Spanish), Application for Food Stamps; or Form PA-2207-0 470-0462 or Form PA-2230-0 470-0466 (Spanish), Public Assistance Application, containing the applicant's name and address which is signed by either a responsible member of the household or the house-~~

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hold's authorized representative. *A household shall complete a Public Assistance Application when any person in the household is applying for or receiving aid through the family investment program, related medical programs or the refugee resettlement assistance programs.* ~~For cases not selected for the X-PERT system, the application is complete when a completed Form FP-2101-0 470-0306, or FP-2101-1 470-0307, 470-0462, or 470-0466 Application for Food Stamps, is submitted; when the application form is necessary when it is for a month the household is not certified for food stamps or the application is for a when the household whose previous participation was in another applies in a new administrative area, except when any person in the household is applying for aid through the family investment program or related medical programs, the refugee resettlement assistance programs, or the child medical assistance program. These persons shall complete Form PA-2207-0 or Form PA-2230-0 (Spanish), Public Assistance Application, no later than at the time of the required interview.~~

~~For cases selected for X-PERT, the application is complete when a completed Form 470-3112 or Form 470-3122 (Spanish), Application for Assistance, Part 1, is submitted; an interview has been held; the household is provided the Summary of Facts, Form 470-3114, for review; and an adult food stamp household member has signed the Summary Signature Page, Form 470-3113 or Form 470-3123 (Spanish) when the application is for a month the household is not certified for food stamps or the application is for a household whose previous participation was in another administrative area.~~

ITEM 4. Amend rule 441—65.3(234) as follows:

441—65.3(234) Administration of program. The food stamp program shall be administered in accordance with the Food Stamp Act of 1977, 7 U.S.C. 2011 *et seq.*, and in accordance with federal regulation, Title 7, Parts 270 through 282 283 as amended to June 1, 2001.

A copy of the federal law and regulations may be obtained at no more than the actual cost of reproduction by contacting the Division of Economic Assistance *Financial, Health, and Work Supports*, Department of Human Services, Hoover State Office Building, 1305 East Walnut Street, Des Moines, Iowa 50319-0114, (515)281-3133.

This rule is intended to implement Iowa Code section 234.12.

ITEM 5. Amend rule 441—65.4(234), introductory paragraph, as follows:

441—65.4(234) Issuance. All food stamp coupons are issued by direct mail except for expedited food stamp benefits, exchange for improperly manufactured or mutilated coupons, and exchange of old series coupons for new series coupons. Expedited food stamp coupons shall be issued over the counter by local or area offices. ~~Persons residing in counties in which a local or area office is not located shall have their expedited food stamp coupons mailed unless the interview is conducted in person at a local or area office in the administrative area in which they reside and benefits are picked up on the day of the interview.~~ Exchanged coupons are issued over the counter by local or area offices. Food stamp recipients may choose to receive and use their benefits by electronic benefit transfer (EBT) instead of food stamp coupons in counties where this option is available. Where the option of EBT issuance is available and the household chooses this option, expedited food stamp benefits may shall be issued by EBT if expedited time frames can be met. Food stamp benefits for ongoing certifications are mailed or are otherwise

made available to the household on a staggered basis during the first 15 days of each month.

ITEM 6. Rescind and reserve subrule 65.8(9).

ITEM 7. Amend rule 441—65.16(234) as follows:

441—65.16(234) Complaint system. Clients wishing to file a formal written complaint concerning the food stamp program may submit Form FP-2238-0 470-0323, or FP-2238-1 470-0327 (Spanish), Food Stamp Complaint, to the office of field support. Department staff shall encourage clients to use the form.

ITEM 8. Amend rule 441—65.19(234) as follows:

Amend subrule 65.19(2), paragraphs "a" and "c," as follows:

a. ~~The department will supply the Public Assistance Eligibility Report, Form PA-2140-0 470-0454 (computer issued), 470-0455 (manually issued), or 470-3719 (Spanish, manually issued) will be supplied to the recipient, by the department, as needed or requested. The department shall provide a postage-paid envelope for return of Form PA-2140-0, the Public Assistance Eligibility Report.~~

c. Failure to return a completed form shall result in cancellation of assistance. A completed form is a form with all items answered, accompanied by verification as required in 65.19(14), and signed and dated by a responsible household member on or after the last day of the budget month. When the PA-2140-0 *Public Assistance Eligibility Report* is used and a person in the household is also required to report monthly for another public assistance program, the form shall also be signed by all individuals required to sign for that program to be considered complete.

Amend subrule 65.19(4) as follows:

65.19(4) Public assistance income. ~~The aid to dependent children department shall consider family investment program and refugee cash assistance grant(s) grants authorized for the issuance month will be considered in determination of determining the household's eligibility and benefit level. Adjustive The department shall count adjustive or corrective public assistance payments shall be counted retrospectively.~~

Amend subrule 65.19(6), paragraph "a," as follows:

a. Households required to submit aid to dependent children family investment program monthly reports.

Amend subrule 65.19(8) as follows:

65.19(8) Prospective beginning months. ~~All The department shall calculate benefits for eligible households will have benefits calculated prospectively for the two beginning months. When a household has applied for assistance from the family investment program or related medical programs, the child medical assistance program or the refugee resettlement cash assistance program, and for food stamp benefits using a Form 470-3112, Application for Assistance, Part 1, or a Form PA-2207-0 470-0462 or PA-2230-0 470-0466 (Spanish), Public Assistance Application, the department shall allow a third food stamps' stamp beginning month will be allowed. The department shall allow a third beginning month when the public assistance program's first "initial month" is the same calendar month as the second food stamps' stamp beginning month, and the third beginning month permits a simultaneous transition to retrospective budgeting.~~

ITEM 9. Amend subrules 65.20(1) and 65.20(2) as follows:

65.20(1) Issuance of the automated Notice of Expiration will occur with the mailing of Form 470-2881, Review/

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Recertification Eligibility Document, or a hand-issued Form ~~FP 2310-0 470-0325~~, Notice of Expiration.

65.20(2) Issuance of the Notice of Expiration, Form ~~FP 2310-0 470-0325~~, will occur at the time of certification if the household is certified for one month, or for two months, and will not receive the automated Notice of Expiration.

ITEM 10. Rescind and reserve subrule **65.21(3)**.

ITEM 11. Rescind and reserve subrule **65.28(9)**, paragraph "h."

ITEM 12. Rescind and reserve rule **441—65.37(234)**.

ITEM 13. Rescind and reserve rule **441—65.42(234)**.

ITEM 14. Rescind and reserve rule **441—65.45(234)**.

[Filed 2/14/02, effective 5/1/02]

[Published 3/6/02]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 3/6/02.

ARC 1424B**HUMAN SERVICES
DEPARTMENT[441]****Adopted and Filed**

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

The Council on Human Services adopted these amendments February 13, 2002. Notice of Intended Action regarding these amendments was published in the Iowa Administrative Bulletin on December 26, 2001, as **ARC 1198B**.

These amendments clarify the policy governing the Health Insurance Premium Payment Program as follows:

- The Department shall request all information in writing and shall give the policyholder ten calendar days in which to provide it.

- When an employer will not agree to accept premium payment from the Department in lieu of a payroll deduction to the employee's wages, the Department shall issue reimbursement to the policyholder five working days prior to the policyholder's pay date.

- Timely and adequate notice shall be as defined in the Department's rules on appeals at 441—subrule 7.7(1).

These clarifications were added in response to public comments submitted during the rule assessment mandated by Executive Order Number 8.

These amendments do not provide for waivers because the amendments are merely technical in nature.

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

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

These amendments shall become effective May 1, 2002.

The following amendments are adopted.

ITEM 1. Amend rule 441—75.21(249A), introductory paragraph, as follows:

441—75.21(249A) Health insurance premium payment program. ~~The department shall pay for the cost of enrolling an eligible Medicaid recipient in a health insurance plan~~

~~when the department determines it is cost-effective to do so. Under the health insurance premium payment program, the department shall pay for the cost of premiums, coinsurance and deductibles for Medicaid-eligible individuals when the department determines that those costs will be less than the cost of paying for the individual's care directly.~~

ITEM 2. Amend subrule **75.21(7)**, paragraph "c," as follows:

c. If the household fails to cooperate in providing information necessary to establish ongoing eligibility, ~~the department shall discontinue premium payment shall be discontinued pending after~~ timely and adequate notice. ~~The department shall request all information in writing and allow the policyholder ten calendar days in which to provide it.~~

ITEM 3. Amend subrule **75.21(9)**, paragraph "b," as follows:

b. When the employer will not agree to accept premium payments from the department in lieu of a payroll deduction to the employee's wages, the department shall reimburse the policyholder directly for payroll deductions or for payments made directly to the employer for the payment of health insurance premiums. ~~The department shall issue reimbursement to the policyholder five working days prior to the policyholder's pay date.~~

ITEM 4. Amend subrule 75.21(13) as follows:

75.21(13) Notices. An adequate notice shall be provided to the household under the following circumstances:

a. to c. No change.

~~A~~ *The department shall provide a timely and adequate notice as defined in 441—subrule 7.7(1) shall be provided to the household informing them of a decision to discontinue payment of the health insurance premium because the department has determined the policy is no longer cost-effective or because the recipient has failed to cooperate in providing information necessary to establish continued eligibility for the program.*

[Filed 2/14/02, effective 5/1/02]

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EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 3/6/02.

ARC 1427B**HUMAN SERVICES
DEPARTMENT[441]****Adopted and Filed**

Pursuant to the authority of Iowa Code section 249A.4, the Department of Human Services hereby amends Chapter 80, "Procedure and Method of Payment," appearing in the Iowa Administrative Code.

The Council on Human Services adopted these amendments February 13, 2002. Notice of Intended Action regarding these amendments was published in the Iowa Administrative Bulletin on January 9, 2002, as **ARC 1223B**.

These amendments revise Medicaid policy governing submittal of provider claims. The revisions:

- Correct form names and numbers and terminology.
- Allow ambulance services to bill electronically when the procedures performed are identified by codes that Medi-

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care recognizes as emergency services and the codes support medical necessity without a review by the fiscal agent.

- Require pharmacies to use the format prescribed by the National Council for Prescription Drug Programs when filing electronic claims.

- Require Medicare-certified nursing facilities, nursing facilities for the mentally ill, special population nursing facilities, and out-of-state nursing facilities to submit claims on Form UB-92 HCFA-1450. All other nursing facilities and intermediate care facilities for the mentally retarded shall file claims on Form 470-0039.

- Clarify that only rehabilitative treatment providers serving people under the age of 21 submit claims on Form 470-0020, Purchase of Service Provider Invoice.

- Add a provision that claims submitted electronically after implementation of the Health Insurance Portability and Accountability Act of 1996 shall be filed on the ASC X12N 837, Health Care Claim. Hospitals and nursing homes shall use the institutional version. Dentists shall use the dental version. All other providers, except pharmacists providing drugs and injections, shall use the professional version. Pharmacists providing drugs and injections shall use the format prescribed by the National Council for Prescription Drug Programs. The Department will send all providers written notice when it implements the Act.

These amendments do not provide for waivers for provider billing because the state could not meet the federal requirement for payment of 90 percent of "clean claims" within 30 days without standard formats for filing claims.

The following changes were made to the amendments published under Notice of Intended Action:

- A sentence was added to the introductory paragraph of rule 441—80.2(249A) to clarify that due to payment system requirements, claims for nursing facility services and home- and community-based services must be submitted after the end of the month in which the service was delivered.

- Provisions on filing claims electronically have been moved from subrule 80.2(2) to a new subrule 80.2(1) for clarity.

- The format of subrule 80.2(2) is changed to specify the most commonly used claim form, HCFA-1450, as the general requirement and list individually only those providers that use a different claim form.

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

These amendments shall become effective May 1, 2002.

The following amendments are adopted.

ITEM 1. Amend the introductory paragraph of rule 80.2(249A) as follows:

441—80.2(249A) Submission of claims. Providers of medical and remedial care participating in the program ~~will~~ *shall* submit claims for services rendered to the fiscal agent on at least a monthly basis. *All nursing facilities and providers of home- and community-based services shall submit claims for services after end of the calendar month in which the services are provided.* Following audit of the claim the fiscal agent will make payment to the provider of care.

ITEM 2. Rescind subrule 80.2(1) and adopt the following **new** subrule in its place:

80.2(1) Electronic submission. Providers are encouraged to submit claims electronically whenever possible.

- a. Ambulance service providers may bill electronically only when the procedures performed are identified by codes based on the ones that Medicare recognizes as emergency

and support medical necessity without a review by the fiscal agent.

- b. When filing electronic claims, pharmacies shall use the format prescribed by the National Council for Prescription Drug Programs.

- c. Claims submitted electronically after implementation of the Health Insurance Portability and Accountability Act of 1996 shall be filed on the Accredited Standards Committee (ACS) X12N, Health Care Claim. The department shall send all providers written notice when the Act is implemented.

- (1) Providers listed as filing claims on Form HCFA-1500 or on the Claim for Targeted Medical Care shall file claims on the professional version of the Health Care Claim.

- (2) Providers listed as filing claims on Form HCFA-1450 or on the Iowa Medicaid Long-Term Care Claim shall file the institutional version of the Health Care Claim.

- (3) Dentists shall file the dental version of the Health Care Claim.

- (4) Pharmacists providing drugs and injections shall use the format prescribed by the National Council for Prescription Drug Programs.

ITEM 3. Amend subrule 80.2(2) as follows:

Amend the introductory paragraph as follows:

80.2(2) Claim forms. Claims for payment for services provided recipients ~~who are not Medicare beneficiaries~~ shall be submitted ~~on the following forms on Form HCFA-1500, Health Insurance Claim Form, except as noted below.~~

Rescind paragraphs "a" through "as" and adopt in lieu thereof the following **new** paragraphs "a" through "h":

- a. The following providers shall submit claims on Form UB-92, HCFA-1450:

- (1) Home health agencies providing services other than home- and community-based services.

- (2) Hospitals providing inpatient care or outpatient services, including inpatient psychiatric hospitals.

- (3) Psychiatric medical institutions for children.

- (4) Rehabilitation agencies.

- (5) Hospice providers.

- (6) Medicare-certified nursing facilities.

- (7) Nursing facilities for the mentally ill.

- (8) Special population nursing facilities as defined in rule 441—81.6(249A).

- (9) Out-of-state nursing facilities.

- b. All other nursing facilities and intermediate care facilities for the mentally retarded shall file claims on Form 470-0039, Iowa Medicaid Long-Term Care Claim.

- c. Pharmacies shall submit claims on the Universal Pharmacy Claim Form when filing paper claims.

- d. Dentists shall submit claims on the dental claim form approved by the American Dental Association.

- e. Rehabilitative treatment providers serving people under age 21 shall submit claims on Form 470-0020, Purchase of Service Provider Invoice, pursuant to rule 441—185.121(234).

- f. Providers of home- and community-based waiver services, including home health agencies providing home- and community-based waiver services shall submit claims on Form 470-2486, Claim for Targeted Medical Care.

- g. Case management providers shall submit claims on Form 470-2486, Claim for Targeted Medical Care, for services provided pursuant to 441—Chapter 24 and on FACS-generated claims for services provided pursuant to 441—Chapter 186.

- h. Providers who send an Explanation of Medicare Benefits or a crossover claim for Medicare beneficiaries to

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the fiscal agent are exempt from filing these forms for those beneficiaries.

ITEM 4. Amend rule 441—80.4(249A) as follows:

441—80.4(249A) Time limit for submission of claims and claim adjustments.

80.4(1) Submission of claims. Payment will not be made on any claim where the amount of time that has elapsed between the date the service was rendered and the date the initial claim is received by the fiscal agent exceeds 365 days, ~~except that payment for~~ *The department shall consider claims submitted beyond the 365-day limit shall be considered for payment only* if retroactive eligibility on newly approved cases is made ~~which that~~ exceeds 365 days or if attempts to collect from a third-party payer delay the submission of a claim.

EXCEPTION: Rehabilitative treatment service providers *serving people under the age of 21* shall submit claims pursuant to rule 441—185.121(234).

80.4(2) Claim adjustments. A provider's request for an adjustment to a paid claim must be received by the fiscal agent within one year from the date the claim was paid in order to have the adjustment considered.

EXCEPTION: Rehabilitative treatment service providers *serving people under the age of 21* shall have claim adjustments processed pursuant to rule 441—185.121(234).

This rule is intended to implement Iowa Code sections 249A.3, 249A.4 and 249A.12.

[Filed 2/14/02, effective 5/1/02]

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EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 3/6/02.

ARC 1428B**HUMAN SERVICES
DEPARTMENT[441]****Adopted and Filed**

Pursuant to the authority of Iowa Code section 249A.4, the Department of Human Services hereby amends Chapter 85, "Services in Psychiatric Institutions," appearing in the Iowa Administrative Code.

The Council on Human Services adopted these amendments February 13, 2002. Notice of Intended Action regarding these amendments was published in the Iowa Administrative Bulletin on January 9, 2002, as **ARC 1224B**.

These amendments revise policy governing psychiatric institutions to:

- Allow facilities to be accredited by the Joint Commission on the Accreditation of Health Care Organizations or by any other federally recognized accrediting organization that has comparable standards or surveys and is approved by the Department of Inspections and Appeals.

- Match payment policy to revised hospital payment policy.

- Update legal and organizational references and a form number.

These needed corrections were identified while the Department was completing the rule assessment mandated by Executive Order Number 8.

These amendments do not provide for waivers because the amendments are merely technical in nature.

A revision was made to the Notice of Intended Action to mention two more specific examples of acceptable accrediting organizations in subrule 85.1(2), in response to public comment.

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

These amendments shall become effective May 1, 2002.

The following amendments are adopted.

ITEM 1. Amend rule 441—85.1(249A) as follows:

Amend subrule **85.1(1)**, introductory paragraph and paragraph "a," subparagraphs (3) and (5), as follows:

85.1(1) Psychiatric hospitals serving persons aged 65 and older. A psychiatric hospital serving persons aged 65 and older shall meet the federal criteria for an institution for mental disease and shall be licensed pursuant to department of inspections and appeals rule ~~481—51.33(135B)~~ *481—51.36(135B)*. An out-of-state facility shall be licensed as a psychiatric hospital, shall meet the federal criteria for an institution for mental disease, and shall be certified to participate in the Medicare program. An institution is an institution for mental disease only if its overall character is that of a facility established and maintained primarily for the care and treatment of persons with mental diseases. The following guidelines are used by the department in evaluating the overall character of a facility. These guidelines are all useful in identifying institutions for mental disease; however, no single guideline is necessarily determinative in any given case.

(3) Is accredited as a psychiatric facility by the Joint Commission on the Accreditation of Health Care Organizations or by any other federally recognized accrediting organization that has comparable standards or surveys and is approved by the department of inspections and appeals.

(5) Is under the jurisdiction of the division of ~~mental health, mental retardation, or developmental disabilities behavioral, developmental, and protective services for families, adults, and children~~ of the department.

Amend subrule 85.1(2) as follows:

85.1(2) Psychiatric hospitals serving persons under the age of 21. A psychiatric hospital serving persons under the age of 21 shall be licensed pursuant to department of inspections and appeals rule ~~481—51.33(135B)~~ *481—51.36(135B)* or shall be licensed in another state as a hospital, shall be accredited by the Joint Commission on the Accreditation of Health Care Organizations, *the Commission of Accreditation of Rehabilitation Facilities, the Council on Accreditation of Services for Families and Children, or by any other federally recognized accrediting organization that has comparable standards or surveys and is approved by the department of inspections and appeals*, and shall meet federal service requirements.

ITEM 2. Amend rule 441—85.2(249A) as follows:

441—85.2(249A) Out-of-state placement. Placement in an out-of-state psychiatric hospital for acute care requires prior approval by the ~~division of medical services bureau of managed care and clinical services~~ and shall be approved only if special services are not available in Iowa facilities as determined by the division of ~~mental health, mental retardation, and developmental disabilities behavioral, developmental, and protective services for families, adults, and children~~.

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ITEM 3. Amend subrule **85.6(2)**, paragraph “a,” as follows:

a. A Case Activity Report, Form ~~AA-4166-0 470-0042~~, shall be submitted to the department whenever a Medicaid applicant or recipient enters the facility, changes level of care, is hospitalized in a general hospital, leaves for visitation, or is discharged from the facility.

ITEM 4. Amend subrule **85.7(1)** by amending paragraphs “b,” “e,” and “f,” as follows and rescinding and reserving paragraph “g”:

b. Allowable costs are those defined as allowable in 42 CFR, Subpart A, Sections 413.5, and 413.9, ~~and 413.30, as amended to December 2, 1996,~~ and 42 CFR 447.250 as amended to ~~October 1, 1994~~ *September 23, 1992*. Only those costs are considered in calculating the Medicaid inpatient reimbursement.

e. Each participating Medicaid provider shall file a HCFA 2552 Medicare Cost Report or a substitute accepted by the ~~Health Care Financing Administration Centers for Medicare and Medicaid Services~~. In addition, supplemental information sheets are furnished to all Medicaid providers to be filed with the annual cost report. This report must be filed with the fiscal agent for Iowa within ~~90~~ *150* days after the close of the hospital’s fiscal year.

f. Compensation for a disproportionate share of indigent patients is ~~added to the facility’s computed per diem rate if the facility qualifies for the disproportionate payment determined as described in 441—subrule 79.1(5). A hospital qualifies for disproportionate share payment when the hospital’s inpatient Medicaid utilization rate, defined as the number of Medicaid days plus indigent care inpatient days divided by the total number of inpatient days, exceeds one standard deviation above the Iowa average Medicaid utilization rate for psychiatric hospitals or the hospital’s low-income utilization rate as defined at 441—paragraph 79.1(5)“e” is 25 percent or greater.~~

[Filed 2/14/02, effective 5/1/02]

[Published 3/6/02]

EDITOR’S NOTE: For replacement pages for IAC, see IAC Supplement 3/6/02.

ARC 1429B

HUMAN SERVICES DEPARTMENT[441]

Adopted and Filed

Pursuant to the authority of Iowa Code section 234.6, the Department of Human Services hereby amends Chapter 143, “Interstate Compact on Juveniles,” appearing in the Iowa Administrative Code.

The Council on Human Services adopted these amendments February 13, 2002. Notice of Intended Action regarding these amendments was published in the Iowa Administrative Bulletin on December 26, 2001, as **ARC 1199B**.

These amendments revise policy governing the Interstate Compact on Juveniles to:

- Add a preamble to the chapter to explain that articles adopted by each of the participating states govern the Interstate Compact and to explain Iowa’s obligations as a party to the Compact.

- Revise policy regarding processing of parolees and probationers from another state who commit a felony while in Iowa to be consistent with the Interstate Compact.

- Correct Iowa Code references.

These needed corrections were identified while the Department was completing the rules assessment mandated by Executive Order Number 8.

These amendments do not provide for waivers as waivers would be inconsistent with the interstate nature of the Compact.

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

These amendments are intended to implement Iowa Code section 232.171.

These amendments shall become effective May 1, 2002.

The following amendments are adopted.

