



IOWA ADMINISTRATIVE BULLETIN

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PREFACE

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

It also contains Proclamations and Executive Orders of the Governor which are general and permanent in nature; Regulatory Analyses; effective date delays and objections filed by the Administrative Rules Review Committee; Agenda for monthly Administrative Rules Review Committee meetings; and other materials deemed fitting and proper by the Administrative Rules Review Committee.

The Bulletin may also contain public funds interest rates [12C.6]; workers' compensation rate filings [515A.6(7)]; usury rates [535.2(3)“a”]; agricultural credit corporation maximum loan rates [535.12]; and regional banking—notice of application and hearing [524.1905(2)].

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

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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).

Schedule for Rule Making 2005

NOTICE SUBMISSION DEADLINE	NOTICE PUB. DATE	HEARING OR COMMENTS 20 DAYS	FIRST POSSIBLE ADOPTION DATE 35 DAYS	ADOPTED FILING DEADLINE	ADOPTED PUB. DATE	FIRST POSSIBLE EFFECTIVE DATE	POSSIBLE EXPIRATION OF NOTICE 180 DAYS
Dec. 31 '04	Jan. 19 '05	Feb. 8 '05	Feb. 23 '05	Feb. 25 '05	Mar. 16 '05	Apr. 20 '05	July 18 '05
Jan. 14 '05	Feb. 2	Feb. 22	Mar. 9	Mar. 11	Mar. 30	May 4	Aug. 1
Jan. 28	Feb. 16	Mar. 8	Mar. 23	Mar. 25	Apr. 13	May 18	Aug. 15
Feb. 11	Mar. 2	Mar. 22	Apr. 6	Apr. 8	Apr. 27	June 1	Aug. 29
Feb. 25	Mar. 16	Apr. 5	Apr. 20	Apr. 22	May 11	June 15	Sept. 12
Mar. 11	Mar. 30	Apr. 19	May 4	May 6	May 25	June 29	Sept. 26
Mar. 25	Apr. 13	May 3	May 18	***May 18***	June 8	July 13	Oct. 10
Apr. 8	Apr. 27	May 17	June 1	June 3	June 22	July 27	Oct. 24
Apr. 22	May 11	May 31	June 15	June 17	July 6	Aug. 10	Nov. 7
May 6	May 25	June 14	June 29	***June 29***	July 20	Aug. 24	Nov. 21
May 18	June 8	June 28	July 13	July 15	Aug. 3	Sept. 7	Dec. 5
June 3	June 22	July 12	July 27	July 29	Aug. 17	Sept. 21	Dec. 19
June 17	July 6	July 26	Aug. 10	Aug. 12	Aug. 31	Oct. 5	Jan. 2 '06
June 29	July 20	Aug. 9	Aug. 24	***Aug. 24***	Sept. 14	Oct. 19	Jan. 16 '06
July 15	Aug. 3	Aug. 23	Sept. 7	Sept. 9	Sept. 28	Nov. 2	Jan. 30 '06
July 29	Aug. 17	Sept. 6	Sept. 21	Sept. 23	Oct. 12	Nov. 16	Feb. 13 '06
Aug. 12	Aug. 31	Sept. 20	Oct. 5	Oct. 7	Oct. 26	Nov. 30	Feb. 27 '06
Aug. 24	Sept. 14	Oct. 4	Oct. 19	Oct. 21	Nov. 9	Dec. 14	Mar. 13 '06
Sept. 9	Sept. 28	Oct. 18	Nov. 2	Nov. 4	Nov. 23	Dec. 28	Mar. 27 '06
Sept. 23	Oct. 12	Nov. 1	Nov. 16	***Nov. 16***	Dec. 7	Jan. 11 '06	Apr. 10 '06
Oct. 7	Oct. 26	Nov. 15	Nov. 30	Dec. 2	Dec. 21	Jan. 25 '06	Apr. 24 '06
Oct. 21	Nov. 9	Nov. 29	Dec. 14	***Dec. 14***	Jan. 4 '06	Feb. 8 '06	May 8 '06
Nov. 4	Nov. 23	Dec. 13	Dec. 28	Dec. 30	Jan. 18 '06	Feb. 22 '06	May 22 '06
Nov. 16	Dec. 7	Dec. 27	Jan. 11 '06	Jan. 13 '06	Feb. 1 '06	Mar. 8 '06	June 5 '06
Dec. 2	Dec. 21	Jan. 10 '06	Jan. 25 '06	Jan. 27 '06	Feb. 15 '06	Mar. 22 '06	June 19 '06
Dec. 14	Jan. 4 '06	Jan. 24 '06	Feb. 8 '06	Feb. 10 '06	Mar. 1 '06	Apr. 5 '06	July 3 '06
Dec. 30	Jan. 18 '06	Feb. 7 '06	Feb. 22 '06	Feb. 24 '06	Mar. 15 '06	Apr. 19 '06	July 17 '06

PRINTING SCHEDULE FOR IAB

<u>ISSUE NUMBER</u>	<u>SUBMISSION DEADLINE</u>	<u>ISSUE DATE</u>
2	Wednesday, June 29, 2005	July 20, 2005
3	Friday, July 15, 2005	August 3, 2005
4	Friday, July 29, 2005	August 17, 2005

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.

Note change of filing deadline

PUBLICATION PROCEDURES

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The Administrative Rules Review Committee will hold its regular, statutory meeting on Tuesday, July 12, 2005, at 9 a.m. in Room 116, State Capitol, Des Moines, Iowa. The following rules will be reviewed:

ADMINISTRATIVE SERVICES DEPARTMENT[11]

- Family and medical leave Act (FMLA) leave, 63.4(13), 63.9(9),
63.9(10), Filed ARC 4248B 6/22/05
Definition of “state driver,” 103.2, 103.9, Notice ARC 4275B 6/22/05

AGRICULTURE AND LAND STEWARDSHIP DEPARTMENT[21]

- Anhydrous ammonia tanks—nameplates, certification, 43.6,
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CAPITAL INVESTMENT BOARD, IOWA[123]

- Investment tax credits, 4.1 to 4.10, 4.13 to 4.16, Filed ARC 4221B 6/8/05

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- Selling of goods and services by department officials, 1.5,
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ELDER AFFAIRS DEPARTMENT[321]

- Retired and senior volunteer program (RSVP), rescind ch 14, Filed Emergency ARC 4280B 6/22/05
Adult day services—medication administration and storage,
24.30(2)“c,” Notice ARC 4055B Terminated ARC 4279B 6/22/05
Assisted living—medication administration and storage,
25.29(2)“c,” Notice ARC 4054B Terminated ARC 4278B 6/22/05

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Chemplex site in Clinton County added to list of protected water sources,
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Notice ARC 3736B Terminated ARC 4240B 6/8/05
Solid waste comprehensive planning requirements, 101.1 to 101.13, Filed ARC 4239B 6/8/05

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Filing of Iowa election campaign fund report, 3.8, Filed ARC 4250B 6/22/05
Dissolution of a county central committee, 4.1(1)“a”(2), 4.34, Filed Without Notice ARC 4261B 6/22/05
Definition of “candidate,” 4.1(4), Filed ARC 4252B 6/22/05
Filing of Schedule G—monetary expenditures by consultants,
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Filing of independent expenditure statement, 4.27, 4.27(1), Filed Without Notice ARC 4262B 6/22/05
Dissolution of campaign committees, 4.54 to 4.57, Filed ARC 4249B 6/22/05
Sales of goods and services by staff of the office of the governor,
6.12, Filed Without Notice ARC 4264B 6/22/05
Prohibition on receipt of an honorarium by executive branch official or employee,
6.19, Filed ARC 4251B 6/22/05
Contribution by a lobbyist to the lobbyist’s own campaign, 8.15(2)“d,” Filed ARC 4253B 6/22/05

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- Low-income housing tax credits—qualified allocation plan, 12.1, 12.2, Notice **ARC 4281B** 6/22/05

LABOR SERVICES DIVISION[875]

WORKFORCE DEVELOPMENT DEPARTMENT[871]“umbrella”

- Elevators—fees, 75.1(1), 75.1(2), 75.3(1), 75.4, 75.7, Filed **ARC 4273B** 6/22/05
- Elevators—alterations, 76.7, Filed **ARC 4274B** 6/22/05
- Boilers and pressure vessels—fees, 200.4, Notice **ARC 4219B** 6/8/05

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PUBLIC HEALTH DEPARTMENT[641]“umbrella”

- Clinical competency examination, 12.3, 12.3(1), 12.3(7), Notice **ARC 4276B** 6/22/05

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NATURAL RESOURCES DEPARTMENT[561]“umbrella”

- Public, commercial, private docks and dock management areas, ch 16, Notice **ARC 4237B** 6/8/05
- Barge fleet regulations, ch 17, Notice **ARC 4242B** 6/8/05
- Leases of state-owned or dedicated public property, ch 18, Notice **ARC 4243B** 6/8/05
- Boating speed and distance zoning, 40.51, 40.52, Notice **ARC 4236B** 6/8/05
- Inspection of permanently moored vessels, adopt ch 48, Filed Emergency After Notice **ARC 4214B** 6/8/05
- Removal of portable blinds from game management areas, 51.5(2)“b,” Filed **ARC 4234B** 6/8/05
- Kellerton prairie chicken management area added to list of wildlife refuges,
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- Nonresident deer hunting—tagging, 94.4, Filed **ARC 4233B** 6/8/05
- Wild turkey fall hunting by residents, 99.2, 99.4(9), 99.5(1)“i,” 99.8(2), 99.10, Filed **ARC 4232B** 6/8/05
- Deer population management zones, ch 105, Filed **ARC 4231B** 6/8/05
- Muskrat season; continuous closed season for bobcat and gray (timber) wolf,
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- Remote pharmacist preview of patient-specific drugs or devices when hospital pharmacy is closed,
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- Electronic signatures, prescriptions and transmissions, 7.13(1), 8.19, 21.1,
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- Patient’s choice of pharmacy, secure transmission of prescription, 21.8(1), Filed **ARC 4270B** 6/22/05
- Emergency drug supply for home health agency or hospice, 22.9, 22.9(2), 22.9(4),
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- Social work examiners, 280.3(5) to 280.3(11), 281.3(2)"b," 283.2(31), Notice ARC 4202B 6/8/05
- Speech pathology and audiology examiners, 300.1, 300.9"5," 300.11(1), 300.11(3), 300.11(5), 300.11(7),
300.11(8), 300.12, 300.13, 300.16 to 300.18, 303.1, 303.2(3), 303.2(4), 303.3, 303.3(1), 303.3(1)"c,"
303.3(1)"e"(2) and (3), 303.4 to 303.11, 305.1(4) to 305.1(6), Notice ARC 4217B 6/8/05
- Speech pathology and audiology examiners, 300.3(3), 300.3(4)"b," 300.3(6), 300.4(1)"b,"
300.6(2), 300.9, 303.1, 303.2(1), 303.3(2)"b" to "g," 304.2(32), Notice ARC 4216B 6/8/05

PUBLIC HEALTH DEPARTMENT[641]

- Reportable diseases, 1.1, 1.2, 1.3(1)"b," 1.4(2), 1.4(4), 1.5(4), 1.6(9), Filed ARC 4210B 6/8/05
- Women, infants and children (WIC) program, 73.5, 73.7(3)"a," 73.8(3), 73.8(4),
73.8(4)"b"(6), 73.8(5)"c," 73.13(1), 73.13(2), 73.19(1)"c" to "h," 73.19(2),
73.19(2)"b" to "e," "g" and "i" to "l," Notice ARC 4208B 6/8/05
- Emergency medical services—certification; reference updated, 131.3(3)"b," 131.4(1)"g,"
132.2(4)"b," Notice ARC 4209B 6/8/05

PUBLIC SAFETY DEPARTMENT[661]

- Bail enforcement, private investigation and private security businesses, 2.3(1), 2.4(5), 2.4(7) to 2.4(10),
2.5(6)"i" to "k," 2.6, 2.7(1), 2.11(1), 2.16(5), Notice ARC 4226B 6/8/05
- Fire safety requirements for hospitals and health care facilities, rescind 5.900 to 5.950;
adopt ch 205, Filed Emergency After Notice ARC 4256B 6/22/05
- Closed circuit surveillance systems in gaming establishments, rescind ch 23, adopt ch 141, Filed ARC 4229B 6/8/05
- Retail sales of pseudoephedrine, adopt ch 174, Notice ARC 4228B, also Filed Emergency ARC 4227B 6/8/05
- Fire fighter certification—minimum training standards, 251.1, 251.101 to 251.104, Filed ARC 4230B 6/8/05

REAL ESTATE COMMISSION[193E]

Professional Licensing and Regulation Division[193]

COMMERCE DEPARTMENT[181]"umbrella"

- Contested cases—qualifications for licensure, 3.3(3), 3.6(5), 4.3, 4.3(3), 4.6(5), Notice ARC 4215B 6/8/05

REVENUE DEPARTMENT[701]

- Implementation of streamlined sales and use tax agreement, 231.14, 231.15(1), 231.15(2),
231.15(4) to 231.15(6), adopt ch 240, Filed ARC 4277B 6/22/05

STATE PUBLIC DEFENDER[493]

INSPECTIONS AND APPEALS DEPARTMENT[481]"umbrella"

- Appointment of counsel and approval of claims, 7.1, 12.1(1), 12.2(1)"b"(2), 12.4(4), 12.6(1), adopt ch 14,
Notice ARC 4245B, also Filed Emergency ARC 4265B 6/22/05

TRANSPORTATION DEPARTMENT[761]

First aid and medical treatment for railroad employees, 810.4, Filed **ARC 4204B** 6/8/05

UTILITIES DIVISION[199]

COMMERCE DEPARTMENT[181]"umbrella"

Affiliate reporting requirements, 31.4 to 31.9, Filed **ARC 4220B** 6/8/05

ADMINISTRATIVE RULES REVIEW COMMITTEE MEMBERS

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

EDITOR'S NOTE: Terms ending April 30, 2007.

Senator Jeff Angelo
808 West Jefferson
Creston, Iowa 50801

Senator Michael Connolly
3458 Daniels Street
Dubuque, Iowa 52002

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

Senator Mary Lundby
P.O. Box 648
Marion, Iowa 52302-0648

Senator Paul McKinley
21884 483rd Lane
Chariton, Iowa 50049

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

Representative Danny Carroll
244 400th Avenue
Grinnell, Iowa 50112

Representative George Eichhorn
P.O. Box 140
Stratford, Iowa 50249

Representative Marcella R. Frevert
P.O. Box 324
Emmetsburg, Iowa 50536

Representative David Heaton
510 East Washington
Mt. Pleasant, Iowa 52641

Representative Geri Huser
213 Seventh Street NW
Altoona, Iowa 50009

Gary Dickey Jr.
Administrative Rules Coordinator
Governor's Ex Officio Representative
Capitol, Room 11
Des Moines, Iowa 50319

PUBLIC HEARINGS

AGENCY	HEARING LOCATION	DATE AND TIME OF HEARING
IOWA FINANCE AUTHORITY[265]		
Qualified allocation plan for low-income housing tax credit program, 12.1, 12.2 IAB 6/22/05 ARC 4281B (ICN Network)	Third Floor Ola Babcock Miller Bldg. Des Moines, Iowa	July 12, 2005 9 to 11 a.m.
	Room 12, High School 819 N. 25th St. Fort Dodge, Iowa	July 12, 2005 9 to 11 a.m.
	Regina (basement), Room 050 Mount Mercy College 1330 Elmhurst Dr. NE Cedar Rapids, Iowa	July 12, 2005 9 to 11 a.m.
	Looft Hall Iowa Western Community College – 1 2700 College Rd. Council Bluffs, Iowa	July 12, 2005 9 to 11 a.m.
	Room 404 High School 601 W. Townline Rd. Creston, Iowa	July 12, 2005 9 to 11 a.m.
	Room 119, Kimberly Center 1002 W. Kimberly Davenport, Iowa	July 12, 2005 9 to 11 a.m.
	Carnegie-Stout Public Library 360 W. 11th St. Dubuque, Iowa	July 12, 2005 9 to 11 a.m.
	Room 113, High School 1700 Fourth SE Mason City, Iowa	July 12, 2005 9 to 11 a.m.
	Videoconferencing & Training Center Indian Hills Community College – 5 651 Indian Hills Dr. Ottumwa, Iowa	July 12, 2005 9 to 11 a.m.
	Room 22, CYO Bldg. Bishop Heelan Catholic High School 1021 Douglas St. Sioux City, Iowa	July 12, 2005 9 to 11 a.m.
	Small Meeting Room Public Library 415 Commercial St. Waterloo, Iowa	July 12, 2005 9 to 11 a.m.
LABOR SERVICES DIVISION[875]		
Boilers and pressure vessels—fees, 200.4 IAB 6/8/05 ARC 4219B	Stanley Room 1000 E. Grand Ave. Des Moines, Iowa	July 6, 2005 8:30 a.m. (If requested)

NATURAL RESOURCE COMMISSION[571]

Docks and other structures on public waters, ch 16 IAB 6/8/05 ARC 4237B	Community Room City Hall Clear Lake, Iowa	July 7, 2005 6 p.m.
	Gull Point State Park Lodge West Okoboji Lake Milford, Iowa	July 11, 2005 6 p.m.
	Auditorium Wallace State Office Bldg. Des Moines, Iowa	July 12, 2005 6 p.m.
Barge fleeting regulations, ch 17 IAB 6/8/05 ARC 4242B	Fourth Floor East Conference Room Wallace State Office Bldg. Des Moines, Iowa	June 30, 2005 10:30 a.m.
Leases of state-owned or dedicated public property, ch 18 IAB 6/8/05 ARC 4243B	Fourth Floor East Conference Room Wallace State Office Bldg. Des Moines, Iowa	June 30, 2005 1:30 p.m.
Little River Lake, Decatur County; Zoning of Mississippi River, 40.51, 40.52 IAB 6/8/05 ARC 4236B	Fourth Floor West Conference Room Wallace State Office Bldg. Des Moines, Iowa	June 28, 2005 10 a.m.
Kellerton Prairie Chicken Management Area, Ringgold County, 52.1(2) IAB 6/8/05 ARC 4235B	Fourth Floor West Conference Room Wallace State Office Bldg. Des Moines, Iowa	June 28, 2005 10:30 a.m.

PROFESSIONAL LICENSURE DIVISION[645]

Physical therapists—licensure and discipline, 200.1, 200.3(2), 200.6, 202.2(31), 203.3(2) IAB 6/22/05 ARC 4259B	Fifth Floor Board Conference Room Lucas State Office Bldg. Des Moines, Iowa	July 12, 2005 9 to 10 a.m.
Physical therapists, amendments to chs 200, 203, 204 IAB 6/22/05 ARC 4260B	Fifth Floor Board Conference Room Lucas State Office Bldg. Des Moines, Iowa	July 12, 2005 9 to 10 a.m.
Occupational therapists, amendments to chs 206, 207, 210 IAB 6/22/05 ARC 4258B	Fifth Floor Board Conference Room Lucas State Office Bldg. Des Moines, Iowa	July 12, 2005 9 to 10 a.m.
Occupational therapists— licensure and discipline, 206.3, 206.4, 207.3(2), 209.2(31) IAB 6/22/05 ARC 4257B	Fifth Floor Board Conference Room Lucas State Office Bldg. Des Moines, Iowa	July 12, 2005 9 to 10 a.m.
Psychologists, amendments to chs 240, 241, 243 IAB 6/8/05 ARC 4201B	Fifth Floor Board Conference Room Lucas State Office Bldg. Des Moines, Iowa	June 28, 2005 9 to 10 a.m.
Psychologists—licensure and discipline, 240.2(1), 240.7(1), 241.2(1), 242.2(32) IAB 6/8/05 ARC 4200B	Fifth Floor Board Conference Room Lucas State Office Bldg. Des Moines, Iowa	June 28, 2005 9 to 10 a.m.
Social workers, amendments to chs 280, 281, 284 IAB 6/8/05 ARC 4203B	Fifth Floor Board Conference Room Lucas State Office Bldg. Des Moines, Iowa	June 28, 2005 10 to 11 a.m.

