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PREFACE

The Iowa Administrative Bulletin is published in pamphlet form biweekly pursuant to Sixty-seventh General Assembly, H.F. 2099, section 3, and supersedes Part I of the Iowa Administrative Code Supplement.

The Bulletin contains Notices of Intended Action on rules, Filed and Filed Emergency rules by state agencies [continue to refer to General Information for drafting style and form], all proclamations and executive orders of the Governor which are general and permanent in nature, and other “materials deemed fitting and proper by the Administrative Rules Review Committee.”

The Bulletin may also contain economic impact statements to proposed rules and filed emergency rules, objections filed by Administrative Rules Review Committee or the Attorney General, any delay by the Committee of the effective date of filed rules, and agenda for monthly committee meetings.

PLEASE NOTE:

Italics indicate new material added to existing rules; strike-through letters indicate deleted material.

The Iowa Administrative Code Supplement is also published every other week in loose-leaf form, pursuant to section 17A.6 of the Code. It contains replacement pages for the Iowa Administrative Code. These replacement pages incorporate amendments to existing rules, new rules or emergency or temporary rules which have been filed with the Secretary of State and published in the Bulletin.

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NOTICE OF INTENDED ACTION

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

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 §17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of section 147.76 of the Code, the Board of Dental Examiners proposes the adoption of the following rules relating to the implementation of Chapter 153.

Consideration will be given to written data, views, or arguments thereto received by the Board of Dental Examiners, Department of Health, Lucas State Office Building, Des Moines, Iowa 50319, on or before July 21, 1978.

Pursuant to the authority of section 147.76, Code of Iowa, rules of the board of dental examiners appearing in the IAC are amended as follows:

ITEM 1. Rescind chapters 1, 2, 3, 4, 7 and 8; and insert in lieu thereof the following:

TITLE I
GENERAL PROVISIONS

CHAPTER 1
DEFINITIONS

320—1.1(153) "Department" means the state department of health.

This rule is intended to implement sections 147.1(4) and 147.76 of the Code.

320—1.2(153) "Board" means the board of dental examiners.

This rule is intended to implement section 147.13 of the Code.

320—1.3(153) "Chapter" means chapter 153, Code of Iowa.

This rule is intended to implement section 147.76 of the Code.

320—1.4(153) "Examination meeting" means those meetings of the board held in Iowa City for the purpose of examining candidates for licensure as dentists or as dental hygienists. The time and place of the examination meeting shall be set by the board and notice published in the Journal of the American Dental Association at least sixty days in advance.

This rule is intended to implement section 147.30 of the Code.

320—1.5(153) "Practice of dentistry" as defined in section 153.13, Code of Iowa, includes the rendering of professional services in this state as an employee or independent contractor.

This rule is intended to implement section 153.13 of the Code.

320—1.6(153) "Practice of dental hygiene" as defined in section 153.15, Code of Iowa, includes assisting the dental profession in providing oral health care by performing the

following services:

1.6(1) Educational: Issuing written and oral instructions for optimal oral health, including the teaching of proper brushing techniques and interdental stimulation; assess the need for, plan, implement and evaluate oral health education programs for individual patients and community groups.

1.6(2) Therapeutic: Perform oral prophylaxis including removing supragingival and subgingival deposits and polishing restorations and removable prostheses; application or administration of medicaments prescribed by a licensed dentist; remove excess restorative materials; recognize and assist in management of medical and dental emergencies.

1.6(3) Preventive: The topical application of medicaments and other methods for caries control.

1.6(4) Diagnostic: Provide diagnostic aids including taking and recording medical and dental histories; making impressions for diagnostic models; exposing radiographs; making occlusal registrations for mounting study casts; testing pulp vitality; recording vital signs; making and analyzing dietary surveys; and indexing dental and periodontal disease, and any other abnormal condition; perform oral inspection.

This rule is intended to implement section 153.15 of the Code.

320—1.7(153) “Inactive status” means the status of a practitioner licensed in the state of Iowa to practice dentistry or dental hygiene who is not currently engaged in the practice of dentistry or dental hygiene in the state of Iowa and who has obtained a certificate of exemption from compliance with the requirements for continuing dental education.

This rule is intended to implement chapter 95 of the Acts of the Sixty-seventh General Assembly.

CHAPTERS 2 TO 4 Reserved

TITLE II ADMINISTRATION

CHAPTER 5 ORGANIZATION

320—5.1(153) Board.

5.1(1) The board shall be composed of five members licensed to practice dentistry, two members licensed to practice dental hygiene and two members not licensed to practice dentistry or dental hygiene and who shall represent the general public. All members shall be appointed by the governor subject to confirmation by the Senate.

5.1(2) Five members of the board shall constitute a quorum for the purpose of conducting business.

This rule is intended to implement section 147.14(4) of the Code.

320—5.2(153) Meetings.

5.2(1) The board shall hold an annual meeting each year in Des Moines to elect officers and conduct such other business as may properly come before the board. Officers of the board shall consist of a chairperson, vice-chairperson, secretary, and treasurer. Officers shall assume their duties on July 1 following their election.

5.2(2) The board may hold additional meetings as the chairperson or vice-chairperson or majority of the board deems necessary. Written notice stating the time and place of the meeting shall be provided consistent with the open meetings law.

5.2(3) All meetings of the board shall be governed by Sturgis Standard Code of Parliamentary Procedure.

5.2(4) The board may conduct ministerial business matters by mail. The chairperson or vice-chairperson may direct the secretary to send such correspondence by ordinary mail. Members who shall make appropriate response shall do so to the secretary within ten days

of the original mailing.

This rule is intended to implement section 147.22 of the Code.

320—5.3(153) Budget. The vice-chairperson and treasurer shall prepare and submit an annual budget to the board.

This rule is intended to implement section 17A.3(1) of the Code.

320—5.4(153) Compensation. The board shall receive a forty-dollar per diem in addition to necessary travel and other expenses incurred in the discharge of its duties.

This rule is intended to implement section 147.24 of the Code.

320—5.5(153) Office. The address of the board is the State Department of Health, Third Floor, Lucas State Office Building, Des Moines, Iowa 50319.

This rule is intended to implement section 17A.3(1) of the Code.

CHAPTER 6 INFORMATION AND RECORDS

320—6.1(153) Availability of information. All information regarding rules, orders, forms, time and place of meetings, minutes of meetings, records of hearings, and examination of records are available to the public at the department between the normal working hours of 8:00 a.m. and 4:30 p.m., Monday through Friday, except holidays. The department may charge its usual fee, if any, for the copying of information. Written information may be obtained from: Iowa Board of Dental Examiners, Iowa Department of Health, Lucas State Office Building, Des Moines, Iowa 50319. Requests for information should be in writing, dated, and signed. Submissions of materials to the board should be made to the department unless stated otherwise and should enclose a cover letter stating the use for which the materials are intended.

This rule is intended to implement section 17A.3(1) of the Code.

320—6.2(153) Records of board. The department shall maintain the following records of the board for public inspection:

6.2(1) All rules, proposed or adopted.

6.2(2) Written statements or interpretations of law or policy formulated, adopted or used by the board, as are required to be disclosed by chapter 17A of the Code.

6.2(3) Final orders, decisions, and opinions indexed by name and subject.

6.2(4) Alphabetical list of applicants for licensure to practice dentistry who have failed the examination and are eligible for re-examination.

6.2(5) Alphabetical list of applicants for licensure to practice dental hygiene who have failed the examination and are eligible for re-examination.

6.2(6) Alphabetical list of persons licensed to practice dentistry in Iowa who are in good standing with the board.

6.2(7) Alphabetical list of dentists licensed to practice dental hygiene in Iowa who are in good standing with the board.

6.2(8) Alphabetical list of dentists licensed to practice in but who are not practicing in Iowa.

6.2(9) Alphabetical list of resident dentist licensees.

6.2(10) Alphabetical list of dental college faculty permit holders.

6.2(11) Alphabetical list of licensees in federal services.

This rule is intended to implement section 17A.3(1) of the Code.

320—6.3(153) Change of address. Persons licensed in this state to practice dentistry or dental hygiene shall notify the department within ten days of any change of office address.

This rule is intended to implement section 147.9 of the Code.

CHAPTER 7
RULES**320—7.1(153) Petition for rulemaking.**

7.1(1) An interested person may petition the board for the adoption, amendment or repeal of administrative rules.

7.1(2) The petition shall be in writing, signed by or on behalf of the petitioner, and contain the following information:

a. A general statement of the rule the petitioner is requesting the board to adopt, amend, or repeal. Where amendment or repeal of an existing rule is sought, the rule number should be included but is not required. The petitioner is not required to enclose a draft of the proposed rule or proposed amendment to a rule he or she is requesting.

b. A statement of sufficient detail setting forth reasons for adoption, amendment, or repeal.

c. A statement showing how the petitioner would be affected by the requested action.

d. Name and address of petitioner.

7.1(3) The petition is filed when it is received by the board.

7.1(4) Upon receipt of the petition, the board shall take the petition under advisement. The board may request additional information from the petitioner or the department.

7.1(5) The board shall deny the petition or initiate rulemaking procedures within sixty days after filing of the petition. In the case of a denial, the board shall state in writing its reasons for the denial. The petitioner shall be notified by mail of the board action taken.

This rule is intended to implement sections 17A.3(1) and 17A.7 of the Code.

320—7.2(153) Oral presentations for rulemaking.

7.2(1) Oral presentations may be made to the board when requested in writing not later than twenty days after notice of intended action is published in the Iowa Administrative Code, by five interested persons, a governmental subdivision, the administrative rules review committee, an agency, or an association having not less than twenty-five members or upon discretion of the board.

7.2(2) The board shall give the public not less than twenty days' notice of the time and place where oral presentations may be made.

7.2(3) Persons wishing to speak shall notify the board prior to start of the oral presentations.

7.2(4) Oral presentations may be limited to ten minutes at the discretion of the board.

This rule is intended to implement sections 17A.3(1) and 17A.4(1) of the Code.

320—7.3(153) Declaratory rulings.

7.3(1) Any interested person or agency affected by any statutory provision administered by the board, rule, or other written statement of law or policy, decision or order of the board may file a petition for a declaratory ruling as to the applicability of such statutory provision, rule or other written statement of law or policy, decision or order to that person or agency.

7.3(2) The petition shall be typewritten, signed and dated and shall contain, in the following order:

a. Statement that it is a petition for a declaratory ruling.

b. Name, address, phone number and official title, if any, of the petitioner.

c. Clear statement of the question or questions upon which the petitioner requests a declaratory ruling.

d. Detailed statement of facts upon which petitioner requests the board to issue its declaratory ruling.

e. Identification of the statute, rule, policy statement, decision or order for which petitioner seeks a declaratory ruling.

f. The particular words, passages, sentences or paragraphs of the statutes, rules, policy

DENTAL EXAMINERS (cont'd)

statements, decisions or orders which are the subject of inquiry.

g. The nature of a petitioner's interest in the subject matter, including whether the petition is on behalf of a corporation, partnership, organization or the like.

h. Any other supporting information, statements or facts.

7.3(3) The petition shall be deemed filed when received by the board. Receipt shall be acknowledged within twenty days after filing.

7.3(4) The board may return petitions not prepared in reasonable compliance with these rules.

7.3(5) The board shall issue a declaratory ruling or denial thereof within sixty days after the filing of the petition. The board may grant a request for an earlier disposition upon a showing of circumstances requiring the same.

7.3(6) The board may decline to issue a declaratory ruling in whole or in part and shall so notify the petitioner in writing, stating the reasons therefor.

7.3(7) Declaratory rulings issued by the board shall be in writing and mailed to the petitioner.

This rule is intended to implement sections 17A.3(1) and 17A.9 of the Code.

CHAPTERS 8 AND 9

Reserved

TITLE III
LICENSINGCHAPTER 10
GENERAL

320—10.1(153) Licensed personnel. Persons engaged in the practice of dentistry in Iowa must be licensed by the board as a dentist and persons performing services under section 153.15 of the Code must be licensed by the board as a dental hygienist.

This rule is intended to implement sections 147.2 and 153.17 of the Code.

320—10.2(153) Display of license and annual license renewal. The license to practice dentistry or dental hygiene and the current annual license renewal must be prominently displayed by the licensee at each office of employment.

10.2(1) Additional license certificates shall be obtained from the department whenever a licensee practices at more than one address. No more than two additional license certificates shall be issued.

10.2(2) Duplicate licenses shall be issued by the department upon satisfactory proof of loss or destruction of original license.

This rule is intended to implement sections 147.7, 147.10 and 147.80(17) of the Code.

320—10.3(153) Supervision of dental hygienist.

10.3(1) All professional services of a dental hygienist shall be performed under the general supervision of a licensed dentist.

10.3(2) General supervision of the professional services of a dental hygienist shall mean that the hygienist is performing procedures authorized by a dentist currently licensed and actively practicing in Iowa to implement the dentist's diagnosis and treatment plan.

10.3(3) A dental hygienist shall not practice independent from the supervision of a dentist nor shall a dental hygienist establish or maintain an office or other work place separate or independent from the office or other work place in which the supervision of a dentist is provided.

This rule is intended to implement section 153.15 of the Code.

DENTAL EXAMINERS (cont'd)

320—10.4(153) Unauthorized practice. A dental hygienist who assists a dentist in practicing dentistry in any capacity other than as an employee supervised by a licensed dentist in a dental office, a public or private school, public health agency, hospital or the armed forces or who directly or indirectly procures a licensed dentist to act as nominal owner, proprietor or director of a dental office as a guise or subterfuge to enable such dental hygienist to engage in the practice of dentistry, or who renders dental service directly or indirectly on or for members of the public other than as an employee supervised by a licensed dentist in a dental office, a public or private school, public health agency, hospital or the armed forces for an employing dentist shall be deemed to be practicing dentistry without a license.

This rule is intended to implement sections 147.57 and 153.15 of the Code.

CHAPTER 11 APPLICATIONS

320—11.1(153) Examination required for licensure to practice dentistry. Any person desiring to take the examination to qualify for licensure to practice dentistry in this state must make application to the Central Regional Dental Testing Service, Inc. (CRDTS), 2715 West Twenty-ninth Street, Topeka, Kansas 66614, and meet such other requirements as CRDTS may establish for purposes of the examination.

This rule is intended to implement sections 147.29 and 147.34 of the Code.

320—11.2(153) Application to practice dentistry.

11.2(1) Applications for licensure to practice dentistry in this state shall be made to the board on the form provided by the board and must be completely answered.

11.2(2) Applications for licensure must be filed with the board along with:

a. Satisfactory evidence of graduation from an accredited dental college approved by the board.

b. Certification by the dean or other authorized representative of the dental school that the applicant has been a student in good standing while attending that dental school. If the applicant is a dentist licensed by another jurisdiction, he or she shall furnish certification from the board of dental examiners of that jurisdiction that he or she is a licensed dentist in good standing.

c. Certificate signed by the secretary of the Council of National Board of Dental Examiners evidencing successful completion of Part I and Part II of the examination administered by the Council. At the discretion of the board, any dentist who has lawfully practiced dentistry in another state or territory for five years may be exempted from presenting this certificate.

d. Certification by the Central Regional Dental Testing Service, Inc. of successful completion of the examination administered by CRDTS.

e. A fee of fifty dollars which is refundable to applicants who are ineligible to take the exam or whose application is incomplete. A statement of the reasons for rejection shall be sent to the applicant.

11.2(3) The board may require additional information be provided by the applicant relating to character, education and experience as may be necessary to pass upon the applicant's qualifications.

11.2(4) Applications must be signed and verified as to the truth of the statements contained therein.

This rule is intended to implement section 147.3 of the Code.

320—11.3(153) Examination required for licensure to practice dental hygiene. Any person desiring to take the examination to qualify for licensure to practice dental hygiene in this state must make an application to the Central Regional Dental Testing Service, Inc. (CRDTS), 2715 West Twenty-ninth Street, Topeka, Kansas 66614, and meet such other requirements as CRDTS may establish for purposes of the examination.

This rule is intended to implement sections 147.29 and 147.34 of the Code.

20—11.4(153) Application to practice dental hygiene.

11.4(1) Applications for licensure to practice dental hygiene in this state shall be made to the board on the form provided by the board and must be completely answered.

11.4(2) Applications for licensure must be filed with the board along with:

a. Satisfactory evidence of graduation from an accredited school of dental hygiene approved by the board.

b. Certification by the dean or other authorized representative of the school of dental hygiene that the applicant has been a student in good standing while attending that dental hygiene school. If the applicant is licensed as a dental hygienist by another jurisdiction, he or she shall furnish certification from the appropriate examining board of that jurisdiction that he or she is a licensed dental hygienist in good standing.

c. Certification by the Council of National Board of Dental Examiners of successful completion of the examination administered by that Council.

d. Certification by the Central Regional Dental Testing Service, Inc., of successful completion of the examination administered by CRDTS.

e. A fee of twenty-five dollars which is refundable to applicants who are ineligible to take the exam or whose application is incomplete. A statement of the reasons for rejection shall be sent to the applicant.

11.4(3) The board may require additional information be provided by the applicant relating to character, education and experience as may be necessary to pass upon the applicant's qualifications.

11.4(4) Applications must be signed and verified as to the truth of the statements contained therein.

This rule is intended to implement section 147.3 of the Code.

20—11.5(153) Character references. The board may require the applicant to submit two character references from persons who are not licensed members of the profession.

This rule is intended to implement section 147.3 of the Code.

320—11.6(153) Felonies. The board may consider the past felony record of an applicant if the felony conviction relates to the practice of dentistry or dental hygiene.

This rule is intended to implement section 147.3 of the Code.

CHAPTER 12 EXAMINATIONS

320—12.1(153) Examination procedure for dentistry.

12.1(1) Unless otherwise notified in writing, applicants shall appear at the time and place fixed by the board to take the examination.

12.1(2) Each applicant shall be assigned a number for identification purposes during the examination. The examination shall be conducted so as to conceal the identity of the applicant as best as possible.

12.1(3) The ability of an examinee to read and interpret instructions shall be evaluated and considered by the board as a part of the examination.

12.1(4) Any examinee who gives or receives unauthorized assistance in any portion of the examination may be dismissed from the examination. Any examinee who violates any of the applicable rules or instructions may be declared by the board to have failed the examination.

12.1(5) An examinee must be present punctually at the time designated for commencing each session of the examination.

12.1(6) The examinee must attain an average grade of not less than seventy percent on each clinical portion of the examination and seventy percent on the written portion of the examination.

12.1(7) Each examinee shall be required to perform such clinical operations as may be required by the Central Regional Dental Testing Service, Inc., for the purpose of sufficiently evaluating and testing the fitness of the examinee to practice dentistry.

DENTAL EXAMINERS (cont'd)

12.1(8) The examinee must furnish his or her own patients, all needed materials, supplies and instruments. The director of the dental clinic at the college of dentistry may aid in the procurement of patients.

12.1(9) All operations must be performed by the examinee in the presence of the board members assigned for such purpose.

320—12.2(153) Examination procedure for dental hygiene.

12.2(1) Unless otherwise notified in writing, applicants shall appear at the time and place fixed by the board to take the examination.

12.2(2) Each applicant shall be assigned a number for identification purposes during the examination. The examination shall be conducted so as to conceal the identity of the applicant as best as possible.

12.2(3) The ability of an examinee to read and interpret instructions shall be evaluated and considered by the board as a part of the examination.

12.2(4) Any examinee who gives or receives unauthorized assistance in any portion of the examination may be dismissed from the examination. An examinee who violates any of the applicable rules or instructions may be declared by the board to have failed the examination.

12.2(5) An examinee must be present punctually at the time designated for commencing each session of the examination.

12.2(6) The examinee must attain an average grade of seventy percent on the examination.

12.2(7) Each examinee shall be required to perform such practical demonstrations as may be required by the Central Regional Dental Testing Service, Inc., for the purpose of sufficiently evaluating and testing the fitness of the examinee to practice dental hygiene.

12.2(8) The examinee must furnish his or her own patients, all needed materials, supplies and instruments. The director of the clinic at the school of dental hygiene may aid in the procurement of patients.

320—12.3(153) Re-examination.

12.3(1) If the examinee for dentistry or dental hygiene fails the first examination and desires to take a second examination, he or she shall notify the Central Regional Dental Testing Service, Inc., at least thirty days prior to the first day of the next examination. The examinee shall be required to certify that the material statements contained in the original application are currently true and correct.

12.3(2) If the examinee for dentistry or dental hygiene fails a second examination, additional formal education or clinical experience must be obtained before he or she will be allowed to take another examination.

320—12.4(153) Additional requirements. Examinees for dentistry or dental hygiene shall be required to meet such other requirements as may be imposed by the Central Regional Dental Testing Service, Inc.

This chapter is intended to implement section 147.36 of the Code.

**CHAPTER 13
SPECIAL LICENSES****320—13.1(153) Resident dentist license.**

13.1(1) All persons granted permission by the Iowa board of dentistry to practice as residents, interns or graduate students in board approved teaching or educational institutions offering specialty oriented courses shall be required to furnish to the board the following:

a. A signed written statement from the superintendent, director or head of the institution in which the applicant seeks to enroll.

b. A signed written statement of a licensed Iowa dentist who proposes to exercise

Supervision and direction over said applicant, specifying in general terms the time and manner thereof.

c. Satisfactory evidence of graduation from an accredited school of dentistry or other school approved by the board.

d. All applicants shall be required to furnish to the board such additional information as the board may deem necessary to enable it to determine the proficiency of such applicant.

13.1(2) If a resident dentist licensee leaves the service of such institution during the tenure of residency, internship or graduate study, the license shall be returned immediately to the Department of Health and the authority granted by the board to licensee shall be automatically canceled.

13.1(3) Application for the resident dentist license or the renewal thereof shall be on official board forms and shall be filed with the board together with a fee of ten dollars.

13.1(4) The resident dentist license shall be valid for one year and may be renewed annually for no more than three years.

13.1(5) No examination shall be required for this license.

13.1(6) The resident dentist licensee shall be subject to all applicable provisions of Chapters 147 and 153 of the Code and the rules of the board. Any violations of these laws or rules or the failure of the licensee to perform and progress satisfactorily or receive effective supervision as determined by the board, shall be grounds for revocation of the license after proper notice and hearing.

This rule is intended to implement section 153.22 of the Code.

320—13.2(153) Dental college faculty permits.

13.2(1) The board may issue to members of the faculty of the college of dentistry a faculty permit entitling the holder thereof to practice dentistry or dental hygiene within the college of dentistry and its affiliated teaching facilities as an adjunct to the faculty members' teaching positions and associated responsibilities and functions therein.

13.2(2) The dean of the college of dentistry shall certify to the board those bona fide members of the college's faculty who are not licensed and registered to practice dentistry or dental hygiene in Iowa. Any faculty member so certified shall, prior to commencing his or her duties in the college of dentistry, make written application to the board for such permit.

13.2(3) Such permit shall expire on the first day of July next following the date of issuance and may, at the sole discretion of the board, be renewed on a yearly basis.

13.2(4) A fee of fifteen dollars shall be paid by the applicant for issuance and renewal of the faculty permit.

13.2(5) The faculty permit shall be valid only so long as the holder thereof remains a member of the faculty of the college of dentistry and shall subject the holder to all provisions of the Act regulating the practice of dentistry and dental hygiene in this state.

This rule is intended to implement chapter 78 of the Acts of the Sixty-seventh General Assembly.

CHAPTER 14 RENEWAL

320—14.1(153) Renewal of license to practice dentistry or dental hygiene. A license to practice dentistry or a license to practice dental hygiene must be renewed annually.

14.1(1) Application for renewal must be made in writing to the board at least thirty days before the current license expires.

14.1(2) The appropriate fee shall accompany the application for renewal of a license.

14.1(3) Completion of continuing education is required for renewal of a license.

This rule is intended to implement section 147.10 of the Code and chapter 95 of the Acts of the Sixty-seventh General Assembly.

DENTAL EXAMINERS (*cont'd*)

320—14.2(153) Notice of renewal. The department will notify each licensee by mail of the expiration of his or her license. A penalty may be assessed by the board for late renewal.

This rule is intended to implement section 147.10 of the Code.

320—14.3(153) Grounds for nonrenewal of license to practice dentistry or dental hygiene. The board may refuse to renew, after proper notice and hearing, a license on the following grounds:

14.3(1) Violation of chapter 147 or 153 during the term of the last license or renewal of license.

14.3(2) Commission of any acts of unprofessional conduct during the term of the last license or renewal of license.

14.3(3) Failure to obtain required continuing education.

This rule is intended to implement section 153.23 of the Code and chapter 95 of the Acts of the Sixty-seventh General Assembly.

320—14.4(153) Reinstatement.

14.4(1) Application for reinstatement of a license not renewed by the board shall be made on the official form and filed with the board.

14.4(2) The application shall be accompanied by payment of all renewal fees then due.

14.4(3) The board may require the former licensee to take an examination prior to reinstatement.

14.4(4) The application shall include the following:

- a. Name and address of applicant.
- b. Date of admission to practice in Iowa.
- c. Dates and places of practice.
- d. License number for which reinstatement is sought.
- e. Reasons for seeking reinstatement and why license was not maintained.
- f. List of all study clubs and professional meetings attended since license lapsed, with dates and places thereof.
- g. List of postgraduate courses taken since license lapsed, with dates and places thereof.
- h. Other states in which licensed and the identifying number of each license.

14.4(5) The applicant shall also submit two character references from persons who are not licensed in the profession concerned and such other information as the board may require to evaluate the applicant.

This rule is intended to implement sections 147.11 and 153.30 of the Code.

CHAPTER 15

FEES

320—15.1(153) Licensee fees.

15.1(1) The fee for a license to practice dentistry shall be fifty dollars.

15.1(2) The fee for a license to practice dental hygiene shall be twenty-five dollars.

15.1(3) The fee for a resident dentist license shall be ten dollars.

15.1(4) The fee for a faculty permit shall be fifteen dollars.

This rule is intended to implement sections 147.80(1), 147.80(9) and 153.22 of the Code and Acts of the Sixty-seventh General Assembly, Chapter 78.

320—15.2(153) Renewal fees.

15.2(1) The fee for renewal of a license to practice dentistry shall be fifteen dollars for an active practitioner and five dollars for an inactive practitioner.

15.2(2) The fee for renewal of a license to practice dental hygiene shall be five dollars.

15.2(3) The fee for renewal of a resident dentist license shall be ten dollars.

15.2(4) The fee for renewal of a faculty permit shall be fifteen dollars.

This rule is intended to implement sections 147.80(1), 147.80(9) and 153.22 of the Code and Acts of the Sixty-seventh General Assembly, Chapter 78.

320—15.3(153) Miscellaneous fees.

15.3(1) The fee for issuing a duplicate license shall be five dollars.

15.3(2) The fee for a certification of the Iowa license shall be five dollars.

This rule is intended to implement section 147.80, subsections 16 and 17, of the Code.

CHAPTERS 16 TO 19
Reserved**TITLE IV**
AUXILIARY PERSONNEL**CHAPTERS 20 TO 24**
Reserved**TITLE V**
PROFESSIONAL STANDARDS**CHAPTER 25**
CONTINUING EDUCATION

320—25.1(153) Definitions. For the purpose of these rules on continuing education, definitions shall apply:

25.1(1) "Board" means the board of examiners for dentistry.

25.1(2) "Licensee" means any person licensed to practice dentistry or dental hygiene in the state of Iowa.

25.1(3) "Hour" of continuing education means a clock-hour spent after December 31, 1978, by a licensee in actual attendance at and completion of an approved continuing education activity.

25.1(4) "Approved program or activity" means a continuing education program activity meeting the standards set forth in these rules which has received advance approval by the board pursuant to these rules.

25.1(5) "Approved sponsor" means a person or an organization sponsoring continuing education activities which has been approved by the board as a sponsor pursuant to these rules. During the time an organization, educational institution, or person is an approved sponsor, all continuing education activities of such person or organization may be deemed automatically approved.

320—25.2(153) Continuing education requirements.

25.2(1) Beginning January 1, 1979, each person licensed to practice dentistry or dental hygiene in this state shall complete during each calendar year a minimum of fifteen hours of continuing education approved by the board. Compliance with the requirement of continuing education is a prerequisite for license renewal in each subsequent license renewal year.

25.2(2) The continuing education compliance year shall extend from January 1 to December 31, during which period attendance at approved continuing education programs may be used as evidence of fulfilling continuing education requirements for the subsequent license renewal year beginning July 1 and expiring June 30.

25.2(3) Hours of continuing education credit may be obtained by attending and participating in a continuing education activity, either previously approved by the board or which otherwise meets the requirement herein and is approved by the board pursuant to Rule 25.4(3) of these rules.

25.2(4) It is the responsibility of each licensee to finance his or her costs of continuing education. All fees for continuing education courses shall be remitted by licensee directly to the sponsor or as the board may otherwise direct.

320—25.3(153) Standards for approval. A continuing education activity shall be qualified for approval if the board determines that:

25.3(1) It constitutes an organized program of learning (including a workshop or symposium) which contributes directly to the professional competency of the licensee; and

25.3(2) It pertains to common subjects or other subject matters which relate integrally to the practice of dentistry or dental hygiene.

25.3(3) It is conducted by individuals who have a special education, training and experience by reason of which said individuals should be considered experts concerning the subject matter of the program, and is accompanied by a paper, manual or written outline which substantively pertains to the subject matter of the program.

Except as the board may allow pursuant to subrule 25.4(3) or rule 25.8(153) hereof, no licensee shall receive credit exceeding ten percent of the annual total required hours for self-study, including television viewing, video or sound-recorded programs, correspondence work, or research, or by other similar means as authorized by the board.

320—25.4(153) Approval of sponsors, programs and activities.

25.4(1) Approval of sponsors. An organization or person not previously approved by the board, which desires approval as a sponsor of courses, programs, or other continuing education activities, shall apply for approval to the board stating its education history for the preceding two years, including approximate dates, subjects offered, total hours of instruction presented, and the names and qualifications of instructors. By January 31 of each year, commencing January 31, 1980, all approved sponsors shall report to the board in writing the education programs conducted during the preceding calendar year on a form approved by the board.

The board may at any time re-evaluate an approved sponsor. If after such re-evaluation, the board finds there is basis for consideration of revocation of the approval of an approved sponsor, the board shall give notice by ordinary mail to that sponsor of a hearing on such possible revocation at least thirty days prior to said hearing. The decision of the board after such hearing shall be final.

25.4(2) Prior approval of activities. An organization or person other than an approved sponsor, which desires prior approval of a course, program or other continuing education activity or who desires to establish approval of such activity prior to attendance thereat, shall apply for approval to the board at least ninety days in advance of the commencement of the activity on a form provided by the board. The board shall approve or deny such application in writing within sixty days of receipt of such application. The application shall state the dates, subjects offered, total hours of instruction, names and qualifications of speakers and other pertinent information.

25.4(3) Post approval of activities. A licensee seeking credit for attendance and participation in an educational activity which was not conducted by an approved sponsor nor otherwise approved shall submit to the board, within sixty days after completion of such activity, its dates, subjects, instructors, and their qualifications and the number of credit hours requested therefor. Within ninety days after receipt of such application the board shall advise the licensee in writing by ordinary mail whether the activity is approved and the number of hours allowed therefor. A licensee not complying with the requirements of this subparagraph may be denied credit for such activity.

25.4(4) Review of programs. The board may monitor or review any continuing education program already approved by the board and upon evidence of significant variation in the program presented from the program approved may disapprove all or any part of the approved hours granted to the program.

320—25.5(153) Hearings. In the event of denial, in whole or in part, of any application for approval of a continuing education program or credit for continuing education activity, the applicant or licensee shall have the right, within twenty days after the sending of the notification of the denial by ordinary mail, to request a hearing which shall be held within

DENTAL EXAMINERS (*cont'd*)

sixty days after receipt of the request for hearing. The hearing shall be conducted by the board or a qualified hearing officer designated by the board. If the hearing is conducted by a hearing officer, the hearing officer shall submit a transcript of the hearing including exhibits to the board after the hearing with the proposed decision of the hearing officer. The decision of the board or decision of the hearing officer after adoption by the board shall be final.

320—25.6(153) Report of licensee. Each licensee shall file a signed report with the annual renewal application no later than March 1 of the year following the calendar year in which claimed continuing education hours were completed. The report shall be sent to the Iowa State Department of Health, Licensing and Certification Section, Lucas State Office Building, Des Moines, Iowa 50319.

