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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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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 board of psychology examiners, pursuant to the authority of sections 17A.4, 147.36, and 147.76 of the Code proposes to make the following amendments to the rules relating to the board of psychology examiners.

Interested persons, governmental agencies and associations may present written comments or statements concerning the proposed amendments not later than 4:30 p.m. on August 16, 1978 to Peter J. Fox, Hearing Officer, State Department of Health, Lucas State Office Building, Des Moines, Iowa 50319.

ITEM 1. Amend the catchwords of rule 470—140.6(154B) to read as follows:
~~470—140.6(154B) Supervised professional~~ *Professional* employment experience.

ITEM 2. Amend subrule 140.6(1) to read as follows:
140.6(1) To meet the requirements for "~~supervised professional employment experience,~~" an applicant's employment experience must:
a. Have involved the application of psychological principles such as defined in the "Practice of Psychology", (chapter 154B); and,
b. Have been performed competently at a professional level; and,
c. Have been appropriately supervised as is specified in subrule 140.6(9) of this rule.

ITEM 3. Amend subrule 140.6(3) to read as follows:
140.6(3) Employment experience which is offered to satisfy one provision of the law may not be simultaneously offered to satisfy ~~any other~~ *the educational* provisions of the law. For example, employment experiences which are part of the required preparation for the doctor of philosophy degree will be applicable only to the "doctroate degree requirements" and may not be simultaneously offered to satisfy the "employment experience" requirement.

ITEM 4. Strike all of subrule 140.6(5) and insert in lieu thereof the following:
140.6(5) Employment experience of any kind gained prior to meeting the educational qualifications for licensing found in rule 470—140.5(154B) will not apply to the provisions of the law concerning professional employment experience.

ITEM 5. Amend subrule 140.6(9) to read as follows:
140.6(9) Supervisors must be licensed psychologists in the state of Iowa or licensed in another state having comparable licensing requirements *at the time of supervision*. The supervision must meet the following criteria:
a. The supervisor ~~directly supervised~~ *regularly reviewed the professional effort* ~~psychological practice~~ of the supervisee.

- b. The supervisor and the supervisee met on a face-to-face basis and discussed matters pertinent to the ~~supervision~~ *psychological practice* for a minimum of one hour on at least a biweekly basis. *From and after January 1, 1980, the supervisor and the supervisee shall meet for a minimum of one hour at each meeting and averaging at least one meeting per week.*
- c. *Documentation acceptable to the board indicating that the applicant has met the requirements of this rule and has performed in a professional, competent, and ethical manner must be submitted.*

ITEM 6. Strike subrule 140.6(10).

These rules are intended to implement section 147.76 of the Code.

NATURAL RESOURCES COUNCIL[580]

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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 Natural Resources Council pursuant to the authority of sections 455A.8 and 455A.18 to 455A.32 of the Code, as amended, proposes to amend chapters 2 and 3 of its rules appearing in the IAC.

Interested persons may submit data, views, or arguments in writing on or before August 1, 1978, to Natural Resources Council, Wallace State Office Building, East 9th and Grand, Des Moines, Iowa 50319.

A public hearing on the proposed rules will be held in Des Moines, Iowa, at the Henry A. Wallace Building, on August 3, 1978, at 3:00 p.m., DST.

Subjects within the scope of rulemaking initiated by this notice include the following:

1. Limitations on withdrawals of water from streams and from wells located adjacent to streams in unconsolidated aquifers;
2. Limitations on withdrawals of water from the Jordan Sandstone aquifer;
3. Categories of water use and implementation procedures relating to water allocation policies.

The text of draft rules proposed by the Iowa Natural Resources Council staff is as follows:

ITEM 1. Rule 2.1 (455A) is amended by adding the following new subrules:

2.1(37) “Municipal use” is a use of water associated with a centralized water withdrawal and distribution system designed and constructed to supply water primarily for domestic purposes within an incorporated municipality.

2.1(38) “Municipal-type use” is a use of water associated with a centralized water withdrawal and distribution system designed and constructed to supply water primarily for domestic and livestock purposes in an unincorporated village, housing subdivision, rural water district, mobile home court, or other similar entity.