PROFESSIONAL LICENSURE DIVISION[645] (Cont'd)

Social workers—licensure and discipline, 280.3, 281.3(2), 283.2(31) IAB 6/8/05 ARC 4202B	Fifth Floor Board Conference Room Lucas State Office Bldg. Des Moines, Iowa	June 28, 2005 10 to 11 a.m.
Speech pathologists and audiologists, amendments to ch 300, 303, 305 IAB 6/8/05 ARC 4217B	Fifth Floor Board Conference Room Lucas State Office Bldg. Des Moines, Iowa	June 28, 2005 8 to 9 a.m.
Speech pathologists and audiologists, 300.3, 300.4(1), 300.6, 300.9, 303.1 to 303.3, 304.2(32) IAB 6/8/05 ARC 4203B	Fifth Floor Board Conference Room Lucas State Office Bldg. Des Moines, Iowa	June 28, 2005 8 to 9 a.m.

PUBLIC HEALTH DEPARTMENT[641]

Special supplemental nutrition program for women, infants, and children (WIC), 73.5, 73.7, 73.8, 73.13, 73.19 IAB 6/8/05 ARC 4208B (ICN Network)	Sixth Floor Lucas State Office Bldg. Des Moines, Iowa	June 28, 2005 8:30 to 9:30 a.m.
	Howe Hall Iowa State University Ames, Iowa	June 28, 2005 8:30 to 9:30 a.m.
	NIACC – 1 500 College Dr. Mason City, Iowa	June 28, 2005 8:30 to 9:30 a.m.
	High School 2701 Hill Ave. Spirit Lake, Iowa	June 28, 2005 8:30 to 9:30 a.m.
	Ottumwa Regional Health Center 1001 E. Pennsylvania Ottumwa, Iowa	June 28, 2005 8:30 to 9:30 a.m.
	Prairie Lakes AEA 8 330 Avenue M Fort Dodge, Iowa	June 28, 2005 8:30 to 9:30 a.m.
	Iowa Valley Community College 123 Sixth Ave. W Grinnell, Iowa	June 28, 2005 8:30 to 9:30 a.m.
	Western Hills AEA 12 1520 Morningside Ave. Sioux City, Iowa	June 28, 2005 8:30 to 9:30 a.m.
	Iowa Western Community College 2700 College Rd. Council Bluffs, Iowa	June 28, 2005 8:30 to 9:30 a.m.
	AEA 26 3712 Cedar Heights Dr. Cedar Falls, Iowa	June 28, 2005 8:30 to 9:30 a.m.
	Southwestern Community College – 2 2520 W. McClane Osceola, Iowa	June 28, 2005 8:30 to 9:30 a.m.

PUBLIC HEALTH DEPARTMENT[641] (Cont'd)
(ICN Network)

Scott Community College – 1 500 Belmont Rd. Bettendorf, Iowa	June 28, 2005 8:30 to 9:30 a.m.
Room T201 University of Dubuque 2000 University Ave. Dubuque, Iowa	June 28, 2005 8:30 to 9:30 a.m.
Kirkwood Community College – 2 6301 Kirkwood Blvd. SW Cedar Rapids, Iowa	June 28, 2005 8:30 to 9:30 a.m.
Room 103, Sioux Center AEA 4 1382 Fourth Ave. NE Sioux Center, Iowa	June 28, 2005 8:30 to 9:30 a.m.
Mount Pleasant Treatment Center 1200 E. Washington Mount Pleasant, Iowa	June 28, 2005 8:30 to 9:30 a.m.

PUBLIC SAFETY DEPARTMENT[661]

Bail enforcement, private investigation and private security businesses, 2.3 to 2.7, 2.11(1), 2.16(5) IAB 6/8/05 ARC 4226B	Third Floor Conference Room Wallace State Office Bldg. Des Moines, Iowa	July 1, 2005 10 a.m.
Retail sales of pseudoephedrine, adopt ch 174 IAB 6/8/05 ARC 4228B (See also ARC 4227B)	Third Floor Conference Room Wallace State Office Bldg. Des Moines, Iowa	July 1, 2005 9:30 a.m.

REAL ESTATE COMMISSION[193E]

Denial of application for licensure, 3.3(3), 3.6(5), 4.3, 4.6(5) IAB 6/8/05 ARC 4215B	Second Floor Conference Room 1920 SE Hulsizer Ankeny, Iowa	June 28, 2005 10 a.m.
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STATE PUBLIC DEFENDER[493]

Appointment of counsel and approval of claims, 7.1, 12.1(1), 12.2(1), 12.4(4), 12.6(1), adopt ch 14 IAB 6/22/05 ARC 4245B (See also ARC 4265B herein)	Conference Room 424 Lucas State Office Bldg. Des Moines, Iowa	July 12, 2005 9 a.m.
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UTILITIES DIVISION[199]

Telecommunications providers, amendments to ch 22 IAB 5/11/05 ARC 4157B	Hearing Room 350 Maple St. Des Moines, Iowa	June 24, 2005 9 a.m.
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Due to reorganization of state government by 1986 Iowa Acts, chapter 1245, it was necessary to revise the agency identification numbering system, i.e., the bracketed number following the agency name.

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

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

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

The following list will be updated as changes occur:

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 BLIND, DEPARTMENT FOR THE[111]
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 Alcoholic Beverages Division[185]
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 Credit Union Division[189]
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 College Student Aid Commission[283]
 Higher Education Loan Authority[284]
 Iowa Advance Funding Authority[285]
 Libraries and Information Services Division[286]
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PERSONNEL DEPARTMENT[581]
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 BOARD, IOWA COMPREHENSIVE[591]
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REVENUE DEPARTMENT[701]
SECRETARY OF STATE[721]
SEED CAPITAL CORPORATION, IOWA[727]
SHEEP AND WOOL PROMOTION BOARD, IOWA[741]
TELECOMMUNICATIONS AND TECHNOLOGY COMMISSION, IOWA[751]
TRANSPORTATION DEPARTMENT[761]
 Railway Finance Authority[765]
TREASURER OF STATE[781]
TURKEY MARKETING COUNCIL, IOWA[787]
UNIFORM STATE LAWS COMMISSION[791]
VETERANS AFFAIRS COMMISSION[801]
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VOTER REGISTRATION COMMISSION[821]
WORKFORCE DEVELOPMENT DEPARTMENT[871]
 Labor Services Division[875]
 Workers' Compensation Division[876]
 Workforce Development Board and
 Workforce Development Center Administration Division[877]

ADMINISTRATIVE SERVICES DEPARTMENT

Public Notice

NOTICE OF OFFICIAL PUBLICATION RATE INCREASE FOR THE FISCAL YEAR COMMENCING JULY 1, 2005, AND ENDING JUNE 30, 2006

In accordance with Iowa Code section 618.11, the Department of Administrative Services Fleet, Mail and Printing Administrator hereby publishes the lineage rate* for newspaper publications of any order, citation, or other publication required or allowed by law (also known as official publications) for the period commencing on July 1, 2005, and ending on June 30, 2006, in the following amounts:

* Lineage rate: "...each line of eight point type two inches in length, or its equivalent." (Iowa Code section 618.11.)

One insertion = 38.6 cents

Each subsequent insertion = 26.2 cents

The rate becomes effective on July 1, 2005. The rate was determined by applying the formula specified in the statute. According to the federal Department of Labor, Bureau of Labor Statistics, the consumer price index for all urban consumers increased 3.5% from April 2004 to April 2005. The April index was the most recent index available as of May 20, 2005, the date on which this notice was submitted for publication.

Pursuant to Iowa Code section 618.11, this notice is exempt from the rule-making process in Iowa Code chapter 17A.

Questions with respect to this notice may be directed to:

Dale Schroeder,
State Fleet, Mail and Printing Administrator
Department of Administrative Services
301 East 7th Street
Des Moines, Iowa 50319
Telephone: (515)281-7702
E-Mail: dale.schroeder@iowa.gov

ARC 4275B

ADMINISTRATIVE SERVICES DEPARTMENT[11]

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 8A.104, the Department of Administrative Services hereby gives Notice of Intended Action to amend Chapter 103, "State Employee Driving Guidelines," Iowa Administrative Code.

The proposed amendment to rule 103.2(8A) in Item 1 excludes only law enforcement officers employed by the Department of Public Safety from the definition of "state driver." The Department of Public Safety has a process estab-

lished for investigating the accidents of its own law enforcement officers and requiring appropriate corrective action. Other law enforcement officers, such as those employed by the Department of Corrections and the Department of Natural Resources, are included in the definition of "state driver." The Department of Administrative Services' risk manager investigates accidents involving state drivers. This investigation includes consideration of any available law enforcement reports. In addition, a law enforcement officer may request that the officer's completion of a law enforcement-specific defensive driving class substitute for completion of the defensive driving class required every three years for all state drivers.

Item 2 amends rule 103.9(8A) so that drivers of authorized emergency vehicles may be exempted from Iowa motor vehicle laws pursuant to Iowa Code section 321.231. This amendment addresses issues raised by law enforcement officers who continue to be included in the definition of "state driver."

Public comments concerning the proposed amendments will be accepted until 4:30 p.m. on July 12, 2005. Interested persons may submit written, oral or electronic comments by contacting Carol Stratemeyer, Rules Administrator, Department of Administrative Services, Hoover State Office Building, Level A-South, Des Moines, Iowa 50319-0104; telephone (515)281-6134; fax (515)281-6140; E-mail: Carol.Stratemeyer@iowa.gov.

These amendments are intended to implement Iowa Code sections 8A.104, 80.9 and 801.4.

A fiscal impact summary prepared by the Legislative Services Agency pursuant to Iowa Code § 17A.4(3) will be available at <http://www.legis.state.ia.us/LAC.html> or at (515) 281-5279 prior to the Administrative Rules Review Committee's review of this rule making.

The following amendments are proposed.

ITEM 1. Amend rule **11—103.2(8A)**, definition of "state driver," as follows:

"State driver" means any person who drives a state vehicle to conduct official state business other than a law enforcement officer *employed by the department of public safety*.

ITEM 2. Amend rule 11—103.9(8A) as follows:

11—103.9(8A) Required adherence to motor vehicle laws. Each state driver is required to abide by all applicable motor vehicle laws of the state of Iowa or any other state in which the state driver may be traveling *with the exception of drivers covered by Iowa Code section 321.231*.

ARC 4246B

AGRICULTURE AND LAND STEWARDSHIP DEPARTMENT[21]

Notice of Intended Action

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

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

Pursuant to the authority of Iowa Code sections 159.5(11) and 200.14, the Department of Agriculture and Land Stewardship hereby gives Notice of Intended Action to amend

AGRICULTURE AND LAND STEWARDSHIP DEPARTMENT[21](cont'd)

Chapter 43, "Fertilizers and Agricultural Lime," Iowa Administrative Code.

The proposed amendment strikes an exception to the requirement of nameplates on anhydrous ammonia tanks and adds a new rule pertaining to the certification/renaming of anhydrous ammonia applicators and nurse tanks with unreadable or missing nameplates under the jurisdiction of the Department. This proposed rule has delegated the certification/renaming process to firms that hold a valid R-stamp, in compliance with the current edition of the National Board Inspection Code. The federal Department of Transportation regulations require legible nameplates on applicator tanks and nurse tanks.

Any interested persons may make written comments or suggestions on this proposed amendment on or before 4:30 p.m. on July 12, 2005. Such written materials should be directed to Terry Jensen, Bureau Chief, Feed and Fertilizer Bureau, Department of Agriculture and Land Stewardship, Wallace State Office Building, 502 East 9th Street, Des Moines, Iowa 50319; or faxed to (515)281-4185. E-mail comments may be sent to Terry.Jensen@idals.state.ia.us.

No waiver provision is included in this proposed amendment because an existing rule allows for waivers in appropriate cases. The waiver rule also applies to this proposed amendment.

This proposed amendment was also Adopted and Filed Emergency and is published herein as **ARC 4247B**. The purpose of this Notice is to solicit comment on that submission, the subject matter of which is incorporated by reference.

This amendment is intended to implement Iowa Code chapter 200.

A fiscal impact summary prepared by the Legislative Services Agency pursuant to Iowa Code § 17A.4(3) will be available at <http://www.legis.state.ia.us/IAC.html> or at (515) 281-5279 prior to the Administrative Rules Review Committee's review of this rule making.

ARC 4279B

ELDER AFFAIRS DEPARTMENT[321]

Notice of Termination

Pursuant to the authority of Iowa Code section 231.14, the Elder Affairs Department hereby terminates the rule making initiated by its Notice of Intended Action published in the March 16, 2005, Iowa Administrative Bulletin as **ARC 4055B** to amend Chapter 24, "Adult Day Services Programs," Iowa Administrative Code.

The Notice proposed to make changes in Chapter 24 to clarify a provision of medication administration.

The purpose of this action is to comply with 2005 Iowa Acts, House File 587, which changes the medication provisions of this chapter, eliminating the need for the language proposed by this amendment. Therefore, the Department is terminating the rule making commenced in **ARC 4055B**.

The Commission adopted the termination during the Commission meeting held on May 25, 2005.

This termination is intended to implement 2005 Iowa Acts, House File 587.

ARC 4278B

ELDER AFFAIRS DEPARTMENT[321]

Notice of Termination

Pursuant to the authority of Iowa Code section 231.14, the Elder Affairs Department hereby terminates the rule making initiated by its Notice of Intended Action published in the March 16, 2005, Iowa Administrative Bulletin as **ARC 4054B** to amend Chapter 25, "Assisted Living Programs," Iowa Administrative Code.

The Notice proposed to make changes in Chapter 25 to clarify a provision of medication administration.

The purpose of this action is to comply with 2005 Iowa Acts, House File 585, which changes the medication provisions of this chapter, eliminating the need for the language proposed by this amendment. Therefore, the Department is terminating the rule making commenced in **ARC 4054B**.

The Commission adopted the termination during the Commission meeting held on May 25, 2005.

This termination is intended to implement 2005 Iowa Acts, House File 585.

ARC 4255B

ETHICS AND CAMPAIGN DISCLOSURE BOARD, IOWA[351]

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 68B.32A, the Iowa Ethics and Campaign Disclosure Board hereby gives Notice of Intended Action to amend Chapter 1, "Iowa Ethics and Campaign Disclosure Board," Iowa Administrative Code.

The proposed amendment clarifies that elections of Board officers shall take place on an annual basis at the Board's first meeting after April 30. April 30 is the cutoff date for new members of the Board to begin serving their terms.

The proposed amendment does not contain a waiver provision as no new obligation is being imposed.

Any interested person may make written comments on the proposed amendment on or before July 12, 2005. Comments should be directed to Charlie Smithson, Iowa Ethics and Campaign Disclosure Board, 510 E. 12th Street, Suite 1A, Des Moines, Iowa 50319. Persons who wish to comment orally should contact Charlie Smithson at (515)281-3489.

This amendment is intended to implement Iowa Code section 68B.32.

A fiscal impact summary prepared by the Legislative Services Agency pursuant to Iowa Code § 17A.4(3) will be available at <http://www.legis.state.ia.us/IAC.html> or at (515) 281-5279 prior to the Administrative Rules Review Committee's review of this rule making.

The following amendment is proposed.

ETHICS AND CAMPAIGN DISCLOSURE BOARD, IOWA[351](cont'd)

Amend subrule 1.1(1) as follows:

1.1(1) The Iowa ethics and campaign disclosure board consists of six members appointed by the governor and confirmed by the senate. ~~At the first meeting in each calendar year,~~ *On an annual basis at the board's first meeting after April 30,* the members shall elect a chair and a vice chair. Members may be reelected or elected to a different office.

ARC 4281B**IOWA FINANCE AUTHORITY[265]****Notice of Intended Action**

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

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

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

These amendments replace the current qualified allocation plan for the low-income housing tax credit program with the 2006 qualified allocation plan, which is incorporated by reference in rule 12.1(16).

The qualified allocation plan sets forth the purpose of the plan, the administrative information required for participation in the program, the threshold criteria, the selection criteria, the postreservation requirements, the appeal process, and the compliance monitoring component. The plan also establishes the fees for filing an application for low-income housing tax credits and for compliance monitoring. Copies of the qualified allocation plan are available upon request from the Authority and are available electronically on the Authority's Web site at www.ifahome.com. It is the Authority's intent to incorporate the 2006 qualified allocation plan by reference consistent with Iowa Code chapter 17A and 265—subrules 17.4(2) and 17.12(2).

The Authority does not intend to grant waivers under the provisions of any of these rules, other than as may be allowed under the Authority's general rules concerning waivers. The qualified allocation plan is subject to state and federal requirements that cannot be waived. (See Internal Revenue Code Section 42 and Iowa Code section 16.52.)

The Authority will receive written comments on the proposed amendments until 5 p.m. on July 12, 2005. Comments may be addressed to Tim Waddell, Tax Credit Manager, Iowa Finance Authority, 100 East Grand Avenue, Suite 250, Des Moines, Iowa 50309. Comments may also be faxed to Tim Waddell at (515)242-4957 or E-mailed to tim.waddell@ifa.state.ia.us.

The Authority will hold a public hearing on July 12, 2005, to receive public comments on these amendments. The public hearing will be held over the Iowa Communications Network (ICN) from 9 to 11 a.m. with the originating site at the Iowa State Library, Ola Babcock Miller Building, Third Floor, East 12th and Grand Avenue, Des Moines, Iowa; telephone (515)281-4316.

The following are the ten remote ICN sites where members of the public may attend the public hearing and make comments on these amendments:

Fort Dodge

Fort Dodge High School
819 North 25th Street
Fort Dodge, Iowa 50501
(515)955-1770

Room Location: Room 12

Cedar Rapids

Mount Mercy College
1330 Elmhurst Drive NE
Cedar Rapids, Iowa 52402
(319)363-8213

Room Location: Regina (basement), Room 050

Council Bluffs

Iowa Western Community College - 1
2700 College Road
Council Bluffs, Iowa 51502
(712)325-3200

Room Location: Looft Hall

Creston

Creston High School
601 West Townline Road
Creston, Iowa 50801
(641)782-2116

Room Location: Room 404

Davenport

Kimberly Center
1002 West Kimberly
Davenport, Iowa 52806
(563)391-9161

Room Location: Room 119 (use west front door)

Dubuque

Carnegie-Stout Public Library
360 West 11th Street
Dubuque, Iowa 52001
(563)589-4217

Room Location: Report to Reference Desk for directions

Mason City

Mason City High School
1700 Fourth SE
Mason City, Iowa 50401
(641)421-4436

Room Location: Room 113

Ottumwa

Indian Hills Community College - 5
651 Indian Hills Drive
Ottumwa, Iowa 52501
(641)683-5228

Room Location: Video-conferencing & Training Center

Sioux City

Bishop Heelan Catholic High School
1021 Douglas Street
Sioux City, Iowa 51105
(712)252-0573

Room Location: CYO Building, Room 22

Waterloo

Waterloo Public Library
415 Commercial Street
Waterloo, Iowa 50701
(319)291-4496

Room Location: Small Meeting Room

The Authority anticipates that it may make changes to the 2006 qualified allocation plan based on comments received from the public.

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

A fiscal impact summary prepared by the Legislative Services Agency pursuant to Iowa Code § 17A.4(3) will be available at <http://www.legis.state.ia.us/IAC.html> or at (515) 281-5279 prior to the Administrative Rules Review Committee's review of this rule making.

The following amendments are proposed.

ITEM 1. Amend rule 265—12.1(16) as follows:

265—12.1(16) Qualified allocation plan. The qualified allocation plan entitled Iowa Finance Authority Low-Income Housing Tax Credit Program 2005 2006 Qualified Allocation Plan effective ~~November 3, 2004~~ *October 5, 2005*, shall be the qualified allocation plan for the allocation of ~~2005 2006~~ low-income housing tax credits consistent with IRC Section 42 and the applicable Treasury regulations and Iowa Code section 16.52. The qualified allocation plan includes the plan, application, and the application instructions. The qualified allocation plan is incorporated by reference pursuant to Iowa Code section 17A.6 and 265—subrules 17.4(2) and 17.12(2).

ITEM 2. Amend rule 265—12.2(16) as follows:

IOWA FINANCE AUTHORITY[265](cont'd)

265—12.2(16) Location of copies of the plan. The qualified allocation plan can be reviewed and copied in its entirety on the authority's Web site at <http://www.ifahome.com>. Copies of the qualified allocation plan, application, and all related attachments and exhibits shall be deposited with the administrative rules coordinator and at the state law library. The plan incorporates by reference IRC Section 42 and the regulations in effect as of November 3, 2004 October 5, 2005. Additionally, the plan incorporates by reference Iowa Code section 16.52. These documents are available from the state law library, and information about these statutes, regulations and rules is on the authority's Web site. Copies are available upon request at no charge from the authority.

ARC 4276B

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 12, "Mandatory Reporting and Grounds for Discipline," Iowa Administrative Code.

The Board approved the proposed amendments to Chapter 12 during its regularly scheduled meeting on June 2, 2005.

