



# IOWA ADMINISTRATIVE BULLETIN

Published Biweekly

VOLUME XXIX  
February 14, 2007

NUMBER 17  
Pages 1061 to 1104

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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.

KATHLEEN K. WEST, Administrative Code Editor  
STEPHANIE A. HOFF, Deputy Editor

Telephone: (515)281-3355  
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## Schedule for Rule Making 2007

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
<b>*Dec. 27 '06*</b>	Jan. 17 '07	Feb. 6 '07	Feb. 21 '07	Feb. 23 '07	Mar. 14 '07	Apr. 18 '07	July 16 '07
Jan. 12	Jan. 31	Feb. 20	Mar. 7	Mar. 9	Mar. 28	May 2	July 30
Jan. 26	Feb. 14	Mar. 6	Mar. 21	Mar. 23	Apr. 11	May 16	Aug. 13
Feb. 9	Feb. 28	Mar. 20	Apr. 4	Apr. 6	Apr. 25	May 30	Aug. 27
Feb. 23	Mar. 14	Apr. 3	Apr. 18	Apr. 20	May 9	June 13	Sept. 10
Mar. 9	Mar. 28	Apr. 17	May 2	May 4	May 23	June 27	Sept. 24
Mar. 23	Apr. 11	May 1	May 16	<b>***May 16***</b>	June 6	July 11	Oct. 8
Apr. 6	Apr. 25	May 15	May 30	June 1	June 20	July 25	Oct. 22
Apr. 20	May 9	May 29	June 13	June 15	July 4	Aug. 8	Nov. 5
May 4	May 23	June 12	June 27	<b>***June 27***</b>	July 18	Aug. 22	Nov. 19
<b>***May 16***</b>	June 6	June 26	July 11	July 13	Aug. 1	Sept. 5	Dec. 3
June 1	June 20	July 10	July 25	July 27	Aug. 15	Sept. 19	Dec. 17
June 15	July 4	July 24	Aug. 8	Aug. 10	Aug. 29	Oct. 3	Dec. 31
<b>***June 27***</b>	July 18	Aug. 7	Aug. 22	<b>***Aug. 22***</b>	Sept. 12	Oct. 17	Jan. 14 '08
July 13	Aug. 1	Aug. 21	Sept. 5	Sept. 7	Sept. 26	Oct. 31	Jan. 28 '08
July 27	Aug. 15	Sept. 4	Sept. 19	Sept. 21	Oct. 10	Nov. 14	Feb. 11 '08
Aug. 10	Aug. 29	Sept. 18	Oct. 3	Oct. 5	Oct. 24	Nov. 28	Feb. 25 '08
<b>***Aug. 22***</b>	Sept. 12	Oct. 2	Oct. 17	Oct. 19	Nov. 7	Dec. 12	Mar. 10 '08
Sept. 7	Sept. 26	Oct. 16	Oct. 31	Nov. 2	Nov. 21	Dec. 26	Mar. 24 '08
Sept. 21	Oct. 10	Oct. 30	Nov. 14	<b>***Nov. 14***</b>	Dec. 5	Jan. 9 '08	Apr. 7 '08
Oct. 5	Oct. 24	Nov. 13	Nov. 28	Nov. 30	Dec. 19	Jan. 23 '08	Apr. 21 '08
Oct. 19	Nov. 7	Nov. 27	Dec. 12	<b>***Dec. 12***</b>	Jan. 2 '08	Feb. 6 '08	May 5 '08
Nov. 2	Nov. 21	Dec. 11	Dec. 26	<b>***Dec. 26***</b>	Jan. 16 '08	Feb. 20 '08	May 19 '08
<b>***Nov. 14***</b>	Dec. 5	Dec. 25	Jan. 9 '08	Jan. 11 '08	Jan. 30 '08	Mar. 5 '08	June 2 '08
Nov. 30	Dec. 19	Jan. 8 '08	Jan. 23 '08	Jan. 25 '08	Feb. 13 '08	Mar. 19 '08	June 16 '08
<b>***Dec. 12***</b>	Jan. 2 '08	Jan. 22 '08	Feb. 6 '08	Feb. 8 '08	Feb. 27 '08	Apr. 2 '08	June 30 '08
<b>***Dec. 26***</b>	Jan. 16 '08	Feb. 5 '08	Feb. 20 '08	Feb. 22 '08	Mar. 12 '08	Apr. 16 '08	July 14 '08

### PRINTING SCHEDULE FOR IAB

<u>ISSUE NUMBER</u>	<u>SUBMISSION DEADLINE</u>	<u>ISSUE DATE</u>
19	Friday, February 23, 2007	March 14, 2007
20	Friday, March 9, 2007	March 28, 2007
21	Friday, March 23, 2007	April 11, 2007

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\*\*\***

## SUBSCRIPTION INFORMATION

### Iowa Administrative Code

The Iowa Administrative Code and Supplements are sold in complete sets by subscription. Supplement (replacement pages) subscriptions must be for the complete year and will expire on June 30 of each year. Prices for the Iowa Administrative Code and its Supplements are as follows:

**Iowa Administrative Code** – \$1,520

(Price includes complete set of rules and index, plus a one-year subscription to the Code Supplement and the Iowa Administrative Bulletin. Additional or replacement binders may be purchased for \$20.)

**Iowa Administrative Code Supplement** – \$510

### Iowa Administrative Bulletin

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

July 1, 2006, to June 30, 2007	\$328
October 1, 2006, to June 30, 2007	\$246
January 1, 2007, to June 30, 2007	\$164
April 1, 2007, to June 30, 2007	\$ 82

Single copies may be purchased for \$23.

All checks should be made payable to the Treasurer, State of Iowa, and mailed to:

Attn: Nicole Navara  
 Legislative Services Agency  
 Miller Building  
 Des Moines, IA 50319  
 Telephone: (515)281-6766

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### IOWA LAW, IOWA ADMINISTRATIVE RULES and IOWA COURT RULES on CD-ROM

For free brochures and order forms for 2006 IOWA LAW CD-ROM, contact Nicole Navara at the above address or at [nicole.navara@legis.state.ia.us](mailto:nicole.navara@legis.state.ia.us).

AGENCY	HEARING LOCATION	DATE AND TIME OF HEARING
<b>CORRECTIONS DEPARTMENT[201]</b>		
Organization and procedures, 1.1 to 1.8 IAB 2/14/07 <b>ARC 5707B</b>	First Floor Conference Room 510 E. 12th St. Des Moines, Iowa	March 6, 2007 1 to 3 p.m.
Visits to offenders, 20.2, 20.3, 20.5 IAB 2/14/07 <b>ARC 5708B</b>	First Floor Conference Room 510 E. 12th St. Des Moines, Iowa	March 6, 2007 1 to 3 p.m.
<b>ECONOMIC DEVELOPMENT, IOWA DEPARTMENT OF[261]</b>		
Contract administration; definition of "employee," 168.302, 168.401, 168.402 IAB 1/31/07 <b>ARC 5689B</b>	Northeast 2nd Floor Conf. Rm. 200 E. Grand Ave. Des Moines, Iowa	February 20, 2007 2 p.m.
<b>ENVIRONMENTAL PROTECTION COMMISSION[567]</b>		
Controlling pollution—permitting exemption, 22.1(2)"nn" IAB 1/31/07 <b>ARC 5694B</b>	Conference Rooms Air Quality Bureau 7900 Hickman Rd. Urbandale, Iowa	March 5, 2007 2 p.m.
Controlling pollution—regional haze regulations, 22.9 IAB 1/31/07 <b>ARC 5695B</b>	Conference Rooms Air Quality Bureau 7900 Hickman Rd. Urbandale, Iowa	March 2, 2007 10 a.m.
Ambient air quality—statewide standards, 28.1 IAB 1/31/07 <b>ARC 5692B</b>	Conference Rooms Air Quality Bureau 7900 Hickman Rd. Urbandale, Iowa	March 5, 2007 1 p.m.
Financial assurance for sanitary landfills, amendments to chs 103 to 106, 112, 114, 115, 118, 120 to 123 IAB 1/3/07 <b>ARC 5633B</b>	Fifth Floor West Conference Rm. Wallace State Office Bldg. Des Moines, Iowa	March 28, 2007 10 a.m. to 12 noon
<b>HISTORICAL DIVISION[223]</b>		
State historical society of Iowa, 21.2, 21.3 IAB 1/31/07 <b>ARC 5696B</b>	Tone Board Rm., 3rd Floor West Historical Building 600 E. Locust St. Des Moines, Iowa	February 20, 2007 10 a.m.
<b>HUMAN SERVICES DEPARTMENT[441]</b>		
Family-centered child welfare services, adopt ch 172; rescind chs 181, 182 IAB 1/31/07 <b>ARC 5699B</b>	Conference Room 102 City View Plaza 1200 University Ave. Des Moines, Iowa	February 21, 2007 8:30 a.m.

**HUMAN SERVICES DEPARTMENT[441] (Cont'd)**

1st Floor Board Room Scott Co. Administrative Ctr. 600 W. 4th St. Davenport, Iowa	February 21, 2007 9 to 10 a.m.
3rd Floor Conference Room Nesler Centre 799 Main St. Dubuque, Iowa	February 21, 2007 9:30 a.m.
Rm. 220, Pinecrest Office Bldg. 1407 Independence Ave. Waterloo, Iowa	February 21, 2007 10 a.m. to 12 noon
ICN Room Pottawattamie Co. DHS 417 E. Kanesville Blvd. Council Bluffs, Iowa	February 21, 2007 1 p.m.
Large Conference Room Johnson Co. DHS 911 N. Governor St. Iowa City, Iowa	February 22, 2007 1 p.m.
Conference Rm. A, 1st Floor Trosper-Hoyt Bldg. 822 Douglas St. Sioux City, Iowa	February 23, 2007 9 a.m.
Second Floor Conference Rm. Story Co. Human Services Bldg. 126 S. Kellogg St. Ames, Iowa	February 23, 2007 11 a.m. to 12 noon
Conference Room Wapello Co. DHS 120 E. Main St. Ottumwa, Iowa	February 23, 2007 11 a.m.

**INSURANCE DIVISION[191]**

Filing of insurance policy rates and forms, amendments to chs 5, 20, 30, 31, 34 to 37, 39 IAB 1/31/07 <b>ARC 5698B</b>	330 Maple St. Des Moines, Iowa	February 20, 2007 10 a.m.
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**PUBLIC HEALTH DEPARTMENT[641]**

Radiation, amendments to chs 38 to 42, 44, 46 IAB 1/31/07 <b>ARC 5682B</b>	4th Floor Conf. Rm 415, Side 2 Lucas State Office Bldg. Des Moines, Iowa	February 22, 2007 8 a.m.
Local public health services, chs 79, 80, 83 IAB 1/31/07 <b>ARC 5683B</b> (ICN Network)	Room 303 Miller State Office Bldg. East 12th and Grand Ave. Des Moines, Iowa	February 20, 2007 10 to 11 a.m.

**PUBLIC HEALTH DEPARTMENT[641]** (Cont'd)

	Rm. 13, Iowa Lakes Comm. College 2111 Hwy. 169 North Algona, Iowa	February 20, 2007 10 to 11 a.m.
	Rm. 7B, Information Technology Ctr. Buena Vista University – 2 610 W. 4th St. Storm Lake, Iowa	February 20, 2007 10 to 11 a.m.
	Matilda J. Gibson Memorial Library 200 W. Howard St. Creston, Iowa	February 20, 2007 10 to 11 a.m.
	Southern Prairie AEA 15-1 2814 N. Court St. Ottumwa, Iowa	February 20, 2007 10 to 11 a.m.
	Suite 400, DHS 411 3rd St. SE Cedar Rapids, Iowa	February 20, 2007 10 to 11 a.m.
	Heiserman Annex West Union Community Library 210 N. Vine St. West Union, Iowa	February 20, 2007 10 to 11 a.m.
Licensure standards for problem gambling treatment programs, ch 162 IAB 1/31/07 <b>ARC 5684B</b> (ICN Network)	ICN Conference Rm., 6th Floor Lucas State Office Bldg. 321 East 12th St. Des Moines, Iowa	February 20, 2007 9 to 11 a.m.
	Kelinson Rm., Information Ctr. Bettendorf Public Library 2950 Learning Campus Dr. Bettendorf, Iowa	February 20, 2007 9 to 11 a.m.
	Dept. of Human Services 417 E. Kanesville Blvd. Council Bluffs, Iowa	February 20, 2007 9 to 11 a.m.
	Fort Dodge Public Library 424 Central Ave. Fort Dodge, Iowa	February 20, 2007 9 to 11 a.m.
	West Delaware High School 701 New St. Manchester, Iowa	February 20, 2007 9 to 11 a.m.
	Rm. 106, Careers Building N. Iowa Area Comm. College – 1 500 College Dr. Mason City, Iowa	February 20, 2007 9 to 11 a.m.
	Sioux City Public Library 529 Pierce St. Sioux City, Iowa	February 20, 2007 9 to 11 a.m.
	Spencer Public Library 21 E. Third St. Spencer, Iowa	February 20, 2007 9 to 11 a.m.

**PUBLIC HEALTH DEPARTMENT[641] (Cont'd)**

Pinecrest Office Bldg. Dept. of Human Services 1407 Independence Ave. Waterloo, Iowa	February 20, 2007 9 to 11 a.m.
Rm. 331, Trustee Hall Southeastern Comm. College – 2 1500 W. Agency West Burlington, Iowa	February 20, 2007 9 to 11 a.m.

**RACING AND GAMING COMMISSION[491]**

General, 1.5(1), 4.4(4), 4.6(8), 5.4(14), 6.4(2), 10.4(17), 10.7, 11.4(4), 11.9(1), 12.14(7) IAB 2/14/07 <b>ARC 5705B</b>	Suite B 717 E. Court Des Moines, Iowa	March 6, 2007 9 a.m.
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**TRANSPORTATION DEPARTMENT[761]**

Interstate for-hire carriers, 529.1 IAB 2/14/07 <b>ARC 5715B</b>	DOT Conf. Rm., Park Fair Mall 100 Euclid Ave. Des Moines, Iowa	March 8, 2007 10 a.m. (If requested)
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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).

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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**ARC 5703B****ARCHITECTURAL EXAMINING BOARD[193B]****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 544A.29, the Architectural Examining Board hereby gives Notice of Intended Action to amend Chapter 4, “Rules of Conduct,” Iowa Administrative Code.

The amendment to Chapter 4 provides a registrant the opportunity to certify architectural documents with a “secure electronic” signature that meets the requirements of Iowa Code section 554D.103(14).

This amendment is subject to waiver or variance pursuant to 193—Chapter 5.

Consideration will be given to all written suggestions or comments on the proposed amendment received on or before March 6, 2007. Comments should be addressed to Glenda Loving, Architectural Examining Board, 1920 S.E. Hulsizer, Ankeny, Iowa 50021, or faxed to (515)281-7411. E-mail may be sent to [glenda.loving@iowa.gov](mailto:glenda.loving@iowa.gov).

This amendment is intended to implement Iowa Code chapters 17A and 544A and section 554D.103(14).

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.

Amend subrule **4.1(7)**, paragraph “e,” as follows:

e. The information requested in each information block must be typed or legibly printed in permanent ink or digital a secure electronic signature. *An electronic signature as defined in or governed by Iowa Code chapter 554D on each of- ficial copy, meets the signature requirements of this rule if it is protected by a security procedure, as defined in Iowa Code section 554D.103(14), such as digital signature technology. It is the licensee’s responsibility to ensure, prior to affixing an electronic signature to a technical submission, that security procedures are adequate to (1) verify that the signature is that of a specific person and (2) detect any changes that may be made or attempted after the signature of the specific person is affixed.* The seal implies responsibility for the entire technical submission unless the area of responsibility is clearly identified in the information accompanying the seal.

**NOTICE—CIVIL REPARATIONS TRUST FUND**

Pursuant to Iowa Administrative Code 361—subrule 12.2(1), the Executive Council gives Notice that the Civil Reparations Trust Fund balance as of December 31, 2006, is approximately \$2,300.00. Money in the Civil Reparations Trust Fund is available for use for indigent civil litigation

programs or insurance assistance programs. Application forms are available in the office of the State Treasurer by contacting GeorgAnna Madsen, Executive Secretary, State Capitol Room 114, Des Moines, Iowa 50319; telephone (515)281-5368. Applications must be filed on the thirtieth day after the date of publication of this Notice in the Iowa Administrative Bulletin, or on the thirtieth day after the date affixed to the Notice sent by first-class mail, whichever is later. Any person/company that would like to receive future notices should make request in writing to the above-mentioned contact. Rules regarding the Civil Reparations Trust Fund can be found at 361 IAC Chapter 12.

**ARC 5717B****COLLEGE STUDENT AID COMMISSION[283]****Notice of Intended Action**

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

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

Pursuant to the authority of Iowa Code section 261.3, the College Student Aid Commission proposes to amend Chapter 35, “Teacher Shortage Forgivable Loan Program,” Iowa Administrative Code.

The proposed amendment modifies the method by which the Commission selects recipients for assistance from the Teacher Shortage Forgivable Loan Program and revises and updates the language in Chapter 35.

Interested persons may submit comments orally or in writing by 4:30 p.m. on March 6, 2007, to the Executive Director, College Student Aid Commission, 200 Tenth Street, Fourth Floor, Des Moines, Iowa 50309; telephone (515)725-3400.

This amendment is intended to implement Iowa Code chapter 261.

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.

Amend **283—Chapter 35** as follows:

CHAPTER 35  
TEACHER SHORTAGE  
FORGIVABLE LOAN PROGRAM

**283—35.1(261) Teacher shortage forgivable loan program.** The teacher shortage forgivable loan program is a state-supported and administered forgivable loan program for Iowans enrolled as undergraduate or graduate students in designated teacher shortage areas as certified by the director of the Iowa department of education.