ITEM 1. Amend **441—Chapter 143** by adopting the following new preamble:

PREAMBLE

Iowa Code section 232.171 authorizes the state of Iowa to enter into the interstate compact on juveniles and incorporates into the Iowa Code the 15 basic articles and optional amendments that govern the interstate compact for all participating parties. The department implements the interstate compact on juveniles and participates in the contractual agreement with the other 49 states, the District of Columbia, the Virgin Islands, and Guam. The contractual agreement allows the parties to cooperate on the interstate aspects of juvenile delinquency as well as the return from one state to another of nondelinquent children who have run away from home.

ITEM 2. Rescind the implementation clauses following rules **441—143.1(232)** and **441—143.2(232)** and adopt the following new implementation clause at the end of the chapter:

These rules are intended to implement Iowa Code section 232.171.

ITEM 3. Amend subrule 143.4(5) as follows:

143.4(5) A parolee or probationer from another state *held or placed* in Iowa under the provisions of article VII and who commits a felony while in Iowa, shall be ~~processed~~:

a. *Returned to the sending state per mutual agreement;*

or

b. *Processed* according to the Iowa statutes and not returned to the sending state for violation.

[Filed 2/14/02, effective 5/1/02]

[Published 3/6/02]

EDITOR’S NOTE: For replacement pages for IAC, see IAC Supplement 3/6/02.

ARC 1430B

HUMAN SERVICES DEPARTMENT[441]

Adopted and Filed

Pursuant to the authority of Iowa Code section 234.6, the Department of Human Services hereby amends Chapter 151, “Juvenile Court Services Directed Programs,” appearing in the Iowa Administrative Code.

HUMAN SERVICES DEPARTMENT[441](cont'd)

The Council on Human Services adopted these amendments February 13, 2002. Notice of Intended Action regarding these amendments was published in the Iowa Administrative Bulletin on December 26, 2001, as **ARC 1200B**.

These amendments revise policy governing juvenile court services directed programs to:

- Allow an amount up to 5 percent of the total allocation of the graduated sanction services to be set aside for juvenile court services administrative costs for the graduated sanction programs and require the state court administrator to establish a pay schedule for the accountant or audit position established in each judicial district.
- Allow an individual or a group rate as an option for the life skills service.
- Provide that juvenile court school liaisons and schools are not required to maintain or submit lists of children served for those months covered by a school employee contract and for which the salary is prorated, school is not in session, and no service is provided.
- Change references from "Department region" to "Department service area" and from "Department regional administrator" to "Department service area manager," consistent with the restructuring of the Department.

These revisions are being proposed in response to public comment received during the rules review process mandated by Executive Order Number 8 and in response to the restructuring of the Department.

These amendments do not provide for waivers because these programs are governed by rules or court orders and the rules provide enough administrative flexibility that waivers are unnecessary.

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

These amendments are intended to implement Iowa Code section 232.141.

These amendments shall become effective May 1, 2002.

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 [151.1, 151.2(2)"a," 151.2(3)"d," 151.30(5)"b," 151.31(5)"b"] is being omitted. These amendments are identical to those published under Notice as **ARC 1200B**, IAB 12/26/01.

[Filed 2/14/02, effective 5/1/02]
[Published 3/6/02]

[For replacement pages for IAC, see IAC Supplement 3/6/02.]

ARC 1431B**HUMAN SERVICES
DEPARTMENT[441]****Adopted and Filed**

Pursuant to the authority of Iowa Code section 234.6, the Department of Human Services hereby amends Chapter 153, "Social Services Block Grant and Funding for Local Services," appearing in the Iowa Administrative Code.

The Council on Human Services adopted these amendments February 13, 2002. Notice of Intended Action regarding these amendments was published in the Iowa Administrative Bulletin on January 9, 2002, as **ARC 1225B**.

These amendments revise policy governing social services block grants to:

- Correct the allocation methodology for volunteer services. Administrative support dollars which are used for volunteer services are allocated among the eight service areas based on a four-part formula: 25 percent of the total volunteer budget divided equally among the service areas, 25 percent divided among the areas based on their poverty population percentage, 25 percent based on the general population percentage, and 25 percent based on the historical volunteer service performance (number of volunteer hours generated in the previous two-year period).
- Remove obsolete policy regarding advisory committees and federal flood relief funds.
- Correct rule and organizational references and mailing addresses.
- Update terminology and implementation clauses.

These needed corrections were identified while the Department was completing the rule assessment mandated by Executive Order Number 8.

These amendments do not provide for waivers because the amendments are merely technical in nature.

One change was made from the Notice of Intended Action. Subrule 153.5(2), introductory paragraph, was amended to correct a reference to region that was overlooked. The paragraph reads as follows:

"**153.5(2)** The amount of funding allocated to state purchase services shall be allocated to each ~~region~~ *service area* as follows:"

These amendments are intended to implement Iowa Code section 234.6.

These amendments shall become effective July 1, 2002.

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 [Ch 153 Preamble, 153.1, 153.2, 153.3(2), 153.3(3), 153.5, 153.7, 153.8] is being omitted. With the exception of the change noted above, these amendments are identical to those published under Notice as **ARC 1225B**, IAB 1/9/02.

[Filed 2/14/02, effective 7/1/02]
[Published 3/6/02]

[For replacement pages for IAC, see IAC Supplement 3/6/02.]

ARC 1417B**HUMAN SERVICES
DEPARTMENT[441]****Adopted and Filed**

Pursuant to the authority of Iowa Code section 225C.6, the Department of Human Services hereby amends Chapter 153, "Social Services Block Grant and Funding for Local Services," appearing in the Iowa Administrative Code.

The Mental Health and Developmental Disabilities Commission adopted this amendment February 5, 2002. Notice of Intended Action regarding this amendment was published in the Iowa Administrative Bulletin on December 26, 2001, as **ARC 1203B**.

This amendment rescinds Division III, "Mental Illness, Mental Retardation, and Developmental Disabilities—Local Services." These rules are no longer needed given the

HUMAN SERVICES DEPARTMENT[441](cont'd)

changes that have taken place in the last five years in the disability services system. Establishing policy for accessing funding for services is now the responsibility of the counties, and the state does not have the authority to establish or to enforce the requirements in this division.

This needed rescission was identified while the Department was completing the rule assessment mandated by Executive Order Number 8.

This amendment does not provide for waivers because the amendment is merely meant to remove policy that is no longer used.

This amendment is identical to that published under Notice of Intended Action.

This amendment is intended to implement Iowa Code section 225C.4.

This amendment shall become effective May 1, 2002.

The following amendment is adopted.

Amend 441—Chapter 153 by rescinding and reserving **Division III**.

[Filed 2/6/02, effective 5/1/02]

[Published 3/6/02]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 3/6/02.

ARC 1432B**HUMAN SERVICES
DEPARTMENT[441]****Adopted and Filed**

Pursuant to the authority of Iowa Code section 234.6, the Department of Human Services hereby amends Chapter 153, "Social Services Block Grant and Funding for Local Services," appearing in the Iowa Administrative Code.

Executive Order Number 24 mandated an across-the-board cut of 4.3 percent in state funding for all appropriations. The following amendment is intended to implement the mandated reduction in appropriation for state payment cases by reducing the spending obligations of the Department for state payment cases effective December 1, 2001, for the remainder of fiscal year 2002 and until changed. The state's financial situation is not expected to improve in fiscal year 2003.

This amendment reduces payment to providers of service to State Payment Program clients by 4.3 percent. The State Payment Program received a 16 percent budget cut effective July 1, 2001. It is anticipated the program will recoup most of that cut through program members' becoming eligible for the Medicaid Adult Rehabilitation Option funding and, thereby, eliminating or reducing their need for State Payment Program funding. An across-the-board cut to all State Payment Program provider rates is the most equitable and practical means of implementing the 4.3 percent budget cut. Other ways of dealing with the budget cuts were considered, such as restricting program eligibility or restricting the delivery of certain services, but were rejected due to inequity of treatment of counties and clients.

This percentage reduction will result in a total state savings of \$355,000 for the remainder of state fiscal year 2002 (\$130,000 from MR/DD service providers, \$200,000 from Iowa Plan providers, and \$25,000 from administrative fees paid to the Iowa Plan contractor).

This amendment does not provide for waivers in specified situations because of the underlying budget constraints. Needed savings would not be achieved if waivers were provided.

This amendment was previously Adopted and Filed Emergency and published in the December 12, 2001, Iowa Administrative Bulletin as **ARC 1165B**. Notice of Intended Action to solicit comments on that submission was published in the December 12, 2001, Iowa Administrative Bulletin as **ARC 1166B**.

This amendment is identical to that published under Notice of Intended Action.

The Council on Human Services adopted this amendment February 13, 2002.

This amendment is intended to implement Iowa Code section 234.6(6).

This amendment shall become effective May 1, 2002, at which time the Adopted and Filed Emergency amendment is hereby rescinded.

The following amendment is adopted.

Amend subrule **153.57(3)**, paragraph "**b**," as follows:

b. Payment to a provider *with a special mental health, mental retardation county contract agreement* for services provided to a member shall be the purchase of service rate *less 4.3 percent* or, if there is no purchase of service contract, the unit rate paid *on November 1, 2001*, by the county in which the provider is located, *less 4.3 percent*. Payment to a provider for services to a member whose case is being overseen by the department's service worker and the Iowa Plan shall be at the rate established by the Iowa Plan contractor *as of November 1, 2001, less 4.3 percent*.

Payment to a provider requesting enrollment in a special mental health, mental retardation county contract agreement subsequent to December 1, 2001, shall be at the rate paid on November 1, 2001, by the county in which the provider is located, less 4.3 percent. Payment to a provider requesting enrollment in the Iowa Plan subsequent to December 1, 2001, shall be at the rate in effect on November 1, 2001, less 4.3 percent.

[Filed 2/14/02, effective 5/1/02]

[Published 3/6/02]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 3/6/02.

ARC 1433B**HUMAN SERVICES
DEPARTMENT[441]****Adopted and Filed**

Pursuant to the authority of Iowa Code section 234.6, the Department of Human Services hereby rescinds Chapter 171, "Adult Day Care," Chapter 172, "Sheltered Work/Work Activity Services," Chapter 174, "Transportation Services," Chapter 206, "Community Supervised Apartment Living Arrangements Services Program," and Chapter 207, "Residential Services for Adults," appearing in the Iowa Administrative Code.

The Council on Human Services adopted this amendment February 13, 2002. Notice of Intended Action regarding this amendment was published in the Iowa Administrative Bulletin on December 26, 2001, as **ARC 1201B**.

HUMAN SERVICES DEPARTMENT[441](cont'd)

This amendment rescinds chapters dealing with the purchase of the following adult services: adult day care, sheltered work/work activity services, transportation services, community supervised apartment living arrangements services, and residential services for adults. These rules are no longer needed given the changes that have taken place in the last five years in the disability services system. Contracting for services is now the responsibility of the counties, and the Department does not have the authority to establish or to enforce the requirements in these chapters.

These needed deletions were identified while the Department was completing the rule assessment mandated by Executive Order Number 8.

This amendment does not provide for waivers because the amendment is merely meant to remove policy that is no longer used.

This amendment is identical to that published under Notice of Intended Action.

This amendment is intended to implement Iowa Code section 234.6.

This amendment shall become effective May 1, 2002.

The following amendment is adopted.

Rescind and reserve **441—Chapter 171, 441—Chapter 172, 441—Chapter 174, 441—Chapter 206, and 441—Chapter 207.**

[Filed 2/14/02, effective 5/1/02]

[Published 3/6/02]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 3/6/02.

ARC 1451B**MEDICAL EXAMINERS
BOARD[653]****Adopted and Filed**

Pursuant to the authority of Iowa Code sections 147.76 and 272C.3, the Board of Medical Examiners hereby amends Chapter 9, "Permanent Physician Licensure," and Chapter 11, "Continuing Education and Mandatory Training for Identifying and Reporting Abuse," Iowa Administrative Code.

Notice of Intended Action was published in IAB Volume XXIV, Number 11, page 798 on November 28, 2001, as **ARC 1151B.**

The changes identify 75 as the passing score for SPEX (Special Licensure Examination) and indicate that the National Board of Osteopathic Medical Examiners determines the passing score for COMVEX-USA (Comprehensive Osteopathic Medical Variable-Purpose Examination).

The amendments were adopted by the Board of Medical Examiners during a regularly scheduled meeting on February 7, 2002. No changes were made from the Notice of Intended Action.

These amendments will become effective April 10, 2002.

These amendments are intended to implement Iowa Code chapters 147, 148, 150, 150A and 272C.

The following amendments are adopted.

ITEM 1. Amend rule **653—9.1(147,148,150,150A)**, definitions of "COMVEX-USA" and "SPEX," as follows:

"COMVEX-USA" means the Comprehensive Osteopathic Medical Variable-Purpose Examination for the United

States of America, ~~prepared by the~~. *The National Board of Osteopathic Medical Examiners prepares the examination and determines its passing score, and administered by a A licensing authority in any jurisdiction administers the examination.* COMVEX-USA is the current evaluative instrument offered to osteopathic physicians who need to demonstrate current osteopathic medical knowledge.

"SPEX" means Special Licensure Examination prepared by the Federation of State Medical Boards and administered by a licensing authority in any jurisdiction. *The passing score on SPEX is 75.*

ITEM 2. Amend rule **653—11.1(272C)**, definitions of "COMVEX-USA" and "SPEX," as follows:

"COMVEX-USA" means the Comprehensive Osteopathic Medical Variable-Purpose Examination for the United States of America, ~~prepared by the~~. *The National Board of Osteopathic Medical Examiners prepares the examination and determines its passing score, and administered by a A licensing authority in any jurisdiction administers the examination.* COMVEX-USA is the current evaluative instrument offered to osteopathic physicians who need to demonstrate current osteopathic medical knowledge.

"SPEX" means Special Licensure Examination prepared by the Federation of State Medical Boards and administered by a licensing authority in any jurisdiction. *The passing score on SPEX is 75.*

[Filed 2/14/02, effective 4/10/02]

[Published 3/6/02]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 3/6/02.

ARC 1443B**MEDICAL EXAMINERS
BOARD[653]****Adopted and Filed**

Pursuant to the authority of Iowa Code sections 147.76, 272C.3, 272C.4, and 272C.5, the Board of Medical Examiners hereby amends Chapter 12, "Mandatory Reporting and Grounds for Discipline," Iowa Administrative Code.

Notice of Intended Action was published in the Iowa Administrative Bulletin on January 9, 2002, as **ARC 1264B.** No one attended the public hearing on January 29, 2002. One written comment was received requesting that the Board allow for more flexibility in selecting the date of the board-ordered evaluation. The Board was not persuaded to add this to the rule since it already accommodates the schedules of evaluation facilities and physicians as much as possible.

The Board adopted the amendments during a telephone conference call on February 13, 2002. These amendments are identical to those published under Notice.

In Items 1 and 2, rule 653—12.1(272C) and subrule 12.2(2) are amended by adding language stating that a failure to report within the required 30-day period shall constitute a basis for the Board to take disciplinary action. This change eliminates the need for current rule 653—12.3(272C). Thus, in Item 3, rule 653—12.3(272C) is rescinded and new rule 12.3(148,272C) is adopted to define an order for mental or physical examination.

These amendments will become effective April 10, 2002.

MEDICAL EXAMINERS BOARD[653](cont'd)

These amendments are intended to implement Iowa Code sections 148.6 and 272C.9.

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 [12.1, 12.2(2), 12.3] is being omitted. These amendments are identical to those published under Notice as **ARC 1264B**, IAB 1/9/02.

[Filed 2/14/02, effective 4/10/02]
[Published 3/6/02]

[For replacement pages for IAC, see IAC Supplement 3/6/02.]

ARC 1442B**MEDICAL EXAMINERS
BOARD[653]****Adopted and Filed**

Pursuant to the authority of Iowa Code sections 147.76, the Board of Medical Examiners hereby amends Chapter 13, "Standards of Practice and Professional Ethics," Iowa Administrative Code.

Notice of Intended Action was published in the Iowa Administrative Bulletin on January 9, 2002, as **ARC 1266B**. Supportive comments were received from the one person who attended the public hearing on January 29, 2002, and one written comment was received.

The Board adopted the amendment during a telephone conference call on February 13, 2002. The amendment is identical to that published under Notice.

The amendment requires physicians who utilize an automated dispensing system to provide the procedures utilized to ensure that patients receive (appropriate) counseling regarding the prescription drugs being dispensed via the dispensing system as part of the required internal quality control assurance plan.

This amendment will become effective April 10, 2002.

This amendment is intended to implement Iowa Code section 147.107 and 2001 Iowa Acts, House File 726, section 5, subsection 10, paragraph "i."

The following amendment is adopted.

Amend subrule 13.6(1) as follows:

13.6(1) An internal quality control assurance plan shall include the following elements:

- a. The name of the physician responsible for the internal quality assurance plan and testing;
- b. Methods that the dispensing system employs, e.g., barcoding, to ensure the accuracy of the patient's name and medication, dosage, directions and amount of medication prescribed;
- c. Standards that the physician expects to be met to ensure the accuracy of the dispensing system and the training and qualifications of staff members assigned to dispense via the dispensing system;
- d. *The procedures utilized to ensure that the physician(s) dispensing via the automated system provide(s) patients counseling regarding the prescription drugs being dispensed;*
- e. Staff training and qualifications for dispensing via the dispensing system;

- e f. A list of staff members who meet the qualifications and who are assigned to dispense via the dispensing system;
- f g. A plan for testing the dispensing system and each staff member assigned to dispense via the dispensing system;
- g h. The results of testing that show compliance with the standards prior to implementation of the dispensing system and prior to approval of each staff member to dispense via the dispensing system;
- h i. A plan for interval testing of the accuracy of dispensing, at least annually; and
- i j. A plan for addressing inaccuracies, including discontinuing dispensing until the accuracy level can be reattained.

[Filed 2/14/02, effective 4/10/02]
[Published 3/6/02]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 3/6/02.

ARC 1444B**MEDICAL EXAMINERS
BOARD[653]****Adopted and Filed**

Pursuant to the authority of Iowa Code section 147.76, the Board of Medical Examiners hereby amends Chapter 14, "Impaired Physician Review Committee," Iowa Administrative Code.

The agency's regulatory review guided the following amendments:

- The committee's name is changed from "Impaired Physician Review Committee" to "Iowa Physician Health Committee."
- The term "impairment" is revised and clearly states that impairment does not include various sexual problems.
- The definition of "self-report" is expanded to allow a physician to self-report via a licensure application.
- The following addition is made to the purpose and type of program: the committee serves physicians impaired by chronic health conditions, in addition to substance abuse, and maintenance may be a more realistic goal than recovery or rehabilitation.
- Procedures are clarified regarding the committee's notification to the Board of a participant's noncompliance with contract provisions.
- Membership, officers and terms are established for members of the committee.
- Eligibility and ineligibility are clarified as well as the committee's responsibility to report to the Board.
- Terms of participation, terms of committee referral to the Board, and confidentiality are clarified.
- A rule is added that allows the committee to establish a 28E agreement with another health profession licensing board to serve its impaired professionals.

Notice of Intended Action was published in IAB Volume XXIV, Number 11, page 799 on November 28, 2001, as **ARC 1153B**.

The amendments were adopted by the Board of Medical Examiners during a regularly scheduled meeting on February 7, 2002.

A public hearing was held on January 2, 2002, and comments were received from the Iowa Medical Society (IMS). The adopted amendments differ from those published under

MEDICAL EXAMINERS BOARD[653](cont'd)

Notice of Intended Action due to comments from the IMS and the committee's Assistant Attorney General. The changes are as follows:

- The Executive Director of the Board shall be an ongoing member of the IPHC and shall not be limited by a term of membership.
- Several rules are applicable to applicants as well as licenses and the word "applicants" was added.
- The committee's responsibility to report violations of rules or laws was clarified to mean those rules or laws unrelated to impairment.

The Board did not make other changes requested by IMS:

- Definition of "impairment." IMS has concerns about the lack of specificity of this definition. The Board is not persuaded to be more specific for fear that physicians who could benefit from the program could be excluded by a stricter definition and may then face disciplinary action instead. IMS was concerned that this definition affects mandatory reporting; the Board clarified that physicians must report known violations and not potential violations.
- Name of the committee. While IMS had requested a change in the name, it feels the public will not know that the IPHC is an arm of the Board, unless this is spelled out. The Board is not persuaded by this argument since applicants receive this information at the time of reporting and in the initial agreement and in the contract, and participants come to the Board office for meetings with staff and the IPHC.
- Role of the Executive Director in the committee. IMS wants the role defined in rule. The Board feels this is unnecessary since the Executive Director is only one member of the IPHC and any problems the IPHC finds with the Executive Director could be addressed to the Board, the Executive Director's employer.
- Self-reporting. IMS has concerns that the self-reporting process is dependent upon the physician's self-reporting before the Board receives a complaint. The Board finds that the self-report is critical; the Board already has the option to send licensees to the IPHC.
- Ineligibility. IMS wants the physician to be allowed to respond to the IPHC's ruling of ineligibility before referral to the Board. The Board is not persuaded that the IPHC is the place for legal wrangling. If the IPHC makes the determination that a physician is not eligible, the case should go to the Board and the Board can decide if the physician is eligible; if so, the Board can send the physician back to the IPHC for monitoring.
- Contract terms. IMS wants physicians to have more discretion on the contract terms. The Board is not persuaded that this should be in rule form. The IPHC routinely considers physicians' requests; however, it is essential that the IPHC make the final determination in the best interest of the physician and the public. The IPHC utilizes requirements in substance abuse cases that are based on recommendations from the individual physician's treating facility and standards used by the Federation of State Physician Health Programs, which have been shown in the research to be most predictive of recovery.
- Confidentiality. IMS wants to add to the confidentiality provision that participation in the program is confidential. The Board finds this unnecessary since the information is already confidential by law.
- Prior consents. IMS wants to ensure that necessary prior consents are secured before communication occurs with other agencies. The Board finds this unnecessary since this information is confidential by law without the necessary releases.

These amendments are intended to implement Iowa Code section 272C.3(1)"k."

These amendments will become effective on April 10, 2002.

The following amendments are adopted.

Amend 653—Chapter 14 as follows:

CHAPTER 14
IMPAIRED IOWA PHYSICIAN REVIEW
HEALTH COMMITTEE

653—14.1(272C) Impaired Iowa physician review health committee. Pursuant to the authority of Iowa Code section 272C.3(1)"k," the board establishes the ~~impaired Iowa physician review health~~ committee, *formerly known as the impaired physician review committee.*

653—14.2(272C) Definitions.

"Board" means the board of medical examiners of the state of Iowa.

~~"Impaired physician recovery contract~~ *Physician health contract*" or "contract" means the written document ~~establishing~~ *executed by a physician and the IPHC which establishes* the terms for participation in the ~~impaired physician recovery program prepared by the impaired physician review committee~~ *Iowa physician health program.*

"Impairment" means an inability, or significant potential for inability, to practice with reasonable safety and skill as a result of alcohol or drug abuse, dependency, or addiction, or any ~~neuropsychiatric mental~~ or physical disorder or disability. *For the purposes of this program, "impairment" does not include sexual dysfunction, sexual addiction, sexual compulsion, paraphilia, or other sexual disorder.*

"~~Initial agreement~~ *Agreement*" means the written document establishing the initial terms for participation in the ~~impaired Iowa physician recovery health~~ program.