The proposed amendments implement the provision in 2005 Iowa Acts, House File 789, section 36, which gives the Board the authority to order that a physician submit to a clinical competency examination when probable cause exists.

Any interested person may present written comments on the proposed amendments not later than 4:30 p.m. on July 12, 2005. 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 by E-mail to ann.mowery@iowa.gov.

There will be a public hearing on July 12, 2005, at 3:30 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 2005 Iowa Acts, House File 789, section 36.

A fiscal impact summary prepared by the Legislative Services Agency pursuant to Iowa Code § 17A.4(3) will be available at <http://www.legis.state.ia.us/IAC.html> or at (515) 281-5279 prior to the Administrative Rules Review Committee's review of this rule making.

The following amendments are proposed.

ITEM 1. Amend rule 653—12.3(148,272C), introductory paragraph, as follows:

653—12.3(148,272C) Order for mental, or physical, or clinical competency examination or alcohol or drug screening. A physician who is licensed by the board is, as a condition of licensure, under a duty to submit to a mental, or physical, or clinical competency examination, including alcohol or drug screening, within a time specified by order of

the board. Such examination may be ordered upon a showing of probable cause and shall be at the physician's expense.

ITEM 2. Amend subrule 12.3(1), introductory paragraph, as follows:

12.3(1) Content of order. A board order for a mental, or physical, or clinical competency examination shall include the following items:

ITEM 3. Amend subrule 12.3(7) as follows:

12.3(7) Failure to submit. Failure of a physician to submit to a board-ordered mental, or physical, or clinical competency examination or to submit to alcohol or drug screening constitutes a violation of the rules of the board and is grounds for disciplinary action.

ARC 4259B

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 Physical and Occupational Therapy Examiners hereby gives Notice of Intended Action to amend Chapter 200, "Licensure of Physical Therapists and Physical Therapist Assistants," Chapter 202, "Discipline for Physical Therapists and Physical Therapist Assistants," and Chapter 203, "Continuing Education for Physical Therapists and Physical Therapist Assistants," Iowa Administrative Code.

These proposed amendments add new definitions, make consistent the requirements for practice prior to licensure for physical therapists and physical therapist assistants, clarify signature requirements for supervisors, clarify language, add a posttest to requirements for home study and add new subrule 202.2(31) that provides the Board the ability to discipline a licensee for breach of an agreement or contract with the Impaired Practitioner Review Committee.

Any interested person may make written comments on the proposed amendments no later than July 12, 2005, addressed to Pierce Wilson, Professional Licensure Division, Department of Public Health, Lucas State Office Building, Des Moines, Iowa 50319-0075; E-mail pwilson@idph.state.ia.us.

A public hearing will be held on July 12, 2005, from 9 to 10 a.m. in the Fifth Floor Board Conference Room, Lucas State Office Building, at which time persons may present their views either orally or in writing. At the hearing, persons will be asked to give their names and addresses for the record and to confine their remarks to the subject of the proposed amendments.

These amendments are intended to implement Iowa Code chapters 21, 147, 148A and 272C.

A fiscal impact summary prepared by the Legislative Services Agency pursuant to Iowa Code § 17A.4(3) will be available at <http://www.legis.state.ia.us/IAC.html> or at (515) 281-5279 prior to the Administrative Rules Review Committee's review of this rule making.

The following amendments are proposed.

PROFESSIONAL LICENSURE DIVISION[645](cont'd)

ITEM 1. Amend rule **645—200.1(147)** by adopting the following **new** definitions in alphabetical order:

“Impairment” means a mechanical, physiological or developmental loss or abnormality, a functional limitation, or a disability or other health- or movement-related condition.

“Physical therapy” means that branch of science that deals with the evaluation and treatment of human capabilities and impairments, including:

1. Evaluation of individuals with impairments in order to determine a diagnosis, prognosis, and plan of therapeutic treatment and intervention, and to assess the ongoing effects of intervention;

2. Use of the effective properties of physical agents and modalities, including but not limited to mechanical and electrotherapeutic devices, heat, cold, air, light, water, electricity, and sound, to prevent, correct, minimize, or alleviate an impairment;

3. Use of therapeutic exercises to prevent, correct, minimize, or alleviate an impairment;

4. Use of rehabilitative procedures to prevent, correct, minimize, or alleviate an impairment, including but not limited to the following procedures:

- Manual therapy, including soft-tissue and joint mobilization and manipulation, but excluding chiropractic spinal manipulation;

- Therapeutic massage;

- Prescription, application, and fabrication of assistive, adaptive, orthotic, prosthetic, and supportive devices and equipment;

- Airway clearance techniques;

- Integumentary protection and repair techniques; and

- Debridement and wound care;

5. Interpretation of performances, tests, and measurements;

6. The establishment and modification of physical therapy programs;

7. The establishment and modification of treatment planning;

8. The establishment and modification of consultative services;

9. The establishment and modification of instructions to the patient, including but not limited to functional training in self-care and in home, community, or work integration or re-integration;

10. Participation, administration and supervision attendant to physical therapy and educational programs and facilities.

ITEM 2. Rescind subrule **200.3(2)**, paragraph “c,” and adopt the following **new** paragraph “c” in lieu thereof:

c. Shall practice only under the on-site supervision of a licensed physical therapist(s) for a period not to exceed six months from the date on which the application was received in the board office for licensure by examination or three months from the date on which the application was received in the board office for licensure by endorsement. The supervising physical therapist shall bear full responsibility for care provided by the applicant;

ITEM 3. Amend subrule **200.6(1)**, paragraph “i,” as follows:

i. Ensure that the signature of a PTA or *applicant* 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.

ITEM 4. Amend subrule **200.6(5)**, paragraph “a,” as follows:

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;

ITEM 5. Adopt **new** subrule 202.2(31) as follows:

202.2(31) Violation of the terms of an initial agreement with the impaired practitioner review committee or violation of the terms of an impaired practitioner recovery contract with the impaired practitioner review committee.

ITEM 6. Amend subrule **203.3(2)**, paragraph “f,” as follows:

f. Participating in home study courses that have a certificate of completion *and a postcourse test*.

ARC 4260B

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 Physical and Occupational Therapy Examiners hereby gives Notice of Intended Action to amend Chapter 200, “Licensure of Physical Therapists and Physical Therapist Assistants,” Chapter 203, “Continuing Education for Physical Therapists and Physical Therapist Assistants,” and Chapter 204, “Fees,” Iowa Administrative Code.

These proposed amendments define licensure status as active or inactive, define the process for license reactivation and reinstatement, change from pre- and post-continuing education audits prior to licensure to post-continuing education audits following licensure, add the grounds for disciplinary action, and establish the fee for reactivation.

Any interested person may make written comments on the proposed amendments no later than July 12, 2005, addressed to Pierce Wilson, Professional Licensure Division, Department of Public Health, Lucas State Office Building, Des Moines, Iowa 50319-0075; E-mail pwilson@idph.state.ia.us.

A public hearing will be held on July 12, 2005, from 9 to 10 a.m. in the Fifth Floor Board Conference Room, Lucas State Office Building, at which time persons may present their views either orally or in writing. At the hearing, persons will be asked to give their names and addresses for the record and to confine their remarks to the subject of the proposed amendments.

These amendments are intended to implement Iowa Code chapters 21, 147, 148A and 272C.

A fiscal impact summary prepared by the Legislative Services Agency pursuant to Iowa Code § 17A.4(3) will be available at <http://www.legis.state.ia.us/IAC.html> or at (515) 281-5279 prior to the Administrative Rules Review Committee’s review of this rule making.

The following amendments are proposed.

ITEM 1. Amend rule **645—200.1(147)** as follows:

PROFESSIONAL LICENSURE DIVISION[645](cont'd)

Rescind the definitions of “inactive licensee” and “lapsed license.”

Adopt the following **new** definitions in alphabetical order: “Active license” means a license that is current and has not expired.

“Grace period” means the 30-day period following expiration of a license when the license is still considered to be active. In order to renew a license during the grace period, a licensee is required to pay a late fee.

“Inactive license” means a license that has expired because it was not renewed by the end of the grace period. The category of “inactive license” may include licenses formerly known as lapsed, inactive, delinquent, closed, or retired.

“Reactivate” or “reactivation” means the process as outlined in rule 200.15(17A,147,272C) by which an inactive license is restored to active status.

“Reinstatement” means the process as outlined in 645—11.31(272C) by which a licensee who has had a license suspended or revoked or who has voluntarily surrendered a license may apply to have the license reinstated, with or without conditions. Once the license is reinstated, the licensee may apply for active status.

Amend the following definition:

“Licensure by endorsement” means the issuance of an Iowa license to practice physical therapy to an applicant who is ~~currently or has been~~ licensed in another state.

ITEM 2. Amend subrule **200.7(1)** by rescinding paragraph “**F**” and adopting in lieu thereof the following **new** paragraph “**F**”:

f. Provide verification of license(s) from every jurisdiction in which the applicant has been licensed, sent directly from the jurisdiction(s) to the board office. Web-based verification may be substituted for verification direct from the jurisdiction’s board office if the verification provides:

- (1) Licensee’s name;
- (2) Date of initial licensure;
- (3) Current licensure status; and
- (4) Any disciplinary action taken against the license.

ITEM 3. Rescind subrule 200.9(1) and adopt in lieu thereof the following **new** subrule:

200.9(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. The board shall send a renewal notice by regular mail to each licensee at the address on record at least 60 days prior to the expiration of the license. The licensee is responsible for renewing the license prior to its expiration. Failure of the licensee to receive the notice does not relieve the licensee of the responsibility for renewing the license.

ITEM 4. Rescind subrule 200.9(3) and adopt in lieu thereof the following **new** subrule:

200.9(3) A licensee seeking renewal shall:

a. Meet the continuing education requirements of rule 645—203.2(148A) and the mandatory reporting requirements of subrule 200.9(4). A licensee whose license was reactivated during the current renewal compliance period may use continuing education credit earned during the compliance period for the first renewal following reactivation; and

b. Submit the completed renewal application and renewal fee before the license expiration date.

ITEM 5. Rescind subrule 200.9(5) and adopt in lieu thereof the following **new** subrule:

200.9(5) Upon receiving the information required by this rule and the required fee, board staff shall administratively issue a two-year license and shall send the licensee a wallet card by regular mail. In the event the board receives adverse information on the renewal application, the board shall issue the renewal license but may refer the adverse information for further consideration or disciplinary investigation.

ITEM 6. Amend subrule 200.9(7) as follows:

200.9(7) Late renewal. The license shall become a late license when the license has not been renewed by the expiration date on the wallet card. The licensee shall be assessed a late fee as specified in 645—subrule 204.1(4).

a. To renew a late license, the licensee shall complete the renewal requirements and submit the late fee ~~before the fifteenth day of the month following the expiration date on the wallet card~~ *within the grace period*.

b. ~~To place the late license on inactive status, the licensee shall submit a written request for inactive status. No continuing education shall be required.~~

ITEM 7. Adopt **new** subrule 200.9(8) as follows:

200.9(8) Inactive license. A licensee who fails to renew the license by the end of the grace period has an inactive license. A licensee whose license is inactive continues to hold the privilege of licensure in Iowa, but may not practice as a physical therapist or a physical therapist assistant in Iowa until the license is reactivated. A licensee who practices as a physical therapist or a physical therapist assistant in the state of Iowa with an inactive license may be subject to disciplinary action by the board, injunctive action pursuant to Iowa Code section 147.83, criminal sanctions pursuant to Iowa Code section 147.86, and other available legal remedies.

ITEM 8. Rescind and reserve rules **645—200.10(272C)** and **645—200.11(272C)**.

ITEM 9. Rescind rule 645—200.14(17A,147,272C) and adopt in lieu thereof the following **new** rule:

645—200.14(17A,147,272C) License denial.

200.14(1) When the board denies an applicant licensure, the board shall notify the applicant of the denial in writing by certified mail, return receipt requested, or in the manner of service of an original notice, and shall cite the reasons for which the application was denied.

200.14(2) 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 written notice of appeal and request for hearing upon the board by certified mail, return receipt requested, not more than 30 days following the date of mailing of the notification of licensure denial to the applicant. The request for hearing shall specifically describe the facts to be contested and determined at the hearing.

200.14(3) 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 and 645—Chapter 11.

ITEM 10. Adopt the following **new** rules:

645—200.15(17A,147,272C) License reactivation. To apply for reactivation of an inactive license, a licensee shall:

200.15(1) Submit a reactivation application on a form provided by the board.

200.15(2) Pay the reactivation fee that is due as specified in 645—Chapter 204.

PROFESSIONAL LICENSURE DIVISION[645](cont'd)

200.15(3) Provide verification of current competence to practice physical therapy by satisfying one of the following criteria:

a. If the license has been on inactive status for five years or less, an applicant must provide the following:

(1) Verification of the license(s) from every jurisdiction in which the applicant is or has been licensed and is or has been practicing during the time period the Iowa license was inactive, sent directly from the jurisdiction(s) to the board office. Web-based verification may be substituted for verification from a jurisdiction's board office if the verification includes:

1. Licensee's name;
2. Date of initial licensure;
3. Current licensure status; and
4. Any disciplinary action taken against the license; and

(2) Verification of completion of 20 hours of continuing education for a physical therapy assistant and 40 hours of continuing education for a physical therapist within two years of application for reactivation.

b. If the license has been on inactive status for more than five years, an applicant must provide the following:

(1) Verification of the license(s) from every jurisdiction in which the applicant is or has been licensed and is or has been practicing during the time period the Iowa license was inactive, sent directly from the jurisdiction(s) to the board office. Web-based verification may be substituted for verification from a jurisdiction's board office if the verification includes:

1. Licensee's name;
2. Date of initial licensure;
3. Current licensure status; and
4. Any disciplinary action taken against the license; and

(2) Verification of completion of 40 hours of continuing education for a physical therapy assistant and 80 hours of continuing education for a physical therapist within two years of application for reactivation; or evidence of successful completion of the professional examination required for initial licensure completed within one year prior to the submission of an application for reactivation.

645—200.16(17A,147,272C) License reinstatement. A licensee whose license has been revoked, suspended, or voluntarily surrendered must apply for and receive reinstatement of the license in accordance with 645—11.31(272C) and must apply for and be granted reactivation of the license in accordance with 200.15(17A,147,272C) prior to practicing physical therapy in this state.

ITEM 11. Amend rule **645—203.1(272C)** as follows:

Rescind the definitions of "administrator" and "lapsed license."

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

"Independent study" means a subject/program/activity that a person pursues autonomously and that meets standards for approval criteria in the rules and includes a posttest.

Amend the following definitions:

"Active license" means ~~the a license of a person who is acting, practicing, functioning, and working in compliance with license requirements that is current and has not expired.~~

"Hour of continuing education" means ~~a clock hour at least 50 minutes~~ spent by a licensee in actual attendance at and completion of *an* approved continuing education activity.

"Inactive license" means ~~the license of a person who is not engaged in practice in the state of Iowa a license that has expired because it was not renewed by the end of the grace peri-~~

od. The category of "inactive license" may include licenses formerly known as lapsed, inactive, delinquent, closed, or retired.

ITEM 12. Rescind subrules 203.2(3) and 203.2(4) and adopt the following **new** subrules in lieu thereof:

203.2(3) Hours of continuing education credit may be obtained by attending and participating in a continuing education activity. These hours must be in accordance with these rules.

203.2(4) No hours of continuing education shall be carried over into the next biennium except for a new licensee. A licensee whose license was reactivated during the current renewal compliance period may use continuing education earned during the compliance period for the first renewal following reactivation.

ITEM 13. Amend rule 645—203.3(148A), catchwords, as follows:

645—203.3(148A,272C) Standards for approval.

ITEM 14. Amend subrule 203.3(1), introductory paragraph and paragraph "c," as follows:

203.3(1) General criteria. A continuing education activity which meets all of the following criteria is appropriate for continuing education credit if it is ~~determined by the board that~~ the continuing education activity:

c. Is conducted by individuals who have specialized education, training and experience by reason of which said individuals should be considered qualified concerning the subject matter of the program, ~~and is accompanied by a paper, manual or outline which substantively pertains to the subject matter of the program and reflects program schedule, goals and objectives. The~~ *At the time of audit, the board may request the qualifications of presenters;*

ITEM 15. Amend subrule **203.3(1)**, paragraph "e," subparagraphs (2) and (3), as follows:

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

(3) ~~Official signature or verification by program sponsor~~ *Certificate of completion or evidence of successful completion of the course provided by the course sponsor.*

ITEM 16. Rescind rule 645—203.4(148A) and adopt the following **new** rule in lieu thereof:

645—203.4(148A,272C) Audit of continuing education report. After each educational biennium, the board may audit licensees to review compliance with continuing education requirements.

203.4(1) The board may audit a percentage of its licensees and may, at its discretion, determine to audit a licensee. A licensee whose license renewal application is submitted during the grace period may be subject to a continuing education audit.

203.4(2) The licensee shall provide the following information to the board for auditing purposes:

a. Date and location of course, course title, course description, course outline, course schedule, names and qualifications of instructors/speakers and method of presentation; or a program brochure which includes all the information required in this paragraph;

b. Number of contact hours for program attended; and

c. Individual certificate of completion issued to the licensee or evidence of successful completion of the course from the course sponsor.

PROFESSIONAL LICENSURE DIVISION[645](cont'd)

203.4(3) For auditing purposes, all licensees must retain the information identified in subrule 203.4(2) for two years after the biennium has ended.

203.4(4) Information identified in subrule 203.4(2) must be submitted within one month after the date of notification of the audit. Extension of time may be granted on an individual basis.

203.4(5) If the submitted materials are incomplete or unsatisfactory, the licensee may be given the opportunity to submit make-up credit to cover the deficit found through the audit if the board determines that the deficiency was the result of good-faith conduct on the part of the licensee. The deadline for receipt of the documentation for this make-up credit is 120 days from the date of mailing to the address of record at the board office.

203.4(6) Failure to notify the board of a current mailing address will not absolve the licensee from the audit requirement, and an audit must be completed before license renewal.

ITEM 17. Rescind rule 645—203.5(148A) and adopt the following **new** rule in lieu thereof:

645—203.5(148A,272C) Automatic exemption. A licensee shall be exempt from the continuing education requirement during the license biennium when that person:

1. Served honorably on active duty in the military service; or
2. Resided in another state or district having continuing education requirements for the profession and met all requirements of that state or district for practice therein; or
3. Was a government employee working in the licensee's specialty and assigned to duty outside the United States; or
4. Was absent from the state but engaged in active practice under circumstances which are approved by the board.

ITEM 18. Rescind rules 645—203.6(148A,272C) and 645—203.7(148A,272C) and adopt the following **new** rules in lieu thereof:

645—203.6(272C) Continuing education exemption for disability or illness. A licensee who has had a physical or mental disability or illness during the license period may apply for an exemption. An exemption provides for an extension of time or exemption from some or all of the continuing education requirements. An applicant shall submit a completed application form approved by the board for an exemption. The application form is available upon request from the board office. The application requires the signature of a licensed health care professional who can attest to the existence of a disability or illness during the license period. If the application is from a licensee who is the primary caregiver for a relative who is ill or disabled and needs care from that primary caregiver, the physician shall verify the licensee's status as the primary caregiver. A licensee who applies for an exemption shall be notified of the decision regarding the application. A licensee who obtains approval shall retain a copy of the exemption to be presented to the board upon request.

203.6(1) The board may grant an extension of time to fulfill the continuing education requirement.

203.6(2) The board may grant an exemption from the continuing education requirement for any period of time not to exceed two calendar years. If the physical or mental disability or illness for which an extension or exemption was granted continues beyond the period initially approved by the board, the licensee must reapply for a continuance of the extension or exemption.

203.6(3) The board may, as a condition of any extension or exemption granted, require the licensee to make up a por-

tion of the continuing education requirement in the manner determined by the board.

645—203.7(148A,272C) Grounds for disciplinary action. The board may take formal disciplinary action on the following grounds:

203.7(1) Failure to cooperate with a board audit.

203.7(2) Failure to meet the continuing education requirement for licensure.

203.7(3) Falsification of information on the license renewal form.

203.7(4) Falsification of continuing education information.

ITEM 19. Rescind rules **645—203.8(272C)**, **645—203.9(148A,272C)** and **645—203.10(272C)**.

ITEM 20. Amend subrules 204.1(5) and 204.1(6) as follows:

204.1(5) ~~Reinstatement fee for a lapsed license or an inactive license is \$50. Reactivation fee is \$100.~~

204.1(6) Duplicate or reissued license certificate or wallet card fee is \$10.