**35.1(1) Definitions.** As used in this chapter:

“Eligible institution” means an institution of higher learning located in Iowa under the control of the state board of regents or a North Central Association of Colleges and Schools (NCA) accredited independent institution as defined in Iowa Code section 261.9.

## COLLEGE STUDENT AID COMMISSION[283](cont'd)

"Iowa resident student" means an individual who meets the criteria used by the state board of regents to determine residency for tuition purposes, 681 IAC 1.4(262).

"Located in Iowa" means a college or university accredited by the Higher Learning Commission of the North Central Association of Colleges and Schools, that has made a substantial investment in a permanent Iowa campus and staff, and that offers a full range of courses leading to the degrees offered by the institution as well as a full range of student services.

"Practitioner" means an administrator, teacher, or other licensed professional who ~~does not hold or receive~~ holds a license from a professional licensing board other than the board of educational examiners and who provides educational assistance to students.

"Practitioner preparation program" means a program approved by the state board of education which prepares a person to obtain a license as a practitioner.

"Teacher" means a licensed member of a school's instructional staff who diagnoses, prescribes, evaluates, and directs student learning in a manner consistent with professional practice and school objectives, shares responsibility for the development of an instructional program and any coordinating activities, evaluates or assesses student progress before and after instruction, and uses student evaluation or assessment information to promote additional student learning.

**35.1(2)** Student eligibility.

a. No change.

b. The need of an applicant for assistance under this program shall be evaluated annually on the basis of a confidential statement of family finances filed on forms designated by the commission. *For the purposes of determining financial need, the commission has adopted the use of the Free Application for Federal Student Aid (FAFSA), a federal form used to calculate a formula developed by the U.S. Department of Education, the results of which are used to determine relative need.* The processing agent must receive the ~~form~~ FAFSA by the date specified in the application instructions. The student is responsible for making certain that both the commission and the institution in which the student is enrolling receive the results of ~~this evaluation~~ the FAFSA.

c. to e. No change.

**35.1(3)** Selection criteria. All applications received on or before the published deadline will be considered for funding. In the event that all *on-time* applicants for the program cannot be funded with the available appropriations, the following ~~selection~~ criteria will be used to select the recipients: renewal status, ~~date of application~~, *instructional shortage area, noninstructional shortage area, date available to begin teaching or working in noninstructional shortage area, and applicant's financial resources need, and date of application.*

**35.1(4)** Promissory note. Loan recipients shall sign promissory notes agreeing to teach in designated teacher shortage areas or the teacher shortage areas for which the loans were approved in Iowa for five years or to repay the loans and accrued interest according to repayment terms specified in the notes.

**35.1(5)** and **35.1(6)** No change.

**35.1(7)** Loan cancellations.

a. No change.

b. To certify eligibility for cancellation, the borrower must submit to the commission confirmation of employment in a designated teacher shortage area, or the teacher shortage area for which the loan was approved, in an Iowa school district or an accredited nonpublic school. The borrower's loan amount, including principal and interest, shall be reduced by 20 percent for each year of full-time teaching in a designated

teacher shortage area or the teacher shortage area for which the loan was approved. Borrowers will receive *prorated* loan cancellation for less-than-full-time shortage area teaching positions. ~~The Credit for part-time employment will be calculated as follows: percentage multiplied by 20 percent equals the percent of the loan forgiven for a given year. 20 percent forgiveness for 76 percent to 100 percent of full-time employment; 15 percent forgiveness for 51 percent to 75 percent of full-time employment; and 10 percent forgiveness for 26 percent to 50 percent of full-time employment.~~ Part-time employment will extend the five-year teaching requirement. Credit will not be given for substitute teaching assignments.

c. No change.

d. In the event of death or total and permanent disability, a borrower's obligation to pay this loan is canceled. Borrowers seeking forgiveness as the result of total or permanent disability must submit information substantiating the claim to the commission. ~~Reports of a borrower's death will be referred to the school district for confirmation. Cancellation as a result of a report of a borrower's death will be granted upon receipt of a death certificate.~~

e. Borrowers may not receive credit for teaching until they have ~~graduated from~~ completed the education program for which forgivable loan proceeds have been received.

**35.1(8)** to **35.1(10)** No change.

This rule is intended to implement Iowa Code section 261.111.

## ARC 5707B

### CORRECTIONS DEPARTMENT[201]

#### Notice of Intended Action

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

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

Pursuant to the authority of Iowa Code sections 904.105, 904.108 and 17A.3, the Department of Corrections hereby gives Notice of Intended Action to amend Chapter 1, "Departmental Organization and Procedures," Iowa Administrative Code.

The proposed amendments update the address of the Department of Corrections central office to reflect the recent move to the Capitol Complex and provide additional information on the organizational structure of the Department.

Any interested person may make written suggestions or comments on the proposed amendments on or before March 6, 2007. Such written material should be sent to the Department of Corrections, Legal and Policy Division, 510 E. 12th Street, Des Moines, Iowa 50319.

There will be a public hearing on March 6, 2007, from 1 to 3 p.m. in the First Floor Conference Room, Department of Corrections, 510 E. 12th Street, Des Moines, Iowa, at which time persons may present their views orally or in writing. At the hearing, persons will be asked to give their names and addresses for the record and to confine their remarks to the subject matter of the amendments.

Any persons who intend to attend the public hearing and have special requirements should contact the Department of Corrections and advise of specific needs.

CORRECTIONS DEPARTMENT[201](cont'd)

These amendments are intended to implement Iowa Code sections 904.101 to 904.108 and 17A.3.

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 201—Chapter 1, parenthetical implementation statutes, by striking "246" and inserting "904" in lieu thereof.

ITEM 2. Amend rule 201—1.1(904), definition of "deputy director," as follows:

"Deputy director" means the administrator who is appointed by the director and is responsible for an operational division within the department of corrections. The four five operational divisions are administration, ~~community services, institutions~~ eastern operations, western operations, offender services and prison industries.

ITEM 3. Amend rule 201—1.2(904) as follows:

**201—1.2(904) Function Mission and function.** The department of corrections is mandated by Iowa Code chapter 246 904 and consists of a policy board, a director and ~~four~~ five operational divisions.

*The mission of the department of corrections is to protect the public, the employees and the offenders.*

The department is charged with the operation of the state's

penal institutions, ~~four community judicial district department of~~ corrections programs, prison industries, and corrections administration. It is further charged with accreditation and funding of community-based corrections<sup>2</sup> programs, including, but not limited to pretrial release, presentence investigation, probation, parole, residential facilities, work release centers and other duties provided for by law.

ITEM 4. Amend rule 201—1.3(904) as follows:

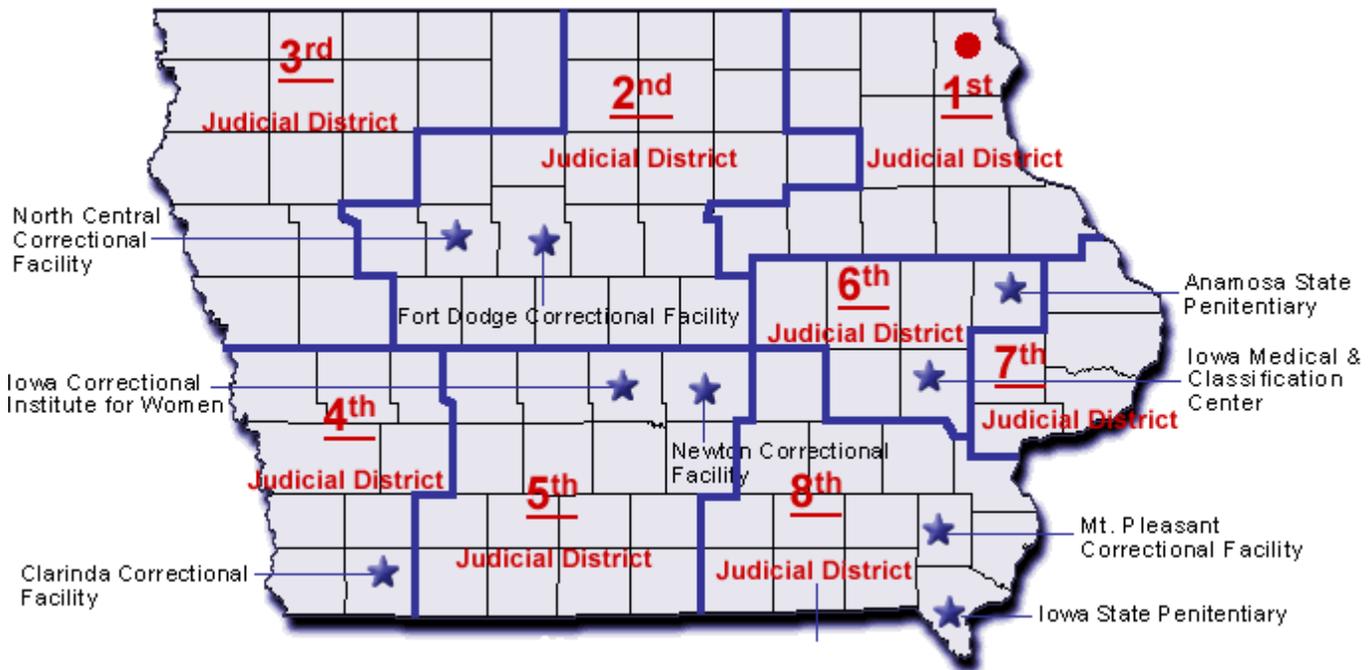
**201—1.3(904) Location Offices.**

**1.3(1) Central office.** The central office for the department of corrections is located in the Capitol Annex, 523 East 12th Street, Des Moines, Iowa 50319; phone (515) 281-4811. Jessie Parker State Office Building in the Capitol Complex in Des Moines. Its mailing address is the Department of Corrections, Jessie Parker State Office Building, 510 E. 12th Street, Des Moines, Iowa 50319; telephone (515)725-5702. Office hours are 8 a.m. to 4:30 p.m., Monday through Friday, excluding holidays.

**1.3(2) Division offices.** The central offices of the divisions of the department are also located in the Jessie Parker State Office Building.

**1.3(3) Contact information for correctional institutions and judicial district departments of correctional services and other offices located outside the principal headquarters is listed below and may also be found on the department's Web site, which is listed in rule 1.4(904). The following map provides a general overview of judicial district department of correctional services and correctional facility locations.**

Department of Corrections Institutions  
and  
Judicial District Departments of Correctional Services



Anamosa State Penitentiary  
406 North High Street, Box 10  
Anamosa, IA 52205  
(319)462-3504  
(319)462-4962 Fax

Iowa Medical and Classification Center  
Box A - Highway 965  
Oakdale, IA 52319  
(319)626-2391  
(319)626-2141 Fax

## CORRECTIONS DEPARTMENT[201](cont'd)

*Mt. Pleasant Correctional Facility*  
 1200 East Washington  
 Mt. Pleasant, IA 52641  
 (319)385-9511  
 (319)385-8828 Fax

*Newton Correctional Facility*  
 307 S. 60th Avenue W, P.O. Box 218  
 Newton, IA 50208  
 (641)792-7552  
 (641)791-1683 Fax

*North Central Correctional Facility*  
 313 Lanedale  
 Rockwell City, IA 50579  
 (712)297-7521  
 (712)297-7875 Fax

*Clarinda Correctional Facility*  
 2000 N. 16th Street, Box 1338  
 Clarinda, IA 51362  
 (712)542-5634/5635  
 (712)542-4844 Fax

*Second Judicial District, DCS*  
 510 Main Street, P.O. Box 623  
 Ames, IA 50010-0623  
 (515)232-1511  
 (515)232-9453 Fax

*Fourth Judicial District, DCS*  
 801 South Tenth Street  
 Council Bluffs, IA 51501  
 (712)325-4943  
 (712)325-0312 Fax

*Sixth Judicial District, DCS*  
 951 29th Ave. SW  
 Cedar Rapids, IA 52404  
 (319)398-3675  
 (319)398-3684 Fax

*Eighth Judicial District, DCS*  
 1805 West Jefferson, P.O. Box 1060  
 Fairfield, IA 52556-1060  
 (641)472-4242  
 (641)472-9966 Fax

*Iowa State Penitentiary*  
 31 Avenue G, Box 316  
 Fort Madison, IA 52627  
 (319)372-5432  
 (319)372-6967 Fax

*Fort Dodge Correctional Facility*  
 1550 L Street  
 Fort Dodge, IA 50501-5767  
 (515)574-4700  
 (515)574-4707 Fax

*Iowa Correctional Institution for Women*  
 300 Elm Ave. SW, P.O. Box 700  
 Mitchellville, IA 50169  
 (515)967-4236  
 (515)967-5347 Fax

*First Judicial District, DCS*  
 314 East Sixth Street, P.O. Box 4030  
 Waterloo, IA 50704-4030  
 (319)236-9626  
 (319)291-3947 Fax

*Third Judicial District, DCS*  
 515 Water Street  
 Sioux City, IA 51103  
 (712)252-0590  
 (712)252-0634 Fax

*Fifth Judicial District, DCS*  
 604 Locust Street, Equitable Bldg., Suite 317  
 Des Moines, IA 50309  
 (515)280-4220  
 (515)280-4259 Fax

*Seventh Judicial District, DCS*  
 605 Main Street, Box 2A  
 Davenport, IA 52803-5293  
 (563)322-7986  
 (563)324-2063 Fax

ITEM 5. Renumber rules **201—1.4(904)** to **201—1.6(904)** as **201—1.6(904)** to **201—1.8(904)** and adopt the following new rules:

**201—1.4(904) Internet Web site.** The department's Internet home page is located at <http://www.doc.state.ia.us>.

**201—1.5(904) Method by which and location where the public may obtain information or make submissions or reports.**

**1.5(1)** Persons wishing to obtain information from or report information to the department may contact any of the offices listed in rule 1.3(904) or found on the department's Web site.

**1.5(2)** Persons wishing to make submissions to the department may do so by delivering or forwarding information to the principal offices of the affected division or, if the subject

matter is relevant to a specific prison or judicial district department of correctional services, the nearest office as listed in rule 1.3(904) or found on the department's Web site.

ITEM 6. Amend renumbered rules 201—1.6(904) to 201—1.8(904) as follows:

**201—1.6(904) Board of corrections.** The director of the department has, by statute, the advice and counsel of the board of corrections. This seven-member board is appointed by the governor with confirmation by the senate, and its powers and duties are policymaking and advisory with respect to the services and programs operated by the department.

**1.6(1)** A quorum shall consist of two-thirds of the membership appointed and qualified to vote.

**1.6(2)** When a quorum is present, a position is carried by a majority of the qualified members of the board.

## CORRECTIONS DEPARTMENT[201](cont'd)

**1.6(3)** Copies of administrative rules and other materials considered are made a part of the minutes by reference.

**1.6(4)** Copies of the minutes are kept on file in the director's office.

**1.6(5)** At each meeting the board shall set the date and location of the next meeting.

a. Notice of the meetings shall be given pursuant to Iowa Code chapter 21.

b. When it is determined by the chairperson of the board that an emergency meeting is required, the communications media shall be notified as far in advance of the meeting as time allows. The nature of the emergency shall be stated in the minutes.

c. Persons wishing to appear before the board shall submit their request to the department office not less than ten days prior to the meeting. Presentations may be made at the discretion of the chair ~~chairperson~~ and only upon matters appearing on the agenda.

d. Persons wishing to submit written material should do so at least ten days in advance of the scheduled meeting to ~~assure~~ ensure board members have adequate time to receive and evaluate the material.

**1.6(6)** In cases not covered by these rules, Robert's Rules of Order shall govern.

**1.6(7)** The chairperson may appoint committees of the board as necessary to conduct the business of the board. Committee meetings shall comply with Iowa Code chapter 21.

**1.6(8)** The board shall:

a. Oversee the work of the department and, for this purpose, it shall have access at any time to all books, papers, documents and records of the department.

b. Report to the governor and the general assembly recommendations regarding the activities of the department when necessary.

**201—1.7(904) Director.** The governor appoints the director of the department of corrections. The director is responsible for the daily administration of the department. The operations are performed by ~~four~~ five divisions consisting of *eastern operations, western operations, administration, prison industries and offender services*. The deputy directors of these divisions report to the director of the department.

*In addition to the deputy directors, the general counsel/inspector general, the director of media and public relations, and the director of training and professional development report to the director of the department.*

**1.7(1)** The appointment and qualifications of the director are mandated in Iowa Code section ~~246.107~~ 904.107.

**1.7(2)** Duties of the director are prescribed in Iowa Code section ~~246.108~~ 904.108.

**1.7(3)** The director shall have the authority to place on notice, intended administrative action, pursuant to Iowa Code chapter 17A by approval of the board of corrections. A report listing all rules placed under notice during the previous month shall be submitted to the board of corrections at its regular meeting for review. The board of corrections shall review and shall adopt rules following the period of public comment.