"~~IPRC IPHC~~" or "committee" means the ~~impaired Iowa physician review health~~ committee.

"~~IPRP IPHP~~" or "program" means the ~~impaired Iowa physician recovery health~~ program.

"Self-report" means ~~an applicant or a~~ the licensee providing written or oral notification to the ~~board~~ *IPHC* that the ~~applicant or the~~ licensee has been, is, or may be ~~diagnosed as having an impairment~~ *impaired* prior to the board's receiving a complaint or report alleging the same from a ~~second~~ *third* party. *Information related to an impairment or a potential impairment which is provided on a license application or renewal form may be considered a self-report upon the request of the applicant or licensee and authorization from the board and agreement by the IPHC.*

653—14.3(272C) Purpose. ~~The impaired physician review committee~~ *IPHC* evaluates, assists, and monitors and, ~~as necessary, makes reports to the board on~~ the recovery, or rehabilitation, or maintenance of physicians who self-report impairments. ~~and, as necessary, notifies the board in the event of noncompliance with contract provisions. The IPHC is both an advocate for physician health and a means to protect the health and safety of the public.~~

653—14.4(272C) Composition Organization of the committee. ~~The chairperson of the board shall appoint the members of the IPRC IPHC. The membership of the IPRC includes, but is not limited to:~~

14.4(1) Membership. The membership of the IPHC includes, but is not limited to:

MEDICAL EXAMINERS BOARD[653](cont'd)

1 *a. Executive* The executive director of the board or the director's designee from the board's staff;

2 *b.* One physician who has remained free of addiction for a period of no less than two years since following successfully completing successful completion of a board-approved recovery program, and a board-ordered probation for drug or alcohol dependency alcohol or drug abuse, dependency, or addiction, addiction, or abuse or an IPHC contract;

3 *c.* One practitioner with expertise in substance abuse/addiction treatment programs;

4 *d.* One physician with expertise in the diagnosis and treatment of neuropsychiatric disorders and disabilities psychiatrist; and

5 *e.* One public member.

14.4(2) *Officers.* The committee shall elect a chairperson and vice chairperson at the last meeting of each calendar year to begin serving a one-year term on January 1.

14.4(3) *Terms.* Committee members, except the executive director, shall be appointed for three-year terms, for a maximum of three terms. Terms shall expire on December 31 of the third year of the term.

653—14.5(272C) Eligibility. To be eligible for participation in the impaired physician recovery program IPHP, an applicant or a licensee must self-report an impairment or suspected impairment directly to the office of the board coordinator of the IPHP.

14.5(1) *An applicant or A* a licensee is deemed ineligible to participate in the program if the board or committee finds sufficient evidence of any of the following:

1 *a.* The applicant or licensee is engaged in the unlawful diversion or distribution of controlled substances or illegal substances to a third party or for personal profit or gain;

2 *b.* At the time of self-reporting, the licensee is already under an Iowa board order for an related to an impairment or any other violation of the laws and rules governing the practice of the profession;

3 *c.* The applicant or licensee has caused harm or injury to a patient;

4 *d.* There The board is currently a board investigation of the licensee that concerns serious matters related to the ability to practice with reasonable safety and skill or in accordance with the accepted standards of care; investigating the applicant or licensee for matters related to an alleged impairment; or

5. The licensee has been subject to a civil administrative or criminal sanction, or ordered to make reparations or remuneration by a government or regulatory authority of the United States, this or any other state or territory or a foreign nation for actions that the committee determines to be serious infractions of the laws, administrative rules, or professional ethics related to the practice of medicine; or

e. The applicant or licensee provided inaccurate, misleading, or fraudulent information or failed to fully cooperate with the board or committee.

6. The licensee failed to provide truthful information or to fully cooperate with the board or committee.

14.5(2) *The IPHC shall report to the board any knowledge of violations of administrative rules or statutes unrelated to the impairment.*

653—14.6(272C) Type of program. The impaired physician recovery program IPHP is an individualized recovery, or rehabilitation, or maintenance program designed to meet the specific needs of the impaired physician. The committee, in consultation with the licensee and upon the recommendation of an IPRC IPHC-approved evaluator, shall determine

the type of recovery, or rehabilitation, or maintenance program required to treat the applicant's or licensee's impairment. The committee shall prepare an impaired a physician recovery health contract, to be signed by the applicant or licensee, that shall provide a detailed description of the goals of the program, the requirements for successful completion participation, and the applicant's or licensee's obligations there-in.

653—14.7(272C) Terms of participation. A licensee or an applicant shall agree to comply with the terms for participation in the IPRC IPHP established in the initial agreement and contract. Terms of participation specified in the contract shall include, but are not limited to:

14.7(1) *Duration.* The length of time an applicant or a licensee shall may participate in the program shall be determined by the committee in accordance with the following:

a. Participation in the program for applicants or licensees impaired as a result of chemical dependency or alcohol or substance abuse or addiction alcohol or drug abuse, dependency, or addiction is set at a minimum of four five years. The committee may offer a contract with a shorter duration to an applicant or licensee who can demonstrate successful participation in another state's physician health program or who can document similar experience.

b. Length of participation in the program for applicants or licensees with impairments resulting from neuropsychiatric mental or physical disorders or disabilities will vary depending upon the recommendations for treatment provided by a qualified an approved evaluator designated by the committee to establish an appropriate treatment protocol and the determination of the IPHP following review of all relevant information.

14.7(2) *Noncompliance.* A licensee or an applicant participating in the program is responsible for notifying the committee of any instance of noncompliance including, but not limited to, a relapse. Notification of noncompliance made to the IPRC IPHP by the applicant or licensee, any person responsible for providing or monitoring treatment, or another party shall result in the following:

a. First instance. Upon receiving notification of a first instance of noncompliance including, but not limited to, a relapse, the IPRC IPHP shall make a report to the board that includes which identifies the applicant or licensee, describes the relevant terms of the applicant's or licensee's contract and the nature of the noncompliance and includes recommendations as to whether treatment should be augmented or formal charges should be filed the applicant or licensee should be allowed to remain in the program or whether formal disciplinary charges should be filed by the board.

b. Second instance. Upon receiving notification of a second instance of noncompliance including, but not limited to, a relapse, the IPRC IPHP shall nullify the contract and refer the case to the board for the filing of formal charges or other appropriate action.

14.7(3) *Practice restrictions.* The IPRC IPHP may impose restrictions on the license to practice medicine as a term of the initial agreement or contract until such time as it receives a report from an approved evaluator that the licensee is capable of practicing with reasonable safety and skill and the IPHC determines, based on all relevant information, that the licensee is capable of practicing with reasonable skill and safety. As a condition of participating in the program, a licensee is required to agree to restrict practice in accordance with the terms specified in the initial agreement or contract. In the event that the licensee or applicant refuses to agree to or comply with the restrictions established in the initial

MEDICAL EXAMINERS BOARD[653](cont'd)

agreement or contract, the committee shall refer the *applicant* or licensee to the board for appropriate action.

653—14.8(272C) Limitations.

14.8(1) The ~~IPRC~~ *IPHC* establishes the terms of and monitors a participant's compliance with the program specified in the initial agreement and contract. The ~~IPRC~~ *IPHC* is not responsible for participants who fail to comply with the terms of *the initial agreement or contract or who fail to otherwise or successfully complete the IPRP IPHP.*

14.8(2) ~~Participation~~ *An applicant's or licensee's participation* in the program ~~under the auspices of the IPRC~~ shall not relieve the board of any duties and shall not divest the board of any authority or jurisdiction otherwise provided. *An applicant or licensee who violates a statute or administrative rule of the board which is unrelated to impairment shall be referred to the board in accordance with these administrative rules for appropriate action. Any violation of the statutes or rules governing the practice of medicine by a participant shall be referred to the board for appropriate action.*

653—14.9(272C) Confidentiality. ~~The IPRC is subject to the provisions governing confidentiality established in Iowa Code section 272C.6. Accordingly, information~~ *Information* in the possession of the board or the committee *shall be subject to the confidentiality requirements of Iowa Code section 272C.6. Information about applicants or licensees in the program shall not be disclosed to the public except as provided in this rule. Participation in the IPRP under the auspices of the IPRC is not a matter of public record.*

14.9(1) *The IPHC may communicate information about an IPHP participant to medical regulatory authorities, medical societies, or impaired physician programs of any jurisdiction of the United States or foreign nations in which the participant is currently licensed to practice medicine or in which the participant may seek licensure.*

14.9(2) *The IPHC may communicate information about an IPHP participant to any person assisting in the participant's treatment, recovery, rehabilitation, monitoring, or maintenance.*

14.9(3) *The IPHC may communicate information about an IPHP participant to the board in the event a participant does not comply with the terms of the contract. The IPHC may provide the board with a participant's IPHC file in the event the participant does not comply with the terms of the contract and the IPHC refers the case to the board for the filing of formal disciplinary charges.*

14.9(4) *The IPHC shall maintain a participant's complete IPHP file for the ten-year period after a participant's contract has expired or is terminated. After that period, the Executive Summary and contract shall be retained.*

653—14.10(28E) Authority for 28E agreements. *The IPHC may enter into 28E agreements with other health professional licensing boards to evaluate, assist, and monitor impaired licensees from other health professions and to report to those professional licensing boards regarding the compliance of individual licensees. In the event of noncompliance, the licensee may be referred to the appropriate licensing board for appropriate disciplinary action. If the IPHC enters into a 28E agreement with another health professional licensing board, this chapter applies and the word "physician" shall be replaced with the word "licensee" for the purpose of interpreting this chapter.*

These rules are intended to implement Iowa Code section 272C.3.

[Filed 2/14/02, effective 4/10/02]
[Published 3/6/02]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 3/6/02.

ARC 1465B

NATURAL RESOURCE COMMISSION[571]

Adopted and Filed

Pursuant to the authority of Iowa Code subsection 455A.5(6), the Natural Resource Commission hereby amends Chapter 94, "Nonresident Deer Hunting," Iowa Administrative Code.

These amendments increase the number of nonresident antlerless-only deer licenses, changes the need for preference points in obtaining an antlerless deer license, and addresses hunting hours.

Notice of Intended Action was published in the Iowa Administrative Bulletin on November 28, 2001, as **ARC 1149B**. The only public comments received centered on increases in license fees. The adopted amendments are unchanged from the Notice of Intended Action.

These amendments are intended to implement Iowa Code sections 481A.38 and 481A.48.

These amendments shall become effective April 10, 2002.

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 [amendments to Ch 94] is being omitted. These amendments are identical to those published under Notice as **ARC 1149B**, IAB 11/28/01.

[Filed 2/15/02, effective 4/10/02]
[Published 3/6/02]

[For replacement pages for IAC, see IAC Supplement 3/6/02.]

ARC 1407B

NURSING BOARD[655]

Adopted and Filed

Pursuant to the authority of Iowa Code sections 17A.3 and 147.76, the Board of Nursing hereby amends Chapter 3, "Licensure to Practice—Registered Nurse/Licensed Practical Nurse," Iowa Administrative Code.

These amendments remove the delinquent license fee for individuals whose licenses became delinquent prior to July 4, 1963, require board approval for licensure of an individual who holds a license under sanction in any United States jurisdiction or another country, and reduce continuing education requirements to reactivate/reinstate the nursing license.

Notice of Intended Action regarding these amendments was published in the Iowa Administrative Bulletin on December 26, 2001, as **ARC 1218B**. These amendments are identical to those published under Notice.

NURSING BOARD[655](cont'd)

These amendments will become effective April 10, 2002.

These amendments are intended to implement Iowa Code chapters 17A, 147, 152 and 272C.

The following amendments are adopted.

ITEM 1. Amend rule **655—3.1(17A,147,152,272C)**, definition of “fees,” numbered paragraph “**11**,” to read as follows:

11. For a registered nurse/licensed practical nurse delinquent license fee, \$100, plus back renewal fees to date due, calculated at \$25 per year or any part thereof. The total back renewal fees shall not exceed \$250. *The delinquent license fee shall not be assessed if the license became delinquent prior to July 4, 1963.*

ITEM 2. Amend subrule **3.3(1)**, paragraph “**c**,” to read as follows:

c. Approval by the board of those with a past felony conviction or a record of prior disciplinary action, regardless of jurisdiction.

ITEM 3. Amend subrule **3.5(2)** by rescinding paragraph “**c**” and relettering paragraphs “**d**” and “**e**” as “**c**” and “**d**.”

ITEM 4. Amend subrule **3.7(5)**, paragraph “**c**,” subparagraph (2), to read as follows:

(2) The licensee shall have completed ~~15~~ 12 contact hours of continuing education as specified in 655—Chapter 5, earned within the 12 months prior to reinstatement.

ITEM 5. Amend subrule **3.7(6)**, paragraph “**b**,” subparagraph (2), to read as follows:

(2) The licensee shall have completed ~~15~~ 12 contact hours of continuing education as specified in 655—Chapter 5, earned within the 12 months prior to reactivation.

[Filed 2/8/02, effective 4/10/02]

[Published 3/6/02]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 3/6/02.

ARC 1406B

PERSONS WITH DISABILITIES DIVISION[431]

Adopted and Filed

Pursuant to the authority of Iowa Code section 17A.3, the Persons with Disabilities Division hereby adopts new Chapter 7, “Waiver Rules,” Iowa Administrative Code.

The Governor, through Executive Order Number 11 issued on September 14, 1999, requires each agency with the authority to adopt rules, as defined in Iowa Code sections 17A.2(1) and 17A.2(11), to initiate rule-making proceedings to adopt the uniform waiver rule outlined in the Executive Order. Executive Order Number 11 was published in the Iowa Administrative Bulletin, Volume XXII, Number Seven, dated October 6, 1999. Adoption of this new chapter will provide the Division with waiver rules.

Notice of Intended Action was published in the December 26, 2001, Iowa Administrative Bulletin as **ARC 1208B**. These rules are identical to those published under Notice.

These rules are intended to implement Executive Order Number 11 and Iowa Code section 17A.9A.

These rules will become effective April 10, 2002.

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 rules [Ch 7] is being omitted. These rules are identical to those published under Notice as **ARC 1208B**, IAB 12/26/01.

[Filed 2/11/02, effective 4/10/02]

[Published 3/6/02]

[For replacement pages for IAC, see IAC Supplement 3/6/02.]

ARC 1411B

PROFESSIONAL LICENSURE DIVISION[645]

Adopted and Filed

Pursuant to the authority of Iowa Code section 157.14, the Board of Cosmetology Arts and Sciences Examiners amends Chapter 60, “Licensure of Cosmetologists, Electrologists, Estheticians, Manicurists, Nail Technologists, and Instructors of Cosmetology Arts and Sciences,” Chapter 61, “Licensure of Salons and Schools of Cosmetology Arts and Sciences,” Chapter 62, “Fees,” and Chapter 64, “Continuing Education for Cosmetology Arts and Sciences,” Iowa Administrative Code.

The amendments add new language regarding continuing education that is not required for the first renewal of the license, change the cap on continuing education hours to match the number of renewals, change the license renewal requirements to clarify the criteria for continuing education requirements, change the reinstatement rules, require that the salon floor plan be included with the application form, and change the salon license fee to cover a biennium rather than a year.

Notice of Intended Action was published in the Iowa Administrative Bulletin on November 28, 2001, as **ARC 1140B**. A public hearing was held on December 20, 2001, from 9 to 11 a.m. in the Fifth Floor Board Conference Room, Lucas State Office Building. No written or oral comments were received.

The following changes were made to the Notice of Intended Action:

In a new Item 2, a new unnumbered paragraph was added to subrules 60.3(1) and 60.3(4) allowing clock hours to be converted to credit hours using a standard, recognized method of conversion. The sentence reads as follows:

“Clock hours may be converted to credit hours using a standard, recognized method of conversion.”

A new paragraph “g” was added to subrule 61.1(6) allowing a salon that is issued an initial license within six months of the license renewal to not renew the license until the renewal month two years later. New paragraph “g” reads as follows:

“g. A salon that is issued an initial license within six months prior to the license renewal shall not be required to renew the license until the renewal month two years later.”

These amendments were adopted by the Board of Cosmetology Arts and Sciences Examiners on February 5, 2002.

These amendments will become effective April 10, 2002.

PROFESSIONAL LICENSURE DIVISION[645](cont'd)

These amendments are intended to implement Iowa Code section 157.14 and chapter 272C.

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 [amendments to Chs 60 to 62, 64] is being omitted. With the exception of the changes noted above, these amendments are identical to those published under Notice as **ARC 1140B**, IAB 11/28/01.

[Filed 2/13/02, effective 4/10/02]
[Published 3/6/02]

[For replacement pages for IAC, see IAC Supplement 3/6/02.]

ARC 1413B**PROFESSIONAL LICENSURE
DIVISION[645]****Adopted and Filed**

Pursuant to the authority of Iowa Code section 147.76, the Board of Physical and Occupational Therapy Examiners hereby rescinds Chapter 200, "Physical Therapy Examiners," and adopts new Chapter 200, "Board of Physical and Occupational Therapy Examiners—Physical Therapy Examiners"; rescinds Chapter 201, "Occupational Therapy Examiners," and adopts new Chapter 201, "Licensure of Physical Therapists and Physical Therapist Assistants"; rescinds Chapter 202, "Physical Therapist Assistants," and adopts new Chapter 202, "Discipline"; amends Chapter 203, "Continuing Education for Physical Therapists and Physical Therapist Assistants"; and adopts new Chapter 204, "Fees," Iowa Administrative Code.

The amendments rescind the current licensing rules and fees and adopt new chapters for licensure, discipline and fees, and amend the chapter for continuing education.

Notice of Intended Action was published in the Iowa Administrative Bulletin on October 3, 2001, as **ARC 0990B**. A public hearing was held on October 23, 2001, from 9 to 11 a.m. in the Professional Licensure Conference Room, Fifth Floor, Lucas State Office Building, Des Moines, Iowa. No public comments were received at the hearing. The Division received one written comment stating that disciplinary requirements for physical therapist assistants were not included in the discipline rules in the Notice. The discipline chapter is revised to include requirements for physical therapist assistants.

The following changes were made to the Notice of Intended Action:

- Definitions for "physical therapist" and "physical therapist assistant" were added to rule 645—201.1(147).
- A sentence was added to rule 645—201.3(147) requiring applicants who will be working in the scope of physical therapy prior to licensure and are waiting to take the examination for the first time to have completed the educational and experience requirements for licensure as a physical therapist or physical therapist assistant. Requirements, previously stated in the introductory paragraph of 201.3(147), can be found in the lettered paragraphs of subrules 201.3(1) and 201.3(2).

- The phrase "or more" was added to subrule 201.4(4) and to the unlettered paragraph under subrule 201.7(2) for clarification.

- The Web site for the Foreign Credentialing Commission on Physical Therapy was added to subrule 201.5(2), paragraph "a." An exemption was added to subrule 201.5(2), paragraph "c," allowing foreign-trained applicants who meet specific criteria to be exempt from taking the TOEFL examination.

- Paragraph "a" of subrule 201.6(1) was reworded, but the intent of the language did not change. A sentence was added to paragraphs "b" and "e" to include supervision by telecommunication. The phrase "before starting employment" was added to paragraph "h" that requires applicants under PT supervision to have a current application on file before starting employment.

- The phrase "and cannot be delegated to a PTA" was added to subrule 201.6(2).

- In subrule 201.6(5), the paragraphs were reworded and relettered for clarity but the intent of the language did not change.

- The requirement for verification of licensure was reworded for clarification in subrule 201.7(1), paragraph "f."

- The unlettered paragraph in subrule 201.7(2) was reworded to state that applicants who have failed the NPTE are not eligible for licensure until five years from the date of their last failed examination.

- Subrules 201.9(1) and 203.2(1), regarding the biennial license renewal period, are reworded. The renewal cycle begins on the sixteenth day of the birth month and ends on the fifteenth day of the birth month two years later.

- The word "current" was added to the requirement that applicants submit verification of practice in any other state in the reinstatement tables in paragraphs "a" and "b" of subrules 201.10(5) and 201.11(6). Language in the tables explaining reinstatement in subrule 201.11(6) was reworded to be consistent with the continuing education requirements stated in the tables found in subrule 201.10(5), paragraphs "a" and "b."

- The phrase "for physical therapists and physical therapist assistants" was added to the catchwords for rule 645—202.1(272C).

- Subrules 202.1(3) through 202.1(23) were deleted. Rules 202.2(272C), "Grounds for discipline for physical therapists," and 202.3(272C), "Grounds for discipline for physical therapist assistants," were added to differentiate between discipline for physical therapists and for physical therapist assistants.

- Continuing education requirements in 203.5(148A) were reworded to be consistent with the requirements stated in the reinstatement tables in Chapter 201.

- The renewal fee was changed to \$50, which decreases the fee for physical therapists by \$5 and increases the fee for physical therapist assistants by \$5. As a result, fees and totals were changed in the reinstatement tables in 201.10(272C) and 201.11(272C) and Chapter 204, "Fees." The \$50 fee is consistent with renewal fees for other professions.

These amendments were adopted by the Board of Physical and Occupational Therapy Examiners on February 8, 2002.

These amendments will become effective April 10, 2002. These amendments are intended to implement Iowa Code section 147.76 and chapters 17A, 147, 148A and 272C.

The following amendments are adopted.

PROFESSIONAL LICENSURE DIVISION[645](cont'd)

ITEM 1. Rescind 645—Chapter 200 and adopt the following **new** chapter in lieu thereof:

CHAPTER 200
BOARD OF PHYSICAL AND
OCCUPATIONAL THERAPY EXAMINERS—
PHYSICAL THERAPY EXAMINERS

645—200.1(147) Definitions.

“Board” means the board of physical and occupational therapy examiners.

“Department” means the department of public health.

“Licensee” means any person licensed to practice as a physical therapist or physical therapist assistant in the state of Iowa.

645—200.2(147) Availability of information.

200.2(1) All information regarding rules, forms, time and place of meetings, minutes of meetings, record of hearings, and examination results are available to the public between the hours of 8 a.m. and 4:30 p.m., Monday to Friday, except holidays.

200.2(2) Information may be obtained by writing to the Board of Physical and Occupational Therapy Examiners, Department of Public Health, Lucas State Office Building, Des Moines, Iowa 50319-0075. All official correspondence shall be in writing and directed to the board at this address.

These rules are intended to implement Iowa Code chapters 147 and 148A.

ITEM 2. Rescind 645—Chapter 201 and adopt the following **new** chapter in lieu thereof:

CHAPTER 201
LICENSURE OF PHYSICAL THERAPISTS AND
PHYSICAL THERAPIST ASSISTANTS

645—201.1(147) Definitions. For purposes of these rules, the following definitions shall apply:

“Assistive personnel” means any person who carries out physical therapy and is not licensed as a physical therapist or physical therapist assistant. This definition does not include students as defined in Iowa Code section 148A.3(2).

“Board” means the board of physical and occupational therapy examiners.

“Department” means the department of public health.

“Inactive licensee” means any person licensed to practice physical therapy in Iowa who has met all conditions for officially placing the person’s license on inactive status. An inactive licensee may not practice physical therapy until the reinstatement requirements as defined in these rules are met.