320—25.7(153) Attendance record report. The person or organization sponsoring continuing education activities shall make a written record of the Iowa licensees in attendance and send a signed copy of such attendance record to the secretary of the board upon completion of the educational activity, but in no case later than March 1 of the following calendar year. The report shall be sent to the Iowa State Department of Health, Licensing and Certification Section, Lucas State Office Building, Des Moines, Iowa 50319.

320—25.8(153) Physical disability or illness. The board may, in individual cases involving physical disability or illness, grant waivers of the minimum education requirements or extensions of time within which to fulfill the same or make the required reports. No waiver or extension of time shall be granted unless written application therefor shall be made on forms provided by the board and signed by the licensee and a physician licensed by the board of medical examiners. Waivers of the minimum educational requirements may be granted by the board for any period of time not to exceed one calendar year. In the event that the physical disability or illness upon which a waiver has been granted continues beyond the period of the waiver, the licensee must reapply for an extension of the waiver. The board may, as a condition of any waiver granted, require the applicant to make up a certain portion or all of the minimum educational requirements waived by such methods as may be prescribed by the board.

320—25.9(153) Exemptions for inactive practitioners. A licensee who is not engaged in practice in the state of Iowa residing within or without the state of Iowa may be granted a waiver of compliance and obtain a certificate of exemption upon written application to the board. The application shall contain a statement that the applicant will not engage in the practice of dentistry or dental hygiene in Iowa without first complying with all regulations governing reinstatement after exemption. The application for a certificate of exemption shall be submitted upon the form provided by the board.

320—25.10(153) Reinstatement of inactive practitioners. Inactive practitioners who have been granted a waiver of compliance with these regulations and obtained a certificate of exemption shall, prior to engaging in the practice of dentistry or dental hygiene in the state of Iowa satisfy the following requirements for reinstatement:

25.10(1) Submit written application for reinstatement to the board upon forms provided by the board; and

25.10(2) Furnish in the application evidence of one of the following:

a. The full-time practice of dentistry or dental hygiene in another state of the United States or the District of Columbia and completion of continuing education for each year of inactive status substantially equivalent in the opinion of the board to that required under the rules; or

b. Completion of a total number of hours of accredited continuing education computed by multiplying fifteen by the number of years a certificate of exemption shall have been in effect for such applicant; or

DENTAL EXAMINERS (cont'd)

c. Successful completion of the Iowa state license examination conducted within one year immediately prior to the submission of such application for reinstatement.

This chapter is intended to implement chapter 95 of the Acts of the Sixty-seventh General Assembly.

CHAPTERS 26 TO 29

Reserved

TITLES VI TO X

CHAPTERS 30 TO 49

Reserved

ITEM 2. Amend chapter 5 by renumbering to chapter 50 and renumbering all subsections accordingly.

ITEM 3. Amend chapter 6 by renumbering to chapter 51 and renumbering all subsections accordingly.

EMPLOYMENT SECURITY[730]

DEPARTMENT OF JOB SERVICE

NOTICE OF INTENDED ACTION

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

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 §17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

The Iowa Department of Job Service, pursuant to the authority of sections 96.11(1) and 17A.3 of the Code, proposes to amend existing rules in chapter 2 appearing in the Iowa Administrative Code June 14, 1978, for the purpose of implementing Acts of the Sixty-seventh General Assembly, 1977 Session, Chapter 54, sections 2 and 3.

Interested persons, governmental agencies and associations may present written comments or statements of the proposed amendments not later than July 18, 1978, to Harold D. Keenan, Iowa Department of Job Service, 1000 East Grand Avenue, Des Moines, Iowa 50319.

A public hearing will be held at 10:30 a.m., July 28, 1978 at the above named address. The proposed amendments are subject to revision after the department considers all written and oral presentations.

Pursuant to said authority, the following amendments are proposed to chapter 2 of the rules appearing in the IAC June 14, 1978, relating to Employer's Records and Reports.

ITEM 1. Strike all of subrule 2.11(1) and insert in lieu thereof the following:

2.11(1) Separate accounts. The department shall maintain a separate account for each employer (or single legal entity). Any single employer (or single legal entity) who has more than

one establishment or business under a single ownership in which wages are paid to employees will be considered a single employing unit entitled to a single experience rate. Such employer may request in writing that the department assign a separate reporting number (account number) to each establishment or business. The department may issue a separate reporting number (account number) to the various establishments or businesses, or any part thereof. A quarterly contribution and wage report will be submitted by each establishment or business that has a reporting number (account number), showing all wages paid by such establishment or business during each quarter. The experience of all establishments or businesses of an employer (or any single legal entity) shall be combined on the rate computation date for the purpose of computing one experience rate for the legal ownership of the establishments or businesses as provided for in section 96.7, Code of Iowa.

For the purpose of this rule entities may include an individual, trust, estate, partnership, association or corporation.

The determination of whether any given establishment or business owned by any of the described entities may be entitled to separate rates will be decided on the basis of the law which created and gave legal existence and rights to such establishments or businesses. If, pursuant to such law the establishment or business by reason of the articles of incorporation or association of the terms of the partnership or other legal documents giving legal efficacy, thereby creates a separate legal entity which apart from the owners is legally responsible and answerable under the law for all its actions and obligations, such legal entity may be assigned a separate experience rating.

With respect to a successor employer to another covered establishment or business, the acquiring entity may have a separate account number for the acquired business only if that business retains its character as a separate legal entity. If the predecessor's business is merged with that of the successor so that they become a single legal entity under the law, the successor is not entitled to separate rates.

This subrule is intended to implement sections 96.7(2)"a", 96.7(3)"a", and 96.19(5) of the Code.

ITEM 2. Rule 2.11(96) is amended by adding the following new subrule:

2.11(4) Establishment defined. As used in this section "establishment" means an economic unit, generally at a single physical location, where business is conducted, or where services or industrial operations are performed, or from which employees are dispatched.

This subrule is intended to implement sections 96.7(2)"a", 96.7(3)"a", and 96.19(5) of the Code.

ITEM 3. Subrule 2.12(3) is amended to read as follows:

2.12(3) When a covered employer acquires a separate enterprise or business, the employer shall have the option of carrying two separate accounts, one for each business, or merging the two businesses into one account, ~~except when one of the two businesses is engaged in construction work, in which case the employer must carry separate accounts. See subrules 2.11(1) and 3.40(3).~~

This subrule is intended to implement sections 96.7(2)"a", 96.7(3)"a", and 96.19(5) of the Code.

ITEM 4. Strike all of subrule 2.12(4) and insert in lieu thereof the following:

2.12(4) When an acquiring employer chooses to carry a separate account for each business, the employer shall succeed to the predecessor's contribution rate for the business acquired, and continue with the employer's established rate for the business the employer had prior to the acquisition of the second business for the balance of the calendar year. Future rates will be as described in subrule 2.11(1).

This subrule is intended to implement sections 96.7(2)"a", 96.7(3)"a", and 96.19(5) of the Code.

NOTICES
EMPLOYMENT SECURITY (cont'd)

IAB 6/28/78

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

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 §17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

The Iowa Department of Job Service, pursuant to the authority of sections 96.11(1) and 17A.3 of the Code, proposes to amend existing rules in chapter 3 appearing in the Iowa Administrative Code June 14, 1978, for the purpose of implementing Acts of the Sixty-seventh General Assembly, 1977 Session, Chapter 54, Sections 2 and 3.

Interested persons, governmental agencies and associations may present written comments or statements of the proposed amendments not later than July 18, 1978, to Harold D. Keenan, Iowa Department of Job Service, 1800 East Grand Avenue, Des Moines, Iowa 50319.

A public hearing will be held at 10:30 a.m., July 28, 1978 at the above named address. The proposed amendments are subject to revision after the department considers all written and oral presentations.

Pursuant to said authority, the following amendments are proposed to chapter 3 of the rules appearing in the IAC June 14, 1978, relating to Employer's Contribution and Charges.

ITEM 1. Rule 3.40(96) is amended by adding the following new subrules 3.40(3) and 3.40(4):

3.40(3) Different classification activities. Any single employer who has two or more establishments or businesses engaged in different industrial classification activities, with one or more establishments or businesses engaged in construction activity, as defined in rule 3.82(96), shall be assigned the contribution rate applicable to construction; provided, fifty per cent or more of the combined business activity is derived from establishments or businesses engaged in construction activities.

3.40(4) Correction of duplicate accounts. If an employer has reported wages and paid contributions under two or more accounts with separate contribution rates, the department shall combine the accounts, compute the corrected contribution rate and give notice of the combining to the employer.

No refunds, credit or assessment will be made with respect to contribution paid on wages reported on the accounts which have been combined for the purpose of computing a single contribution rate. The single contribution rate shall become effective on the first calendar day of the first subsequent calendar quarter after the computation of the single rate.

These subrules are intended to implement sections 96.7(2)"a", 96.7(3)"a", and 96.19(5) of the Code.

ITEM 2. Subrule 3.43(5) is amended to read as follows:

3.43(5) Better employment. A claimant who voluntarily quits for better employment and remains in such better employment for more than one week but less than six weeks shall be paid benefits if otherwise eligible. No charge shall accrue to either the former or subsequent

better employer; *except that when the former employer is a reimbursable employer such reimbursable employer shall be charged with the benefits paid.*

This subrule is intended to implement section 96.5(1)"a" of the Code.

ITEM 3. Subrule 3.44(3) is amended to read as follows:

3.44(3) Erroneous payments not caused by employer. Error payments caused by anything other than employer error shall be charged to the employer reserve. ~~Both the contributory and reimbursable employer shall be relieved of charges. Applies to contributory employers only.~~

This subrule is intended to implement section 96.7(3)"a"(2) of the Code.

ITEM 4. Rule 3.82(96) is amended by adding the following new subrule:

3.82(3) The assignment of standard industrial codes. Each establishment or business shall be assigned an industry code on the basis of its primary activity, which is determined by its principal product or group of products produced or distributed, or services rendered. Ideally this should be determined by relative share of "value added." Since this is not possible for all sectors of the economy, the following should be used as a guide for determining industry codes:

Division	Data Measure
Agriculture, forestry and fishing (except agricultural services)	Value of production
Mining	Value of production
Construction	Value of production
Manufacturing	Value of production
Transportation, communication, electric, gas and sanitary services	Value of receipts or revenues
Wholesale trade	Value of sales
Retail trade	Value of sales
Finance, insurance, and real estate	Value of receipts
Service (including agricultural services)	Value of receipts or revenues
Public administration	Employment or payroll

In some cases it will not be possible to determine even on an estimated basis the value of production or similar appropriate measure for each product or service. In other cases an industrial classification based on such measures of output will not accurately reflect the importance of the diversified activities. In such cases, employment or payroll should be used in lieu of the normal basis for determining the primary activity and subsequent code assignment of the establishment.

This subrule is intended to implement section 96.11(7) of the Code.

ITEM 5. Chapter 3 is amended by adding rule 3.86(96) as follows:

370—3.86(96) Benefits and compensation—school employees. The terms "benefits" and "compensation" have the same meaning within section 2 of chapter 54, Acts of the Sixty-seventh General Assembly, as "benefits" defined in 96.19(2) of the 1977 Code of Iowa.

This rule is intended to implement section 96.4(5) of the Code as amended by Acts of the Sixty-seventh General Assembly, chapter 54, section 2.

ITEM 6. Chapter 3 is amended by adding rule 3.87(96) as follows:

370—3.87(96) Effective date of benefits to school employees. Sections 96.4(5)"a", 96.4(5)"c" and 96.4(5)"e" are interpreted to mean "for weeks of unemployment beginning after December 31, 1977."

This rule is intended to implement section 96.4(5) as amended by Acts of the Sixty-seventh General Assembly, chapter 54, section 2.

NOTICES
EMPLOYMENT SECURITY (cont'd)

IAB 6/28/78

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

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 §17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

The Iowa Department of Job Service, pursuant to the authority of sections 96.11(1) and 17A.3 of the Iowa Code, proposes to amend rules in chapter 4 appearing in the Iowa Administrative Code June 14, 1978, for the purpose of implementing Acts of the Sixty-seventh General Assembly, Chapter 54, sections 2 and 3.

Interested persons, governmental agencies and associations may present written comments or statements of the proposed amendments not later than July 18, 1978, to Harold D. Keenan, Iowa Department of Job Service, 1000 East Grand Avenue, Des Moines, Iowa 50319.

A public hearing will be held at 10:30 a.m., July 28, 1978 at the above named address. The proposed amendments are subject to revision after the department considers all written and oral presentations.

Pursuant to said authority, the following amendments are proposed to chapter 4 of the rules appearing in the IAC June 14, 1978, relating to Claims and

ITEM 1. Strike all of subrule 4.24(9) as follows:

~~4.24(9) Employment of one day. A refusal of work for one day only shall not be sufficient to impose a refusal disqualification. Reserve.~~

This subrule does not have any basis for existing and is not supported by any known court case or former policy.

ITEM 2. Strike all of subrule 4.25(9) as follows:

~~4.25(9) The claimant will be deemed to have voluntarily left employment where the company has a rule or policy prohibiting the marriage of fellow employees stating that one of the employees could not continue in employment; and the claimant had been notified of such rule or policy before the marriage. Reserve.~~

This subrule has not support in old commission policy or old court case.

ITEM 3. Subrule 4.25(37) is amended to read as follows:

4.25(37) The claimant will be considered to have left employment voluntarily when such claimant gave the employer notice of his/her intention to resign and the employer accepted such resignation. *This rule shall also apply to the claimant who was employed by an educational institution who has declined or refused to accept a new contract or reasonable assurance of work for a successive academic term or year and the offer of work was within the purview of the individual's training and experience.*

This subrule is intended to implement section 96.4(5) of the Code.

ITEM 4. Rule 4.57(96) is amended by adding the following new subrule:

4.57(8) Athletes—denial of benefits. An individual (athlete) will be denied benefits between seasons based on services performed by such individual (athlete).

This subrule is intended to implement section 96.5 as amended by Acts of the Sixty-seventh General Assembly, chapter 54, section 3.

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

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 §17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

The Iowa Department of Job Service, pursuant to the authority of sections 96.11(1) and 17A.3 of the Code, proposes to amend existing rules in chapter 10 appearing in the Iowa Administrative Code June 14, 1978, for the purpose of updating them.

Interested persons, governmental agencies and associations may present written comments or statements of the proposed amendments not later than July 18, 1978, to Harold D. Keenan, Iowa Department of Job Service, 1000 East Grand Avenue, Des Moines, Iowa 50319.

A public hearing will be held at 10:30 a.m., July 28, 1978 at the above named address. The proposed amendments are subject to revision after the department considers all written and oral presentations.

Pursuant to said authority, the department proposes to amend chapter 10 of the rules appearing in IAC, relating to forms, by adding the following new forms:

Amend 10.7(2) by adding new forms to the end of the subrule as follows:

- | | |
|----------------------------|--|
| IESC T-1454 | Food stamp referral form. Used to inform department of social services of the date an active application for work was filed with the job placement office by the food stamp applicant. |
| IESC 1535-3 | Information card and pamphlet. This pamphlet is used as promotional material for recruiting detassellers. The card portion is returned to Job Service by persons interested in detasseling. |
| IESC 1639
Parts 1 and 2 | Job matching automatic mailer. This form is automatically sent to active job matching applicants to find out if they are still seeking a job or to find out if they are working, and if so, where. |

HEALTH DEPARTMENT[470]

NOTICE OF INTENDED ACTION

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

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 §17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

The Health Department, pursuant to the authority of chapter 17A and section 135C.14 of the Code of Iowa, proposes to amend chapters 57, 58, 59, 60, 61, 63, and 64 of the rules for health care facilities as follows.

Any interested person may submit written comments which should be addressed to Rick L. Middleton, Chief, Division of Health Facilities, State Department of Health, Lucas State Office Building, Des Moines, Iowa 50319. Written comments should include the name and address of the party filing the comment, as well as a specific reference to the rules upon which a comment is submitted. All relevant comments received by July 19, 1978, will be considered.

ITEM 1. Subrule 470—57.3(1) is amended to read as follows:

57.3(1) Initial application- *and licensing*. In order to obtain an *initial* residential care facility license- *for a residential care facility which is currently licensed*, the applicant must:

ITEM 2. Further amend subrule 57.3(1) by striking paragraph "a" and inserting in lieu thereof the following:

a. Meet all of the rules, regulations, and standards contained in chapters 57(135C) and 60(135C) of the Iowa Administrative Code;

ITEM 3. Subrule 57.3(1), paragraph "c" is amended to read as follows:

c. Make application at least thirty days prior to the ~~proposed opening date~~ *change of ownership* of the facility on forms provided by the department;

ITEM 4. Further amend subrule 57.3(1) by striking all of paragraph "g" and relettering the following paragraphs accordingly.

ITEM 5. Subrule 57.3(2) is amended by renumbering the subrule as 57.3(3) and inserting a new subrule 470—57.3(2) which reads as follows:

57.3(2) In order to obtain an initial residential care facility license for a facility not currently licensed as a residential care facility, the applicant must:

a. Meet all of the rules, regulations, and standards contained in chapters 57(135C) and 60(135C) of the Iowa Administrative Code. Exceptions noted in subrule 60.3(2) shall not apply;

b. Submit a letter of intent and a written resume of the resident care program and other services provided for departmental review and approval;

c. Make application at least thirty days prior to the proposed opening date of the facility on forms provided by the department;

d. Submit a floor plan of each floor of the residential care facility, drawn on 8½ x 11 inch paper showing room areas in proportion, room dimensions, room numbers for all rooms, including bathrooms, and designation of the use to which room will be put and window and door locations;

- e. Submit a photograph of the front and side elevation of the residential care facility;
- f. Submit the statutory fee for a residential care facility license;
- g. Comply with all other local statutes and ordinances in existence at the time of licensure;
- h. Have a certificate signed by the state fire marshal or deputy state fire marshal as to compliance with fire safety rules and regulations.

ITEM 6. Subrule 57.11(1) is amended to read as follows:

57.11(1) There shall be written personnel policies in facilities of more than fifteen beds to include hours of work, ~~salary, advancement criteria, vacation, sick leave,~~ and attendance at educational programs. (III)

ITEM 7. Subrule 57.23(2), paragraph "b", is amended to read as follows:

b. Staffing for the activity program shall be provided on the minimum basis of forty-five minutes per licensed bed per week. *Twenty-five percent of the staffing may be provided by qualified volunteers.* This time shall be spent in working with the organized activity program. ~~and shall include salaried staff only.~~ (II, III)

ITEM 8. Subrule 57.24(3), paragraph "b", is amended to read as follows:

b. The committee shall not have access to the medical *or financial* records of the resident. (III)

ITEM 9. Subrule 57.30(7) is amended by striking all of paragraph "f" and relettering the following paragraph accordingly.

ITEM 10. Subrule 58.3(1) is amended to read as follows:

58.3(1) Initial application ~~and licensing.~~ In order to obtain an *initial* intermediate care facility license ~~for an intermediate care facility which is currently licensed,~~ the applicant must:

ITEM 11. Amend subrule 58.3(1) by striking all of paragraph "a" and inserting in lieu thereof the following:

a. Meet all of the rules, regulations, and standards contained in chapters 58(135C) and 61(135C) of the Iowa Administrative Code. Applicable exceptions found in rule 61.2 shall apply based on the construction date of the facility.

ITEM 12. Subrule 58.3(1), paragraph "c", is amended to read as follows:

c. Make application at least thirty days prior to the ~~proposed opening date~~ *change of ownership* of the facility on forms provided by the department;

ITEM 13. Further amend subrule 58.3(1), by striking all of paragraph "g" and relettering the following paragraphs accordingly.

ITEM 14. Subrule 58.3(2) is amended by renumbering the subrule as 58.3(3) and inserting a new subrule 58.3(2) which reads as follows:

58.3(2) In order to obtain an initial intermediate care facility license for a facility not currently licensed as an intermediate care facility, the applicant must:

a. Meet all of the rules, regulations, and standards contained in chapters 58(135C) and 61(135C) of the Iowa Administrative Code. Exceptions noted in subrule 61.1(2) shall not apply;

b. Submit a letter of intent and a written resume of the resident care program and other services provided for departmental review and approval;

c. Make application at least thirty days prior to the proposed opening date of the facility on forms provided by the department;

- d. Submit a floor plan of each floor of the intermediate care facility, drawn on 8½ x 11 inch paper showing room areas in proportion, room dimensions, room numbers for all rooms, including bathrooms, and designation of the use to which room will be put and window and door locations;
- e. Submit a photograph of the front and side elevation of the intermediate care facility;
- f. Submit the statutory fee for an intermediate care facility license;
- g. Comply with all other local statutes and ordinances in existence at the time of licensure;
- h. Have a certificate signed by the state fire marshal or deputy state fire marshal as to compliance with fire safety rules and regulations.

ITEM 15. Subrule 58.10(1) is amended to read as follows:

58.10(1) There shall be written personnel policies in facilities of more than fifteen beds to include hours of work, ~~salary, advancement criteria, vacation, sick leave,~~ and attendance at educational programs. (III)

ITEM 16. Subrule 58.11(1), paragraph "F", is amended to read as follows:

f. Persons employed in all departments, *except the nursing department*, of an intermediate care facility shall be qualified through formal training or through prior experience to perform the type of work for which they have been employed. Prior experience means at least two hundred forty hours of full-time employment in a field related to their duties. Persons may be hired in laundry, housekeeping, activities and dietary without experience or training if the facility institutes a formal in-service training program to fit the job description in question and documents such as having taken place within thirty days after the initial hiring of such untrained employees.

ITEM 17. Subrule 58.14(8) is amended to read as follows:

58.14(8) Each resident shall be visited by or shall visit his or her physician at least ~~quarterly~~, *twice a year. The year period shall be measured by the date of admission and is not to include preadmission physicals.*

ITEM 18. Subrule 58.26(2), paragraph "b", is amended to read as follows:

b. Staffing for the activity program shall be provided on the minimum basis of thirty-five minutes per licensed bed per week. *Twenty-five percent of the staffing may be provided by qualified volunteers.* This time shall be spent in working with the organized activity program. (II, III)

ITEM 19. Subrule 58.27(3), paragraph "b", is amended to read as follows:

b. The committee shall not have access to the medical *or financial* records of the resident. (III)

ITEM 20. Subrule 59.3(1) is amended to read as follows:

59.3(1) Initial application ~~and licensing~~. In order to obtain an initial skilled nursing facility license ~~for a skilled nursing facility which is currently licensed~~, the applicant must:

Further amend subrule 59.3(1) by striking paragraph "a" and inserting in lieu thereof the following:

a. Meet all of the rules, regulations, and standards contained in chapters 59(135C) and 61(135C) of the Iowa Administrative Code. Applicable exceptions found in rule 61.2(135C) shall apply based on the construction date of the facility;

ITEM 21. Subrule 59.3(1), paragraph "c", is amended to read as follows:

c. Make application at least thirty days prior to the ~~proposed opening date~~ *change of ownership* of the facility on forms provided by the department;

ITEM 22. Further amend subrule 59.3(1) by striking all of paragraph "g" and relettering the following paragraphs accordingly.

ITEM 23. Subrule 59.3(2) is amended by renumbering the subrule as 59.3(3) and inserting a new subrule 59.3(2) which reads as follows:

58.3(2) In order to obtain an initial skilled nursing facility license for a facility not currently licensed as a skilled nursing facility, the applicant must:

a. Meet all of the rules, regulations, and standards contained in chapters 59(135C) and 61(135C) of the Iowa Administrative Code. Exceptions noted in subrule 61.1(2) shall not apply;

b. Submit a letter of intent and a written resume of the resident care program and other services provided for departmental review and approval;

c. Make application at least thirty days prior to the proposed opening date of the facility on forms provided by the department;

d. Submit a floor plan of each floor of the skilled nursing facility, drawn on 8½ x 11 inch paper showing room areas in proportion, room dimensions, room numbers for all rooms, including bathrooms, and designation of the use to which room will be put and window and door locations;

e. Submit a photograph of the front and side elevation of the skilled nursing facility;

f. Submit the statutory fee for a skilled nursing facility license;

g. Comply with all other local statutes and ordinances in existence at the time of licensure;

h. Have a certificate signed by the state fire marshal or deputy state fire marshal as to compliance with fire safety rules and regulations.

ITEM 24. Subrule 59.12(1) is amended to read as follows:

59.12(1) There shall be written personnel policies in facilities of more than fifteen beds to include hours of work, ~~salary, advancement criteria, vacation, sick leave~~ and attendance at educational programs. (III)

ITEM 25. Subrule 59.13(1), paragraph "f", is amended to read as follows:

f. Persons employed in all departments, *except the nursing department*, of a skilled nursing facility shall be qualified through formal training or through prior experience to perform the type of work for which they have been employed. Prior experience means at least two hundred forty hours of full-time employment in a field related to their duties. Persons may be hired in laundry, housekeeping, activities and dietary without experience or training if the facility institutes a formal in-service training program *to fit the job description in question and documents such as having taken place within thirty days after the initial hiring of such untrained employees.*

ITEM 26. Subrule 59.31(2), paragraph "b", is amended to read as follows:

b. Staffing for the activity program shall be provided on the minimum basis of thirty-five minutes per licensed bed per week. *Twenty-five percent of the staffing may be provided by qualified volunteers.* This time shall be spent in working with the organized activity program. (II, III)

ITEM 27. Subrule 59.32(3), paragraph "b", is amended to read as follows:

b. The committee shall not have access to the medical *or financial* records of the resident. (III)

ITEM 28. Amend subrule 60.18(4) by adding a new paragraph "d" which reads as follows:

d. The temperature of the hot water to the resident lavatories, baths, and showers shall range between 110° F (43° C) and 120° F (49° C). (III)

ITEM 29. Subrule 61.4(4), paragraph "d", is amended to read as follows:

d. The physical therapy room shall contain a lavatory or sink, a full length mirror, storage facilities, a work counter, space for the appropriate equipment, and have a minimum floor area of one hundred eighty square feet (16.75 square meters). This room may be combined with the examination and treatment room, 61.4(4)"c" above, if the floor area is no less than ~~two hundred twenty square feet (21 square meters)~~ *one hundred eighty square feet (16.75 square meters)*; (Exception No. 3) (III)

ITEM 30. Subrule 61.9(16) is amended to read as follows:

61.9(16) The food service area shall not be less than eight square feet (0.74 square meters) per resident bed. (*Exception No. 3*) (III)

ITEM 31. Amend subrule 61.16(6), paragraph "b", by striking subparagraph (8) and inserting in lieu thereof the following:

(8) The temperature of the hot water to the resident lavatories, baths, and showers shall range between 110° F (43° C) and 120° F (49° C). (III)

ITEM 32. Subrule 63.3(1) is amended to read as follows:

63.3(1) Initial application- ~~and licensing~~. In order to obtain an ~~license for a residential care facility for the mentally retarded~~, *initial residential care facility for the mentally retarded license for a residential care facility for the mentally retarded which is currently licensed*, the applicant must:

ITEM 33. Amend subrule 63.3(1) by striking paragraph "a" and inserting in lieu thereof the following:

a. Meet all of the rules, regulations, and standards contained in chapters 63(135C) and 60(135C) of the Iowa Administrative Code;

ITEM 34. Amend subrule 63.3(1), paragraph "c", to read as follows:

c. Make application at least thirty days prior to the ~~proposed opening date~~ *change of ownership* of the facility on forms provided by the department;

ITEM 35. Further amend subrule 63.3(1) by striking all of paragraph "g" and relettering the following paragraphs accordingly.

ITEM 36. Subrule 63.3(2) is amended by renumbering the subrule as 63.3(3) and inserting a new subrule 63.3(2) which reads as follows:

63.3(2) In order to obtain an initial residential care facility for the mentally retarded license for a facility not currently licensed as a residential care facility for the mentally retarded, the applicant must:

a. Meet all of the rules, regulations, and standards contained in chapters 63(135C) and 60(135C) of the Iowa Administrative Code; Exceptions noted in 60.3(2) shall not apply;

b. Submit a letter of intent and a written resume of the resident care program and other services provided for departmental review and approval;

c. Make application at least thirty days prior to the proposed opening date of the facility on forms provided by the department;

d. Submit a floor plan of each floor of the residential care facility for the mentally retarded, drawn on 8½ x 11 inch paper showing room areas in proportion, room dimensions, room numbers for all rooms, including bathrooms, and designation of the use to which the room will be put and window and door locations;

e. Submit a photograph of the front and side elevation of the residential care facility for the mentally retarded;

f. Submit the statutory fee for a residential care facility for the mentally retarded;

g. Comply with all other local statutes and ordinances in existence at the time of licensure;

h. Have a certificate signed by the state fire marshal or deputy state fire marshal as to compliance with fire safety rules and regulations.

ITEM 37. Subrule 63.9(1) is amended to read as follows:

63.9(1) There shall be written personnel policies in facilities of more than fifteen beds to include hours of work, ~~salary, advancement criteria, vacation, sick leave~~ and attendance at educational programs. (III)

ITEM 38. Subrule 63.21(3), paragraph "b", is amended to read as follows:

b. Staffing for the activity program shall be provided on the minimum basis of forty-five minutes per licensed bed per week. *Twenty-five percent of the staffing may be provided by qualified volunteers.* This time shall be spent in working with the organized activity program. ~~and shall include salaried staff only.~~ (II, III)

ITEM 39. Subrule 63.22(3), paragraph "b", is amended to read as follows:

b. The committee shall not have access to the medical *or financial* records of the resident. (III)

ITEM 40. Amend subrule 63.28(7) by striking all of paragraph "f" and relettering the following paragraph accordingly.

ITEM 41. Subrule 64.3(1) is amended to read as follows:

64.3(1) Initial application. ~~and licensing.~~ In order to obtain an ~~license for an intermediate care facility for the mentally retarded,~~ *initial intermediate care facility for the mentally retarded license for an intermediate care facility for the mentally retarded which is currently licensed,* the applicant must:

ITEM 42. Further amend subrule 64.3(1) by striking paragraph "f" and inserting in lieu thereof the following:

f. Meet all of the rules, regulations, and standards contained in chapters 64(135C) and 61(135C) of the Iowa Administrative Code;

ITEM 43. Subrule 64.3(1), paragraph "b", is amended to read as follows:

b. Make application at least thirty days prior to the ~~proposed opening date~~ *change of ownership* of the facility on forms provided by the department;

ITEM 44. Subrule 64.3(2) is amended by renumbering the subrule as 470—64.3(3) and inserting a new subrule 470—64.3(2) which reads as follows:

64.3(2) In order to obtain an initial intermediate care facility for the mentally retarded license for a facility not currently licensed as an intermediate care facility for the mentally retarded, the applicant must:

a. Meet all of the rules, regulations, and standards contained in chapters 64(135C) and 61(135C) of the Iowa Administrative Code; Exceptions noted in subrule 61.1(2) shall not apply;

b. Submit a letter of intent and a written resume of the resident care program and other services provided for departmental review and approval;

c. Make application at least thirty days prior to the proposed opening date of the facility on forms provided by the department;

d. Submit a floor plan of each floor of the intermediate care facility for the mentally retarded, drawn on 8½ x 11 inch paper showing room areas in proportion, room dimensions, room numbers for all rooms, including bathrooms, and designation of the use to which the room will be put and window and door locations;

e. Submit a photograph of the front and side elevation of the intermediate care facility for the mentally retarded;

- f. Submit the statutory fee for an intermediate care facility for the mentally retarded;
- g. Comply with federal, state, and local laws, codes, and regulations pertaining to health and safety, including procurement, dispensing, administration, safeguarding and disposal of medications and controlled substances; building, construction, maintenance and equipment standards; sanitation; communicable and reportable diseases; and postmortem procedures;
- h. Have a certificate signed by the state fire marshal or deputy state fire marshal as to compliance with fire safety rules and regulations.

ITEM 45. Subrule 64.35(3), paragraph "b", is amended to read as follows:

- b. The committee shall not have access to the medical *or financial* records of the resident. (III)

MERIT EMPLOYMENT DEPARTMENT[570]

NOTICE OF INTENDED ACTION

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

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 §17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

The Merit Employment Department, pursuant to the authority of section 19A.9 of the Code, proposes to amend Chapter 1 of the merit employment department rules relating to definitions appearing in the IAC.