**201—1.8(904) Organization of the department.**

**1.8(1)** ~~The two regional deputy director of the division of institutions shall be directors for institutions/community-based corrections~~ are responsible for the following institutions and facilities which are generally described herein. These descriptions are in no way binding on the director's authority to transfer inmates offenders between institutions.

a. *Regional deputy director for eastern operations:*

~~a. (1) The Iowa state penitentiary, Fort Madison, which is classified as a maximum security facility.~~

~~(1) 1. John Bennett facility, Fort Madison, which is classified as a medium security facility.~~

~~(2) 2. Prison farms, Fort Madison, which are classified as minimum security facilities.~~

~~3. Clinical care unit, which is a special needs unit.~~

~~b. (2) The Iowa state men's reformatory Anamosa state penitentiary, Anamosa, which is classified as a medium security facility.~~

~~(1) 1. Luster Heights camp, Harpers Ferry, which is a conservation commission camp administered by the men's reformatory Anamosa state penitentiary at Anamosa and is classified as a minimum security facility.~~

~~(2) 2. Reserved.~~

~~c. (3) The Iowa correctional institution for women at Mitchellville is classified as a medium and minimum security facility. The Iowa medical and classification center, Oakdale.~~

~~d. (4) Mount Pleasant correctional facility, Mount Pleasant, is classified as a medium security facility.~~

~~e. The Clarinda correctional facility is classified as a medium security facility.~~

~~f. The north central correctional facility, Rockwell City, is classified as a minimum secured facility.~~

~~g. The Iowa medical and classification center, Oakdale, is classified as a maximum security facility for females and medium security facility for males.~~

~~h. The correctional release center, Newton, is classified as a minimum security facility.~~

~~(5) The first judicial district department of correctional services.~~

~~(6) The eighth judicial district department of correctional services.~~

~~(7) The sixth judicial district department of correctional services.~~

~~(8) The seventh judicial district department of correctional services.~~

*b. Regional deputy director for western operations:*

~~(1) The Iowa correctional institution for women at Mitchellville.~~

~~(2) The Clarinda correctional facility, Clarinda.~~

~~(3) The north central correctional facility, Rockwell City.~~

~~(4) The Newton correctional facility, Newton.~~

~~(5) The correctional release center, Newton.~~

~~(6) The Fort Dodge correctional facility, Fort Dodge.~~

~~(7) The second judicial district department of correctional services.~~

~~(8) The third judicial district department of correctional services.~~

~~(9) The fourth judicial district department of correctional services.~~

~~(10) The fifth judicial district department of correctional services.~~

**1.8(2)** ~~The two regional deputy director of the division of community corrections directors for institutions/community-based corrections:~~

a. Shall be responsible for the following service areas:

(1) Contracting with the eight judicial district departments of correctional services for work release centers.

(2) Contracting with the eight judicial district departments of correctional services for parole services.

~~(3) Interstate compact services.~~

~~(4) 3) Providing coordinated placement of work releasees and parolees with the district departments upon order of the Iowa board of parole.~~

## CORRECTIONS DEPARTMENT[201](cont'd)

~~(5) Jail inspection.~~

~~b. The two regional deputy director of community corrections directors for institutions/community-based corrections shall further provide assistance and support to the judicial district departments of correctional services and for periodic review and accreditation of these programs. The following services shall be provided in addition to parole and work release:~~

- ~~(1) Pretrial interviews.~~
- ~~(2) Pretrial supervision.~~
- ~~(3) Presentence investigation.~~
- ~~(4) Probation.~~
- ~~(5) Residential services.~~
- ~~(6) Community service sentencing.~~
- ~~(7) Rescinded, IAB 3/20/91.~~
- ~~(8) O.W.I. facilities.~~

**1.8(3)** The deputy director for the division of administration shall be responsible for the following:

- a. Budget development and control.
- b. Personnel and training.
- c. ~~The corrections training center, Mount Pleasant Accountable government oversight.~~
- d. Planning and development.
- e. General administrative support.
- f. Fiscal policy and procedures.
- g. ~~Evaluations and inspections~~ *Engineering.*
- h. Data processing.
- i. ~~Rescinded, IAB 3/20/91.~~

**1.8(4)** The deputy director for prison industries shall be responsible for the following:

- a. The manufacturing/service/purchasing operations.
- b. The activities and programs of the sales manager and territorial sales staff of Iowa prison industries.
- c. The budget, income and expense forecasts and financial recordkeeping *record keeping/reporting* required to operate Iowa prison industries as a self-supporting activity.
- d. *Private sector employment.*
- e. *Farms.*
- f. *Centralized canteen.*
- g. *State and federal surplus.*

**1.8(5)** The deputy director for offender services shall be responsible for the following:

- a. *Classification.*
- b. *Interstate compact.*
- c. *Offender records.*
- d. *Offender transfers.*
- e. *Program development.*
- f. *Substance abuse.*
- g. *Cognitive learning.*
- h. *Batterers' education.*
- i. *Sex offender treatment.*
- j. *Education.*
- k. *Preemployment.*

**1.8(6)** The general counsel/inspector general shall be responsible for the following:

- a. *Legal services.*
- b. *Coordination of court orders.*
- c. *Investigations.*
- d. *EEO/AA.*
- e. *Administrative law judges.*
- f. *Jail inspections.*
- g. *Policy.*

**1.8(7)** The director of media and public relations shall be responsible for the following:

- a. *Providing public information to constituency groups and the media.*

b. *Facilitating internal communications in the department.*

c. *Supervising the office of victims and restorative justice.*

**1.8(8)** The director of training and professional development shall be responsible for the following:

a. *Comprehensive oversight of the development, implementation and review of the department's agencywide staff development training.*

b. *Training policies/plans including implementation, curriculum approval, program/policy audit, and evaluation.*

ITEM 7. Amend **201—Chapter 1**, implementation clause, as follows:

These rules are intended to implement Iowa Code sections ~~246.101 to 246.108~~ *904.101 to 904.108.*

**ARC 5708B****CORRECTIONS DEPARTMENT[201]****Notice of Intended Action**

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

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

Pursuant to the authority of Iowa Code sections 904.108 and 904.512, the Department of Corrections hereby gives Notice of Intended Action to amend Chapter 20, “Institutions Administration,” Iowa Administrative Code.

These proposed amendments provide for a centralized visitor application and approval process within the Department, expand the number of allowable visitors, limit the types of allowable visitors for sex offenders, outline when a visitation exception may be granted, provide that attorneys and ministers need only complete one initial application to visit multiple offenders, and provide a centralized banking system for deposit of funds into offenders' accounts.

Any interested person may make written suggestions or comments on the proposed amendments on or before March 6, 2007. Such written material should be sent to the Department of Corrections, Legal and Policy Division, 510 E. 12th Street, Des Moines, Iowa 50319.

There will be a public hearing on March 6, 2007, from 1 to 3 p.m. in the First Floor Conference Room, Department of Corrections, 510 E. 12th Street, Des Moines, Iowa, at which time persons may present their views orally or in writing. At the hearing, persons will be asked to give their names and addresses for the record and to confine their remarks to the subject matter of the amendments.

Any person who intends to attend the public hearing and has special requirements should contact the Department and advise of specific needs.

These amendments are intended to implement Iowa Code section 904.512.

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.

## CORRECTIONS DEPARTMENT[201](cont'd)

ITEM 1. Amend rule **201—20.2(904)** by adding the following **new** definition:

“Department” means the Iowa department of corrections.

ITEM 2. Amend rule 201—20.3(904) as follows:

**201—20.3(904) Visits to offenders.** Visiting is a privilege which allows offenders to maintain and strengthen relationships with family members and friends. Though visits are encouraged, institutions’ space, ~~schedule~~ *schedules*, personnel constraints, treatment considerations, or other safety and security issues of the institutions and their operations may result in limiting the number and length of visits. Visitation is additionally governed by the provisions of department of corrections policy ~~IN-V-122 OP-MTV-04~~.

**20.3(1) Definitions.**

“Application” means a written application identifying the visitor and the visitor’s relationship to the offender.

“Background investigation” means ~~security the process by which central visiting authority staff may verify the accuracy of a visitor’s application for any reason.~~

“Central visiting authority” or “CVA” means ~~the department office that conducts the visitor application approval process.~~

“Extended family” means ~~the offender’s aunts, uncles, nieces, nephews, cousins, great-grandparents, great-grandchildren, and in-laws.~~

“Group” means ~~a family unit (e.g., aunt, uncle and minor nieces and nephews) residing at the same address.~~

“Immediate family” means an offender’s spouse, mother, father, sister, brother, child, grandparent, *grandchild* (when minors become adults, they will be required to complete the formal visiting application process), established legal guardian or other who acted in place of parents, and step- or half-relation if the step- or half-relation and the offender were raised as cohabiting siblings.

“Offender” means ~~a person who has been committed to the custody of the department of corrections or to a judicial district department of correctional services.~~ “Offender” also includes a “violation” as that term is defined in 20.18(2).

“Personal search” means a pat-down search on top of the visitor’s clothes or a ~~the~~ nonintrusive use of an electronic search process.

“Visiting list” means the screened list of approved visitors with authorized visiting privileges at all department of corrections institutions.

**20.3(2) Schedule.** Each department of corrections institution will structure a visiting schedule allowing visitation for a minimum of four days per week. Each institution’s visiting room will be open a minimum of four hours on each authorized day of visiting. The warden/superintendent will designate the time for visiting on certain days/holidays and advise the offenders. The offender is responsible for informing the visitor of the days and hours for visitation.

**20.3(3) Authorized visitors.**

a. ~~Each institution~~ *The central visiting authority* will establish an approved visiting list for each offender. This visiting list remains valid when the offender is transferred to another institution.

b. To meet facility design limitations and security considerations, the visiting list shall be limited to the following individuals:

a. (1) Immediate family members. ~~The offender’s immediate family members may be included on the list without a background investigation unless one is required for security purposes.~~

b. (2) ~~Two other visitors.~~ *A total of four other individuals or groups who are the offender’s friends or extended family members.* ~~The offender’s relatives other than immediate family may be included on the list and allowed to visit if visiting space is available. Relatives of the offender other than immediate family may be subject to a background investigation. Friends of the offender may be included on the list. All friends of the offender will be subject to a background investigation conducted by law enforcement officials.~~

e. (3) Minor children under the immediate supervision of their parent or legal guardian. *The minor children of an offender shall also be allowed to visit under the immediate supervision of any adult on the offender’s approved visiting list.*

d.c. ~~Limitations~~ *Limitation.* An individual on the approved visiting list of one offender shall not be on the approved visiting list of another offender ~~unless approved by the warden/superintendent or designee of each affected institution, jurisdiction, or sovereign.~~ *The warden/superintendent or designee may make exceptions only for a visitor who is an immediate family member of more than one offender, regardless of the location(s) of the offenders. An exception may only be granted pursuant to 20.3(5)“b.”*

~~A person working in any institution as a volunteer shall not be on an offender’s visiting list, except with the permission of the warden/superintendent or designee.~~

**20.3(4) Nonauthorized visitors.**

a. The following persons shall not be authorized to visit without prior approval of the warden/superintendent or designee:

a. ~~Individuals discharged from a correctional institution, from parole or from probation within the last six months. Noncontact visiting may be authorized for an offender’s spouse or child who has been discharged from a correctional institution, from parole or from probation within the last six months.~~

b. (1) Individuals whose behavior represents a control problem or is counterproductive to stable offender behavior. This *determination* may be reflected in the background investigation report which shows that the individual has a record of carrying concealed weapons, use of a controlled substance, previous violation of institutional rules, or similar behavior.

e. (2) Individuals under criminal indictment.

d. (3) Individuals on probation, work release, or parole.

e. (4) Individuals found to be involved with or convicted of incidents of aiding an escape or introducing contraband in any detention or supervised correctional setting.

f. (5) Individuals who intentionally give false information on the visitor’s application form.

g. (6) Individuals convicted of a felony.

h. (7) ~~Persons~~ *Individuals* who may compromise the order and security of the institution.

i. ~~Current and former employees, volunteers or ex-volunteers, and individuals who currently are providing, or have previously provided, contract services to the department of corrections or a judicial district within the last six months.~~

j. ~~Former department of corrections employees of this or other federal, state, or local jurisdiction or volunteers who have left employment voluntarily or been terminated as a result of accusation or investigation for misconduct within the last six months shall not be allowed to visit at the facility where they were employed or volunteered.~~

b. *A person working in any institution as a volunteer shall not be on an offender’s visiting list except with the permission of the warden/superintendent or designee.*

## CORRECTIONS DEPARTMENT[201](cont'd)

k c. Neither a victim of a sex offense, whether registered or not, nor the victim's family members will be approved for the visiting list of the perpetrator in the victim's case until department staff consult with the victim and restorative justice administrator of the department. Visitation requests from victims shall be considered only when the offender has successfully completed all recommended treatment programs of the department or board of parole. If the victim's or victim's family member's visitation request is denied, the victim or victim's family member may file an appeal pursuant to 20.3(6)"d."

d. A sex offender whose victim was a minor shall not be permitted to have any children on the offender's visiting list until the offender has completed the sex offender treatment program. After the offender's completion of the treatment program, a minor victim of the offender may be added to the offender's visiting list only with the approval of the institutional treatment team and the victim and restorative justice administrator of the department. Other children may be added to the offender's visiting list after the offender's completion of the treatment program and approval of the institutional treatment team.

e. An application from a victim of a crime other than a sex offense who seeks to be added to the visiting list of the perpetrator in the victim's case shall be reviewed with the victim and restorative justice administrator of the department prior to any approval or denial.

**20.3(5) Exceptions.** The following exceptions may be implemented by the central visiting authority upon the approval of the warden/superintendent or designee.

a. The offender's spouse, child, mother or father who is currently under department supervision or on probation, work release, or parole may be approved to visit the offender by the warden/superintendent or designee after consultation with the supervising parole/probation officer. The warden/superintendent or designee may authorize either contact or noncontact visiting.

b. The warden/superintendent or designee may grant an exception to the limitation in 20.3(3)"c" when the person is an immediate family member of more than one offender and seeks to be added only to the visiting lists of those offenders.

c. A former or current department employee or volunteer who is a member of an offender's immediate family may be approved to visit the offender by the warden/superintendent or designee.

d. A former department employee or volunteer who is not an immediate family member of an offender may be allowed to visit six months after leaving employment or ceasing volunteer service if the former employee or volunteer passes the normal background investigation, there are no security issues arising from the person's prior employment or volunteer service, and the CVA receives approval from the warden/superintendent or designee.

e. An offender who is an immediate family member discharged from prison without correctional supervision must wait six months before contact visits may be arranged. Non-contact visiting may be authorized only for the spouse, child, mother or father of an offender.

**20.3(6) Application process.**

a. Visitor application forms shall be provided to offenders at each institution. Offenders are responsible for mailing visitor application forms to prospective visitors. The completed visitor application form must be sent for processing to the central visiting authority at the following address: Mt. Pleasant Correctional Facility, Attn: Central Records, 1200 E. Washington, Mt. Pleasant, Iowa 52641.

b. All adults, including the offender's own children if they are 18 years of age or older, must complete the visitor application process in order to be considered for inclusion on an offender's visiting list.

**20.3(5) c.** Written notification. Written notification of denial of a visitor application will be given to both the offender and the applicant within 30 days from the CVA's receipt of the application to be on a visiting list. Notification of approval of a visitor application will be given only to the offender. The offender is responsible for notifying the approved visitor.

a. ~~When approved, visitors will be subject to the following conditions:~~

~~(1) Visitors are subject to a search;~~

~~(2) The search may include a pat down, search by an electronic detection device, or visual search.~~

b d. Appeals. When an application is denied, the applicant and the offender shall be apprised of the reasons for denial.

(1) Applicants may appeal to the warden/superintendent or designee in writing. An appeal by an applicant who is the victim of a sex offense, or who is the victim's family member, and is seeking to visit the perpetrator of the crime shall be reviewed in consultation with the department sex offender treatment director or the institution's treatment director for the moderate intensity family violence prevention program.

(2) The decision of the warden/superintendent or designee may be appealed to the director of the department of corrections or the director's designee. The decision of the director or the director's designee constitutes final agency action.

**20.3(7) Removal from visiting list.** If an offender wishes to have a visitor removed from the offender's visiting list, the offender shall complete the Removal of Visitor form contained in department policy OP-MTV-04 and send it to the central visiting authority. Upon receipt of the removal request, the central visiting authority shall respond to the request within seven business days and send a copy of the removal form to the offender. Once a visitor has been removed from a visiting list, six months must elapse before reapplication by the removed visitor.

**20.3(8) Searches.** Approved visitors shall be subject to search. In accordance with 20.3(14), the search may include a pat down, search by an electronic detection device, or visual search.

**20.3(6 9) Identification.** All visitors shall present proper identification upon entrance to the institution. Photo identification is preferred, but all any identification presented shall identify personal characteristics, such as color of hair and eyes, height, weight, and birth date.

a. Signature cards may be required from visitors.

b. All visitors may be required to be photographed for future identification purposes only.

**20.3(7 10) Special visitors.**

a. Law enforcement. ~~Attorneys, division~~ Division of criminal investigation agents, Federal Bureau of Investigation agents, and law enforcement officials shall present proof of identity upon entrance to the institution. ~~The offender must express a desire to visit an attorney before the attorney will be admitted. Attorney visits shall be during normal visiting hours unless a special visit has been requested by the offender and approved by the warden/superintendent or designee prior to the visit.~~

b. Attorneys. Attorneys must complete an initial visitor application form to visit an offender; however, this initial application shall apply to multiple visiting lists. After initial approval is established, attorneys must contact the central

## CORRECTIONS DEPARTMENT[201](cont'd)

visiting authority at (319)385-9511 to be added to the visiting lists of additional offenders. Background checks are not required, and attorneys shall not be counted as a friend on an offender's visiting list as set forth in 20.3(3)"b."

Attorneys shall present proof of identity upon entrance to the institution. The offender must express a desire to visit with an attorney before the attorney will be admitted. Attorney visits shall be during normal visiting hours unless a special visit has been requested by the offender and approved by the warden/superintendent or designee prior to the visit.

An attorney testing positive by an electronic detection device may be required to visit without direct contact.