“Lapsed license” means a license that a person has failed to renew as required, or the license of a person who failed to meet stated obligations for renewal within a stated time.

“Licensee” means any person licensed to practice as a physical therapist or physical therapist assistant in the state of Iowa.

“License expiration date” means the fifteenth day of the birth month every two years after initial licensure.

“Licensure by endorsement” means the issuance of an Iowa license to practice physical therapy to an applicant who is currently licensed in another state.

“On site” means:

1. To be continuously on site and present in the department or facility where assistive personnel are performing services;

2. To be immediately available to assist the person being supervised in the services being performed; and

3. To provide continued direction of appropriate aspects of each treatment session in which a component of treatment is delegated to assistive personnel.

“Physical therapist” means a person licensed under this chapter to practice physical therapy.

“Physical therapist assistant” means a person licensed under this chapter to assist in the practice of physical therapy.

“PT” means physical therapist.

“PTA” means physical therapist assistant.

“Reciprocal license” means the issuance of an Iowa license to practice physical therapy to an applicant who is currently licensed in another state which has a mutual agreement with the Iowa board of physical and occupational therapy examiners to license persons who have the same or similar qualifications to those required in Iowa.

645—201.2(147) Requirements for licensure. The following criteria shall apply to licensure:

201.2(1) The applicant shall complete a board-approved application packet. Application forms may be obtained from the board’s Web site (<http://www.idph.state.ia.us/licensure>) or directly from the board office. All applications shall be sent to Board of Physical and Occupational Therapy Examiners, Professional Licensure Division, Fifth Floor, Lucas State Office Building, Des Moines, Iowa 50319-0075.

201.2(2) The applicant shall complete the application form according to the instructions contained in the application. If the application is not completed according to the instructions, the application will not be reviewed by the board.

201.2(3) Each application shall be accompanied by the appropriate fees payable by check or money order to the Board of Physical and Occupational Therapy Examiners. The fees are nonrefundable.

201.2(4) No application will be considered by the board until official copies of academic transcripts sent directly from the school to the board of physical and occupational therapy examiners have been received by the board. An applicant shall have successfully completed a physical therapy education program accredited by a national accreditation agency approved by the board.

201.2(5) Notification of eligibility for the examination shall be sent to the applicant by the board.

201.2(6) The candidate shall have the examination score sent directly from the testing service to the board.

201.2(7) Licensees who were issued their initial licenses within six months prior to the renewal date shall not be required to renew their licenses until the renewal date two years later.

201.2(8) Incomplete applications that have been on file in the board office for more than two years shall be:

a. Considered invalid and shall be destroyed; or

b. Maintained upon written request of the candidate. The candidate is responsible for requesting that the file be maintained.

645—201.3(147) Requirements for practice prior to licensure. An applicant who is waiting to take the examination for the first time and will be working in the scope of physical therapy prior to licensure must have completed the educational and experience requirements for licensure as a physical therapist or physical therapist assistant.

201.3(1) Applicant physical therapist. An applicant:

a. Shall make application for licensure;

PROFESSIONAL LICENSURE DIVISION[645](cont'd)

b. Shall include the name of the licensed physical therapist who will provide supervision of the applicant until the applicant is licensed;

c. Shall practice only under the supervision of a licensed physical therapist(s) for a period not to exceed six months in the case of licensure by examination;

d. May, during this time, evaluate, plan treatment programs, and provide periodic reevaluation only under on-site supervision of a licensed physical therapist who shall bear full responsibility for care provided by the applicant;

e. Shall have all physical therapy records cosigned by the supervising licensed physical therapist; and

f. Shall notify the board, within seven days, of any change in supervision.

An applicant who fails the licensing examination shall not practice as an applicant physical therapist.

201.3(2) Applicant physical therapist assistant. An applicant:

a. Shall make application for licensure;

b. Shall include the name of the licensed physical therapist who will provide supervision of the applicant until the applicant is licensed;

c. May practice under the supervision of a licensed physical therapist for a period not to exceed six months in the case of licensure by examination;

d. May, during this time, perform physical therapy procedures as delegated by the supervising physical therapist only under on-site supervision;

e. Shall have all physical therapy records cosigned by the supervising licensed physical therapist; and

f. Shall notify the board, within seven days, of any change in supervision.

An applicant who fails the examination shall not practice as an applicant physical therapist assistant.

645—201.4(147) Examination requirements for physical therapists and physical therapist assistants. The following criteria shall apply to the written examination(s):

201.4(1) The applicant shall take and pass the National Physical Therapy Examination (NPTE) or other nationally recognized equivalent examination as defined by the board.

201.4(2) The applicant shall abide by the following criteria:

a. For examinations taken prior to July 1, 1994, satisfactory completion shall be defined as receiving an overall examination score exceeding 1.5 standard deviations below the national average.

b. For examinations completed after July 1, 1994, satisfactory completion shall be defined as receiving an overall examination score equal to or greater than the criterion-referenced passing point recommended by the Federation of State Boards of Physical Therapy.

201.4(3) Before the board may approve an applicant for testing beyond three attempts, an applicant shall reapply for licensure and shall demonstrate evidence satisfactory to the board of having successfully completed additional clinical training or coursework, or both.

201.4(4) Any person who has failed the NPTE or other nationally recognized equivalent examination three or more times shall not be eligible for licensure in Iowa until five years from the date of the last failed examination.

201.4(5) The applicant shall be notified by the board in writing of examination results.

645—201.5(147) Educational qualifications.

201.5(1) The applicant must present proof of meeting the following requirements for licensure as a physical therapist or physical therapist assistant:

a. Educational requirements—physical therapists. Physical therapists shall graduate from a physical therapy program accredited by a national accreditation agency approved by the board.

b. Educational requirements—physical therapist assistants. Physical therapist assistants shall graduate from a PTA program accredited by a national accreditation agency approved by the board.

201.5(2) Foreign-trained applicants shall:

a. Submit an English translation and an equivalency evaluation of their educational credentials by one of the following: Foreign Credentialing Commission on Physical Therapy, Inc., P.O. Box 25827, Alexandria, VA 22313-9998, telephone (703)684-8406, Web site www.fccpt.org; International Educational Research Foundations, Inc., Credentials Evaluation Service, P.O. Box 3665, Culver City, CA 90231-3665, telephone (310)258-9451, Web site www.ierf.org, or E-mail at info@ierf.org; International Consultants of Delaware, Inc., 109 Barksdale, Professional Center, Newark, DE 19711, telephone (302)737-8715; International Credentialing Associates, Inc., 7245 Bryan Dairy Road, Bryan Dairy Business Park II, Largo, FL 33777, telephone (727) 549-8555. The professional curriculum must be equivalent to the Commission of Accreditation in Physical Therapy Education standards. An applicant shall bear the expense of the curriculum evaluation.

b. Submit a notarized copy of the certificate or diploma awarded to the applicant from a physical therapy program in the country in which the applicant was educated and provide written proof that the applicant's school of physical therapy education is recognized by its own ministry of education.

c. Submit certified proof of proficiency in the English language by achieving a score of at least 560 on the Test of English as a Foreign Language (TOEFL) paper examination and a score of at least 200 on the computer examination administered by Educational Testing Services, Inc., P.O. Box 6157, Princeton, NJ 08541-6157. An applicant shall bear the expense of the TOEFL examination. Applicants may be exempt from the TOEFL examination when the native language is English, physical therapy education was completed in a school approved by the Commission on Accreditation in Physical Therapy Education (CAPTE), language of instruction in physical therapy was English, language of the textbooks was English, and transcript was in English.

d. Submit an official statement from each country's or territory's board of examiners or other regulatory authority regarding the status of the applicant's license, including issue date, expiration date and information regarding any pending or prior investigations or disciplinary action. The applicants shall request such statements from all entities in which they are currently or formerly licensed.

e. Submit proof of legal authorization to be employed in a jurisdiction of the United States.

f. Receive a final determination from the board regarding the application for licensure.

645—201.6(272C) Supervision requirements.

201.6(1) Physical therapist supervisor responsibilities. The supervisor shall:

a. Provide supervision to a PTA;

b. Provide on-site supervision or supervision by telecommunication as long as the physical therapy services are rendered in accordance with the minimum frequency standards set forth in subrule 201.6(4);

PROFESSIONAL LICENSURE DIVISION[645](cont'd)

c. Assume responsibility for all delegated tasks and shall not delegate a service which exceeds the expertise of the PTA;

d. Provide evaluation and development of a treatment plan for use by the PTA;

e. Supervise not more than two PTAs who are providing physical therapy per calendar day, including supervision by telecommunication;

f. Maintain timely records which indicate the names of the PTAs for whom the PT has supervisory responsibility;

g. Ensure that a PTA under the PT's supervision has a current license to practice as a PTA;

h. Ensure that an applicant under the PT's supervision has a current application on file before starting employment; and

i. Ensure that the signature of a PTA or PT on a physical therapy treatment record indicates that the physical therapy services were provided in accordance with the rules and regulations for practicing as a PT or PTA.

201.6(2) The following are functions that only a physical therapist may provide and cannot be delegated to a PTA:

a. Interpretation of referrals;

b. Initial physical therapy evaluation and reevaluations;

c. Identification, determination or modification of patient problems, goals, and care plans;

d. Final discharge evaluation and establishment of the discharge plan;

e. Assurance of the qualifications of all assistive personnel to perform assigned tasks through written documentation of their education or training that is maintained and available at all times;

f. Delegation of and instruction in the services to be rendered by the PTA or other assistive personnel including, but not limited to, specific tasks or procedures, precautions, special problems, and contraindicated procedures; and

g. Timely review of documentation, reexamination of the patient and revision of the plan when indicated.

201.6(3) Supervision of other assistive personnel. PTs are responsible for patient care provided by assistive personnel under their supervision. Physical therapy aides and other assistive personnel shall not provide independent patient care unless each of the following standards is satisfied:

a. The supervising PT has physical participation in the patient's treatment or evaluation, or both, each treatment day;

b. The assistive personnel may provide independent patient care only while under the on-site supervision of the supervising PT;

c. Documentation made in physical therapy records by unlicensed assistive personnel shall be cosigned by the supervising PT; and

d. The PT provides periodic reevaluation of assistive personnel's performance in relation to the patient.

201.6(4) The PT must provide patient evaluation and participate in treatment based upon the health care admission or residency status of the patient being treated. A PT may not delegate to the PTA the authority to provide more than the following:

<u>Patient's Health Care Residency or Admission Status</u>	<u>Maximum of Physical Therapist Delegation (whichever comes first)</u>
Hospital, acute care	3 visits or 2 consecutive calendar days
Hospital, non-CARF	3 visits or 2 consecutive calendar days

Hospital, CARF-accredited beds	4 visits or 4 consecutive calendar days
Skilled nursing	4 visits or 4 consecutive calendar days
Home health	4 visits or 9 consecutive calendar days
Nursing facility	9 visits or 9 consecutive calendar days
Iowa educational agency	4 visits or 29 consecutive calendar days
Other facility/admissions status	4 visits or 9 consecutive calendar days

Calendar days include weekends and holidays.

201.6(5) Physical therapist assistant responsibilities. The physical therapist assistant:

a. Shall provide only those services for which the PTA has the skills necessary to provide the procedures and shall consult the supervising physical therapist if the procedures are believed not to be in the best interest of the patient;

b. Shall gather data relating to the patient's disability, but not interpret the data as it pertains to the plan of care;

c. Shall communicate any change, or lack of change, which occurs in the patient's condition and which may need the assessment of the PT;

d. Shall provide physical therapy services only under the supervision of the physical therapist;

e. Shall provide treatment only after evaluation and development of a treatment plan by the physical therapist;

f. Shall refer inquiries that require interpretation of patient information to the physical therapist;

g. May have on-site or immediate telecommunicative supervision as long as the physical therapy services are rendered in accordance with the minimum frequency standards set forth in subrule 201.6(4); and

h. May receive supervision from any number of physical therapists.

The signature of a PTA on a physical therapy treatment record indicates that the physical therapy services were provided in accordance with the rules and regulations for practicing as a PTA.

201.6(6) Other assistive personnel. Physical therapy aides and other assistive personnel may assist a PTA in providing patient care in the absence of a PT only if the PTA maintains in-sight supervision of the physical therapy aide or other assistive personnel and the PTA is primarily and significantly involved in that patient's care.

645—201.7(147) Licensure by endorsement.

201.7(1) An applicant who has been a licensed PT or PTA under the laws of another jurisdiction shall file an application for licensure by endorsement with the board office. The board may receive by endorsement any applicant from the District of Columbia or another state, territory, province or foreign country who:

a. Submits to the board a completed application;

b. Pays the licensure fee;

c. Shows evidence of licensure requirements that are similar to those required in Iowa;

d. Submits a copy of the scores from the appropriate professional examination to be sent directly from the examination service to the board;

e. Provides official copies of the academic transcripts sent directly from the school to the board; and

f. Provides verification(s) of license from every state sent directly from the state to the board office.

PROFESSIONAL LICENSURE DIVISION[645](cont'd)

201.7(2) In addition to the requirements of 201.7(1), a physical therapist applicant shall:

a. Have completed 80 hours of board-approved continuing education during the immediately preceding two-year period; or

b. Have practiced as a licensed physical therapist for a minimum of 2,080 hours during the immediately preceding two-year period; or

c. Have served the equivalent of one year as a full-time faculty member teaching physical therapy in an accredited school of physical therapy for at least one of the immediately preceding two years; or

d. Have successfully passed the examination within a period of one year from the date of examination to the time application is completed for licensure.

Any person who has failed the NPTE or other nationally recognized equivalent examination three or more times shall not be eligible for licensure by endorsement for five years from the date of the last failed examination.

201.7(3) In addition to the requirements of 201.7(1), a physical therapist assistant applicant shall:

a. Have completed 20 hours of board-approved continuing education during the immediately preceding two-year period; or

b. Have practiced as a licensed physical therapist assistant for a minimum of 2,080 hours during the immediately preceding two-year period; or

c. Have successfully passed the examination for physical therapist assistants within a period of one year from the date of examination to the time application for licensure is completed.

201.7(4) Individuals who were issued their licenses by endorsement within six months of the license renewal date will not be required to renew their licenses until the next renewal two years later.

201.7(5) An applicant for licensure under subrule 201.7(1) must include with this application a sworn statement of previous physical therapy practice from an employer or professional associate, detailing places and dates of employment and verifying that the applicant has practiced physical therapy at least 2,080 hours or taught as the equivalent of a full-time faculty member for at least one of the immediately preceding years during the last two-year time period.

201.7(6) Requirements for practice prior to licensure. An applicant who will be working in the scope of physical therapy prior to licensure shall include on the application form the name(s) of the licensed PT(s) who will be providing supervision of the applicant until the applicant is licensed. This supervision shall last for no longer than three months. In the event that there is a change of the licensed PT(s) providing supervision, the applicant shall submit the name(s) of the therapist(s) to the board in writing within seven days after the change in supervision takes place.

645—201.8(147) Licensure by reciprocal agreement. The board may enter into a reciprocal agreement with the District of Columbia or any state, territory, province or foreign country with equal or similar requirements for licensure of physical therapists or physical therapist assistants.

645—201.9(147) License renewal.

201.9(1) The biennial license renewal period for a license to practice as a physical therapist or physical therapist assistant shall begin on the sixteenth day of the birth month and end on the fifteenth day of the birth month two years later. All licensees shall renew on a biennial basis.

201.9(2) A renewal of license application and continuing education report form to practice as a physical therapist or physical therapist assistant shall be mailed to the licensee at least 60 days prior to the expiration of the license. Failure to receive the renewal application shall not relieve the license holder of the obligation to pay the biennial renewal fees on or before the renewal date.

a. The licensee shall submit the completed application and continuing education report form with the renewal fee to the board office before the license expiration date.

b. Individuals who were issued their initial licenses within six months of the license renewal date will not be required to renew their licenses until the next renewal two years later.

c. 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 40 hours of continuing education for physical therapists and 20 hours of continuing education for physical therapist assistants per biennium for each subsequent license renewal.

d. Persons licensed to practice as physical therapists or physical therapist assistants shall keep their renewal licenses displayed in a conspicuous public place at the primary site of practice.

201.9(3) Late renewal. If the renewal fees, continuing education report and renewal application are received within 30 days after the license renewal expiration date, the late fee for failure to renew before expiration is charged.

201.9(4) When all requirements for license renewal are met, the licensee shall be sent a license renewal card by regular mail.

645—201.10(272C) Exemptions for inactive practitioners.

201.10(1) Application for exemption. A licensee who is not engaged in practice in the state of Iowa may be granted a waiver of 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 practice in the state of Iowa without first complying with all regulations governing reinstatement after exemption. The application for a certificate of exemption shall be submitted upon the form provided by the board. A licensee must hold a current license to apply for exempt status. The licensee shall apply for inactive status prior to the license expiration date.

201.10(2) Reinstatement of exempted, inactive practitioners. Inactive practitioners who have requested and been granted a waiver of compliance with the renewal requirements and who have obtained a certificate of exemption shall, prior to engaging in the practice of the profession in Iowa, satisfy the requirements for reinstatement as outlined in 645—203.9(148A, 272C).

201.10(3) Licensees shall renew at the next scheduled renewal time. Licensees who were issued their reinstated licenses within six months prior to the renewal shall not be required to renew their licenses until the renewal date two years later.

201.10(4) A new licensee who is on inactive status during the initial license renewal time period and reinstates before the first license expiration date will not be required to complete continuing education for that first license renewal time period only. Hours of continuing education will be required for every renewal thereafter.

PROFESSIONAL LICENSURE DIVISION[645](cont'd)

201.10(5) Reinstatement of inactive license after exemption. The following charts illustrate the requirements for reinstatement based on the length of time a license has been inactive.

a. Requirements for physical therapists:

An applicant shall satisfy the following requirements:	1 renewal	2 renewals	3 or more renewals
Submit written application for reinstatement to the board	Required	Required	Required
Pay the current renewal fee	\$50	\$50	\$50
Pay the reinstatement fee	\$50	\$50	\$50
Submit verifications from the District of Columbia and each state, country or territory in which the applicant has been or is currently licensed since putting the license on inactive status	Required	Required	Required
Furnish evidence of current full-time practice in another state of the United States or District of Columbia and completion of continuing education	40 hours	80 hours	120 hours
OR			
Furnish evidence of completion of approved continuing education	40 hours	80 hours	120 hours
OR			
Furnish evidence of successful completion of the professional examination required for initial licensure completed within one year prior to submission of application for reinstatement	Successful completion of examination	Successful completion of examination	Successful completion of examination
Total fees and continuing education hours required for reinstatement:	\$100 and 40 hours	\$100 and 80 hours	\$100 and 120 hours

b. Requirements for physical therapist assistants:

An applicant shall satisfy the following requirements:	1 renewal	2 renewals	3 or more renewals
Submit written application for reinstatement to the board	Required	Required	Required
Pay the current renewal fee	\$50	\$50	\$50
Pay the reinstatement fee	\$50	\$50	\$50
Submit verifications from the District of Columbia and each state, country or territory in which the applicant has been or is currently licensed since putting the license on inactive status	Required	Required	Required
Furnish evidence of current full-time practice in another state of the United States or District of Columbia and completion of continuing education	20 hours	40 hours	60 hours
OR			
Furnish evidence of completion of approved continuing education	20 hours	40 hours	60 hours
OR			
Furnish evidence of successful completion of the professional examination required for initial licensure completed within one year prior to submission of application for reinstatement	Successful completion of examination	Successful completion of examination	Successful completion of examination
Total fees and continuing education hours required for reinstatement:	\$100 and 20 hours	\$100 and 40 hours	\$100 and 60 hours

645—201.11(272C) Lapsed licenses.

201.11(1) If the renewal fees and continuing education report are received more than 30 days after the license expiration date, the license is lapsed. An application for reinstatement must be filed with the board accompanied by the reinstatement fee, the renewal fees for each biennium the license is lapsed and the late fee for failure to renew before expiration. The licensee may be subject to an audit of the licensee's continuing education report.

201.11(2) Licensees who have not fulfilled the requirements for license renewal or for an exemption in the required time frame will have a lapsed license and shall not engage in the practice of physical therapy or physical therapist assistant. Practicing without a license may be cause for disciplin-

ary action.

201.11(3) In order to reinstate a lapsed license, the licensee shall comply with all requirements for reinstatement as outlined in 645—203.5(148A).

201.11(4) After reinstatement of the lapsed license, the licensee shall renew at the next scheduled renewal cycle and complete the continuing education required for the biennium.

201.11(5) Verifications of license(s) are required from any state in which the licensee has practiced since the Iowa license lapsed.

201.11(6) Reinstatement of a lapsed license. The following charts illustrate the requirements for reinstatement based on the length of time a license has lapsed.

PROFESSIONAL LICENSURE DIVISION[645](cont'd)

a. Requirements for physical therapists:

An applicant shall satisfy the following requirements:	30 days after expiration date up to 1 renewal	2 renewals	3 or more renewals
Submit written application for reinstatement	Required	Required	Required
Pay the renewal fee(s)	\$50	\$100	\$150
Pay the late fee	\$50	\$50	\$50
Pay the reinstatement fee	\$50	\$50	\$50
Furnish evidence of satisfactory completion of continuing education requirements during the period since the license lapsed OR Furnish evidence of current full-time practice in another state of the United States or District of Columbia and completion of continuing education obtained during the period since the license lapsed OR Furnish evidence of successful completion of the professional examination required for initial licensure completed within one year prior to submission of application for reinstatement	40 hours 40 hours Successful completion of examination	80 hours 80 hours Successful completion of examination	120 hours 120 hours Successful completion of examination
Submit verifications from the District of Columbia and each state, country or territory in which the applicant has been or is currently licensed since the license lapsed	Required	Required	Required
Total fees and continuing education hours required for reinstatement:	\$150 and 40 hours	\$200 and 80 hours	\$250 and 120 hours

b. Requirements for physical therapist assistants:

An applicant shall satisfy the following requirements:	30 days after expiration date up to 1 renewal	2 renewals	3 or more renewals
Submit written application for reinstatement	Required	Required	Required
Pay the renewal fee(s)	\$50	\$100	\$150
Pay the late fee	\$50	\$50	\$50
Pay the reinstatement fee	\$50	\$50	\$50
Furnish evidence of satisfactory completion of continuing education requirements during the period since the license lapsed OR Furnish evidence of current full-time practice in another state of the United States or District of Columbia and completion of continuing education obtained during the period since the license lapsed OR Furnish evidence of successful completion of the professional examination required for initial licensure completed within one year prior to submission of application for reinstatement	20 hours 20 hours Successful completion of examination	40 hours 40 hours Successful completion of examination	60 hours 60 hours Successful completion of examination
Submit verifications from the District of Columbia and each state, country or territory in which the applicant has been or is currently licensed since the license lapsed	Required	Required	Required
Total fees and continuing education hours required for reinstatement:	\$150 and 20 hours	\$200 and 40 hours	\$250 and 60 hours

645—201.12(17A,147,272C) License denial.