Interested persons may submit their view in writing to W. L. Keating, Director, Iowa Merit Employment Department, Grimes State Office Building, East Fourteenth and Grand Avenue, Des Moines, Iowa 50319, no later than July 21, 1978. A public hearing was held on Friday, May 12, 1978; revisions were made after that hearing.

The rules appearing in the Iowa Administrative Code, September 22, 1975, Ch. 1, p. 2 and Ch. 2, p. 1, relating to definitions (Chapter 1 of the merit employment department rules) are amended as follows:

ITEM 1. 1.1(13) is amended to read as follows:

1.1(13) "Demotion" means a change of a classified employee from a position in a given classification to a position in a lower classification *having assigned duties and responsibilities of a lesser level of performance standards, skills and knowledge requirements* with a lower maximum rate of pay or a lower pay grade. Demotion may be voluntary, involuntary or result from a reallocation of a position.

ITEM 2. 1.1(31) is amended to read as follows:

1.1(31) "Promotion means a change ~~in status~~ of a permanent classified employee from a position in a lower classification to a position in a higher classification *having assigned duties and responsibilities of a higher level of performance standards, skills and knowledge requirements with a higher entrance salary, a higher maximum rate of pay or a higher pay grade.*

ITEM 3. Strike 1.1(35) and insert the following:

1.1(35) "Transfer" means the change of a permanent classified employee from a position in a given class to a different position in the same class in the same or different agency, board or commission; from one geographic location in the same agency, board or commission to another position in same class; or, from one position to the same or a comparable class of equal rank, intra or inter-agency, having the same entrance salary, the same maximum salary or the same pay grade.

ITEM 4. Add the following new subrules 1.1(36) to 1.1(50):

1.1(36) "Base salary" means the rate of pay per period of time for a position, exclusive of shift differential, overtime or other incentive premium pay.

1.1(37) "Call back pay" means pay guaranteed to eligible classified employees who are called to come to work or to work after completing their regular assigned working hours, but work may not be contiguous to the beginning or the end of their scheduled work hours.

1.1(38) "Covered classified position" means a position within a class included and administratively determined to be eligible for overtime payments or credit which is accorded enumerated treatment as specifically set forth in these rules.

1.1(39) "Exempt classified position" means a position within a class excluded and administratively determined as not eligible for overtime payment or credit based on the salary paid to the class and the duties and responsibilities involved in the class.

1.1(40) "Overtime" means time that an eligible classified employee works in excess of forty hours per work period.

1.1(41) "Overtime pay" means premium wages paid to an eligible classified employee for work time in excess of a standard work period of forty hours.

1.1(42) "Premium pay" means additional pay over the base salary for work time beyond the standard work period of forty hours, shift work and other special areas as set forth in these rules.

1.1(43) "Reporting pay" means pay guaranteed to an eligible classified employee who reports or shows up ready for work at his/her usual or assigned time and place and finds no work is available.

1.1(44) "Shift" means a work period in the work schedule of an appointing authority that includes one or more groups of classified employees working at more than one scheduled work period (day, afternoon, night shift).

1.1(45) "Shift differential" means extra pay allowance made to eligible classified employees who work shifts other than the regular day shift.

1.1(46) "Standby" means when eligible classified employees are required by the appointing authority to restrict their off duty hours to engage in their own interest/pursuits so as to be immediately available for duty assignment as prescribed by the appointing authority and is other than just to leave word of their whereabouts in case of possible need.

1.1(47) "Work period" means a regularly reoccurring period within 168 hours in seven consecutive twenty-four-hour periods.

1.1(48) "Work time" consists of all hours actually spent performing the duties of an assigned position; time utilized for vacation leave, sick leave, compensatory time, holidays; travel between job sites during or after the employee's regular work period (where no overnight expenses are involved); rest periods allowed during the employee's regular work period; meal periods of less than thirty minutes when the employee is not relieved from his/her post, station or duty.

1.1(49) "Docked" means and refers to those periods during which a classified employee misses work during a regularly assigned work period and cannot be, or is not authorized to be paid leave for the time missed.

1.1(50) "Immediate family" means and is limited to the classified employee's wife, husband, children, parents, grandparents, grandchildren, foster children, brothers, brothers-in-law, sisters, sisters-in-law, aunts, uncles or corresponding relatives of the classified employee's spouse or other relatives of the classified employee or his/her spouse residing in the classified employee's immediate household.

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

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 §17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

The Merit Employment Department, pursuant to the authority of section 19A.9 of the Code, proposes to amend Chapter 2 of the merit employment department rules relating to state service and its divisions appearing in the IAC.

Interested persons may submit their view in writing to W. L. Keating, Director, Iowa Merit Employment Department, Grimes State Office Building, East Fourteenth and Grand Avenue, Des Moines, Iowa 50319, no later than July 21, 1978. A public hearing was held on Friday, May 12, 1978; revisions were made after that hearing.

The rules appearing in the Iowa Administrative Code, September 22, 1975, Ch. 2, p. 1 relating to state service and its divisions (Chapter 2 of the merit employment department rules) are amended as follows:

570—2.3(19A) Nonstate employment. Specialized personal services rendered by an individual to the state under contract as an independent contractor and as a part of, or incidental to, the individual's regular profession or occupation and not as a state employee shall be designated as nonstate employment and shall not be subject to the provisions of these rules. The appointing authority shall report each such employment *contract* to the director in such form and in such detail as the director may require *prior to making the employment contract. Failure to report such employment contract and to have the employment contract properly approved shall not relieve the appointing authority of any consequences of the improper action.* If, after such investigation as *she/he* deems necessary, the director determines that the proposed employment *contract* is of such a nature as to constitute state employment, *he/she* shall so notify the appointing authority and the state comptroller and that notice shall constitute ~~advice~~ *knowledge* that such employment *contract* is not in conformance with the provisions of Chapter 19A *and is invalid and void.*

In evaluating contracts for personal services, the following guidelines shall be used:

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

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 §17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

The Merit Employment Department, pursuant to the authority of section 19A.9 of the Code, proposes to amend Chapter 3 of the merit employment department rules relating to classification plan appearing in the IAC.

Interested persons may submit their view in writing to W. L. Keating, Director, Iowa Merit Employment Department, Grimes State Office Building, East Fourteenth and Grand Avenue, Des Moines, Iowa 50319, no later than July 21, 1978. A public hearing was held on Friday May 12, 1978; revisions were made after that hearing.

The rules appearing in the Iowa Administrative Code, July 1, 1975, Ch. 2, p. 2 to Ch 3, p. 3, relating to classification plan (Chapter 3 of the merit employment department rules) are amended as follows:

ITEM 1. Amend 3.1(2) as follows:

3.1(2) The classification plan shall set forth for each class of position a class title, definition, examples of work performed, *knowledges, abilities, skills, personal characteristics*, minimum qualifications and special requirements that are necessary for satisfactory performance in the class. ~~Personal qualifications commonly required of an employee in any class such as good citizenship, honesty, loyalty, sobriety, industry, amiability to supervision and willingness to cooperate with associates shall be implied for entrance into any class.~~

ITEM 2. Amend 3.1(4) as follows:

3.1(4) The commission through co-ordination with, and the co-operation of, the agencies shall from time to time review the classification plan and may add, combine, divide or abolish classes ~~or revise the specifications of existing classes or establish new classes~~ as the needs of the classified service so indicate. All of the aforementioned shall be submitted to the state comptroller, the governor and the *Iowa* executive council and ~~be~~ approved by the *Iowa* executive council before they become effective. The director shall submit a schedule of ~~classes of positions~~ reflecting the types of employment in each agency to the governor annually.

ITEM 3. Strike subrule 3.1(5) and insert the following:

3.1(5) Each position in the state classified service may be reviewed at periodic intervals to determine if the position is properly allocated. Requests for individual position reviews may be initiated by the appointing authority or by a permanent classified employee(s). Agency or employee(s) position review requests shall be evaluated within ninety working days after the request is received by the merit employment department. Both the appointing authority and the permanent classified employee(s) shall be notified of the tentative classification determination of the merit employment department. This tentative classification determination of the merit employment department shall be reduced to writing whenever the tentative classification determination is not in agreement with the recommendation of the appointing authority or the permanent classified employee(s). Either the appointing authority or the permanent classified employee(s) may file, on forms prescribed and furnished by the merit employment department, a request for reconsideration of the tentative classification determination stating the specific reason(s) and rationale which would support the request for reconsideration. Information so provided will be evaluated and a final classification shall be rendered within thirty working days after receipt of the reconsideration request by the director.

In the event the second evaluation of the position(s) and the subsequent final classification determination(s) of the director is not acceptable to the appointing authority or the permanent classified employee(s), that determination may be appealed to a classification review board. The appeal request to a classification review board must be made and received by the director within thirty working days following the receipt of the final classification determination of the director. Classification review board appeal hearings shall be scheduled at periodic intervals as the need determines and at locations and times that shall provide sufficient advance notice that all concerned parties may make suitable arrangements. All classification review board appeal hearings shall be scheduled during regular working hours. Travel and related costs shall be borne by the appellant(s). Decisions of the classification review board shall be final and binding upon the appointing authority, the permanent classified employee(s) and the merit employment department for a period of one year from the date of the classification review board's decision. The classification review board's decision shall not be subject to further internal review until such time as significant changes in duties and responsibilities can be shown. Judicial review of the classification review board's decision shall be provided under chapter 17A of the Iowa Code.

ITEM 4. Strike all of 3.1(6) and insert the following:

3.1(6) Allocations and reallocations approved by the merit employment department or a classification review board shall become effective at the beginning of the next regular pay

period after the position(s) change form has been approved by the state comptroller's office indicating that funds are available for the allocation change. If funds are determined not to be available, the original allocation shall be maintained until such time as the approved position change can be funded and shall not be retroactive.

ITEM 5. Amend 3.3(19A) as follows:

570—3.3(19A) Position reallocation. Whenever reorganization of an agency or action of the Iowa executive council cause the duties of a position to change or a position appears to have been incorrectly allocated, the director shall upon his/her own initiative ~~or~~ at the request of the appointing authority or a permanent classified employee(s) affected by the *proposed* reallocation, investigate the duties of the position(s) ~~or positions in question involved~~. After conferring with the appointing authority, ~~and the permanent classified employees(s) involved affected, and reviewing agency recommendations and suggestions,~~ the director shall reallocate the ~~position or positions(s)~~ to the appropriate class or classes in accordance with provisions of merit rule 3.1(19A). *The position reallocation* ~~Reallocation~~ process shall not be used to avoid or circumvent the provisions of Chapter 19A or these rules dealing with layoffs, voluntary or involuntary demotions, noncompetitive promotions or dismissals. *Actions subsequently found to be in noncompliance with the intent of this rule shall be subject to cancellation.*

ITEM 6. Amend 3.4(19A) as follows:

570—3.4(19A) Status of incumbents when positions are reallocated. In all cases of reallocation, the *probationary or permanent classified employee(s)* in the position(s) when it is reallocated shall be entitled to serve therein with the classified status that he/she had in the position(s) before its reallocation, provided she/he meets the minimum qualifications for the class to which his/her position(s) is reallocated or if the duties and responsibilities of the position have not appreciably changed. If ineligible for appointment to the position(s) as reallocated, he/she shall be transferred, promoted or demoted by appropriate action in accordance with the provisions of these rules. ~~However, a~~ *A probationary or permanent classified employee shall not be required to meet the minimum qualifications, if her/his position is reallocated to a lower or comparable class. In any case in which the incumbent is ineligible to continue in the position, and he/she is not transferred, promoted or demoted, the provisions of these rules regarding separation or reduction in force shall apply.*

ITEM 7. Amend 3.5(5) as follows:

3.5(5) Changes in minimum qualifications requirements shall have no effect on the status of incumbent employees, *except for licensure where required by appropriate statute.*

ITEM 8. Amend 3.6(19A) as follows:

570—3.6(19A) Position descriptions and notification of change in position content. Position descriptions shall be supplied and kept current by the appointing authority for each position under his jurisdiction on forms prescribed by the commission. Agencies shall give written notice to the director of material changes in the duties and responsibilities of any position *before any change or review will be undertaken by the merit employment.*

ITEM 9. Amend 3.7(19A) as follows:

570—3.7(19A) Assignment of lead-worker duties. Whenever a *permanent* classified employee, who is performing the same duties as other employees in his/her class, is assigned limited supervisory duties such as distribution of work assignments, maintaining a balanced workload among a group, ~~and keeping records of work, production or attendance over employees in the same class or a class having the same entrance salary~~ and which duties do not justify reallocation to a supervisory class ~~in a higher pay range~~, the appointing authority may request the director to approve the ~~position person~~ as a "Lead worker position" "lead-worker". *This request must provide relative facts as to why the limited supervisory*

duties enumerated are necessary and cannot be provided through supervisory personnel. "Lead-worker" designation shall be considered and authorized only upon certification by the state comptroller's office that funds are available to pay such designation. "Leadworker" designation and pay shall not be considered or authorized for any classified employee within a collective bargaining unit unless prior determination had been made by the state employment relations director that such designation and pay is not prohibited under the terms of that collective bargaining agreement.

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

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 §17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Iowa Merit Employment Department, pursuant to the authority of section 19A.9 of the Code, proposes to amend Chapter 4 of the merit employment department rules relating to pay plan appearing in the IAC.

Interested persons may submit their view in writing to W. L. Keating, Director, Iowa Merit Employment Department, Grimes State Office Building, East Fourteenth and Grand Avenue, Des Moines, Iowa 50319, no later than July 21, 1978. A public hearing was held on Friday, May 12, 1978; revisions were made after that hearing.

The rules appearing in the Iowa Administrative Code, July 1, 1975, Ch. 4, p.5, to Ch. 5, p. 1, September 8, 1976, relating to pay plan (Chapter 4 of the merit employment department rules) are amended as follows:

ITEM 1. 4.5(8) Pay adjustments incident to pay grade reassignments.

a. In the event a class is assigned to a higher pay grade, *when a general salary matrix schedule adjustment is made or the annual salary/classification schedule is approved by the Iowa executive council*, all employees in positions in that class shall be adjusted to a corresponding step in the new pay range as they held in the old pay range. If an employee has not been adjusted previously, as provided in 4.5(9)"c", such adjustment shall be made prior to grade adjustment. *In all other class pay grade upward adjustments, the classified employee[s] rate of pay shall be maintained at their former rate of pay by adjustment to a step in the new pay grade corresponding to their individual rate of pay in their old class pay grade. Employees whose rate of pay exceeds the maximum step in the class pay grade shall be "red-circled". The review date shall not change upon assignment to a new class pay grade. Rule 4.5(2)"b." shall apply to increase eligibility as of the effective date of adjustment.*

ITEM 2. Add new rules as follows:

570—4.6(19A) Overtime. Covered classified employees shall receive overtime credit for time worked in excess of their standard work period of forty hours. Overtime shall be compensated at the premium rate of one and one-half times the employee's regular hourly salary rate or as an hourly equivalent in compensatory time off. Cash overtime payment shall be made only when authorized by the state comptroller's office.

Compensatory leave shall be cumulative to a maximum of ninety hours and any excess amount shall be paid in cash as accrued. Accrued compensatory leave shall not be carried forward into a new fiscal year, but shall be paid in cash. Compensatory time accrued by any covered classified employee may, at the appointing authority's discretion, be required to be used by the employee as compensatory leave provided the employee is notified five working days prior to the time designated to be utilized by the appointing authority.

A period other than the state's normal fiscal period may be utilized by an appointing authority if authorized by the state comptroller's office. All affected employees shall be notified of the approved compensatory period.

Upon separation from state employment, or transfer to a different appointing authority, all accrued compensatory time shall be paid in cash to the employee.

Classified employees within a collective bargaining agreement shall be governed by the terms of their particular contract.

570—4.8(19A) Shift differential. Covered classified employees of an appointing authority operating on a more than one shift basis shall receive shift differential payment above their base salary while working shifts other than a regular day shift as approved by the commission and authorized by the state comptroller's office subject to the following conditions:

4.8(1) The shift differential shall be paid in cents per hour in addition to the employee's regular base salary and different shifts may have different shift differentials.

4.8(2) The shift differential shall be paid only as long as the employee's work hours are continuous and regularly scheduled for four or more hours between 6:00 p.m. and midnight or four or more hours between midnight and 6:00 a.m. Employees who work a shift rotation, which regularly occurs during these hours, are eligible for shift differentials.

4.8(3) Employees who only occasionally are scheduled to work the shifts designated in b., emergency, intermittent, part-time or summer exempt employees are not eligible for a shift differential. But a regular classified employee who fills in for a period of ten working days for an employee or employees, regularly scheduled for shift work, shall receive the shift differential for that period of time and as long as he/she continues to work the shift designated as eligible for a differential.

4.8(4) An eligible classified employee shall have the shift differential paid for all designated hours worked and for periods of vacation leave, sick leave, holidays and compensatory time. But after ten working days absence, for whatever reason, the regularly scheduled employee shall not receive shift differential pay until his/her return to the shift work.

4.8(5) Classified employees within a collective bargaining unit shall be governed by the terms of their particular contract.

570—4.11(19A) Call back pay. When a covered classified employee is directed to return to work or come to work by the appointing authority, he/she shall receive pay for the actual time worked at her/his regular base salary with a minimum of three hours guaranteed regardless of a lesser period actually worked. Time worked may not be contiguous to the beginning or the end of the employee's scheduled, assigned working hours. Classified employees within a bargaining unit shall be governed by the terms of their particular contract.

570—4.12(19A) Reporting pay. Covered classified employees reporting to work at their regular starting time, when they have not been previously notified or reasonable effort has not been made to notify them or emergency conditions do not prevail, that their regular work will not be available, shall, at the option of the appointing authority, be temporarily assigned to such other work as is available and paid their regular base salary for such temporary work; or be sent home and paid for two hours at their regular base salary rate. Classified employees within a bargaining unit shall be governed by the terms of their particular contract.

570—4.13(19A) Standby pay. A covered classified employee, who is required by his/her appointing authority to remain on standby status, shall be compensated for each off duty hour in that status at the rate of ten percent of her/his regular base salary. When actually called to perform work, the employee, upon reporting for duty, shall be governed by merit rule 4.11. Persons receiving a pay differential under merit rule 4.7 for standby duty shall

not be additionally compensated under this rule. Classified employees within a bargaining unit shall be governed by the terms of their particular contract.

570—4.14(19A) Inclement weather pay. If a classified employee does not report for work at his/her regular work time because of inclement weather conditions determined by proper management authority, the following shall apply:

1. If the employee reports within one-half hour of her/his regular reporting time, there shall be no time charged.

2. If the employee reports after one-half hour of his/her regular reporting time, actual work time loss beyond the one-half hour shall be charged. One-half hour credit shall not be allowed if the employee fails to report for work during her/his regular assigned working period. The employee may elect to use accrued compensatory time; vacation leave; make up the time not worked within the current work period, with the permission of the appointing authority; or, choose to have his/her pay "docked" for the time not worked.

3. If proper management authority determines the agency, a unit or a facility shall be closed because of inclement weather conditions, the employee may elect to use accrued compensatory leave; vacation leave; work even though the agency, unit or facility is closed to general public but remains otherwise operational, with the permission of the appointing authority; make up the time not worked during the current work period, with the permission of the appointing authority; or, choose to have her/his pay "docked" for the time not worked.

4. In exercising their options provided in paragraphs "b" or "c" of this rule, the employee(s) must make their determinations known to their supervisor during the employee(s) next regularly scheduled work day or the option of choice will then be made by the appointing authority.

Classified employees within a collective bargaining unit shall be governed by their particular contract.

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

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 §17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

The Merit Employment Department, pursuant to the authority of section 19A.9 of the Code, proposes to amend Chapter 8 of the merit employment department rules relating to appointments appearing in the IAC.

Interested persons may submit their view in writing to W. L. Keating, Director, Iowa Merit Employment Department, Grimes State Office Building, East Fourteenth and Grand Avenue, Des Moines, Iowa 50319, no later than July 21, 1978. A public hearing was held on Friday, May 12, 1978; revisions were made after that hearing.

The rules appearing in the Iowa Administrative Code, October 6, 1976, Ch. 8, p. 1, relating to appointments (Chapter 8 of the merit employment rules) are amended by adding a new rule as follows:

570—8.3(19A) Project appointment. If an agency determines, and such determination is approved by the commission after certification by the state comptroller's office funds are available, that a particular job, project, grant or contract requires the services of an employee(s) for only a limited duration, a project appointment may be made. The appointing authority shall select such person(s), who have signified their willingness to accept a

project appointment, in accordance with the chapters on certification and selection of these rules. Such agency determination to utilize an approved project appointment shall be communicated to applicants and the director prior to the time of project appointment. The acceptance or refusal of a project appointment shall not affect an eligible's standing on an eligible list or his/her eligibility for other certification or probationary appointment. Such appointment shall not be made for more than six months, but may be extended an additional six-month period by the commission on the basis only of a specific, limited need that cannot otherwise efficiently and effectively be filled, but approval shall not extend beyond a maximum period of one year. No project appointment shall confer upon an incumbent any right of position, transfer, demotion, promotion, but incumbents shall be eligible for annual and sick leave and other classified employee benefits.

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

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 §17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

The Merit Employment Department, pursuant to the authority of section 19A.9 of the Code, proposes to amend Chapter 14 of the merit employment department rules relating to vacation and leave appearing in the IAC.

Interested persons may submit their view in writing to W. L. Keating, Director, Iowa Merit Employment Department, Grimes State Office Building, East Fourteenth and Grand Avenue, Des Moines, Iowa 50319, no later than July 21, 1978. A public hearing was held on Friday, May 12, 1978; revisions were made after that hearing.

The rules appearing in the Iowa Administrative Code, February 22, 1978, Ch 14, p. 3 to Ch 14, p.4, relating to vacation and leave (Chapter 14 of the merit employment department rules) are amended as follows:

ITEM 1. Amend rule 14.4(19A) as follows:

570—14.4(19A) Enforced leave. The appointing authority shall grant a classified employee time off from his/her duties, with regular compensation for absence necessary or reasonable, ~~when some member of his immediate family requires the classified employee's care or attention, or in case of death in the immediate family.~~

14.4(1) *Not to exceed three working days for each occurrence of death in the immediate family.*

14.4(2) *Not to exceed one working day for each occurrence for service as a pallbearer at the funeral of a person not a member of the classified employee's immediate family.*

14.4(3) *Not to exceed five working days total in a calendar year for the temporary emergency care of ill or injured members of the classified employee's immediate family for the time necessary to permit the classified employee to make other arrangements.*

Said enforced leave shall be charged against the classified employee's active sick leave and shall not be granted in excess of ~~accumulated accrued active sick leave. The number of days granted will be governed by the circumstances of the case, but in no event shall they exceed five sick days in any calendar year.~~

Classified employees within a bargaining unit shall be governed by the terms of their particular contract.

ITEM 2. Amend rule 14.9(19A) by striking the entire rule and inserting in lieu thereof the following:

570—14.9(19A) Compensatory leave. *Exempt classified employees may be granted compensatory leave for work performed in excess of the regular work period of forty hours by the appointing authority, provided the position/class coverage is approved by the commission and funds are authorized by the state comptroller's office. Approval shall be limited to one year's duration at any one time or to a lesser period when the state comptroller's office advises an adverse budget impact is projected if continued. Compensatory leave for exempt employees shall be uniformly applied and be made known to all affected employees.*

Classified exempt employees within a collective bargaining unit shall be governed by the terms of their particular contract.

ITEM 3. Amend 14.10(19A) as follows:

570—14.10(19A) Holidays. *Holidays shall be granted in accordance with state law and the governor or Iowa executive council's proclamations, ~~as they are observed by the individual agencies in accordance with their work load, policy and regulations.~~*

14.10(1) *For employees who normally work Monday through Friday, a designated holiday falling on Sunday shall be observed on the following Monday and a designated holiday falling on Saturday shall be observed on the preceding Friday. For all other classified employees the designated holiday shall be observed on the day it occurs.*

14.10(2) *If a designated holiday falls on a classified employee's regularly scheduled day off, eight hours of compensatory time shall be granted at a later time for the holiday.*

14.10(3) *If an exempt classified employee is required to work on a designated holiday, he/she shall receive regular compensation for the hours actually worked and eight hours of compensatory time for the holiday to be granted at a later time.*

14.10(4) *If a covered classified employee is required to work on a designated holiday, she/he shall receive one and one-half times his/her regular pay rate for the actual time worked, not to exceed eight hours, and eight hours of compensatory time to be granted at a later time.*

14.10(5) *To be eligible for holiday pay a classified employee cannot be on leave of absence without pay and must have been in a pay status his/her last scheduled work day immediately before and her/his first scheduled work day immediately following each holiday.*

Classified employees within a bargaining unit shall be governed by the terms of their particular contract.

ITEM 4. Amend rule 14.14(19A) to read as follows:

570—14.14(19A) Court and jury service. *When in obedience to a subpoena or direction by proper authority, a classified employee appears as a witness or a jury member ~~for the federal government, the state of Iowa or a political subdivision thereof, in any public or private litigation~~ he/she shall be entitled to leave of absence from regular duty with regular compensation-, provided she/he gives to her/his appointing authority all pay received, other than reimbursement for necessary travel or personal expenses. Hours spent on court or jury service by a classified employee outside his/her regular working hours are not covered by this rule, nor shall compensation received in such circumstances be remitted to the appointing authority. ~~When a classified employee is subpoenaed or appears in private litigation other than the federal government, the state of Iowa or political subdivision thereof, the time absent by reason therefor, may be taken as the appointing authority shall direct.~~*

The classified employee shall notify the appointing authority immediately upon receipt of a subpoena or summons. A classified employee relieved from jury duty or as a witness shall report to work during his/her regular working hours if there are at least two hours remaining in the scheduled work day and return travel time so permits. The classified employee shall present evidence of the pay amount received for jury duty or witness appearance upon his/her final return to work.

Classified employees within a bargaining unit shall be governed by the terms of their particular contract.

NOTICES
MERIT (cont'd)

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ITEM 5. Add a new subrule as follows:

570—14.16(19A) Voting leave. Any classified employee eligible to vote in a public election in the state of Iowa shall be entitled to time off from work with regular compensation on any public election day not to exceed two hours. Provided that the classified employee's working hours do not allow a three-hour period outside of regular working hours during which the voting polls are open. Application for the voting leave must be made to the classified employee's immediate supervisor on or before the employee's last regular working day prior to election day. The actual time taken shall be designated by the appointing authority.

SOCIAL SERVICES DEPARTMENT[770]

NOTICE OF INTENDED ACTION

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

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 §17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

The department of social services, under the authority of section 239.18 of the Code, proposes the adoption of the following rules relating to aid to dependent children.

Consideration will be given to written data, views, or arguments thereto, received by the ACT Unit, Department of Social Services, Lucas State Office Building, Des Moines, Iowa 50319 on or before July 21, 1978.

Pursuant to the authority of section 239.18 of the Code, rules of the department of social services appearing in the IAC relating to aid to dependent children (chapter 40) are hereby amended.

ITEM 1. Rule 770—40.2(239) is amended to read as follows:

770—40.2(239) Application. The application for aid to dependent children shall be submitted on Public Assistance Application, Form PA-2207-0. The application shall be signed by the applicant, the applicant's authorized representative, or, when the applicant is incompetent or incapacitated, someone acting responsibly on the applicant's behalf. ~~When both parents, including a stepparent, are in the home, both shall sign the application. When a stepparent is in the home, both the parent and stepparent shall sign the application when either's needs are included in the grant.~~

ITEM 2. Subrule 40.7(3) is amended to read as follows:

40.7(3) Information for reviews shall be submitted on form PA-2227-5, Aid to Dependent Children Review. The review form shall be signed by the ~~recipient~~ payee, the ~~recipient's payee's~~ authorized representative, or when the ~~recipient payee~~ is incompetent or incapacitated, someone acting responsibly on the ~~recipient's payee's~~ behalf. When both parents, ~~including a stepparent,~~ are in the home, both shall sign the review form. *When a stepparent is in the home, both the parent and stepparent shall sign the review form when either's needs are included in the grant.*

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

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 §17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

The department of social services, under the authority of section 239.18 of the Code, proposes the adoption of the following rules relating to aid to dependent children.

Consideration will be given to written data, views, or arguments thereto, received by the ACT Unit, Department of Social Services, Lucas State Office Building, Des Moines, Iowa 50319 on or before July 21, 1978.

Pursuant to the authority of section 239.18 of the Code, rules of the department of social services appearing in the IAC relating to aid to dependent children (chapter 41) are hereby amended.

ITEM 1. Subrule 41.1(5), paragraph "c", subparagraphs (1) and (2) are amended to read as follows:

(1) The determination of incapacity shall be supported by medical or psychological evidence. Such evidence may be submitted either by letter from the physician or on form PA-2126-5, ~~Confidential Report~~ *Report on Incapacity*.

(2) When an examination is required and other resources are not available to meet the expense of the examination, the physician shall be authorized to make the examination and submit the claim for payment on form ~~PA-3143-5~~ *PA-5113-0*, Authorization for Examination of ~~Incapacitated Parent~~ and Claim for Payment

ITEM 2. Strike subrule 41.1(5), paragraph "d", and reletter paragraph "e" as paragraph "d".

ITEM 3. Subrule 41.6(2) is amended to read as follows:

~~41.6(2) Persons considered. The number of persons in the eligible group, plus any stepparent and dependent but ineligible children of the aid to dependent children parent living in the home, shall be considered in establishing the property limitations. When a stepparent is in the home, the number of persons considered shall be as specified in subrule 41.10(2). Supplemental security income recipients shall not be counted in establishing property limitations.~~

ITEM 4. Strike subrule 41.7(6) and reserve said subrule for future use.

ITEM 5. Strike subrule 41.8(1), paragraph "e" and amend paragraph "f" to read as follows:

~~f.e. The nonincapacitated~~ stepparent when he or she is the legal spouse of the natural or adoptive parent by ceremonial or common law marriage and such stepparent is required in the home to care for the dependent children or the incapacitated parent. Such services must be required to the extent that if the stepparent were not available, it would be necessary to pay for the care of the children or the incapacitated parent by inclusion of an allowance in the assistance grant.

ITEM 6. Add the following new rule.

~~770-41.10(239)~~ **Stepparent cases.** A stepparent shall not be held liable for the support of stepchildren, but shall be liable for the support of such stepparent's spouse. The income and resources of the stepparent shall have no bearing upon the eligibility of the child for aid to

dependent children or the amount of the assistance grant except when the needs of the parent or parent and stepparent are included in the eligible group.

41.10(1) Eligible group. When the natural or adoptive parent of the eligible child is married to a person other than the natural or adoptive parent of such child neither the natural parent nor stepparent shall be included in the aid to dependent children eligible group, except when the parent is financially needy by reason of the combined income of the parent and stepparent being insufficient to support the parent and other ineligible dependents in accordance with aid to dependent children standards of need. The parent and stepparent may be included in the eligible group when the requirements of subrule 41.8(1)"e" are met.

41.10(2) Resources. The resources of the stepparent of the eligible child shall have no bearing upon eligibility except when the parent's or stepparent's needs are included in the eligible group.

a. A natural or adoptive parent of the eligible child married to and living with a stepparent in the household with the eligible child when included in the eligible group shall be considered an eligible person for purposes of establishing the resource limitation of the eligible group.

b. When the needs of the parent, married to a stepparent, are included in the eligible group, but the needs of the stepparent are not included in the eligible group, the resources of the stepparent shall be required to be within the limitations set by these rules. In determining the limitations of the stepparent's resources any legal dependents living with such stepparent shall be counted as individuals in arriving at that determination, except that the parent who is in the eligible group shall not be counted. The ineligible dependents of the parent living in the house with the parent and stepparent shall be counted as dependents of the stepparent in arriving at the resource limitation for the ineligible group.

c. When the stepparent's needs are included in the assistance grant such stepparent shall be counted as an eligible person in determining the resource limitation. Any ineligible legal dependents living in the household shall not be counted as individuals for purposes of establishing the resource limitation. The phrase "ineligible legal dependents" shall be construed to include the stepparent's children by the current or prior marriage who are ineligible for aid to dependent children.

d. When the parent is not included in the eligible group, but is living with the eligible child and stepparent, such parent's resources shall be counted in determining the resource limitation for the eligible group. The combined resources of the eligible group plus the resources of the parent shall not exceed the limitation that would exist if the parent were in the eligible group.

e. When the parent is not in the eligible group and has income which would normally be attributed to the eligible group, but it is established that all or part of such income must be retained by the parent to support the parent, stepparent and any legal ineligible dependents of either of them, the resources of stepparent and legal dependents of the parent and stepparent living with them must be within the limitations established by these rules.

f. Verification shall be made of resources held by members of the eligible group and other individuals whose resources may affect eligibility. In those instances where resources are owned jointly or as tenants in common by the parent and stepparent the local office shall assume that each party has a fifty percent equity unless official records clearly establish a different equity. Liens, mortgages and other encumbrances shall be applicable against only the resource described in the encumbrance document.