2.1(39) "Industrial use" is a use of water associated with a water withdrawal and distribution system designed and constructed to supply water primarily for manufacturing, processing, excavation of materials, cooling, or livestock production.

2.1(40) "Irrigation use" is a use of water associated with a water withdrawal and distribution system designed and constructed to supply water primarily for irrigation of general farm crops, specialty crops, or grass maintained for aesthetic or recreational purposes.

2.1(41) "Protected flow" is the "established average minimum flow" defined in section 55A.1 of the Code.

2.1(42) "Stream bordering the state" means those reaches of the Missouri, Mississippi, Des Moines, and Big Sioux rivers which serve as a state boundary.

ITEM 2. Amend 3.1(7), paragraph "d", to read as follows:

d. Rural water districts. A permit shall be required for withdrawals of water by any rural water district having its own source of water which shall be classified as a municipal-type use.

ITEM 3. Amend subrule 3.4(1), paragraph "a", to read as follows:

a. No new withdrawals of water in excess of two hundred gallons per minute for consumptive uses shall be permitted from any stream which has a drainage area of less than fifty square miles. ~~Any existing permit for such use which may be renewed after July 5, 1978, shall terminate on or before January 1, 1984. Any existing permit for such use which expires after January 1, 1984, shall not be renewed. Renewals of existing permits for such use shall not authorize such use beyond December 31, 1988.~~

ITEM 4. Amend subrule 3.4(2) by striking paragraph "c" and substituting in lieu thereof the following:

c. *Whenever the flow of a stream or a portion thereof designated by the water commissioner (measured at the applicable stream gaging station) is below a flow equal to the protected flow plus the summation of all permitted consumptive withdrawals by permittees whose permits provide for maintenance of a protected flow in said stream or portion thereof, the water commissioner may order temporary cessation or rotation of all consumptive withdrawals to ensure that the protected flow is preserved.*

ITEM 5. Amend subrule 3.4(2) by striking paragraph "d".

ITEM 6. Amend rule 3.4 by adding the following new subrule:

3.4(4) *Variance for consumptive uses not subjected to any protected-flow restriction prior to July 5, 1978. Subrule 3.4(2) shall not be made applicable to any water permit that was granted prior to July 5, 1978, for a consumptive use and did not restrict withdrawals for the purpose of maintaining a protected flow. Any such permit which is renewed between July 5, 1978, and December 31, 1988, shall not impose the provisions of 3.4(2) until December 31, 1988. This subrule shall not limit the authority of the water commissioner to modify any permit pursuant to section 455A.28 of the Code.*

ITEM 7. Amend subrule 3.5(1) by striking paragraph "a" and substituting in lieu thereof the following:

a. *No new withdrawals of water in excess of two hundred gallons per minute shall be permitted for consumptive uses from unconsolidated aquifers at any point within 1/4 mile (1320 feet) of a stream having a drainage area of less than fifty square miles. Renewals of existing permits for such consumptive uses shall not authorize such consumptive uses to continue beyond December 31, 1988.*

ITEM 8. Amend subrule 3.5(2) by adding the following new paragraph:

f. Subrule 3.5(2), paragraph "a", shall not be made applicable to any water permit that was granted prior to July 5, 1978, for a consumptive use and did not restrict withdrawals for the purpose of maintaining a protected flow. Any such permit which is renewed between July 5, 1978, and December 31, 1988, shall not impose the provisions of 3.5(2)"a" until December 31, 1988. This paragraph shall not limit the authority of the water commissioner to modify any permit pursuant to section 455A.28 of the Code.

NOTICE OF INTENDED ACTION

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The Iowa Natural Resources Council, under the authority of sections 455A.8 and 455A.33 of the Code as amended, proposes to amend chapter 5 of its rules. The proposed amendment relates to the notification of landowners which may be affected by a proposed channel change that has an application for approval pending before the council or director.

Anyone wishing to submit data or views or arguments may do so in writing and anyone may make an oral presentation to agency staff by prior appointment made with the Chief of Regulation at any mutually convenient time and location before final agency action is taken on this proposed rule.