201.12(1) An applicant who has been denied licensure by the board may appeal the denial and request a hearing on the issues related to the licensure denial by serving a notice of appeal and request for hearing upon the board not more than 30 days following the date of mailing of the notification of licensure denial to the applicant. The request for hearing as outlined in these rules shall specifically describe the facts to be contested and determined at the hearing.

201.12(2) If an applicant who has been denied licensure by the board appeals the licensure denial and requests a hearing pursuant to this rule, the hearing and subsequent procedures shall be held pursuant to the process outlined in Iowa Code chapters 17A and 272C.

These rules are intended to implement Iowa Code chapters 17A, 147, 148A and 272C.

ITEM 3. Rescind 645—Chapter 202 and adopt the following new chapter in lieu thereof:

PROFESSIONAL LICENSURE DIVISION[645](cont'd)

CHAPTER 202
DISCIPLINE

645—202.1(272C) Grounds for discipline for physical therapists and physical therapist assistants. The board may impose any of the disciplinary sanctions set forth in these rules, including civil penalties in an amount not to exceed \$1,000, when the board determines that the licensee is guilty of any of the following acts or offenses.

202.1(1) All grounds listed in Iowa Code section 147.55.

202.1(2) Violation of the rules promulgated by the board.

645—202.2(272C) Grounds for discipline for physical therapists.

202.2(1) Personal disqualifications:

a. Mental or physical inability reasonably related to and adversely affecting the licensee's ability to practice in a safe and competent manner.

b. Involuntary commitment for treatment of mental illness, drug addiction or alcoholism.

202.2(2) Practicing the profession while the license is suspended or lapsed.

202.2(3) Revocation, suspension, or other disciplinary action taken by a licensing authority of another state, territory, or country; or failure by the licensee to report in writing to the Iowa board of physical and occupational therapy examiners revocation, suspension, or other disciplinary action taken by a licensing authority of another state, territory, or country; or both.

202.2(4) Negligence by the licensee in the practice of the profession, which is a failure to exercise due care including negligent delegation to or supervision of employees or other individuals whether or not injury results; or any conduct, practice or conditions which impair the ability to safely and skillfully practice the profession.

202.2(5) Failure to comply with the following rules of ethical conduct and practice:

a. A physical therapist shall not practice outside the scope of the license.

b. When the physical therapist does not possess the skill to evaluate a patient, plan the treatment program, or carry out the treatment, the physical therapist is obligated to assist in identifying a professionally qualified licensed practitioner to perform the service.

c. The practice of physical therapy shall minimally consist of:

(1) Interpreting all referrals.

(2) Evaluating each patient.

(3) Identifying and documenting individual patient's problems and goals.

(4) Establishing and documenting a plan of care.

(5) Providing appropriate treatment.

(6) Determining the appropriate portions of the treatment program to be delegated to assistive personnel.

(7) Appropriately supervising individuals as described in rule 645—201.6(272C).

(8) Providing timely patient reevaluation.

(9) Maintaining timely and adequate patient records of all physical therapy activity and patient response.

d. It is the responsibility of the physical therapist to inform the referring practitioner when any requested treatment procedure is inadvisable or contraindicated. The physical therapist shall refuse to carry out orders that are inadvisable or contraindicated and advise the referring practitioner of such orders.

e. Treatment shall not be continued beyond the point of possible benefit to the patient or by treating more frequently than necessary to obtain maximum therapeutic effect.

f. It is unethical for the physical therapist to directly or indirectly request, receive, or participate in the dividing, transferring, assigning, rebating, or refunding of an unearned fee or to profit by means of credit or other valuable consideration as an unearned commission, discount, or gratuity in connection with the furnishing of physical therapy services.

g. The physical therapist shall not exercise undue influence on patients to purchase equipment produced or supplied by a company in which the physical therapist owns stock or has any other direct or indirect financial interest.

h. A physical therapist shall not permit another person to use the therapist's license for any purpose.

i. A physical therapist shall not obtain, possess, or attempt to obtain or possess a controlled substance without lawful authority or sell, prescribe, give away, or administer a controlled substance in the practice of physical therapy.

j. A physical therapist shall not verbally or physically abuse a patient.

k. A physical therapist shall not engage in sexual misconduct. Sexual misconduct includes the following:

(1) Engaging in or soliciting a sexual relationship, whether consensual or nonconsensual, with a patient.

(2) Making sexual advances, requesting sexual favors, or engaging in other verbal conduct or physical contact of a sexual nature with a patient.

202.2(6) Failure to adequately supervise personnel in accordance with the standards for supervision set forth in rule 645—201.6(272C).

202.2(7) Unethical business practices, consisting of any of the following:

a. False or misleading advertising.

b. Betrayal of a professional confidence.

c. Falsifying patients' records.

202.2(8) Failure to notify the board of a change of name or address within 30 days after it occurs.

202.2(9) Submission of a false report of continuing education, or failure to submit the required report of continuing education.

202.2(10) Failure to notify the board within 30 days after occurrence of any judgment or settlement of a malpractice claim or disciplinary action taken by another state.

202.2(11) Failure to comply with a subpoena issued by the board.

202.2(12) Failure to report to the board as provided in Iowa Code section 272C.9 any violation by another licensee of the reasons for disciplinary action as listed in this rule.

202.2(13) Failure to report to the board as provided in Iowa Code section 272C.9 any violation by a physical therapist assistant of the reasons for disciplinary action as listed in 645—Chapter 13.

202.2(14) Obtaining a license by fraud or misrepresentation.

202.2(15) Conviction of a felony related to the practice of physical therapy or the conviction of any felony that would affect the licensee's ability to practice physical therapy. A copy of the record of conviction shall be conclusive evidence. Conviction shall include a finding or verdict of guilty, a plea of guilty, an admission of guilt, or a plea of nolo contendere.

202.2(16) Professional incompetency. Professional incompetency includes but is not limited to:

PROFESSIONAL LICENSURE DIVISION[645](cont'd)

a. A substantial lack of knowledge or ability to discharge professional obligations within the physical therapist's practice;

b. A substantial deviation by the physical therapist from the standards of learning or skill ordinarily possessed and applied by other physical therapists in the state of Iowa acting in the same or similar circumstances;

c. A failure by a physical therapist to exercise in a substantial respect that degree of care which is ordinarily exercised by the average physical therapist in the state of Iowa acting in the same or similar circumstances;

d. A willful or repeated departure from or the failure to conform to the minimal standard of acceptable and prevailing practice of physical therapy in the state of Iowa.

202.2(17) Inability to practice physical therapy with reasonable skill and safety by reason of a mental or physical impairment or chemical abuse.

202.2(18) Violating a lawful order of the board, previously entered by the board in a disciplinary or licensure hearing, or violating the terms and provisions of a consent agreement or informal settlement between a licensee and the board.

202.2(19) Failure to respond, when requested, to communications of the board within 30 days of the mailing of such communication by registered or certified mail.

202.2(20) Obtaining third-party payment through fraudulent means. Third-party payers include, but are not limited to, insurance companies and government reimbursement programs. Obtaining payment through fraudulent means includes, but is not limited to:

a. Reporting incorrect treatment dates for the purpose of obtaining payment;

b. Reporting charges for services not rendered;

c. Incorrectly reporting services rendered for the purpose of obtaining payment which is greater than that to which the licensee is entitled; or

d. Aiding a patient in fraudulently obtaining payment from a third-party payer.

202.2(21) Practicing without a current license or practicing when a license is lapsed.

645—202.3(272C) Grounds for discipline for physical therapist assistants.

202.3(1) Personal disqualifications:

a. Mental or physical inability reasonably related to and adversely affecting the licensee's ability to practice in a safe and competent manner.

b. Involuntary commitment for treatment of mental illness, drug addiction or alcoholism.

202.3(2) Practicing the profession while the license is suspended or lapsed.

202.3(3) Revocation, suspension, or other disciplinary action taken by a licensing authority of another state, territory, or country; or failure by the licensee to report in writing to the Iowa board of physical and occupational therapy examiners revocation, suspension, or other disciplinary action taken by a licensing authority of another state, territory, or country; or both.

202.3(4) Negligence by the licensee in the practice of the profession, which is a failure to exercise due care including negligent delegation to or supervision of employees or other individuals, whether or not injury results; or any conduct, practice or conditions which impair the ability to safely and skillfully practice the profession.

202.3(5) Failure to comply with the following rules of ethical conduct and practice.

a. A physical therapist assistant shall not practice outside the scope of the license.

b. When the physical therapist assistant does not possess the skills or knowledge to perform the delegated tasks, the physical therapist assistant is obligated to inform the delegating physical therapist and refuse to perform the delegated tasks.

c. The physical therapist assistant shall not exercise undue influence on patients to purchase equipment produced or supplied by a company in which the physical therapist assistant owns stock or has any other direct or indirect financial interest.

d. Physical therapist assistants shall not permit another person to use their licenses for any purpose.

e. A physical therapist assistant shall not obtain, possess, or attempt to obtain or possess a controlled substance without lawful authority or sell, prescribe, give away, or administer a controlled substance in the practice of physical therapy.

f. A physical therapist assistant shall not verbally or physically abuse a patient.

g. A physical therapist assistant shall not engage in sexual misconduct. Sexual misconduct includes the following:

(1) Engaging in or soliciting a sexual relationship, whether consensual or nonconsensual, with a patient.

(2) Making sexual advances, requesting sexual favors, or engaging in other verbal conduct or physical contact of a sexual nature with a patient.

h. The physical therapist assistant shall work only when supervised by a physical therapist and in accordance with rule 645—201.6(272C). If the available supervision does not meet the standards as set forth in rule 645—201.6(272C), the physical therapist assistant shall refuse to administer treatment.

i. The signature of the physical therapist assistant on a physical therapy treatment record indicates that the physical therapy services were provided in accordance with the rules and regulations for practicing as a physical therapist or physical therapist assistant.

202.3(6) Unethical business practices, consisting of any of the following:

a. False or misleading advertising.

b. Betrayal of a professional confidence.

c. Falsifying patients' records.

202.3(7) Failure to notify the board of a change of name or address within 30 days after it occurs.

202.3(8) Submission of a false report of continuing education, or failure to submit the required report of continuing education.

202.3(9) Failure to notify the board within 30 days after occurrence of any judgment or settlement of a malpractice claim or disciplinary action taken by another state.

202.3(10) Failure to comply with a subpoena issued by the board.

202.3(11) Failure to report to the board as provided in Iowa Code section 272C.9 any violation by another licensee of the reasons for disciplinary action as listed in this rule.

202.3(12) Failure to report to the board as provided in Iowa Code section 272C.9 any violation by a physical therapist of the reasons for disciplinary action as listed in rule 645—13.1(272C).

202.3(13) Obtaining a license by fraud or misrepresentation.

202.3(14) Conviction of a felony related to practice as a physical therapist assistant or the conviction of any felony that would affect the licensee's ability to practice as a physical therapist assistant. A copy of the record of conviction

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shall be conclusive evidence. Conviction shall include a finding or verdict of guilty, a plea of guilty, an admission of guilt, or a plea of nolo contendere.

202.3(15) Professional incompetency. Professional incompetency includes but is not limited to:

a. A substantial lack of knowledge or ability to discharge professional obligations within the physical therapist assistant's practice;

b. A substantial deviation by the physical therapist assistant from the standards of learning or skill ordinarily possessed and applied by other physical therapist assistants in the state of Iowa acting in the same or similar circumstances;

c. A failure by a physical therapist assistant to exercise that degree of care which is ordinarily exercised by the average physical therapist assistant in the state of Iowa acting in the same or similar circumstances;

d. A willful or repeated departure from or the failure to conform to the minimal standard of acceptable and prevailing practice as a physical therapist assistant in the state of Iowa.

202.3(16) Inability to practice as a physical therapist assistant with reasonable skill and safety by reason of a mental or physical impairment or chemical abuse.

202.3(17) Violating a lawful order of the board, previously entered by the board in a disciplinary or licensure hearing, or violating the terms and provisions of a consent agreement or informal settlement between a licensee and the board.

202.3(18) Failure to respond, when requested, to communications of the board within 30 days of the mailing of such communication by registered or certified mail.

202.3(19) Obtaining third-party payment through fraudulent means. Third-party payers include, but are not limited to, insurance companies and government reimbursement programs. Obtaining payment through fraudulent means includes, but is not limited to:

a. Reporting incorrect treatment dates for the purpose of obtaining payment;

b. Reporting charges for services not rendered;

c. Incorrectly reporting services rendered for the purpose of obtaining payment which is greater than that to which the licensee is entitled; or

d. Aiding a patient in fraudulently obtaining payment from a third-party payer.

202.3(20) Practicing without a current license or practicing when a license is lapsed.

These rules are intended to implement Iowa Code chapters 17A, 147, 148A and 272C.

ITEM 4. Amend subrule 203.2(1), introductory paragraph, as follows:

203.2(1) The biennial continuing education compliance period shall extend for a two-year period that begins on the ~~fifteenth~~ *sixteenth* day of the birth month and ~~ending ends~~ two years later on the fifteenth day of the birth month.

ITEM 5. Rescind subrule **203.2(3)** and renumber subrules **203.2(4)** to **203.2(6)** as **203.2(3)** to **203.2(5)**.

ITEM 6. Amend rule **645—203.5(148A)** by rescinding numbered paragraphs "3" to "6" and adopting the following **new** paragraphs in lieu thereof:

3. Pays the late fee which has been assessed by the board for failure to renew;

4. Pays the reinstatement fee;

5. Provides verification(s) of licensure from the District of Columbia and every country, territory and state in which

the applicant is currently or has been licensed since the license lapsed; and

6. 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 40 for physical therapist licensees and 20 for physical therapist assistant licensees by the number of bienniums since the license lapsed. Physical therapist licensees shall have a maximum of 120 continuing education hours, and physical therapist assistants shall have a maximum of 60 continuing education hours;

- Current full-time practice in another state of the United States or the District of Columbia and completion of continuing education substantially equivalent in the opinion of the board to that required under these rules; or

- Successful completion of the appropriate professional examination, successfully completed within one year immediately prior to submission of the application for reinstatement.

ITEM 7. Amend rule 645—203.8(148A,272C) as follows:

645—203.8(148A,272C) Continuing education waiver exemption for disability or illness. The board may, in individual cases involving disability or illness, grant **waivers exemptions** of the minimum educational requirements or extension of time within which to fulfill the same or make the required reports. No **waiver exemption** 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 ~~a waiver an exemption~~ 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 an exemption~~ has been granted continues beyond the period of ~~waiver exemption~~, the licensee must reapply for an extension of the ~~waiver exemption~~. The board may, as a condition of any ~~waiver exemption~~ granted, require the applicant to make up a certain portion or all of the minimum educational requirements ~~waived exempted~~ by such methods as may be prescribed by the board.

ITEM 8. Amend subrules 203.9(1) and 203.9(3) as follows:

203.9(1) Submit written application for reinstatement to the board upon forms provided by the board with the ~~current renewal fee and appropriate reinstatement fee; and following:~~

a. *The current renewal fee;*

b. *The reinstatement fee; and*

c. *Verifications from the District of Columbia and each country, territory and state in which the applicant has been or is currently licensed since the license was placed on inactive status.*

~~**203.9(3)** Submit an official statement from each country, territory and state board of examiners regarding the status of the applicant's license, including issue date, expiration date and information regarding any pending or prior investigations or disciplinary action. The applicant shall request such statement from all entities in which the applicant has been licensed since putting the Iowa license on inactive status.~~

ITEM 9. Adopt **new** 645—Chapter 204 as follows:

PROFESSIONAL LICENSURE DIVISION[645](cont'd)

CHAPTER 204
FEES

645—204.1(147,148A) License fees. All fees are nonrefundable.

204.1(1) Licensure fee for license to practice physical therapy or as a physical therapist assistant is \$100.

204.1(2) Biennial license renewal fee for a physical therapist each biennium is \$50.

204.1(3) Biennial license renewal fee for a physical therapist assistant each biennium is \$50.

204.1(4) Late fee for failure to renew before expiration is \$50.

204.1(5) Reinstatement fee for a lapsed license or an inactive license is \$50.

204.1(6) Duplicate license fee is \$10.

204.1(7) Verification of license fee is \$10.

204.1(8) Returned check fee is \$15.

204.1(9) Disciplinary hearing fee is a maximum of \$75.

This rule is intended to implement Iowa Code section 147.8 and chapters 17A, 148A and 272C.

[Filed 2/13/02, effective 4/10/02]

[Published 3/6/02]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 3/6/02.

ARC 1439B**PROFESSIONAL LICENSURE
DIVISION[645]****Adopted and Filed**

Pursuant to the authority of Iowa Code section 147.76, the Board of Physical and Occupational Therapy Examiners hereby adopts new Chapter 205, "Board of Physical and Occupational Therapy Examiners—Occupational Therapy Examiners," and Chapter 206, "Licensure of Occupational Therapists and Occupational Therapy Assistants"; amends Chapter 207, "Continuing Education for Occupational Therapists and Occupational Therapy Assistants"; and adopts new Chapter 208, "Discipline for Occupational Therapists and Occupational Therapy Assistants," and new Chapter 209, "Fees," Iowa Administrative Code.

The amendments adopt new chapters for the Board, licensure, discipline, and fees, and amend rules for continuing education.

Notice of Intended Action was published in the Iowa Administrative Bulletin on October 3, 2001, as **ARC 0989B**. A public hearing was held on October 23, 2001, from 9 to 11 a.m. in the Professional Licensure Conference Room, Fifth Floor, Lucas State Office Building, Des Moines, Iowa. No public comments were received at the hearing.

The following changes have been made to the Notice of Intended Action:

Definitions for "licensure examination," "NBCOT," "occupational therapist," and "occupational therapy assistant" were added to 645—206.1(147).

Subrule 206.2(9) containing requirements for persons not licensed but providing services in Iowa for not more than 90 days in a calendar year was not adopted. The waiver process allows for this option.

The following rules relating to supervision requirements were not adopted:

- Paragraph "d" in subrule 206.3(1) was not adopted. Cosignature of the licensed occupational therapist supervisor is not required on occupational therapy records.

- Subrule 206.6(2) was not adopted. The requirements are sufficiently covered in supervision requirements relating to limited permit holders and applicants working prior to licensure;

Rules relating to limited permit holders and applicants working in the scope of practice prior to licensure have been reworded and renumbered. The changes will make it easier for the public to understand the difference in requirements between a limited permit holder and an applicant working in the scope of occupational therapy prior to licensure. Differences between the practice of occupational therapists and the practice of occupational therapy assistants working as limited permit holders and applicants working prior to licensure will be easy to locate in the chapter. Rules 206.3(147) to 206.5(147) and 206.8(147) relating to limited permit holders, applicants prior to licensure, and supervision have been reworded and renumbered, but the intent of the language did not change.

Requirements for foreign-trained applicants were stated incorrectly in the Notice. Foreign-trained applicants are required to meet NBCOT eligibility requirements and undergo prescreening based on the status of their occupational therapy education program. See subrule 206.7(2).

In rule 645—206.10(147), paragraph "4" was reworded for clarity.

In subrule 206.12(1), the word "fifteenth" is changed to "sixteenth." The renewal period begins on the sixteenth day of the birth month and ends on the fifteenth day of the birth month two years later.

Options to furnish evidence of continuing education credit earned in another state and furnish evidence of passage of the professional examination were added to the reinstatement tables in subrule 206.14(6) and to the bulleted paragraphs in rule 645—207.5(147), numbered paragraph "6."

The fee for licensure to practice as an occupational therapy assistant was raised from \$90 to \$100, which is the same fee occupational therapists pay for an initial license. The cost to the state to process both applications is the same. The renewal fees for occupational therapists and occupational therapy assistants were changed to \$50, which decreases the fee for occupational therapists by \$5 and raises the fee for occupational therapy assistants by \$5. As a result of these changes, the fees and totals in subrules 206.13(5) and 206.14(6) and the list of fees in Chapter 209 have been revised. The \$50 fee is consistent with other professions' renewal fees. The application fee for a limited permit was not adopted.

These amendments will become effective April 10, 2002.

These amendments are intended to implement Iowa Code section 147.76 and chapters 17A, 147, 148B and 272C.

The following amendments are adopted.

ITEM 1. Adopt **new** 645—Chapter 205 as follows:

**CHAPTER 205
BOARD OF PHYSICAL AND
OCCUPATIONAL THERAPY EXAMINERS—
OCCUPATIONAL THERAPY EXAMINERS**

645—205.1(147) Definitions.

"Board" means the board of physical and occupational therapy examiners.

"Department" means the department of public health.

PROFESSIONAL LICENSURE DIVISION[645](cont'd)

“Examination” means the NBCOT examination for occupational therapists and for occupational therapy assistants.

“Licensee” means any person licensed to practice as an occupational therapist or occupational therapy assistant in the state of Iowa.

“NBCOT” means the National Board for Certification in Occupational Therapy.

645—205.2(147) Availability of information.

205.2(1) All information regarding rules, forms, time and place of meetings, minutes of meetings, record of hearings, and examination results are available to the public between the hours of 8 a.m. and 4:30 p.m., Monday to Friday, except holidays.

205.2(2) Information may be obtained by writing to the Board of Physical and Occupational Therapy Examiners, Department of Public Health, Lucas State Office Building, Des Moines, Iowa 50319-0075. All official correspondence shall be in writing and directed to the board at this address.

These rules are intended to implement Iowa Code chapters 147 and 148B.

ITEM 2. Adopt new 645—Chapter 206 as follows:

CHAPTER 206

LICENSURE OF OCCUPATIONAL THERAPISTS AND
OCCUPATIONAL THERAPY ASSISTANTS

645—206.1(147) Definitions. For purposes of these rules, the following definitions shall apply:

“Board” means the board of physical and occupational therapy examiners.

“Department” means the department of public health.

“Inactive licensee” means any person licensed to practice occupational therapy in Iowa who has met all conditions for officially placing the person’s license on inactive status. An inactive licensee may not practice occupational therapy until the reinstatement requirements as defined in these rules are met.

“Lapsed license” means a license that a person has failed to renew as required, or the license of a person who failed to meet stated obligations for renewal within a stated time.

“Licensee” means any person licensed to practice as an occupational therapist or occupational therapy assistant in the state of Iowa.

“License expiration date” means the fifteenth day of the birth month every two years after initial licensure.

“Licensure by endorsement” means the issuance of an Iowa license to practice occupational therapy to an applicant who is currently licensed in another state.

“Licensure examination” means the examination administered by the National Board for Certification in Occupational Therapy.

“NBCOT” means the National Board for Certification in Occupational Therapy.

“Occupational therapist” means a person licensed under this chapter to practice occupational therapy.

“Occupational therapy assistant” means a person licensed under this chapter to assist in the practice of occupational therapy.

“On site” means:

1. To be continuously on site and present in the department or facility where the assistive personnel are performing services;

2. To be immediately available to assist the person being supervised in the services being performed; and

3. To provide continued direction of appropriate aspects of each treatment session in which a component of treatment is delegated to assistive personnel.

“OT” means occupational therapist.

“OTA” means occupational therapy assistant.

“Reciprocal license” means the issuance of an Iowa license to practice occupational therapy to an applicant who is currently licensed in another state which has a mutual agreement with the Iowa board of physical and occupational therapy examiners to license persons who have the same or similar qualifications to those required in Iowa.