**20.3(8) c. Ministers.** Ministers must complete an initial visitor application form to visit an offender; however, this initial application shall apply to multiple visiting lists. After initial approval is established, ministers must contact the central visiting authority at (319)385-9511 to be added to the visiting lists of additional offenders. Background checks are required. Ministers shall not be counted as a friend on an offender's visiting list as set forth in 20.3(3)"b."

Ministers shall present proof of identity upon entrance to the institution. The offender must express a desire to visit a minister before the minister will be admitted. Minister visits shall be during normal visiting hours unless a special visit has been requested by the offender and approved by the warden/superintendent or designee prior to the visit.

A minister testing positive by an electronic detection device may be required to visit without direct contact.

**20.3(9 II) Termination of visits visiting privileges.** Individuals may have visiting privileges modified or terminated when:

a. The offender or visitor engages in behavior that may in any way be disruptive to the order and control of the institution.

b. The visitor or offender fails to follow the established rules and procedures of the institution.

c. The visitor and offender directly exchange or attempt to exchange any object or article. This restriction does not apply to purchases from the canteen or visiting room vending machines that are consumed during the visit.

d. The visitor tests positive for drugs or explosives using as determined by an authorized electronic detection device calibrated and operated for testing for the presence of drugs or other contraband.

e. The visit or future visiting is detrimental to the health or welfare of the offender or visitor.

f. The visitor does not supervise the visitor's children to prevent them from interfering with or disrupting other visits.

Offenders may request reconsideration of denied visitors six months after resolution of the reason for denial or when approved by the warden/superintendent or designee or regional deputy director.

**20.3(10 12) Noncontact visiting.** The warden/superintendent or designee may allow noncontact visits when the order or security of the institution may be threatened or when disciplinary rules or procedures have been violated. Noncontact visiting hours will be provided on a scheduled basis. The hours and days will be posted by the warden/superintendent or designee, and notice will be posted at least one week prior to any change. Visitors on the noncontact list at the time of a schedule change will be notified of the schedule change by regular mail sent to the last-known address.

~~**20.3(11) Minors.** Minors shall visit only in conjunction with their parent or legal guardian.~~

**20.3(12 13) Clothing.** Visitors shall be properly attired prior to entering a correctional setting. All visitors shall wear

shoes. Visitors wearing miniskirts, shorts, muscle shirts, see-through clothing or halter tops will not be allowed to visit. Visitors wearing clothing with slogans, pictures, or words intended to deprecate race, sex, or cultural values will not be allowed entry. Visitors may be required to remove for the duration of the visit outerwear such as, but not limited to, coats, hats, gloves, or sunglasses. A medical need for sunglasses must be verified by prescription.

**20.3(13 14) Security procedures.** Visitors may be requested to submit to a personal search (pat down) or an electronic search for weapons or contraband. "Personal search" means a pat-down search on top of the visitor's clothes or a the nonintrusive use of an electronic search process. If the initial electronic test confirms the presence of a controlled substance, the visitor will be given a second confirmation test. When the electronic detection device alarm is activated, the visitor shall produce the item that set off the alarm or a personal search may be made to find the item. If the visitor refuses to submit to a search, access to visiting shall be denied and entrance shall be denied. All searches shall be conducted in a courteous manner to respect the visitor's privacy. Minors are subject to personal and electronic searches. When a visitor accompanied by a minor refuses to leave the minor with a staff person and does not want the minor present during the search, the visit will be denied. When a minor is searched, the supervising adult shall be present in the room at all times.

a. The warden/superintendent or designee will maintain records of all searches which produce positive results, including the name of each person subjected to a search, the names of the persons conducting and in attendance at the search, and the time, date, and place of the search. The written record shall reflect the reason for the search and the results of the search. The written authorization for the search shall be included in the record. Testing records will be maintained by the institution for one year and then expunged. Records of positive tests will be maintained for five years and then expunged. All testing records are confidential and will be released only when ordered by upon the order of a court of proper jurisdiction.

b. When a visitor tests positive by an electronic search device, the visitor may appeal to the warden/superintendent or designee in writing. The decision of the warden/superintendent or designee may be appealed to the director of the department of corrections or the director's designee. The decision of the director or the director's designee constitutes final agency action.

c. Staff may request that local law enforcement search visitors if search procedures or an electronic testing device shows that there is a clear, reliable reason to believe a particular visitor is attempting to smuggle contraband into the facility. If the search reveals drugs or illegal contraband, the item shall be confiscated and preserved by local law enforcement. Visitors found in possession of contraband shall be referred by local law enforcement to the county attorney for prosecution.

d. Facilities will establish procedures for personnel selection and training of search personnel. Operators will be trained in accordance with manufacturer's standards, which require 16 hours of initial certification and 4 hours of annual training thereafter. Each facility will have at least two certified trainers of trainers.

**20.3(14 15) Sanctions.** Visitors testing positive or refusing to be tested by an electronic detection device will be restricted.

## CORRECTIONS DEPARTMENT[201](cont'd)

a. Testing positive. The following restrictions will apply to visitors testing positive:

(1) First occurrence. Visiting privileges will be suspended from the date and time of the test for the next 2 visiting days. Future visits may be restricted to noncontact status.

(2) Second occurrence. Visiting privileges will be suspended from the date and time of the test for the next 7 visiting days. Future visits may be restricted to noncontact status.

(3) Third occurrence. Visiting privileges will be suspended from the date and time of the test for the next 15 visiting days. Future visits may be restricted to noncontact status.

(4) Fourth occurrence. Visiting privileges will be suspended from the date and time of the test for the next 30 visiting days. In addition, the visitor will be placed on noncontact visiting status for 180 days from the date of the first eligible visit. If the visitor tests positive from this date forward, visiting privileges may be permanently restricted to noncontact status.

Upon request by the visitor, the warden/superintendent or designee may allow visits in noncontact status for the first, second, and third occurrence pending the receipt of laboratory reports for any visitor testing positive by an electronic detection device.

b. Refusing to be tested. Refusal to submit to a drug test by an electronic testing device will result in suspension of visiting privileges for 15 calendar days from the time of refusal.

c. *Written notification.* Written notice regarding visiting status or facility access will be presented or mailed within 5 working days to any individual (nonoffenders) testing who tests positive or who refuses consent to search. Such notice will include the duration of any restriction and procedures for reconsideration or reinstatement.

**20.3(15 16)** Money orders/cashier's and cashier's checks. Money orders/cashier's and cashier's checks for deposit in the offender's account may be left at the cashier's office during business hours or in accordance with rule 20.5(904) or as designated by the warden/superintendent or designee. Money orders/cashier's checks must be made payable to the warden/superintendent Iowa Department of Corrections Central Bank and sent to: Fort Dodge Correctional Facility, 1550 L Street, Suite B, Fort Dodge, Iowa 50501, and must include the offender's name and ID number and the sender's name and address. Personal checks and cash will not be accepted. Suspected abuse of money requests from the public by an offender may be cause for limits or restrictions on the amounts of money which can be received and from whom money can be received.

**20.3(16 17)** Limits. Each institution, according to its facilities and conditions, shall limit the number of visitors an offender may have at any one time and the length of visits.

**20.3(17 18)** Segregation status. Offenders who are assigned to special units such as disciplinary detention or administrative segregation status may have visits modified in regard to place, time, and visitor, depending on the staff and space available.

**20.3(18 19)** Abuse of visiting privileges. Visiting privileges may be modified, suspended, or terminated when abuses are evidenced or planned.

**20.3(19 20)** Special visits. The warden/superintendent or designee may permit special visits not otherwise provided for in this rule. These may include, but are not limited to, extended visits for close family members traveling extended distances, immediate visits for close relatives or friends about to leave the area, visits necessary to straighten out critical personal affairs, and other visits for similar reasons. All

these visits shall be at the sole discretion of the warden/superintendent or designee. When ruling on such visits, the warden/superintendent or designee shall consider appropriate factors including the uniqueness of the circumstances involved for both the offender and the visitor; security, order, and administrative needs of the institution; and available alternatives to a special visit. The decision of the warden/superintendent or designee in these cases constitutes final agency action.

**20.3(20 21)** Temporary modifications. Visiting procedures may be temporarily modified or suspended in the following circumstances: riot, disturbance, fire, labor dispute, space and personnel restrictions, natural disaster, or other emergency.

This rule is intended to implement Iowa Code section 904.512.

ITEM 3. Amend rule 201—20.5(904) as follows:

**201—20.5(904) Money orders/cashier's and cashier's checks for inmates offenders.** Money orders/cashier's and cashier's checks only will be accepted for deposit into an inmate's offender's account by mail or per 20.3(10). Money orders/cashier's and cashier's checks must be made payable to the warden Iowa Department of Corrections Central Bank and sent to: Fort Dodge Correctional Facility, 1550 L Street, Suite B, Fort Dodge, Iowa 50501, and must include the inmate's offender's name and ID number and the sender's name and address. Personal checks and cash will not be accepted. Suspected abuse of money requests from the public by an inmate offender may be cause for limits or restrictions on the amounts of money which can be received and from whom money can be received.

**ARC 5716B**

## HUMAN SERVICES DEPARTMENT[441]

### Notice of Intended Action

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

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

Pursuant to the authority of Iowa Code section 249A.4, the Department of Human Services proposes to amend Chapter 75, "Conditions of Eligibility," Chapter 76, "Application and Investigation," Chapter 80, "Procedure and Method of Payment," Chapter 88, "Managed Health Care Providers," and Chapter 92, "IowaCare," Iowa Administrative Code.

These amendments provide for issuing eligibility cards for Medicaid members annually rather than monthly. Historically, Medicaid eligibility was determined on a monthly basis; therefore, Medical Assistance eligibility cards have been issued to eligible members monthly. Eligibility is now reviewed annually for almost all Medicaid coverage groups and does not change as frequently as it did in the past. Individual state legislators have asked the Department to explore issuing eligibility cards annually.

Issuing an annual card rather than a monthly card will result in significant savings in postage, printing, and computer system time. Cards will be issued at the time of approval for new members and in January or February of each year for

## HUMAN SERVICES DEPARTMENT[441](cont'd)

current members. A lost, stolen, or damaged card will be replaced upon request. This process is consistent with that used by commercial market health plans and by the majority of states.

At the time of services, providers must confirm eligibility, identify any eligibility restrictions (such as a member who is "locked in" to designated providers, has a primary care physician, or is under managed care requirements), and ascertain whether a member has any other health insurance coverage. With improvements in technology, providers can confirm eligibility on the Department's secure Web site or by telephone through the Department's Eligibility Verification System (ELVS).

Annual cards will provide the following additional benefits:

- Currently, a delay in mail delivery or a change of address may cause a member not to receive the card until well past the first of the month. With an annual card, a member will not have to wait to receive the card for the current month before obtaining services.
- Currently, each household is issued one card that lists all members. With annual cards, each member will be issued an individual card. Therefore, an individual member will be able to access services more easily when the member is away from the rest of the household (e.g., a child who is visiting noncustodial parents, is away at school or on vacation, or is in an institution).
- Providers may copy the annual card for the member's medical file and check eligibility at the time of services rather than require the member to present the card at each visit.
- Nursing homes and other facilities will not need to track and file each member's eligibility card every month.

These amendments do not provide for waivers in specified situations because maintaining monthly cards for some individuals would be extremely burdensome and of no benefit to any identifiable group.

Any interested person may make written comments on the proposed amendments on or before March 7, 2007. Comments should be directed to Mary Ellen Imlau, Office of Policy Analysis, Department of Human Services, Hoover State Office Building, 1305 East Walnut Street, Des Moines, Iowa 50319-0114. Comments may be sent by fax to (515) 281-4980 or by E-mail to [policyanalysis@dhs.state.ia.us](mailto:policyanalysis@dhs.state.ia.us).

These amendments are intended to implement Iowa Code chapter 249A.

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 subparagraph **75.1(39)"b"(2)** as follows:

(2) Eligibility is contingent upon the payment of any assessed premiums. ~~A medical card~~ *Medical Assistance eligibility* shall not be ~~issued made effective~~ for a month until the premium for the month is received. The premium must be paid within three months of the month of ~~eligibility coverage~~ or of the month of initial billing, whichever is later, for the person to ~~receive a medical card~~ *be eligible for the month*.

ITEM 2. Amend rule **441—75.25(249A)** by adopting the following **new** definition in alphabetical order:

"Member" shall mean a person who has been determined eligible for medical assistance under rule 441—75.1(249A). "Member" may be used interchangeably with "recipient."

This definition does not apply to the phrase "household member."

ITEM 3. Amend rule 441—76.6(249A) as follows:

Amend the introductory paragraph as follows:

**441—76.6(249A) Certification for services.** The department of human services shall issue a Medical Assistance Eligibility Card (~~Fee-for-Service~~), Form 470-1911, to persons *who have been* determined to be eligible for the benefits provided under the Medicaid program unless one of the following situations exists:

Rescind subrules **76.6(1)** through **76.6(4)** and renumber subrule **76.6(5)** as **76.6(1)**.

Adopt the following **new** subrule 76.6(2):

**76.6(2) IowaCare.** A person who is enrolled in the IowaCare program shall be issued an IowaCare Medical Card, Form 470-4164.

ITEM 4. Amend rule 441—76.9(249A) as follows:

Amend the catchwords as follows:

**441—76.9(249A) Recipient Member lock-in.**

Amend subrule 76.9(2) as follows:

**76.9(2) Provider selection.** The ~~recipient member~~ may select the provider(s) from which services will be received. ~~The selection shall be made by using Form MA-4068, Designation of Primary Providers.~~ The designated providers will be identified on the ~~Medical Assistance Eligibility Card (Lock-in), Form 470-3348~~ *department's eligibility verification system (ELVS)*. Only prescriptions written or approved by the designated primary physician(s) will be reimbursed. Other providers of the restricted service will be reimbursed only under circumstances specified in subrule 76.9(3).

ITEM 5. Amend subrule 80.5(1) as follows:

**80.5(1) Identification cards.** ~~A medical identification card shall be issued to recipients~~ *The department shall issue Form 470-1911, Medical Assistance Eligibility Card, to members for use in securing medical and health services available under the program except as provided in 441—76.6(249A).*

~~a. The cards are issued by the department on a monthly basis and are~~ *shall issue the Medical Assistance Eligibility Card:*

(1) *When the member's eligibility is initially determined.*

(2) *Annually thereafter.*

(3) *Upon the member's request for replacement of a lost, stolen, or damaged card.*

~~b. The Medical Assistance Eligibility Card is valid only for the month of issuance~~ *months in which the member has established eligibility, as indicated on the department's eligibility verification system (ELVS).* Payment will be made for services provided to an ineligible ~~recipient person~~ when ~~verification establishes ELVS indicates that the recipient person was issued a medical identification card~~ *eligible for the month period in which the service was provided.*

ITEM 6. Amend subrule 88.5(1) as follows:

**88.5(1) Amount, duration, and scope of services.** Except as provided for in the contract, HMOs shall cover as a minimum all services covered by the Medicaid program as set forth in 441—Chapter 78.

a. ~~The recipient shall receive be issued Form 470-2213 470-1911, Medicaid Managed Health Care Medical Assistance Eligibility Card, which lists and information about those services not covered by the HMO.~~

b. To the maximum extent possible, the HMO shall make the enrolled recipients aware of alternate providers for services not covered by the HMO.

## HUMAN SERVICES DEPARTMENT[441](cont'd)

ITEM 7. Amend subrule 88.46(5) as follows:

**88.46(5)** Identification card. The department shall issue Form 470-2213 470-1911, Medical Assistance Eligibility Card (Managed Care), to all enrolled recipients. The card shall contain the following information:

a. ~~Name, case number and state identification number of the enrolled recipient.~~

b. ~~Name and 24-hour access telephone number of the managed health care provider.~~

c. ~~Services that do not require authorization from the managed health care provider.~~

Providers of medical service services shall ~~examine the card~~ access the department's eligibility verification system (ELVS) via telephone or access the department's secure Web site at the time of service in order to establish that the patient is Medicaid-eligible and whether the services being provided require the authorization of the patient manager.

ITEM 8. Amend subrules 88.63(2) and 88.63(6) as follows:

**88.63(2)** Members subject to enrollment. All Medicaid members shall be subject to mandatory enrollment in the Iowa Plan.

a. Members who are enrolled in the Iowa Plan are notified with a message on their medical card of enrollment and the effective date of the enrollment.

b. When a coverage group is included in or excluded from Iowa Plan enrollment, the department and the contractor shall jointly notify members and participating and non-participating Medicaid providers prior to before implementation of the change. The department shall implement a transition plan to ensure continuity of services to members.

**88.63(6)** Medical card. The department shall issue medical assistance eligibility cards Form 470-1911, Medical Assistance Eligibility Card, to all Medicaid members each member. The medical assistance eligibility card shall include information to identify the member as an Iowa Plan enrollee. Before delivering mental health or substance abuse services, the provider shall access the department's eligibility verification system (ELVS) to verify the member's enrollment in the Iowa Plan.

ITEM 9. Amend rule 441—92.6(249A,249J), introductory paragraph, as follows:

**441—92.6(249A,249J) Effective date.** The department shall issue Form 470-4164, IowaCare Medical Card, to persons determined to be eligible for enrolled in the IowaCare benefits program.

These amendments:

- Add a revised fee schedule that increases fees in smaller increments and makes the fee dependent on the number of children receiving assistance.

- Specify that depreciation is not an allowable deduction in the calculation of net self-employment income and that a net loss in self-employment income cannot be offset from other household income.

- Clarify the date when a reported change is effective.

- Remove a reference to suspended Family Investment Program benefits. Suspension has been eliminated by the change to prospective budgeting that became effective on January 1, 2007.

The State Child Care Advisory Council has recommended changes in the Child Care Assistance fee schedule to mitigate drastic changes in the amount of fees based on what could be a minor change in family income and to provide a more equitable cost of service for families with different numbers of children in care. Fees are charged for only one child per family. Under the current fee schedule, a family with one child in care is charged the same amount as a family with several children in care when the families' incomes are similar.