ITEM 21. Rescind and reserve subrule **204.1(7)**.

ARC 4258B**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 Physical and Occupational Therapy Examiners hereby gives Notice of Intended Action to amend Chapter 206, "Licensure of Occupational Therapists and Occupational Therapy Assistants," Chapter 207, "Continuing Education for Occupational Therapists and Occupational Therapy Assistants," and Chapter 210, "Fees," Iowa Administrative Code.

These proposed amendments define licensure status as active or inactive, define the process for license reactivation and reinstatement, change from pre- and post-continuing education audits prior to licensure to post-continuing education audits following licensure, add the grounds for disciplinary action, and establish the fee for reactivation.

Any interested person may make written comments on the proposed amendments no later than July 12, 2005, addressed to Pierce Wilson, Professional Licensure Division, Department of Public Health, Lucas State Office Building, Des Moines, Iowa 50319-0075; E-mail pwilson@idph.state.ia.us.

A public hearing will be held on July 12, 2005, from 9 to 10 a.m. in the Fifth Floor Board Conference Room, Lucas State Office Building, at which time persons may present their views either orally or in writing. At the hearing, persons will be asked to give their names and addresses for the record and to confine their remarks to the subject of the proposed amendments.

PROFESSIONAL LICENSURE DIVISION[645](cont'd)

These amendments are intended to implement Iowa Code chapters 21, 147, 148B and 272C.

A fiscal impact summary prepared by the Legislative Services Agency pursuant to Iowa Code § 17A.4(3) will be available at <http://www.legis.state.ia.us/IAC.html> or at (515) 281-5279 prior to the Administrative Rules Review Committee's review of this rule making.

The following amendments are proposed.

ITEM 1. Amend rule **645—206.1(147)** as follows:

Rescind the definition of "lapsed license."

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

"Active license" means a license that is current and has not expired.

"Grace period" means the 30-day period following expiration of a license when the license is still considered to be active. In order to renew a license during the grace period, a licensee is required to pay a late fee.

"Reactivate" or "reactivation" means the process as outlined in rule 206.18(17A,147,272C) by which an inactive license is restored to active status.

"Reinstatement" means the process as outlined in 645—11.31(272C) by which a licensee who has had a license suspended or revoked or who has voluntarily surrendered a license may apply to have the license reinstated, with or without conditions. Once the license is reinstated, the licensee may apply for active status.

Amend the following definitions:

~~"Inactive licensee license" 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 a license that has expired because it was not renewed by the end of the grace period. The category of "inactive license" may include licenses formerly known as lapsed, inactive, delinquent, closed, or retired.~~

"Licensure by endorsement" means the issuance of an Iowa license to practice occupational therapy to an applicant who is ~~currently~~ or has been licensed in another state.

ITEM 2. Amend rule **645—206.10(147)** by rescinding numbered paragraph "**6**" and adopting in lieu thereof the following **new** numbered paragraph "**6**":

6. Provides verification of license(s) from every jurisdiction in which the applicant has been licensed, sent directly from the jurisdiction(s) to the board office. Web-based verification may be substituted for verification direct from the jurisdiction's board office if it provides:

- Licensee's name;
- Date of initial licensure;
- Current licensure status; and
- Any disciplinary action taken against the license.

ITEM 3. Rescind subrule 206.12(1) and adopt in lieu thereof the following **new** subrule:

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. The board shall send a renewal notice by regular mail to each licensee at the address on record at least 60 days prior to the expiration of the license. The licensee is responsible for renewing the license prior to its expiration. Failure of the licensee to receive the notice does not relieve the licensee of the responsibility for renewing the license.

ITEM 4. Rescind subrule 206.12(3) and adopt in lieu thereof the following **new** subrule:

206.12(3) A licensee seeking renewal shall:

a. Meet the continuing education requirements of rule 645—207.2(272C) and the mandatory reporting requirements of subrule 206.12(4). A licensee whose license was reactivated during the current renewal compliance period may use continuing education earned during the compliance period for the first renewal following reactivation; and

b. Submit the completed renewal application and renewal fee before the license expiration date.

ITEM 5. Rescind subrule 206.12(5) and adopt in lieu thereof the following **new** subrule:

206.12(5) Upon receiving the information required by this rule and the required fee, board staff shall administratively issue a two-year license and shall send the licensee a wallet card by regular mail. In the event the board receives adverse information on the renewal application, the board shall issue the renewal license but may refer the adverse information for further consideration or disciplinary investigation.

ITEM 6. Amend subrule 206.12(7) as follows:

206.12(7) Late renewal. The license shall become a late license when the license has not been renewed by the expiration date on the wallet card. The licensee shall be assessed a late fee as specified in 645—subrule 210.1(3).

a. To renew a late license, the licensee shall complete the renewal requirements and submit the late fee before the fifteenth day of the month following the expiration date on the wallet card *within the grace period*.

b. ~~To place the late license on inactive status, the licensee shall submit a written request for inactive status. No continuing education shall be required.~~

ITEM 7. Adopt **new** subrule 206.12(8) as follows:

206.12(8) Inactive license. A licensee who fails to renew the license by the end of the grace period has an inactive license. A licensee whose license is inactive continues to hold the privilege of licensure in Iowa, but may not practice as an occupational therapist or occupational therapy assistant in Iowa until the license is reactivated. A licensee who practices as an occupational therapist or occupational therapy assistant in the state of Iowa with an inactive license may be subject to disciplinary action by the board, injunctive action pursuant to Iowa Code section 147.83, criminal sanctions pursuant to Iowa Code section 147.86, and other available legal remedies.

ITEM 8. Rescind and reserve rules **645—206.13(272C)** and **645—206.14(272C)**.

ITEM 9. Rescind rule 645—206.17(17A,147,272C) and adopt in lieu thereof the following **new** rule:

645—206.17(17A,147,272C) License denial.

206.17(1) When the board denies an applicant licensure, the board shall notify the applicant of the denial in writing by certified mail, return receipt requested, or in the manner of service of an original notice, and shall cite the reasons for which the application was denied.

206.17(2) 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 written notice of appeal and request for hearing upon the board by certified mail, return receipt requested, not more than 30 days following the date of mailing of the notification of licensure denial to the applicant. The request for hearing shall specify

PROFESSIONAL LICENSURE DIVISION[645](cont'd)

ly describe the facts to be contested and determined at the hearing.

206.17(3) 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 and 645—Chapter 11.

ITEM 10. Adopt **new** rules as follows:

645—206.18(17A,147,272C) License reactivation. To apply for reactivation of an inactive license, a licensee shall:

206.18(1) Submit a reactivation application on a form provided by the board.

206.18(2) Pay the reactivation fee that is due as specified in 645—Chapter 210.

206.18(3) Provide verification of current competence to practice occupational therapy by satisfying one of the following criteria:

a. If the license has been on inactive status for five years or less, an applicant must provide the following:

(1) Verification of the license(s) from every jurisdiction in which the applicant is or has been licensed and is or has been practicing during the time period the Iowa license was inactive, sent directly from the jurisdiction(s) to the board office. Web-based verification may be substituted for verification from a jurisdiction's board office if the verification includes:

1. Licensee's name;
 2. Date of initial licensure;
 3. Current licensure status; and
 4. Any disciplinary action taken against the license; and
- (2) Verification of completion of 15 hours of continuing education for an occupational therapy assistant and 30 hours of continuing education for an occupational therapist within two years of application for reactivation.

b. If the license has been on inactive status for more than five years, an applicant must provide the following:

(1) Verification of the license(s) from every jurisdiction in which the applicant is or has been licensed and is or has been practicing during the time period the Iowa license was inactive, sent directly from the jurisdiction(s) to the board office. Web-based verification may be substituted for verification from a jurisdiction's board office if the verification includes:

1. Licensee's name;
 2. Date of initial licensure;
 3. Current licensure status; and
 4. Any disciplinary action taken against the license; and
- (2) Verification of completion of 30 hours of continuing education for an occupational therapy assistant and 60 hours of continuing education for an occupational therapist within two years of application for reactivation.

645—206.19(17A,147,272C) License reinstatement. A licensee whose license has been revoked, suspended, or voluntarily surrendered must apply for and receive reinstatement of the license in accordance with 645—11.31(272C) and must apply for and be granted reactivation of the license in accordance with 206.18(17A,147,272C) prior to practicing occupational therapy in this state.

ITEM 11. Amend rule **645—207.1(148B)** as follows:

Rescind the definitions of "administrator" and "lapsed license."

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

"Independent study" means a subject/program/activity that a person pursues autonomously and that meets standards for approval criteria in the rules and includes a posttest.

Amend the following definitions:

"Active license" means ~~the a license of a person who is acting, practicing, functioning, and working in compliance with license requirements that is current and has not expired.~~

"Hour of continuing education" means ~~a clock hour at least 50 minutes~~ spent by a licensee in actual attendance at and completion of an approved continuing education activity.

"Inactive license" means ~~the license of a person who is not engaged in practice in the state of Iowa, a license that has expired because it was not renewed by the end of the grace period. The category of "inactive license" may include licenses formerly known as lapsed, inactive, delinquent, closed, or retired.~~

ITEM 12. Amend subrules 207.2(3) and 207.2(4) as follows:

207.2(3) Hours of continuing education credit may be obtained by attending and participating in a continuing education activity. These hours must ~~meet the requirements herein pursuant to statutory provisions and the rules that implement them~~ *be in accordance with these rules.*

207.2(4) ~~No~~ *With the exception of continuing education hours obtained by new licensees, no hours of continuing education shall be carried over into the next biennium. A licensee whose license was reactivated during the current renewal compliance period may use continuing education earned during the compliance period for the first renewal following reactivation.*

ITEM 13. Amend rule 645—207.3(272C), catchwords, as follows:

645—207.3(148B,272C) Standards for approval.

ITEM 14. Amend subrule 207.3(1), introductory paragraph and paragraph "c," as follows:

207.3(1) General criteria. A continuing education activity which meets all of the following criteria is appropriate for continuing education credit if it is ~~determined by the board that~~ the continuing education activity:

c. Is conducted by individuals who have specialized education, training and experience by reason of which said individuals should be considered qualified concerning the subject matter of the program, ~~and is accompanied by a paper, manual or outline which substantively pertains to the subject matter of the program and reflects program schedule, goals and objectives. The~~ *At the time of audit, the board may request the qualifications of presenters;*

ITEM 15. Amend subrule **207.3(1)**, paragraph "e," subparagraphs (2) and (3), as follows:

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

(3) ~~Official signature or verification by program sponsor~~ *Certificate of completion or evidence of successful completion of the course provided by the course sponsor.*

ITEM 16. Rescind rule 645—207.4(272C) and adopt the following **new** rule in lieu thereof:

645—207.4(148B,272C) Audit of continuing education report. After each educational biennium, the board may audit licensees to review compliance with continuing education requirements.

207.4(1) The board may audit a percentage of its licensees and may, at its discretion, determine to audit a licensee. A

PROFESSIONAL LICENSURE DIVISION[645](cont'd)

licensee whose license renewal application is submitted during the grace period may be subject to a continuing education audit.

207.4(2) The licensee shall provide the following information to the board for auditing purposes:

a. Date and location of course, course title, course description, course outline, course schedule, names and qualifications of instructors/speakers and method of presentation; or a program brochure which includes all the information required in this paragraph;

b. Number of contact hours for program attended; and

c. Individual certificate of completion issued to the licensee or evidence of successful completion of the course from the course sponsor.

207.4(3) For auditing purposes, all licensees must retain the information identified in subrule 207.4(2) for two years after the biennium has ended.

207.4(4) Information identified in subrule 207.4(2) must be submitted within one month after the date of notification of the audit. Extension of time may be granted on an individual basis.

207.4(5) If the submitted materials are incomplete or unsatisfactory, the licensee may be given the opportunity to submit make-up credit to cover the deficit found through the audit if the board determines that the deficiency was the result of good-faith conduct on the part of the licensee. The deadline for receipt of the documentation for this make-up credit is 120 days from the date of mailing to the address of record at the board office.

207.4(6) Failure to notify the board of a current mailing address will not absolve the licensee from the audit requirement, and an audit must be completed before license renewal.

ITEM 17. Rescind rule 645—207.5(147) and adopt the following **new** rule in lieu thereof:

645—207.5(148B,272C) Automatic exemption. A licensee shall be exempt from the continuing education requirement during the license biennium when that person:

1. Served honorably on active duty in the military service; or
2. Resided in another state or district having continuing education requirements for the profession and meets all requirements of that state or district for practice therein; or
3. Was a government employee working in the licensee's specialty and assigned to duty outside the United States; or
4. Was absent from the state but engaged in active practice under circumstances which are approved by the board.

ITEM 18. Rescind rules 645—207.6(272C) and 645—207.7(272C) and adopt the following **new** rules in lieu thereof:

645—207.6(272C) Continuing education exemption for disability or illness. A licensee who has had a physical or mental disability or illness during the license period may apply for an exemption. An exemption provides for an extension of time or exemption from some or all of the continuing education requirements. An applicant shall submit a completed application form approved by the board for an exemption. The application form is available upon request from the board office. The application requires the signature of a licensed health care professional who can attest to the existence of a disability or illness during the license period. If the application is from a licensee who is the primary caregiver for a relative who is ill or disabled and needs care from that primary caregiver, the physician shall verify the licensee's status as the primary caregiver. A licensee who applies for an exemp-

tion shall be notified of the decision regarding the application. A licensee who obtains approval shall retain a copy of the exemption to be presented to the board upon request.

207.6(1) The board may grant an extension of time to fulfill the continuing education requirement.

207.6(2) The board may grant an exemption from the continuing education requirement for any period of time not to exceed two calendar years. If the physical or mental disability or illness for which an extension or exemption was granted continues beyond the period initially approved by the board, the licensee must reapply for a continuance of the extension or exemption.

207.6(3) The board may, as a condition of any extension or exemption granted, require the licensee to make up a portion of the continuing education requirement in the manner determined by the board.

645—207.7(148B,272C) Grounds for disciplinary action. The board may take formal disciplinary action on the following grounds:

207.7(1) Failure to cooperate with a board audit.

207.7(2) Failure to meet the continuing education requirement for licensure.

207.7(3) Falsification of information on the license renewal form.

207.7(4) Falsification of continuing education information.

ITEM 19. Rescind rules **645—207.8(272C)**, **645—207.9(272C)** and **645—207.10(272C)**.

ITEM 20. Amend subrules 210.1(4) and 210.1(5) as follows:

210.1(4) Reinstatement fee for a lapsed license or an inactive license is \$50 *Reactivation fee is \$100.*

210.1(5) Duplicate or reissued license certificate fee *or wallet card* is \$10.

ITEM 21. Rescind and reserve subrule **210.1(7)**.

ARC 4257B

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 Physical and Occupational Therapy Examiners hereby gives Notice of Intended Action to amend Chapter 206, “Licensure of Occupational Therapists and Occupational Therapy Assistants,” Chapter 207, “Continuing Education for Occupational Therapists and Occupational Therapy Assistants,” and Chapter 209, “Discipline for Occupational Therapists and Occupational Therapy Assistants,” Iowa Administrative Code.

The proposed amendments make consistent the requirements for practice prior to licensure for occupational therapists and occupational therapy assistants, clarify language, add a post-test to requirements for home study and add new subrule 209.2(31) that provides the Board the ability to disci-

PROFESSIONAL LICENSURE DIVISION[645](cont'd)

pline a licensee for breach of an agreement or contract with the Impaired Practitioner Review Committee.

Any interested person may make written comments on the proposed amendments no later than July 12, 2005, addressed to Pierce Wilson, Professional Licensure Division, Department of Public Health, Lucas State Office Building, Des Moines, Iowa 50319-0075; E-mail pwilson@idph.state.ia.us.

A public hearing will be held on July 12, 2005, from 9 to 10 a.m. in the Fifth Floor Board Conference Room, Lucas State Office Building, at which time persons may present their views either orally or in writing. At the hearing, persons will be asked to give their names and addresses for the record and to confine their remarks to the subject of the proposed amendments.

These amendments are intended to implement Iowa Code chapters 21, 147, 148B and 272C.

A fiscal impact summary prepared by the Legislative Services Agency pursuant to Iowa Code § 17A.4(3) will be available at <http://www.legis.state.ia.us/IAC.html> or at (515) 281-5279 prior to the Administrative Rules Review Committee's review of this rule making.

The following amendments are proposed.

ITEM 1. Amend rule **645—206.3(147)**, numbered paragraph **"3,"** as follows:

3. Practice only under the supervision of an Iowa-licensed OT for a period not to exceed six months *from the date the application was received in the board office*;

ITEM 2. Amend rule **645—206.4(147)**, numbered paragraph **"2,"** as follows:

2. Practice only under the supervision of an Iowa-licensed OT for a period not to exceed three months *from the date the application was received in the board office*;

ITEM 3. Amend paragraph **207.3(2)"a,"** subparagraph **(5)**, as follows:

(5) Participating in home study courses that have a certificate of completion *and a postcourse test*;

ITEM 4. Adopt **new** subrule 209.2(31) as follows:

209.2(31) Violation of the terms of an initial agreement with the impaired practitioner review committee or violation of the terms of an impaired practitioner recovery contract with the impaired practitioner review committee.

ARC 4245B

STATE PUBLIC DEFENDER[493]

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 13B.4(8), the State Public Defender gives Notice of Intended Action to amend Chapter 7, "Definitions," and Chapter 12, "Claims for Indigent Defense Services," and to adopt new Chapter 14, "Claims for Attorney Fees in 600A Terminations," Iowa Administrative Code.

These proposed amendments implement 2005 Iowa Acts, House File 683, which revises procedures regarding appointment of counsel and approval of claims filed with the State Public Defender for parole violation cases and cases for termination of parental rights under Iowa Code chapter 600A.

Interested persons may make written comments or suggestions on the proposed amendments on or before July 12, 2005. Written materials should be addressed to the State Public Defender, Lucas State Office Building, Fourth Floor, 321 East 12th Street, Des Moines, Iowa 50319-0087, faxed to (515)281-7289, or E-mailed to msmith@spd.state.ia.us.

Also, there will be a public hearing on July 12, 2005, at 9 a.m. in Conference Room 424 of the 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 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 State Public Defender and advise of specific needs.

These amendments were also Adopted and Filed Emergency and are published herein as **ARC 4265B**. The content of that submission is incorporated by reference.

These amendments are intended to implement Iowa Code chapters 13B, 600A, 815, and 908 as amended by 2005 Iowa Acts, House File 683.

A fiscal impact summary prepared by the Legislative Services Agency pursuant to Iowa Code § 17A.4(3) will be available at <http://www.legis.state.ia.us/IAC.html> or at (515) 281-5279 prior to the Administrative Rules Review Committee's review of this rule making.

NOTICE—PUBLIC FUNDS INTEREST RATES

In compliance with Iowa Code chapter 74A and section 12C.6, the committee composed of Treasurer of State Michael L. Fitzgerald, Superintendent of Credit Unions James E. Forney, Superintendent of Banking Thomas B. Gronstal, and Auditor of State David A. Vaudt have established today the following rates of interest for public obligations and special assessments. The usury rate for June is 6.25%.

INTEREST RATES FOR PUBLIC OBLIGATIONS AND ASSESSMENTS

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

RECOMMENDED Rates for Public Obligations (74A.3) and School District Warrants (74A.7). A rate equal to 75% of the Federal Reserve monthly published indices for U.S. Government securities of comparable maturities. All Iowa Banks and Iowa Savings Associations as defined by Iowa Code section 12C.1 are eligible for public fund deposits as defined by Iowa Code section 12C.6A.

The rate of interest has been determined by a committee of the state of Iowa to be the minimum interest rate that shall be paid on public funds deposited in approved financial institutions. To be eligible to accept deposits of public funds of the

NOTICE—PUBLIC FUNDS INTEREST RATES(cont'd)

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

New official state interest rates, effective June 9, 2005, setting the minimums that may be paid by Iowa depositories on public funds are listed below.

TIME DEPOSITS

7-31 days	Minimum 1.25%
32-89 days	Minimum 1.70%
90-179 days	Minimum 2.00%
180-364 days	Minimum 2.35%
One year to 397 days	Minimum 2.70%
More than 397 days	Minimum 3.55%

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

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

ARC 4247B**AGRICULTURE AND LAND
STEWARDSHIP DEPARTMENT[21]****Adopted and Filed Emergency**

Pursuant to the authority of Iowa Code sections 159.5(11) and 200.14, the Department of Agriculture and Land Stewardship hereby amends Chapter 43, "Fertilizers and Agricultural Lime," Iowa Administrative Code.