The text of the proposed rule is as follows:

ITEM 1. Subrule 5.16(8) is amended to read as follows:

5.16(8) Landowner notification. The applicant(s) shall submit the names, address and location of the *immediate* upstream, downstream and adjacent landowner(s) and occupant(s). *In addition, the applicant(s) shall submit the names and addresses of other landowners and occupants that the council, after reviewing the plans for the proposed channel change, believes will have a substantial interest in the channel change or will be substantially affected by the channel change.*

OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION[610]

NOTICE OF INTENDED ACTION

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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 Occupational Safety and Health Review Commission, pursuant to the authority of section 88.10(6) of the Code, proposes to amend Chapter 1, Rules of Procedure for Hearings Before Review Commission appearing in IAC.

Interested persons may present written views and arguments concerning the intended action not later than August 1, 1978 to Review Commission Executive Secretary G. Lawrence Ragan, Room 550, Liberty Building, 418 Sixth Avenue, Des Moines, Iowa 50319.

A request for public hearing must be received by the Review Commission at the above address no later than August 1, 1978 and should include the names and addresses of the persons or entities making the request as well as the specific rule(s) which are intended to be discussed.

Oral presentations may be made before the Review Commission at their meeting scheduled for 10:00 a.m., Friday, August 4, 1978, Hearing Room "B", Seventh Floor, Valley Bank Building, 4th and Walnut, Des Moines, Iowa 50319.

Pursuant to the authority of section 88.10(6) of the Code, the rules appearing in the Iowa Administrative Code are hereby proposed to be amended as shown below:

ITEM 1. Amend chapter 1 by striking all references to "hearings officer" and inserting in lieu thereof the words "hearing officer."

ITEM 2. Strike all of subrule 1.7(14) and insert in lieu thereof the following:

1.7(14) The employer shall serve a copy of any withdrawal of notice of contest, citation, or complaint or any settlement agreement filed with the review commission on the authorized employee representative. Where there are affected employees who are not represented by an authorized employee representative, the employer shall post copies of the documents where the citation is required to be posted by the Bureau of Labor rules. Copies shall be posted at the time of filing of such documents except that copies of a withdrawal of citation or complaint shall be posted when received by the employer.

ITEM 3. Rule 610—1.7(88) is amended by adding the following new subrule:

1.7(15) Where posting is required by this rule, such posting shall be maintained until the commencement of the hearing or until earlier disposition.

ITEM 4. Strike all of rule 610—1.50(88) and insert in lieu thereof the following:

610—1.50(88) Withdrawal of notice of contest, citation, or complaint.

1.50(1) At any stage of the proceeding, for good cause shown, the respondent may withdraw the notice of contest, subject to the approval of the review commission or the hearing officer. A withdrawal of notice of contest shall set forth the following information:

- a. The specific reason(s) for the withdrawal.
- b. The method and date of abatement.

1.50(2) At any stage of the proceedings, for good cause shown, the commissioner of labor may withdraw the citation or complaint, subject to the approval of the review commission or the hearing officer. A withdrawal of citation or complaint shall set forth the following information:

- a. The specific standard(s) involved in the case.
- b. The amount of the proposed penalty.
- c. The specific reason(s) for the withdrawal.
- d. The method and date of abatement or the reason(s) why abatement is not required.

1.50(3) The commissioner of labor shall file a statement of position within ten days after receipt of a withdrawal of notice of contest. A statement of position shall set forth the commissioner of labor's reasons for or against acceptance of the withdrawal of notice of contest.

1.50(4) A withdrawal of notice of contest, citation, or complaint shall be served on represented and unrepresented affected employees in the manner set forth in 1.7(14). Proof of such service or posting shall accompany the withdrawal of notice of contest, citation, or complaint.

ITEM 5. Subrule 1.61(3) is amended to read as follows:

1.61(3) No postponement in excess of thirty days shall be allowed without *the approval of the review commission ~~approval or the hearing officer.~~*

ITEM 6. Subrule 1.62(1) is amended to read as follows:

1.62(1) Subject to the provisions of 1.62(3), the failure of a party to appear at a hearing shall be deemed to be a waiver of all rights except the rights to be served with a copy of the decision ~~of the review commission or the hearing officer~~ *or to appeal the decision.*

ITEM 7. Strike all of rule 610—1.76(88) and insert in lieu thereof the following:

610—1.76(88) Oral argument—filing of briefs and proposed findings—reply briefs.