The proposed amendment to subrule 170.4(2) increases the number of income increments from 15 to 28. The increments represent smaller ranges of income and allow smaller increments in fee amounts. Three different fee amounts are specified at each income level: an amount for families with two children in care that is roughly equivalent to the current fee, a lower amount for families with one child in care, and a higher amount for families with three or more children in care.

These changes are intended to be cost-neutral for the state, but may result in families' paying higher or lower fees. The amendment specifies that the new fee schedule will be implemented in each department service area when that service area's cases are converted to the new computer system for child care data that is now in development.

Approximately three-fourths of the families receiving Child Care Assistance pay no fees, either because the family's income is below the federal poverty level or because the family's eligibility for assistance is determined without regard to income (e.g., Family Investment Program participants and families receiving protective child care). The State Child Care Advisory Council has recommended that the Department continue the policy of exempting families from paying fees when the family income is below the federal poverty level.

The change in treatment of self-employment income described in paragraph 170.2(1)"c" aligns Child Care Assistance policy with that of Medicaid, Food Assistance, and the Family Investment Program.

The clarification on when a change is effective is being proposed in response to administrative appeal decisions about the interpretation of subrule 170.2(4). The proposed amendment is structured to provide an incentive for timely reporting changes (within ten days of the change) by allowing the effective date of the resulting change in eligibility or fees to be retroactive to the date when the change occurred. For changes that are not timely reported, the effective date of the change in eligibility or fees shall be no earlier than the date when the change is reported.

These amendments do not provide for waivers in specified situations. Requests for the waiver of any rule may be submitted under the Department's general rule on exceptions at 441—1.8(17A,217).

Any interested person may make written comments on the proposed amendments on or before March 7, 2007. Com-

## ARC 5714B

### HUMAN SERVICES DEPARTMENT[441]

#### Notice of Intended Action

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

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

Pursuant to the authority of Iowa Code section 234.6, the Department of Human Services proposes to amend Chapter 170, "Child Care Services," Iowa Administrative Code.

HUMAN SERVICES DEPARTMENT[441](cont'd)

ments should be directed to Mary Ellen Imlau, Office of Policy Analysis, Department of Human Services, Hoover State Office Building, 1305 East Walnut Street, Des Moines, Iowa 50319-0114. Comments may be sent by fax to (515) 281-4980 or by E-mail to [policyanalysis@dhs.state.ia.us](mailto:policyanalysis@dhs.state.ia.us).

These amendments are intended to implement Iowa Code sections 237A.13 and 239B.24.

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 subparagraph **170.2(1)“c”(1)** as follows:

(1) Income considered shall include wages or salary, net ~~income~~ profit from farm or nonfarm self-employment, social security, dividends, interest, income from estates or trusts, net rental income and royalties, public assistance or welfare payments, pensions and annuities, unemployment compensation, workers' compensation, alimony, child support, and veterans pensions. *“Net profit from self-employment” means gross income less the costs of producing the income other than depreciation. A net loss in self-employment income cannot be offset from other earned or unearned income.*

ITEM 2. Amend subrule **170.2(4)** by adopting new paragraphs **“a”** and **“b”** as follows:

a. If the change is timely reported within ten calendar

days, the effective date of the change shall be the date when the change occurred.

b. If the change is not timely reported, the effective date of the change shall be the date when the change is reported to the department's local office or designee.

ITEM 3. Rescind and reserve subrule **170.3(5)**.

ITEM 4. Amend subrule 170.4(2) as follows:

Amend the introductory paragraph as follows:

**170.4(2) Fees.** Fees for services received shall be charged to clients according to the ~~schedule~~ *schedules* in this subrule, except that fees shall not be charged to clients receiving services without regard to income. ~~Nothing in these rules shall preclude a client from voluntarily contributing toward the costs of service.~~ *The fee is a per-unit charge that is applied to the child in the family who receives the largest number of units of service. The fee shall be charged for only one child in the family, regardless of how many children receive assistance.*

Amend paragraph **“a”** as follows:

Amend the introductory paragraph as follows:

a. Fee schedule. The fee schedule for child care services is shown in the following table is effective for each service area until the area is converted to the new child care computer system:

Rescind and reserve subparagraphs **(3)** and **(5)**.

Adopt new paragraph **“d”** as follows:

d. Sliding fee schedule. The fee schedule shown in the following table is effective for each service area when the area is converted to the new child care computer system:

Level	Monthly Income According to Family Size										Unit Fee Based on Number of Children in Care		
	1	2	3	4	5	6	7	8	9	10	1	2	3 or more
A	\$776	\$1,045	\$1,315	\$1,584	\$1,853	\$2,122	\$2,391	\$2,660	\$2,930	\$3,199	\$0.00	\$0.00	\$0.00
B	\$817	\$1,100	\$1,384	\$1,667	\$1,950	\$2,234	\$2,517	\$2,800	\$3,084	\$3,367	\$0.20	\$0.45	\$0.70
C	\$840	\$1,131	\$1,423	\$1,714	\$2,005	\$2,297	\$2,587	\$2,878	\$3,170	\$3,461	\$0.45	\$0.70	\$0.95
D	\$863	\$1,162	\$1,462	\$1,760	\$2,059	\$2,359	\$2,658	\$2,957	\$3,257	\$3,556	\$0.70	\$0.95	\$1.20
E	\$887	\$1,194	\$1,502	\$1,810	\$2,117	\$2,425	\$2,732	\$3,040	\$3,348	\$3,655	\$0.95	\$1.20	\$1.45
F	\$911	\$1,227	\$1,543	\$1,859	\$2,175	\$2,491	\$2,807	\$3,122	\$3,439	\$3,755	\$1.20	\$1.45	\$1.70
G	\$937	\$1,261	\$1,587	\$1,911	\$2,235	\$2,561	\$2,885	\$3,210	\$3,535	\$3,860	\$1.45	\$1.70	\$1.95
H	\$962	\$1,295	\$1,630	\$1,963	\$2,296	\$2,631	\$2,964	\$3,297	\$3,632	\$3,965	\$1.70	\$1.95	\$2.20
I	\$989	\$1,332	\$1,675	\$2,018	\$2,361	\$2,704	\$3,047	\$3,390	\$3,733	\$4,076	\$1.95	\$2.20	\$2.45
J	\$1,016	\$1,368	\$1,721	\$2,073	\$2,425	\$2,778	\$3,130	\$3,482	\$3,835	\$4,187	\$2.20	\$2.45	\$2.70
K	\$1,044	\$1,406	\$1,769	\$2,131	\$2,493	\$2,856	\$3,218	\$3,579	\$3,942	\$4,304	\$2.45	\$2.70	\$2.95
L	\$1,073	\$1,444	\$1,817	\$2,189	\$2,561	\$2,934	\$3,305	\$3,677	\$4,050	\$4,421	\$2.70	\$2.95	\$3.20
M	\$1,103	\$1,485	\$1,868	\$2,250	\$2,632	\$3,016	\$3,398	\$3,780	\$4,163	\$4,545	\$2.95	\$3.20	\$3.45
N	\$1,133	\$1,525	\$1,919	\$2,312	\$2,704	\$3,098	\$3,490	\$3,883	\$4,277	\$4,669	\$3.20	\$3.45	\$3.70
O	\$1,165	\$1,568	\$1,973	\$2,376	\$2,780	\$3,185	\$3,588	\$3,991	\$4,396	\$4,800	\$3.45	\$3.70	\$3.95
P	\$1,196	\$1,611	\$2,027	\$2,441	\$2,855	\$3,271	\$3,686	\$4,100	\$4,516	\$4,930	\$3.70	\$3.95	\$4.20
Q	\$1,230	\$1,656	\$2,083	\$2,509	\$2,935	\$3,363	\$3,789	\$4,215	\$4,643	\$5,069	\$3.95	\$4.20	\$4.45

HUMAN SERVICES DEPARTMENT[441](cont'd)

Level	Monthly Income According to Family Size										Unit Fee Based on Number of Children in Care		
	1	2	3	4	5	6	7	8	9	10	1	2	3 or more
R	\$1,263	\$1,701	\$2,140	\$2,578	\$3,015	\$3,455	\$3,892	\$4,330	\$4,769	\$5,207	\$4.20	\$4.45	\$4.70
S	\$1,299	\$1,749	\$2,200	\$2,650	\$3,100	\$3,551	\$4,001	\$4,451	\$4,903	\$5,352	\$4.45	\$4.70	\$4.95
T	\$1,334	\$1,796	\$2,260	\$2,722	\$3,184	\$3,648	\$4,110	\$4,572	\$5,036	\$5,498	\$4.70	\$4.95	\$5.20
U	\$1,371	\$1,847	\$2,323	\$2,798	\$3,273	\$3,750	\$4,225	\$4,700	\$5,177	\$5,652	\$4.95	\$5.20	\$5.45
V	\$1,409	\$1,897	\$2,387	\$2,875	\$3,363	\$3,852	\$4,340	\$4,828	\$5,318	\$5,806	\$5.20	\$5.45	\$5.70
W	\$1,448	\$1,950	\$2,453	\$2,955	\$3,457	\$3,960	\$4,462	\$4,964	\$5,467	\$5,969	\$5.45	\$5.70	\$5.95
X	\$1,488	\$2,003	\$2,520	\$3,036	\$3,551	\$4,068	\$4,583	\$5,099	\$5,616	\$6,131	\$5.70	\$5.95	\$6.20
Y	\$1,529	\$2,059	\$2,591	\$3,121	\$3,650	\$4,182	\$4,712	\$5,241	\$5,773	\$6,303	\$5.95	\$6.20	\$6.45
Z	\$1,571	\$2,115	\$2,661	\$3,206	\$3,750	\$4,296	\$4,840	\$5,384	\$5,930	\$6,475	\$6.20	\$6.45	\$6.70
AA	\$1,615	\$2,174	\$2,736	\$3,295	\$3,855	\$4,416	\$4,976	\$5,535	\$6,096	\$6,656	\$6.45	\$6.70	\$6.95
BB	\$1,659	\$2,234	\$2,810	\$3,385	\$3,960	\$4,536	\$5,111	\$5,686	\$6,262	\$6,837	\$6.70	\$6.95	\$7.20

To use the chart:

- (1) Find the family size used in determining income eligibility for service.
- (2) Move across the monthly income table to the column headed by that number. (See subparagraph (5) if the family has more than ten members.)
- (3) Move down the column for the applicable family size to the highest figure that is equal to or less than the family's gross monthly income. Income at or above that amount (but less than the amount in the next row) corresponds to the fees in the last three columns of that row.
- (4) Choose the fee that corresponds to the number of children in the family who receive child care assistance.
- (5) When a family has more than ten members, determine the income level by multiplying the figures in the four-member column for the rows closest to the family's income level by 0.03. Round the numbers to the nearest dollar and multiply by the number in the family in excess of ten. Add the results to the amounts in the ten-member column to determine the threshold amounts.

EXAMPLES:

1. Family 1 has two members, monthly income of \$1,075, and one child in care. Since the income is at or above the Level A amount but less than the Level B amount, Family 1 pays \$0.00 for each unit of child care service that the child receives.
2. Family 2 has three members, monthly income of \$1,400, and one child in care. Since the income is at or above the Level B amount but less than the Level C amount, Family 2 pays \$0.20 for each unit of child care service that the child receives.
3. Family 3 has three members, monthly income of \$1,400, and two children in care. The younger child receives ten units of child care service per week. The older child is school-aged and receives only five units of service per week. Since the income is at or above the Level B amount but less than the Level C amount, Family 3 pays \$0.45 for each unit of child care service that the younger child receives.

**ARC 5713B**

**INSPECTIONS AND APPEALS DEPARTMENT[481]**

**Notice of Intended Action**

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

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

Pursuant to the authority of Iowa Code sections 10A.104(5) and 135C.14, the Department of Inspections and Appeals hereby gives Notice of Intended Action to amend Chapter 60, "Minimum Physical Standards for Residential

Care Facilities," and Chapter 61, "Minimum Physical Standards for Nursing Facilities," Iowa Administrative Code.

The proposed amendments revise the rules pertaining to electrical requirements for residential care facilities and nursing facilities by striking a requirement that facilities with fire and water pumps have backup emergency electric service. Facilities attempting to upgrade their sprinkler systems during renovations or major new construction have indicated that installation of an emergency electric service (backup generator) is cost-prohibitive. Further, the Department has learned that Iowa is the only state that requires a fire pump to have an emergency backup generator. Most states simply adopt the requirements of the National Fire Protection Association (NFPA) Standard 20, which requires a fire pump to have a secondary source if the local utility or primary power source is deemed unreliable.

The Department has received several waiver requests from these rules within the past several months. As part of

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

the waiver request review process, the State Fire Marshal's office was consulted. The Department has been informed that neither 661—Chapter 205 nor the 2000 edition of the Life Safety Code requires emergency electric service to be provided for fire pumps.

According to the Continental Fire Sprinkler Company, most nursing facility fires start in a room where only four sprinkler heads are required to extinguish the fire, and a system without a fire pump has enough water pressure to activate the sprinkler system. Based on input from the Iowa Health Care Association, the State Fire Marshal's office, and the Continental Fire Sprinkler Company, the Department has determined that resident safety would not be compromised by the proposed amendments.

The Department does not believe that the proposed amendments pose a financial hardship on any regulated entities. Rather, adoption of the proposed amendments will minimize the financial burden for residential care facilities and nursing facilities contemplating major renovations or construction projects.

These amendments were presented to the State Board of Health at the Board's January 10, 2007, meeting, at which time they were initially reviewed.

Any interested person may make written suggestions or comments on the proposed amendments on or before March 6, 2007. Such written materials should be addressed to the Director, Department of Inspections and Appeals, Lucas State Office Building, Des Moines, Iowa 50319-0083; faxed to (515)242-6863; or E-mailed to [david.werning@dia.state.ia.us](mailto:david.werning@dia.state.ia.us).

These amendments are intended to implement Iowa Code sections 10A.104(5) and 135C.14.

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 subrule **60.12(6)**, paragraph “f,” as follows:

f. Emergency electric service shall be provided to the distribution system for equipment essential to life safety and for the protection of important equipment or vital materials as follows:

- (1) Call board; (III)
- (2) Alarm system, including fire alarm actuated at manual stations,; water flow alarm devices or sprinkler systems, where electrically operated,; fire detection and smoke-detecting systems,; paging or speaker systems where intended for issuing instructions during emergency conditions,; and alarms required for nonflammable medical gas systems, where installed; (III)
- ~~(3) Fire and water pumps, where installed; (III)~~
- (4) (3) Sewage and sump lift pump, where installed; (III)
- ~~(5) (4) All required duplex receptacles in resident corridors; (III)~~
- ~~(6) (5) One elevator; (III) (Exception 4)~~
- ~~(7) (6) Equipment, such as burners and pumps, necessary for operation of one or more boilers and their necessary auxiliaries and controls required for heating and sterilization; (III)~~
- (8) (7) Equipment necessary for maintaining telephone service. (III)

ITEM 2. Amend subrule **61.12(10)**, paragraph “e,” as follows:

e. Emergency electric service shall be provided to the distribution system for equipment essential to life safety and to protect vital equipment or materials as follows:

- (1) Call board; (III)
- (2) Alarm systems, including fire alarm activated at manual stations,; water flow alarm devices or sprinkler systems, where electrically operated,; fire detection and smoke detection systems,; paging or speaker systems intended for issuing instructions during emergency conditions,; and alarms required for nonflammable medical gas systems, where installed; (III)
- ~~(3) Fire and water pumps, where installed; (III)~~
- (4) (3) Sewage and sump lift pump, where installed; (III)
- ~~(5) (4) All required duplex receptacles in resident areas; (III)~~
- ~~(6) (5) One elevator, if required for emergency service; (III)~~
- ~~(7) (6) Burners and pumps necessary for operation of one or more boilers and their necessary auxiliaries and controls required for heating; (III) and~~
- ~~(8) (7) Equipment necessary for maintaining telephone service. (III)~~

**ARC 5712B****LANDSCAPE ARCHITECTURAL EXAMINING BOARD[193D]****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 544B.5, the Landscape Architectural Examining Board hereby gives Notice of Intended Action to amend Chapter 2, “Examinations and Licensing,” and Chapter 3, “Continuing Education,” Iowa Administrative Code.

Iowa has long been the only state that requires continuing education for landscape architects. As more states implement a continuing education requirement, the trend has been toward requiring 24 hours of continuing education per biennial renewal period. This requirement models the rules adopted by the Council of Landscape Architecture Registration Boards.

The proposed amendments to Chapter 2 change the number of hours of continuing education required for reinstatement from 18 hours to 12 hours for each year of lapsed registration. The proposed amendments to Chapter 3 change the number of hours of continuing education per biennial renewal period from 36 hours to 24 hours.

These amendments are subject to waiver pursuant to 193—Chapter 5.

Any interested party may make written or oral comments on the proposed amendments on or before March 6, 2007. Comments should be addressed to Glenda Loving, Landscape Architectural Examining Board, 1920 S.E. Hulsizer, Ankeny, Iowa 50021; telephone (515)281-7362; or fax (515) 281-7411. E-mail may be sent to [glenda.loving@iowa.gov](mailto:glenda.loving@iowa.gov).

These amendments are intended to implement Iowa Code chapters 17A, 272C and 544B.