The amendment strikes an exception to the requirement of nameplates on anhydrous ammonia tanks and adds a new rule pertaining to the certification/renaming of anhydrous ammonia applicators and nurse tanks with unreadable or missing nameplates under the jurisdiction of the Department. This proposed rule has delegated the certification/renaming process to firms that hold a valid R-stamp, in compliance with the current edition of the National Board Inspection Code. The federal Department of Transportation regulations require legible nameplates on applicator tanks and nurse tanks.

Pursuant to Iowa Code section 17A.4(2), the Department finds that notice and public participation are impractical. The Department has had numerous conversations with industry regarding an Iowa certification/renaming program. Notice and public participation would needlessly delay enactment of this program. Participation in the program is voluntary for the Department.

The Department also finds, pursuant to Iowa Code section 17A.5(2)"b"(2), that the normal effective date of this amendment, 35 days after publication, should be waived and the amendment should be made effective upon filing with the Administrative Rules Coordinator. The amendment confers a benefit to the fertilizer industry because it permits those firms that wish to participate a way to achieve compliance with federal Department of Transportation regulations.

No waiver provision is included in this amendment. However, the Department has a general rule which allows for waivers in appropriate cases. The waiver rule applies to this amendment.

This amendment is also published herein under Notice of Intended Action as **ARC 4246B** to allow for public comment.

This amendment is intended to implement Iowa Code chapter 200.

This amendment became effective on May 20, 2005.

A fiscal impact summary prepared by the Legislative Services Agency pursuant to Iowa Code § 17A.4(3) will be available at <http://www.legis.state.ia.us/IAC.html> or at (515) 281-5279 prior to the Administrative Rules Review Committee's review of this rule making.

The following amendment is adopted.

Amend rule **21—43.6(200)** by striking numbered exception "**8**" and inserting in lieu thereof the following:

8. Insert a new subrule 5.4.2.9 to read as follows:

5.4.2.9 Recertification of Non-Refrigerated Containers and Systems Other Than DOT Containers. Containers with unreadable or missing nameplates may be recertified and have nameplates installed with the following information:

- A. An identification number issued by the department.
- B. The certification date.
- C. The maximum allowable working pressure.
- D. The wall thickness of the container shell and heads in inches or millimeters.

E. The water capacity of the container in pounds or kilograms or United States standard gallons or cubic meters (m³) at 60 degrees Fahrenheit (15.6 degrees centigrade).

Items A through E must be determined and documented on forms provided by the department by a company that holds a valid R-stamp in compliance with the current edition of the National Board Inspection Code.

Nurse tanks and applicator tanks with unreadable or missing nameplates may be recertified and have nameplates installed by July 1, 2008.

[Filed Emergency 5/20/05, effective 5/20/05]

[Published 6/22/05]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 6/22/05.

ARC 4280B**ELDER AFFAIRS
DEPARTMENT[321]****Adopted and Filed Emergency**

Pursuant to the authority of Iowa Code section 231.14, the Elder Affairs Department hereby rescinds Chapter 14, "Retired and Senior Volunteer Program (RSVP)," Iowa Administrative Code.

The purpose of this action is to comply with 2005 Iowa Acts, House File 478, which transfers the jurisdiction of this program to the Iowa Commission on Volunteer Service.

In compliance with Iowa Code section 17A.4(2), the Department finds that notice and public participation are unnecessary because the legislation removes all responsibility for the RSVP from the Elder Affairs Department.

The Department also finds, pursuant to Iowa Code section 17A.5(2)"b"(2), that the normal effective date of this amendment should be waived and the amendment should be made effective June 30, 2005, to correspond with the effective date of 2005 Iowa Acts, House File 478.

The Commission approved the rescission during the Commission meeting held on May 25, 2005.

This amendment will become effective on June 30, 2005.

This amendment is intended to implement 2005 Iowa Acts, House File 478.

A fiscal impact summary prepared by the Legislative Services Agency pursuant to Iowa Code § 17A.4(3) will be available at <http://www.legis.state.ia.us/IAC.html> or at (515) 281-5279 prior to the Administrative Rules Review Committee's review of this rule making.

The following amendment is adopted.

Rescind and reserve **321—Chapter 14**.

[Filed Emergency 6/3/05, effective 6/30/05]

[Published 6/22/05]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 6/22/05.

ARC 4256B**PUBLIC SAFETY
DEPARTMENT[661]****Adopted and Filed Emergency After Notice**

Pursuant to the authority of Iowa Code section 100.35, the Department of Public Safety hereby amends Chapter 5, "Fire Marshal," and adopts new Chapter 205, "Fire Safety Requirements for Hospitals and Health Care Facilities," Iowa Administrative Code.

Iowa Code section 100.1(5) assigns to the State Fire Marshal the authority to adopt fire safety rules in Iowa. Iowa Code section 100.35 enumerates various sorts of occupancies, including hospitals and licensed health care facilities, for which the State Fire Marshal is required to adopt rules. Hospitals and other licensed health care facilities in Iowa are required to comply with fire safety requirements established by the State Fire Marshal in order to obtain and maintain licensure. In addition, hospitals and licensed health care facilities are required to comply with fire safety requirements established by the federal Centers for Medicare and Medicaid Services in order to be eligible for reimbursement under the Medicare and Medicaid programs.

The federal fire safety regulations were updated in 2003, and the fire safety requirements for facilities providing services subject to reimbursement from Medicare or Medicaid are based on compliance with provisions from the 2000 edition of the Life Safety Code published by the National Fire Protection Association applicable to the particular type of facility. Rules of the State Fire Marshal pertaining to fire safety requirements for hospitals and other licensed health care facilities in Iowa were amended in 2003 to mirror the federal requirements. To facilitate hospitals' and other health care facilities' in Iowa meeting fire safety requirements for licensure by the State of Iowa while also maintaining eligibility for reimbursement from the federal Medicaid and Medicare programs, consistency between life safety requirements of the Centers for Medicare and Medicaid Services and rules of the State Fire Marshal is essential.

The Centers for Medicare and Medicaid Services recently (March 25, 2005) published a notice announcing an Interim Final Rule and Comment Period. The announced rule making will amend life safety requirements for certification for eligibility for reimbursement from the Medicaid and Medicare programs. Generally, the amendments reduce restrictions on the use and placement of dispensers for alcohol-based hand rub. This change became effective on May 24, 2005. A second item applies only to long-term care facilities. As of May 24, 2006, these facilities will be required to have a battery-operated smoke detector in each resident sleeping room and public area, unless the facility (1) has a system of hard-wired smoke detectors with a detector in each resident sleeping room and public area, or (2) has an approved sprinkler system which provides coverage throughout the facility. In order to maintain consistency between rules of the State Fire Marshal for health care facilities and federal life safety requirements for certification for Medicaid and Medicare reimbursement, these amendments were Adopted and Filed Emergency After Notice and became effective on May 24, 2005, the same date on which the change is effective in the parallel federal requirements.

In addition to these substantive changes, the adopted amendments include moving all of the rules of the State Fire Marshal concerning fire safety in hospitals and other licensed

health care facilities to a new Chapter 205. This change is part of an ongoing effort to renumber rules of the Department of Public Safety to make them more understandable and accessible to representatives of persons and facilities regulated by the rules and to the general public.

One change in these amendments from those proposed in the Notice of Intended Action has been made. Current requirements for residential care facilities (RCFs), contained in rescinded rule 661—5.950(135C), are being moved to new Chapter 205 as rule 661—205.100(135C). The text of the RCF requirements is not changing, but this rule is more logically grouped with rules for health care facilities than with other rules of the State Fire Marshal.

These amendments were proposed in a Notice of Intended Action published in the Iowa Administrative Bulletin on April 27, 2005, as **ARC 4125B**. A public hearing on the proposed amendments was held on May 19, 2005. No comments regarding the proposed amendments were received at the public hearing or otherwise. The amendments adopted here include the complete text of the amendments proposed in the Notice of Intended Action and the transfer of the existing rules on fire safety requirements from Chapter 5 to new Chapter 205, without any change in wording.

Pursuant to Iowa Code section 17A.5(2)"b"(2), the Department finds that the normal effective date of these amendments, 35 days after publication, should be waived and the amendments made effective May 24, 2005, after filing with the Administrative Rules Coordinator. These amendments confer a benefit upon the public by maintaining consistency between fire safety requirements for health care facilities enforced by the State Fire Marshal and federal fire safety requirements which apply to these facilities, compliance with which is a condition of eligibility for reimbursement from the federal Medicaid and Medicare programs.

These amendments became effective on May 24, 2005.

These amendments are intended to implement Iowa Code section 100.35 and chapters 135B, 135C, 135J and 231C and 42 CFR Parts 403, 416, 418, 482 and 483.

The following amendments are adopted.

ITEM 1. Rescind and reserve rules **661—5.900(100)** to **661—5.950(135C)**.

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

CHAPTER 205**FIRE SAFETY REQUIREMENTS FOR
HOSPITALS AND HEALTH CARE FACILITIES**

661—205.1(100) Definitions. The following definitions apply to rules 661—205.1(100) through 661—205.25(100).

"Ambulatory health care facility" means a facility or portion thereof used to provide services or treatment that provides, on an outpatient basis, treatment for one or more patients that renders the patients incapable of taking action for self-preservation under emergency conditions without the assistance of others; or provides, on an outpatient basis, anesthesia that renders the patient incapable of taking action for self-preservation under emergency conditions without the assistance of others.

"Existing" means that a facility (1) has been in continuous operation under its current classification of occupancy since before September 11, 2003, and has not undergone renovation or remodeling, including an addition, on or after September 11, 2003, or (2) received plan approval for initial construction or for its most recent renovation or remodeling project, including an addition, if any, from the building code bureau of the fire marshal division prior to March 11, 2003.

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“Hospice” means a facility licensed or seeking licensure pursuant to Iowa Code section 135J.2.

“Hospital” means a facility licensed or seeking licensure pursuant to Iowa Code chapter 135B.

“Intermediate care facility for the mentally retarded” means a facility licensed or seeking licensure pursuant to Iowa Code section 135C.2(3)“c.”

“New” means that a facility (1) commenced continuous operation under its current classification of occupancy on or after September 11, 2003, (2) has undergone renovation or remodeling, including an addition, on or after September 11, 2003, or (3) received plan approval from the building code bureau of the fire marshal division for the initial construction of the facility or the most recent renovation of or addition to the facility on or after March 11, 2003.

“NFPA” means the National Fire Protection Association, Batterymarch Park, Quincy, MA 02269. References to the form “NFPA xx,” where “xx” is a number, refer to the NFPA standard or pamphlet of the corresponding number.

“Nursing facility” means a facility licensed or seeking licensure pursuant to Iowa Code section 135C.6, including a nursing facility for intermediate care or a nursing facility for skilled care.

661—205.2 to 205.4 Reserved.

661—205.5(100) Hospitals.

205.5(1) New hospitals. NFPA 101, Life Safety Code, 2000 edition, Chapter 18, is adopted by reference as the fire safety rules for new hospitals.

205.5(2) Existing hospitals. NFPA 101, Life Safety Code, 2000 edition, Chapter 19, is adopted by reference as the fire safety rules for existing hospitals, with the following amendments:

Effective March 13, 2006, Section 19.3.6.3.2, Exception No. 2, is deleted.

Section 19.2.9 is not effective prior to March 13, 2006.

205.5(3) Alcohol-based hand rub dispensers. Notwithstanding any provisions of the 2000 edition of the Life Safety Code to the contrary, a hospital may install alcohol-based hand rub dispensers in its facility if:

a. Use of alcohol-based hand rub dispensers does not conflict with a local code that prohibits or otherwise restricts the placement of alcohol-based hand rub dispensers in health care facilities;

b. The dispensers are installed in a manner that minimizes leaks and spills that could lead to falls;

c. The dispensers are installed in a manner that adequately protects against access by vulnerable populations; and

d. The dispensers are installed in accordance with Section 18.3.2.7 or Section 19.3.2.7 of the 2000 edition of the Life Safety Code, as amended by NFPA Temporary Interim Amendment 00-1(101), issued by the Standards Council of the National Fire Protection Association on April 15, 2004.

661—205.6 to 205.9 Reserved.

661—205.10(100) Nursing facilities and hospices.

205.10(1) New nursing facilities and hospices. NFPA 101, Life Safety Code, 2000 edition, Chapter 18, is adopted by reference as the fire safety rules for new nursing facilities and hospices that provide inpatient care directly.

205.10(2) Existing nursing facilities and hospices. NFPA 101, Life Safety Code, 2000 edition, Chapter 19, is adopted by reference as the fire safety rules for existing nursing facilities and hospices that provide inpatient care directly, with the following amendments:

Section 19.2.9 is not effective prior to March 13, 2006.

Effective March 13, 2006, Section 19.3.6.3.2, Exception No. 2, is deleted.

205.10(3) Alcohol-based hand rub dispensers. Notwithstanding any provisions of the 2000 edition of the Life Safety Code to the contrary, a hospice or nursing facility may place alcohol-based hand rub dispensers in its facility if:

a. Use of alcohol-based hand rub dispensers does not conflict with a local code that prohibits or otherwise restricts the placement of alcohol-based hand rub dispensers in health care facilities;

b. The dispensers are installed in a manner that minimizes leaks and spills that could lead to falls;

c. The dispensers are installed in a manner that adequately protects against access by vulnerable populations; and

d. The dispensers are installed in accordance with Section 18.3.2.7 or Section 19.3.2.7 of the 2000 edition of the Life Safety Code, as amended by NFPA Temporary Interim Amendment 00-1(101), issued by the Standards Council of the National Fire Protection Association on April 15, 2004.

205.10(4) Smoke detectors in nursing facilities. A nursing facility shall:

a. Install battery-operated smoke detectors in resident sleeping rooms and public areas by May 24, 2006.

b. Have a program for testing, maintenance, and battery replacement to ensure the reliability of the smoke detectors.

Exception: Battery-operated smoke detectors are not required in each resident sleeping room and public area if either the facility has a hard-wired AC smoke detection system in patient rooms and public areas that is installed, tested, and maintained in accordance with NFPA 72, National Fire Alarm Code, for hard-wired AC systems, or the facility has a sprinkler system throughout that is installed, tested, and maintained in accordance with NFPA 13, Automatic Sprinklers.

661—205.11 to 205.14 Reserved.

661—205.15(100) Intermediate care facilities for the mentally retarded and intermediate care facilities for persons with mental illness.

205.15(1) New intermediate care facilities. New intermediate care facilities for the mentally retarded and new intermediate care facilities for persons with mental illness shall comply with the provisions of one of the following:

a. NFPA 101, Life Safety Code, 2000 edition, Chapter 18.

b. NFPA 101, Life Safety Code, 2000 edition, Chapter 32, with the following amendments:

NOTE: Any requirement contained within Chapter 32 that is based on a rating of evacuation capability shall be based upon an evacuation capability rating of “impractical.” Any provision which is dependent upon an evacuation capability rating other than “impractical” shall be unavailable.

(1) Delete Section 32.2.1.2.1 and insert in lieu thereof the following new section:

32.2.1.2.1

Small facilities shall comply with the requirements of Section 32.2 as indicated for an evacuation capability of impractical.

Exception*: Facilities where the authority having jurisdiction has determined equivalent safety is provided in accordance with Section 1.5.

PUBLIC SAFETY DEPARTMENT[661](cont'd)

(2) Delete Section 32.2.1.2.2 and insert in lieu thereof the following new section:

32.2.1.2.2

The evacuation capability shall be classified as impractical.

(3) Delete Exception No. 1 to Section 32.2.2.1.

(4) Delete Exceptions No. 2 and No. 3 to Section 32.2.2.4.

(5) Delete the Exception to Section 32.2.3.3.2.

(6) Delete Exception No. 1 to Section 32.2.3.5.1.

(7) Delete Exceptions No. 1, No. 3 and No. 4 to Section 32.2.3.5.2.

(8) Delete Exception No. 2 to Section 32.2.3.5.2 and insert in lieu thereof the following new Exception No. 2:

Exception No. 2: An automatic sprinkler system in accordance with NFPA 13D, Standard for the Installation of Sprinkler Systems in One- and Two-Family Dwellings and Manufactured Homes, with a 30-minute water supply, shall be permitted. All habitable areas and closets shall be sprinklered. Facilities with more than eight residents shall be treated as two-family dwellings with regard to water supply.

(9) Delete Exception No. 5 to Section 32.2.3.5.2 and insert in lieu thereof the following new Exception No. 5:

Exception No. 5: In facilities up to and including four stories in height, systems in accordance with NFPA 13R, Standard for the Installation of Sprinkler Systems in Residential Occupancies up to and Including Four Stories in Height, shall be permitted. All habitable areas and closets shall be sprinklered.

(10) Delete Section 32.2.3.5.3.

(11) Delete Section 32.2.3.5.4 and insert in lieu thereof the following new section:

32.2.3.5.4

Automatic sprinkler systems shall be supervised in accordance with Section 9.7.

(12) Delete Exception No. 1 to Section 32.2.3.6.1.

(13) Delete Section 32.3.1.2.1.

(14) Delete Section 32.3.1.2.2 and insert in lieu thereof the following new section:

32.3.1.2.2

Large facilities shall meet the requirements for limited care facilities in Chapter 18.

Exception*: Facilities where the authority having jurisdiction has determined equivalent safety is provided in accordance with Section 1.5.

(15) Delete Section 32.3.1.2.3.

(16) Delete the Exception to Section 32.3.1.3.3, paragraph (a).

(17) Delete Section 32.4.1.4 and insert in lieu thereof the following new section:

32.4.1.4 Minimum Construction Requirements.

In addition to the requirements of Chapter 30, apartment buildings housing residential board and care facilities shall meet the construction requirements of 18.1.6. In applying the construction requirements, the height shall be determined by the height of the residential board and care facility measured above the primary level of exit discharge.

Exception: If the new board and care occupancy is created in an existing apartment building, the construction requirements of 19.1.6 shall apply.

(18) Delete Exception No. 2 to Section 32.7.3 and insert in lieu thereof the following new Exception No. 2:

Exception No. 2: Those residents who cannot meaningfully assist in their own evacuation or who have special health problems shall not be required to actively participate in the drill. Section 18.7 shall apply in such instances.

205.15(2) Existing intermediate care facilities. Existing intermediate care facilities for the mentally retarded and existing intermediate care facilities for persons with mental illness shall comply with the provisions of one of the following:

a. NFPA 101, Life Safety Code, 2000 edition, Chapter 19.

b. NFPA 101, Life Safety Code, 2000 edition, Chapter 33, with the following amendments:

NOTE: Any requirement contained in Chapter 33 that is determined on a rating of evacuation capability shall be based upon an evacuation capability rating of "impractical." Any provision which depends upon an evacuation rating of "prompt" or "slow" shall be unavailable.

(1) Delete Section 33.1.7.

(2) Delete Section 33.2.1.2.1 and insert in lieu thereof the following new section:

33.2.1.2.1

Small facilities shall comply with the requirements of Section 33.2.

Exception*: Facilities where the authority having jurisdiction has determined equivalent safety is provided in accordance with Section 1.5.

(3) Delete Section 33.2.1.2.2 and insert in lieu thereof the following new section:

33.2.1.2.2

The evacuation capability shall be classified as impractical.

(4) Delete Section 33.2.1.3 and insert in lieu thereof the following new section:

33.2.1.3 Minimum Construction Requirements.

Buildings shall be of any construction type in accordance with 8.2.1 other than Type II(000), Type III(200), or Type V(000) construction.

Exception: Buildings protected throughout by an approved, supervised automatic sprinkler system in accordance with 33.2.3.5 shall be permitted to be of any type of construction.

(5) Delete Exception No. 1 to Section 33.2.2.1.

(6) Delete Section 33.2.2.2 and insert in lieu thereof the following new section:

33.2.2.2

The primary means of escape for each sleeping room shall not be exposed to living areas and kitchens.

Exception: Buildings equipped with quick-response or residential sprinklers throughout. Standard response sprinklers shall be permitted for use in hazardous areas in accordance with 33.2.3.2.

(7) Delete Exception No. 2, Exception No. 3, and Exception No. 4 to Section 33.2.2.4.

(8) Delete the Exception to Section 33.2.3.3.

(9) Delete Section 33.2.3.5.2 and insert in lieu thereof the following new section:

33.2.3.5.2*

Where an automatic sprinkler system is installed, for either total or partial building coverage, the system shall be in accordance with Section 9.7 and shall activate the fire alarm system in accordance with 33.2.3.4.1. The adequacy of the water supply shall be documented to the authority having jurisdiction.