1.76(1) Any party, upon request, shall be entitled to a reasonable time at the close of the evidence for oral argument which shall be included in the electronically or stenographically recorded report of the hearing.

1.76(2) Any party, upon request made before the close of the hearing, shall be entitled to file a brief, proposed findings of fact and conclusions of law, or both, with the review commission or the hearing officer. Briefs shall be filed within twenty days after the close of the hearing.

1.76(3) Any party, upon request made before the close of the hearing, shall be entitled to file a reply brief with the review commission or hearing officer. Reply briefs shall be filed within ten days after the expiration of the time fixed for the filing of briefs.

ITEM 8. Subrule 1.100(2) is amended to read as follows:

1.100(2) Where *the* parties to a settlement agree upon a proposal, it shall be served upon represented and unrepresented affected employees in the manner set forth in ~~1.7(88)-1.7(14)~~. Proof of such service shall accompany the proposed settlement *agreement* when submitted to the review commission or the ~~hearings~~ *hearing* officer.

ITEM 9. Rule 610—1.100(88) is amended by adding the following new subrule:

1.100(3) A settlement agreement shall set forth the following information in writing:

- a. The specific standard(s) involved in the case.
- b. The amount of the penalty originally proposed and the amount of the penalty agreed upon.
- c. The reason(s) for the withdrawal of notice of contest, modification or vacation of a citation, complaint, or penalty.
- d. The method and date of abatement or the reason(s) why abatement is not required.

ITEM 10. Rule 610—1.108(88) is amended to read as follows:

610—1.108(88) Special circumstances—waiver of rules. In special circumstances not contemplated by the provisions of these rules, or for good cause shown, the review commission *or the hearing officer* may, upon application by any party or intervenor, or on ~~its~~ *their* own motion, after ~~three days'~~ notice to all parties and intervenors, waive any rule or make such orders as justice or the administration of the Act requires.

REVENUE, DEPARTMENT OF[730]

NOTICE OF INTENDED ACTION

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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 sections 421.14 and 422.68, subsection 1, of the Code, the Iowa Department of Revenue hereby gives notice of intended action to amend rules relating to the sales and use tax. Any interested persons may make written suggestions or comments on these proposed rules prior to August 9, 1978. Such written materials should be directed to the Director, Excise Tax Division, Iowa Department of Revenue, Lucas State Office Building, Des Moines, Iowa 50319.

Persons who want to orally convey their views should contact the Director, Excise Tax Division, at 515/281-5476 or in the Excise Tax offices on the second floor of the Lucas State Office Building. Request for a public hearing must be received by August 3, 1978.

The rule amended under this notice, subrule 730—26.2(6) is amended because of the objection filed by the Legislative Rules Review Committee to this rule which was adopted on May 17, 1978 and becomes effective on July 1, 1978. As a result of this objection, the department reviewed the new subrule and found paragraph "c" was misleading. This paragraph is rescinded and a new paragraph "c" is inserted in its place. In addition, a court case supporting the department's position is cited for paragraph "b" of the subrule. Finally, a new example "e" is provided to assist taxpayers in understanding the department's position and how it relates to various types of businesses.

Here follows the substance of the intended action.

ITEM 1. Subrule 26.2(6) is amended to read as follows:

"26.2(6) A service which is purchased for resale. A service is purchased for resale when it is subcontracted by the person who is contracted to perform the service. For example:

a. X is a printer and enters into a contract with Y to print 500 bulletins. X subcontracts the job to Z. Z prints the 500 bulletins for X. There is no tax on the contracts between X and Z since X is purchasing the printing service for resale.

b. B owns a used car lot and contracts an automobile repair job to C. B cannot purchase the repair service for resale merely because at some later date the automobile may be sold. B is in the business of selling used cars and is the consumer of the service since he or she owns the car. *See Merriwether v. State, 252, Al. 590, 42 So.2d 465, 11 A.L.R. 2d 918 (1949).*

~~c. B owns a used car lot. As a condition to a sale to E, B agrees to have the automobile repaired. B contracts with C to have the repair completed. B 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.~~

c. B owns a used car lot. E purchases an automobile from B. As a condition of such sale, B agrees to make repairs to the automobile. However, B subcontracts such repair work to C. E has agreed to pay B for the repair services and for the sale price of the automobile. Under these circumstances, the repair services furnished by C to B constitute a sale of such services to B for resale to E who is the consumer of these services.