## LANDSCAPE ARCHITECTURAL EXAMINING BOARD[193D](cont'd)

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 subrule **2.9(1)**, paragraph "**d**," as follows:

d. Submitting documented evidence of completion of ~~18 12~~ contact hours of continuing education (6 hours in public protection health, safety, welfare subjects) of continuing education for each year or portion of a year of expired registration in compliance with requirements in 193D—Chapter 3. The hours reported shall be in addition to the ~~36~~ 24 hours (~~12~~ hours in public protection health, safety, welfare subjects) which should have been reported on the June 30 renewal date at on which the registrant failed to renew. The continuing education hours used for reinstatement may not be used again at the next renewal.

ITEM 2. Amend subrule **2.9(2)**, paragraph "**d**," as follows:

d. Submitting documented evidence of completion of continuing education as determined by the board. The board shall require no more than ~~72~~ 48 hours (~~24~~ hours in public protection health, safety, welfare subjects); however, the hours reported shall not have been earned more than four years prior to the date of the application to reinstate.

ITEM 3. Amend rule **193D—3.1(544B,17A)** as follows:

Amend the following definition:

"~~Public protection subjects~~ Health, safety, welfare subjects" means technical and professional subjects which the board deems appropriate to safeguard directly the public's health, safety, and welfare. Such subjects include design, environmental systems, site design, land use analyses, landscape architecture programming, grading and drainage, storm water management, erosion control, site and soil analyses, accessibility, building codes, review of state registration laws including the rules of professional conduct, evaluation and selection of products and materials, cost analysis, construction methods, contract documentation, construction contract administration, construction administration, construction-phase office procedures, project management, and the like.

Rescind the definition of "related practice subjects."

ITEM 4. Amend rule 193D—3.2(544B,17A) as follows:

**193D—3.2(544B,17A) Continuing education requirements.** In order for professional landscape architects to provide competent, professional services to the public, continuing education shall consist of learning experiences that enhance, expand and keep current the skills, knowledge, and abilities of practicing professionals. Professional landscape architects may pursue learning experiences in technical, non-technical, regulatory, ethics and business practice areas, provided that the continuing education directly benefits the health, safety, or welfare of the public.

**3.2(1)** Hours required. Each registrant shall complete during each two-year licensing term a minimum of ~~36~~ 24 hours of continuing education approved by the board. Compliance with the continuing education requirement is a prerequisite for license renewal.

**3.2(2)** Within any biennial renewal period, during which ~~36~~ 24 contact hours must be acquired, at least ~~12~~ contact hours and shall be in public protection health, safety, welfare subjects acquired in structural educational activities. The

hours earned in self-study activities shall be limited to 6 hours, effective for the renewals that are due on June 30, 2008. (~~All 36 hours may be acquired in public protection subjects and activities.~~) Twenty-four hours may be in related practice subjects acquired through either individually planned activities or structured educational activities. Hours acquired in any 24-month renewal period may not be carried over to a subsequent 24-month renewal period. Continuing education hours need not be acquired in this state, but may be acquired in any location.

**3.2(3)** A professional landscape architect who holds a license in Iowa for less than 12 months from the date of initial licensure shall not be required to report continuing education at the first license renewal. A professional landscape architect who holds a license in Iowa for more than 12 months, but less than 24 months from the date of initial licensure, shall be required to report ~~18-12~~ contact hours in health, safety, welfare (including 6 hours in public protection subjects) earned in the preceding 12 months at the first license renewal.

**3.2(4)** Sources of continuing education. The following suggested list may be used by all licensees to determine the types of activities which may fulfill the continuing education requirements.

a. to c. No change.

d. *Presenting or instructing courses or seminars in landscape architecture.* Three preparation hours may be claimed for each class hour spent teaching landscape architectural courses or seminars. College or university faculty members may not claim credit for teaching regular curriculum courses.

e. No change.

f. Contact hours spent in landscape architectural research which is published or formally presented to the profession or public. *Credit may be claimed only following publication or presentation.*

g. Contact hours spent in landscape architectural self-study courses presented in written format or via the Internet, television, video, or audio, such as those sponsored by the American Society of Landscape Architects, CLARB, or similar organizations. *Courses must conclude with an examination or other verification of course completion. Self-study hours shall be limited to 6 hours earned in any biennial renewal period, effective for renewals that are due on June 30, 2008.*

h. No change.

i. Contact hours spent in educational tours or in areas significant in landscape architecture when the tour is sponsored by college, university or professional organizations and verification of participation is provided by the tour sponsor. Self-guided tours do not qualify.

j. *Contact hours spent attending in-house educational programs, including dinner, luncheon, and breakfast meetings.*

ITEM 5. Amend rule 193D—3.3(544B,17A) as follows:

**193D—3.3(544B,17A) Reporting and evidence.**

**3.3(1)** Each professional landscape architect shall file with the board a signed report, under penalty of perjury, on forms provided by the board or by on-line renewal, setting forth the continuing education activities in which the professional landscape architect has participated and shall request approval of the completed continuing education activities. The report shall be filed with the renewal application for each two-year renewal period in which the claimed continuing education hours were completed. The information report shall include:

1 a. School, firm or organization conducting the course.

## LANDSCAPE ARCHITECTURAL EXAMINING BOARD[193D](cont'd)

- 2 b. Location of the course.
- 3 c. Title of the course and description of the content.
- 4 d. Principal instructor(s).
- 5 e. Dates attended.
- 6 f. Hours claimed.

**3.3(2)** Professional A professional landscape architects' architect's continuing education report forms or on-line renewal may be selected for review by the board for verification of compliance with these requirements. Evidence of compliance shall be maintained by the professional landscape architect for two years after the period for which the form was submitted and shall include written verification of attendance by someone other than the licensee. Examples of evidence may include, but are not limited to, a certificate of completion presented by the program sponsor, or a letter from an employer verifying attendance at an in-firm training session, or copies of minutes from public service meetings. Canceled checks or receipts for payments of fees to attend a program are not evidence of actual attendance and are not acceptable.

**3.3(3)** If the board disallows any continuing education hours, unless the board finds, following notice and hearing, that the professional landscape architect willfully disregarded continuing education requirements, then the professional landscape architect shall have six months from notice of such disallowance to make up the deficiency by acquiring the required number of contact hours. Such hours shall not again be used for the next renewal.

## ARC 5705B

### RACING AND GAMING COMMISSION[491]

#### 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 99D.7 and 99F.4, the Racing and Gaming Commission hereby gives Notice of Intended Action to amend Chapter 1, "Organization and Operation," Chapter 4, "Contested Cases and Other Proceedings," Chapter 5, "Track and Excursion Gambling Boat Licensees' Responsibilities," Chapter 6, "Occupational and Vendor Licensing," Chapter 10, "Thoroughbred and Quarter Horse Racing," Chapter 11, "Gambling Games," and Chapter 12, "Accounting and Cash Control," Iowa Administrative Code.

Item 1 increases the upfront investigative fee that an applicant for initial licensure must remit to the Department of Public Safety.

Item 2 allows a gaming representative to revoke the license of a person who refuses to take a drug test.

Item 3 allows the stewards to enter into an informal settlement with a licensee.

Item 4 adds refusal to submit to drug testing to the information included in personnel records that the facility is required to retain and store.

Item 5 updates the Web site address of the Commission.

Items 6 through 9 update existing rules to correspond with the national uniform rules of racing as they relate to medication of a racing animal.

Item 10 requires that the public have access to rules of play, payout schedules and permitted wagering amounts.

Item 11 requires notification to the Commission on movement of gambling games or implements of gambling.

Item 12 outlines how tickets with expired redemption periods will be accounted for.

Any person may make written suggestions or comments on the proposed amendments on or before March 6, 2007. Written material should be directed to the Racing and Gaming Commission, 717 E. Court, Suite B, Des Moines, Iowa 50309. Persons who wish to convey their views orally should contact the Commission office at (515)281-7352.

Also, there will be a public hearing on March 6, 2007, at 9 a.m. in the office of the Racing and Gaming Commission, 717 E. Court, Suite B, Des Moines, Iowa. Persons may present their views at the public hearing either orally or in writing.

These amendments are intended to implement Iowa Code chapters 99D and 99F.

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 subrule 1.5(1) as follows:

**1.5(1)** Racing or excursion gambling boat license application. This form shall contain at a minimum the full name of the applicant, all ownership interests, balance sheets and profit-and-loss statements for three fiscal years immediately preceding the application, pending legal action, location and physical plant of the facility, and description of proposed operation. The form may include other information the commission deems necessary to make a decision on the license application. The qualified nonprofit corporation and the boat operator, if different than the qualified nonprofit corporation, shall pay a nonrefundable application fee to offset the commission's cost for processing the application in the amount of \$25,000. The fee shall be \$5,000 for each subsequent application involving the same operator and the same qualified sponsoring organization. Additionally, the applicant shall remit an investigative fee of ~~\$15,000~~ \$30,000 to the department of public safety to do background investigations as required by the commission. The department of public safety shall bill the applicant/licensee for additional fees as appropriate and refund any unused portion of the investigative fee within 90 days after the denial or operation begins.

ITEM 2. Amend subrule 4.4(4) as follows:

**4.4(4)** The gaming representative shall revoke the license of a person reported to the commission as having *refused drug testing or as having* a confirmed positive drug test result for a controlled substance, for a drug test conducted pursuant to Iowa Code section 730.5 or 99F.4(20).

ITEM 3. Amend rule 491—4.6(99D,99F) by adding the following new subrule:

**4.6(8)** Informal settlements. A licensee may enter into a written stipulation representing an informed mutual consent with the stewards. This stipulation must specifically outline the violation and the penalty imposed. Stipulations must be approved by the board of stewards. Stipulations are considered final agency action and cannot be appealed.

## RACING AND GAMING COMMISSION[491](cont'd)

ITEM 4. Amend subrule **5.4(14)**, paragraph “**b**,” as follows:

b. For the purpose of this subrule, “books, records, and documents” shall be defined as any book, record, or document pertaining to or prepared or generated by the licensee including, but not limited to, all forms, reports, accounting records, ledgers, subsidiary records, computer-generated data, internal audit records, correspondence, contracts, and personnel records, including information concerning a *refusal to submit to drug testing* and test results conducted pursuant to Iowa Code section 730.5.

ITEM 5. Amend subrule 6.4(2) as follows:

**6.4(2)** Knowledge of rules. By acceptance of a license from the commission, the licensee agrees to follow and comply with the rules of the commission, and Iowa statutes pertaining to racing and gaming, to report immediately to the commission representative any known irregularities or wrongdoing involving racing or gaming and to cooperate in subsequent investigations. Commission rules are available on the commission’s Web site at [www3.state.ia.us/irgc/](http://www3.state.ia.us/irgc/www.iowa.gov/irgc/) [www.iowa.gov/irgc/](http://www.iowa.gov/irgc/).

ITEM 6. Amend subrule **10.4(17)**, paragraph “**g**,” as follows:

g. A horse placed on the veterinarian’s list, bleeders exempt, may be allowed to enter only after it has been removed from the list by the commission veterinarian. Requests for removal of any horse from the veterinarian’s list will be accepted only after three calendar days from the placing of the horse on the veterinarian’s list have elapsed. Removal from the list will be at the discretion of the commission veterinarian who may require satisfactory workouts or examinations to adequately demonstrate that the problem that caused the horse to be placed on the list has been rectified. Horses that are entered to race and then placed on the veterinarian’s list for any reason will not be allowed to enter a race for a minimum of three calendar days beginning the day after the horse was scheduled to race.

*Every confirmed bleeder, regardless of age, shall be placed on the bleeder list and be ineligible to race for the following time periods:*

- (1) *First incident – 14 days.*
- (2) *Second incident within 365-day period – 30 days.*
- (3) *Third incident within 365-day period – 180 days.*
- (4) *Fourth incident within 365-day period – barred for racing lifetime.*

*For the purposes of counting the number of days a horse is ineligible to run, the day the horse bled externally is the first day of the recovery period. The voluntary administration of furosemide without an external bleeding incident shall not subject the horse to the initial period of ineligibility specified in subparagraph (1). A horse may be removed from the bleeder list only upon the direction of the official veterinarian who shall certify in writing to the stewards the recommendation for removal. A horse which has been placed on a bleeder list in another jurisdiction pursuant to these rules shall be placed on a bleeder list in this jurisdiction.*

ITEM 7. Amend subrule **10.7(1)** by adding the following **new** paragraphs “**h**” to “**k**”:

h. The possession or use of blood doping agents, including but not limited to those listed below, on the premises of a facility under the jurisdiction of the commission is forbidden:

- (1) Erythropoietin;
- (2) Darbepoetin;
- (3) Oxyglobin<sup>®</sup>; and
- (4) Hemopure<sup>®</sup>.

i. The use of extracorporeal shock wave therapy or radial pulse wave therapy shall not be permitted unless the following conditions are met:

(1) Any treated horse shall not be permitted to race for a minimum of ten days following treatment;

(2) The use of extracorporeal shock wave therapy or radial pulse wave therapy machines shall be limited to veterinarians licensed to practice by the commission;

(3) Any extracorporeal shock wave therapy or radial pulse wave therapy machines on the association grounds must be registered with and approved by the commission or its designee before use;

(4) All extracorporeal shock wave therapy or radial pulse wave therapy treatments must be reported to the official veterinarian on the prescribed form not later than the time prescribed by the official veterinarian.

j. The use of a nasogastric tube (a tube longer than six inches) for the administration of any substance within 24 hours prior to the post time of the race in which the horse is entered is prohibited without the prior permission of the official veterinarian or designee.

k. Non-steroidal anti-inflammatory drugs (NSAIDs).

(1) The use of one of three approved NSAIDs shall be permitted under the following conditions:

1. Not to exceed the following permitted serum or plasma threshold concentrations which are consistent with administration by a single intravenous injection at least 24 hours before the post time for the race in which the horse is entered:

- Phenylbutazone (or its metabolite oxyphenylbutazone) – 5 micrograms per milliliter;
- Flunixin – 20 nanograms per milliliter;
- Ketoprofen – 10 nanograms per milliliter.

2. The NSAIDs listed in numbered paragraph “1” or any other NSAIDs are prohibited from being administered within the 24 hours before post time for the race in which the horse is entered.

3. The presence of more than one of the three approved NSAIDs, with the exception of phenylbutazone in a concentration below 1 microgram per milliliter of serum or plasma, or the presence of any unapproved NSAID in the post-race serum or plasma sample is not permitted. The use of all but one of the approved NSAIDs shall be discontinued at least 48 hours before the post time for the race in which the horse is entered.

(2) Any horse to which an NSAID has been administered shall be subject to having a blood sample(s), urine sample(s) or both taken at the direction of the official veterinarian to determine the quantitative NSAID level(s) or the presence of other drugs which may be present in the blood or urine sample(s).

ITEM 8. Amend subrule **10.7(4)**, paragraphs “**c**” and “**d**,” as follows:

c. Veterinarians must submit daily to the commission veterinarian on a prescribed form a report of all *procedures*, medications and other substances which the veterinarian prescribed, administered, or dispensed for racing animals registered at the current race meeting as provided in Iowa Code section 99D.25(10). Reports shall be submitted not later than noon the day following the treatments’ being reported. Reports shall include the racing animal, trainer, *procedure*, medication or other substance, dosage or quantity, route of administration, date and time administered, dispensed, or prescribed. *Reports shall be signed by the practicing veterinarian.*

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d. Within 20 minutes following the administration of furosemide, the veterinarian must deliver to the commission veterinarian or commission representative a signed affidavit certifying information regarding the treatment of the horse. The statement must include, at a minimum, the name of the practicing veterinarian, the tattoo number of the horse, the location of the barn and stall where the treatment occurred, the race number of the horse, the name of the trainer, and the time that the furosemide was administered. This affidavit must be signed by the trainer or trainer's designee who witnessed the administration of furosemide. The veterinarian shall not administer the furosemide if a witness is not present. Furosemide shall only be administered (*by a single intravenous injection*) in a dose level of ~~250 milligrams~~ *allowed by Iowa Code section 99D.25A, subsection 7.*

ITEM 9. Amend subrule **10.7(4)** by adding the following **new** paragraph "**h**":

h. Unless approved by the commission veterinarian, veterinarians shall not have contact with an entered horse on race day except for the administration of furosemide.

ITEM 10. Rescind subrule 11.4(4) and insert in lieu thereof the following **new** subrule:

**11.4(4)** Public notice. The public shall have access to the rules of play, payout schedules, and permitted wagering amounts. Signage shall be conspicuously posted on the gaming floor to direct patrons to the gaming floor area where this information can be viewed. All participants in all licensed gambling games are required to know and follow the rules of play. No forms of cheating shall be permitted.

ITEM 11. Amend subrule 11.9(1) as follows:

**11.9(1)** Movement.

a. Any entity providing slot machines, *gambling games, or implements of gambling* to a licensed facility must file written notice with the commission at least five calendar days prior to receipt of the machines by the facility. A licensed facility selling or an owner removing slot machines, *gambling games, or implements of gambling* from the facility must file written notice with the commission at least one day prior to removal. Notification by facsimile or E-mail shall be considered written notice.

b. The administrator may approve licensee transfers of slot machines, *gambling games, or implements of gambling* among subsidiaries of the licensee's parent company.

ITEM 12. Rescind subrule **12.14(7)**, paragraph "**b**," and insert in lieu thereof the following **new** paragraph:

b. At the close of a facility's fiscal year, tickets issued in previous fiscal years and tickets with expired redemption periods that remain outstanding and unredeemed are subject to the requirements of subrule 12.14(6).

**ARC 5715B****TRANSPORTATION  
DEPARTMENT[761]****Notice of Intended Action**

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

Pursuant to the authority of Iowa Code sections 307.10 and 307.12, the Department of Transportation hereby gives Notice of Intended Action to amend Chapter 529, "For-Hire Interstate Motor Carrier Authority," Iowa Administrative Code.