Exception No. 1: An automatic sprinkler system in accordance with NFPA 13D, Standard for the Installation of Sprinkler Systems in One- and Two-Family Dwellings and Manufactured Homes, with a 30-minute water supply, shall be permitted. All habitable areas and closets shall be sprinklered. Automatic sprinklers shall not be required in bathrooms not exceeding 55 ft² (5.1 m²), provided that such

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spaces are finished with lath and plaster or materials providing a 15-minute thermal barrier.

Exception No. 2: In facilities up to and including four stories in height, systems installed in accordance with NFPA 13R, Standard for the Installation of Sprinkler Systems in Residential Occupancies up to and Including Four Stories in Height, shall be permitted. All habitable areas and closets shall be sprinklered. Automatic sprinklers shall not be required in bathrooms not exceeding 55 ft² (5.1 m²), provided that such spaces are finished with lath and plaster or materials providing a 15-minute thermal barrier.

Exception No. 3: Initiation of the fire alarm system shall not be required for existing installations in accordance with 33.2.3.5.5.

(10) Delete Section 33.2.3.5.3 and insert in lieu thereof the following new section:

33.2.3.5.3

All facilities shall be protected throughout by an approved, supervised automatic sprinkler system in accordance with 33.2.3.5.2.

(11) Delete Exception No. 1 and Exception No. 4 to Section 33.2.3.6.1.

(12) Delete Section 33.3.1.1 and insert in lieu thereof the following new section:

33.3.1.1 Scope.

Section 33.3 applies to residential board and care occupancies providing sleeping accommodations for more than 16 residents. Facilities having sleeping accommodations for not more than 16 residents shall be evaluated in accordance with Section 33.2.

(13) Delete Section 33.3.1.2 and insert in lieu thereof the following new section:

33.3.1.2 Requirements.

Large facilities shall meet the requirements for limited care facilities in Chapter 19.

Exception*: Facilities where the authority having jurisdiction has determined equivalent safety is provided in accordance with Section 1.5.

(14) Delete the Exception to Section 33.3.1.3.3, paragraph (a).

(15) Delete Exception No. 2 to Section 33.3.3.6.1.

(16) Delete Exception No. 2 to Section 33.3.3.6.3.

(17) Delete Section 33.4.1.3 and insert in lieu thereof the following new section:

33.4.1.3 Requirements.

33.4.1.3.1

Apartment buildings housing board and care facilities shall comply with the requirements of Section 33.4.

Exception*: Facilities where the authority having jurisdiction has determined that equivalent safety for housing a residential board and care facility is provided in accordance with Section 1.5.

33.4.1.3.2

All facilities shall meet the requirements of Chapter 31 and the additional requirements of Section 33.4.

(18) Delete Section 33.4.1.4 and insert in lieu thereof the following new section:

33.4.1.4 Minimum Construction Requirements.

In addition to the requirements of Chapter 31, apartment buildings housing residential board and care facilities shall meet the construction requirements of 19.1.6. In applying the construction requirements, the height shall be determined by the height of the residential board and care facility measured above the primary level of exit discharge.

(19) Delete Exception No. 2 to Section 33.7.3 and insert in lieu thereof the following new exception:

Exception No. 2: Those residents who cannot meaningfully assist in their own evacuation or who have special health problems shall not be required to actively participate in the drill. Section 19.7 shall apply in such instances.

205.15(3) Alcohol-based hand rub dispensers. Notwithstanding any provisions of the 2000 edition of the Life Safety Code to the contrary, a facility may install alcohol-based hand rub dispensers if:

a. Use of alcohol-based hand rub dispensers does not conflict with a local code that prohibits or otherwise restricts the placement of alcohol-based hand rub dispensers in health care facilities;

b. The dispensers are installed in a manner that minimizes leaks and spills that could lead to falls;

c. The dispensers are installed in a manner that adequately protects against access by vulnerable populations; and

d. The dispensers are installed in accordance with Section 18.3.2.7 or Section 19.3.2.7 of the 2000 edition of the Life Safety Code, as amended by NFPA Temporary Interim Amendment 00-1(101), issued by the Standards Council of the National Fire Protection Association on April 15, 2004.

661—205.16 to 205.19 Reserved.

661—205.20(100) Ambulatory health care facilities.

205.20(1) New ambulatory health care facilities. NFPA 101, Life Safety Code, 2000 edition, Chapter 20, is adopted by reference as the fire safety rules for new ambulatory health care facilities.

205.20(2) Existing ambulatory health care facilities. NFPA 101, Life Safety Code, 2000 edition, Chapter 21, is adopted by reference as the fire safety rules for existing ambulatory health care facilities, with the following amendments:

Section 21.2.9.1 is not effective prior to March 13, 2006.

205.20(3) Alcohol-based hand rub dispensers. Notwithstanding any provisions of the 2000 edition of the Life Safety Code to the contrary, an ambulatory health care facility may place alcohol-based hand rub dispensers in its facility if:

a. Use of alcohol-based hand rub dispensers does not conflict with a local code that prohibits or otherwise restricts the placement of alcohol-based hand rub dispensers in health care facilities;

b. The dispensers are installed in a manner that minimizes leaks and spills that could lead to falls;

c. The dispensers are installed in a manner that adequately protects against access by vulnerable populations; and

d. The dispensers are installed in accordance with the following provisions:

(1) Where dispensers are installed in a corridor, the corridor shall have a minimum width of 6 ft (1.8 m);

(2) The maximum individual dispenser fluid capacity shall be:

1. 0.3 gallons (1.2 liters) for dispensers in rooms, corridors, and areas open to corridors;

2. 0.5 gallons (2.0 liters) for dispensers in suites of rooms;

(3) The dispensers shall have a minimum horizontal spacing of 4 ft (1.2 m) from each other;

(4) Not more than an aggregate 10 gallons (37.8 liters) of alcohol-based hand rub solution shall be in use in a single smoke compartment outside of a storage cabinet;

(5) Storage of quantities greater than 5 gallons (18.9 liters) in a single smoke compartment shall meet the require-

PUBLIC SAFETY DEPARTMENT[661](cont'd)

ments of NFPA 30, Flammable and Combustible Liquids Code;

(6) The dispensers shall not be installed over or directly adjacent to an ignition source; and

(7) In locations with carpeted floor coverings, dispensers installed directly over carpeted surfaces shall be permitted only in sprinklered smoke compartments.

661—205.21 to 205.24 Reserved.

661—205.25(100) Religious nonmedical health care institutions.

205.25(1) New religious nonmedical health care institutions. NFPA 101, Life Safety Code, 2000 edition, Chapter 18, is adopted by reference as the fire safety rules for new religious nonmedical health care institutions.

205.25(2) Existing religious nonmedical health care institutions. NFPA 101, Life Safety Code, 2000 edition, Chapter 19, is adopted by reference as the fire safety rules for existing religious nonmedical health care institutions, with the following amendments:

Section 19.2.9 is not effective prior to March 13, 2006.

Effective March 13, 2006, Section 19.3.6.3.2, Exception No. 2, is deleted.

205.25(3) Alcohol-based hand rub dispensers. Notwithstanding any provisions of the 2000 edition of the Life Safety Code to the contrary, a religious nonmedical health care institution may place alcohol-based hand rub dispensers in its facility if:

a. Use of alcohol-based hand rub dispensers does not conflict with a local code that prohibits or otherwise restricts the placement of alcohol-based hand rub dispensers in health care facilities;

b. The dispensers are installed in a manner that minimizes leaks and spills that could lead to falls;

c. The dispensers are installed in a manner that adequately protects against access by vulnerable populations; and

d. The dispensers are installed in accordance with Section 18.3.2.7 or Section 19.3.2.7 of the 2000 edition of the Life Safety Code, as amended by NFPA Temporary Interim Amendment 00-1(101), issued by the Standards Council of the National Fire Protection Association on April 15, 2004.

These rules are intended to implement Iowa Code section 100.35 and chapters 135B, 135C, 135J and 231C and 42 CFR Parts 403, 416, 418, 482 and 483.

661—205.26 to 205.99 Reserved.

661—205.100(135C) Residential care facilities.

205.100(1) Definitions. The following definitions apply to rule 661—205.100(135C):

“Existing residential care facility” means a residential care facility which has been in continuous operation since before April 1, 2004.

“New residential care facility” means a residential care facility which begins operation on or after April 1, 2004.

“NFPA” means the National Fire Protection Association, Batterymarch Park, Quincy, MA 02269. References to the form “NFPA xx,” where “xx” is a number, refer to the NFPA standard or pamphlet of the corresponding number.

“Residential care facility” means a facility that is licensed or seeking licensure by the department of inspections and appeals as a residential care facility pursuant to the provisions of Iowa Code section 135C.6, or has been identified by the department of inspections and appeals as a facility that requires licensure as a residential care facility pursuant to Iowa Code section 135C.6.

205.100(2) New residential care facilities. NFPA 101, Life Safety Code, 2003 edition, Chapter 18, “New Health Care Facilities,” is adopted by reference as the rules governing new residential care facilities. For purposes of this subrule, a residential care facility is a “limited care facility” as defined in NFPA 101, Life Safety Code, 2003 edition, Section 3.3.69.2.

205.100(3) Existing residential care facilities. NFPA 101, Life Safety Code, 2003 edition, Chapter 19, “Existing Health Care Facilities,” is adopted by reference as the rules governing existing residential care facilities. For purposes of this subrule, a residential care facility is a “limited care facility” as defined in NFPA 101, Life Safety Code, 2003 edition, Section 3.3.69.2.

EXCEPTION: Existing residential care facilities which were approved by the fire marshal on or before March 11, 2003, pursuant to rules 661—5.550(100) to 5.552(100) and which have been in continuous operation since on or before March 11, 2003, may continue to operate in compliance with rules 661—5.550(100) to 5.552(100) as those rules existed on March 10, 2003.

NOTE: Rules 661—5.550(100) to 5.552(100) were rescinded effective March 11, 2003.

This rule is intended to implement Iowa Code sections 100.35 and 135C.9.

[Filed Emergency After Notice 5/23/05, effective 5/24/05]
[Published 6/22/05]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 6/22/05.

ARC 4265B

STATE PUBLIC DEFENDER[493]

Adopted and Filed Emergency

Pursuant to the authority of Iowa Code section 13B.4(8), the State Public Defender amends Chapter 7, “Definitions,” and Chapter 12, “Claims for Indigent Defense Services,” and adopts new Chapter 14, “Claims for Attorney Fees in 600A Terminations,” Iowa Administrative Code.

These amendments implement 2005 Iowa Acts, House File 683, which revises procedures regarding appointment of counsel and approval of claims for parole violation cases and cases for termination of parental rights under Iowa Code chapter 600A.

Pursuant to Iowa Code section 17A.4(2), the State Public Defender finds that notice and public participation are impractical. These amendments are required because the statutory changes noted above are effective immediately upon enactment and are applicable retroactively.

The State Public Defender also finds, pursuant to Iowa Code section 17A.5(2)“b”(2), that the normal effective date of these amendments should be waived and these amendments should be effective immediately upon filing because the amendments confer a benefit on the public by providing a means of processing and paying claims and are intended to implement 2005 Iowa Acts, House File 683, which became effective on May 5, 2005.

These amendments are also published herein under Notice of Intended Action as **ARC 4245B** to allow for public comment.

STATE PUBLIC DEFENDER[493](cont'd)

These amendments are intended to implement Iowa Code chapters 13B, 600A, 815 and 908 as amended by 2005 Iowa Acts, House File 683.

These amendments became effective May 25, 2005.

A fiscal impact summary prepared by the Legislative Services Agency pursuant to Iowa Code § 17A.4(3) will be available at <http://www.legis.state.ia.us/IAC.html> or at (515) 281-5279 prior to the Administrative Rules Review Committee's review of this rule making.

The following amendments are adopted.

ITEM 1. Amend rule **493—7.1(13B,815)**, definition of "timely claim," as follows:

"Timely claim" means a claim submitted to the state public defender for payment within 45 days of the date of service in a case in which the attorney was appointed after June 30, 2004. *For parole violation cases to which the attorney was appointed after November 10, 2004, and before May 5, 2005, a claim is timely if submitted to the state public defender for payment before June 20, 2005.*

ITEM 2. Amend subrule 12.1(1) as follows:

12.1(1) The state public defender will pay from the indigent defense fund attorney fees and costs for the following types of cases: commitment of sexually violent predators under Iowa Code chapter 229A; contempt; postconviction relief proceedings to the extent authorized under Iowa Code chapter 822; juvenile justice under Iowa Code section 232.141(3)(c); guardians ad litem for children in juvenile court under Iowa Code chapter 600 or *respondents under Iowa Code chapter 600A*; fees for appellate attorneys under Iowa Code section 814.11; fees to attorneys under Iowa Code section 815.7; fees for court-appointed counsel under Iowa Code section 815.10; violation of probation or parole under Iowa Code ~~section 908.11~~ *chapter 908*; indigent's right to transcript on appeal under Iowa Code section 814.9; indigent's application for transcript in other cases under Iowa Code section 814.10; and special witnesses for indigents under Iowa Code section 815.4.

ITEM 3. Amend subrule **12.2(1)**, paragraph "b," subparagraph (2), as follows:

(2) Claims for probation or parole violations and contempt actions are considered new cases, and the attorney must submit a copy of an appointment order for these claims. *Appointment orders in parole violation cases to which the attorney was appointed on or after May 5, 2005, must also contain the following findings:*

1. *The alleged parole violator requests appointment of counsel;*

2. *The alleged parole violator is indigent as defined in Iowa Code section 815.9;*

3. *The alleged parole violator, because of lack of skill or education, would have difficulty in presenting the alleged violator's version of a disputed set of facts, particularly when presentation requires the examining or cross-examining of witnesses or the offering or dissecting of complex documentary evidence; and*

4. *The alleged parole violator has a colorable claim that the alleged violation has not been committed, or there are substantial reasons which justify or mitigate the violation and make revocation inappropriate.*

ITEM 4. Amend subrule 12.4(4) as follows:

12.4(4) Probation/parole violations. The hourly rate for time spent on probation or parole violation proceedings shall be \$50 per hour without regard to the level of the underlying charge.

ITEM 5. Amend subrule **12.6(1)** as follows:

Amend the following fee limitation:

Probation/parole violation \$250

ITEM 6. Adopt the following **new** chapter:

**CHAPTER 14
CLAIMS FOR ATTORNEY FEES
IN 600A TERMINATIONS**

493—14.1(13B,600A,815) Scope. This chapter sets forth specific rules for submission, review and payment of claims for attorney fees in proceedings under Iowa Code chapter 600A. Unless modified in this chapter, the provisions of 493—Chapters 7, 11 and 12 apply to such claims.

493—14.2(13B,600A,815) Definitions. The following definitions apply only to this chapter.

"Indigent" means the person has an income level at or below 100 percent of the United States poverty level as defined by the most recently revised poverty income guidelines published by the U.S. Department of Health and Human Services, unless the court determines that the person is able to pay for the cost of an attorney in the pending case. In making the determination of a person's ability to pay for the cost of an attorney, the court shall consider not only the person's income, but also the availability of any assets subject to execution, including but not limited to cash, stocks, bonds, and any other property which may be applied to the satisfaction of judgments, and the nature and complexity of the case.

"Timely claim" means a claim submitted to the state public defender for payment within 45 days of the date of service in a case to which the attorney was appointed. For termination of parental rights cases under Iowa Code chapter 600A with a date of appointment after May 11, 2004, and a date of service before May 5, 2005, a claim is timely if submitted to the state public defender for payment before June 20, 2005.

493—14.3(13B,600A,815) Hourly rate and fee limitations. Unless the attorney has a contract with the state public defender that provides for a different rate or manner of payment, claims for attorney fees in a termination of parental rights case under Iowa Code chapter 600A shall be paid at the rate of \$50 per hour, with a fee limitation of \$500. Claims shall not be approved for an amount in excess of this fee limitation.

493—14.4(13B,600A,815) Limitations on other charges and expenses. The state public defender shall not approve claims for travel time, paralegal time, or out-of-pocket expenses.

493—14.5(13B,600A,815) Claims for attorney fees. Claims for attorney fees shall be submitted on Juvenile claim forms. Except as provided in this rule, claims for attorney fees for representing the respondent in proceedings for termination of parental rights cases under Iowa Code chapter 600A shall be reviewed by the state public defender in the same manner as provided in 493—Chapter 12.

14.5(1) For cases to which the attorney was appointed on or after May 5, 2005, the order of appointment must contain the following additional findings:

a. The respondent requests appointment of counsel;

b. Both the petitioner, or the person on whose behalf the petition is filed, and the respondent are indigent;

c. The respondent, because of lack of skill or education, would have difficulty in presenting the respondent's version of a disputed set of facts, particularly when presentation requires the examining or cross-examining of witnesses or the

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offering or dissecting of complex documentary evidence; and

d. The respondent has a colorable defense to the termination of parental rights, or there are substantial reasons that make termination of parental rights inappropriate.

14.5(2) For cases to which the attorney was appointed on or after May 5, 2005, in addition to the other requirements provided in 493—Chapter 12, a copy of both the petitioner's and respondent's financial affidavit must accompany the claim.

14.5(3) The provisions for review of the state public defender's action provided in 493—Chapter 12 shall apply to claims submitted under this chapter.

493—14.6(13B,600A,815) Report to judicial branch. The state public defender shall submit quarterly to the state court administrator a report detailing all approved and paid attorney fee claims for termination of parental rights cases under Iowa Code chapter 600A.

These rules are intended to implement Iowa Code chapters 13B, 600A, 815 and 908 as amended by 2005 Iowa Acts, House File 683.

[Filed Emergency 5/25/05, effective 5/25/05]

[Published 6/22/05]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 6/22/05.

ARC 4248B

ADMINISTRATIVE SERVICES
DEPARTMENT[11]

Adopted and Filed

Pursuant to the authority of Iowa Code section 8A.104, the Administrative Services Department hereby amends Chapter 63, "Leave," Iowa Administrative Code.

An amendment is adopted to correct the rule on use of Family and Medical Leave Act (FMLA) leave when the employee also receives workers' compensation benefits. Leave designated as FMLA shall run concurrently with workers' compensation leave when the workers' compensation absence is one that meets the FMLA criteria, whether or not the employee chooses to supplement workers' compensation payments with paid leave. This change is consistent with 29 Code of Federal Regulations Part 825.

A second amendment is adopted to comply with 20 Code of Federal Regulations Part 1002, as amended by the Veterans Benefits Improvement Act of 2004 (VBIA). The 18-month period of continuation of employer-sponsored health care coverage provided under COBRA is changed to 24 months for employees who leave their jobs to perform military service. Interim final regulations were published in the Federal Register, Vol. 70, No. 46, dated March 10, 2005. This provision of the VBIA was effective for individuals electing COBRA coverage on or after December 10, 2004.

A third amendment clarifies the military leave rule, 63.9(8A). When determining a veteran's eligibility for FMLA leave, the time of military service is included with the number of hours worked in state employment to determine if the veteran has worked 1250 hours in the past 12 months. This clarification is based on the federal Uniformed Services Employment and Reemployment Rights Act of 1994.

Notice of Intended Action was published in the April 13, 2005, Iowa Administrative Bulletin as **ARC 4107B**. A public hearing was held on May 3, 2005. No public comment was received. These amendments are identical to those published under Notice of Intended Action.

These amendments were adopted by the Department on May 18, 2005.

These amendments shall become effective on July 27, 2005.

These amendments are intended to implement Iowa Code section 8A.413 and 20 CFR Part 1002 and 29 CFR Part 825.

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 [63.4(13), 63.9(9), 63.9(10)] is being omitted. These amendments are identical to those published under Notice as **ARC 4107B**, IAB 4/13/05.

[Filed 5/20/05, effective 7/27/05]
[Published 6/22/05]

[For replacement pages for IAC, see IAC Supplement 6/22/05.]

ARC 4254B

ETHICS AND CAMPAIGN
DISCLOSURE BOARD, IOWA[351]

Adopted and Filed

Pursuant to the authority of Iowa Code section 68B.32A, the Iowa Ethics and Campaign Disclosure Board hereby amends Chapter 1, "Iowa Ethics and Campaign Disclosure Board," Iowa Administrative Code.

The amendment clarifies in the Board's own code of ethics that members and staff of the Board may attend and participate in a presidential caucus as federal elections do not fall under the Board's jurisdiction.

The amendment was published under Notice of Intended Action in the Iowa Administrative Bulletin on March 16, 2005, as **ARC 4046B**. No oral or written comments on the amendment were received. The amendment is identical to that published under Notice.