d. B owns an auto repair shop and C brings his automobile in to have the air conditioner fixed. B is unable to fix the unit so he or she sends the car to G who is an air conditioning specialist. The sale of G's service to B is a sale for resale by B to C.

e. A operates a test laboratory business. A agrees to provide testing services to B. In the course of conducting such tests, A rents equipment from C. In computing the fee which B has agreed to pay A for testing services, A will include A's costs, including the rental A paid to C in rendering such testing services. Under these circumstances, A furnished B with testing services, and not with the equipment rental services which C furnished to A. A is the consumer of the equipment rental services which are not resold to B and B is the consumer of the testing services."

SUBSTANCE ABUSE, DEPARTMENT OF [805]

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 chapter 125, section 7 of the Code, as amended by the Sixty-seventh General Assembly, 1977 regular session, the Iowa Department of Substance Abuse hereby gives notice of intended action to establish rules for the departmental organization.

Interested persons may submit written data, views, suggestions, or arguments, or make oral presentations on the intended action by contacting the Iowa Department of Substance Abuse Office, Suite 230, Liberty Building, 418 Sixth Avenue, Des Moines Iowa 50319, before 10:00 a.m., August 1, 1978. These rules will supersede those rules published in the IAC under emergency provisions of Chapter 17A.

CHAPTER 1 DEPARTMENTAL ORGANIZATION

805—1.1(67GA, Ch74) Definitions. Unless otherwise indicated, the following definitions shall apply to the specific terms used in these rules:

1.1(1) "Chemical dependency" means an addiction or dependency either physical or psychological, on a chemical substance. Persons who take medically prescribed drugs shall not be considered chemically dependent if the drug is medically prescribed and the intake is proportionate to the medical need.

1.1(2) "Facility" means a hospital, institution, detoxification center, or installation providing care, maintenance and treatment for substance abusers and licensed by the department under section 125.13 as amended by Acts of the Sixty-seventh General Assembly, chapter 74.

1.1(3) "Chemical substance" means alcohol, wine, spirits and beer as defined in chapter 123 of the Code and drugs as defined in section 230A.2, subsection 3 of the Code, which when used improperly could result in chemical dependency.

1.1(4) "Department" means the Iowa department of substance abuse.

1.1(5) "Substance abuser" means a person who habitually lacks self-control as to the use of chemical substances or used 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.

1.1(6) "Director" means the director of the Iowa department of substance abuse.

1.1(7) "Commission" means the commission on substance abuse within the department.

1.1(8) "Incapacitated by a chemical substance" means that a person, as a result of the use of a chemical substance, is unconscious or has his or her judgment otherwise so impaired that he or she is incapable of realizing and making a rational decision with respect to the need for treatment.

1.1(9) "Incompetent person" means a person who has been adjudged incompetent by a court of law.

1.1(10) "Intoxicated person" means a person whose mental or physical functioning is substantially impaired as a result of the use of a chemical substance.

1.1(11) "Residence" means the place where a person resides. For the purpose of determining the Iowa county, if any, is liable pursuant to chapter 125 of the Code of Iowa for payments of costs attributable to its residents, the following rules shall apply:

a. If a person claims an Iowa homestead, then the person's residence shall be in the county where that homestead is claimed, irrespective of any other factors.

b. If paragraph "a" does not apply, and the person continuously has been provided or has maintained living quarters within any county of this state for a period of not less than one year, whether or not at the same location within that county, then the person's residence shall be in that county, irrespective of other factors. However, this paragraph shall not apply to unemancipated persons under eighteen years of age who are wards of this state.

c. If paragraphs "a" and "b" do not apply, or, if the person is under eighteen years of age, is unemancipated, and is a ward of this state, then the person shall be unclassified with respect to county of residence, and payment of all costs shall be made by the department as provided in chapter 125.

d. An unemancipated person under eighteen years of age who is not a ward of the state shall be deemed to reside where the parent having legal custody, or the legal guardian, or legal custodian of that person has residence as determined according to this subsection.

e. The provisions of this subsection shall not be used in any case to which section 125.26 is applicable.