645—206.2(147) Requirements for licensure. The following criteria shall apply to licensure:

206.2(1) The applicant shall complete a board-approved application packet. Application forms may be obtained from the board’s Web site (<http://www.idph.state.ia.us/licensure>) or directly from the board office. All applications shall be sent to Board of Physical and Occupational Therapy Examiners, Professional Licensure Division, Fifth Floor, Lucas State Office Building, Des Moines, Iowa 50319-0075.

206.2(2) The applicant shall complete the application form according to the instructions contained in the application. If the application is not completed according to the instructions, the application will not be reviewed by the board.

206.2(3) Each application shall be accompanied by the appropriate fees payable by check or money order to the Board of Physical and Occupational Therapy Examiners. The fees are nonrefundable.

206.2(4) No application will be considered by the board until official copies of academic transcripts sent directly from the school to the board have been received by the board.

206.2(5) The applicant shall provide a notarized copy of the certificate or diploma indicating the degree awarded to the applicant, if the degree is not indicated on the official transcript.

206.2(6) The licensure examination score shall be sent directly from the examination service to the board to confirm a passing score on the examination.

206.2(7) Licensees who were issued their initial licenses within six months prior to the renewal date shall not be required to renew their licenses until the renewal date two years later.

206.2(8) Incomplete applications that have been on file in the board office for more than two years shall be:

a. Considered invalid and shall be destroyed; or

b. Maintained upon written request of the candidate. The candidate is responsible for requesting that the file be maintained.

645—206.3(147) Limited permit to practice pending licensure. A limited permit holder who is applying for licensure in Iowa by taking the licensure examination for the first time and has never been licensed as an occupational therapist or occupational therapy assistant in any state, the District of Columbia, or another country must have completed the educational and experience requirements for licensure as an occupational therapist or occupational therapy assistant. The limited permit holder shall:

1. Make arrangements to take the examination and have the official results of the examination sent directly from the examination service to the board;

2. Apply for licensure on forms provided by the board. The applicant must include on the application form the name of the Iowa-licensed occupational therapist(s) who will provide supervision of the limited permit holder until the limited permit holder is licensed;

PROFESSIONAL LICENSURE DIVISION[645](cont'd)

3. Practice only under the supervision of an Iowa-licensed OT for a period not to exceed six months;

4. Submit to the board the name of the OT providing supervision within seven days after a change in supervision occurs; and

5. If the applicant fails the national examination, the limited permit holder must cease practicing immediately.

645—206.4(147) Applicant occupational therapist and occupational therapy assistant. An applicant who has never been licensed in Iowa, but has taken the licensure examination and held licensure in another state, the District of Columbia, or another country may practice under these rules prior to licensure if the complete application for endorsement and fees are on file at the board office. The occupational therapist applicant and occupational therapy assistant applicant shall:

1. Apply for licensure on forms provided by the board. The applicant must include on the application form the name of the Iowa-licensed OT who will provide supervision of the applicant until the applicant is licensed;

2. Practice only under the supervision of an Iowa-licensed OT for a period not to exceed three months;

3. Submit to the board the name of the occupational therapist(s) providing supervision within seven days after a change in supervision occurs; and

4. The applicant shall not practice as an OT applicant or OTA applicant if the applicant has never passed the licensure examination.

645—206.5(147) Practice of occupational therapy limited permit holders and endorsement applicants prior to licensure.

206.5(1) Occupational therapist limited permit holders and endorsement applicants working prior to licensure may:

a. Evaluate clients, plan treatment programs, and provide periodic reevaluations only under supervision of a licensed OT who shall bear full responsibility for care provided under the OT's supervision; and

b. Perform the duties of the occupational therapist under the supervision of an Iowa-licensed occupational therapist, except for providing supervision to an occupational therapy assistant.

206.5(2) Occupational therapy assistants, limited permit holders and endorsement applicants working prior to licensure shall:

a. Follow the treatment plan written by the supervising OT outlining the elements that have been delegated; and

b. Perform occupational therapy procedures delegated by the supervising OT as required in subrule 206.8(3).

645—206.6(147) Examination requirements. The following criteria shall apply to the written examination(s):

206.6(1) The applicant for licensure as an occupational therapist shall have received a passing score on the licensure examination for occupational therapists. It is the responsibility of the applicant to make arrangements to take the examination and have the official results submitted directly from the examination service to the board of physical and occupational therapy examiners.

206.6(2) The applicant for licensure as an occupational therapy assistant shall have received a passing score on the licensure examination for occupational therapy assistants. It is the responsibility of the applicant to make arrangements to take the examination and have the official results submitted directly from the examination service to the board of physical and occupational therapy examiners.

645—206.7(147) Educational qualifications.

206.7(1) The applicant must present proof of meeting the following requirements for licensure as an occupational therapist or occupational therapy assistant:

a. Occupational therapist. The applicant for licensure as an occupational therapist shall have completed the requirements for a degree in occupational therapy in an occupational therapy program accredited by the Accreditation Council for Occupational Therapy Education of the American Occupational Therapy Association. The transcript shall show completion of a supervised fieldwork experience.

b. Occupational therapy assistant. The applicant for licensure as an occupational therapy assistant shall be a graduate of an educational program approved by the Accreditation Council for Occupational Therapy Education of the American Occupational Therapy Association. The transcript shall show completion of a supervised fieldwork experience.

206.7(2) Foreign-trained occupational therapists and occupational therapy assistants. To become eligible to take the licensure examination, internationally educated occupational therapists must meet NBCOT eligibility requirements and undergo prescreening based on the status of their occupational therapy educational programs.

645—206.8(272C) Supervision requirements.

206.8(1) Care rendered by unlicensed personnel shall not be documented or charged as occupational therapy unless direct in-sight supervision is provided by an OT or an OTA.

206.8(2) A licensed OTA, OTA limited permit holder or OTA applicant working prior to licensure shall be supervised by a licensed occupational therapist. The supervisor shall:

a. Ensure that the OTA has a current occupational therapy license and that the OTA limited permit holder or applicant working prior to licensure has a copy of the letter from the board verifying that a current application is on file;

b. Provide direct on-site and in-sight supervision for a minimum of four hours per month;

c. Complete a patient evaluation prior to treatment by the licensed OTA, OTA limited permit holder, or the OTA applicant working prior to licensure. The time spent evaluating the patient by the supervising OT shall not be considered time spent supervising;

d. Complete a written treatment plan outlining which elements have been delegated to the licensed OTA, OTA limited permit holder, or OTA applicant working prior to licensure;

e. Monitor patient progress;

f. Complete an evaluation of the treatment plan and write a discharge plan; and

g. Assign to the licensed OTA, OTA limited permit holder, or OTA applicant only those duties and responsibilities for which the assistant, limited permit holder, or applicant has been specifically trained and is qualified to perform.

206.8(3) Supervision of an OT limited permit holder or an OT applicant. An OT limited permit holder or an OT applicant working prior to licensure shall be supervised by a licensed OT. The supervisor shall:

a. Ensure that the OT limited permit holder or OT applicant working prior to licensure has a copy of the letter from the board verifying that a current application is on file;

b. Provide one-to-one supervision for a minimum of two hours per week.

The applicant who is practicing prior to licensure may perform the duties of the occupational therapist under the supervision of an Iowa-licensed occupational therapist, except for providing supervision to an occupational therapy assistant.

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206.8(4) Occupational therapist limited permit holders and occupational therapist applicants working prior to licensure may evaluate clients, plan treatment programs, and provide periodic reevaluations only under supervision of a licensed occupational therapist who shall bear full responsibility for care provided under the occupational therapist's supervision.

645—206.9(147) Occupational therapy assistant responsibilities. An occupational therapy assistant shall:

1. Follow the treatment plan written by the supervising occupational therapist outlining which elements have been delegated;
2. Maintain a plan of supervision; and
3. Maintain documentation of supervision on a daily basis that shall be available for review upon request of the board.

645—206.10(147) Licensure by endorsement. An applicant who has been a licensed occupational therapist or occupational therapy assistant under the laws of another jurisdiction shall file an application for licensure by endorsement with the board office. The board may receive by endorsement any applicant from the District of Columbia, another state, territory, province or foreign country who:

1. Submits to the board a completed application;
2. Pays the licensure fee;
3. Shows evidence of licensure requirements in the jurisdiction in which the applicant has been licensed that are similar to those required in Iowa;
4. Submits official results from the appropriate professional examination sent directly from the examination service to the board;
5. Provides official copies of the academic transcripts sent directly from the school to the board;
6. Provides verification of licenses from all other states that has been sent directly from those states to the board office;
7. Shows evidence of one of the following:
 - Completion of 30 hours for an occupational therapist and 15 hours for an occupational therapy assistant of board-approved continuing education during the immediately preceding two-year period;
 - The practice of occupational therapy for a minimum of 2,080 hours during the immediately preceding two-year period as a licensed occupational therapist or occupational therapy assistant;
 - Serving as a full-time equivalent faculty member teaching occupational therapy in an accredited school of occupational therapy for at least one of the immediately preceding two years; or
 - Successfully passing the examination within a period of one year from the date of examination to the time application is completed for licensure.

Individuals who were issued their licenses by endorsement within six months of the license renewal date will not be required to renew their licenses until the next renewal two years later.

645—206.11(147) Licensure by reciprocal agreement. The board may enter into a reciprocal agreement with the District of Columbia or any state, territory, province or foreign country with equal or similar requirements for licensure of occupational therapists or occupational therapy assistants.

645—206.12(147) License renewal.

206.12(1) The biennial license renewal period for a license to practice as an occupational therapist or occupational

therapy assistant shall begin on the sixteenth day of the birth month and end on the fifteenth day of the birth month two years later. All licensees shall renew on a biennial basis.

206.12(2) A renewal of license application and continuing education report form to practice as an occupational therapist or occupational therapy assistant shall be mailed to the licensee at least 60 days prior to the expiration of the license. Failure to receive the renewal application shall not relieve the license holder of the obligation to pay the biennial renewal fees on or before the renewal date.

a. The licensee shall submit the completed application and continuing education report form with the renewal fee to the board office before the license expiration date.

b. Individuals who were issued their initial licenses within six months of the license renewal date will not be required to renew their licenses until the next renewal two years later.

c. 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 occupational therapists and 15 hours of continuing education per biennium for occupational therapy assistants for each subsequent license renewal.

d. Persons licensed to practice as occupational therapists or occupational therapy assistants shall keep their renewal licenses displayed in a conspicuous public place at the primary site of practice.

206.12(3) Late renewal. If the renewal fees, continuing education report and renewal application are received within 30 days after the license expiration date, the late fee for failure to renew before expiration is charged.

206.12(4) When all requirements for license renewal are met, the licensee shall be sent a license renewal card by regular mail.

645—206.13(272C) Exemptions for inactive practitioners.

206.13(1) A licensee who is not engaged in practice in the state of Iowa may be granted a waiver of 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 practice in the state of Iowa without first complying with all regulations governing reinstatement after exemption. The application for a certificate of exemption shall be submitted upon the form provided by the board. A licensee must hold a current license to apply for exempt status. The licensee shall apply for inactive status prior to the license expiration date.

206.13(2) Reinstatement of exempted inactive practitioners. Inactive practitioners who have requested and been granted a waiver of compliance with the renewal requirements and who have obtained a certificate of exemption shall, prior to engaging in the practice of the profession in Iowa, satisfy the requirements for reinstatement as outlined in 645—207.9(272C).

206.13(3) Licensees shall renew at the next scheduled renewal time. Licensees who were issued their reinstatements within six months prior to the renewal date shall not be required to renew their licenses until the renewal date two years later.

206.13(4) A new licensee who is on inactive status during the initial license renewal time period and reinstates before the first license expiration date will not be required to com-

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plete continuing education for that first license renewal time period only. Hours of continuing education will be required for every renewal thereafter.

206.13(5) Reinstatement of inactive license after exemption. The following charts illustrate the requirements for reinstatement based on the length of time a license has been inactive.

a. Requirements for occupational therapists:

An applicant shall satisfy the following requirements:	1 renewal	2 renewals	3 or more renewals
Submit written application for reinstatement to the board	Required	Required	Required
Pay the current renewal fee	\$50	\$50	\$50
Pay the reinstatement fee	\$50	\$50	\$50
Submit verification(s) from the District of Columbia and every state, country or territory in which the applicant has been or is currently licensed since putting the license on inactive status	Required	Required	Required
Furnish evidence of current full-time practice in another state of the United States or District of Columbia and completion of continuing education	30 hours	60 hours	90 hours
OR			
Furnish evidence of completion of approved continuing education	30 hours	60 hours	90 hours
OR			
Furnish evidence of successful completion of the professional examination required for initial licensure completed within one year prior to submission of application for reinstatement	Successful completion of examination	Successful completion of examination	Successful completion of examination
Total fees and continuing education hours required for reinstatement:	\$100 and 30 hours	\$100 and 60 hours	\$100 and 90 hours

b. Requirements for occupational therapy assistants:

An applicant shall satisfy the following requirements:	1 renewal	2 renewals	3 or more renewals
Submit written application for reinstatement to the board	Required	Required	Required
Pay the current renewal fee	\$50	\$50	\$50
Pay the reinstatement fee	\$50	\$50	\$50
Submit verification(s) from the District of Columbia and every state, country or territory in which the applicant has been or is currently licensed since putting the license on inactive status	Required	Required	Required
Furnish evidence of current full-time practice in another state of the United States or District of Columbia and completion of continuing education	15 hours	30 hours	45 hours
OR			
Furnish evidence of completion of approved continuing education	15 hours	30 hours	45 hours
OR			
Furnish evidence of successful completion of the professional examination required for initial licensure completed within one year prior to submission of application for reinstatement	Successful completion of examination	Successful completion of examination	Successful completion of examination
Total fees and continuing education hours required for reinstatement:	\$100 and 15 hours	\$100 and 30 hours	\$100 and 45 hours

645—206.14(272C) Lapsed licenses.

206.14(1) If the renewal fees and continuing education report are received more than 30 days after the license renewal expiration date, the license is lapsed. An application for reinstatement must be filed with the board accompanied by the reinstatement fee, the renewal fee(s) for each biennium the license is lapsed and the late fee for failure to renew before expiration. The licensee may be subject to an audit of the licensee's continuing education report.

206.14(2) Licensees who have not fulfilled the requirements for license renewal or for an exemption in the required time frame will have a lapsed license and shall not engage in the practice of occupational therapy or occupational therapy

assistant. Practicing without a license may be cause for disciplinary action.

206.14(3) In order to reinstate a lapsed license, a licensee shall comply with all requirements for reinstatement as outlined in 645—207.5(147).

206.14(4) After reinstatement of the lapsed license, the licensee shall renew at the next scheduled renewal cycle and complete the continuing education required for the biennium.

206.14(5) Verification(s) of license is required from every state in which the licensee has practiced since the Iowa license lapsed.

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206.14(6) Reinstatement of a lapsed license. The following charts illustrate the requirements for reinstatement based on the length of time a license has lapsed.

a. Requirements for occupational therapists:

An applicant shall satisfy the following requirements:	30 days after expiration date up to 1 renewal	2 renewals	3 or more renewals
Submit written application for reinstatement	Required	Required	Required
Pay the renewal fee(s)	\$50	\$100	\$150
Pay the late fee	\$50	\$50	\$50
Pay the reinstatement fee	\$50	\$50	\$50
Submit verification(s) from the District of Columbia and every state, country or territory in which the applicant has been or is currently licensed since the Iowa license lapsed	Required	Required	Required
Furnish evidence of current full-time practice in another state of the United States or District of Columbia and completion of continuing education	30 hours	60 hours	90 hours
OR			
Furnish evidence of completion of approved continuing education	30 hours	60 hours	90 hours
OR			
Furnish evidence of successful completion of the professional examination required for initial licensure completed within one year prior to submission of the application for reinstatement	Successful completion of examination	Successful completion of examination	Successful completion of examination
Total fees and continuing education hours required for reinstatement:	\$150 and 30 hours	\$200 and 60 hours	\$250 and 90 hours

b. Requirements for occupational therapy assistants:

An applicant shall satisfy the following requirements:	30 days after expiration date up to 1 renewal	2 renewals	3 or more renewals
Submit written application for reinstatement	Required	Required	Required
Pay the renewal fee(s)	\$50	\$100	\$150
Pay the late fee	\$50	\$50	\$50
Pay the reinstatement fee	\$50	\$50	\$50
Submit verification(s) from the District of Columbia and every state, country or territory in which the applicant has been or is currently licensed since the Iowa license lapsed	Required	Required	Required
Furnish evidence of current full-time practice in another state of the United States or District of Columbia and completion of continuing education	15 hours	30 hours	45 hours
OR			
Furnish evidence of completion of approved continuing education	15 hours	30 hours	45 hours
OR			
Furnish evidence of successful completion of the professional examination required for initial licensure completed within one year prior to submission of the application for reinstatement	Successful completion of examination	Successful completion of examination	Successful completion of examination
Total fees and continuing education hours required for reinstatement:	\$150 and 15 hours	\$200 and 30 hours	\$250 and 45 hours

645—206.15(17A,147,272C) License denial.

206.15(1) An applicant who has been denied licensure by the board may appeal the denial and request a hearing on the issues related to the licensure denial by serving a notice of appeal and request for hearing upon the board not more than 30 days following the date of mailing of the notification of licensure denial to the applicant. The request for hearing as outlined in these rules shall specifically describe the facts to be contested and determined at the hearing.

206.15(2) If an applicant who has been denied licensure by the board appeals the licensure denial and requests a hearing pursuant to this rule, the hearing and subsequent procedures shall be held pursuant to the process outlined in Iowa Code chapters 17A and 272C.

These rules are intended to implement Iowa Code chapters 17A, 147, 148B and 272C.

ITEM 3. Amend subrule 207.2(1), introductory paragraph, as follows:

207.2(1) The biennial continuing education compliance period shall extend for a two-year period that begins on the ~~fifteenth~~ *sixteenth* day of the licensee's birth month and ends two years later on the fifteenth day of the birth month.

ITEM 4. Rescind subrule **207.2(3)** and renumber subrules **207.2(4)** to **207.2(6)** as **207.2(3)** to **207.2(5)**.

ITEM 5. Amend rule **645—207.5(147)** by rescinding numbered paragraphs "**3**" to "**6**" and adopting the following **new** paragraphs in lieu thereof:

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3. Pays the late fee which has been assessed by the board for failure to renew;
4. Pays the reinstatement fee;
5. Provides verification(s) of licensure from the District of Columbia and every country, territory and state in which the applicant is currently or has been licensed since the license lapsed; and
6. 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 for occupational therapist licensees and 15 for occupational therapy assistant licensees by the number of bienniums since the license lapsed. Occupational therapist licensees shall have a maximum of 90 hours of continuing education and occupational therapy assistant licensees shall have a maximum of 45 hours of continuing education;
 - Current full-time practice in another state of the United States or the District of Columbia and completion of continuing education substantially equivalent in the opinion of the board to that required under these rules; or
 - Successful completion of the appropriate professional examination successfully completed within one year immediately prior to submission of the application for reinstatement.

ITEM 6. Amend rule 645—207.8(272C) as follows:

645—207.8(272C) Continuing education waiver exemption for disability or illness. The board may, in individual cases involving disability or illness, grant ~~waivers exemptions~~ of the minimum educational requirements or extension of time within which to fulfill the same or make the required reports. No ~~waiver exemption~~ 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 ~~a waiver an exemption~~ 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 an exemption~~ has been granted continues beyond the period of ~~waiver exemption~~, the licensee must reapply for an extension of the ~~waiver exemption~~. The board may, as a condition of any ~~waiver exemption~~ granted, require the applicant to make up a certain portion or all of the minimum educational requirements ~~waived exempted~~ by such methods as may be prescribed by the board.

ITEM 7. Amend subrule 207.9(1), paragraphs “b” and “d,” as follows:

- b. Pays ~~all current renewal fees~~ fee(s) then due;
- d. Provides ~~an official statement verification(s) from the District of Columbia and each every country, territory and state board of examiners~~ regarding the status of the applicant’s license, ~~including issue date, expiration date and information regarding any pending or prior investigations or disciplinary action. The applicant shall request such statement from all entities in which the applicant has been licensed since putting the Iowa license on inactive status.~~

ITEM 8. Amend paragraph 207.9(2)“c” as follows:

- c. Successful completion of the ~~appropriate professional NBCOT~~ examination, successfully completed within one year immediately prior to the submission of ~~such~~ the application for reinstatement.

ITEM 9. Adopt ~~new~~ 645—Chapter 208 as follows:

CHAPTER 208

DISCIPLINE FOR OCCUPATIONAL THERAPISTS
AND OCCUPATIONAL THERAPY ASSISTANTS

645—208.1(272C) Grounds for discipline. The board may impose any of the disciplinary sanctions set forth in rule 645—13.1(272C), including civil penalties in an amount not to exceed \$1000, when the board determines that a licensee is guilty of any of the following acts or offenses.

208.1(1) All grounds listed in Iowa Code section 147.55.

208.1(2) Violation of the rules promulgated by the board.

208.1(3) Personal disqualifications:

a. Mental or physical inability reasonably related to and adversely affecting the licensee’s ability to practice in a safe and competent manner.

b. Involuntary commitment for treatment of mental illness, drug addiction or alcoholism.

208.1(4) Practicing the profession while the license is suspended or lapsed.

208.1(5) Revocation, suspension, or other disciplinary action taken by a licensing authority of another state, territory, or country; or failure by the licensee to report in writing to the Iowa board of physical and occupational therapy examiners revocation, suspension, or other disciplinary action taken by a licensing authority of another state, territory, or country; or both.

208.1(6) Negligence by the licensee in the practice of the profession, which is a failure to exercise due care including negligent delegation to or supervision of employees or other individuals whether or not injury results; or any conduct, practice or conditions which impair the ability to safely and skillfully practice the profession.

208.1(7) Failure to comply with the following rules of ethical conduct and practice:

a. An occupational therapist or occupational therapy assistant shall not practice outside the scope of the license.

b. When the occupational therapist or occupational therapy assistant does not possess the skill to evaluate a patient, plan the treatment program, or carry out the treatment, the occupational therapist or occupational therapy assistant is obligated to assist in identifying a professionally qualified licensed practitioner to perform the service.

c. The practice of occupational therapy shall minimally consist of:

(1) Interpreting all referrals.

(2) Evaluating each patient.

(3) Identifying and documenting individual patient’s problems and goals.

(4) Establishing and documenting a plan of care.

(5) Providing appropriate treatment.

(6) Determining the appropriate portions of the treatment program to be delegated to assistive personnel.

(7) Appropriately supervising individuals as described in rule 645—206.8(272C).

(8) Providing timely patient reevaluation.

(9) Maintaining timely and adequate patient records of all occupational therapy activity and patient response.

d. It is the responsibility of the occupational therapist to inform the referring practitioner when any requested treatment procedure is inadvisable or contraindicated. The occupational therapist shall refuse to carry out orders that are inadvisable or contraindicated and advise the referring practitioner as such.

e. Treatment shall not be continued beyond the point of possible benefit to the patient or by treating more frequently than necessary to obtain maximum therapeutic effect.