The Board adopted this amendment on May 19, 2005.

This amendment is intended to implement Iowa Code sections 68B.2A and 68B.32.

This amendment will become effective on July 27, 2005. The following amendment is adopted.

Amend subrule 1.6(5) as follows:

1.6(5) Public personal endorsement of a candidate or publicly taking a position in support of or opposition to a ballot issue is prohibited. This subrule does not prohibit a member of the board or staff from making a public personal endorsement of a federal candidate or a federal ballot issue since the board has no jurisdiction over federal candidates or federal ballot issues. *Members and staff of the board may attend and participate in a presidential caucus.*

[Filed 5/23/05, effective 7/27/05]

[Published 6/22/05]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 6/22/05.

ARC 4250B

ETHICS AND CAMPAIGN
DISCLOSURE BOARD, IOWA[351]

Adopted and Filed

Pursuant to the authority of Iowa Code section 68B.32A, the Iowa Ethics and Campaign Disclosure Board hereby amends Chapter 3, "Iowa Election Campaign Fund," Iowa Administrative Code.

The amendment reflects current Board policies concerning the information to be filed on a state political party Iowa Election Campaign Fund report. This report discloses party transactions involving funds received from the Iowa Income Tax Checkoff Act under Iowa Code chapter 68A.

The amendment was published under Notice of Intended Action in the Iowa Administrative Bulletin on March 16, 2005, as **ARC 4044B**. No oral or written comments on the amendment were received. The amendment is identical to that published under Notice.

The Board adopted this amendment on May 19, 2005.

This amendment is intended to implement Iowa Code sections 68A.606(1) and 68B.32A(8).

ETHICS AND CAMPAIGN DISCLOSURE BOARD, IOWA[351](cont'd)

This amendment will become effective on July 27, 2005.

EDITOR'S NOTE: Pursuant to recommendation of the Administrative Rules Review Committee published in the Iowa Administrative Bulletin, September 10, 1986, the text of this amendment [3.8] is being omitted. This amendment is identical to that published under Notice as **ARC 4044B**, IAB 3/16/05.

[Filed 5/23/05, effective 7/27/05]
[Published 6/22/05]

[For replacement pages for IAC, see IAC Supplement 6/22/05.]

ARC 4261B

ETHICS AND CAMPAIGN DISCLOSURE BOARD, IOWA[351]

Adopted and Filed Without Notice

Pursuant to the authority of Iowa Code section 68B.32A, the Iowa Ethics and Campaign Disclosure Board hereby amends Chapter 4, "Campaign Disclosure Procedures," Iowa Administrative Code.

The amendments reflect the statutory change enacted by the 2005 General Assembly that repeals the prohibition on the dissolution of a county central committee. Previously under the law, a county central committee could not dissolve, but instead had to seek Board permission for inactive status. The amendments adopt the procedure for when a state party and its county central committees lose their status as "political parties." The amendments also rescind the rule concerning the procedure for a county central committee to seek inactive status.

Pursuant to Iowa Code section 17A.4(2), the Board finds that notice and public participation prior to the adoption of these amendments are impracticable, as it is desirable to have the Board's rules on the creation and dissolution of county central committees reflect current statutory requirements.

These amendments are intended to implement Iowa Code section 68A.402B(2)"b" as amended by 2005 Iowa Acts, House File 312, section 12.

These amendments will become effective on July 27, 2005.

A fiscal impact summary prepared by the Legislative Services Agency pursuant to Iowa Code § 17A.4(3) will be available at <http://www.legis.state.ia.us/IAC.html> or at (515) 281-5279 prior to the Administrative Rules Review Committee's review of this rule making.

The following amendments are adopted.

ITEM 1. Amend subrule **4.1(1)**, paragraph "**a**," subparagraph **(2)**, as follows:

(2) A "political committee" (PAC) that is a committee exceeding the \$750 organizational threshold to expressly advocate the nomination, election, or defeat of candidates or to expressly advocate the passage or defeat of a ballot issue. *The board shall automatically classify as a political committee any political organization that loses its status as a political party because it fails to meet the requirements of Iowa Code section 43.2. The board shall automatically classify as a political committee any county central committee that operated under the former political party.*

ITEM 2. Rescind and reserve rule **351—4.34(68A)**.

[Filed Without Notice 5/24/05, effective 7/27/05]
[Published 6/22/05]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 6/22/05.

ARC 4252B

ETHICS AND CAMPAIGN DISCLOSURE BOARD, IOWA[351]

Adopted and Filed

Pursuant to the authority of Iowa Code section 68B.32A, the Iowa Ethics and Campaign Disclosure Board hereby amends Chapter 4, "Campaign Disclosure Procedures," Iowa Administrative Code.

The amendment clarifies that, for purposes of the campaign laws in Iowa Code chapter 68A and Board rules on campaigning for public office, judges and judicial employees who by law are required to stand for retention are included in the definition of "candidate."

The amendment was published under Notice of Intended Action in the Iowa Administrative Bulletin on March 16, 2005, as **ARC 4043B**. No oral or written comments on the amendment were received. The amendment is identical to that published under Notice.

The Board adopted this amendment on May 19, 2005.

This amendment is intended to implement Iowa Code section 68A.102(4).

This amendment will become effective on July 27, 2005. The following amendment is adopted.

Amend subrule 4.1(4) as follows:

4.1(4) Candidate defined. For purposes of Iowa Code Supplement chapter ~~chapter~~ 68A and Iowa Code chapter 68B, and the rules of the board, "candidate" means an individual who takes affirmative action to seek nomination or election to a state or local public office. *For purposes of Iowa Code chapter 68A and any rules of the board on campaigning for public office, "candidate" includes any judge or judicial employee who is required by law to stand for retention. "Takes affirmative action" includes making a public announcement of intention to seek nomination or election, making any expenditure or accepting any contribution for nomination or election, distributing petitions for signatures for nomination, filing nomination papers or an affidavit of candidacy, or being nominated by any convention process set out by law.*

[Filed 5/23/05, effective 7/27/05]
[Published 6/22/05]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 6/22/05.

ARC 4263B**ETHICS AND CAMPAIGN
DISCLOSURE BOARD, IOWA[351]****Adopted and Filed Without Notice**

Pursuant to the authority of Iowa Code section 68B.32A, the Iowa Ethics and Campaign Disclosure Board hereby amends Chapter 4, "Campaign Disclosure Procedures," Iowa Administrative Code.

The amendment reflects the statutory change enacted by the 2005 General Assembly that amends the definition of "consultant" to include persons who do work for any type of campaign committee. This statutory change also now requires every type of committee to file a Schedule G that discloses activities related to a consultant. Previously, only a candidate's committee was required to file a Schedule G and fully disclose activities of a consultant.

Pursuant to Iowa Code section 17A.4(2), the Board finds that notice and public participation prior to the adoption of this amendment are impracticable, as it is desirable to have the Board's rules on the disclosure of consultant activity reflect current statutory requirements.

This amendment is intended to implement Iowa Code sections 68A.102(9) as amended by 2005 Iowa Acts, House File 312, section 3, and 68A.402A.

This amendment will become effective on July 27, 2005.

A fiscal impact summary prepared by the Legislative Services Agency pursuant to Iowa Code § 17A.4(3) will be available at <http://www.legis.state.ia.us/IAC.html> or at (515) 281-5279 prior to the Administrative Rules Review Committee's review of this rule making.

The following amendment is adopted.

Amend rule 351—4.19(68A,68B) as follows:

351—4.19(68A,68B) Schedule G - Breakdown of Monetary Expenditures by Consultants. A candidate's committee ~~which that~~ enters into a contract with a consultant for future or continuing performance shall be required to report expenditures made to the consultant and the nature of the performance of the consultant ~~which that~~ is expected to be received by the candidate's committee. A candidate's committee is required to report in Part 1 of Schedule G any contracts with consultants ~~which that~~ it has negotiated, the complete name and address of the consultant, the period of time ~~in~~ during which the contract is in effect, and estimates of performance to be derived from the contract. Expenditures made to the consultant during a reporting period shall be reported with all other expenditures on Schedule B, and debts incurred with the consultant during the reporting period shall be reported with all other debts on Schedule D. Additionally, a detailed breakdown of the expenditures made by the consultant shall be reported by the candidate's committee in Part 2 of Schedule G and shall include the date of the expenditure, the purpose of the expenditure and the amount of the expenditure. The description of the purpose of the expenditure shall be consistent with the provisions of subrule 4.15(3).

For purposes of this rule, "contract" means an oral or written agreement between two parties for the supply or delivery of specific services in the course of the campaign. "Performance" means the execution or fulfillment of the contractual agreement. "Nature of performance" means a clear description of the specific services received or benefit derived as the result of a contract with a consultant. "Estimate of performance" means a clear description of the ~~expected~~ services

the candidate committee reasonably expects to be received ~~receive or the benefit the committee reasonably expects to be derived derive~~ during the period of the contract.

This rule is intended to implement Iowa Code Supplement sections ~~68A.102 68A.102(9)~~ as amended by 2005 Iowa Acts, House File 312, section 3, and ~~68A.402 68A.402A~~.

[Filed Without Notice 5/24/05, effective 7/27/05]

[Published 6/22/05]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 6/22/05.

ARC 4262B**ETHICS AND CAMPAIGN
DISCLOSURE BOARD, IOWA[351]****Adopted and Filed Without Notice**

Pursuant to the authority of Iowa Code section 68B.32A, the Iowa Ethics and Campaign Disclosure Board hereby amends Chapter 4, "Campaign Disclosure Procedures," Iowa Administrative Code.

The amendments reflect the statutory change enacted by the 2005 General Assembly that adds advocating for or against the nomination of a candidate to the requirement for filing an independent expenditure statement. Previously, the law required the filing of the statement when a person made an independent expenditure advocating for the election or defeat of a candidate but did not include "nomination" of a candidate.

Pursuant to Iowa Code section 17A.4(2), the Board finds that notice and public participation prior to the adoption of these amendments are impracticable, as it is desirable to have the Board's rules on the filing of independent expenditure statements reflect current statutory requirements.

These amendments are intended to implement Iowa Code section 68A.404 as amended by 2005 Iowa Acts, House File 312, sections 13, 14, and 15.

These amendments will become effective on July 27, 2005.

A fiscal impact summary prepared by the Legislative Services Agency pursuant to Iowa Code § 17A.4(3) will be available at <http://www.legis.state.ia.us/IAC.html> or at (515) 281-5279 prior to the Administrative Rules Review Committee's review of this rule making.

The following amendments are adopted.

ITEM 1. Amend rule 351—4.27(68A), introductory paragraph, as follows:

351—4.27(68A) Filing of independent expenditure statement. Pursuant to Iowa Code Supplement section 68A.404 as amended by 2005 Iowa Acts, House File 312, sections 13, 14, and 15, any person except a candidate or a registered committee that makes one or more independent expenditures in excess of \$750 in the aggregate shall file an independent expenditure statement.

ITEM 2. Amend subrule 4.27(1) as follows:

4.27(1) Independent expenditure defined. "Independent expenditure" means an expenditure for a communication that expressly advocates the *nomination*, election, or defeat of a candidate or that expressly advocates the passage or defeat of a ballot issue when the expenditure is made without the prior approval of or coordination with a candidate, candidate's committee, or a ballot issue committee. "Independent expen-

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diture” also means “independent expenditure” as defined in subrule 4.53(3).

ITEM 3. Amend rule **351—4.27(68A)**, implementation clause, as follows:

This rule is intended to implement Iowa Code Supplement section 68A.404 as amended by 2005 Iowa Acts, House File 312, sections 13, 14, and 15.

[Filed Without Notice 5/24/05, effective 7/27/05]

[Published 6/22/05]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 6/22/05.

ARC 4249B

ETHICS AND CAMPAIGN DISCLOSURE BOARD, IOWA[351]

Adopted and Filed

Pursuant to the authority of Iowa Code section 68B.32A, the Iowa Ethics and Campaign Disclosure Board hereby amends Chapter 4, “Campaign Disclosure Procedures,” Iowa Administrative Code.

The amendments consolidate into two rules four current rules concerning the dissolution of campaign committees. The amendments also reflect current Board policies and procedures concerning the dissolution of campaign committees.

The amendments were published under Notice of Intended Action in the Iowa Administrative Bulletin on March 16, 2005, as **ARC 4045B**. No oral or written comments on the amendments were received. The amendments are identical to those published under Notice.

The Board adopted these amendments on May 19, 2005.

These amendments are intended to implement Iowa Code section 68A.402B.

These amendments will become effective on July 27, 2005.

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 [4.54 to 4.57] is being omitted. These amendments are identical to those published under Notice as **ARC 4045B**, IAB 3/16/05.

[Filed 5/23/05, effective 7/27/05]

[Published 6/22/05]

[For replacement pages for IAC, see IAC Supplement 6/22/05.]

ARC 4264B

ETHICS AND CAMPAIGN DISCLOSURE BOARD, IOWA[351]

Adopted and Filed Without Notice

Pursuant to the authority of Iowa Code section 68B.32A, the Iowa Ethics and Campaign Disclosure Board hereby amends Chapter 6, “Executive Branch Ethics,” Iowa Administrative Code.

The amendment reflects the statutory change enacted by the 2005 General Assembly that prohibits a member of the Office of the Governor from selling goods or services to a lobbyist without complying with the proper procedure and obtaining consent. Previously the law prohibited such sales to a person who employed a lobbyist but not to such sales to the actual lobbyist.

Pursuant to Iowa Code section 17A.4(2), the Board finds that notice and public participation prior to the adoption of this amendment are impracticable, as it is desirable to have the Board's rules on the ability of members of the Office of the Governor to sell goods or services to a lobbyist reflect current statutory requirements.

This amendment is intended to implement Iowa Code section 68B.4B as amended by 2005 Iowa Acts, House File 253, section 4.

This amendment will become effective on July 27, 2005.

A fiscal impact summary prepared by the Legislative Services Agency pursuant to Iowa Code § 17A.4(3) will be available at <http://www.legis.state.ia.us/IAC.html> or at (515) 281-5279 prior to the Administrative Rules Review Committee's review of this rule making.

The following amendment is adopted.

Amend rule 351—6.12(68B) as follows:

351—6.12(68B) Sales by members of the office of the governor. A permanent full-time member of the office of the governor shall not directly or indirectly sell any goods or services to *registered lobbyists before the general assembly or the executive branch or to individuals, associations, or corporations that employ persons who are registered lobbyists before the general assembly or the executive branch* except as provided in Iowa Code section 68B.4B as amended by ~~2004 Iowa Acts, Senate File 2179, section 6~~ 2005 Iowa Acts, House File 253, section 4, and this rule. This prohibition does not apply to sales that are part of the member's state duties.

6.12(1) Request for consent. A request submitted by a member of the office of the governor for consent to sell goods or services shall comply with all of the following:

a. The request shall be in writing and shall be filed at least 20 calendar days in advance of the proposed sale of any goods or services with the person responsible for hiring or approving the hiring of the member.

b. The request shall include all of the following:

(1) The name of the *lobbyist*, individual, association, or corporation to which the goods or services are to be sold;

(2) The relationship of the *lobbyist*, individual, association, or corporation to the office of the governor;

(3) A description of the goods or services;

(4) The date or dates that the goods or services will be delivered; and

(5) A statement by the member explaining how the proposed sale of the goods or services will not violate the provisions of Iowa Code section 68B.4B as amended by ~~2004 Iowa Acts, Senate File 2179, section 6~~ 2005 Iowa Acts, House File 253, section 4, or create a conflict of interest under Iowa Code section 68B.2A.

6.12(2) Guidelines for granting consent. In determining whether to grant consent, the person responsible for hiring or approving the hiring of the member shall take the following guidelines into consideration:

a. The duties and functions performed by the member are not related to the authority of the office of the governor over the *lobbyist*, individual, association, or corporation.

b. The selling of goods or services by the member to the *lobbyist*, individual, association, or corporation does not af-

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fect the member's duties or functions at the office of the governor.

c. The selling of any goods or services by the member to ~~an~~ a lobbyist, individual, association, or corporation does not include lobbying the office of the governor.

d. The selling of any goods or services by the member does not cause the member to sell goods or services to the office of the governor on behalf of the lobbyist, individual, association, or corporation.

e. The selling of the goods or services will not result in a conflict of interest as provided in Iowa Code section 68B.2A.

f. The request complies with the procedural requirements of subrule 6.12(1).

These guidelines shall be publicized and made known to members of the office of the governor.

6.12(3) Decision. The person responsible for hiring or approving the hiring of the member shall issue a written consent or denial within 14 calendar days following the date the request was filed. The deadline may be extended by agreement of both the member and the person. If the request is denied, the person shall state the reasons for the denial.

6.12(4) Appeal of denial. A member who receives a denial may file a request with the board for a contested case proceeding pursuant to 351—Chapter 11 for a determination of whether the situation described in the request complies with the requirements of Iowa Code section 68B.2A, Iowa Code section 68B.4B as amended by ~~2004 Iowa Acts, Senate File 2179, section 6~~ 2005 Iowa Acts, House File 253, section 4, and this rule. The final order of the board constitutes final agency action for purposes of seeking judicial review.

6.12(5) Copy of consent filed with board. Pursuant to Iowa Code section 68B.4B as amended by ~~2004 Iowa Acts, Senate File 2179, section 7~~ 2005 Iowa Acts, House File 253, section 4, a copy of consent granted to a member shall be filed with the board within 20 days of the granting of consent ~~being granted~~. The board shall treat the consent as a public record. The failure to provide a copy of the consent may result in the imposition of board sanctions against the person who granted the consent.

6.12(6) Consent not a defense. Consent granted under this rule shall not constitute a defense to a complaint alleging a violation of any law or rule. It is the responsibility of the member of the office of the governor to ensure compliance with all applicable laws and rules.

This rule is intended to implement Iowa Code section 68B.4B as amended by ~~2004 Iowa Acts, Senate File 2179, sections 6 and 7~~ 2005 Iowa Acts, House File 253, section 4.

[Filed Without Notice 5/24/05, effective 7/27/05]

[Published 6/22/05]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 6/22/05.

ARC 4251B

ETHICS AND CAMPAIGN DISCLOSURE BOARD, IOWA[351]

Adopted and Filed

Pursuant to the authority of Iowa Code section 68B.32A, the Iowa Ethics and Campaign Disclosure Board hereby

amends Chapter 6, "Executive Branch Ethics," Iowa Administrative Code.

The amendment clarifies the prohibition on receipt of an honorarium by an executive branch official or employee.

The amendment was published under Notice of Intended Action in the Iowa Administrative Bulletin on March 16, 2005, as **ARC 4041B**. No oral or written comments on the amendment were received. The amendment is identical to that published under Notice.

The Board adopted this amendment on May 19, 2005.

This amendment is intended to implement Iowa Code sections 68B.23 and 68B.32A(12).

This amendment will become effective on July 27, 2005.

EDITOR'S NOTE: Pursuant to recommendation of the Administrative Rules Review Committee published in the Iowa Administrative Bulletin, September 10, 1986, the text of this amendment [6.19] is being omitted. This amendment is identical to that published under Notice as **ARC 4041B**, IAB 3/16/05.

[Filed 5/23/05, effective 7/27/05]

[Published 6/22/05]

[For replacement pages for IAC, see IAC Supplement 6/22/05.]

ARC 4253B

ETHICS AND CAMPAIGN DISCLOSURE BOARD, IOWA[351]

Adopted and Filed

Pursuant to the authority of Iowa Code section 68B.32A, the Iowa Ethics and Campaign Disclosure Board hereby amends Chapter 8, "Executive Branch Lobbying," Iowa Administrative Code.

The amendment permits a lobbyist to make a campaign contribution during legislative session to the lobbyist's own campaign for state office without triggering the prohibition on a lobbyist's making contributions during legislative session to candidates for state office.

The amendment was published under Notice of Intended Action in the Iowa Administrative Bulletin on March 16, 2005, as **ARC 4042B**. No oral or written comments on the amendment were received. The amendment is identical to that published under Notice.

The Board adopted this amendment on May 19, 2005.

This amendment is intended to implement Iowa Code section 68A.504.

This amendment will become effective on July 27, 2005.

The following amendment is adopted.

Amend subrule **8.15(2)** by adopting new paragraph "**d**" as follows:

d. Contributions from a lobbyist's personal funds that a lobbyist makes to the lobbyist's own campaign for public office.

[Filed 5/23/05, effective 7/27/05]

[Published 6/22/05]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 6/22/05.