Because the Code of Federal Regulations (CFR) was updated in October 2006, the Department must cite the current version in the administrative rules. No changes to 49 CFR, Parts 365-368 and 370-379 have occurred.

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

1. Include the name, address, and telephone number of the person or agency authoring the comments or request.
2. Reference the number and title of the proposed rule, as given in this Notice, that is the subject of the comments or request.
3. Indicate the general content of a requested oral presentation.
4. Be addressed to the Department of Transportation, Office of Policy and Legislative Services, 800 Lincoln Way, Ames, Iowa 50010; fax (515)239-1639; Internet E-mail address: [tracy.george@dot.iowa.gov](mailto:tracy.george@dot.iowa.gov).
5. Be received by the Office of Policy and Legislative Services no later than March 6, 2007.

A meeting to hear requested oral presentations is scheduled for Thursday, March 8, 2007, at 10 a.m. in the DOT conference room at Park Fair Mall, 100 Euclid Avenue, Des Moines, Iowa.

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

This amendment is intended to implement Iowa Code chapter 327B.

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.

Proposed rule-making action:

Amend rule 761—529.1(327B) as follows:

**761—529.1(327B) Motor carrier regulations.** The Iowa department of transportation adopts the Code of Federal Regulations, 49 CFR Parts 365-368 and 370-379, dated October 1, 2005 2006, for regulating interstate for-hire carriers.

Copies of this publication are available from the state law library or through the Internet at <http://www.fmcsa.dot.gov>.

## ARC 5710B

HUMAN SERVICES  
DEPARTMENT[441]

## Adopted and Filed Emergency

Pursuant to the authority of Iowa Code sections 217.6, 234.6, and 252B.5(4), the Department of Human Services amends Chapter 9, "Public Records and Fair Information Practices," Chapter 14, "Offset of County Debts Owed Department," Chapter 25, "Disability Services Management," Chapter 38, "Developmental Disabilities Basic State Grant," Chapter 95, "Collections," Chapter 97, "Collection Services Center," Chapter 98, "Support Enforcement Services," and Chapter 99, "Support Establishment and Adjustment Services," Iowa Administrative Code.

These amendments are technical changes to update references to the former Department of Revenue and Finance with references to either the Department of Revenue or the Department of Administrative Services, to reflect the reorganization of state government. Under the reorganization, the Department of Revenue and Finance was renamed, and many of the accounting functions involved in the offset of government payments were moved to the Department of Administrative Services.

These amendments do not provide for waivers in specified situations as the amendments are technical and factual in nature.

The Council on Human Services adopted these amendments January 10, 2007.

In compliance with Iowa Code section 17A.4(2), the Department finds that notice and public participation are unnecessary because these amendments merely reflect the current organization of state government and do not change requirements on the public in any way.

The Department finds that these amendments confer a benefit on the public by providing a more accurate description of how state government offset currently operates. Therefore, these amendments are filed pursuant to Iowa Code section 17A.5(2)"b"(2), and the normal effective date of these amendments is waived.

These amendments are intended to implement Iowa Code section 217.6.

These amendments became effective January 20, 2007.

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. Strike the words "department of revenue and finance" wherever they appear in subparagraph **9.12(2)"c"(5)**, subrules **25.65(3)** and **25.76(2)**, rule **441—38.5(225C,217)**, and subrule **95.6(4)** and insert the words "department of revenue" in lieu thereof.

ITEM 2. Strike the words "department of revenue and finance" wherever they appear in **441—Chapter 14** preamble, and subrules **14.3(1)**, **14.3(2)**, **14.3(3)**, **14.4(1)**, **14.4(2)**, **14.6(3)**, **95.6(1)**, **95.6(2)**, **97.6(1)**, and **98.81(1)** and insert the words "department of administrative services" in lieu thereof.

ITEM 3. Amend subrule **14.2(1)**, paragraph "**b**," as follows:

b. State the department's intent to use the offset program as provided in department of revenue and finance *administrative services* rules 701—Chapter 150 11—Chapter 40.

ITEM 4. Amend rule 441—14.5(217,234) as follows:

**441—14.5(217,234) Implementing the final decision.** When the final decision issued pursuant to rule 441—7.16(17A) upholds the department's action or modifies the amount of offset, the division of fiscal management shall certify to the department of revenue and finance *administrative services* that the requirements for offset under Iowa Code section 421.17 8A.504 have been met. When the final decision reverses the department's action, the division of fiscal management shall notify the department of revenue and finance *administrative services* to release the offset.

ITEM 5. Amend subrule 14.6(1) as follows:

**14.6(1) Offset implemented.** The *department of administrative services* shall make the offset shall be made by the department of revenue and finance as prescribed in department of revenue and finance rules 701—150.6(421) and 150.7(421) rule 11—40.7(8A).

ITEM 6. Amend rule 441—95.6(252B), introductory paragraph, as follows:

**441—95.6(252B) Offset against state income tax refund or rebate.** *The department will make a claim against an obligor's state income tax refund or rebate will be made by the department* when a support payment is delinquent as set forth in Iowa Code section 421.17(21) rule 11—40.1(8A). A claim against an obligor's state income tax refund or rebate shall apply to support which the department is attempting to collect.

ITEM 7. Amend rule 441—98.81(252B) as follows:

Amend the introductory paragraph as follows:

**441—98.81(252B) Offset against payment owed to a person by a state agency.** *The department will make a claim shall be made by the department* against a payment owed to an obligor by a state agency when support payments are delinquent as set forth in Iowa Code subsection 421.17(29) rule 11—40.1(8A). A claim against a payment owed to an obligor shall be applied to court-ordered support which the department is attempting to collect pursuant to Iowa Code chapter 252B.

Amend subrule 98.81(2) as follows:

**98.81(2) Notification of offset.** The department shall mail a preoffset notice to an obligor and the department of revenue and finance *administrative services* within ten days of receiving notification from the department of revenue and finance *administrative services* that the obligor is entitled to a payment. The preoffset notice shall inform the obligor of the amount the department intends to claim and apply to the support obligation and shall contain all information required by Iowa Code subsection 421.17(29) 8A.504(2) and 701 11—subrule 150.4(4) 40.4(4).

Amend the implementation sentence as follows:

This rule is intended to implement Iowa Code sections 252B.3 and 252B.4 and Iowa Code subsection 421.17(29) 8A.504(2).

ITEM 8. Amend subrule 99.64(2), introductory paragraph, as follows:

**99.64(2) Independent sources.** The child support recovery unit may utilize other resources to obtain or confirm information concerning the financial circumstances of the parents subject to the order to be reviewed. These resources in-

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clude, but are not limited to, the following: the ~~employment services Iowa workforce development~~ department, ~~division of job service~~, the Iowa department of revenue and finance, the Internal Revenue Service, the employment, revenue, and child support recovery agencies of other states, and the Social Security Administration.

[Filed Emergency 1/19/07, effective 1/20/07]  
[Published 2/14/07]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 2/14/07.

**ARC 5700B****HUMAN SERVICES  
DEPARTMENT[441]****Adopted and Filed**

Pursuant to the authority of Iowa Code section 234.6, the Department of Human Services amends Chapter 65, "Food Assistance Program Administration," Iowa Administrative Code.

Item 1 implements revised federal regulations regarding the Department's methods of collecting and reporting data on race and ethnicity of persons receiving benefits from the Food Assistance Program. Changes have been made to the federal Food Stamp regulations to comply with revised data collection standards issued by the Office of Management and Budget.

Under the revised standards, there are five categories for race and two categories for ethnicity. The ethnic categories are "Hispanic or Latino" and "Not Hispanic or Latino." The racial categories are "American Indian or Alaska Native," "Asian," "Black or African American," "Native Hawaiian or Other Pacific Islander," and "White." The revised standards allow persons to choose more than one race to describe themselves.

The Department must include these racial and ethnic categories on its application and data input screens. The application and data input screens must use separate questions for collecting data on ethnicity and race, with ethnicity requested first. Provision of the information is still voluntary on the part of the household. Income maintenance workers will continue to collect the data, to the best of their ability, through observation. If telephone interviews are used, the income maintenance worker may leave the fields for race and ethnicity blank.

Notice of Intended Action was published in the Iowa Administrative Bulletin on November 22, 2006, as **ARC 5551B**. The Department received no comments on the Notice of Intended Action.

The Department has added new Item 2, which includes technical amendments to rule 441—65.5(234) to reflect the combined reporting form adopted for the Family Investment Program in **ARC 5538B**, which was published in the Iowa Administrative Bulletin on November 8, 2006. When the Family Investment Program required monthly reporting, households that received both Family Investment Program benefits and Food Assistance benefits were sometimes required to complete two separate report forms in the same month. The Family Investment Program now requires quarterly reporting. Households that receive benefits from both programs will be issued a Combined PAER/FAIR (Combined Public Assistance Eligibility Report/Food Assistance Interim Report) in months when reports are required for both programs.

These amendments do not provide for waivers in specified situations. The amendments merely add another option for people to use to describe their race and ethnicity and make technical changes.

The Council on Human Services adopted these amendments on January 10, 2007.

These amendments are intended to implement Iowa Code section 234.12.

These amendments shall become effective on April 1, 2007.

The following amendments are adopted.

ITEM 1. Amend rule 441—65.3(234) as follows:

**441—65.3(234) Administration of program.** The food assistance program shall be administered in accordance with the Food Stamp Act of 1977, 7 U.S.C. 2011 et seq., and in accordance with federal regulation, Title 7, Parts 270 through 283 as amended to ~~April 29, 2003~~ *June 19, 2006*.

A copy of the federal law and regulations may be obtained at no more than the actual cost of reproduction by contacting the Division of Financial, Health, and Work Supports, Department of Human Services, Hoover State Office Building, 1305 East Walnut Street, Des Moines, Iowa 50319-0114, (515)281-3133.

This rule is intended to implement Iowa Code section 234.12.

ITEM 2. Amend rule 441—65.5(234) as follows:

Amend subrule 65.5(4), introductory paragraph and paragraph "a," as follows:

**65.5(4) Reporting responsibilities.** ~~a.~~ Simplified reporting households shall complete and return a *report form once during the certification period. Households that do not receive assistance under the family investment program shall complete Form 470-4026, 470-4026(M), or 470-4026(S), Food Assistance Interim Report, once during their certification period. Households that also receive assistance under the family investment program may instead complete Form 470-4387, 470-4387(M), or 470-4387(S), Combined PAER/FAIR.*

a. A completed *report form* is one that:

(1) Has all items answered;

(2) Is accompanied by verification as required in subrule 65.5(5); and

(3) Is signed and dated by a responsible household member.

Strike the words "Food Assistance Interim Report" wherever the words appear in paragraphs **65.5(4)"b," "c," and "d,"** subrules **65.5(6)** and **65.5(8)**, and paragraph **65.5(9)"b,"** and insert in lieu thereof the words "report form."

Amend paragraph **65.5(4)"b,"** subparagraph (2), as follows:

(2) When the *report form* is not issued in the department's regular end-of-month mailing, households shall return the completed *report form* to the local office where the case is assigned by the seventh day after the date of the issuance of the *report form*.

Amend subrule 65.5(5), introductory paragraph, as follows:

**65.5(5) Verification submitted with report form.** Notwithstanding anything to the contrary in these rules or in federal regulations, a ~~Food Assistance Interim Report~~ *report form* shall be considered incomplete when it is not accompanied by verification of the following changes:

Amend subrule **65.5(9)**, paragraph "a," as follows:

a. Reinstatement of a household whose eligibility was canceled for failure to submit a completed ~~Food Assistance Interim Report~~ *report form* shall occur only when the otherwise eligible household submits a completed *report form* by

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the end of the month the report *form* is due or by the end of the extended filing period, whichever is later.

[Filed 1/12/07, effective 4/1/07]

[Published 2/14/07]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 2/14/07.

## ARC 5701B

### HUMAN SERVICES DEPARTMENT[441]

#### Adopted and Filed

Pursuant to the authority of Iowa Code section 249A.4, the Department of Human Services amends Chapter 83, "Medicaid Waiver Services," Iowa Administrative Code.

2006 Iowa Acts, House File 2734, included funding for a 3 percent increase in reimbursement for most Medicaid providers, including home- and community-based services waiver providers, which was effective July 1, 2006. The Medicaid AIDS/HIV waiver, brain injury waiver, children's mental health waiver, elderly waiver, ill and handicapped waiver, and physical disability waiver all have limits on the allowable monthly cost of waiver services, based on the consumer's level of care. These amendments increase the limits on maximum cost for services under these waivers by 3 percent.

For consumers whose service costs are at or near the limit, the implementation of the 3 percent rate increase may require a reduction of the authorized service level in order for the service costs to remain within the limit. The Department does not believe that it was the intent of the legislature for the rate increase to result in a decrease in services for waiver consumers, especially for those with the highest needs.

In addition, Executive Order 43, signed July 4, 2005, directs the Department to "meet and confer" with AFSCME, the designated union representative for consumer-directed attendant care providers. On January 2, 2007, the Department and AFSCME signed a Memorandum of Understanding. One of the terms of the Memorandum of Understanding is to increase the waiver caps by 3 percent to accommodate the provider rate increase. The increase in the cost caps ensures that providers of consumer-directed attendant care are not prevented from receiving the rate increase because of the limit on waiver service costs.

These amendments were previously Adopted and Filed Emergency and published in the Iowa Administrative Bulletin on December 6, 2006, as **ARC 5578B**. The amendments were also published on the same date under Notice of Intended Action as **ARC 5577B** to solicit public comment. The Department received no comments on the Notice of Intended Action. These amendments are identical to those Adopted and Filed Emergency and published under Notice of Intended Action.

These amendments do not provide for waivers in specified situations as they confer a benefit on persons affected. Requests for the waiver of any rule may be submitted under the Department's general rule on exceptions at 441—1.8(17A,217).

The Council on Human Services adopted these amendments on January 10, 2007.

These amendments shall become effective March 21, 2007, at which time the Adopted and Filed Emergency amendments are rescinded.

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

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 [83.2(2)"b," 83.22(2)"c"(2), 83.42(2)"b," 83.82(2)"d," 83.102(2)"b," 83.122(6)"b"] is being omitted. These amendments are identical to those published under Notice as **ARC 5577B** and Adopted and Filed Emergency as **ARC 5578B**, IAB 12/6/06.

[Filed 1/12/07, effective 3/21/07]

[Published 2/14/07]

[For replacement pages for IAC, see IAC Supplement 2/14/07.]

## ARC 5709B

### HUMAN SERVICES DEPARTMENT[441]

#### Adopted and Filed

Pursuant to the authority of Iowa Code sections 217.6 and 234.6, the Department of Human Services amends Chapter 151, "Juvenile Court Services Directed Programs," Iowa Administrative Code.

These amendments modify the components of the graduated sanction service, "supervised community treatment." Supervised community treatment services are early intervention and follow-up services provided to youth who have been adjudicated delinquent, including registered sex offenders, and to youth who have been referred to juvenile court services for a delinquency violation or who have exhibited behaviors likely to result in a juvenile delinquency referral. The amendments:

- Give the chief juvenile court officers flexibility to eliminate components of the service as necessary to meet budgetary limitations.
- Require that staff providing individual, group, or family therapy meet applicable state licensing standards. This change will enable the provider to bill the Medicaid program for services to Medicaid-eligible youth.
- Make a technical change to the implementation sentence for Division III, "Graduated Sanction Services."

The chief juvenile court officers have unanimously agreed to the amendments. The loss of Medicaid funding for rehabilitative treatment services limits the funds available for graduated sanction services to the state funds that were previously used to match the federal Medicaid expenditures. The modifications to the service components allow the chief juvenile court officers flexibility to continue providing services to this population and to maximize the available funding. Communities and the public benefit from the involvement, oversight, and supervision provided to youth who present a threat to their communities and the public.

These amendments do not provide for waivers in specified situations. The rules allow flexibility to meet certain service needs as anticipated by chief juvenile court officers whose clients are under court orders. Requests for the waiver of any

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rule may be submitted under the Department's general rule on exceptions at 441—1.8(17A,217).

These amendments were previously Adopted and Filed Emergency and were published in the Iowa Administrative Bulletin on December 6, 2006, as **ARC 5581B**. Notice of Intended Action was published on the same date as **ARC 5580B** to solicit comment on these amendments. The Department received no comments on these amendments. These amendments are identical to those Adopted and Filed Emergency and published under Notice of Intended Action.

The Council on Human Services adopted these amendments on January 10, 2007.

These amendments are intended to implement Iowa Code section 232.191.

These amendments shall become effective March 21, 2007, at which time the Adopted and Filed Emergency amendments are rescinded.

EDITOR'S NOTE: Pursuant to recommendation of the Administrative Rules Review Committee published in the Iowa Administrative Bulletin, September 10, 1986, the text of these amendments [amendments to Ch 151] is being omitted. These amendments are identical to those published under Notice as **ARC 5580B** and Adopted and Filed Emergency as **ARC 5581B**, IAB 12/6/06.

[Filed 1/19/07, effective 3/21/07]  
[Published 2/14/07]

[For replacement pages for IAC, see IAC Supplement 2/14/07.]

## **ARC 5704B**

### **LABOR SERVICES DIVISION[875]**

#### **Adopted and Filed**

Pursuant to the authority of Iowa Code section 91A.9(4), the Labor Commissioner hereby adopts Chapter 34, "Civil Penalties," Iowa Administrative Code.

This chapter implements Iowa Code chapter 91A and details the procedures and the method of calculating penalties for violations of Iowa Code chapter 91A.

Notice of Intended Action was published in the Iowa Administrative Bulletin on December 6, 2006, as **ARC 5583B**. No public comment was received. This amendment is identical to that published under Notice.

This amendment was adopted by the Labor Commissioner on January 16, 2007.