PROFESSIONAL LICENSURE DIVISION[645](cont'd)

f. It is unethical for the occupational therapist or occupational therapy assistant to directly or indirectly request, receive, or participate in the dividing, transferring, assigning, rebating, or refunding of an unearned fee or to profit by means of credit or other valuable consideration as an unearned commission, discount, or gratuity in connection with the furnishing of occupational therapy services.

g. The occupational therapist or occupational therapy assistant shall not exercise undue influence on patients to purchase equipment produced or supplied by a company in which the occupational therapist or occupational therapy assistant owns stock or has any other direct or indirect financial interest.

h. An occupational therapist or occupational therapy assistant shall not permit another person to use the therapist's or assistant's license for any purpose.

i. An occupational therapist or occupational therapy assistant shall not obtain, possess, or attempt to obtain or possess a controlled substance without lawful authority or sell, prescribe, give away, or administer a controlled substance in the practice of occupational therapy.

j. An occupational therapist or occupational therapy assistant shall not verbally or physically abuse a patient.

k. An occupational therapist or occupational therapy assistant shall not engage in sexual misconduct. Sexual misconduct includes the following:

(1) Engaging in or soliciting a sexual relationship, whether consensual or nonconsensual, with a patient.

(2) Making sexual advances, requesting sexual favors, or engaging in other verbal conduct or physical contact of a sexual nature with a patient.

208.1(8) Failure to adequately supervise personnel in accordance with the standards for supervision set forth in rule 645—206.8(272C).

208.1(9) Unethical business practices, consisting of any of the following:

- a. False or misleading advertising.
- b. Betrayal of a professional confidence.
- c. Falsifying a patient's records.

208.1(10) Failure to notify the board of a change of name or address within 30 days after it occurs.

208.1(11) Submission of a false report of continuing education, or failure to submit the required report of continuing education.

208.1(12) Failure to notify the board within 30 days after occurrence of any judgment or settlement of a malpractice claim or disciplinary action taken by another state.

208.1(13) Failure to comply with a subpoena issued by the board.

208.1(14) Failure to report to the board as provided in Iowa Code section 272C.9 any violation by another licensee of the reasons for disciplinary action as listed in this rule.

208.1(15) Failure to report to the board as provided in Iowa Code section 272C.9 any violation by an occupational therapist or occupational therapy assistant of the reasons for disciplinary action as listed in this rule.

208.1(16) Obtaining a license by fraud or misrepresentation.

208.1(17) Conviction of a felony related to the practice of occupational therapy or the conviction of any felony that would affect the licensee's ability to practice occupational therapy. A copy of the record of conviction shall be conclusive evidence. Conviction shall include a finding or verdict of guilty, a plea of guilty, an admission of guilt, or a plea of nolo contendere.

208.1(18) Professional incompetency. Professional incompetency includes but is not limited to:

a. A substantial lack of knowledge or ability to discharge professional obligations within the occupational therapist's or occupational therapy assistant's practice;

b. A substantial deviation by the occupational therapist or occupational therapy assistant from the standards of learning or skill ordinarily possessed and applied by other occupational therapists and occupational therapy assistants in the state of Iowa acting in the same or similar circumstances;

c. A failure by an occupational therapist or occupational therapy assistant to exercise in a substantial respect that degree of care which is ordinarily exercised by the average occupational therapist or occupational therapy assistant in the state of Iowa acting in the same or similar circumstances;

d. A willful or repeated departure from or the failure to conform to the minimal standard of acceptable and prevailing practice of occupational therapy in the state of Iowa.

208.1(19) Inability to practice occupational therapy with reasonable skill and safety by reason of a mental or physical impairment or chemical abuse.

208.1(20) Violating a lawful order of the board, previously entered by the board in a disciplinary or licensure hearing, or violating the terms and provisions of a consent agreement or informal settlement between a licensee and the board.

208.1(21) Failure to respond, when requested, to a communication of the board within 30 days of the mailing of such communication by registered or certified mail.

208.1(22) Obtaining third-party payment through fraudulent means. Third-party payers include, but are not limited to, insurance companies and government reimbursement programs. Obtaining payment through fraudulent means includes, but is not limited to:

a. Reporting incorrect treatment dates for the purpose of obtaining payment;

b. Reporting charges for services not rendered;

c. Incorrectly reporting services rendered for the purpose of obtaining payment which is greater than that to which the licensee is entitled; or

d. Aiding a patient in fraudulently obtaining payment from a third-party payer.

208.1(23) Practicing without a current license or practicing when a license is lapsed.

This rule is intended to implement Iowa Code chapters 17A, 147, 148B and 272C.

ITEM 10. Adopt new 645—Chapter 209 as follows:

CHAPTER 209
FEES

645—209.1(147,148B) License fees. All fees are nonrefundable.

209.1(1) Licensure fee for an OT or OTA license to practice occupational therapy is \$100.

209.1(2) Biennial license renewal fee to practice occupational therapy is \$50.

209.1(3) Late fee for failure to renew before expiration is \$50.

209.1(4) Reinstatement fee for a lapsed license or an inactive license is \$50.

209.1(5) Duplicate license fee is \$10.

209.1(6) Verification of license fee is \$10.

209.1(7) Returned check fee is \$15.

209.1(8) Disciplinary hearing fee is a maximum of \$75.

PROFESSIONAL LICENSURE DIVISION[645](cont'd)

This rule is intended to implement Iowa Code section 147.8 and chapters 17A, 148B and 272C.

[Filed 2/14/02, effective 4/10/02]
[Published 3/6/02]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 3/6/02.

ARC 1453B**PROFESSIONAL LICENSURE
DIVISION[645]****Adopted and Filed**

Pursuant to the authority of Iowa Code sections 147.76 and 272C.3, the Board of Psychology Examiners hereby amends Chapter 240, "Licensure of Psychologists," Iowa Administrative Code.

These amendments require that licensees who regularly examine, attend, counsel or treat adults or children document on the renewal application completion of mandatory training on abuse identification and reporting.

Notice of Intended Action was published in the Iowa Administrative Bulletin on December 12, 2001, as **ARC 1168B**. A public hearing was held on January 2, 2002, from 9 to 11 a.m. in the Professional Licensure Conference Room, Fifth Floor, Lucas State Office Building, Des Moines, Iowa. No public comments were received at the hearing.

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

These amendments will become effective April 10, 2002.

These amendments are intended to implement Iowa Code chapters 147 and 272C.

The following amendments are adopted.

ITEM 1. Amend rule **645—240.1(154B)** by adopting the following **new** definition in alphabetical order:

"Mandatory training" means training on identifying and reporting child abuse or dependent adult abuse required of psychologists who are mandatory reporters. The full requirements on mandatory reporting of child abuse and the training requirements are found in Iowa Code section 232.69. The full requirements on mandatory reporting of dependent adult abuse and the training requirements are found in Iowa Code section 235B.16.

ITEM 2. Amend subrule **240.11(2)** by relettering paragraphs "b" to "d" as "h" to "j" and adopting the following **new** paragraphs "b" to "g":

b. A licensee who regularly examines, attends, counsels or treats children in Iowa shall indicate on the renewal application completion of two hours of training in child abuse identification and reporting in the previous five years or condition(s) for waiver of this requirement as identified in paragraph "f."

c. A licensee who regularly examines, attends, counsels or treats adults in Iowa shall indicate on the renewal application completion of two hours of training in dependent adult abuse identification and reporting in the previous five years or condition(s) for waiver of this requirement as identified in paragraph "f."

d. A licensee who regularly examines, attends, counsels or treats both adults and children in Iowa shall indicate on the renewal application completion of training in abuse identification and reporting in dependent adults and children in the

previous five years or condition(s) for waiver of this requirement as identified in paragraph "f."

Training may be completed through separate courses as identified in paragraphs "b" and "c" or in one combined two-hour course that includes curricula for identifying and reporting child abuse and dependent adult abuse.

e. The licensee shall maintain written documentation for five years after mandatory training as identified in paragraphs "b" to "d," including program date(s), content, duration, and proof of participation.

f. The requirement for mandatory training for identifying and reporting child and dependent adult abuse shall be suspended if the board determines that suspension is in the public interest or that a person at the time of license renewal:

(1) Is engaged in active duty in the military service of this state or the United States.

(2) Holds a current waiver by the board based on evidence of significant hardship in complying with training requirements, including waiver of continuing education requirements or extension of time in which to fulfill requirements due to a physical or mental disability or illness as identified in 645—Chapter 241.

g. The board may select licensees for audit of compliance with the requirements in paragraphs "b" to "f."

[Filed 2/15/02, effective 4/10/02]
[Published 3/6/02]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 3/6/02.

ARC 1415B**REVENUE AND FINANCE
DEPARTMENT[701]****Adopted and Filed**

Pursuant to the authority of Iowa Code sections 421.14 and 422.68, the Department of Revenue and Finance hereby adopts amendments to Chapter 52, "Filing Returns Payment of Tax and Penalty and Interest," Chapter 53, "Determination of Net Income," Chapter 54, "Allocation and Apportionment," Chapter 55, "Assessments, Refunds, Appeals," Chapter 58, "Filing Returns, Payment of Tax, Penalty and Interest, and Allocation of Tax Revenues," and Chapter 59, "Determination of Net Income," Iowa Administrative Code.

Notice of Intended Action was published in IAB Volume XXIV, Number 14, page 1068, on January 9, 2002, as **ARC 1283B**.

Items 1 through 25 set forth amendments that clarify existing rules, remove obsolete rules or rule provisions, correct Iowa Code citations in the rules, and correct references to departmental organization. These amendments are the result of survey responses received by the Department pursuant to the Governor's Executive Orders and based on in-depth, in-house review of rules and survey responses from Department employees.

Item 1 corrects the net operating loss carryforward provisions effective for tax periods beginning on or after August 5, 1997.

Item 2 deletes a reference to an obsolete tax form and corrects an inaccurate Iowa Code citation in the rule.

Item 3 corrects an inaccurate Iowa Code citation in the rule and clarifies that a domestic corporation must file an income tax return only if it is doing business in Iowa or deriv-

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

ing income from sources within Iowa for tax periods beginning on or after January 1, 1999.

Item 4 corrects an Iowa Code reference in the rule.

Item 5 corrects an incorrect cross reference to a rule.

Item 6 clarifies that a distinction between “deferral items” and “exclusion items” for alternative minimum tax is not applicable for tax periods beginning on or after January 1, 1990.

Item 7 clarifies that a minimum tax credit is available for use by the survivor of a merger or consolidation.

Item 8 rescinds rule 701—52.9(422), which is an obsolete rule regarding a seed capital income tax credit.

Item 9 clarifies the sequence of tax credits to be taken based on the addition of new credits.

Item 10 corrects an incorrect date reference in the rule.

Item 11 corrects an incorrect cross reference to a rule.

Item 12 rescinds subrule 701—53.8(2), which is an obsolete subrule regarding losses from passive farming activity.

Item 13 corrects an Iowa Code reference in the rule.

Item 14 amends subrule 54.2(3) to reflect the items of income which may not be included in the computation of the business activity ratio to be consistent with subrule 701—54.2(2).

Items 15 and 16 correct outdated departmental organization references brought about by reorganization.

Item 17 corrects an incorrect cross reference to a rule.

Item 18 clarifies that a distinction between “deferral items” and “exclusion items” for alternative minimum tax is not applicable for tax periods beginning on or after January 1, 1990.

Item 19 corrects an incorrect cross reference to a rule.

Item 20 clarifies that the work opportunity credit shall be a deduction for Iowa franchise tax purposes to the extent the credit increased income.

Item 21 corrects an incorrect date reference in the subrule.

Items 22 and 23 correct an inaccurate Iowa Code reference in these rules.

Item 24 clarifies how income from fees, commissions, or other compensation for financial services should be reflected in the apportionment factor for Iowa franchise tax purposes.

Item 25 corrects outdated departmental organization references brought about by reorganization.

These amendments are identical to those published as Notice of Intended Action.

These amendments will become effective April 10, 2002, after filing with the Administrative Rules Coordinator and publication in the Iowa Administrative Bulletin.

These amendments are intended to implement Iowa Code chapters 422 and 427 and Executive Order Number 8.

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 [amendments to Chs 52 to 55, 58, 59] is being omitted. These amendments are identical to those published under Notice as **ARC 1283B**, IAB 1/9/02.

[Filed 2/14/02, effective 4/10/02]

[Published 3/6/02]

[For replacement pages for IAC, see IAC Supplement 3/6/02.]

ARC 1459B

STATUS OF AFRICAN-AMERICANS, DIVISION ON THE[434]

Adopted and Filed

Pursuant to the authority of Iowa Code section 17A.3, the Division on the Status of African-Americans hereby adopts new Chapter 7, “Waiver Rules,” Iowa Administrative Code.

The Governor, through Executive Order Number 11 issued on September 14, 1999, requires each agency with the authority to adopt rules, as defined in Iowa Code sections 17A.2(1) and 17A.2(10), to initiate rule-making proceedings to adopt the Uniform Waiver Rule that is outlined in the Executive Order. Executive Order Number 11 was published in the Iowa Administrative Bulletin, Volume XXII, Number Seven, dated October 6, 1999. Adoption of this new chapter will provide the agency with waiver rules.

Notice of Intended Action was published in the December 26, 2001, Iowa Administrative Bulletin as **ARC 1196B**. These rules are identical to those published under Notice.

These rules are intended to implement Executive Order Number 11 and Iowa Code section 17A.9A.

These rules will become effective April 10, 2002.

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 rules [Ch 7] is being omitted. These rules are identical to those published under Notice as **ARC 1196B**, IAB 12/26/01.

[Filed 2/14/02, effective 4/10/02]

[Published 3/6/02]

[For replacement pages for IAC, see IAC Supplement 3/6/02.]

ARC 1438B

UTILITIES DIVISION[199]

Adopted and Filed

Pursuant to Iowa Code sections 17A.4 and 476.1 and chapter 476A (2001), the Utilities Board (Board) gives notice that on February 15, 2002, the Board issued an order in Docket No. RMU-01-7, In re: Generation Plant Siting, “Order Adopting Rules.” The amendments to 199 IAC 24 make the rules consistent with changes to Iowa Code chapter 476A enacted in 2001 Iowa Acts, House File 577. House File 577, among other things, made significant changes to the plant siting statute.

On August 3, 2001, the Board issued an order in Docket No. RMU-01-7 to consider adoption of amendments to 199 IAC 24. Notice of Intended Action for the proposed rule making was published in IAB Vol. XXIV, No. 4 (8/22/01), p. 281, as **ARC 0889B**. Written comments were filed by the Consumer Advocate Division of the Department of Justice, the International Brotherhood of Electrical Workers, Local 109 (IBEW), and Iowa Public Utilities (IPU), a group consisting of IES Utilities Inc., Interstate Power Company, Mid-American Energy Company, the Iowa Association of Electric Cooperatives, the Iowa Association of Municipal Utili-

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ties, and Missouri River Energy Services. An oral presentation was held on October 3, 2001.

The comments were generally favorable to the proposed rules. The IPU recommended that the Board retain the consolidated hearing process in 199 IAC 24.1(3). The Board has added language to use this process where appropriate. Other minor changes in response to the comments have also been made. However, the Board has not adopted language to impose even stricter time limits because the rules already provide for a compressed hearing process. At the suggestion of the IBEW, language has been added to 199 IAC 24.4(1)"d" to require that information be filed on whether or not the proposed facility is located in a flood plain and that the American Society of Mechanical Engineers' standard boiler code be utilized. Other minor changes have been made, including deletion of the reference to "aesthetic standards" in 199 IAC 24.4(3). Aesthetic standards are no longer a decision criterion with the passage of House File 577.

The changes to the noticed rules are in response to the comments or minor changes such that no additional notice is required. The rules contain a waiver provision, 199 IAC 24.15(476). The rule sets forth the criteria for obtaining a waiver. In addition, the Board has a general waiver provision in 199 IAC 1.3(17A,474,476,78GA,HF2206).

These amendments will become effective on April 10, 2002.

These amendments are intended to implement Iowa Code section 476.1 and chapter 476A as amended by 2001 Iowa Acts, House File 577.

The following amendments are adopted.

ITEM 1. Amend subrule 24.1(2) as follows:

24.1(2) Purpose. The purpose of these regulations is to provide guidelines for proceedings for the determination, ~~after consolidated hearing,~~ whether the proposed construction of a major electric generation facility or significant alteration thereto should be issued a certificate of ~~public convenience, use, and necessity required~~ before such construction may commence and to state the procedures for determining compliance by the applicant with permit and licensing requirements of state regulatory agencies.

ITEM 2. Amend subrule 24.1(3) as follows:

24.1(3) Policy. Cooperative agreements.

~~a. These regulations reflect the following policies of the board:~~

~~(1) That a just and reasonable determination of whether the proposed construction is to be certificated requires a thorough, public development of information describing the present and future impacts a facility's construction and use would have on the public and the state.~~

~~(2) That the proceedings to certificate major electric power plants and significant alterations to such plants should be conducted in a manner which is as expeditious and economical as possible without compromising the board's fundamental obligation of protecting the public interest.~~

~~(3) That a consolidated hearing process in which the board, utilizing Iowa Code chapter 28E, may enter into cooperative agreements pursuant to Iowa Code chapter 28E with the appropriate state agencies that will facilitate thorough review of all state issues arising in the certification process and will reduce the time and expense in determining, to the extent necessary, the environmental, economic, and social effects of the facility's construction and use. Under the auspices of these 28E agreements, the board shall delegate to the various state agencies responsibility for the issuance of permits and licenses appropriate to the au-~~

~~thority of the agency in assuring to ensure compliance with the steps in the certification process. The board, where appropriate, may use a consolidated hearing process.~~

~~(4) That each party to a certification proceeding should guide its conduct in the proceeding by these considerations.~~

~~b. Each applicant for facility certification shall accept primary responsibility for qualitative and quantitative information it provides in support of its application. In further recognition of its responsibilities, each application shall disclose any and all information known to the applicant which would reasonably be expected to affect the board's certification decision.~~

~~c. Each party to the certification proceeding shall make every effort to avoid unnecessary delay in the proceeding to the end that a determination as to the issuance of a certificate will be timely made, thereby minimizing both the cost of the construction of a facility, and the cost of the electric energy generated at such facility.~~

ITEM 3. Amend rule 199—24.2(476A) as follows:

199—24.2(476A) Definitions. As used in this chapter:

"Acid Rain Program" means the sulfur dioxide and nitrogen oxides air pollution control program established pursuant to Title IV of the Clean Air Act, 42 U.S.C. Section 7401, et seq., as amended by Pub. L. 101-549, November 15, 1990.

"Act" means Iowa Code chapter 476A entitled Electric Power Generators.

"Agency" means an agency as defined in Iowa Code section 17A.2(1).

"Allowance" means an authorization, allocated by the federal Environmental Protection Agency under the Acid Rain Program, to emit up to one ton of sulfur dioxide, during or after a specified calendar year.

"Applicant" means the person or persons who make an application for a certificate for a facility or an amendment to a certificate for a facility under the Act. For projects with more than one participant, the applicant may be that person designated by and acting on behalf of the participants.

"Application" means an application for a certificate or an amendment to a certificate submitted to the board pursuant to the Act.

"Board" means the utilities board.

"Certificate" means a certificate of public convenience, use and necessity issued by the board under the Act, as defined in Iowa Code section 476A.1.

"Contested case proceeding" means the contested case proceeding before the board prescribed by section 4 of the Act, Iowa Code section 476A.4.

"Duration curve" means a graphical representation of kilowatts plotted in descending order of magnitude against time intervals for a specified period.

"Facility" means any electric power generating plant or combination of plants at a single site, owned by any person, with a maximum generator nameplate capacity of 25 megawatts of electricity or more and those associated transmission lines connecting the generating plant to either a power transmission system or an interconnected primary transmission system or both. This term includes any generation addition that increases the total maximum generator nameplate capacity at one site to 25 megawatts or more, but does not include those transmission lines beyond the generation station's substation.

"Integrated energy curve" means a graphical representation of kilowatts as a function of kilowatt hours showing the

UTILITIES DIVISION[199](cont'd)

~~amount of energy represented under a duration curve, above any point of demand.~~

“Interested agency” means an agency, other than a regulatory agency, which the board in its discretion determines to have a legitimate interest in the disposition of the application.

“Intervenor” means a person who received notice under 24.6(2)“b,” “c,” “d,” “e,” or “f” and has filed with the board a written notice of intervention, or, in all other cases, who, upon written petition of intervention is permitted in the proceeding pursuant to 199—subrule 7.2(8).

“Largest industrial users” means the largest industrial customers, whose collective kilowatt hour consumption comprises one half of total large commercial and industrial sales or whose demand is 2000 kilowatts or larger.

“Load curve” means a graphical representation of kilowatts versus time of occurrence showing in chronological sequence the magnitude of the load for each unit of time of the period covered.

“Participant” means any person who either jointly or severally owns or operates a proposed facility or significant alteration thereto or who has contracted or intends to contract for a purchase of electricity produced by the subject facility.

“Party” means each person or agency named or admitted as a party, including the applicant, intervenors, and consumer advocate.

“Person” means individual, corporation, cooperative, government or governmental subdivision or agency, partnership, association or other legal entity.

“Public utility” means a public utility as defined in Iowa Code section 476.1.

“Regulatory agency” means a state agency which issues licenses or permits required for the construction, operation or maintenance of a facility pursuant to statutes or rules in effect on the date on which an application for a certificate is accepted by the board.

“Significant alteration” means:

a. A change in the generic type of fuel used by the major electric generating facility; or

b. Any change in the location, construction, maintenance, or operation of equipment at an existing facility that results in a 10 percent increase or more in the maximum generator nameplate capacity of an existing facility if the increase is more than or equal to 25 megawatts.

“Site” means the land on which the generating unit of the facility, and any cooling facilities, cooling water reservoirs, security exclusion areas, and other necessary components of the facility, are proposed to be located.

“Site impact area” means the area within the state of Iowa within a ten-mile radius of the intersection of the transverse centerline axis and longitudinal centerline axis of the generator, or, all such generators where the proposed facility includes multiple generators.

“Zoning authority” means any city or county zoning authority in whose jurisdictional area a proposed facility site or portion thereof is located.