41.10(3) Income. The income of the stepparent shall have no bearing upon the eligibility of the child for assistance nor the amount of the assistance grant except when the needs of the parent or parent and stepparent are included in the eligible group. There shall be no deduction of income-in-kind in determining the amount of the assistance grant when the child lives in the home with the parent and stepparent.

a. When the parent is in the eligible group and the stepparent is outside the eligible group the stepparent shall be permitted to retain such stepparent's income sufficient to

meet such stepparent's own needs and the needs of ineligible dependents, in accordance with aid to dependent children standards of need.

b. The income of the eligible child's parent shall be considered as available in the full amount for the support of the children in the eligible group until the parent and stepparent prove that a portion of all of the parent's income is required to meet the needs of the parent, stepparent and their dependents who are ineligible for assistance in accordance with aid to dependent children standards.

c. The income of the parent in the eligible group shall be considered available to the eligible group except for that portion of the nonexempt income which may be required to meet the needs of the parent's spouse and their ineligible dependents. The income of the parent in the eligible group shall be given the same consideration and treatment as in any other aid to dependent children case, including the allowance of expenses to secure the income and the applicable disregards.

d. When the income of the parent in the eligible group is needed to meet the needs of the spouse and their dependents such income as is nonexempt may be diverted to meet those needs including verified medical expenditures, in accordance with aid to dependent children standards.

e. When the combined countable income of the parent in the eligible group and the stepparent is sufficient to meet their and their dependent's needs in accordance with aid to dependent children standards of need, the parent shall be removed from the eligible group.

41.10(4) Medical eligibility.

a. Only those individuals whose needs are included in the eligible group shall be certified as eligible for medical assistance except when such person qualifies for medical assistance under other provisions of the medical assistance program.

b. A parent may be included in the eligible group when the combined income of the parent and the stepparent is insufficient to provide for their and their dependents' needs, including verified medical needs.

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

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 §17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

The department of social services, under the authority of section 239.18 of the Code, proposes the adoption of the following rules relating to aid to dependent children.

Consideration will be given to written data, views, or arguments thereto, received by the ACT Unit, Department of Social Services, Lucas State Office Building, Des Moines, Iowa 50319 on or before July 21, 1978.

Pursuant to the authority of section 239.18 of the Code, rules of the department of social services appearing in the IAC relating to aid to dependent children (chapter 41) are hereby amended.

Subrule 41.8(1), paragraph "b", is amended to read as follows:

b. The natural or adoptive parent, or both parents if one is incapacitated or if the father is partially or totally unemployed. *Paternity of the biological father shall be established before a father who is not the legal father of the child is added to the eligible group.*

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

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 §17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

The department of social services, under the authority of section 249A.4 of the Code, proposes the adoption of the following rules relating to medical assistance.

Consideration will be given to written data, views, or arguments thereto, received by the ACT Unit, Department of Social Services, Lucas State Office Building, Des Moines, Iowa 50319 on or before July 21, 1978.

Pursuant to the authority of section 249A.4 of the Code, rules of the department of social services appearing in the IAC relating to medical assistance (chapter 75) are hereby amended.

ITEM 1. Add new rule 770—75.3(249A).

770—75.3(249A) Acceptance of other financial benefits. An applicant or recipient shall take all steps necessary to apply for and, if entitled, accept any income or resources for which such applicant or recipient may qualify, unless the applicant or recipient can show an incapacity to do so. Sources of such benefits may be, but are not limited to, contributions, annuities, pensions, retirement or disability benefits, veteran's compensation and pensions, old age, survivors, and disability insurance, railroad retirement benefits, black lung benefits, or unemployment compensation.

This rule is intended to implement sections 249A.3 and 249A.4 of the Code.

ITEM 2. Renumber existing rule 770—75.3(249A) as 770—75.4(249A).

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

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 §17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

The department of social services, under the authority of section 249A.4 of the Code, proposes the adoption of the following rules relating to medical assistance.

Consideration will be given to written data, views, or arguments thereto, received by the ACT Unit, Department of Social Services, Lucas State Office Building, Des Moines, Iowa 50319 on or before July 21, 1978.

Pursuant to the authority of section 249A.4 of the Code, rules of the department of social services appearing in the IAC relating to medical assistance (chapter 78) are hereby amended.

Rule 770—78.1(249A) is amended by striking subrule 78.1(17) and inserting the following in lieu thereof.

78.1(17) Abortions.

a. Form XIX (PHY-4), Certification Regarding Abortion, shall be attached to the claim submitted by the attending physician if payment is to be made for an abortion. If Form XIX (PHY-4) is not submitted or does not indicate that the abortion for which payment is being claimed falls within the prescribed conditions, no payment can be made either to the attending physician or any other physicians involved in the abortion or to the hospital. Form XIX (PHY-4) must be signed by the attending physician in the following types of cases:

(1) Where the life of the pregnant woman would be endangered if the fetus were carried to term; and

(2) Where the fetus is physically deformed, mentally deficient or afflicted with a congenital illness.

b. When the pregnancy was the result of rape, Form XIX (PHY-4) shall be signed by an official of a law enforcement or public or private agency certifying that the report was made within sixty days of the reported date of occurrence of the incident. The report shall have included the name, address and signature of the person making the report.

c. When the pregnancy was the result of incest, Form XIX (PHY-4) shall be signed by an official of a law enforcement agency or of the Iowa department of social services and shall certify that a report was submitted not later than the second trimester of pregnancy subsequent to the incident of incest and that the report of the incident included the name, address and signature of the person making the report.

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

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 §17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

The department of social services, under the authority of section 249A.4 of the Code, proposes the adoption of the following rules relating to medical assistance.

Consideration will be given to written data, views, or arguments thereto, received by the ACT Unit, Department of Social Services, Lucas State Office Building, Des Moines, Iowa 50319 on or before July 21, 1978.

Pursuant to the authority of section 249A.4 of the Code, rules of the department of social services appearing in the IAC relating to medical assistance (chapter 79) are hereby amended.

Subrule 79.1(1) is amended to read as follows:

79.1(1) Prohibition against reassignment of claims. No payment under the medical assistance program for any care or service provided to a patient by a physician, dentist, other individual practitioner, or any other provider who is not reimbursed on a reasonable cost basis any health care provider shall be made to anyone other than such providers. However with respect to physicians, dentists, or other individual practitioners direct payment may be made to the employer of the practitioner if the practitioner is required as a condition of employment to turn over fees to the employer; or where the care or service was

provided in a facility, to the facility in which the care or service was provided if there is a contractual arrangement between the practitioner and the facility whereby the facility submits the claim for reimbursement; or to a foundation, plan or similar organization including a health maintenance organization which furnishes health care through an organized health care delivery system if there is a contractual agreement between organization and the person furnishing the service under which the organization bills or receives payment for such person's services. *Payment may be made in accordance with an assignment from the provider to a government agency or an assignment made pursuant to a court order. Payment may be made to a business agent, such as a billing service or accounting firm, which renders statements and receives payment in the name of the provider when the agent's compensation for this service is (1) reasonably related to the cost of processing the billing; (2) not related on a percentage or other basis to the dollar amounts to be billed or collected; and (3) not dependent upon the actual collection of payment.* Nothing in this rule shall preclude making payment to the estate of a deceased practitioner.

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

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 §17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

The department of social services, under the authority of section 249A.4 of the Code, proposes the adoption of the following rules relating to intermediate care facilities for the mentally retarded.

Consideration will be given to written data, views, or arguments thereto, received by the ACT Unit, Department of Social Services, Lucas State Office Building, Des Moines, Iowa 50319 on or before July 21, 1978.

Pursuant to the authority of section 249A.4 of the Code, rules of the department of social services appearing in the IAC relating to intermediate care facilities for the mentally retarded (chapter 82) are hereby amended.

ITEM 1. Chapter 82 is amended by adding a new rule as follows:
770—82.1(249A) Definitions.

82.1(1) Qualified mental retardation professional. The term “qualified mental retardation professional” means a person who qualifies under one of the following categories:

- a. A psychologist with at least a master's degree from an accredited program and one year of experience in treating the mentally retarded.
- b. A physician licensed under state law to practice medicine or osteopathy and one year experience in treating the mentally retarded.
- c. An educator with a degree in education from an accredited program and one year experience in working with the mentally retarded.
- d. A social worker with a bachelor's degree in social work from an accredited program, or a bachelor's degree in a field other than social worker and at least three years social

work experience under the supervision of a qualified social worker, and one year experience in working with the mentally retarded.

e. A physical or occupational therapist who has one year experience in treating the mentally retarded.

f. A speech pathologist or audiologist who is licensed, when applicable, by the state in which practicing, and has one year experience in treating the mentally retarded.

g. A registered nurse who has one year of experience in treating the mentally retarded.

h. A therapeutic recreation specialist who is a graduate of an accredited program and, where applicable, is licensed or registered in the state where practicing, and who has one year of experience in working with the mentally retarded.

ITEM 2. Subrule 82.6(3) is amended to read as follows:

82.6(3) Certification statement. Eligible individuals may be admitted to an intermediate care facility for the mentally retarded upon the certification of a physician ~~or a qualified mental retardation professional~~ that there is a necessity for care at the facility. Eligibility shall continue as long as a valid need for such care exists. ~~The term "qualified mental retardation professional" means a person who qualifies under one of the following categories:~~

~~a. A psychologist with at least a master's degree from an accredited program and one year of experience in treating the mentally retarded.~~

~~b. A physician licensed under state law to practice medicine or osteopathy and one year experience in treating the mentally retarded.~~

~~c. An educator with a degree in education from an accredited program and one year experience in working with the mentally retarded.~~

~~d. A social worker with a bachelor's degree in social work from an accredited program, or a bachelor's degree in a field other than social worker and at least three years social work experience under the supervision of a qualified social worker, and one year experience in working with the mentally retarded.~~

~~e. A physical or occupational therapist who has one year experience in treating the mentally retarded.~~

~~f. A speech pathologist or audiologist who is licensed, when applicable, by the state in which practicing, and has one year experience in treating the mentally retarded.~~

~~g. A registered nurse who has one year of experience in treating the mentally retarded.~~

~~h. A therapeutic recreation specialist who is a graduate of an accredited program and, where applicable, is licensed or registered in the state where practicing, and who has one year of experience in working with the mentally retarded.~~

ITEM 3. Subrule 82.7(2) is amended to read as follows:

82.7(2) Certification. The initial certification as described in rule 82.6(249A) shall be made not more than forty-eight hours after the date of entrance on the medical assistance program and no earlier than three months prior to admission. Psychological exams shall not be made more than three months prior to admission to the facility. When more than forty-eight hours elapse before the certification, payment shall begin forty-eight hours prior to the date of signature of the physician ~~or the qualified mental retardation professional~~.

ITEM 4. Subrules 82.8(1) and 82.8(2) are amended to read as follows:

82.8(1) Frequency. A physician ~~or a qualified mental retardation professional~~ shall recertify the need for care and services every sixty days.

82.8(2) Progress notes. Progress notes on the resident's chart shall be utilized for recertification. These notes shall be signed and dated by the physician ~~or qualified mental retardation professional~~ during visits to the facility. The physician ~~or qualified mental retardation professional~~ shall review the treatment and medication provided the resident, and, when indicated, certify that the resident continues to need the care and services provided by the facility. When the resident needs a different level of care, the local office of the

department of social services shall be notified so that arrangements may be initiated to insure proper placement.

ITEM 5. Subrule 82.11(2), paragraph "b", subparagraphs (1) and (2), are amended to read as follows:

b. Each utilization review plan shall include the following provisions:

(1) There will be a certification by a physician ~~or qualified mental retardation professional~~ that each patient or resident at or before the time of admission required or requires inpatient services. Recertification will be made each sixty days where such services are furnished over a period of time.

(2) A written plan of care will be provided for each resident. This plan will cover such factors as orders for medications, treatments, restorative services, diet, and plans for continuing care or discharge. This plan will be reviewed at least every ninety days by a physician ~~or a qualified mental retardation professional~~ and entered in the resident's record.

ITEM 6. Subrule 82.12(5) paragraph "c", subparagraphs (1) and (3) are amended to read as follows:

(1) That the physician ~~or qualified mental retardation professional~~ has recertified the individual's need for continued care at least every sixty days.

(3) That the facility is adhering to the physician's ~~or qualified mental retardation professional's~~ written treatment plan.

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

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 §17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

The department of social services, under the authority of sections 217.6 and 234.6 of the Code, proposes the adoption of the following rules relating to sheltered work/work activity services.

Consideration will be given to written data, views, or arguments thereto, received by the ACT Unit, Department of Social Services, Lucas State Office Building, Des Moines, Iowa 50319 on or before July 21, 1978.

Pursuant to the authority of sections 217.6 and 234.6 of the Code, the following rules are adopted.

TITLE XIII SOCIAL SERVICES RESOURCES

CHAPTER 155 SHELTERED WORK/WORK ACTIVITY SERVICES

770—155.1(234) Definitions.

155.1(1) Rehabilitation facility. A "rehabilitation facility" is a facility operated for the purpose of providing vocational or rehabilitation services to handicapped clients through a program designed according to the physical, emotional, mental, social, and vocational restoration needs of the client.

155.1(2) Work activity services. "Work activity services" are services, usually provided at a facility, planned and designed exclusively to provide therapeutic activities for handicapped workers whose impairment is so severe as to make their productive capacity inconsequential. Therapeutic activities include self-care activities, such as those focusing on teaching the basic skills of living, and any purposeful activity, so long as work or production is not the main purpose.

155.1(3) Sheltered work services. "Sheltered work services" are services, usually provided at a facility, carrying out a recognized program of rehabilitation, habilitation, or education for the handicapped worker, designed to lead to competitive employment, or the provision of long term, remunerative employment at a rate not less than the applicable certificate rate.

155.1(4) Handicapped worker or client. A "handicapped worker" or "client" is an individual whose earning capacity is impaired by a handicapping condition and who is being served by a facility meeting these standards for rehabilitation facilities.

155.1(5) Training program. A "training program" is a program in a sheltered workshop facility of not more than six months duration, except that additional periods up to three months may be approved subject to need justified by the facility and the caseworker, to:

a. Develop the patterns of behavior which will help a client adjust to a work environment, and

- b. Teach the skills and knowledge related to specific work traits, and
- c. Teach the skills and knowledge related to a specific occupational objective of a job family and which meets the standards in these rules.

155.1(6) Evaluation program. An "evaluation program" is a program in a sheltered workshop of not more than three months duration, except that periods up to three months may be approved subject to need justified by the facility and using the medium of work to determine a client's potential, and which meets the standards in these rules.

155.1(7) Project manager. A "project manager" is a department employee who is designated as responsible for the development, monitoring, and evaluation of purchase of service agreements with the rehabilitation facility.

155.1(8) Caseworker. A "caseworker" is a department employee who is responsible for eligibility determination, assessment, development of a case plan, and to see that ongoing service provision is consistent with the case plan.

155.1(9) Provider. A "provider" is an agency which has an approved purchase of service agreement with the department to provide specific services.

155.1(10) Department. "Department" means the Iowa department of social services.

155.1(11) Accreditation. "Accreditation" means the official approval by the commission on accreditation of rehabilitation facilities that a facility substantially fulfills the standards established by the commission.

770—155.2(234) Approval.

155.2(1) Request. A request for approval to provide services and receive payment for eligible clients shall be initiated by the provider. Approval by the department shall be made only when the provider meets the standards set forth in these rules. Request shall be initiated by use of a purchase of service agreement addressed to the project manager in the county or district where the facility is located.

155.2(2) Conditions. The facility shall be approved by the department as complying with all standards or notified of specific deficiencies and the actions necessary to bring the facility into full compliance with the standards. Payment will be made only after the purchase of service agreement is approved and signed by all necessary department administrators.

155.2(3) Approval. The department may enter into a purchase of service agreement with a provider that has been accredited by the commission on accreditation of rehabilitation facilities, and has furnished proof of such accreditation to the department.

155.2(4) Nonaccreditation approval. The department may approve a purchase of service agreement even though the provider is not accredited by the commission on accreditation of rehabilitation facilities. Such approval shall only be given after the provider's plan for progressively bringing the facility into compliance has been accepted by the department. A nonaccredited facility may be approved for a purchase of service agreement for a period not to exceed three years.

770—155.3(234) Eligibility.

155.3(1) Provider. Sheltered work/work activity services shall be purchased by the department only from a provider whose facility has been approved as set forth in these rules and which has a valid purchase of service agreement presently in force with the department of social services as set forth in rules 770—chapter 145.

155.3(2) Client. Sheltered work/work activity services shall be provided only to persons who have a current documented diagnosis of a handicapping condition which prevents competitive employment, but who would be capable of some work productivity in a sheltered work/work activity environment. Each client shall meet program and service requirements as set forth in these rules, and eligibility requirements as set forth in rule 770—130.3(234).

770—155.4(234) Assessment (diagnosis and evaluation).

155.4(1) When and how arranged. A current diagnosis and evaluation shall be available or shall be scheduled by a department service worker prior to the development of an individual program plan and prior to placement of the individual in any sheltered workshop or work activity program.

155.4(2) By whom provided. A diagnosis and evaluation shall be conducted by an interdisciplinary team which may consist of a physician, social worker, psychologist, educational/vocational counselor or other professionals depending on the individual's needs.

155.4(3) Minimum components. A diagnosis and evaluation shall give a written summary of medical, social, psychological and educational/vocational functioning and needs and shall give recommendations for appropriate services and prognosis for minimizing handicapping conditions as a result of service interventions.

770—155.5(234) Individual program plan.

155.5(1) Development. An individual program plan shall be developed by the caseworker based on the findings and recommendations of the diagnosis and evaluation and shall include input from the client or representative and agency personnel interested in the welfare of the client. The individual program plan shall be developed prior to placement in a sheltered work or work activity program.

155.5(2) Minimum components. The individual program plan shall contain information which documents the service goals and service needs of the individual on a short range and long range basis. It shall also identify providers of needed services, time frames for service provision and goal accomplishment as well as time frames and caseworker responsibility for follow-up activities.

155.5(3) Follow-up. Follow-up and progress review relative to the individual program plan shall be done with the client and other interested parties on at least a semiannual basis.

770—155.6(234) Provider service plan.

155.6(1) Development. A sheltered workshop or work activity center shall develop a service plan for each client of the department placed in that service within thirty days after such placement. The caseworker shall supply a copy of the diagnosis and evaluation and the individual program plan to the provider providing service and shall assure that the agency service plan is supportive to the individual program plan.

155.6(2) Follow-up and review. Within one week after placement in a sheltered work or work activity program the caseworker shall have contact with the client and the facility to review program adjustment. The service plan of the provider shall be reviewed at least semiannually by the caseworker.

770—155.7(234) Termination. Sheltered work/work activity services shall be terminated when the client no longer is eligible for services; when the client does not continue to meet the eligibility requirements for this program; when the client has progressed to competitive employment and needs no longer exist; when the client or legal representative requests termination; when it is determined that another service program can more adequately meet the client's needs; or when the handicapping condition requires more care than the facility can provide. Termination may be enforced by the facility upon thirty days' written notice to the department setting forth the conditions and reasons. When the client exhibits behavior dangerous to self or others, the facility may terminate services as soon as is necessary with immediate written notice to the department.

These rules are intended to implement section 234.6(7)"i" of the Code.

SOIL CONSERVATION DEPARTMENT[770]

NOTICE OF INTENDED ACTION

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

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 §17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

The state soil conservation committee pursuant to Acts of the Sixty-seventh General Assembly, House File 2354, proposes to strike chapter 4 of its rules published in IAC December 29, 1976, and adopt in lieu thereof the following rules relating to surface coal mines.

Interested persons may submit written data, views or arguments concerning the proposed rule changes no later than 10:30 a.m. on July 21, 1978 to Marvin Ross, Iowa Department of Soil Conservation, Grimes State Office Building, Des Moines, Iowa 50319. On July 21, 1978 at 10:30 a.m. at the Grimes State Office Building North Conference Room, interested persons will be given the opportunity to make oral presentations concerning the proposed rule changes.

The above-mentioned proposed rules of the Department of Soil Conservation comprising ninety-nine typewritten pages are omitted from this publication as being unduly cumbersome, expensive and otherwise inexpedient. Copies of the complete text of the rules are available on application to the above agency at no more than the cost of reproduction. These rules will allow for the continued issuance of mining permits consistent with federal and state law, ensure protection of the human and natural environment, maintain production of food or fiber following mining, and provide for an orderly development of the coal resources within the state.

VETERINARY MEDICAL EXAMINERS BOARD[842]

NOTICE OF INTENDED ACTION

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

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 §17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Acts of the Sixty-seventh General Assembly, 1977 Session, chapter 95, section 2, and section 169.10 of the Code, the Veterinary Medical Examiners Board proposes to amend rules relating to continuing education requirements.

Any interested person may submit written comments which should be addressed to Dr. Merle H. Lang, State Veterinarian, Iowa Department of Agriculture, Henry Wallace

VETERINARY MEDICAL EXAMINERS (cont'd)

Building, Des Moines, Iowa 50319. Written comments should include the name and address of the party filing the comment and should be submitted to Dr. Lang by 4:30 p.m. on or before July 17, 1978.

The proposed amendment is as follows:

ITEM 1. Chapter 8 is amended by adding rule 8.2(169) as follows:

842—8.2(169) Exemptions for inactive practitioners. A licensee who is not engaged in the practice in the state of Iowa residing within or without the state of Iowa may be granted a waiver of compliance and obtain a certificate of exemption upon paying the annual license renewal fees. Upon written application to the board, the application shall contain a statement that the applicant will not engage in the practice of veterinary medicine in Iowa without first complying with all the regulations governing reinstatement after exemption. The application for a certificate of exemption shall be submitted upon the form provided by the board.

ITEM 2. Chapter 8 is amended by adding rule 8.3(169) as follows:

842—8.3(169) Reinstatement of inactive practitioners. Inactive practitioners who have been granted a waiver of compliance with these regulations and obtained a certificate of exemption shall, prior to engaging in the practice of veterinary medicine in the state of Iowa, satisfy the following requirements for reinstatement:

8.3(1) Submit written application for reinstatement to the board upon forms provided by the board; and

8.3(2) Furnish in the application evidence of one of the following:

a. The full-time practice of veterinary medicine in another state of the United States or the District of Columbia and completion of continuing education for each year of inactive status substantially equivalent, in the opinion of the board, to that required under these rules; or

b. Completion of a total number of hours of accredited continuing education computed by multiplying twenty by the number of years a certificate of exemption shall have been in effect for such applicant; or

c. Successful completion of the Iowa state license examination conducted within one year or otherwise prove proficiency before the board within one year immediately prior to the submission of such application for reinstatement.

These rules are intended to implement Acts of the Sixty-seventh General Assembly, 1977 Session, chapter 95, section 2.

SOCIAL SERVICES DEPARTMENT[770]

AMENDMENT TO NOTICE OF INTENDED ACTION

The notice of intended action appearing in IAC Supplement of April 19, 1978 proposing rules relating to community based corrections (chapter 25) under authority of Chapter 154, Acts of the Sixty-seventh General Assembly, 1977 Session is amended by adding the following paragraph:

Oral presentations on the proposed rules may be made at the following times and locations:

Cedar Rapids	Monday, July 24, 1978 7:00 p.m. West Dining Room 2nd Floor, Iowa Hall Kirkwood Community College
Sioux City	Tuesday, July 25, 1978 7:00 p.m. Weinig Room 2nd Floor, Downtown YMCA 8th and Nebraska Street
Waterloo	Wednesday, July 19, 1978 7:00 p.m. Conference Room, 2nd Floor KWVL Building

AMENDMENT TO NOTICE OF INTENDED ACTION

The notice of intended action appearing in IAC Supplement of April 19, 1978 proposing Social Services rules relating to intermediate care facilities (81.4, 81.6, 81.14) under authority of section 249A.4 of the Code is amended by adding the following paragraph:

Oral presentations on the proposed rules may be made on Thursday, July 20, 1978, at 1:00 p.m., Des Moines Area Community College, Building No. 2, Room No. 6, Ankeny, Iowa.

AGRICULTURE DEPARTMENT[30]**NOTICE OF PUBLIC HEARING**

Senate File 2176, Sixty-seventh General Assembly which will be effective July 1, 1978, provides that the Secretary of Agriculture shall approve all methods of probing for foreign material content of any type of grain.

For the purpose of obtaining information relating to proposed methods, the secretary will conduct a meeting in his office in the Henry Wallace Building at 1:30 p.m. on Thursday, July 13, 1978. Interested parties are urged to attend. Written applications for approval will be reviewed after receipt by the secretary, at any time.

HEALTH DEPARTMENT[470]

Pursuant to the authority of sections 17A.4(2) and 17A.5(2) "b"(1)(2) of the Code and Senate File 2131, Acts of the Sixty-seventh General Assembly, the Board of Funeral Director and Embalmer Examiners rescinds rule 470—160.5(147) relating to licensure fees of the board of funeral directing and embalming examiners and adopts in lieu thereof the following new rule.

470—160.5(147) Board of mortuary science examiners.

160.5(1) Fee for a funeral director's license issued upon the basis of an examination is thirty dollars.

160.5(2) Fee for a funeral director's license issued under a reciprocal agreement is one hundred dollars.

160.5(3) Fee for renewal of a funeral director's license is thirty dollars.

160.5(4) Fee for a certified statement that a licensee is licensed in this state is five dollars.

160.5(5) Fee for apprentice registration is five dollars.

[Filed emergency 6/9/78]

This rule shall become effective July 1, 1978 after filing in the office of the secretary of state as provided in sections 17A.4(2) and 17A.5(2) "b"(1)(2) of the Code.

The board of funeral director and embalmer examiners finds that notice and public participation is not practical in this emergency rule rulemaking because Senate File 2131 will become effective July 1, 1978 and immediate amendment is necessary to permit licensees to renew their licenses to practice as funeral directors. In addition the rule removes the references in the rules to the license to practice embalming which is rescinded by Senate File 2131.

[Published 6/28/78]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement, 6/28/78.

SOCIAL SERVICES DEPARTMENT[770]

Pursuant to the authority of section 249A.4 of the Code, rules of the department of social services appearing in the IAC relating to medical assistance (chapter 78) are hereby amended.

Strike rule 770—78.14(249A) and insert the following in lieu thereof.
770—78.14(249A) Hearing aids between July 5, 1978 and December 31, 1978. Payment shall be approved for a hearing aid and examination subject to the following conditions.

78.14(1) The need for a hearing aid shall be established by an examination by a physician, the primary purpose of which is to determine that the recipient has no condition which would contraindicate the use of a hearing aid, and by the physician's determination of the existence of a hearing loss which can be improved by the use of appropriate amplification. The report of the physician shall be made on form MA-2113-0, Report of Examining Physician Establishing the Need for a Hearing Aid.

78.14(2) When a hearing aid is recommended pursuant to 78.14(1), a hearing aid evaluation as to the specific brand or model appropriate to the recipient's condition shall be made by a physician, or a licensed audiologist, or a licensed hearing aid dealer. The results of the hearing aid evaluation shall be reported on form XIX (audio 2), Hearing Aid Selection Report.

78.14(3) When a recipient is unable to travel because of health reasons, payment shall be made to the physician, or the audiologist, or the hearing aid dealer, for travel to the recipient's place of residence or other suitable location.

78.14(4) Payment shall be made for a hearing aid when purchased from a dealer eligible in the program pursuant to rule 770—77.13(249A). When a binaural hearing aid is recommended, prior approval shall be obtained from the department before payment can be made.

[Filed emergency, 6/9/78]

The department of social services finds that notice and public participation would be contrary to the public interest since these rules will make hearing aids more easily available to those who need them, and a delay in the rules would hinder persons needing to purchase hearing aids. By allowing both hearing aid dealers and audiologists to perform the hearing tests, the availability of the tests to recipients is increased. There are fifty participating audiologists compared to eight-one participating hearing aid dealers, eight of which are also audiologists, and while audiologists are located in twenty-four counties and hearing aid dealers are located in thirty counties, they are located in different counties. This rule will increase the number of qualified hearing testers by 146%, and increase the number of counties in which tests are available by twelve. Therefore, these rules are filed without notice and public participation pursuant to section 17A.4(2) of the Code.

For all of the above reasons, the department of social services finds that these rules confer a benefit on the public by making hearing aids more easily available to those who need them. Therefore, these rules shall become effective July 5, 1978, as provided in section 17A.5(2)“b”(2) of the Code.

[Published 6/28/78]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement, 6/28/78.

COMPTROLLER, STATE[270]

Pursuant to the authority of section 8.6 of the Code, rules of the state comptroller are amended by adding Chapter 5.

CHAPTER 5
ADMINISTRATION

270—5.1(8) Declaratory rulings. On petition by an interested person, the state comptroller may issue a declaratory ruling with respect to the interpretation or applicability of any statutory provision, rule, or other written statement of law or policy, decision, or order.

Petitions shall be titled "Petition for Declaratory Ruling" and shall include the name and address of all persons or agencies party to the petition. The body of the petition shall include exact words, passages, sentences or paragraphs which are the subject of inquiry and the specific set of facts involved. The petition may express the petitioner's interpretation and contain documented information in support thereof.

The state comptroller will refuse to issue a declaratory ruling if the petition does not state with enough specificity the factual situation or the question presented, or if the issuance of the ruling would not be in the best interests of the public, or for any other reason which it deems just and proper.

The state comptroller within thirty days of the receipt of a petition, shall issue a ruling or dismiss the petition except in the case where the state comptroller requests additional information from the petitioner. In that case, the ruling or dismissal will occur within thirty days following the receipt of the requested additional information.

Rule 5.1 is intended to implement section 17A.9 as it pertains to the state comptroller.

[Filed 6/9/78]

Notice of intended action regarding this rule was published in the IAC Supplement of May 3, 1978 and shall become effective August 2, 1978. These are identical to those published in the May 3, 1978 Supplement.

[Published 6/28/78]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement, 6/28/78.

CONSERVATION COMMISSION[290]

Pursuant to the authority of sections 107.24 and 17A4 of the Code, chapter 3 of the Iowa Administrative Code relating to wildlife refuges, is hereby rescinded and the following rule adopted in lieu thereof.

DIVISION OF FISH AND GAME

CHAPTER 3
WILDLIFE REFUGES

290—3.1(109) Restrictions. The following areas under the jurisdiction of the state conservation commission are established as game refuges where posted as such. It shall be unlawful to hunt, pursue, kill, trap or take any wild animal, bird or game on these areas at any time, and no one shall carry firearms thereon. It shall also be unlawful to trespass in any

manner on the following areas, where posted as such, between the dates of September 15 and December 15 of each year, both dates inclusive, except that the conservation commission personnel and law enforcement officials may enter the area at any time in performance of their duties.

Area	County
Lake Icaria	Adams
Rathbun Area	Appanoose
Wildlife Exhibit Area	Boone
Sweet Marsh	Bremer
Storm Lake Islands	Buena Vista
Big Marsh	Butler
South Twin Lake	Calhoun
Round Lake	Clay
Allen Green Refuge	Des Moines
Kettleson Area	Dickinson
Ingham Lake	Emmet
Forney Lake	Fremont
Riverton Area	Fremont
Dunbar Slough	Greene
Bays Branch	Guthrie
McCord Pond	Guthrie
West Twin Lake	Hancock
Green Island Area	Jackson
Hawkeye Wildlife Area	Johnson
Muskrat Slough	Jones
Colyn Area	Lucas
Red Rock Area	Marion, Polk, and Warren
Louisville Bend	Monona
Five Island Lake	Palo Alto
Big Creek-Saylorville Complex	Polk
Flint Access	Polk
Smith Area	Pottawattamie
Lake View Area	Sac
Princeton Area	Scott
Prairie Rose Lake	Shelby
Otter Creek Marsh	Tama
Green Valley Lake	Union
Rice Lake Area	Winnebago
Elk Creek Marsh	Worth
Lake Cornelia	Wright

This rule is intended to implement sections 109.5, 109.6 and 109.8 of the Code.