This amendment shall become effective March 21, 2007.

This amendment is intended to implement Iowa Code chapters 91A and 17A.

EDITOR'S NOTE: Pursuant to recommendation of the Administrative Rules Review Committee published in the Iowa Administrative Bulletin, September 10, 1986, the text of this amendment [Ch 34] is being omitted. This amendment is identical to that published under Notice as **ARC 5583B**, IAB 12/6/06.

[Filed 1/16/07, effective 3/21/07]  
[Published 2/14/07]

[For replacement pages for IAC, see IAC Supplement 2/14/07.]

## **ARC 5702B**

### **PROFESSIONAL LICENSING AND REGULATION BUREAU[193]**

#### **Adopted and Filed**

Pursuant to the authority of Iowa Code section 546.2, the Professional Licensing and Regulation Bureau hereby amends Chapter 1, "Organization and Operation," Chapter 2, "Allocation of Disciplinary Fees and Costs," Chapter 3, "Vendor Appeals," Chapter 4, "Proof of Legal Presence," Chapter 5, "Waivers and Variances from Rules," Chapter 6, "Investigatory Subpoenas," Chapter 7, "Contested Cases," Chapter 8, "Denial of Issuance or Renewal of License for Nonpayment of Child Support or Student Loan," Chapter 9, "Petition for Rule Making," Chapter 10, "Declaratory Orders," Chapter 11, "Sales of Goods and Services," Chapter 12, "Impaired Licensee Review Committees," and Chapter 13, "Public Records and Fair Information Practices," Iowa Administrative Code.

These amendments implement changes necessitated by the enactment of 2006 Iowa Acts, House File 2521, sections 50 and 52, which merged the Professional Licensing and Regulation Division with the Banking Division under the Department of Commerce. Under this new arrangement, the Professional Licensing and Regulation Division became a bureau within the Banking Division. These amendments also reflect the addition of the Interior Design Examining Board established in Iowa Code chapter 544C.

Additional amendments include the implementation of an amendment to Iowa Code section 22.3(1) regarding requests for public records and include technical corrections to update the street address of the boards and to update cross references for the Accountancy Examining Board from Iowa Code chapter 542C to Iowa Code chapter 542. Amendments are also included to reflect the statutory change that increased the number of Real Estate Commission members from five to seven and to implement changes to Iowa Code chapter 68B that relate to the sale or lease of goods and services.

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

Notice of Intended Action was published in the Iowa Administrative Bulletin on November 8, 2006, as **ARC 5539B**. No comments were received during the period of public comment that ended November 28, 2006.

Changes in references to 2006 Iowa Acts have been made because the 2007 Code of Iowa is now available.

These amendments are intended to implement Iowa Code chapters 17A, 22, 68B, 252J, 272C, 542, 543B, 543D, 544A, 544B, 544C and 546.

These amendments will become effective March 21, 2007.

EDITOR'S NOTE: Pursuant to recommendation of the Administrative Rules Review Committee published in the Iowa Administrative Bulletin, September 10, 1986, the text of these amendments [amendments to Chs 1 to 13] is being omitted. With the exception of the changes noted above, these amendments are identical to those published under Notice as **ARC 5539B**, IAB 11/8/06.

[Filed 1/16/07, effective 3/21/07]  
[Published 2/14/07]

[For replacement pages for IAC, see IAC Supplement 2/14/07.]

**ARC 5706B**  
**PROFESSIONAL LICENSURE**  
**DIVISION[645]**

**Adopted and Filed**

Pursuant to the authority of Iowa Code section 147.76, the Board of Physician Assistant Examiners adopts amendments to Chapter 326, "Licensure of Physician Assistants," Iowa Administrative Code.

These amendments clarify requirements concerning educational course documentation provided by an approved physician assistant program.

Notice of Intended Action for these amendments was published in the Iowa Administrative Bulletin on November 8, 2006, as **ARC 5522B**. These amendments have been revised since publication of the Notice of Intended Action following a public hearing held on November 28, 2006, from 9:30 to 10:30 a.m. in the Fifth floor Board Conference Room, Lucas State Office Building.

Public comments received supported the noticed amendments and also recommended changes to the language. The Board then invited stakeholders from both sides of the issues to discuss the amendments at two additional meetings to be held on January 8, 2007, and on January 16, 2007. At the first meeting, the Board provided background information on the proposed amendments in Items 1 through 6 and the reasons for the proposed changes to the rules. Stakeholders discussed proposed Items 1 through 6 and offered suggestions for changes to the noticed amendments that were incorporated into a draft document. Items 1 and 2 that pertain to educational course documentation were negotiated, while Items 3 through 6, which clarify that a physician assistant may be taught new procedures under either direct or remote supervision, clarify the dual responsibility of both physician and physician assistant to be aware of who is designated as the supervising physician, and change the time frames for notifying the Board when supervisory changes occur, were left for further discussion.

Because of scheduling conflicts, several stakeholders were unable to attend the second meeting on January 16, 2007, and they asked the Board to defer decision on Items 3 through 6 until board representatives and stakeholders could meet again to continue their discussions. Therefore, at its regularly scheduled quarterly meeting held on January 17, 2007, the Board adopted Items 1 and 2 with no changes from the Notice of Intended Action and deferred adoption of Items 3 through 6 until a later date.

The amendments were adopted by the Board of Physician Assistant Examiners on January 17, 2007.

These amendments will become effective March 21, 2007.

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

The following amendments are adopted.

ITEM 1. Amend subrule 326.3(2) as follows:

**326.3(2)** The applicant must comply with subrule 326.2(1), with the exception of ~~paragraph~~ *paragraphs "d" and "e."*

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

**326.3(7)** The applicant shall ensure that certification of completion is sent to the board directly from an approved program for the education of physician assistants. The certification of completion must be signed by a designee from the approved program.

[Filed 1/18/07, effective 3/21/07]

[Published 2/14/07]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 2/14/07.

**ARC 5711B**

**UTILITIES DIVISION[199]**

**Adopted and Filed**

Pursuant to Iowa Code sections 17A.4, 476.2, and 476.8, the Utilities Board (Board) gives notice that on January 23, 2007, the Board issued an order in Docket No. RMU-06-9, In re: Natural Gas and Electric Utility Customer Notice for Information and Complaints [199 IAC 19.4(1) and 20.4(2)], "Order Adopting Amendments." The amendments update Board contact information to include the Board's E-mail address and to require rate-regulated utilities with more than 50,000 customers to provide the contact information to customers on a monthly basis.

Notice of Intended Action was published in IAB Vol. XXIX, No. 10 (11/8/06) p. 633, as **ARC 5525B**. Comments concerning the proposed amendments were filed by the Consumer Advocate Division of the Department of Justice, Aquila, Inc., d/b/a Aquila Networks, MidAmerican Energy Company, and Interstate Power and Light Company. No oral presentation was scheduled or requested.

The comments generally supported the proposed amendments, except that Interstate Power and Light Company expressed two concerns with the proposed amendments. These concerns involved the potential for an increase in misdialed calls if the notice is provided monthly and that the requirement is limited to those utilities with more than 50,000 customers. The order addressing these concerns and support for this rule making can be found on the Board's Web site, [www.state.ia.us/iub](http://www.state.ia.us/iub).

These amendments are intended to implement Iowa Code sections 17A.4, 476.2, and 476.8.

These amendments shall become effective March 21, 2007.

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 [19.4(1)"i," 20.4(2)] is being omitted. These amendments are identical to those published under Notice as **ARC 5525B**, IAB 11/8/06.

[Filed 1/22/07, effective 3/21/07]

[Published 2/14/07]

[For replacement pages for IAC, see IAC Supplement 2/14/07.]



**State of Iowa**  
**Executive Department**

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

\*EXECUTIVE ORDER NUMBER FIFTY

- WHEREAS,** the New Iowans Study Committee was established in 2005 by the Legislative Council and charged to review the impact of the growing population of immigrants, migrant workers, and refugees who are relocating to the state to live and work; and
- WHEREAS,** the Committee heard testimony on range of policy issues affecting New Iowans in areas such as public safety, education, and access to jobs and human services, which helped provide legislators with a better understanding of some of the challenges New Iowans face; and
- WHEREAS,** the New Iowans Study Committee made a consensus recommendation to encourage the establishment of a task force to review the issues regarding the lack of a comprehensive identification system.

**NOW, THEREFORE, I, Thomas J. Vilsack, Governor of the State of Iowa, by the power vested in me by the laws and the Constitution of the State of Iowa, do hereby order and direct the establishment of a NEW IOWANS POLICY TASK FORCE.**

- I. **Membership:** The NEW IOWANS POLICY TASK FORCE shall be comprised of 18 members, who shall be appointed by the Governor. Membership shall include the following representatives of the executive branch:
- Commissioner of the Iowa Department of Public Safety, or his designee, who shall serve as chairperson;
  - Director of the Iowa Department of Transportation, or her designee;
  - Director of the Iowa Department of Workforce Development, or his designee;
  - Commissioner of the Iowa Insurance Division, or her designee;
  - Administrator of the Iowa Division of Latino Affairs, or his designee;
  - Administrator of the Iowa Homeland Security and Emergency Management Division, or his designee; and
  - A representative from the Refugee Services Bureau of the Iowa Department of Human Services.

Additionally, two members shall be New Iowans. Three members shall be representatives of the private sector business community based on the recommendations of the Iowa Association of Business and Industry and the Iowa Business Council. One member shall be a representative of A Mid-Iowa Organizing Strategy. One member shall be a representative of the Iowa County Attorneys Association. Four members shall be legislators of the Eighty-Second Iowa General Assembly representing each legislative caucus, serving ex-officio. The task force shall be staffed by the Iowa Department of Human Rights.

- II. Purpose: The purpose of the NEW IOWANS POLICY TASK FORCE is to make recommendations on how to address the public safety issues surrounding the lack of a comprehensive identification system.
- III. The NEW IOWANS POLICY TASK FORCE shall convene as soon as practicable after December 1, 2006, and submit a report on its activities and its recommendations to the legislative leaders of the 82<sup>nd</sup> General Assembly by January 15, 2007.

Nothing in this executive order shall be construed to contravene any applicable state or federal law.

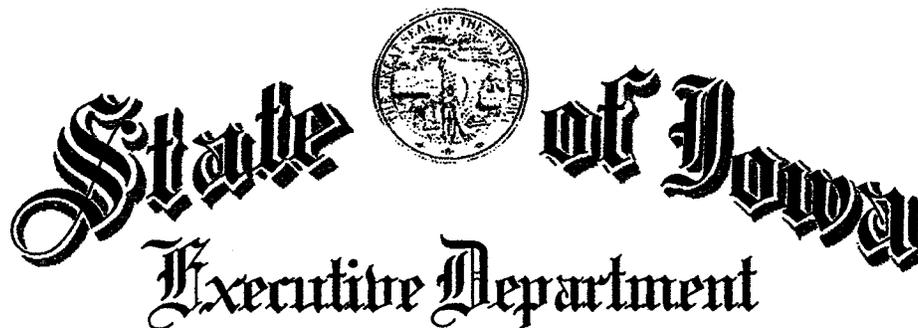


IN TESTIMONY WHEREOF, I have hereunto subscribed my name and caused the Great Seal of Iowa to be affixed. Done at Des Moines this 1<sup>st</sup> day of December, in the year of our Lord two thousand six.

THOMAS J. VILSACK  
GOVERNOR

ATTEST:

CHESTER J. CULVER  
SECRETARY OF STATE



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

\* EXECUTIVE ORDER NUMBER FIFTY-ONE

- WHEREAS,** the State of Iowa currently has over 77,000 businesses owned by minorities, women, or persons with disabilities—contributing at least \$8.2 billion in annual sales to our economy; and
- WHEREAS,** the Targeted Small Business (“TSB”) Program was created to promote the growth and development of Iowa businesses owned and operated by minorities, women, and persons with disabilities; and
- WHEREAS,** the task force created in Executive Order 49 to study the TSB program has made recommendations to improve, enhance, and increase the efficacy of the program; and
- WHEREAS,** coordination and communication between state government and businesses owned by minorities, women, or persons with disabilities is critical to the success of the TSB program.

**NOW, THEREFORE, I,** Thomas J. Vilsack, Governor of the State of Iowa, by the power vested in me by the laws and the Constitution of the State of Iowa, do hereby order and direct the establishment of the TARGETED SMALL BUSINESS ADVISORY COUNCIL.

- I. **Purpose:** The purpose of the TARGETED SMALL BUSINESS ADVISORY COUNCIL is to add citizen and legislative oversight and input into the policy-making decisions regarding the TSB program.
- II. **Membership:** The TARGETED SMALL BUSINESS ADVISORY COUNCIL shall be comprised of seven citizen members representing constituencies of the TSB program, who shall be appointed by the Governor-Elect as soon as practicable after inauguration. The council shall also include representatives from the Department of Human Rights’ Commissions, including Division of Latino Affairs, Status of African Americans, Status of Women, Status of Asian and Pacific Islanders, and the Division of Persons with Disabilities as well as one representative from each legislative caucus of the Eighty-Second General Assembly.

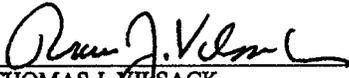
III. **Activities:** The TARGETED SMALL BUSINESS ADVISORY COUNCIL shall meet regularly with representatives of the agencies involved with the TSB program to advise and counsel the State on ways to improve the outreach, procurement, certification, and financial activities of the TSB program.

IV. **Support:** The Iowa Department of Economic Development is charged with coordinating and providing administrative support for the TARGETED SMALL BUSINESS ADVISORY COUNCIL.

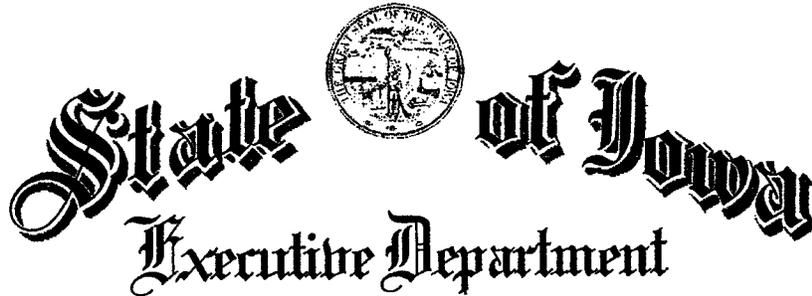
Nothing in this executive order shall be construed to contravene any applicable state or federal law.



IN TESTIMONY WHEREOF, I have hereunto subscribed my name and caused the Great Seal of Iowa to be affixed. Done at Des Moines this 8th day of December, in the year of our Lord two thousand six.

  
\_\_\_\_\_  
THOMAS J. WILTSACK  
GOVERNOR

ATTEST:  
  
\_\_\_\_\_  
CHESTER J. CULVER  
SECRETARY OF STATE



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

\*EXECUTIVE ORDER NUMBER ONE

- WHEREAS,** under Section 7 of Article IV of the Constitution of the State of Iowa, the Governor, acting as Chief Executive Magistrate, is commander-in-chief of Iowa's armed forces; and
- WHEREAS,** under Section 7 of Chapter 1 of Title 4 of the United States Code, 4 USC 7, in the event of the death of a present or former official of the government of any state, territory, or possession of the United States, the Governor may proclaim that the flag of the United States of America be flown at half-staff; and
- WHEREAS,** under Section 1B.3 of Chapter 1B of the Code of Iowa, it is the duty of the custodians of public buildings in the State of Iowa to raise the flags of the United States of America and of the State of Iowa; and
- WHEREAS,** Iowans serving in the Armed Forces voluntarily endure separation from their families and communities and economic hardship while defending our nation's security; and
- WHEREAS,** while we honor the duty and selfless service of all Iowa military personnel, we also remember the fallen heroes who have given the ultimate sacrifice by laying down their lives in the service of our Nation and our State; and

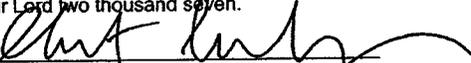
**NOW, THEREFORE,** I, Chester J. Culver, Governor of the State of Iowa, by the power vested in me under the laws of the United States of America and under the laws and the Constitution of the State of Iowa, do hereby Order that:

1. The flag of the United States of America shall be flown at half-staff throughout the State of Iowa on property under the jurisdiction of the State, including the state Capitol Building and on flag displays in the Capitol Complex, and upon all public buildings, grounds, and facilities if any of the following shall apply:
  - a. A member of the Iowa National Guard is killed in the line of duty.
  - b. A member of the Iowa Air National Guard is killed in the line of duty.
  - c. An Iowa resident serving as a member of the United States Armed Forces is killed in the line of duty.
2. The flag of the United States of America flown at half-staff or at half-mast pursuant to this Executive Order shall be flown in this manner upon the day of interment or as otherwise ordered by the Governor. The flag should be again raised to the peak before it is lowered for the day.
3. The flag of the State of Iowa, where it is flown, shall in all cases be subservient to and placed below the flag of the United States of America.
4. The flag of the State of Iowa shall be flown at half-staff throughout the State of Iowa on property under the jurisdiction of the State, including the state Capitol Building and on flag displays in the Capitol Complex, and upon all public buildings, grounds, and facilities under any of the conditions and circumstances described herein.

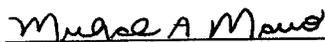
This Executive Order is effective immediately.



IN TESTIMONY WHEREOF, I have hereunto subscribed my name and caused the Great Seal of Iowa to be affixed. Done at Des Moines this 27th day of January, in the year of our Lord two thousand seven.

  
CHESTER J. CULVER  
GOVERNOR

ATTEST:

  
MICHAEL A. MAURO  
SECRETARY OF STATE







**IOWA ADMINISTRATIVE BULLETIN**  
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**Department of Administrative Services**  
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