ITEM 4. Amend subrule 24.3(2), paragraphs “c” and “d,” as follows:

c. Within ten days of the receipt of application, the board shall forward copies thereof to each regulatory agency listed in the application. In addition, that part of the application responding to 24.4(1)“a” through “c” will be forwarded to such other agencies as the board deems appropriate, including the office of state archaeologist, ~~the Iowa geological survey,~~ the division of community action agencies of the department of human rights, and the office of historical preserva-

tion of the state historical society of Iowa as interested agencies, and also to ~~the natural resource commission of the department of natural resources,~~ the Iowa department of transportation, and ~~the environmental protection division of the~~ the Iowa department of natural resources, if such have not been designated as regulatory agencies.

d. Any amendments to the application shall be filed in a manner similar to that required of the application. ~~All information subsequently transmitted for purposes of inclusion in the application shall be by the issuance of appropriate amendments to the application which shall be in the form of page for page additions or substitutions properly identified as such.~~

ITEM 5. Amend rule 199—24.4(476A), introductory paragraph, as follows:

199—24.4(476A) Application for a certificate—contents. Each person or group of persons proposing to construct a facility after January 1, 1977, or a significant alteration to a facility shall file an application for certificate of public convenience, use, and necessity with the board, unless otherwise provided by these rules. ~~Any such person may file its application in stages.~~ The applicant may file a portion of an application and, in conjunction therewith, a request that the board accept such portion of the application pursuant to subrule 24.5(3) and conduct a separate phase of the proceeding with respect to issues presented by such portion of the application to the extent permitted pursuant to 24.5(3) and 24.10 9(476A). ~~The purpose of this rule is to elicit the development and presentation of information sufficient to adequately facilitate comprehensive evaluation of a proposed facility’s feasibility. Nothing in this rule shall be construed to limit or in any way restrict the amount or type of information relevant to the issues in a plant-siting adjudication. Any omission or deficiency in the filed information, which is known to the applicant, shall be clearly identified by the applicant with an explanation for the noted omission or deficiency. Applicant shall indicate whether the information omitted will be supplied at a later date and, if not, shall indicate the rationale for the omission.~~ An application shall substantially comply with the following informational requirements:

ITEM 6. Amend subrule 24.4(1) as follows:

24.4(1) In section 1, entitled, “General Information,” applicant shall include the following information:

a. ~~Name~~ *The legal name, address, telephone number, facsimile transmission number, and E-mail address* of the applicant and all other participants of the proposed facility at the time of filing, as well as the name of the person authorized to receive communications relating to the application on behalf of those persons, *Iowa business address, if applicable, and principal place of business of the applicant.*

b. *The name and type of business of the applicant’s and all other participants’ parent companies and affiliates. The information must include percentages of ownership.*

b c. A complete description of the current and proposed rights of ownership in the proposed facility and current or planned purchase power contracts with respect to the proposed facility.

c d. A general site description including a legal description of the site location, a map showing the coordinates of the site and its location with respect to state, county, and other political subdivisions, and prominent features such as cities, lakes, rivers and parks within the site impact area. Applicant shall also provide a more detailed map showing the location of the facility perimeter, utility property, railroads and other

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transportation facilities, abutting and adjacent properties, cities, lakes, rivers, parks, other public facilities, cemeteries and places of historical significance within one mile of the site boundary. *The general site description should include a discussion of whether the proposed site is located in a flood plain.*

d e. A general description of the proposed facility including a description of the principal characteristics of the facility such as ~~major components and such information as will generally acquaint the board with the significant features of the facility, including~~ the capacity of the proposed facility in megawatts expressed by the contracted maximum generator nameplate MW rating, the net facility addition to the system in MW, by net to the busbar rating, and the portion (in MW) of the design capacity of the proposed facility which is proposed to be available ~~to serve for use by each participant's service area participant,~~ the number and type of generating units ~~and the type of fuel used by each,~~ primary fuel source for each such unit, ~~the heat rate of each generating unit in Btu/kilowatt hour over the range of its operating capacity,~~ ~~the function of each generating unit in applicant's generating system,~~ *total hours of operation anticipated seasonally and annually, and output in MWH during these hours, expected capacity factors,* a description of the general arrangement of major structures and equipment to provide the board with an understanding of the general layout of the facility, and a schedule for the facility's construction and utilization including the projected date significant site alteration is proposed to begin and the projected date the facility is to be placed into service. For this purpose, a group of several similar generating units operated together at the same location such that segregated records of energy output are not available shall be considered as a single unit.

e f. A general description of all raw materials, including fuel, used by the proposed facility in producing electricity and of all wastes created in the production process. In addition to describing the wastes created in the production process, the applicant shall determine annual expected sulfur dioxide emissions from the facility and provide a plan for acquiring allowances sufficient to offset these emissions. The applicant shall describe all transportation facilities currently operating that will be available to serve the proposed facility and shall describe any additional transportation facilities needed to deliver raw materials and to remove wastes.

f g. Identification, general description and chronology of all financial and other contractual commitments undertaken or planned to be undertaken with respect to the proposed facility.

g h. A general map and description of the primary transmission corridors and the approximate routing of the rights-of-way ~~in the vicinity of settled areas, parks, recreational areas, and scenic areas.~~ *An analysis of the existing transmission network's capability to reliably support the proposed additional generation interconnection to the network. The analysis must also show that the interconnection to the transmission system is consistent with standard utility practices and the proposed interconnection does not degrade the adequacy, reliability, or operating flexibility of the existing transmission system in the area. A system impact analysis performed by the operator of the transmission system with which the facility will be interconnected, as well as any analysis, in applicant's possession, submitted to an area reliability council, concerning the impact of the facility on the area grid, shall satisfy the foregoing requirements. The impact analysis must include both local area and regional impacts.*

h i. *A The applicant, if a public utility, must include a statement of total cost to construct the proposed facility. Such cost shall include, but shall not be limited to, the cost of all electric power generating units, all electric supply lines within the facility site boundary, all electric supply lines beyond the facility site boundary with voltage of 69 kilovolts or higher used for transmitting power from the facility to the point of junction with the distribution system or with the interconnected primary transmission system, all appurtenant or miscellaneous structures used and useful in connection with said facility or any part thereof, and all rights-of-way, lands or interest in lands, the use and occupancy of which are necessary or appropriate in the maintenance or operation of said facility.*

i j. The names and addresses of those owners and lessees of record or real property identified in 24.6(2)"d" and "e."

ITEM 7. Amend subrule 24.4(2) as follows:

24.4(2) In section 2, entitled, "Regulatory requirements," applicant shall include the following:

a. All information related to the regulatory agency and zoning authority requirements for permits or licenses necessary to construct, operate, and maintain the facility. ~~Any deficiencies in this information shall be clearly identified, and a schedule for submitting the omitted information shall be presented.~~

b. A listing of every state agency from which any approval or authorization concerning the proposed facility is required and a listing of zoning authorities.

c. Information equivalent to the information required in the rules and application forms of such state regulatory agencies and zoning authorities, *to the extent such information is ready to be filed.*

ITEM 8. Rescind subrules **24.4(3)** to **24.4(5)** and renumber subrules **24.4(6)** and **24.4(7)** as **24.4(3)** and **24.4(4)**.

ITEM 9. Amend renumbered subrule 24.4(3) as follows:

24.4(3) In section 6.3, entitled "Community impact," the applicant shall include an identification and analysis of the effects the construction, operation and maintenance of the proposed facility will have on the site impact area including, but not limited to, the following:

a. A forecast of the permanent impact of the construction, operation, and maintenance of the proposed facility on commercial and industrial sectors, housing, land values, labor market, health facilities, sewage and water, fire and public protection, recreational facilities, schools and transportation facilities.

b. A forecast of any temporary stress placed upon housing, schools or other community facilities as a result of a temporary influx of workers during the construction of the proposed facility.

c. A forecast of the impact of the proposed facility on property taxes of affected taxing jurisdictions. The forecast shall include the effects on property taxes caused by all community development proximately related to the construction of the proposed facility.

d. A forecast of the impact on agricultural production and uses.

e. A forecast of the impact on open space areas and areas of significant wildlife habitat. Such forecast shall include identification and description of the impact of the proposed facility on terrestrial and aquatic plants and animals.

f. A forecast of the impact on transportation facilities.

g. A forecast of the impact on cultural resources including known archaeological, historical and architectural prop-

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erties, which are on, or eligible for, the National Register of Historic Places.

h. A forecast of the impact on landmarks of historic, religious, archaeological, scenic, natural or other cultural significance. Such information shall include ~~an assessment of the aesthetic impact of the proposed facility,~~ applicant's plans to coordinate with the ~~state historical preservation office and~~ office of state archaeologist to reduce or obviate any adverse impact; and the applicant's plans to coordinate with the state office of disaster services in the event of accidental release of contaminants from the proposed facility.

ITEM 10. Amend renumbered subrule 24.4(4) as follows:

24.4(4) Site selection methodology. In section 7 4, entitled "Site selection methodology," applicant shall present information related to its selection of the proposed site for the facility. Such information shall include the following:

a. ~~The general criteria used to select alternative sites, how these criteria were measured and weighted, and reasons for selecting those criteria. and how these criteria were used to select the proposed site.~~

b. ~~An identification of at least two alternative sites considered by applicant for the facility and discussion of the applicability of the site selection criteria to those sites.~~

c. ~~A discussion of the applicability of the site selection criteria to the proposed site and its advantages over the other alternative sites considered by applicant.~~

d. *b.* A discussion of the extent to which reliance upon eminent domain powers could be reduced by use of an alternative site, alternative generation method or alternative waste handling method.

ITEM 11. Amend subrule 24.5(3) as follows:

24.5(3) If the application or portion thereof, after amendment or otherwise, is in substantial compliance with the requirements of rule 24.4(476A) which pertain thereto, the board shall, within 45 days of the filing of the application or portion thereof or amendment thereto, accept the application or portion thereof and set the time and place for hearing as provided in rule 24.6(476A); provided, however, that upon acceptance of a partial application, the board may order separate proceedings on particular phases of the application, pursuant to rule 24.10 9(476A), where such partial application permits a finding to be made with regard to any of the facility siting criteria contained in subrule 24.11 10(2).

ITEM 12. Amend subrule 24.6(1) as follows:

24.6(1) Upon acceptance of the application, the board shall establish a schedule for the certification proceeding which shall include:

a. ~~A prehearing conference to be held in accordance with 24.8(476A), no sooner than 45 days after acceptance of the application.~~

b. *a.* A hearing to be commenced in accordance with 24.9 8(476A), no earlier than 90 days nor later than 150 days from the date of acceptance. This hearing shall be conducted in the county in which the construction of the greater portion of the facility is being proposed.

c. *b.* Provision of the publication of notice of the schedule for ~~the prehearing conference,~~ and the hearing held by the board in the form provided in Iowa Code section 17A.12(2), which notice shall be published in a newspaper of general circulation in each county in which the proposed site is located once each week for two consecutive weeks with the second publication being no later than 30 days after acceptance of the application.

ITEM 13. Amend subrule **24.6(2)**, paragraphs "a" and "b," as follows:

a. All regulatory agencies, including Iowa department of transportation, ~~and environmental protection division and natural resource commission~~ of the Iowa department of natural resources.

b. Interested agencies as determined by the board, including the ~~Iowa geological survey,~~ office of state archaeologist, and the office of historical preservation of the state historical society of Iowa.

ITEM 14. Amend subrule 24.7(6) as follows:

24.7(6) Conduct of the meeting. A member of the board, or a hearing examiner designated by the board, shall serve as the presiding officer at the meeting and present an agenda for such meeting, which shall include a summary of the legal rights of affected legal landowners. No formal record of the meeting is required. ~~The meeting shall not be considered adversarial in nature, but rather shall have as its purpose the presentation by the applicant of its proposal, the furnishing of an opportunity for interested members of the public to raise questions regarding the proposal, and an opportunity for the applicant to respond.~~

ITEM 15. Rescind rule ~~199—24.8(476A)~~ and renumber rule ~~199—24.9(476A)~~ as **199—24.8(476A)**.

ITEM 16. Amend renumbered 199—24.8(476A) as follows:

Amend renumbered subrule 24.8(1) as follows:

24.8(1) General. The proceedings conducted by the board pursuant to this chapter shall be treated in the same manner as a contested case pursuant to the provisions of Iowa Code chapter 17A. Except where contrary to express provisions below, the hearing procedure shall conform to the board's rules of practice and procedure, 199—Chapter 7, IAC. *The proceeding for the issuance of certificate may be consolidated with the contested case proceeding for determination of applicable ratemaking principles under Iowa Code section 476.53.*

Rescind renumbered subrule **24.8(6)**.

ITEM 17. Renumber rules ~~199—24.10(476A)~~ to **199—24.16(476A)** as ~~199—24.9(476A)~~ to **199—24.15(476A)**.

ITEM 18. Amend renumbered subrules 24.9(1), 24.9(3), and 24.9(4) as follows:

24.9(1) By motion. The board, upon its own motion or on the motion of the applicant, may order separate phases on particular issues of the proceeding. Each phase shall be addressed to issues involved in applying one or more of the facility siting criteria set forth in ~~board~~ subrule 24.11 10(2) and shall result in board findings with respect thereto.

24.9(3) Procedure. Each such hearing phase shall be conducted in conformance with the requirements of 24.9 8(476A) or other rules of practice and procedure designated in the applicable chapter 28E agreement.

~~**24.9(4)** Criteria. In no event shall a certificate be issued unless and until the board has made appropriate findings with respect to all of the facility siting criteria set forth in board subrule 24.11(2).~~

ITEM 19. Amend renumbered subrules 24.10(2) and 24.10(5) as follows:

24.10(2) Facility siting criteria. In rendering its certification decision, the board shall consider the following criteria:

a. Whether the service and operations resulting from the construction of the facility are ~~required by the present and future public convenience, use and necessity consistent with~~

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the legislative intent as expressed in Iowa Code section 476.53 and the economic development policy of the state as expressed in Iowa Code Title I, Subtitle 5, and will not be detrimental to the provision of adequate and reliable electric service. Such determination shall include: whether the existing transmission network has the capability to reliably support the proposed additional generation interconnection to the network.

~~(1) The need for power based on electrical energy demands of each participant's service area and interconnected power pool considering current and projected impacts of energy conserving programs, policies and technology;~~

~~(2) The advantages, disadvantages, and risks associated with the proposed facility as compared to the advantages, disadvantages, and risks associated with alternative methods of meeting the established electric energy demand; and~~

~~(3) Economic advantages, disadvantages, and risks to the public of the replacement of or the placing on reserve of existing generation units.~~

b. Whether the construction, maintenance, and operation of the proposed facility will ~~cause minimum adverse be consistent with reasonable~~ land use, ~~and environmental policies, and aesthetic impact and are~~ consonant with reasonable utilization of air, land, and water resources, ~~for beneficial purposes~~ considering available technology and the economics of available alternatives. Such determination shall include:

(1) Whether all adverse impacts attendant the construction, maintenance and operation of the facility have been reduced to a reasonably acceptable level;

(2) Whether the proposed site represents a reasonable choice among available alternatives ~~from a technical, social, and economic standpoint;~~

~~(3) Whether the proposed generating plant represents a reasonable choice among available alternatives for meeting the power from a technical, social, and economic standpoint;~~

(4) Whether the proposed facility complies with applicable city, county or airport zoning requirements and, if not, whether the location of the proposed facility at the proposed site is reasonably justified from an economic, technical, and social standpoint.

c. Whether the applicant is willing to ~~perform the services resulting from the construction of the facility and to~~ construct, maintain, and operate the facility pursuant to the provisions of the certificate and the Act.

d. Whether the proposed facility meets the permit and licensing requirements of regulatory agencies.

e. Requirement for good engineering practice.

~~(1) Whether the facility will be constructed, maintained and operated in accord with accepted good engineering practice in the electric industry to assure, as far as reasonably possible, continuity of service, and safety of persons and property.~~

(2) The utility applicant shall use the applicable provisions in the publications listed below as standards of accepted good practice unless otherwise ordered by the board:

(a) (1) Iowa Electrical Safety Code, as defined in IAC[199], Chapter 25 199 IAC 25.

~~(b) Rescinded effective 1/12/83.~~

(c) (2) National Electrical Code ANSI C1-1975., as defined in 199 IAC 25.

(d) (3) Operation and Maintenance of Turbine Generators-ANSI standard C50.30-1972.

(e) (4) Power Piping-ANSI standard B31.1-1977 1998.

~~(f) Nuclear Power Piping-ANSI standard B31.7-1969 and addendum thereto including B31.7a-1972, B31.7b-1971 and B31.7C-1971.~~

~~f. Whether each participant, if a public utility as defined in Iowa Code section 476.1, has complied with Iowa Code section 476A.6(4).~~

~~g. Whether each participant, if a public utility as defined in Iowa Code section 476.1, has demonstrated to the board that the utility has considered sources for long-term electric supply from either purchase of electricity or investment in facilities owned by other persons.~~

~~h. Whether each participant, if a public utility as defined in Iowa Code section 476.1, has complied with Iowa Code section 476A.6(5).~~

24.10(5) Application approval. If the board finds, after amendment or record reopening, or both, or otherwise, that affirmative findings are appropriate, the board shall approve the application and, in accordance with 24.13 12(476A), prepare a certificate of public convenience, use, and necessity for construction of the facility.

ITEM 20. Amend renumbered subrule 24.11(2) as follows:

24.11(2) In the event the board denies an application for a certificate or an amendment to a certificate, applicants who have received permission to begin site preparation, pursuant to 24.12 11(1), shall restore the site, in accordance with the board order denying the application.

ITEM 21. Amend renumbered rule 199—24.12(476A) by adopting the following **new** subrules:

24.12(3) Certificate transfer. A certificate may be transferred, subject to the approval of the board, to a person who agrees to comply with the terms of the certificate including any amendments to the certificate. Certificates shall be transferable by operation of law to any receiver, trustee or similar assignee under a mortgage, deed of trust or similar instrument.

24.12(4) Application withdrawal. Pursuant to Iowa Code section 476.53, a rate-regulated utility shall have the option of withdrawing its application for issuance of a certificate.

ITEM 22. Amend renumbered rule 199—24.13(476A) as follows:

199—24.13(476A) Exemptions from certification application; application for amendment to certificate: Contents.

24.13(1) Application for amendment.

a. Each person or group of persons proposing a significant alteration to any facility which was constructed pursuant to a certificate of public convenience, use and necessity issued by the board, shall file an application for an amendment to a certificate in lieu of an application for a certificate. ~~of public convenience, use, and necessity.~~

b. Each person or group of persons proposing a significant alteration to any facility which was not constructed pursuant to a certificate of public convenience, use, and necessity issued by the board, must file an application for such certificate unless:

(1) The facility has not attained full commercial rating and has not operated in excess of 80 percent of its maximum nameplate megawatt rating for ten hours daily for 45 consecutive days; and

(2) The significant alteration requires no more land than was required for the facility, is within the scope of publicly announced plans for the facility's construction, and entails no additional contracts for major components than those let for the facility.

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24.13(2) All applications for amendment to a certificate shall be filed in accordance with 24.3(476A) and shall include:

- a. A complete identification and discussion of the nature of the amendment proposed; and
- b. A complete enumeration of the effects the amendment has on the accuracy of the information contained in the application for a certificate of public convenience, use and necessity filed pursuant to 24.4(476A).

24.13(3) Upon board acceptance of the application in accordance with 24.14 13(1), the board shall establish a hearing schedule. At the board's discretion, the informational meeting and prehearing conference for this proceeding may be waived. Notice shall be in accordance with 24.6(2).

24.13(4) In the consideration of an application for a certificate, pursuant to 24.14 13(1)"b," or amendment to a certificate, pursuant to 24.14 13(1)"a," ~~for an addition of less than 100 megawatts in the maximum generator nameplate capacity of the facility,~~ there shall be a rebuttable presumption that the decision criteria of 24.11 10(2) are satisfied.

24.13(5) Amendment to a certificate. In determining whether an amendment to a certificate will be issued to the applicant, the board will be guided by the criteria set forth in 24.11 10(2) to the extent applicable and appropriate.

This rule is intended to implement Iowa Code sections 17A.3, 474.5, 476.1, and 476.2.

ITEM 23. Amend renumbered rule 199—24.15(476A) as follows:

199—24.15(476A) Waiver. The board, if it determines that the public interest would not be adversely affected, may waive any of the requirements of this chapter ~~for facilities with a maximum nameplate generating capacity of 100 megawatts or less.~~ In determining whether the public interest would not be adversely affected, the board will consider the following factors:

1. The purpose of the facility.
2. The type of facility.
3. If the facility is for the applicant's own needs, ~~whether there are plans to sell excess capacity and, if so, to whom.~~
4. ~~If the applicant is other than a utility, the effect of the facility on any utility currently serving the applicant.~~
5. ~~If the applicant is other than a utility, the effect of the facility on the customers of the utilities serving the applicant.~~
- 6 4. The effect of the facility on existing transmission systems.
- 7 5. Any other relevant factors.

This rule is intended to implement Iowa Code sections 476A.1, and 476A.2, and sections 476A.4, 476A.6, 476A.7 and 476A.15 as amended by 2001 Iowa Acts, House File 577.

[Filed 2/15/02, effective 4/10/02]
[Published 3/6/02]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 3/6/02.

ARC 1445B**WORKERS' COMPENSATION
DIVISION[876]****Adopted and Filed**

Pursuant to the authority of Iowa Code section 86.8, the Workers' Compensation Commissioner hereby amends Chapter 1, "Purpose and Function," Chapter 3, "Forms," Chapter 4, "Contested Cases," Chapter 6, "Settlements and Commutations," and Chapter 8, "Substantive and Interpretive Rules," Iowa Administrative Code.

These amendments provide for technical corrections that have been identified as appropriate pursuant to Executive Order Number 8.

Notice of Intended Action for these amendments was published in the Iowa Administrative Bulletin January 9, 2002, as **ARC 1231B**.

Written comments were solicited until January 29, 2002. No written comments on these amendments were received. The adopted amendments are identical to those published under Notice of Intended Action.

These amendments will become effective April 10, 2002.

These amendments are intended to implement Iowa Code sections 17A.2(2), 17A.3(1)"a" and "b," 17A.10, 17A.12, 17A.15, 85.3, 85.27, 85.31, 85.33 to 85.37, 85.39, 85.45, 85.47, 85.61, 86.8, 86.13, 86.17, 86.18, 86.24, 86.27, 86.39 and 1990 Iowa Acts, chapter 1261, section 3.

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 [1.2, 3.1, 4.1, 4.7, 4.8, 4.12, 4.13, 4.15, 4.19, 4.21 to 4.23, 4.29, 4.34, 4.37, 4.40, 6.4 to 6.6, 8.9] is being omitted. These amendments are identical to those published under Notice as **ARC 1231B**, IAB 1/9/02.

[Filed 2/15/02, effective 4/10/02]
[Published 3/6/02]

[For replacement pages for IAC, see IAC Supplement 3/6/02.]

ARC 1446B**WORKERS' COMPENSATION
DIVISION[876]****Adopted and Filed**

Pursuant to the authority of Iowa Code section 86.8, the Workers' Compensation Commissioner hereby gives Notice of Intended Action to amend Chapter 2, "General Provisions," Chapter 3, "Forms," and Chapter 11, "Electronic Data Interchange," Iowa Administrative Code.

These amendments update requirements for filing information with the agency by means of electronic data interchange (EDI).

WORKERS' COMPENSATION DIVISION[876](cont'd)

Notice of Intended Action for these amendments was published in the Iowa Administrative Bulletin January 9, 2002, as **ARC 1230B**.

Written comments were solicited until January 29, 2002. No written comments on these amendments were received. The adopted amendments are identical to those published under Notice of Intended Action.

These amendments will become effective April 10, 2002.

These amendments are intended to implement Iowa Code sections 17A.3(1), 85.26, 86.8, 86.11 and 86.13.

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 [2.6, 3.1, 11.2, 11.3, 11.7] is being omitted. These amendments are identical to those published under Notice as **ARC 1230B**, IAB 1/9/02.

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