[Filed 6/8/78]

The notice of intended action was published in the IAC on April 5, 1978. A public hearing was held on May 12, 1978. No adverse comments or objections were received on the proposal at, or prior to, the hearing. These rules shall become effective thirty-five days after filing and publication as provided for in section 17A.5 of the Code. [August 2, 1978]

[Published 8/2/78]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement, 6/28/78.

Pursuant to the authority of sections 107.24 and 17A.4 of the Code, chapter 14 of the Iowa Administrative Code, relating to waterfowl hunting on Forney Lake and Riverton Area, is hereby rescinded and the following rule adopted in lieu thereof.

DIVISION OF FISH AND GAME

CHAPTER 14

WATERFOWL HUNTING ON FORNEY LAKE AND RIVERTON AREA

290—14.1(109) Special hunting. The following regulations shall be enforced during the waterfowl seasons on Forney Lake and the Riverton Area, both in Fremont County, Iowa.

14.1(1) Reservations.

a. Blind reservations will be accepted by the state conservation commission beginning on the second Monday of September of each year. Reservations for Forney Lake must be made at state conservation commission, Forney Lake, Thurman, Iowa. Reservations for the Riverton Area must be made at state conservation commission, Riverton Area, Riverton, Iowa. Reservations will be issued on a first come, first served basis.

b. Requests for reservations must be accompanied by \$3.00 for each day requested. In addition, each hunter, including the reservation holder, will be charged \$1.00 when he registers to hunt. Application letters shall contain the reservation request(s) of only one individual.

c. Individuals holding reservations must be present at the reservation headquarters at the appropriate area one hour before legal shooting time on day of reservation or reservation will be voided. Reservation fee will not be refunded.

d. Persons without reservations will be accommodated each day on a first come, first served basis, if blinds are available.

e. No individual may reserve more than one blind for any given day.

f. Prior to the opening date of the waterfowl season, no individual may reserve a blind at one area on more than two days on Saturday, Sunday, Veteran's Day, Thanksgiving Day, and the Friday following Thanksgiving Day, and no individual may reserve a blind at one area on more than three other days, during any year.

14.1(2) Controlled sites.

a. Blind sites will be allotted by drawing and party must hunt from assigned blind only. Parties may change blinds by re-registering for the new blind.

b. All hunters must stay in blind while hunting except going to and from blinds and retrieving waterfowl.

c. No person shall have in his possession or use more than twenty-five shells per day in these controlled areas, said shells to contain shot no larger than size BB.

14.1(3) Fee permit.

a. All hunters shall exchange their hunting licenses at the reservation station for a permit. Entire Forney Lake area north of the east-west county road, and the north portion of the Riverton Area where so posted to be limited to fee hunting from blinds only with a valid permit. No person (except conservation commission personnel and law enforcement officials in performance of their official duties) shall enter upon these portions of Forney Lake or the Riverton Area during the waterfowl season unless they possess a valid permit.

b. Permits will be issued to bona fide hunters, except nonhunters may be issued permits by paying the required fee when extra space is available.

14.1(4) Data cards. All hunters must return to the reservation station immediately upon leaving the blind and fill out a data card showing birds bagged, before leaving the area.

290—14.2(109) Area restriction. It shall be unlawful to shoot or carry firearms between

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the dates of September 15 and December 15 of each year, both dates inclusive, around the perimeter of the entire Forney Lake Refuge within the posted limits of a strip approximately one hundred yards wide, and a similar area where so posted on the Riverton Area.

These rules are intended to implement sections 109.5, 109.6, 109.7 and 109.48 of the Code.

[Filed 6/8/78]

The notice of intended action was published in the IAC Supplement on April 5, 1978. A public hearing was held on May 12, 1978. No adverse comments or objections were received on the proposal at, or prior to, the hearing. These rules shall become effective thirty-five days after filing and publication as provided for in section 17A.5 of the Code. [August 2, 1978]

[Published 6/28/78]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement, 6/28/78.

Pursuant to the authority of sections 107.24 and 17A.4 of the Code, Chapter 15 of the Iowa Administrative Code, relating to waterfowl hunting on Lake Odessa is hereby rescinded and the following rule adopted in lieu thereof.

DIVISION OF FISH AND GAME

CHAPTER 15

WATERFOWL HUNTING ON LAKE ODESSA

290—15.1(109) Special hunting. The following regulations shall be in effect during the waterfowl seasons on Lake Odessa, Louisa County, Iowa.

15.1(1) Controlled area.

a. The Lake Odessa public hunting area, where posted as such, shall be designated as a controlled site hunting area. No person (except conservation commission personnel and law enforcement officials in performance of their official duties) shall enter upon this portion of the Lake Odessa area during the period from the opening day of the waterfowl seasons until the end of the duck seasons each year, unless they possess a valid daily permit issued for the zone in which they wish to hunt. Permits shall be issued, by zones, as follows:

b. Controlled area "A". Permits for zone A will be issued at the Schafer's Point check station. A drawing to determine hunting sites will be held ninety minutes before shooting time each day. One person shall fill out a card with the names of all persons in his hunting party (maximum of six) and present the card to the check station attendant prior to the drawing time. If a person's name appears on more than one party card he shall be disqualified from hunting on the area for that day. When a person's name is on one party card, he cannot subsequently hunt with any other party prior to 10:00 a.m. each day. The person who filled out the card shall draw to determine the sequence of site selection. If he successfully draws a number to hunt at a staked site, he must pay a fee of \$2.00 for his party, unless at least one member of the party has previously purchased a season permit for \$25.00. Permits for area A will be issued for each party, giving the hunters individual names and the stake site number which they selected. The party shall hunt only at that site and must stay within forty yards of the stake except when retrieving game or when going to and from the area. A party at any one site can use no more than two boats. Decoys must be placed within sixty feet of the stake. Hunting and the location of decoys, at double stake sites, is restricted to one of the stake sites.

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c. Controlled area "B". Permits for this area will be issued at both the Schafer's Point check station and the Sand Run check station. Permits will be issued on a first come, first served basis beginning ninety minutes before legal shooting time each morning. Each boat will be issued, without charge, a permit showing the name of each member of the party. Hunting sites will not be designated.

d. Permittees must exhibit permits to conservation officers upon request.

e. Permittees must check out of the check station, where their permit was issued, within thirty minutes after vacating their stake site.

f. Boats, blinds and decoys must be removed from the controlled areas and permittees checked out of the check station where their permit was issued within one hour after legal shooting time for waterfowl each day.

15.2 Reserved.

This rule is intended to implement section 109.6 of the Code.

[Filed 6/8/78]

The notice of intended action was published in the IAC Supplement on April 5, 1978. A public hearing was held on May 12, 1978. No adverse comments or objections were received on the proposal at, or prior to, the hearing. These rules shall become effective thirty-five days after filing and publication as provided for in section 17A.5 of the Code. [August 2, 1978]

[Published 6/28/78]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement, 6/28/78.

Pursuant to the authority of sections 107.24 and 17A.4 of the Code, chapter 106 of the Iowa Administrative Code, relating to hunting seasons for deer, is hereby rescinded and the following rules adopted in lieu thereof.

DIVISION OF FISH AND GAME
CHAPTER 106

1978 DEER HUNTING REGULATIONS

290—106.1(109) General. Deer may be taken during the 1978 season subject to the following regulations:

106.1(1) License. All hunters must have in possession a 1978 deer license when hunting deer. Licenses will be issued by zone and period and will be valid in the designated zone and for the designated period only. In all zones, licenses will be issued for antlered deer or any sex deer. Licenses will be issued to those applying for a paid gun license according to the following: In zone 1, no any sex deer licenses will be issued for the first period and four hundred any sex deer licenses will be issued for the second period; in zone 2, one hundred any sex deer licenses will be issued for the first period and two hundred any sex deer licenses will be issued for the second period; in zone 3, four hundred fifty any sex deer licenses will be issued for the first period and nine hundred any sex deer licenses will be issued for the second period; in zone 4, three hundred fifty any sex deer licenses will be issued for the first period and seven hundred any sex deer licenses will be issued for the second period; in zone 5, five hundred seventy-five any sex deer licenses will be issued for the first period and one thousand one hundred fifty any sex deer licenses will be issued for the second period; in zone 6, seven hundred fifty any sex deer licenses will be issued for the first period and fifteen hundred any sex deer licenses will be issued for the second period; in zone 7, no any sex deer licenses will be issued for the first period and seven hundred twenty-five any sex deer licenses will be issued for the

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second period; in zone 8, one hundred seventy-five any sex deer licenses will be issued for the first period and three hundred fifty any sex deer licenses will be issued for the second period; in zone 9, no any sex deer licenses will be issued for the first period and six hundred seventy-five any sex deer licenses will be issued for the second period; in zone 10, one hundred any sex deer licenses will be issued for the first period and two hundred any sex deer licenses will be issued for the second period. The commission shall conduct a drawing to determine which applicants are to receive an any sex deer license. All other applicants will receive a license valid only for antlered deer. Antlered deer are defined as those deer having at least one forked antler. Ratios of antlered deer only licenses to any deer licenses determined by this drawing shall be applicable to landowner-tenant licenses.

105.1(2) Daily and possession limits. Daily bag limit one deer; possession limit one deer; season limit one deer.

105.1(3) Shooting hours. Shooting hours for shotgun and muzzle-loaded weapons shall be from sunrise to sunset. Shooting hours for bow and arrow hunting shall be from one-half hour before sunrise to one-half hour after sunset.

290—105.2(109) Method of take.

105.2(1) Bow and arrow. Deer of any age or sex may be taken by bow and arrow only over the entire state from October 7 through December 1, 1978.

105.2(2) Shotgun and muzzle-loaded method. Deer may be taken with gun only from December 2 through December 5, 1978, or from December 9 through December 15, 1978, in ten zones.

a. Zone 1. Deer, in accordance with the type and tenure of license issued, may be taken in zone 1 which is an area bounded as follows: Beginning at the point where U.S. Highway 169 crosses the Minnesota-Iowa state line; thence along U.S. Highway 169 to state Highway 3; thence along state Highway 3 to U.S. Highway 71; thence along U.S. Highway 71 to U.S. Highway 20; thence along U.S. Highway 20 to the Nebraska-Iowa state line; thence along the Nebraska-Iowa, South Dakota-Iowa and Minnesota-Iowa state lines to the point of beginning.

b. Zone 2. Deer, in accordance with the type and tenure of license issued, may be taken in zone 2 which is an area bounded as follows: Beginning at the point where state Highway 3 and Interstate Highway 35 intersect; thence along Interstate Highway 35 to U.S. Highway 30; thence along U.S. Highway 30 to state Highway 4; thence along state Highway 4 to state Highway 141; thence along state Highway 141 to U.S. Highway 59; thence along U.S. Highway 59 to U.S. Highway 20; thence along U.S. Highway 20 to U.S. Highway 71; thence along U.S. Highway 71 to state Highway 3; thence along state Highway 3 to the point of beginning.

c. Zone 3. Deer, in accordance with the type and tenure of license issued, may be taken in zone 3 which is an area bounded as follows: Beginning at the point where U.S. Highway 20 crosses the Nebraska-Iowa state line; thence along U.S. Highway 20 to U.S. Highway 59; thence along U.S. Highway 59 to the Missouri-Iowa state line; thence along the Missouri-Iowa and Nebraska-Iowa state lines to the point of beginning.

d. Zone 4. Deer, in accordance with the type and tenure of license issued, may be taken in zone 4 which is an area bounded as follows: Beginning at the point where Interstate Highway 35 and U.S. Highway 30 intersect; thence along Interstate Highway 35 to its eastern junction with Interstate Highways 80 and 235; thence along Interstate Highway 235 to its western junction with Interstate Highways 80 and 35; thence along Interstate Highway 35 to the Missouri-Iowa state line; thence along the state line to U.S. Highway 59; thence along U.S. Highway 59 to state Highway 141; thence along state Highway 141 to state Highway 4; thence along state Highway 4 to U.S. Highway 30; thence along U.S. Highway 30 to the point of beginning.

e. Zone 5. Deer, in accordance with the type and tenure of license issued, may be taken in zone 5 which is an area bounded as follows: Beginning at the point where Interstate Highway 235 and state Highway 163 intersect; thence along state Highway 163 to state

Highway 92; thence along state Highway 92 to U.S. Highway 218; thence along U.S. Highway 218 to U.S. Highway 34; thence along U.S. Highway 34 to U.S. Highway 63; thence along U.S. Highway 63 to the Missouri-Iowa state line; thence along the state line to Interstate Highway 35; thence along Interstate Highway 35 to its western junction with Interstate Highways 80 and 235; thence along Interstate Highway 235 to the point of beginning.

f. Zone 6. Deer, in accordance with the type and tenure of license issued, may be taken in zone 6 which is an area bounded as follows: Beginning at the point where U.S. Highway 63 crosses the Missouri-Iowa state line; thence along U.S. Highway 63 to U.S. Highway 34; thence along U.S. Highway 34 to U.S. Highway 218; thence along U.S. Highway 218 to state Highway 92; thence along state Highway 92 to the Illinois-Iowa state line; thence along the Illinois-Iowa and Missouri-Iowa state lines to the point of beginning.

g. Zone 7. Deer, in accordance with the type and tenure of license issued, may be taken in zone 7 which is an area bounded as follows: Beginning at the point where U.S. Highway 61 intersects with state Highway 92 at its northern junction; thence along state Highway 92 to state Highway 163; thence along state Highway 163 to Interstate Highway 235; thence along Interstate Highway 235 to its eastern junction with Interstate Highways 80 and 35; thence along Interstate Highway 35 to state Highway 3; thence along state Highway 3 to state Highway 38; thence along state Highway 38 to U.S. Highway 61; thence along U.S. Highway 61 to the point of beginning.

h. Zone 8. Deer, in accordance with the type and tenure of license issued, may be taken in zone 8 which is an area bounded as follows: Beginning at the point where state Highway 92 intersects with the Illinois-Iowa state line; thence along state Highway 92 to U.S. Highway 61; thence along U.S. Highway 61 to state Highway 38; thence along state Highway 38 to state Highway 3; thence along state Highway 3 to the Illinois-Iowa state line; thence along the state line to the point of beginning.

i. Zone 9. Deer, in accordance with the type and tenure of license issued, may be taken in zone 9 which is an area bounded as follows: Beginning at the point where state Highway 3 intersects with the Illinois-Iowa state line; thence along state Highway 3 to U.S. Highway 63; thence along U.S. Highway 63 to the Minnesota-Iowa state line; thence along the Minnesota-Iowa, Wisconsin-Iowa and Illinois-Iowa state lines to the point of beginning.

j. Zone 10. Deer, in accordance with the type and tenure of license issued, may be taken in zone 10 which is an area bounded as follows: Beginning at the point where U.S. Highway 63 crosses the Minnesota-Iowa state line; thence along U.S. Highway 63 to state Highway 3; thence along state Highway 3 to U.S. Highway 169; thence along U.S. Highway 169 to the Minnesota-Iowa state line; thence along the state line to the point of beginning.

290—106.3(109) Permitted and prohibited weapons and devices.

106.3(1) Permitted weapons. 10-12-16-20 gauge shotguns with single slugs only, flintlock or percussion cap lock muzzle-loaded muskets or rifles of not less than .44 nor larger than .775-caliber with single projectile only, and bows with broadhead arrows will be permitted in taking deer.

106.3(2) Prohibited weapons and devices. The use of dogs, domestic animals, salt or bait, shotguns with rifled barrels or rifled extensions on the barrel, rifles other than muzzle-loaded, crossbows, automobiles, aircraft, or any mechanical conveyance, is prohibited.

290—106.4(109) Application procedure. All applications for deer gun hunting licenses, both paid and landowner-tenant, for the 1978 deer hunting season must be made on forms provided by the state conservation commission and returned to the commission office in Des Moines, Iowa. Applications for paid gun hunting licenses must be accompanied by fifteen dollars. Only individual applications will be accepted, and only individual remittances of the fifteen dollar fee will be accepted. Both paid and landowner-tenant applications for licenses will be received and accepted only from August 14 through August 28, 1978, during

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the regular daily working period of 8:00 a.m. to 4:30 p.m. Incomplete and improperly completed applications, applications not meeting the above conditions, or applications received prior to or after the application period will not be considered as a valid application. No one shall make more than one application or receive more than one deer license.

106.4(1) If the quota of any sex deer licenses has not been filled, licenses shall then be issued in the order in which such applications are received and shall continue to be issued until such quota has been met or until a date fifteen days prior to the opening day of the season, whichever first occurs.

106.4(2) Reserved.

290—106.5(109) Transportation tag. A transportation tag bearing license number of licensee, year of issuance, and date of kill properly shown shall be visibly attached to the carcass of each deer before carcass can be transported. The head, and antlers, if any, must remain attached to all deer while being transported by any means whatsoever from the place where taken to the personal abode of the possessor or a commercial preservation facility.

These rules are intended to implement sections 109.38, 109.39, and 109.48 of the Code.
[Filed 6/8/78]

These regulations are based on the best biological data available as determined by research conducted by the commission.

The Notice of intended action was published in the IAC Supplement on March 8, 1978. A public hearing was held on April 14, 1978. Comments and objections were received on the proposal at, and prior to, the hearing. Several persons requested shorter seasons, while most wanted the same, or more liberal seasons compared to the notice and the 1977 season. These rules shall become effective thirty-five days after filing and publication as provided for in section 17A.5 of the Code. [August 2, 1978]

[Published 6/28/78]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement, 6/28/78.

HEALTH DEPARTMENT[470]

Pursuant to the authority of chapter 17A, section 135.11(15), and section 135.47 of the Code, the department of health amends the rules relating to the renal disease program by adding the following new subrule.

ITEM 1. Amend rule 470—111.1(135) "Limitations of assistance and review" by adding the following new subrule.

111.1(3) Financial assistance for chronic dialysis and kidney transplantation shall be limited to chronic dialysis and kidney transplantation treatment centers which meet the requirements of the secretary of health, education, and welfare as an end stage renal disease supplier under the provisions of section 226(g) of the Social Security Act.

This subrule implements section 135.47 of the Code.

[Filed 6/9/78]

There have been no changes made in this subrule since it was published as a notice of intended action in the IAC Supplement dated April 5, 1978. The effective date is August 2, 1978.

[Published 6/28/78]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement, 6/28/78.

Pursuant to the authority of sections 147.76 and 154B.6(1) of the Code, the board of psychology examiners amends the rules relating to educational qualifications for licensing as follows.

ITEM 1. Rule 470—140.5(154B) is amended by adding the following new subrules:

140.5(8) An applicant who has received a doctorate meeting the requirements of subrule 140.5(1) or 140.5(2) in a doctoral program that does not offer the master's degree shall be considered to have received a master's degree at the time the applicant has met the requirements of subrule 140.5(5).

140.5(9) An applicant who has received a specialist degree in psychology shall be considered to have met the requirements for a master's degree in psychology provided the specialist degree program has met the requirements of subrule 140.5(5).

[Filed without Notice 6/9/78]

The board of psychology examiners finds that notice and public participation are unnecessary as provided in section 17A.4(2) because the rule changes remove a restriction on the public in the requirement for the granting of a master's degree.

These amendments implement section 154B.6(1) of the Code and will become effective August 2, 1978.

[Published 6/28/78]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement, 6/28/78.

The board of psychology examiners, pursuant to the authority of sections 17A.4, 17A.5, 147.36, 147.76, and 147.80 of the Code, amends chapter 147 as follows.

ITEM 1. Subrule 140.8(3) is amended to read as follows:

140.8(3) Examination dates will be announced by the board. The schedule for the written examination will establish the time, place, the final date by which the board must receive the applicant's written intention to be examined, and other pertinent information or instructions. The examination fee is ~~thirty~~ ^{sixty} dollars and is to be paid by check or money order to the Iowa State Department of Health.

[Filed 6/9/78]

This subrule implements section 147.80 of the Code. This amendment appeared as a Notice of Intended Action in the IAC Supplement dated December 14, 1977, and is identical to the one published and will become effective August 2, 1978.

[Published 6/28/78]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement, 6/28/78.

BOARD OF FUNERAL DIRECTOR AND EMBALMER EXAMINERS

Pursuant to the authority of Acts of the Sixth-seventh General Assembly, chapter 95, section 2, and Senate File 2131, the Board of Funeral Director and Embalmer Examiners adopts the following new rules relating to continuing education.

CONTINUING EDUCATION FOR FUNERAL DIRECTORS

470—147.100(67GA,Ch95) Definitions. For the purpose of these rules, the following definitions shall apply:

147.100(1) "Board" means the board of mortuary science examiners.

147.100(2) "Licensee" means any person licensed to practice as a funeral director in the state of Iowa.

147.100(3) "Hour" of continuing education means a clock-hour spent after December 31, 1978 by a licensee in actual attendance at and completion of an approved continuing education activity.

147.100(4) "Approved program or activity" means a continuing education program activity meeting the standards set forth in these rules which has received advance approval by the board pursuant to these rules.

147.100(5) "Accredited sponsor" means a person or an organization sponsoring continuing education activities which has been approved by the board as a sponsor pursuant to these rules. During the time an organization, educational institution, or person is an accredited sponsor, all continuing education activities of such person or organization may be deemed automatically approved.

470—147.101(67GA,Ch95) Continuing education requirements.

147.101(1) Beginning January 1, 1979 each person licensed to practice as a funeral director in this state shall complete during each calendar year a minimum of twelve hours of continuing education approved by the board. Compliance with the requirement of continuing education is a prerequisite for license renewal in each subsequent license renewal year.

147.101(2) The continuing education compliance year shall extend from January 1 to December 31, during which period attendance at approved continuing education programs may be used as evidence of fulfilling continuing education requirements for the subsequent license renewal year beginning July 1 and expiring June 30.

147.101(3) Hours of continuing education credit may be obtained by attending and participating in a continuing education activity, either previously accredited by the board or which otherwise meets the requirement herein and is approved by the board pursuant to rule 147.103(67GA,Ch95) of these rules.

147.101(4) A licensee desiring to obtain credit for one or more succeeding calendar years, not exceeding three such years, for completing more than twelve hours of approved continuing education during any one calendar year shall report such carry-over credit at the time of filing the annual report to the board on or before April 1 of the year following the calendar year during which the claimed additional continuing education hours were completed.

147.101(5) It is the responsibility of each licensee to finance his or her costs of continuing education.

470—147.102(67GA, Ch95) Standards for approval. A continuing education activity shall be qualified for approval if the board determines that:

147.102(1) It constitutes an organized program of learning (including a workshop or symposium) which contributed directly to the professional competency of the licensee; and

147.102(2) It pertains to common subjects or other subject matters which integrally relate to the practice of mortuary science; and

147.102(3) It is conducted by individuals who have a special education, training and experience by reason of which said individuals should be considered experts concerning the subject matter of the program, and is accompanied by a paper, manual or written outline which substantially pertains to the subject matter of the program.

470—147.103(67 GA, Ch95) Approval of sponsors, programs, and activities.

147.103(1) Accreditation of sponsors. An organization or person not previously accredited by the board, which desires accreditation as a sponsor of courses, programs, or other continuing education activities, shall apply for accreditation to the board stating its education history for the preceding two years, including approximate dates, subjects offered, total hours of instruction presented, and the names and qualifications of instructors. By January 31 of each year, commencing January 31, 1980, all accredited sponsors shall report to the board in writing the education programs conducted during the preceding calendar year on a form approved by the board. The board may at any time re-evaluate an accredited sponsor. If after such re-evaluation, the board finds there is basis for consideration of revocation of the accreditation of an accredited sponsor, the board shall give notice by ordinary mail to that sponsor of a hearing on such possible revocation at least thirty days prior to said hearing.

147.103(2) Prior approval of activities. An organization or person other than an accredited sponsor, which desires prior approval of a course, program or other continuing education activity, or who desires to establish accreditation of such activity prior to attendance thereat, shall apply for approval to the board at least ninety days in advance of the commencement of the activity on a form provided by the board. The board shall approve or deny such application in writing within sixty days of receipt of such application. The application shall state the dates, subjects offered, total hours of instruction, names and qualifications of speakers and other pertinent information.

147.103(3) Post approval of activities. A licensee seeking credit for attendance and participation in an educational activity which was not conducted by an accredited sponsor nor otherwise approved shall submit to the board, within thirty days after completion of such activity, a request for credit, including a brief resume of the activity, its dates, subjects, instructors, and their qualifications and the number of credit hours requested therefor. Within ninety days after receipt of such application the board shall advise the licensee in writing by ordinary mail whether the activity is approved and the number of hours allowed therefor. A licensee not complying with the requirements of this subparagraph may be denied credit for such activity.

147.103(4) Review of programs. The board may monitor or review any continuing education program already approved by the board and upon evidence of significant variation in the program presented from the program approved may disapprove all or any part of the approved hours granted the program.

470—147.104(67 GA, Ch95) Hearings. In the event of denial, in whole or in part, of any application for approval of a continuing education program or credit for continuing education activity, the applicant or licensee shall have the right, within twenty days after the sending of the notification of the denial by ordinary mail, to request a hearing which shall be held within sixty days after receipt of the request for hearing. The board adopts the rules of the state department of health found in chapter 173 for hearings. The hearing shall be conducted by the board or a qualified hearing officer designated by the board. If the hearing is conducted by a hearing officer, the hearing officer shall submit a tape recording or a transcript of the hearing including exhibits to the board after the hearing with the proposed decision of the hearing officer.

470—147.105(67 GA, Ch95) Report of licensee. Each licensee shall file a signed report with the application for renewal no later than April 1 of the year following the calendar year in

which claimed continuing education hours were completed. The report shall be sent to the Iowa State Department of Health, Licensing and Certification Section, Board of Mortuary Science Examiners, Lucas State Office Building, Des Moines, Iowa 50319.

470—147.106(67 GA, Ch95) Attendance record report. The person or organization sponsoring continuing education activities shall make a written record of the Iowa licensees in attendance, and send a signed copy of such attendance record to the secretary of the board upon completion of the educational activity, but in no case later than January 31 of the following calendar year. The report shall be sent to the Iowa State Department of Health, Licensing and Certification Section, Board of Mortuary Science, Lucas State Office Building, Des Moines, Iowa 50319.

470—147.107(67 GA, Ch95) Physical disability or illness. The board may, in individual cases involving physical disability or illness, grant waivers of the minimum education requirements or extensions of time within which to fulfill the same or make the required reports. No waiver or extension of time shall be granted unless written application therefor shall be made on forms provided by the board and signed by the licensee and a physician licensed by the board of medical examiners. Waivers of the minimum educational requirements may be granted by the board for any period of time not to exceed one calendar year. In the event that the physical disability or illness upon which a waiver has been granted continues beyond the period of the waiver, the licensee must reapply for an extension of the waiver. The board may, as a condition of any waiver granted, require the applicant to make up a certain portion or all of the minimum educational requirements waived by such methods as may be prescribed by the board.

470—147.108(67 GA, Ch95) Exemptions for inactive practitioners. A licensee who is not engaged in practice in the state of Iowa residing within or without the state of Iowa may be granted a waiver of compliance and obtain a certificate of exemption upon written application to the board. The application shall contain a statement that the applicant will not engage in the practice of mortuary science in Iowa without first complying with all regulations governing reinstatement after exemption. The application for a certificate of exemption shall be submitted upon the form provided by the board.

470—147.109(67 GA, Ch95) Reinstatement of inactive practitioners. Inactive practitioners who have been granted a waiver of compliance with these regulations and obtained a certificate of exemption shall, prior to engaging in the practice of mortuary science in the state of Iowa satisfy the following requirements for reinstatement:

147.109(1) Submit written application for reinstatement to the board upon forms provided by the board; and

147.109(2) Furnish in the application evidence of one of the following:

a. The full-time practice of mortuary science in another state of the United States or the District of Columbia and completion of continuing education for each year of inactive status substantially equivalent in the opinion of the board to that required under these rules; or

b. Completion of a total number of hours of accredited continuing education computed by multiplying twelve by the number of years a certificate of exemption shall have been in effect for such applicant; or

c. Successful completion of the Iowa state license examination conducted within one year immediately prior to the submission of such application for reinstatement.

[Filed 6/9/78]

These rules appeared as a Notice of Intended Action in the IAC Supplement dated November 2, 1977. A public hearing on the proposed rules was held on December 16, 1977. These rules have been modified to use the terminology found in Senate File 2131, and the

number of hours necessary to complete during each calendar year was changed from fifteen to twelve hours of continuing education. The effective date of these rules is July 19, 1978.
[Published 6/28/78]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement, 6/28/78.

PROFESSIONAL TEACHING PRACTICES COMMISSION[640]

Pursuant to the authority of sections 272A.5 and 272A.6 of the Code, Chapter 3, "Criteria of Professional Practices" appearing in IAC, is hereby amended as follows:

ITEM 1. Strike all of paragraphs "b" and "c" of subrule 3.2(1) and in lieu thereof insert:

b. The commission of or conviction for a public offense as defined by the Criminal Code of Iowa, provided that the offense is relevant to and affects teaching or administrative performance.

c. Sexual involvement with a minor student with the intent to commit or the commission of acts and practices proscribed by the following provisions of the Criminal Code of Iowa: Sections 709.2—709.4, 709.8, 709.9, 725.1—725.3.

[Filed 6/8/78]

In accordance with section 17A.4(2) of the Code, the commission finds that notice of the above rule change is not required or necessary. The sole reason for the modifications to subrule 3.2(1) is an attempt to satisfy outstanding objections to paragraphs "b" and "c" imposed by the Administrative Rules Review Committee on February 14, 1978 (see IAC Supp. 2/8/78, 3/8/78, Filed 3.2(1) b and c).

These rule changes implement Chapter 272A of the Code and will go into effect on August 15, 1978.

[Published 6/28/78]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement, 6/28/78.

PUBLIC SAFETY DEPARTMENT[680]

Pursuant to the authority of section 321.4 of the Code, the rules appearing in the Iowa Administrative Code, Department of Public Safety [680], relating to the approval of devices and methods to test blood for alcohol or drug content, are hereby adopted.

ITEM 1. Amend 3.13(1)"a" by striking in line 6 the word "individually." Also amend by inserting in line 11 a period after the word "device" and striking the remainder of the sentence.

ITEM 2. Amend 3.13(2)"c"(5) by inserting a period after the word "possible" and striking the remainder of the sentence.

[Filed 6/5/78]

Notice of Intended Action regarding these rules was published in IAC Supplement 3/8/78, and they are identical to those published under notice. They shall become effective August 2, 1978.

[Published 6/28/78]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement, 6/28/78.

REAL ESTATE COMMISSION[700]

Pursuant to the authority of section 117.9 and chapter 17A of the Code of Iowa, the Iowa Real Estate Commission hereby amends chapters 1, 2 and 3 appearing in the Iowa Administrative Code relating to Rules and Regulations Brokers and Salemen, Administrative Procedure, Accreditation of Real Estate Schools, and to the administration of chapter 117 of the Code of Iowa.

ITEM 1. Rescind all of rule 700—1.3(117) and insert in lieu thereof the following:
700—1.3(117) Limited filing period. An applicant is required to take the examination prescribed by the commission on the date of the next schedule examination following the date of filing the application. An applicant scheduled to take an examination may request a reschedule to a later examination date without any additional fee if the request for reschedule is received in the commission office no later than three working days after the final filing date for the scheduled examination. After that date, a new examination fee must be remitted with request for reschedule.

1.3(1) Applicant fails to attend. If an applicant scheduled to take an examination fails to attend the scheduled examination, the applicant may reschedule to the next scheduled examination if a written request and a new application fee are received in the commission office no later than six calendar days before the examination. If the applicant fails to attend the second scheduled examination, or if the applicant fails to apply for reschedule to the next scheduled examination after failure to attend, the application will be void and the following procedure will be required to reapply:

- a. A new completed application, credit report, and fee shall be submitted.
- b. The application will be subject to the regular filing deadlines as published by the Real Estate Commission.
- c. Each new application submitted will be treated as a first application.