ARC 4273B**LABOR SERVICES DIVISION[875]****Adopted and Filed**

Pursuant to the authority of Iowa Code sections 89A.3(1) and 89A.13(6), the Elevator Safety Board hereby amends Chapter 75, "Fees," Iowa Administrative Code.

The amendments are intended to update fees charged for enforcement of Iowa Code chapter 89A. These amendments are adopted in order to reflect economic changes since these rules were last amended and to provide adequate funding for enforcement of Iowa Code chapter 89A.

Notice of Intended Action was published in the Iowa Administrative Bulletin on April 27, 2005, as **ARC 4121B**. No public comment was received. These amendments are identical to those published under Notice.

These amendments were adopted by the Board on June 1, 2005.

These amendments shall become effective July 27, 2005.

These amendments are intended to implement Iowa Code chapter 89A.

The following amendments are adopted.

ITEM 1. Amend subrules 75.1(1) and 75.1(2) as follows:

75.1(1) Installation inspection and permit fees for elevators, escalators, and moving walks shall be as follows: up to and including \$40,000 of valuation—\$130; over \$40,000 of valuation—\$130 plus \$1 for each \$1,000 or fraction thereof over \$40,000 of valuation ~~four landings—\$500; five or more landings—\$600. Installation inspection and permit fees for escalators and moving walks shall be \$500.~~ These fees include initial inspection and first-year operating permit. If the facility does not comply at the time of the acceptance inspection and has to be reinspected through no fault of the division of labor services, there shall be a reinspection fee of \$200 for each additional inspection. The installation inspection and permit fees shall be remitted to the division of labor services when the application is filed.

Consultative inspections may be performed at the discretion of the labor commissioner for a fee of \$100 per hour, including travel time, with a minimum charge of \$200.

75.1(2) Installation inspection and permit fees for dumbwaiters and inclined or vertical wheelchair lifts shall be as follows: ~~up to and including \$30,000 of valuation—\$90; over \$30,000 of valuation—\$90 plus \$1 for each \$1,000 or any fraction thereof over \$30,000 of valuation \$350.~~ These fees include initial inspection and first-year permit. If the facility does not comply at the time of the acceptance inspection and has to be reinspected through no fault of the division of labor services, there shall be a reinspection fee of \$200 for each additional inspection. The installation inspection and permit fees shall be remitted to the division of labor services when the application is filed.

Consultative inspections may be performed at the discretion of the labor commissioner for a fee of \$100 per hour, including travel time, with a minimum charge of \$200.

ITEM 2. Amend subrule 75.3(1) as follows:

75.3(1) The periodic (annual) inspection fee for elevators, escalators, moving walks, or dumbwaiters and inclined or vertical wheelchair lifts shall be as follows: for each elevator, —\$75; for each escalator—\$60; ~~and for each moving walk—\$50 plus \$2 for every elevator landing \$60;~~ for each dumbwaiter—\$35 \$60; for each hand-powered elevator—\$40 \$60; for each inclined or vertical wheelchair

lift—\$40 \$60. This fee includes only the inspection. If the installation has to be reinspected through no fault of the division of labor services, there shall be a reinspection fee of \$200. Fees shall be remitted to the division of labor services within 30 days of the date of inspection.

Consultative inspections may be performed at the discretion of the labor commissioner for a fee of \$100 per hour, including travel time, with a minimum charge of \$200.

ITEM 3. Amend rule 875—75.4(89A) as follows:

875—75.4(89A) Operating permits. Annual operating permit fee shall be as follows: for each facility—\$30 \$50.

ITEM 4. Amend rule 875—75.7(89A) as follows:

875—75.7(89A) Special inspector license. The special inspector license annual fee shall be \$30 \$60. The fee must be paid for each renewal.

[Filed 6/2/05, effective 7/27/05]

[Published 6/22/05]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 6/22/05.

ARC 4274B**LABOR SERVICES DIVISION[875]****Adopted and Filed**

Pursuant to the authority of Iowa Code sections 89A.3(1) and 89A.13(6), the Elevator Safety Board hereby amends Chapter 76, "Permits," Iowa Administrative Code.

The amendment is intended to facilitate the alteration and inspection of elevators under Iowa Code chapter 89A. This amendment is adopted to clarify for inspectors, owners, and those responsible for alterations of elevators what changes to an elevator will result in that elevator being deemed a new facility for purposes of the standards it must meet.

Notice of Intended Action was published in the Iowa Administrative Bulletin on April 27, 2005, as **ARC 4122B**. No public comment was received.

The rule includes a chart that now has two columns rather than three columns because the second and third columns were nearly identical. Thus, rather than keeping the second column for geared traction elevators and the third column for gearless traction elevators, there is now only a second column which applies to traction elevators in general. In addition, the words "or hoistway" have been stricken to clarify that the alterations being calculated are elevator alterations.

This amendment was adopted by the Board on June 1, 2005.

This amendment shall become effective July 27, 2005.

This amendment is intended to implement Iowa Code chapter 89A.

The following amendment is adopted.

Amend rule 875—76.7(89A) as follows:

875—76.7(89A) Alterations. When any combination of alterations or changes is made constituting more than 50 percent of the elevator ~~or hoistway~~ construction ~~as determined by the commissioner,~~ the entire facility shall be brought into compliance with ASME A17.1 (2000 through the 2003 addenda) and shall be deemed a new facility. *Alterations or changes constitute more than 50 percent of the construction if*

LABOR SERVICES DIVISION[875](cont'd)

they exceed 50 percent of the total points according to the following table:

Elevator Component	Hydraulic	Traction
Controller	31	26
Floor selector	4	8
Drive-MG-SCR	-	13
Main machine	-	15
Machine motor	5	7
Hoist ropes	4	8
Governor	4	7
Platform	9	9
Car fixtures	9	8
Cab	10	10
Safeties	6	7
Door operator	12	12
Hoistway door panels	11	10
Hoistway door frames	11	10
Hoistway hangers & tracks	11	11
Hoistway door locks	8	9
Traveling cable	6	9
Hoistway wiring	8	6
Hall fixtures	8	10
Buffers	6	6
Counterweight	4	7
Rails & brackets	10	18
Car & cwt. guides	6	6
Pump	9	-
Valve	9	-
Tank	9	-
Plunger	14	-
Cylinder	18	-
Total Points	242	233

If any of the above elevator components do not apply, the points for the component(s) shall be subtracted from the total points before a determination of whether the alteration or change constitutes 50 percent is made.

[Filed 6/2/05, effective 7/27/05]

[Published 6/22/05]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 6/22/05.

ARC 4266B

PHARMACY EXAMINERS BOARD[657]

Adopted and Filed

Pursuant to the authority of Iowa Code section 147.76, the Board of Pharmacy Examiners hereby amends Chapter 6, "General Pharmacy Practice," Chapter 7, "Hospital Pharmacy Practice," Chapter 15, "Correctional Facility Pharmacy Practice," and Chapter 16, "Nuclear Pharmacy Practice," Iowa Administrative Code.

The amendments add the "Iowa Pharmacy Law and Information Manual" to the pharmacy reference library requirements.

Requests for waiver or variance of the discretionary provisions of these rules will be considered pursuant to 657—Chapter 34.

Notice of Intended Action was published in the March 16, 2005, Iowa Administrative Bulletin as **ARC 4047B**. The adopted amendments are identical to those published under Notice.

The amendments were approved during the April 20, 2005, meeting of the Board of Pharmacy Examiners.

These amendments will become effective on July 27, 2005.

These amendments are intended to implement Iowa Code section 155A.31.

The following amendments are adopted.

ITEM 1. Amend rule **657—6.3(155A)**, numbered paragraph "**1**," as follows:

1. ~~The Iowa pharmacy laws, rules, and regulations~~ *Pharmacy Law and Information Manual*.

ITEM 2. Amend rule **657—7.3(155A)**, numbered paragraph "**1**," as follows:

1. ~~The Iowa pharmacy laws, rules, and regulations~~ *Pharmacy Law and Information Manual*.

ITEM 3. Amend rule **657—15.4(155A)**, numbered paragraph "**1**," as follows:

1. ~~The Iowa pharmacy laws, rules, and regulations~~ *Pharmacy Law and Information Manual*.

ITEM 4. Amend rule **657—16.5(155A)**, numbered paragraph "**2**," as follows:

2. ~~State laws and regulations relating to pharmacy~~ *The Iowa Pharmacy Law and Information Manual*;

[Filed 6/2/05, effective 7/27/05]

[Published 6/22/05]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 6/22/05.

ARC 4267B

PHARMACY EXAMINERS BOARD[657]

Adopted and Filed

Pursuant to the authority of Iowa Code sections 124.301, 147.76, and 155A.13, the Board of Pharmacy Examiners hereby amends Chapter 6, "General Pharmacy Practice," adopts new Chapter 18, "Centralized Prescription Filling and Processing," and amends Chapter 20, "Pharmacy Compounding Practices," Iowa Administrative Code.

New Chapter 18 establishes standards for and identifies responsibilities of each pharmacy entering into an agreement for centralized prescription drug filling or processing services by a pharmacy, including defining terms utilized in the chapter, identifying prescription labeling and patient notification requirements, and defining requirements for the maintenance of records unique to centralized filling or processing practices. The amendment to Chapter 6 exempts the transmission of prescription drug order information between pharmacies engaged in centralized prescription filling or

PHARMACY EXAMINERS BOARD[657](cont'd)

processing pursuant to Chapter 18 from requirements regarding the transfer of a prescription and requires a pharmacy to transfer prescription drug order and refill information pursuant to the request of a patient or patient's caregiver. The amendment to Chapter 20 specifically permits the compounding of prescription drugs by pharmacies engaged in centralized prescription filling or processing activities pursuant to Chapter 18.

Requests for waiver or variance of the discretionary provisions of these rules will be considered pursuant to 657—Chapter 34.

Notice of Intended Action was published in the January 19, 2005, Iowa Administrative Bulletin as **ARC 3932B**. The adopted amendments are identical to those published under Notice.

The amendments were approved during the April 20, 2005, meeting of the Board of Pharmacy Examiners.

These amendments will become effective on July 27, 2005.

These amendments are intended to implement Iowa Code sections 124.301, 124.306, 124.308, 155A.13, 155A.28, and 155A.34.

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 [6.9, Ch 18, 20.3(4)] is being omitted. These amendments are identical to those published under Notice as **ARC 3932B**, IAB 1/19/05.

[Filed 6/2/05, effective 7/27/05]
[Published 6/22/05]

[For replacement pages for IAC, see IAC Supplement 6/22/05.]

ARC 4268B**PHARMACY EXAMINERS
BOARD[657]****Adopted and Filed**

Pursuant to the authority of Iowa Code section 147.76, the Board of Pharmacy Examiners hereby amends Chapter 7, "Hospital Pharmacy Practice," Iowa Administrative Code.

The amendments provide for the off-site preview and verification by a pharmacist of patient-specific drugs or devices ordered for a patient when the hospital pharmacy is closed and address minimum standards for the provision of these services.

Requests for waiver or variance of the discretionary provisions of these rules will be considered pursuant to 657—Chapter 34.

Notice of Intended Action was published in the March 16, 2005, Iowa Administrative Bulletin as **ARC 4051B**. The adopted amendments are identical to those published under Notice.

The amendments were approved during the April 20, 2005, meeting of the Board of Pharmacy Examiners.

These amendments will become effective on July 27, 2005.

These amendments are intended to implement Iowa Code section 155A.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 [7.7, 7.8(3)] is being omitted. These amendments are identical to those published under Notice as **ARC 4051B**, IAB 3/16/05.

[Filed 6/2/05, effective 7/27/05]
[Published 6/22/05]

[For replacement pages for IAC, see IAC Supplement 6/22/05.]

ARC 4269B**PHARMACY EXAMINERS
BOARD[657]****Adopted and Filed**

Pursuant to the authority of Iowa Code sections 124.301 and 147.76, the Board of Pharmacy Examiners hereby amends Chapter 7, "Hospital Pharmacy Practice," Chapter 8, "Universal Practice Standards," and Chapter 21, "Electronic Data in Pharmacy Practice," Iowa Administrative Code.

The amendment to subrule 7.13(1) provides for electronic signature on a medication order in a hospital patient's records. Rule 8.19(124,126,155A) is amended to provide for an exception to the requirement for a prescriber's original signature on a printed prescription when the printed prescription is prepared pursuant to proposed new rule 21.7(124,155A). Definitions in rule 21.1(124,155A) are amended to clarify the intent regarding electronic prescriptions, electronic transmissions, and electronic signatures. New rule 21.7(124, 155A) establishes requirements and limitations regarding electronically prepared prescriptions, including requirements for utilization of security paper when an electronically signed prescription is to be printed and delivered to the pharmacy for dispensing. Rule 21.9(124,155A) is amended to provide for electronic signature on a prescription transmitted to the pharmacy via facsimile.

Requests for waiver or variance of the discretionary provisions of these rules will be considered pursuant to 657—Chapter 34.

Notice of Intended Action was published in the March 16, 2005, Iowa Administrative Bulletin as **ARC 4048B**. The adopted amendments are identical to those published under Notice.

The amendments were approved during the April 20, 2005, meeting of the Board of Pharmacy Examiners.

These amendments will become effective on July 27, 2005.

These amendments are intended to implement Iowa Code sections 124.308 and 155A.27.

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 [7.13(1), 8.19, 21.1, 21.7, 21.9] is being omitted. These amendments are identical to those published under Notice as **ARC 4048B**, IAB 3/16/05.

[Filed 6/2/05, effective 7/27/05]
[Published 6/22/05]

[For replacement pages for IAC, see IAC Supplement 6/22/05.]

ARC 4270B
PHARMACY EXAMINERS
BOARD[657]

Adopted and Filed

Pursuant to the authority of Iowa Code section 147.76, the Board of Pharmacy Examiners hereby amends Chapter 21, "Electronic Data in Pharmacy Practice," Iowa Administrative Code.

The amendment clarifies requirements relating to a patient's choice of pharmacy services and to the secure computer-to-computer transmission of a prescription drug order.

Requests for waiver or variance of the discretionary provisions of these rules will be considered pursuant to 657—Chapter 34.

Notice of Intended Action was published in the January 19, 2005, Iowa Administrative Bulletin as **ARC 3931B**. The adopted amendment is identical to that published under Notice.

The amendment was approved during the April 20, 2005, meeting of the Board of Pharmacy Examiners.

This amendment will become effective on July 27, 2005.

This amendment is intended to implement Iowa Code section 155A.27.

The following amendment is adopted.

Amend subrule 21.8(1) as follows:

21.8(1) Secure transmission and patient's choice. Orders shall be sent only to the pharmacy of the patient's choice, and no unauthorized intervening person or other entity shall ~~control, screen, or otherwise manipulate~~ *change the content of the prescription drug order or have access to it compromise its confidentiality during the transmission process.*

[Filed 6/2/05, effective 7/27/05]

[Published 6/22/05]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 6/22/05.

ARC 4271B
PHARMACY EXAMINERS
BOARD[657]

Adopted and Filed

Pursuant to the authority of Iowa Code sections 124.301 and 147.76, the Board of Pharmacy Examiners hereby amends Chapter 22, "Unit Dose, Alternative Packaging, and Emergency Boxes," Iowa Administrative Code.

The amendments eliminate the list of drugs authorized to be included in an emergency drug supply provided by a pharmacy for a home health agency or hospice and provide that the pharmacy and the agency determine which drugs are to be included in the emergency drug supply.

Requests for waiver or variance of the discretionary provisions of these rules will be considered pursuant to 657—Chapter 34.

Notice of Intended Action was published in the March 16, 2005, Iowa Administrative Bulletin as **ARC 4049B**. The adopted amendments are identical to those published under Notice.

The amendments were approved during the April 20, 2005, meeting of the Board of Pharmacy Examiners.

These amendments will become effective on July 27, 2005.

These rules are intended to implement Iowa Code sections 124.301, 124.306, 155A.4, and 155A.13.

The following amendments are adopted.

ITEM 1. Amend rule 657—22.9(155A), introductory paragraph, as follows:

657—22.9(155A) Home health agency/hospice emergency drugs. Recognizing the emergency and unanticipated need for ~~certain legend~~ drugs to be available to qualified individuals authorized to administer drugs and employed by a home health agency or hospice, an Iowa-licensed pharmacy may provide ~~certain drugs~~ *an emergency drug supply* pursuant to this rule. Such qualified individuals may carry the emergency drug supply. An inpatient hospice facility may have an emergency drug supply provided by an Iowa-licensed pharmacy pursuant to rule 22.7(124,155A), which supply may be maintained within the facility.

ITEM 2. Amend subrule 22.9(2) as follows:

22.9(2) Ownership retained. The ~~legend~~ drugs included in this emergency supply shall remain the property of and under the responsibility of the Iowa-licensed provider pharmacy.

a. The pharmacist shall ensure that each portable container of emergency drugs is sealed in such a manner that a tamperproof seal must be broken to gain access to the drugs.

b. Each portable container of emergency drugs shall be labeled on the outside of the container with a list of the contents and the earliest expiration date.

ITEM 3. Amend subrule 22.9(4) as follows:

22.9(4) Records. All records of drugs administered from the emergency supply shall be maintained as required by law. *If a container of an injectable product is opened and partially used, any unused portion shall be immediately discarded and appropriately documented.*

ITEM 4. Rescind subrule 22.9(5) and adopt the following **new** subrule in lieu thereof:

22.9(5) Drugs included. The provider pharmacist and the director of the home health agency or hospice, or their respective designees, shall jointly determine a list of drugs necessary for prompt use in the care of patients served by the home health agency or hospice and that will be available in the emergency drug supply. Drugs shall be listed by identity and quantity and shall be periodically reviewed in accordance with policy.

[Filed 6/2/05, effective 7/27/05]

[Published 6/22/05]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 6/22/05.

ARC 4272B**PHARMACY EXAMINERS
BOARD[657]****Adopted and Filed**

Pursuant to the authority of Iowa Code section 155A.39, the Board of Pharmacy Examiners hereby amends Chapter 30, "Impaired Pharmacy Professional and Technician Recovery Program," Iowa Administrative Code.

New subrule 30.5(5) amends the requirements for recovery contract contents to include timely notification to the professional's or technician's employer if participation in the recovery program is due to illegal use, abuse, or diversion of drugs, including controlled substances. Other amendments modify program provider contract requirements regarding timely reporting to the Board of period program activities and expenditures.

Requests for waiver or variance of the discretionary provisions of these rules will be considered pursuant to 657—Chapter 34.

Notice of Intended Action was published in the March 16, 2005, Iowa Administrative Bulletin as **ARC 4050B**. The adopted amendments are identical to those published under Notice.

The amendments were approved during the April 20, 2005, meeting of the Board of Pharmacy Examiners.

These amendments will become effective on July 27, 2005.

These amendments are intended to implement Iowa Code section 155A.39.

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 [30.5(5), 30.6] is being omitted. These amendments are identical to those published under Notice as **ARC 4050B**, IAB 3/16/05.

[Filed 6/2/05, effective 7/27/05]
[Published 6/22/05]

[For replacement pages for IAC, see IAC Supplement 6/22/05.]

ARC 4277B**REVENUE DEPARTMENT[701]****Adopted and Filed**

Pursuant to the authority of Iowa Code chapter 17A and section 421.17(19), the Department of Revenue hereby amends Chapter 231, "Exemptions Primarily of Benefit to Consumers," and adopts new Chapter 240, "Rules Necessary to Implement the Streamlined Sales and Use Tax Agreement," Iowa Administrative Code.

Notice of Intended Action was published in IAB Volume XXVII, Number 22, page 1406, on April 27, 2005, as **ARC 4129B**.

The amendments and new chapter are necessary to bring Iowa into compliance with the Streamlined Sales and Use Tax Agreement to the extent that Iowa's petition for admission into membership as a party to the Agreement will be favorably acted upon and Iowa can then join the Agreement's Governing Board. The specific amendments involve a definition of "load and leave" delivery of media; the sales tax holiday; use of the lowest tax rate within the database; permissible categories of exemptions; a requirement of uniformity in the filing of returns and remittance of funds; allocation of bad debts; purchaser refund procedures; relief from liability for reliance on the Department's taxability matrix; effective dates of taxation rate increases or decreases when certain services are furnished; and the prospective application only of defining "retail sale" to include a lease or rental.

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

These amendments will become effective July 27, 2005, after filing with the Administrative Rules Coordinator and publication in the Iowa Administrative Bulletin.

These amendments are intended to implement Iowa Code chapter 423.

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 [231.14, 231.15; adopt Ch 240] is being omitted. These amendments are identical to those published under Notice as **ARC 4129B**, IAB 4/27/05.

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