805—1.2(67GA, Ch74) Organization. The Iowa department of substance abuse was created by the Sixty-seventh General Assembly during the 1977 regular session. The department is responsible for developing, implementing and administering a comprehensive substance abuse program pursuant to sections 125.1 to 125.26 as amended by chapter 74.

Information concerning the department which is not described in these rules may be obtained by writing the Iowa Department of Substance Abuse, Liberty Building, Suite 230, 418 Sixth Avenue, Des Moines, Iowa 50319. Concerned parties wishing to submit or request other types of information may write to the above-mentioned address.

1.2(1) Director—appointment. The director of the department is appointed by the governor for a four-year term with the approval of two-thirds of the members of the senate. Pursuant to Acts of the Sixty-seventh General Assembly, chapter 74, section 10, 1977 session, the powers of the director enables him/her to:

a. Plan, establish and maintain treatment, intervention and education and prevention programs as necessary or desirable in accordance with the comprehensive substance abuse program.

b. Make contracts necessary or incidental to the performance of the duties and the execution of the powers of the director, including contracts and public and private agencies, organizations and individuals to pay them for services rendered or furnished to substance abusers or intoxicated persons.

c. Solicit and accept for use any gift of money or property made by will or otherwise, and any grant or money, services or property from the federal government, the state, or any political subdivision thereof or any private source, and do all things necessary to co-operate with the federal government or any of its agencies and the commission in making an appropriation for any grant.

d. Co-ordinate the activities of the department and co-operate with substance abuse programs in this and other states, and make contracts and other joint or co-operative arrangements with state, local or private agencies in this and other states for the treatment of substance abusers and intoxicated persons and for the common advancement of substance abuse programs

e. Require that a written report, in reasonable detail, be submitted to the director at any time by any agency of this state or of any of its political subdivisions in respect to any substance abuse prevention function, or program for the benefit of persons who are or have been involved in substance abuse, which is being conducted by the agency.

f. Submit to the governor a written report of the pertinent facts at any time the director concludes that any agency of this state or of any of its political subdivisions is conducting any substance abuse prevention function, or program for the benefit of persons who are or have been involved in substance abuse in a manner not consistent with or which impairs achievement of the objectives of the state plan to combat substance abuse, and has failed to effect appropriate changes in the function or program.

g. Keep records and engage in research and the gathering of relevant statistics.

h. Employ a deputy director who shall be exempt from the merit system and shall serve at the pleasure of the director. The director may employ other staff necessary to carry out the duties assigned to the director.

i. Do other acts and things necessary or convenient to execute the authority expressly granted to him.

1.2(2) Director-duties. Pursuant to Acts of the Sixty-seventh General Assembly, chapter 74, section 12, the duties of the director are:

a. Prepare and submit a state plan subject to approval by the commission and in accordance with the provisions of title XLII, United States Code, section 4573. The state plan shall designate the department as the sole agency for supervision of the administration of the plan and shall provide for the appointment of a citizens advisory council on substance abuse.

b. Develop, encourage, and foster statewide, regional and local plans and programs for the prevention of substance abuse and the treatment of substance abusers and intoxicated persons in co-operation with public and private agencies, organizations and individuals, and provide technical assistance and consultation services for these purposes.

c. Co-ordinate the efforts and enlist the assistance of all public and private agencies, organizations and individuals interested in the prevention of substance abuse and the treatment of substance abusers and intoxicated persons.

d. Co-operate with the department of social services on establishing and conducting programs to provide treatment for substance abusers and intoxicated persons.

e. Co-operate with the department of public instruction, boards of education, schools, police departments, courts and other public and private agencies, organizations and individuals in establishing programs for the prevention of substance abuse and the treatment of substance abusers and intoxicated persons, and in preparing curriculum materials thereon for use at all levels of school education.

f. Prepare, publish, evaluate and disseminate educational material dealing with the nature and effects of chemical substances.

g. Develop and implement, as an integral part of treatment programs, an educational program for use in the treatment of substance abusers and intoxicated persons, which program shall include the dissemination of information concerning the nature and effects of chemical substances.

h. Organize and implement, in co-operation with local treatment programs, training programs for all persons engaged in treatment of substance abusers and intoxicated persons.