ITEM 2. Rescind all of rule 700—1.4(117) and insert in lieu thereof the following:
700—1.4(117) Reapplying after failure. An applicant who takes an examination and fails same shall be eligible to take the next regularly scheduled examination, providing the applicant remits the examination fee to the commission at least six calendar days prior thereto. The privilege of reapplying within six days of the examination applies only to the next scheduled examination after the first failure. For any subsequent examination, a new completed application and fee are required. Such application will be subject to the regular filing deadlines as published by the Real Estate Commission, and will be for a limited filing period as defined in 1.3(117).

ITEM 3. Rule 700—1.6(117) is amended by adding the following new subrule:

1.6(1) Informal proceedings. If the commission deems the complaint to be of a serious nature constituting grounds for disciplinary action, it may elect to conduct informal proceedings. In such event the commission shall consult with the party or parties affected in an effort to satisfactorily resolve the matter without the necessity of formal proceedings, and shall notify in writing the person making the complaint, the applicant or licensee complained against, and any other affected parties, of the results of the informal proceedings and the action taken, if any. Such an informal proceeding shall not preclude the commission from thereafter instituting formal proceedings. In the enforcement of this section, the commission may accept an assurance of voluntary compliance with respect to any act or practice alleged to be violative of these rules or the real estate law from any person who has engaged in, is engaging in, or is about to engage in such acts or practice. Any such assurance shall be in writing and be subject to the approval of the commission. Such assurance of voluntary compliance shall not be considered an admission to violation for any purpose; however, proof of failure to comply with the assurance of voluntary

compliance shall be prima-facie evidence of a violation of these rules and shall constitute unprofessional conduct.

ITEM 4. Rule 700—1.7(117) is amended by adding the following subrule:

1.7(1) If a salesperson or broker does not renew his license for a period of two years from the date of expiration, he will not be permitted to apply for a license based on past experience, but must qualify for a license as if it were an initial application.

ITEM 5. Rescind all of rule 700—1.8(117) and insert in lieu thereof the following:

700—1.8(117) Advertising under own name. Apprentice salespersons, or salesperson, or broker-salespersons are prohibited from advertising under their own name unless they are the owner of the property they are advertising, and therefore have all the rights of a nonlicensee owner.

ITEM 6. Rescind all of rule 700—1.9(117) and insert in lieu thereof the following:

700—1.9(117) Licensee acting as buyer. A licensee shall not buy either directly or indirectly property listed with the licensee nor shall the licensee acquire any interest therein without first making licensee's true position clear to the owner. Satisfactory proof of this fact must be produced by the licensee upon request of the commission.

ITEM 7. Rule 700—1.23(117) is amended by adding the following new subrule:

1.23(2) Net listing prohibited. The taking of a net listing shall be unprofessional conduct. A net listing is an agreement whereby a licensee agrees to take as a commission the proceeds of a sale over and above the selling price agreed in the listing contract.

ITEM 8. Rule 700—1.24(117) is amended to read as follows:

700—1.24(117) Advertising. A broker shall not advertise to sell, buy, exchange, rent, or lease property in a manner indicating that the offer to sell, buy, exchange, rent, or lease such property is being made by a private party not engaged in the real estate business and no real estate advertisement shall show only a post office box number, telephone number or street address. Every broker, when advertising real estate, shall use his regular business name or the name under which he is licensed, and shall affirmatively and unmistakably indicate that the party is a real estate broker and not a private party. ~~Each broker when operating under a franchise or trade name other than his own name, shall clearly reveal in all advertising that he is the licensed individual who owns the entity using such franchise or trade name. Each broker when operating under a franchise or trade name other than the broker's own name may license the franchise or trade name with the commission, or shall clearly reveal in all advertising that the broker is the licensed individual who owns the entity using the franchise or trade name.~~

ITEM 9. Chapter 1 is amended by adding new rule 700—1.30(117) as follows:

700—1.30(117) Broker's responsibility. A licensed broker is responsible for providing supervision of any apprentice salesperson, salesperson or broker-salesperson that they may employ or be associated with as a selling, renting, managing or listing agent or representative of the broker.

ITEM 10. Rescind all of subrule 2.2(2) in its entirety.

ITEM 11. Rescind all of subrule 2.2(3)(117) and insert in lieu thereof the following:

2.2(3) Completed application. A completed application shall have all questions answered and information furnished as requested.

a. A credit report must be furnished from a bona fide credit bureau and paid for by the applicant.

b. The examination fee must be paid and the fee is nonreturnable.

c. The complete application must be received in the office of the commission at least thirty-four calendar days prior to an examination.

d. Filing deadlines are absolute, and must be in the office of the real estate commission before 4:30 p.m., on the date of the deadline. Applications received in the mail after the deadline cannot be accepted.

e. Completed applications received after the deadline will be considered for the next scheduled examination.

f. Upon receipt of a completed application, the commission staff sends the applicant's name and address to Educational Testing Service, see 2.2(5), which then mails an examination admission ticket to each applicant.

ITEM 12. Rescind all of subrule 2.3(1) in its entirety.

ITEM 13. Rule 700—3.1(117) is amended by adding the following new subrule:

3.1(1) The rules in chapter 3 which apply to accreditation of real estate schools, seminars, and workshops also apply for accreditation of continuing real estate education courses.

ITEM 14. Amend subrule 3.6(3) paragraph "c" to read as follows:

c. Within ten days after the conclusion of each course of instruction, *including continuing education courses*, the school shall submit to the Iowa Real Estate Commission ~~a~~ *an alphabetical* list of the names of the students completing the course of instruction. Said list shall be certified by the instructors from whom said student received instruction and by the director of the school.

ITEM 15. Rule 700—3.6(117) is amended by adding the following new subrules as follows:

3.6(5) Continuing real estate education requirements. Commencing January 1, 1978, each real estate salesperson, broker-salesperson, and broker shall complete a minimum of seven contact hours of real estate education accredited by the Iowa Real Estate Commission, during each calendar year as a requirement of license renewal. The continuing education requirements must be completed by December 31. No grace period will be allowed.

a. This rule shall apply to every licensed salesperson, broker-salesperson, and broker licensed in the state of Iowa, except as specified in paragraphs "b" and "c".

b. A salesperson will be exempt from this requirement during the first calendar year that he has been issued a real estate salesperson's license.

c. A nonresident licensee may be exempt from this requirement providing the licensee meets the requirements of section 117.22 of Iowa Code, and meets all the real estate licensing requirements in the state of his domicile.

3.6(6) Continuing education certificate of attendance. All schools, seminars, and workshops shall provide an individual certificate of attendance to each licensee upon completion of the statutory educational program or training session. The attendance or certificate shall be no larger than 3¼" x 8½".

a. No certificate of attendance shall be issued to a licensee who is absent for more than ten percent of the mandatory classroom hours.

b. The certificate shall contain information as to the licensee's name, course title, date, location of course, number of approved credit hours, and signature of course sponsor or instructor.

c. The licensee shall hold the attendance certificate and attach it to the application for renewal of the license at time of renewal. The licensee shall not submit the attendance certificate to the commission in any other manner than with the renewal application. The responsibility of record keeping will remain with each and every licensee.

d. The Iowa Real Estate Commission in no way shall be required to maintain a list of licensees who have completed courses of continuing education.

ITEM 16. Amend subrule 3.7(3) by adding the following new paragraph:
There shall be no more than eight classroom hours in any one day of instruction.

ITEM 17. Rule 700—3.7(117) is amended by adding the following new subrule:

3.7(5) A continuing real estate education course shall be a program of learning which contributes directly to the professional competency of a real estate licensee. The courses shall pertain to real estate subject matter. No activity will be accredited which involves solely self-study, including TV viewing, video or sound recording programs, correspondence courses, office skills, speed reading, or personal motivation.

[Filed 6/8/78]

Notice of the commission's proposed amendments was published in the May 3, 1978 Iowa Administrative Code Supplement.

These rules were modified pursuant to oral suggestions received from the Legislative Review Committee by eliminating proposed new rules 700—1.2(117) and 700—1.21(117). These rules shall become effective August 2, 1978.

[Published 6/28/78]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement, 6/28/78.

REGENTS, BOARD OF[720]

Pursuant to the authority of section 262.9 of the Code, Chapter 4 of the Board of Regents rules, appearing in the Iowa Administrative Code, are hereby amended by adding the following:

ITEM 1. Whenever the words "university married community", "university married student housing," "university married housing," or "married housing" appear in rules 720—4.30(262) to 720—4.37(262) strike them and insert the words "university student apartments."

ITEM 2. Whenever the words "physical plant department" appear in rule 720—4.25(262) to rule 720—4.27(262) strike them and insert the words "physical plant."

ITEM 3. Rule 720—4.28(262) is amended as follows:

Amend 4.28(3), line 3, by inserting after the word "cards" the words "(one per permit)."

Amend 4.28(4), line 1, by inserting the words "motor vehicle" before the word "access."

ITEM 4. Rule 720—4.29(262) is amended as follows:-

Amend 4.29(3), lines 3 and 4, by striking the words "(Parking System Office is open at 7:30 a.m.)."

Amend 4.29(4), paragraph "a", by striking all of said paragraph and inserting in lieu thereof the following:

"a. Parking is prohibited at crosswalks, building entrances, fire hydrants, fire lanes, marked bicycle lanes, loading docks (except when loading and unloading) and other areas posted "No parking at any time" or marked by a yellow line or curb. Vehicles displaying a service vehicle parking permit may park in designated service parking areas. Vehicles in violation may be towed away."

Amend 4.29(5), paragraph "a", lines 1 and 2, by striking after the word "designated" the words "areas in the university married community" and inserting in lieu thereof the words "university student apartment areas."

Amend 4.29(5), paragraph "d", lines 1 and 2, by striking after the word "lots" the words "except reserve lots" and inserting after the word "penalty" the words "and/or having the vehicle towed away."

Amend 4.29(5) by striking all of paragraph "e".

Amend 4.29(9) by inserting at the end thereof the words, "and for each thirty minutes in loading zones and thirty-minute meters. Vehicles in violation may be towed away."

ITEM 5. Rule 720—4.30(262) is amended as follows:

Amend 4.30(5), line 3, by striking after the word "vehicle" the words "before operating it on campus."

Amend by rescinding subrule 4.30(6) and inserting in lieu thereof the following:

"4.30(6) Unauthorized possession and use of a parking permit is subject to penalty."

Further amend rule 4.30(262) by rescinding subrule 4.30(11).

ITEM 6. Rule 720—4.31(262) is amended as follows:

Amend 4.31(5), line 1, by inserting after the word "vehicles" the words "except two-wheeled motor vehicles."

Amend 4.31(6), line 2, by inserting after the word "permit" the words "unless otherwise posted."

ITEM 7. Rule 720—4.32(262) is amended as follows:

Amend 4.32(2), line 3, by striking after the word "vehicles" the words "on campus" and inserting in lieu thereof the words "in lots designated as available for commuter student permits."

Amend 4.32(5), line 4, by striking after the words "summer quarter" the words "\$3.00" and inserting in lieu thereof the words "\$2.00."

Amend by adding a new subrule as follows:

"4.32(8) Vehicles bearing commuter student parking permit may park in those portions of lots and areas designated for commuter student parking at the Iowa State Center between the hours of 7:00 a.m. and 5:30 p.m. Monday through Friday. Vehicles bearing student parking permits parking in these designated areas at other hours are subject to penalty and/or having the vehicle towed away unless parking for a Center event."

ITEM 8. Rule 720—4.33(262) is amended as follows:

Amend by rescinding subrule 4.33(5) and inserting in lieu thereof the following:

"4.33(5) Reserved."

Amend 4.33(8) by rescinding said subrule and inserting in lieu thereof the following:

"4.33(8) Faculty and staff members are limited to parking privileges for one vehicle and will be issued permits for one vehicle only except as provided in subrule 4.40(1)."

Amend 4.33(9), line 1, by striking after the word "one" the word "car" and inserting in lieu thereof the word "vehicle."

Amend 4.33(14), line 8, by striking after the word "Summer" the words "\$3.00" and inserting in lieu thereof the words "\$2.00."

ITEM 9. Rule 720—4.34(262) is amended as follows:

Amend 4.34(4) by rescinding said subrule and inserting in lieu thereof the following:

"4.34(4) Any vehicle bearing a reserved parking permit may park in the reserved area to which it is assigned, in any staff parking lot, in any commuter student permit lot, or in any metered area upon the payment of the appropriate meter fee."

Amend 4.34(5), line 3, by striking after the word "precedence" the words "and in the order of receipt of application within each category" and inserting in lieu thereof the words "provided the application is received at the parking system office by the application deadline date."

ITEM 10. Rule 720—4.35(262) is amended as follows:

Amend 4.35(1), line 6, by striking the words "three dollars" and inserting in lieu thereof the words "two dollars."

Further amend by inserting after subrule 4.35(2) two new subrules as follows:

4.35(3) Authorization to park in spaces provided for physically handicapped or medically disabled students or visitors, except at the Iowa State Center, is given only to those vehicles bearing a valid medical permit issued by the parking system office. Violators will be subject to a penalty and/or having the vehicle towed away.

4.35(4) Those parking spaces displaying University medical reserved signs are restricted to vehicles according to subrules 4.35(1) and (2) and are enforced as provided in subrule 4.29(2)"b". Parking spaces displaying the Iowa department of transportation handicapped signs are restricted to vehicles with the Iowa department of transportation permits twenty-four hours a day seven days a week."

ITEM 11. Amend 720—4.36(262) by rescinding subrule 4.36(5).

ITEM 12. Amend 4.37(1) by adding a new paragraph following paragraph "b", as follows:

"c. Occasional visitors to the campus, whose visit is scheduled in advance, may receive a temporary parking permit if a written request is submitted by the departmental executive officer or director through the responsible dean. Requests must be presented to the parking system office at least two working days in advance of the date such permit is needed. Issuance of such permits is conditional upon the availability of parking space and assignment will be designated by the parking system office. Fees for temporary parking permits for advanced scheduled visitors may be designated by the university traffic committee."

ITEM 13. Amend 4.40(3), line 2, by inserting after the word "campus" the following sentence: "If the car pool requires a key card for access to a reserved lot or space in a restricted access area, one key card will be issued with the transferable parking permit."

ITEM 14. Rule 720—4.41(262) is amended as follows:

Amend 4.41(1) by rescinding said subrule and inserting in lieu thereof the following:

4.41(1) Identification stickers and parking permits other than car pool permits, shall be firmly affixed to either the inside of the rear window at the lower edge on the driver's side or as provided in the instructions accompanying the permit."

Amend 4.41(3), lines 2 and 3, by striking after the word "permits" the words "shall be completely removed before affixing the current permit" and inserting in lieu thereof the words "and identification stickers shall be completely removed on expiration date."

Amend 4.41(4) by rescinding said subrule and inserting in lieu thereof the following:

4.41(4) Faculty and staff parking permits shall be properly affixed by September 1 or within three working days after the permit holder becomes a staff member. Expired parking permits and identification stickers shall be completely removed on expiration date."

Amend 4.41(6), lines 1 and 2, by striking after the word "be" the words "displayed according to the directions accompanying the permit" and inserting in lieu thereof the words "inserted in the envelope slot or suspended from the interior rear view mirror when the pool car is parked on campus."

Amend 4.42(2), lines 2 and 3, by striking after the word "office" the words "that the original parking permit has been lost, stolen or destroyed, a duplicate sticker will be issued upon payment of the following appropriate fee" and inserting in lieu thereof the words "or designated office, that the original parking permit, identification sticker, or key card has been lost, stolen, or destroyed, a duplicate permit, sticker, or card will be issued upon the payment of the following appropriate fee."

Further amend subrule 4.42(2) by striking in item "h" after the word "permit" the words "no charge" and inserting in lieu thereof the words "\$3.00."

ITEM 16. Amend 4.48(7), line 2, by inserting after the word "streets" the words "at uncontrolled intersections when both vehicles are traveling in the same direction."

ITEM 17. Amend 4.49(1), line 2, by striking after the word "from" the words "one-half hour after" and striking after the word "to" the words "one-half hour before."

ITEM 18. Rule 720—4.50(262) is amended as follows:

Amend 4.50(2) by striking items "m" and "n" and inserting in lieu thereof the following items:

"m. Improper parking [See 4.28(3), 4.29(5), 4.31(5), 4.32(6), \$ 5.00 each offense
4.32(8)].

n. Improper parking in a space or stall designated for handicapped or disabled students, faculty or staff [See 4.35(3).] \$10.00 each offense

Further amend subrule 4.50(2) by adding a new item following item "q." as follows:

"r. Unauthorized possession and use of a parking permit [See \$40.00 each offense
4.30(6)]."

Amend 4.50(8), lines 2 and 3, by striking after the word "Ames" the words "All other moving bicycle violations will subject the violator to a penalty of \$1.00" and inserting in lieu thereof the words "The penalty for conviction is a fine plus court costs."

Amend 4.50(9), line 1, by striking after the word "bicycle" the word "parking" and inserting after the word "violations" the words "except as prescribed in subrule 4.50(8)."

[Filed 6/7/78]

These rules are identical to those published on May 3, 1978 in the IAC Supplement under Notice of Intended Action. These rules shall become effective August 2, 1978.

[Published 6/28/78]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement, 6/28/78.

SOCIAL SERVICES DEPARTMENT[770]

Pursuant to the authority of sections 17A.3 and 217.6 of the Code, rules of the department of social services appearing in the IAC relating to departmental organization and procedures (chapter 1) are hereby amended.

ITEM 1. Subrule 1.3(4), paragraph "a", line 1, is amended by inserting after the words "convicted of" the words "aggravated misdemeanors".

ITEM 2. Subrule 1.3(4), paragraph "b", line 1, is amended by inserting after the word "which" the word "generally".

ITEM 3. Subrule 1.3(4), paragraph "c", line 1, is amended by inserting after the word "which" the word "generally".

ITEM 4. Subrule 1.3(4), paragraph "d", lines 1 and 2, is amended by striking the words "which houses mentally ill offenders and also assists the courts in determining the sanity of persons prior to trial" and inserting the words "which conducts psychiatric evaluations and provides treatment for the courts, correctional institutions, and the parole board" in lieu thereof.

SOCIAL SERVICES (cont'd)

ITEM 5. Subrule 1.3(4) is amended by adding new paragraph "e" and relettering existing paragraphs "e" to "j" as "f" to "k".

e. The Mt. Pleasant Medium Security Facility, Mt. Pleasant, which generally houses adult males within nine months of release.

ITEM 6. Subrule 1.3(4), paragraph "g" (relettered "h"), line 1 is amended by striking the word "serve" and inserting the word "house" in lieu thereof.

Further amend said paragraph, line 2, by striking the words "parole or discharge" and inserting the words "work release or parole" in lieu thereof.

ITEM 7. Subrule 1.3(4), paragraph "h" (relettered "i"), lines 1 to 3, is amended by striking the words "which is an adult prerelease center to which parolees from the Men's Reformatory and the Iowa State Penitentiary may be sent prior to release" and inserting the words "which houses minimum custody adults nearing completion of sentence" in lieu thereof.

[Filed 6/1/78]

Notice of intended action regarding these rules was published in IAC Supplement April 19, 1978, and these rules shall become effective August 2, 1978. These rules are identical to those published in the April 19, 1978 Supplement.

[Published 6/28/78]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement, 6/28/78.

Pursuant to the authority of section 239.18 of the Code, rules of the department of social services appearing in the IAC relating to aid to dependent children (chapter 41) are hereby amended.

ITEM 1. Rule 770—41.4(239), line 2, is amended by striking the words " , or each person for whom income is diverted,".

ITEM 2. Subrule 41.5(2) is amended by adding at the end thereof the words "Neither shall such person concurrently receive a grant from a public assistance program in another state."

ITEM 3. Rule 41.7(239) is amended by adding at the end thereof the words "All income and expenses reasonably attributable to securing such income are subject to verification."

ITEM 4. Subrule 41.7(4) is amended by adding at the end thereof the words "For applicants, the total month's gross income less allowable work expenses for the month in which the decision is made shall be considered in determining eligibility."

ITEM 5. Subrule 41.7(4), paragraph "a", is amended by striking the paragraph, but not the subparagraphs, and inserting the following in lieu thereof:

a. All income shall be converted to monthly income as follows:

ITEM 6. Subrule 41.7(4), paragraph "f", line 1, is amended by inserting after the word "board" the words "or operating a family life home".

ITEM 7. Subrule 41.7(4), paragraph "j", is amended by adding at the end thereof the words "When child support has been assigned any such cash child support paid to the

recipient after assistance has been approved until the time the assignment is implemented shall be refunded to the department."

ITEM 8. Subrule 41.7(4) is amended by adding the following paragraph:

k. In determining profit from providing nursing care in the recipient's home, the following amounts shall be deducted from payments received.

(1) Shelter expense in excess of that set forth in the chart for determining income in kind in subrule 41.8(2).

(2) \$88 to cover the cost of room and board.

(3) Ten percent of the total payment.

[Filed 6/1/78]

Notice of intended action regarding these rules was published in IAC Supplement April 9, 1978, and these rules shall become effective August 2, 1978. These rules are identical to those published in the April 19, 1978 Supplement.

[Published 6/28/78]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 6/28/78.

Pursuant to the authority of section 239.18 of the Code, rules of the department of social services appearing in the IAC relating to aid to dependent children (chapter 42) are hereby amended.

Add the following new rule:

770—42.6(239) Self employment. In determining hours of employment, a self-employed person shall be considered to be employed for the number of hours such person's services are available.

[Filed 6/8/78]

Notice of intended action regarding this rule was published in IAC Supplement December 28, 1977, and this rule shall become effective August 2, 1978. After consideration of public comment, these rules are identical to those published in the December 28, 1977 Supplement.

[Published 6/28/78]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement, 6/28/78.

Pursuant to the authority of section 217.6 and chapter 249 of the Code, rules of the department of social services appearing in the IAC relating to state supplementary assistance (chapter 54) are hereby amended.

ITEM 1. Rule 54.1(249) is amended by adding at the end thereof the words "The contract shall be for a term of twelve months, subject to renewal; or until the department ceases to participate in the program; or until either party gives sixty days notice of termination in writing to the other party."

ITEM 2. Add the following new rules:

770—54.4(249) Goods and services provided. All facilities participating in the program shall provide residents to those goods and services required by the terms of the license

SOCIAL SERVICES (cont'd)

issued by the Iowa department of health in accordance with chapter 135C of the Code and rules promulgated thereto set forth in 470—chapter 57 and requirements of the department of social services set forth in these rules.

54.4(1) Payment accepted. The amount of client participation and the payment made through the state supplementary assistance program shall be accepted as payment in full for the required goods and services provided the resident. The facility may seek reimbursement from other sources for goods and services provided that are beyond the goods and services required to be provided by these rules.

54.4(2) Care, maintenance, general supervision, and personal services. Each facility as part of providing care, maintenance, general supervision, and personal services shall provide as necessary supervision or assistance with ambulation, grooming, hair washing, shaving, personal hygiene, bathing, getting in and out of bed, dressing, feeding, and with medication that can be self-administered.

54.4(3) Laundry. Each facility shall provide personal laundry service to the resident as part of the goods and services paid for through the program.

54.4(4) Room furnishings. The facility shall completely furnish the resident's room in accordance with health department's subrule 57.30(4) without additional charge to the resident or person acting on the resident's behalf. When the resident wishes to provide some item or items of room furnishing, the facility may grant such a request.

This rule is intended to implement section 249.12 of the Code.

770—54.5(249) Personal needs account. When a facility manages the personal needs funds of a resident, it shall establish and maintain a system of accounting for expenditures from the resident's personal needs funds. The department shall charge back to the facility any maintenance item included in the computation of the audit cost that is charged to the resident's personal needs when such charge constitutes double payment. Unverifiable expenditures charged to personal needs accounts may be charged back to the facility. The accounting system is subject to audit by representatives of the Iowa department of social services, and shall meet the following criteria:

54.5(1) Ledger. Upon admittance, a ledger sheet shall be credited with the resident's total incidental money on hand. Thereafter, the ledger shall be kept current on a monthly basis. The facility may combine such accounting with the disbursement section showing the date, amount given the resident, and the resident's signature. A separate ledger shall be maintained for each resident.

54.5(2) Expenditures. When something is purchased for the resident and is not a direct cash disbursement, each such expenditure item in the ledger shall be supported by a signed, dated receipt. The receipt shall indicate the article furnished for the resident's benefit.

54.5(3) Disbursement. Personal funds shall be turned over only to the resident, the resident's guardian, or other persons selected by the resident. With the consent of the resident, when the resident is able and willing to give such consent the administrator may turn over personal funds to a close relative or friend of the resident to purchase a particular item. A signed, dated receipt shall be required to be deposited in the resident's files.

54.5(4) Audit. The ledger and receipts for each recipient shall be made available for periodic audits by an accredited department representative. Audit certification shall be made by the department's representative at the bottom of the ledger sheet. Supporting receipts may then be destroyed.

54.5(5) Death. Upon a recipient's death the funds remaining in the personal needs account shall be treated in the following manner:

a. The facility shall provide a written statement of the personal needs account to be filed in the case record.

b. When an estate is opened, the funds shall be submitted to the estate administrator.

c. When no estate is opened, the funds shall be released to the person assuming responsibility for the recipient's funeral expenses.

d. When no estate is opened and there are no living heirs, the funds shall be submitted to the department to escheat to the state.

This rule is intended to implement section 249.12 of the Code.

770—54.6(249) Case activity report. A case Activity Report, form AA-4166-0, shall be submitted to the department whenever a recipient enters the facility, changes level of care, is hospitalized, leaves for visitation, or is discharged from the facility.

This rule is intended to implement section 249.12 of the Code.

770—54.7(249) Billing procedures. In order to determine the amount of payment to the recipient, the facility shall submit a billing form to be received by the department by the fifth working day following the last day of the month in which service was provided. Payment will be mailed to the recipient by the fifteenth working day of the month.

54.7(1) Billing. When payment is made, the facility will receive a copy of form AA-4163-0, Residential Payment Register. The original shall be returned to the department as a claim for the next month.

54.7(2) Changes. When there has been a new admission, a discharge, or a claim for a reserved bed, the facility shall also submit form AA-4164-0, Residential Care Change Notice, with the claim.

This rule is intended to implement section 249.12 of the Code.

[Filed 6/1/78]

Notice of intended action regarding these rules was published in the IAC Supplement March 22, 1978, and these rules shall become effective August 2, 1978. Clarification was made on the disposition of the personal needs account after a recipient's death.

[Published 6/28/78]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement, 6/28/78.

Pursuant to the authority of sections 217.6 and 234.6 of the Code rules of the department of social services appearing in the IAC relating to Social Security Act—Title XX implemented (chapter 131) are hereby amended.

Add the following new rule:

770—131.4(234) Geographic area. The geographic areas for Title XX services are the sixteen districts as defined in social services' subrule 1.4(3). When a service defined in the Title XX plan is available in a district, it shall be available to all eligible individuals in the district.

This rule is intended to implement section 234.6(1) of the Code.

[Filed 6/1/78]

Notice of intended action regarding these rules was published in IAC Supplement April 19, 1978, and these rules shall become effective August 2, 1978. These rules are identical to those published in the April 19, 1978 Supplement.

[Published 6/28/78]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement, 6/28/78.

SOCIAL SERVICES (cont'd)

Pursuant to the authority of sections 217.6 and 234.15 of the Code, rules of the department of social services appearing in the IAC relating to Iowa rural rehabilitation student loan and grant program (chapter 146) are hereby amended.

ITEM 1. Subrule 146.1(1), lines 2 to 4, is amended by striking after the word "city" the words "with liveable buildings that has been considered by the neighbors as a farm, and from which a substantial portion of the family income is derived from the sale of crops, livestock, livestock products, or from farm labor".

ITEM 2. Subrule 146.2(2), line 2, is amended by striking the words "two hundred fifty" and inserting the words "five hundred" in lieu thereof.

Further amend said subrule, lines 3 and 4, by striking after the word "farm" the words "from which more than seventy-five percent of the adjusted gross family income is derived".

ITEM 3. Subrule 146.11(1) is amended by striking the entire subrule and inserting the following in lieu thereof:

146.11(1) The amount of the grant shall be determined by the adjusted gross income as shown on the preceding years federal income tax return and the grant award chart below. In no case will the grant exceed the amount shown on the chart for the particular income level.

Grant Award Chart*

Adjusted Gross Income Per Family	Amount of Grant
\$ 0 through \$ 4,428	\$900
4,429 through 4,929	850
4,930 through 5,430	800
5,431 through 5,931	750
5,932 through 6,432	700
6,433 through 6,933	650
6,934 through 7,434	600
7,435 through 7,935	550
7,936 through 8,436	500
8,437 through 8,937	450
8,938 through 9,438	400
9,439 through 9,939	350
9,940 through 10,440	300
10,441 through 10,941	250
10,942 through 11,442	200
11,443 through 11,943	150
11,944 through 12,444	100
12,445 through 12,945	50
12,946 or more	0

*Grants based on family income poverty level of \$4,428 for a family of four.

[Filed 6/1/78]

Notice of intended action regarding these rules was published in IAC Supplement April 19, 1978, and these rules shall become effective August 2, 1978. These rules are identical to those published in the April 19, 1978 Supplement.

[Published 6/28/78]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement, 6/28/78.

SUBSTANCE ABUSE, DEPARTMENT OF[805]

Pursuant to the authority of section 125.7 of the Code, as amended by the 67th General Assembly, Chapter 74, 1977 regular session, the following rules are adopted. [This chapter 3 supersedes chapter 3 published under emergency provisions, April 5, 1978]

CHAPTER 3

LICENSURE STANDARDS FOR SUBSTANCE ABUSE TREATMENT PROGRAMS

805—3.1(67GA,ch74) Definitions. Unless otherwise indicated, the following definitions shall apply to the specific terms used in these rules:

3.1(1) "Admissions" means the point in a substance abuser's relationship with the program at which the intake process has been completed and the individual is entitled to receive treatment services.

3.1(2) "Affiliation agreement" means a written agreement between the governing authority of the program and another organization under the terms of which specified services, space and/or personnel are provided to one organization by the other, but without exchange of monies.

3.1(3) "Aftercare" means the component of the treatment program which provides continued contact with the client following the provision of services in a primary care modality, designed to support and to increase the gains made to date in the treatment process.

3.1(4) "Applicant" means any substance abuse treatment program which has applied for a license or renewal thereof.

3.1(5) "Application" means the process through which a substance abuse treatment program applies for a license or renewal as outlined in the application procedures.

3.1(6) "Assessment" means the process of evaluating an individual's strengths, weaknesses, problems, and needs so that a treatment plan can be developed.

3.1(7) "Chemical substance" means alcohol, wine, spirits and beer as defined in chapter 123 of the Code and drugs as defined in section 203A.2, subsection 3 of the Code, which when used improperly could result in chemical dependency.

3.1(8) "Client" means an individual who has a substance abuse problem, for whom intake procedures have been completed, and who is admitted to the program.

3.1(9) "Clinical professional" means an individual who, by virtue of education, training or experience, is capable of assessing the psychological and sociological background of a substance abuser to determine the treatment plan most appropriate for the client.

3.1(10) "Commission" means the Iowa commission on substance abuse within the department.

3.1(11) "Contract" means a formal legal document adopted by the governing authority of the program and any other organization, agency, or individual that specifies services, personnel and/or space to be provided to the program as well as the monies to be expended in the exchange.

3.1(12) "Counselor" means an individual who, by virtue of education, training and experience, gives advice, opinion, or instruction to an individual or in a group setting to allow an opportunity for a person to explore his or her problems related directly or indirectly to substance abuse or dependence.

3.1(13) "Detoxification" means the withdrawal of a person from a physiologically addicting substance.

3.1(14) "Director" means the director of the Iowa department of substance abuse.

3.1(15) "Facility" means a hospital, institution, detoxification center, or installation providing care, maintenance and treatment for substance abusers and licensed by the

SUBSTANCE ABUSE (cont'd)

department under section 125.13.

3.1(16) "Follow-up" means the process for determining the status of an individual who has been referred to an outside resource for services or who has been discharged from the program.

3.1(17) "Intake" means the process of collecting and assessing information to determine the appropriateness of admitting an individual into a substance abuse treatment program.

3.1(18) "Licensee" means any program licensed by the department.

3.1(19) "Licensure" means the issuance of a license by the department upon due process by the substance abuse commission which validates the licensee's compliance with substance abuse program standards and authorizes the licensee to operate a substance abuse treatment program in the state of Iowa.

3.1(20) "Maintenance" means the prolonged scheduled administration of methadone or other controlled substances intended as a substitute or antagonist to abused substances in accordance with federal and state regulations.

3.1(21) "May" — term in the interpretation of a standard to reflect an acceptable method that is recognized but not necessarily preferred.

3.1(22) "Outpatient program" means a non live-in program offering treatment or rehabilitation services to substance abusers on a scheduled or nonscheduled basis.

3.1(23) "Primary care modality" means all components of the treatment program excluding aftercare.

3.1(24) "Protected classes" means classes of people who have required special legislation to ensure equality.

3.1(25) "Referral agreement" means a written document defining a relationship between the program and an outside resource for the provision of client services not available within the substance abuse treatment program.

3.1(26) "Rehabilitation" means the restoration of a client to the fullest physical, mental, social, vocational, and economic usefulness of which he or she is capable. Rehabilitation includes, but is not limited to, medical treatment, psychological therapy, occupational training, job counseling, social and domestic rehabilitation and education.

3.1(27) "Residential/intermediate care program" means a twenty-four-hour live-in facility offering treatment and rehabilitation services to facilitate the substance abuser's ability to live and work in the community.

3.1(28) "Rule" means each statement of general applicability that implements, interprets, or prescribes department law or policy, or that describes the organization procedure or practice requirements of the department. The term includes the amendment or repeal of existing rules as specified in the Code of Iowa.

3.1(29) "Shall" — term used to indicate a mandatory statement, the only acceptable method under the present standards.

3.1(30) "Should" — term used in the interpretation of a standard to reflect the commonly accepted method, yet allowing for the use of effective alternatives.

3.1(31) "Staff" means any individual who provides services to the program on a regular basis as a paid employee or as a volunteer.

3.1(32) "Standards" means specifications representing the minimal characteristics of a substance abuse treatment program which are acceptable for the issuance of a license.

3.1(33) "Substance abuser" means a person who habitually lacks self-control as to the use of chemical substances or uses chemical substances to the extent that his or her health is substantially impaired or endangered or that his or her social or economic function is substantially disrupted.

3.1(34) "Treatment" means the broad range of planned and continuing, inpatient, outpatient, residential/intermediate care services, including diagnostic evaluation, counseling, medical, psychiatric, psychological, and social service care, which may be extended to substance abusers and which is geared towards influencing the behavior of such individuals to achieve a state of rehabilitation.

3.1(35) "Treatment plan" means a written plan which specifies the goals, activities and

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services determined through process of assessment appropriate to meet the objective needs of the client.

805—3.2(67GA,ch74) Licensing. A single license will be issued to each qualifying substance abuse treatment program. The license will delineate one or more categories of services the program is authorized to provide. Although a program may have more than one facility, only one license will be issued to the program. When an aspect of a program is unable to meet the licensing standards, a provisional license may be issued to that program for a specified period citing all areas of noncompliance that have not been reconciled to the commission. The department will have the option to revoke the provisional license or issue a standard renewal license.

3.2(1) Categories. The categories of services for which licenses will be issued are:

- a. Residential/intermediate care
- b. Nonresidential and outpatient
- c. Chemical substitute, antagonist and detoxification.

805—3.3(67GA,ch74) Type of licenses. Two types of licenses may be issued by the department. A standard renewal license may be issued for one year when the commission has determined the applicant is in compliance with these rules. Provisional licenses may be issued for ninety, one hundred eighty, or two hundred seventy days (at the discretion of the commission) to an applicant who is determined by the commission to be temporarily unable to comply with these rules. A provisional license shall not be renewed or extended.

All standard licenses shall expire one calendar year from the date of issue, and a renewal of such license shall be issued only on application, as required herein. The renewal of a license shall be contingent upon demonstration of substantial continuation of the program operation for which the initial license was granted for the previously licensed year. Failure to apply for and receive renewal of such license prior to the expiration date shall result in immediate termination of license and require reapplication.

805—3.4(67GA,ch74) Nonassignability. When a program is discontinued, its current license is void immediately and shall be returned to the department. A discontinued program is one which has terminated its services for which it has been licensed. A license is not transferable. A license issued by the department for the operation of a substance abuse program applies both to the applicant program and the premises upon which the program is to be operated. Any person or other legal entity acquiring a licensed facility for the purpose of operating a substance abuse program shall make an application as provided herein for a new license. Similarly, any person or legal entity having acquired a license and desiring to expand or transfer to different premises must notify the commission thirty days prior to said action in order for the department to review the site change and to determine appropriate action.

A licensee shall, if possible, notify the department of impending closure of the licensed program at least thirty days prior to such closure. The licensee shall be responsible for the removal and placement of patients or clients and for the preservation and delivery of all records to the department upon request by the commission. Upon closing all facilities and terminating all service delivery activities, the license shall be immediately returned to the department.

805—3.5(67GA,ch74) Application procedures. Applying for a license constitutes the first phase of the licensure process. The licensing and accreditation manager will mail an application form to all applicants for licensure.

3.5(1) Application information. An applicant for licensure shall submit at least the following information on forms provided by the department:

- a. The name and address of the applicant substance abuse treatment program.
- b. The name and address of the executive director of such substance abuse treatment program.

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- c. An outline of the staff table of organization, names and qualifications.
 - d. The names and addresses of members of the board of directors, sponsors, or advisory boards of such substance abuse treatment program and existing articles of incorporation and bylaws.
 - e. The names and addresses of all physicians, other professionally trained personnel, medical facilities, and other individuals or organizations with whom the substance abuse treatment program has a direct referral agreement or is otherwise affiliated.
 - f. A description of the nature of treatment services provided by such substance abuse treatment program setting forth program goals and objectives and a description of the treatment methodology.
 - g. Submission of materials substantiating compliance with all related federal, state and local acts, ordinances, rules and amendments thereto, i.e., state fire marshal's rules, board of health and building code compliance.
 - h. The source of funds used to finance such substance abuse program, and the annual budget of the organization.
- 3.5(2) Renewal.** An application for renewal shall be made on forms provided by the department at least ninety calendar days before expiration of the current license.

805—3.6(67GA,ch74) Application review. An applicant for licensure shall submit a completed application to the department within twenty days from the date the forms are received. The licensing and accreditation manager shall review the application for completion and request any additional material as needed. A licensure site visit shall be scheduled in written format with a copy mailed to the chairman of the board, the commission chairperson, and the district co-ordinators. Applicants failing to return the forms shall be notified by registered mail that all programs must be licensed in order to continue operating.

805—3.7(67GA,ch74) Inspection of licensees. The department shall at least annually inspect the facilities and review the procedures utilized by each licensed program. The examination and review may include case record audits and interviews with staff and clients, consistent with the confidentiality safeguards of state and federal laws.

3.7(1) Prelicensure site visits. The prelicensure site visit is the second phase of the licensure process. All treatment programs applying for the first time for a license to operate a substance abuse treatment program in the state of Iowa will be visited by an appropriate IDSA staff member for determination of the program's compliance with all laws, rules and regulations relating thereto.

a. A prelicensure site inspection report will, subsequently, be submitted to the prospective program director and may be sent to the commission within ten working days after completion of the site visit. Said report shall include, but not necessarily be limited to the program's compliance and/or noncompliance to the laws, rules, and regulations governing the operation of substance abuse treatment programs.

b. The treatment program may request technical assistance from the IDSA training and technical assistance manager so as to bring into conformity areas reported to be in noncompliance to said regulations. The licensing and accreditation manager may also request that technical assistance be provided to the program if deficiencies are noted during a site visit.

3.7(2) Onsite visit for licensure. The onsite visit for licensure constitutes the third phase of the licensure process. A licensing site inspection shall be scheduled following such time that technical assistance requested by the program from the department has been provided consistent with the deficiencies articulated in the prelicensure site inspection report and the program notifies the department that corrective measures have been completed.

a. The onsite visit team will consist of the district co-ordinator, designated members of the IDSA staff, the licensing and accreditation manager (team leader) and selected consultants as approved by the director.

SUBSTANCE ABUSE (cont'd)

b. The team will inspect the program that has applied for a license in order to verify information contained in the application, assure compliance with all laws, rules and regulations with special emphasis on areas of noncompliance reported during the prelicensure site visit.

805—3.8(67GA,ch74) Licenses—renewal. The commission shall meet to consider all cases involving issuance, denial, suspension, or revocation of a license. Upon approval of an application for licensing by the commission, a license shall be issued by the department. Licenses shall expire one year from the date of issuance and shall be renewed upon timely application made in the same manner as for original issuance of a license unless notice of nonrenewal is given to the licensee at least thirty days prior to the expiration of the license. The department shall not charge a fee for licensing or renewal.

3.8(1) Commission hearing preparation. The licensure and accreditation manager will prepare all documents with a final recommendation for licensing determination to be presented at a commission meeting within ninety days from the site visit. The chairperson of the commission shall send public notice of the date, time, place and name of applicants to be reviewed and processed.

a. The licensing and accreditation manager shall send notice to the program by certified mail within thirty days prior to the commission meeting notifying the program director of the time, place, and date the commission will review and act upon the application for the program.

b. The licensure and accreditation manager shall mail to all commission members the following information on each application to be processed at the next commission meeting: (1) Reports of the onsite program licensure inspections and (2) a final recommendation for licensing.

3.8(2) Commission meeting format.

a. The chairperson or his/her designee shall call the meeting to order at the designated time.

b. The presiding officer will read each application and protocols.

c. Opportunity shall be given all concerned parties to respond, present evidence, and arguments on each application.

d. After all concerned parties are heard, the commission will make a final decision as to whether the applicant should be approved or denied a license to operate a substance abuse treatment program.

805—3.9(67GA,ch74) Confidentiality. All client records shall be kept confidential and shall be handled in compliance with the federal confidentiality regulations (Department of Health, Education and Welfare, Public Health Services — Confidentiality of Alcohol and Drug Abuse Patient Records, 42 CFR, part 2), and with other applicable federal and state rules. When a conflict occurs with state and federal confidentiality laws, the federally funded program will comply with federal confidentiality laws while state funded programs must minimally comply with state statutes and rules.

3.9(1) Disclosure for benefits. If the patient gives his/her specific written consent, the content of the record may be disclosed to legal counsel upon written endorsement by the attorney, nongovernmental personnel for purpose of collecting health insurance claims or other benefits or a potential employer when such employment is conditioned upon his status or progress in a treatment program.

3.9(2) Disclosure for evaluation. Disclosure of information for research, management, audit or evaluation purposes must be specifically authorized by the director or his/her designee.

3.9(3) Consent storage. The client's written release of information shall be kept in the client's record.

3.9(4) Confidentiality orientation. A program shall insure that all staff and clients, as a part of their initial orientation are made aware of these requirements. Any decision to

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disclose client information under any provision of chapter 125 of the code as amended, or other applicable federal or state rule which permits such disclosure, shall be made only by the program director or his/her designee.

805—3.10(67GA,ch74) Provisional licenses. Programs issued a provisional license by the commission will submit a corrective action plan to the director no later than thirty days following the licensure hearing. The corrective action plan shall include, but not be limited to:

1. Specific problem areas.
2. A delineation of corrective measures to be taken by the program.
3. A delineation of target dates for completion of corrective measures for each problem area.

805—3.11(67GA,ch74) Denial of application. When the commission determines that an applicant's request for a license should be denied, the director shall notify the applicant, by certified mail, (return receipt requested) that the commission intends to deny licensure. The notice of intention to deny licensure shall contain the reasons for the denial and a statement that the denial of the application shall become final. Within the following thirty days, the applicant may submit to the department written notification of correction of each deficiency, or written objections to each reason for denial, stating why it should not remain. If objections to the denial of license are submitted to the department, a full opportunity for settling of all issued shall be provided. If a settlement of the issues in contention cannot be made or if objections to the notice of denial are not submitted, or if for any other reason an application is denied, the applicant may request a hearing before the commission within thirty days after the denial becomes final. This request shall be granted and the applicant notified of the date, time and place of the hearing.

805—3.12(67GA,ch74) Hearing before commission. If a licensee under this chapter makes a written request for a hearing within thirty days of suspension, revocation or refusal to renew a license, a hearing before the commission shall be expeditiously arranged. If the role of a commission member is inconsistent with the member's job role or function, or if any commission member feels unable for any reason to disinterestedly weigh the merits of the case before the commission, the member shall not participate in the hearing and shall not be entitled to vote on the case. The commission shall issue a written statement of its findings within thirty days after conclusion of the hearing upholding or reversing the proposed suspension, revocation or refusal to renew a license. No action involving suspension, revocation or refusal to renew a license shall be taken by the commission unless a quorum of five of the nine members are present at the meeting. A copy of the decision shall be promptly transmitted to the affected licensee who may, if aggrieved by the decision, seek judicial review of the actions of the commission in accordance with the terms of the Iowa administrative procedures Act.

805—3.13(67GA,ch74) Reissuance or reinstatement. After suspension, revocation or refusal to renew a license, the affected licensee shall not have the license reissued or reinstated within one year of the effective date of the suspension, revocation or expiration upon refusal to renew, unless by order of the commission. After that time, proof of compliance with the licensure standards must be presented to the commission prior to reinstatement or reissuance of a license.

805—3.14(67GA,ch74) Suspension and revocation of licenses. The commission may suspend or revoke a license for any of the following reasons:

1. Violation by the program, its director or staff, of any rule promulgated by the department pertaining to substance abuse treatment programs.
2. Permitting, aiding or abetting the commitment of an unlawful act within the facilities maintained by the program, or permitting, aiding or abetting the commitment of an

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Unlawful act involving chemical substance within the program.

3. Conduct or practices found by the department to be detrimental to the general health or welfare of a participant in the program or the general community.

4. Deviation by the program from the plan of operation originally licensed which, in the judgment of the department, adversely affects the character, quality or scope of services intended to be provided to substance abusers within the scope of the program.

3.14(1) Notice from commission. When the commission determines that a licensed program may have committed an act, or may have engaged in conduct or practices, justifying suspension or revocation of license, the commission shall notify the licensee by certified mail, (return receipt requested), of the commission's intent to suspend or revoke the license. After review of the act, conduct or practice by the commission, a final disposition regarding the suspension or termination of the license will be made and notification sent to the program.

3.14(2) Hearing. If the suspension or revocation is protested within thirty days after receipt of the notice of intended action, the commission shall conduct a hearing determining the issue of suspension or revocation of the license. Notice of the hearing shall be mailed at least ten days before the date of the hearing. The notice shall state the matters of law and fact to be determined at the hearing, and the date, time and place of the hearing.

3.14(3) Summary suspension. If the commission finds that the health, safety or welfare of the public are endangered by continued operation of a substance abuse treatment program, summary suspension of a license may be ordered pending proceedings for revocation or other actions. These proceedings shall be promptly instituted and determined.

805—3.15(67GA,ch74) Contested case hearing. Programs who wish to contest the suspension or revocation of their license shall be afforded an opportunity for a hearing before the commission.

3.15(1) Notice of contest. The notice of contest to the actions of the commission shall be filed in writing at the Iowa Department of Substance Abuse, Suite 230, Liberty Building, 418 Sixth Avenue, Des Moines, Iowa 50319. No particular form shall be required; however, the notice shall state the decision which is being contested and the basis for the contest. This notice shall be received by the department within thirty days after the decision was made.

3.15(2) Contested case hearings — notice of hearings. The chairperson of the commission shall send a written notice of the hearing to all interested parties by certified mail return receipt requested or by personal service as in civil actions, at least ten days prior to the date of the hearing unless a shorter period of time is agreed upon by all parties. Delivery of this notice shall constitute commencement of the contested case proceeding. The notice shall include the time, place and nature of the hearing, plus a statement of the legal authority and jurisdiction under which the hearing is to be held, a reference to the particular sections of the statutes and rules involved and a short and plain statement of the matters asserted. If the agency or other party is unable to state the matters in detail at the time the notice is served, the initial notice may be limited to a statement of the issues involved. Thereafter, upon application a more definite and detailed statement shall be furnished.

3.15(3) Failure to appear. If a party fails to appear in a contested case hearing proceedings after proper service of notice, the presiding officer may, if no adjournment is granted, proceed with the hearing and make a decision in the absence of the party. The presiding officer may, in such a case, enter a default judgment against the party failing to appear.

3.15(4) Conduct of hearing. Opportunity shall be afforded all parties to respond and present evidence and argument on all issues involved and to be represented by counsel at their own expense.

a. The hearing shall be informal and all relevant evidence admissible. Effect will be given

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to the rules of privilege recognized by law. Objections to evidentiary offers may be made and shall be noted in the record. When the hearing will be expedited and the interests of the parties will not be prejudiced substantially, any part of the evidence may be required to be submitted in verified written form.

b. Documentary evidence may be received in the form of copies or excerpts if the original is not readily available. Upon request, parties shall be given an opportunity to compare the copy with the original, if available.

c. Opportunity shall be afforded all parties to respond and present evidence and argument on all issues involved and to be represented by counsel at their own expense. Witnesses present at the hearing shall be subject to cross-examination by any party as necessary for a full and true disclosure of the facts.

d. The record in a contested case shall include:

1. All pleadings, motions and intermediate rulings.
2. All evidence received or considered and all other submissions.
3. A statement of all matters officially noticed.
4. All questions and offers of proof, objections and rulings therein.
5. All proposed findings and exceptions.
6. Any decision, opinion or report by the officer presiding at the hearing.

e. Oral proceedings shall be open to the public and shall be recorded either by mechanized means or by certified shorthand reporters. Oral proceedings or any part thereof shall be transcribed at the request of any party with the expense of the transcription charged to the requesting party. The recording or stenographic notes of oral proceedings or the transcription thereof shall be filed with and maintained by the agency for at least five years from the date of decision.

f. Findings of fact shall be based solely on the evidence in the record and on matters officially noticed in the record.

3.15(5) Presiding officer. The chairperson, a designated member of the commission or a designated member of the Iowa department of substance abuse staff will preside at the hearing, or at the direction of the commission, an administrative hearing officer available pursuant to chapter 17A of the Code, will preside in lieu of the chairperson or his/her designee.

3.15(6) Ex parte communications. Unless required for the disposition of ex parte matters specifically authorized by statute, the hearings officer shall not communicate directly or indirectly with the hearings officer concerning any issues of fact or law in a contested case unless each party or their representative is given written notice of the communication. Such notice shall contain a summary of the communication, if oral, or a copy of the communication if written, at the time, place and means of such communication.

a. After such notice, all parties shall have the right, upon written demand, to respond to such communication, including the right to be present and heard if the communication is oral and not completed. If the communication is written, or if oral and completed, any other person has the additional right to a special hearing for the purpose of responding to the ex parte communication. Any ex parte communication prohibited by section 17A.17, subsection 2, of the Code received by a hearings officer shall be included in the record. If the prohibited ex parte communication is received orally, the hearings officer shall summarize the communication and include it in the record. Any party to the contested case shall be immediately notified of the communication and given a reasonable opportunity to respond, including if necessary, a special hearing.

b. If a party to a contested case or the party's representative makes an ex parte communication to the hearings officer which that party or representative knows or reasonably should know would be in violation of the provisions of section 17A.17, subsection 2, of the Code, the hearings officer shall decide against that party on those issues of fact or law which were the subject of the ex parte communication.

c. The department may censure, suspend or revoke the privilege of practicing before it of

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any person making ex parte communications to a hearings officer if that person knows, or reasonably should know that the ex parte communication is in violation of the provisions of section 17A.17, subsection 2, of the Code.

d. The department may censure, suspend or dismiss any hearings officer who fails to include an ex parte communication prohibited by section 17A.17, subsection 2, of the Code, in the record or fails to rule against the party knowingly making the prohibited ex parte communication on the issue of fact or law which was the subject of the ex parte communication.

e. The censure of a person or the suspension or revocation of a person's right to practice before the department of substance abuse due to an alleged violation of the prohibition against ex parte communications shall constitute a contested case as that term is defined in section 17A.2 of the Iowa Code and no person shall be censured or the right to practice before the department of substance abuse be suspended or revoked without notice and an opportunity to be heard as provided in chapter 17A of the Iowa Code, "The Iowa Administrative Procedure Act".

3.15(7) Subpoenas — discovery. After the commencement of a contested case the presiding officer shall have the authority to administer oaths and to insure subpoenas or subpoenas duces tecum in such cases. Discovery procedures applicable to civil action shall be available to all parties in contested cases. Evidence obtained in such discovery may be used in the hearing before the presiding officer if that evidence is otherwise admissible in the hearing.

If the commission relies on a witness in a contested case, whether or not a commission member, who has made prior statements or reports with respect to the subject matter of the witness' testimony, the director shall, on request, make such statements or reports available to parties for use on cross-examination, unless those statements or reports are otherwise expressly exempt from disclosure by constitution or statute. Identifiable department records that are relevant to disputed material facts involved in a contested case hearing shall, upon request, promptly be made available to a party unless the requested records are expressly exempt from disclosure from constitution or statute.

3.15(8) Continuance. For good cause, the chairperson may continue hearings beyond the time originally scheduled or recessed. Requests for continuance shall be made to the chairperson in writing at least three days prior to the scheduled hearing date.

3.15(9) Decision. Findings of fact shall be based solely on the evidence in the record and upon matters officially noticed in the record.

a. The decision of the presiding officer shall be the final decision unless there is an appeal to the commission.

b. A proposed or final decision or order in a contested case hearing shall be in writing or stated in the record. A proposed or final decision shall include findings of fact and conclusions of law, separately stated. Findings of fact, if set forth in statutory language, shall be accompanied by a concise and explicit statement of underlying facts supporting the findings. Each conclusion of law shall be supported by cited authority or by a reasoned opinion. Parties will be promptly notified of each proposed or final decision or order by the delivery to them of a copy of such decision or order.

805—3.16(67GA,ch74) Noncompliance. On any program refusing to cease operation after the aforementioned procedures have been followed the commission will hold a special hearing; again, a quorum of five must be present. At said meeting, the commission will decide to contact the attorney general's office specifying the findings of facts in all hearings. At the discretion of the attorney general, legal action will be initiated. Any program who refused to allow an onsite inspection as specified in chapter 74, Laws of the 67th General Assembly, 1977 session, the commission will hold a special hearing with a quorum of at least five. At said meeting, the commission will decide whether to refer this matter to the attorney general's office for appropriate legal action to be taken.

805—3.17(67GA,ch74) Decisions and orders — rehearing. A proposed or final decision or

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order in a contested case shall be in writing or stated in the record. A proposed or final decision shall include findings of the fact and conclusions of law, separately stated.

3.17(1) Findings of fact. Findings of fact, if set forth in statutory language, shall be accompanied by a concise and explicit statement of underlying facts supporting the findings. If, in accordance with agency rules, a party submitted proposed findings of fact, the decision shall include a ruling upon each proposed finding. Each conclusion of law shall be supported by cited authority or by a reasoned opinion. Parties shall be promptly notified of each proposed or final decision or order by the delivery to them of a copy of such decision or order in the manner provided by chapter 17A of the Code of Iowa.

3.17(2) Rehearing application. Any party may file an application for rehearing, stating the specific grounds therefor and the relief sought, within twenty days after the issuance of any final decision by the agency in a contested case. A copy of such application shall be timely mailed by the applicant to all parties of record not joining therein. Such an application for rehearing shall be deemed to have been denied unless the commission grants the application within twenty days after its filing.

805—3.18(67GA,ch74) Judicial review. The judicial review provisions of this section shall be the exclusive means by which a person or party who is aggrieved or adversely affected by commission action may seek judicial review of such action. However, nothing in this section shall abridge or deny to any person or party who is aggrieved or adversely affected by any agency action the right to seek relief from such action in the courts.

3.18(1) Agency action reviewable. A person or party who has exhausted all adequate administrative remedies and who is aggrieved or adversely affected by any final agency action is entitled to judicial review thereof under this section. A preliminary, procedural or intermediate commission action is immediately reviewable if all adequate administrative remedies have been exhausted and review of the final agency action would not provide an adequate remedy. If a declaratory ruling has not been rendered within thirty days after the filing of a petition, therefor, under section 17A.9 of the Code of Iowa, or if the agency declines to issue such a declaratory ruling after receipt of a petition therefor, any administrative remedy available under section 17A.9 shall be deemed inadequate or exhausted.

3.18(2) Instituting judicial review. Proceedings for judicial review shall be instituted by filing a petition either in Polk county district court or in the district court for the county in which the petitioner resides or has its principal place of business. When a proceeding for judicial review has been commenced, a court may, in the interest of justice, transfer the proceeding to another county where the venue is proper. Within ten days after the filing of a petition for judicial review file stamped copies of the petition shall be mailed by the petitioner to all parties named in the petition and, if the petition involves review of agency action in a contested case all parties of record in that case before the commission. Such mailing shall be jurisdictional and shall be addressed to the parties at their last known mailing address. Proof of mailing shall be by affidavit. Any party of record in a contested case before an agency wishing to intervene and participate in the review proceeding thereon must file an appearance within forty-five days from the time the petition is filed.

3.18(3) Filing a petition. If a party files an application under this chapter, 3.17(67GA,ch74), for rehearing with the agency, the petition for judicial review must be filed within thirty days after that application has been denied or deemed denied. If a party does not file an application for rehearing, the petition must be filed within thirty days after the issuance of the agency's final decision in that contested case. If an application for rehearing is granted, the petition for review must be filed within thirty days after the issuance of the agency's final decision on rehearing. In cases involving a petition for judicial review of agency action other than the decision in a contested case, the petition may be filed at any time petitioner is aggrieved or adversely affected by that action.

3.18(4) Petition—content. The petition for review shall name the agency as respondent and shall contain a concise statement of:

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- a. The nature of the agency action which is the subject of the petition.
- b. The particular agency action appealed from.
- c. The facts on which venue is based.
- d. The grounds on which relief is sought.
- e. The relief sought.

3.18(5) Stay of action. The filing of the petition for review does not itself stay execution or enforcement of any commission action. Upon application the agency or the reviewing court may, in appropriate cases, order such a stay pending the outcome of the judicial review proceedings.

3.18(6) Transmission of records. Within thirty days after filing of the petition, or within further time allowed by the court, the commission shall transmit to the reviewing court the original or a certified copy of the entire record of any contested case which may be the subject of the petition. By stipulation of all parties to the review proceedings, the record of such a case may be shortened. A party unreasonably refusing to stipulate to limit the record may be taxed by the court for the additional costs. The court may require or permit subsequent corrections or additions to the record.

3.18(7) Hearing of evidence. In proceedings for judicial review of commission action a court may hear and consider such evidence as it deems appropriate. In proceedings for judicial review of agency action in a contested case, however, a court shall not itself hear any further evidence with respect to those issues of fact whose determination was entrusted by constitution or statute to the agency in that contested case proceeding. Before the date set for hearing a petition for judicial review of commission action in a contested case, application may be made to the court for leave to present evidence in addition to that found in the record of the case. If it is shown to the satisfaction of the court that the additional evidence is material and that there were good reasons for failure to present it in the contested case proceeding before the commission the court may order that the additional evidence be taken before the commission upon conditions determined by the court. The commission may modify its findings and decision in the case by reason of the additional evidence and shall file that evidence and any modifications, new findings, or decisions with the reviewing court and mail copies of the new findings or decisions to all parties.

3.18(8) Court action. The court may affirm the commission action or remand to the commission for further proceedings. The court shall reverse, modify, or grant any other appropriate relief from the commission action, equitable or legal and including declaratory relief, if substantial rights of the petitioner have been prejudiced because the commission action is:

- a. In violation of constitutional or statutory provisions;
- b. In excess of the statutory authority of the agency;
- c. In violation of an agency rule;
- d. Made upon unlawful procedure;
- e. Affected by other error of law;
- f. In a contested case, unsupported by substantial evidence in the record made before the commission when that record is viewed as a whole; or,
- g. Unreasonable, arbitrary or capricious or characterized by an abuse of discretion or a clearly unwarranted exercise of discretion.

805—3.19(67GA,ch74) Appeals. An aggrieved or adversely affected party to the judicial review proceeding may obtain a review of any final judgment of the district court by appeal to the supreme court. The appeal shall be taken as in other civil cases, although the appeal may be taken regardless of the amount involved.

805—3.20(67GA,ch74) Funding. The issuance of the license to any program shall not be construed as a commitment on the part of either the state or federal government to provide funds to such licensed program.

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805—3.21(67GA,ch74) Inspection. Each applicant or licensee agrees as a condition of said license to permit properly designated representatives of the department to enter into and inspect any and all premises of programs for which a license has been either applied or issued to verify information contained in the application or to assure compliance with all laws, rules, and regulations relating thereto, during all hours of operation of said facility and at any other reasonable hour. Further, each licensee agrees to permit properly designated representatives of the department to audit and collect statistical data from all records maintained by the licensee. Such right of entry and inspection shall, under due process of law, extend to any premises on which the department has reason to believe a program is being operated in violation of these rules. A facility shall not be licensed which does not permit inspection by the department or examination of all records, including financial records, methods of administration, general and special dietary programs, the disbursement of drugs and methods of supply, and any other records the commission deems relevant to the establishment of such a system.

805—3.22(67GA,ch74) General standards for all substance abuse treatment programs. The following standards shall apply to all substance abuse treatment programs in the state of Iowa regardless of the category of treatment services provided by such programs. In situations where differences between general standards for all treatment programs and specific standards occur, both general and specific standards must be met.

3.22(1) Board of directors. Each program shall have a formally designated board of directors that is representative of the community being served, complies with the Code of Iowa, and is the ultimate authority for the overall program operations.

a. The board of directors shall develop and adopt written bylaws and policies that define the powers and duties of the governing body, its committees, advisory groups, and the executive director. These bylaws shall be reviewed and revised by the board of directors as necessary.

b. The bylaws shall minimally specify the following:

1. The qualifications of the memberships;
2. The type of membership;
3. The method of selecting members;
4. The term of appointment or election of members, officers and chairpersons of committees;
5. The number of the membership;
6. The frequency of meetings;
7. The attendance requirements; and,
8. The quorum necessary to transact business.

c. Minutes of all meetings shall be kept and available for review by the department and shall include, but not necessarily be limited to:

1. Date of the meeting;
2. Names of members attending;
3. Topics discussed;
4. Decisions reached and actions taken; and,
5. A summary of all reports presented to the board.

d. The duties of the board of directors shall include, but not be necessarily limited to the following:

1. Appointment of a qualified executive director who shall have the responsibilities and authorities for the management of the program in accordance with the board's established policies;

2. Establish an effective control which will assure that quality services are delivered;
3. Review and approve the program's annual budget; and,
4. Approve all contracts.

e. The board of directors shall develop and approve policies for the effective operation of the program. These policies shall be reviewed and updated at least annually.

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f. The board of directors shall be responsible for all funds, equipment, supplies and the facility in which the program operates. The board shall be responsible for the appropriateness and adequacy of services provided by the program.

g. The board of directors shall at least annually prepare a report which will include, but not necessarily be limited to, the following items:

1. The name, address, occupation, and place of employment of each board member;
2. Any family relationships which a board member may have to a program staff member; and,
3. Where applicable, the name and address of all owners or controlling parties whether they are individuals, partnerships, corporation body, or subdivision of other bodies, such as a public agency, or religious group, fraternity, or other philanthropic organization.

h. The board shall assume responsibility in seeing that the program has malpractice and liability insurance and a fidelity bond.

3.22(2) Executive director. The board of directors/governing body shall appoint an executive director whose qualifications, authority, and duties are appropriate to the administrative and treatment requirements of the program. This individual shall have primary responsibility for the overall program operations in accordance with the policies established by the board of directors.

a. The duties of the executive director shall include, but not necessarily be limited to, the following:

1. The developing and organizing of administrative and procedural functions of the program;
2. Public relations;
3. Establishing a formal means of staff accountability;
4. Control and conserve the physical and financial assets of the program; and,
5. Personnel administration.

b. The executive director shall assist the board of directors in formulating policies and shall prepare, present, and interpret, where appropriate, the following information:

1. Reports describing the program's operation;
2. Evaluation reports dealing with the efficiency and effectiveness of the program;
3. Plans based upon the nature and extent of substance abuse problems within the service area, the nature and extent of funding, and other resources available, and federal, state and local developments affecting substance abuse treatment; and,

4. Budget and financial statements.

3.22(3) Procedures manual. All programs shall develop and maintain a procedures manual. This manual shall define the program's policies and procedures to reflect the program's activities. Revisions shall be entered with the date and name and title of the individual making the entries. This manual shall contain all of the required written policies, procedures, definitions, and all other documentation required by these standards in the following areas:

- a. Legal authority and organization of the board of directors;
- b. Organization and management of the program;
- c. Fiscal management;
- d. Personnel policies;
- e. Medical services;
- f. Staff training;
- g. Administrative services;
- h. Intake and initial assessment;
- i. Treatment planning;
- j. Client case records;
- k. Referral, supportive and professional services;
- l. Follow-up services;
- m. Aftercare services;
- n. Client rights;

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- o. Confidentiality of client records;
- p. Emergency treatment;
- q. Outpatient treatment;
- r. Residential and intermediate treatment;
- s. Chemotherapy;
- t. Detoxification; and,
- u. Outreach services and medication control.

3.22(4) Fiscal management. One person shall be identified as having primary fiscal responsibility for the program in accordance with the policies established by the board of directors.

- a. This individual shall be responsible for:

- 1. Establishing and maintaining a standard accounting system in accordance with generally accepted accounting principles applicable to recipients of state and/or federal funds;

- 2. Preparing and updating a written program budget;

- 3. Implementing adequate internal controls; and,

- 4. Generating program financial reports.

- b. The annual budget shall outline anticipated revenue and expenses. The budget shall itemize projected expenses by line item. The written annual budget shall be reviewed and approved by the board of directors prior to the beginning of the applicable fiscal year. Budgetary revisions made during the fiscal year shall be documented and approved by the board of directors.

- c. Written policies and procedures shall be maintained regarding the operation of the fiscal management system as approved by the board of directors and proper control of the purchasing process; proper handling, recording and documentation of receipts and disbursements and the transactions related thereto.

- d. The fiscal management system shall reflect the fiscal experience and current financial position of the program. This system shall provide for accounting of programs costs by line item. Revenue shall be reported by funding source.

- e. Fiscal reports shall be made available to the board of directors and program management staff.

- f. There shall be an insurance program that provides for the protection of the physical and financial resources of the program, and that provides coverage for all people, buildings and equipment.

3.22(5) Personnel. Written personnel policies and procedures shall be developed by all programs. The programs should consider utilizing the state merit rules in developing their personnel policies.

- a. These policies and procedures shall address the following areas:

- 1. Recruitment and selection of staff members and volunteers;

- 2. Wage and salary administration;

- 3. Promotions;

- 4. Employee benefits;

- 5. Working hours;

- 6. Vacation and sick leave;

- 7. Lines of authority;

- 8. Rules of conduct;

- 9. Disciplinary actions and termination of employees;

- 10. Methods for handling cases of inappropriate client care;

- 11. Work performance appraisal;

- 12. Employee accidents and safety;

- 13. Arbitration of employee grievances;

- 14. Policy on staff persons suspected of using or abusing substances;

- 15. Training and staff development which will include, but not be limited to, orientation of new staff members or volunteers, ongoing training, laws, rules and regulations and

Confidentiality regulations.

b. The written personnel policies and practices shall include an equal employment opportunity affirmative action plan for hiring members of protected classes.

c. The board of directors shall develop and approve all personnel policies and practices prior to their implementation.

d. There shall be documentation verifying that personnel policies and practices are reviewed at least annually by the board of directors.

e. There shall be written job descriptions for all positions. Each job description shall identify specifically:

1. Job title;
2. Tasks and responsibilities of the job;
3. The skills, knowledge, training, education and experience required for the job; and,
4. Lines of authority.

f. Job descriptions shall accurately reflect the actual job situation and shall be reviewed at least annually by the executive director and/or whenever there is a change in required qualifications or duties.

g. All job descriptions shall be included in the personnel section of the procedures manual.

h. It shall be explicitly indicated in the personnel policies that past experience with substance use and abuse or prior criminal involvement shall not be a factor in employment.

i. The written personnel policies and practices shall include a mechanism for the evaluating of personnel performance on at least an annual basis. This evaluation shall be in writing. There shall be documentary evidence that this evaluation is reviewed with the employee and that the employee is given the opportunity to respond to this evaluation.

j. Any wages paid to clients engaged in vocational training or work within the program shall be in accord with local, state and federal requirements.

k. There shall be a personnel record kept on each staff member. These records shall contain as applicable:

1. Job description;
2. The application for employment;
3. Letters of recommendation, and the results of investigations of references;
4. Verification of training, experience, and all professional credentials;
5. Wage and salary information, including all changes;
6. Job performance evaluation;
7. Incident reports;
8. Disciplinary actions taken;
9. Documentation that the staff person is free of communicable or infectious diseases;

and,

10. Annual documentation of review and adherence to confidentiality laws and regulations.

11. There shall be written policies and procedures designed to ensure confidentiality of personnel records and a delineation of authorized personnel who have access to various types of personnel information.

3.22(6) Medical services. All programs shall have a designated medical director who is a medical doctor or a doctor of osteopathy and is licensed by the state of Iowa to practice medicine.

a. The medical director shall be responsible for all medical matters and the overall medical care provided by the program.

b. The duties of the medical director shall include, but not be limited to:

1. Assisting the board of directors and the executive director in developing policies and procedures dealing with medical matters.

2. Review all medical and substance abuse histories.

3. Review each client's laboratory tests and results of any physical examination and develop a medical treatment plan for general health care when in the physician's medical

SUBSTANCE ABUSE (cont'd)

judgement such a plan is necessary. The date of the review, recommendations, and the physician's signature shall be recorded in the client's case record at the time of the review by the physician.

c. Individuals who are scheduled to enter a residential/intermediate facility, chemotherapy or emergency care facility shall undergo a medical history and physical examination. Laboratory examinations may be done as deemed necessary by the physician.

d. The medical history, the physical and laboratory examinations required for these clients shall be performed as soon as possible, but no later than twenty-one days after entrance into the program.

e. For individuals who are scheduled to enter an outpatient facility, a comprehensive medical and substance abuse history shall be obtained on all clients during the intake process as soon as possible, but not later than twenty-one days following the date of admission. The medical director shall review each history and initiate such physical and laboratory examinations which he/she, in his/her professional judgement, believes are required. The medical director shall document in the client's case record his review of the medical and substance abuse histories.

f. Policies and procedures shall be developed so as to assure that all required medical histories, physical examinations, and laboratory examinations are completed.

g. The program shall have written policies and procedures defining the appropriate action to be taken when a medical emergency arises.

3.22(7) Emergency medical services. The program shall ensure, by affiliation agreement, or contract, that emergency medical services at a general hospital are available on a twenty-four-hour basis.

a. The program will maintain emergency medical service coverage on a twenty-four hour, seven days a week, basis.

b. The program shall ensure that all community service providers, medical facilities, law enforcement agencies, and other appropriate personnel are informed of the twenty-four hour emergency services and treatment available.

3.22(8) Urinalysis. All programs serving clients who are receiving treatment for use and/or abuse of a controlled substance, except marijuana, shall establish policies and procedures for the collection and utilization of urinalysis results.

a. Urine specimens obtained from clients shall be collected under direct supervision and analyzed for morphine, methadone, cocaine, codeine, amphetamines, barbiturates and other substances as indicated.

b. Any laboratory used by the program for urine testing and analysis shall comply with all federal and state proficiency testing programs.

c. Client records shall reflect the manner in which urine test results are utilized in treatment.

d. For programs with a urinalysis service, policies shall be developed concerning measures to be employed when urine specimens of clients are found to contain the aforementioned substances.

— **3.22(9)** Supportive and professional services. The following supportive and professional services shall be available to all clients either at the primary service facility or through a contractual or referral agreement. These services shall include, but are not limited to the following:

a. Vocational rehabilitation services: The program shall have vocational rehabilitation services available to all clients in need of this service either on-site or through a written agreement with an outside agency. The program, either on its own or by joining with other interested agencies, shall become involved in an active program of job development;

b. Legal services;

c. Educational services;

d. Financial counseling;

e. Recreational activities;

f. Clinical professional services: The program shall have available consultation from a

SUBSTANCE ABUSE (cont'd)

clinical professional. This professional will assist the program in developing policies and procedures relating to the assessment and treatment of psychopathology. The clinical professional will assist in the training of the staff, reviewing of case records, and providing assistance to the clinical staff in client treatment.

3.22(10) Staff development and training. There shall be written policies and procedures that establish a staff development program. One individual shall be designated to supervise staff development activities. The staff development program shall include orientation for entry-level staff, on-the-job training, in-service education, and opportunities for continuing job-related education.

a. Initial training of each treatment staff member shall include, but not be limited to, structured, scheduled orientation relating to the psychosocial, medical, pharmacological, and legal aspects of substance abuse prevention activities; an orientation to the program and community resources; and counseling skill development.

b. The program shall establish on-site training programs and/or enter into relationships with outside resources capable of meeting staff training needs.

c. The staff development program shall take steps to ensure that staff members are kept informed of new developments in the field of substance abuse treatment and rehabilitation.

d. In-service training programs shall be instituted when program operations or functions are changed, and shall be designed to allow staff members to develop new skills so that they may effectively adapt to such changes.

e. Staff development activities and participation in state, national and regional training shall be planned and scheduled. These activities shall be documented in order to evaluate their scope, effectiveness, attendance, and amount of time spent on such efforts. The written plan for on-site staff development and activities for professional growth and development of program personnel shall be annually reviewed and approved by the board of directors and shall be available to all personnel.

f. Minutes shall be kept of on-site training activities and shall include, but not necessarily be limited to:

1. Date of the meeting;
2. Names of persons attending;
3. Topics discussed; to include name and title of presentors; and,
4. Recommendations made.

g. The individual responsible for supervising staff development activities shall conduct at least an annual needs assessment and shall meet at least quarterly with staff members to determine whether they believe staff development activities are suited to their needs and to elicit their advice on ways of improving these activities.

h. The local program shall document staff attendance and participation at local, regional, state and national training opportunities.

3.22(11) Intake and assessment. There shall be clearly stated written criteria for determining the eligibility of individuals for admission.

a. The program shall have written policies and procedures governing a uniform intake process that defines:

1. The types of information to be gathered on all applicants prior to admission;
2. Procedures to be followed when accepting referrals from outside agencies or organizations; and,

3. The types of records to be kept on all applicants.

b. The following information shall be collected and recorded on standardized formats developed by the program on all applicants prior to or at the time of admission and shall be come part of the applicant's case record:

1. Identifying information which includes name, address, telephone number;
2. Demographic information which includes date of birth, sex, race or ethnic origin;
3. Name and address of referral sources;
4. Presenting problem;
5. Substance abuse history which will include type, amount, frequency and duration of

substance use;

6. Family history which will describe the family composition and dynamics;
7. Education status and history which describes levels of achievement;
8. Vocational/employment status and history which will describe skills and/or trades learned; record of jobs held, duration, reasons for leaving;
9. Peers and friends.
10. Legal history which will describe any involvement with the criminal justice system;
11. Medical and health history including any incidences of overdoses, physical indicators and contagious diseases with necessary action as required by the Code of Iowa;
12. Psychological history and mental status;
13. Any other relevant information which will assist in formulating an initial assessment of the client; and,
14. A financial evaluation to include insurance coverage.

c. Each new admission, readmission or transfer admission shall be interviewed by a clinical professional or by his designee, with a clinical professional reviewing all intake information. When such a review is conducted, the clinical professional shall document all clinical observations and recommendations in the applicant's case record. If in the judgment of the clinical professional, psychological, psychiatric or further medical examinations are indicated, such assistance shall be obtained and documented in the case record.

d. When an applicant refuses to divulge information and/or to follow the recommended course of treatment, this refusal shall be noted in the case record.

e. During the intake process, documentation shall be made that applicants understand:

1. General nature and goals of the program;
2. Rules governing client conduct and infractions that can lead to disciplinary action or discharge from the program;

3. In a nonresidential program, the hours during which services are available;
4. Treatment costs to be borne by the client, if any;
5. Client's rights and responsibilities; and,
6. Confidentiality laws, rules and regulations.

f. Sufficient information shall be collected during the intake process so that an assessment of the client's status is complete and an initial treatment plan can be developed.

3.22(12) Treatment plans. Based upon the initial assessment, an individualized written treatment plan shall be developed and recorded in the client's case record.

a. An initial treatment plan shall be developed upon intake and shall delineate the client's immediate needs and actions required to meet these needs. This plan shall be in effect until a comprehensive treatment plan is developed.

b. A comprehensive treatment plan shall be developed as soon after the client's admission as is clinically feasible, but no later than twenty-one days after the admission date.

- c. The individualized treatment plan shall minimally contain:
1. A clear and concise statement of client's current strengths and needs;
 2. Clear and concise statements of the short and long-term goals the client will be attempting to achieve;
 3. A delineation of primary and support services to be provided the client;
 4. Type and frequency of therapeutic activities in which the client will be participating;
 5. The sequence in which the service will be provided; and,
 6. The staff person(s) to be responsible for the client's treatment.

d. Treatment plans shall be developed in partnership with the client. Treatment plans shall be reviewed by the primary counselor and the client as often as necessary, but no less than every sixty days for outpatient modalities and no less than every thirty days for other modalities except aftercare. Treatment plans shall be reviewed by a clinical professional regularly and revised as often as necessary, but no less than at a frequency of sixty days for outpatient modalities and thirty days for all other modalities except aftercare.

SUBSTANCE ABUSE (cont'd)

d. The reviews shall consist of a reassessment of the client's current status to include accomplishments and needs and a redefining of treatment goals when appropriate. The date of the review and any change, as well as the individuals involved in the review, shall also be recorded.

f. The use of abstract terms, technical jargon, or slang should be avoided in the treatment plan, and the plan should be written in a manner readily understandable to the average client. The program should provide the client with a copy of the initial treatment plan and all subsequent revisions upon request.

3.22(13) Progress notes. A client's progress and current status in meeting the goals set in the treatment plan, as well as efforts by staff members to help the client achieve these stated goals, shall be recorded in the client's case record following each therapeutic session.

a. All progress notes shall be dated and signed, including staff title, by the individual rendering service.

b. All entries that involve subjective interpretations of a client's progress should be supplemented with a description of the actual behavioral observations which were the basis for the interpretation.

c. The use of abstract terms, technical jargon, or slang should be avoided in progress notes.

d. If a client is receiving services from an outside resource, the program shall attempt to secure a written copy of status reports and other client records from that resource.

e. The program shall develop a uniform progress note format to be used by all clinical staff.

3.22(14) Referral. The program shall have written referral policies and procedures which facilitate referrals between the program and other service providers in such a manner to ensure continuity of care.

a. Written referral agreements shall minimally contain:

1. The services the resource agrees to provide;
2. The duration of the agreement;
3. The procedures to be followed in making referrals; and,
4. A state of conformity to federal, state and program confidentiality requirements.

b. The program shall maintain a list of all appropriate resources available within the service area. The list of resources shall minimally contain:

1. The name and location of the resource;
2. The types of services provided by the resource;
3. The name(s) of a contact person(s);
4. The criteria for determining a client's eligibility for services;
5. A written log shall be maintained indicating the nature and the disposition of all referrals made to and from outside resources.

3.22(15) Aftercare. The program shall have policies and procedures to provide aftercare services. These services shall be designed to support and increase the gains made to date in the treatment process.

a. The program shall use, whenever appropriate, existing community resources for support services during the aftercare period.

b. The delivery of aftercare services shall be based upon an individualized aftercare plan. The individualized aftercare plan shall minimally contain:

1. A clear and concise statement of client's current strengths and needs;
 2. Clear and concise statements of the short and long-term goals the client will be attempting to achieve;
 3. A delineation of primary and support services to be provided the client;
 4. Type and frequency of therapeutic activities in which the client will be participating;
 5. The sequence in which the service will be provided;
 6. The means by which the client may re-enter a primary care modality; and,
 7. The staff person(s) to be responsible for the client's aftercare services.
- c. Aftercare plans shall be developed by the primary therapist in partnership with the

SUBSTANCE ABUSE (cont'd)

client within thirty days after assignment to the aftercare component. This plan shall be reviewed by a clinical professional within ninety days after the plan is developed. This review shall be documented in the client case record and minimally contain:

1. A reassessment of the client's current status, to include accomplishments and needs;
2. Updating of the aftercare goals, where appropriate;
3. The date of the review; and,
4. The individuals involved in the review.

d. The program should provide the client with a copy of the initial plan and all subsequent revisions upon request.

3.22(16) Follow-up. The program shall establish and maintain policies and procedures for the purpose of providing follow-up services to referred and discharged clients. For discharged clients, follow-up services shall be provided in a systematic manner at 90, 180, and 360 day intervals after discharge. For clients referred, follow-up services shall be provided on an ongoing basis so as to assure continuity of care.

a. The results of the follow-up activity shall be documented in the individual client's case file in such a manner as to indicate;

1. Date of contact;
2. Staff person responsible for initiating the contact; and,
3. Results of the contact.

b. These policies and procedures shall be in compliance with DHEW, 42 CFR, Part 2, Regulations on Confidentiality of Alcohol and Drug Abuse Client Records.

3.22(17) Client case records. There shall be written policies and procedures governing the compilation, storage and dissemination of individual client case records.

a. These policies and procedures shall ensure that:

1. The program exercises its responsibility for safeguarding and protecting the client case record against loss, tampering, or unauthorized disclosure of information;
2. Content and format of client records are kept uniform; and,
3. Entries in the client case record are signed and dated.

b. The program shall provide adequate physical facilities for the storage, processing, and handling of client case records. These facilities shall include suitably locked, secured rooms or file cabinets.

c. Appropriate records shall be readily accessible to those staff members providing services directly to the client and other individuals specifically authorized by program policy. Records should be kept in proximity to the area in which the client normally receives services.

d. There shall be a written policy governing the disposal and maintenance of client case records. Client case records shall be maintained for not less than five years from the date they are officially closed.

e. All client case records shall be marked "CONFIDENTIAL," or bear a similar cautionary statement. Each file cabinet or storage area containing such client case records shall be locked and be conspicuously marked "CONFIDENTIAL INFORMATION," or bear a similar cautionary statement.

f. The governing body shall establish policies that specify the conditions under which information on applicants or clients may be released and the procedures to be followed for releasing such information. Even if a program is not federally funded, all such policies and procedures shall be in accordance with applicable provisions of section 408 of Public Law 92-255, as amended, the federal confidentiality regulations issued, and state confidentiality laws and regulations.

g. A client's written authorization shall appear on a consent form containing:

1. The name of the program which is to make the disclosure;
2. The name or title of the person or organization to which disclosure is to be made;
3. The name of the client;
4. The purpose or need for the disclosure;
5. The extent or nature of information to be disclosed; and,

6. A statement that the consent is subject to revocation at any time, and date, event or condition upon which it will expire without express revocation.

h. Every authorization for release of information shall become part of the client's permanent case record.

i. A client's written consent for the release of information shall be considered valid only if the following conditions have been met:

1. The client is informed, in a manner that assures his or her understanding, of the specific type of information that has been requested, as well as the benefits and disadvantages of releasing the information, if known;

2. The client is informed of the purpose or need for the information;

3. Treatment services are not contingent upon the client's decision concerning authorization for the release of information; and,

4. The client gives his or her consent freely and voluntarily.

j. All policies related to confidentiality shall apply even after an applicant or client has terminated active involvement with the program.

k. In a life-threatening situation, or where an individual's condition or situation precludes the possibility of obtaining written consent, the program may release pertinent medical information to the medical personnel responsible for the individual's care without a client or applicant's authorization and without the authorization of the executive director or his or her designee if obtaining such authorization would cause an excessive delay in delivering treatment to the individual.

1. When information has been released without the individual's authorization under these standards, the staff member responsible for the release of information shall enter into the individual's case record all details pertinent to the transaction, which shall include at least:

1. The date the information was released;

2. Persons to whom the information was released;

3. The reason the information was released; and,

4. The nature and details of the information given.

m. As soon as possible after the release of information, the client or applicant should be informed that such information was released.

n. There shall be a case record for each client that contains:

1. Results of all examinations, tests, and intake and assessment information;

2. Reports from referring sources;

3. Treatment plans;

4. Medication records, which shall allow for the monitoring of all medications administered, and the detection of adverse drug reactions. All medication orders in the client case records shall define at least the name of the medication, dose, route of administration, frequency of administration, the name of the physician who prescribed the medication, and the name of the person administering or dispensing the medication.

5. Reports from outside resources, which shall include the name of the resource and the date of the report. These reports shall be signed by the person making the report or by the program staff member receiving the report;

6. Multidisciplinary case conference and consultation notes, including the date of the conference or consultation, recommendations made, and actions taken;

7. Correspondence related to the client, including all letters and dated notations of telephone conversations relevant to the client's treatment.

8. Treatment consent forms, if applicable;

9. Information release forms;

10. Progress notes. Entries shall be filed in chronological order and shall include the date any relevant observations were made, the date the entry was made, and the signature and staff title of the individual rendering service;

11. Records of services provided. Summaries of services provided shall be sufficiently detailed to identify the types of services the client has received and action taken to address

SUBSTANCE ABUSE (*cont'd*)

specific problems identified. General terms such as "counseling" or "activities" shall be avoided in describing services;

12. Aftercare plans;
13. Discharge summary; and,
14. Follow-up information.

3.22(18) Client rights. The program shall maintain written policies and procedures that ensure that the legal and human rights of clients participating in the program shall be observed and protected.

a. There shall be procedures to inform all clients of their legal and human rights at the time of admission into the program or when the client is deemed competent to receive them.

b. There shall be documentation of the implementation of these procedures.

c. There shall be written policies and procedures for reviewing and responding to clients' communications, e.g., opinions, recommendations, and client grievances, with a mechanism for redress.

d. There shall be procedures designed to protect the clients' rights and privacy with respect to facility visitors, e.g., educational or other individual or group visitations at the program.

805—3.23(67GA,ch74) Specific standards for outpatient substance abuse program. An outpatient care program shall be designated to provide a variety of diagnostic and primary substance abuse services on both a scheduled basis and a nonscheduled basis in a non-residential therapeutic setting.

3.23(1) Plan. An outpatient care program shall have a written plan which includes, but is not limited to:

- a. Treatment philosophy;
- b. Objectives;
- c. Organization of structure;
- d. The role of the co-ordinator/director in charge of this service;
- e. Specification of the lines of authority and staff responsibility;
- f. Admission criteria;
- g. A delineation of the interrelationships of this component with the other service components and providers; and,
- h. There shall be documentation that this plan is reviewed and updated at least annually and that it has been approved by the governing authority.

3.23(2) Direct services. Services provided by this unit may include, but not necessarily be limited to the following:

- a. Case management;
- b. Orienting clients to the program's operations and procedures;
- c. Interviewing applicants and clients for diagnostic purposes;
- d. Conducting individual, group or family counseling sessions;
- e. Informing clients of program and community resources;
- f. Making referrals to appropriate outside agencies;
- g. Crisis intervention;
- h. Interdisciplinary client staffings; and,
- i. Serving as a resource for clients.

3.23(3) Hours of operation. Hours of operation shall be during periods which make outpatient services accessible to clients and the general public. During hours which the program does not operate, the program's hours of operation shall be conspicuously displayed so as to communicate those hours to the general public.

805—3.24(67GA,ch74) Specific standards for residential/intermediate care substance abuse program. A residential/intermediate care program shall be designed to provide comprehensive diagnostic, treatment and rehabilitation services on a scheduled or nonscheduled basis in a residential therapeutic setting.

SUBSTANCE ABUSE (cont'd)

3.24(1) Hours of operation. A residential/intermediate program shall operate no less than seven days per week, for no less than twenty-four hours a day.

3.24(2) Plan. This component shall have a written plan.

a. This plan shall include, but not limited to, the following:

1. Treatment philosophy;
2. Objectives;
3. Organizational structure;
4. The role of the co-ordinator/director in charge of this service;
5. Specification of the lines of authority and staff responsibility;
6. Admission criteria; and,
7. Interrelationship with other service components and providers.

b. There shall be documentation that this plan is reviewed and updated at least annually and that it has been approved by the governing authority.

3.24(3) Use of chemical substances. A residential/intermediate care program shall have written policies regarding the use of chemical substances in the facility.

3.24(4) Program participation. All residents of the residential/intermediate care program shall be active participants in the therapeutic program.

3.24(5) Employed clients. A residential/intermediate care program shall insure that all employed clients receive scheduled therapeutic services.

3.24(6) Facility. Residential/intermediate service facilities shall comply with appropriate state department of health rules, state fire marshal's rules and fire ordinances, and appropriate local health, fire, occupancy code, and safety regulations. The program shall maintain documentation of such compliance.

3.24(7) Meals. A residential/intermediate care program shall provide a minimum of three meals per day to each client enrolled in the program. Residential/intermediate care programs such as halfway houses, live-in/work-out centers, and other programs where clients are not present during meal time, provisions shall be made to provide the necessary meals. Menus shall be prepared in consultation with a registered dietitian. If clients are utilized to prepare meals, the program shall document conformity with all commonly accepted policies and procedures of state health regulations and food hygiene.

805—3.25(67GA,ch74) Specific standards for methadone treatment centers. All programs which use methadone in treatment of narcotic addicts must conform to licensure standards of the department and to the department of health, education and welfare, food and drug administration methadone regulations as articulated in 21, CFR, part 5.1, 291.505.

[Filed 6/9/78]

Notice of intended action regarding these rules was published in IAC Supplement May 3, 1978. They were modified to the extent that 3.22 (67GA,ch74) Waivers was deleted; 3.23(5) Personnel had the following sentence added: "The programs should consider utilizing the State Merit Rules in developing their personnel policies;" 3.23(5)"a"(15) was deleted; and 3.23(11)"b"(9) . . . which includes style of informal association was deleted as recommended by the Administrative Rules Review Committee. The rules shall become effective August 2, 1978 and will supersede chapter 3 of the Substance Abuse Rules published under emergency provisions of Chapter 17A in the Iowa Administrative Code Supplement April 5, 1978.

[Published 6/28/78]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement, 6/28/78.

CONSERVATION[290]

At its June 13 meeting the administrative rules review committee objected to subrule 72.7(3) which appears both under notice and as filed emergency in the 5/31/78 supplement to the IAC.

The committee objects to 72.7(3), establishing an application rating system for the allocation of recreation funds, on the grounds that it is arbitrary in that it lacks uniform application. The committee notes that the subrule penalizes applicants for the number of active projects, thus encouraging cities to combine projects into one large request, rather than to apply for each project on its own merits. The committee further notes that such terms as 'fair share' [of assistance money] and 'past performance based on grant administration and quality of development'; such terms are arbitrary in that they are undefined and therefore subject to varying interpretation and application.

JUDICIAL NOMINATING COMMISSION[525]

At its June 13th meeting the Administrative Rules Review Committee objected to subrule 1.3(7) which appears both under notice and as a filed emergency in the 5/31/78 supplement to the IAC. The objection is as follows:

The Committee objects to subrule 1.3(7), providing that the selection of candidates shall be in open meeting by a secret ballot, on the grounds that it is arbitrary and capricious. The Committee notes that section 28A.3, the Code, requires that all final action be taken in an open session. While this section does not forbid a secret ballot, the Committee feels this subrule violates the spirit, if not the letter of the law. The purpose of Chapter 28A, The Code, is to allow citizens the right to examine and evaluate the activities of governmental bodies, this purpose is best served by requiring commissioners to cast their ballots openly, and thus be held accountable by the citizens for their decisions.

REVENUE[730]

At its June 13 meeting the Administrative Rules Review Committee voted the following objection to proposed subrule 26.2(6), appearing in the May 17, 1978 Supplement to the IAC:

The Committee objects to proposed rule 26.2(6), exempting from sales tax service purchased for resale, on the grounds that it is unreasonable and beyond the authority of the department. Examples b and c modify the subrule by providing that used-car dealers, who sub-contract repair work to third parties, must pay sales tax on the service charge. The rationale for these examples is expressed in b: "[The car dealer] cannot purchase the repair service for resale since he or she is the owner of the automobile and therefore, the consumer of the repair service."

Section 422.42(3), The Code, defines a retail sale as a "sale to a consumer or to any other person for any purpose, other than for processing or for resale of tangible personal property or taxable services...". This section clearly exempts from sales tax services which are intended for resale. The imposition of sales tax upon subcontracted repair service performed upon vehicles held for resale is contrary to the provisions of the Code.

The statement by the department that the dealer is the consumer because he/she is the owner of the vehicle is unreasonable. Webster's New World Dictionary, 2nd ed., defines 'consumer' as: "...a person who buys goods or services for his own needs and not for

sale or to use in the production of other goods for resale." The car dealer is in neither of these categories, the vehicles are not held for the dealer's personal enjoyment and any repair on these vehicles is to render them fit for sale and could not be construed as being used in the production of a product. The department may not adopt a strained or unusual definition of the word 'consumer' unless such a definition comes from a statute, section 4.1(2), The Code.

SOCIAL SERVICES[770]

At its June 13 meeting the Administrative Rules Review Committee voted the following objection to filed rules appearing in the May 31 supplement to the IAC:

The Committee objects to rule 3.2, providing for oral hearings on proposed rulemaking, on the grounds that it is unreasonable. The Committee feels subrules one (1) and two (2) tend to limit hearings to a single district, rather than increasing the number of hearings, as mandated by Schmitt v. DSS.

Subrule 3.2(1) provides that when 25 interested persons petition for a hearing, a single hearing will be held in the district containing the largest number of petitioners. If 13 petitioners were from northeast Iowa, 12 from the southwest, and 10 were from Des Moines, under this subrule the hearing would be held in the northeast, although a majority of petitioners were from other districts.

Subrule 3.2(2) provides that when a request comes from an organization, the hearing will be held at the organization's principal place of business. The Committee does not find a rational basis for this provision; the hearing should be held in the district from which the hearing was requested.

It is the opinion of the Committee that indigents, who can ill afford the cost of travel, should not be forced to travel great distances to make their views known. The Committee feels that it is unreasonable for the department to limit the number of hearings, when, as expressed in the Schmitt case, a single employee armed with a tape recorder, could easily journey to several districts to collect statements to be later reviewed by the department.

At its June 13 meeting the Administrative Rules Review Committee voted the following objections to filed rules [Social Services] appearing in the May 31 supplement to the IAC:

The Committee objects to paragraph 130.3(1)b, establishing eligibility to receive benefits on a gross income basis, on the grounds it is unreasonable. The Committee notes that the use of gross income as a determinant would not allow an applicant to deduct necessary business expenses from income. As an example, under the rule an impoverished tenant farmer could not deduct from income the cost of renting land, buying seed or purchasing implements. The Committee notes that under paragraph 130.3(3)i capital gains are specifically allowed as a deduction from gross income, and believes it unreasonable to allow such a rare deduction, which is generally of benefit to the well-to-do, while not allowing as a deduction the more common business expense.

The Committee also objects to the income levels established in paragraph 130.3(1)b, on the grounds that it is arbitrary. The paragraph establishes different income eligibility levels for different services; and the Committee feels that it is arbitrary to establish 'degrees of neediness'. This objection may be cured by returning to the current paragraph which contains a single income eligibility schedule.

EFFECTIVE DATE DELAY

[Pursuant to §17A.4(5)]

AGENCY	RULE	DELAYED
Agriculture[30]	16.150(2)	to 7/11/78
Environmental Quality[400]	1.2(7)	70 days from 6/21/78
	3.1(455B)	70 days from 6/21/78
	4.5(3)	70 days from 6/21/78
Natural Resources[580]	2.1(36)	70 days from 7/5/78
	3.4(455A)	70 days from 7/5/78
	3.5(455A)	70 days from 7/5/78
	3.8(455A)	70 days from 7/5/78

PROCLAMATIONS

Robert D. Ray, Governor of the State of Iowa, proclaimed the following:

Management Week.....	June 4-10, 1978
Family Tennis Week.....	June 17-25, 1978
Dairy Month.....	June 1978