SUBSTANCE ABUSE (*cont'd*)

i. Sponsor and implement research in co-operation with local treatment programs into the causes and nature of substance abuse and treatment of substance abusers and intoxicated persons, and serve as a clearinghouse for information relating to substance abuse.

j. Specify uniform methods for keeping statistical information by public and private agencies, organizations and individuals, and collect and make available relevant statistical information, including number of persons treated, frequency of admission and readmission, and frequency and duration of treatment.

k. Develop and implement, with the counsel and approval of the commission, a comprehensive plan for treatment of substance abusers and intoxicated persons, said plan to be co-ordinated with health systems agencies.

l. Assist in the development of, and co-operate with, substance abuse education and treatment programs for employees of state and local governments and businesses and industries in the state.

m. Utilize the support and assistance of interested persons in the community, particularly recovered substance abusers, to encourage substance abusers to voluntarily undergo treatment.

n. Co-operate with the commissioner of public safety in establishing and conducting programs designed to deal with the problem of persons operating motor vehicles while intoxicated.

o. Encourage general hospitals and other appropriate health facilities to admit without discrimination substance abusers and intoxicated persons and to provide them with adequate and appropriate treatment, and may negotiate and implement contracts with hospitals and other appropriate health facilities with adequate detoxification facilities.

p. Encourage all health and disability insurance programs to include substance abuse as a covered illness.

q. Review all state health, welfare, education and treatment proposals to be submitted for federal funding under federal legislation, and advise the governor on provisions to be included relating to substance abuse and substance abusers and intoxicated persons.

805—1.3(67GA,Ch74) Commission. There is a nine-member commission on substance abuse established within the department of substance abuse. The members are appointed by the governor based on their interest in and knowledge of substance abuse. Two of the members are individuals who have direct contact with substance abuse clients as part of their regular work.

1.3(1) Responsibilities of commission. Pursuant to Acts of the Sixty-seventh General Assembly, chapter 74, section 4, 1977 session, the commission is responsible for establishing policies and governing the performances of the department in discharging the duties imposed on it.

1.3(2) Terms of commission. Commission members are appointed to terms of four years, except that initial appointments to the membership of the commission shall be staggered so that four members shall be appointed to terms of two years and five members shall be appointed to terms of four years.

a. Terms of office shall commence on the first day of July of the year of appointment.

b. Vacancies occurring during a term of office shall be filled for the balance of the unexpired term in the manner of original appointment.

c. No member shall be appointed to serve more than two consecutive four-year terms.

1.3(3) Meetings. The commission shall meet at regular intervals at least six times a year. Special meetings may be called by the chairperson or at the request of the majority of commission members. The sites of the meetings are determined by the commission.

a. The chairperson presides at each meeting or in the chairperson's absence the vice chairperson shall preside. All meetings are open to the public in accordance with the open meetings law, chapter 28A of the Code.

b. The chairperson may appoint committees of the commission as necessary to conduct the business of the commission. Committee meetings shall comply with chapter 28A of the Code.

c. The commission shall give no less than seven days advance public notice of the time and location of commission and committee meetings to the news media. In case of special meetings, at least three days advance public notice of the time and location of the special commission meeting shall be given to the news media.

d. Agenda items for commission meetings shall be submitted to the department office at the Iowa department of substance abuse, Liberty Building, Suite 230, 418 Sixth Avenue, Des Moines, Iowa 50319 at least fifteen days prior to the commission meeting. With the consent of the majority of the commission present, special issues may be addressed.

1.3(4) Organization. The commission is organized annually and selects from its membership a chairperson and a vice chairperson.

1.3(5) Commission—additional duties. Pursuant to section 125.7, the commission shall:

a. Consider and approve or disapprove all applications for a license and all cases involving the renewal, denial, suspension or revocation of a licensure.

b. Act as the sole agent to allocate state, federal and private funds which are appropriated or granted to, or solicited by the department.

c. Approve the comprehensive substance abuse program, and the funding therefore, developed by the department pursuant to sections 125.1 to 125.26.

d. Establish policies governing the performance of the department in the discharge of any duties imposed on it by law.

e. Establish policies governing the performance of the director in the discharge of the director's duties.

f. Advise or make recommendations to the governor and the general assembly relative to substance abuse treatment, intervention and education and prevention programs in the state.

g. Promulgate rules necessary to carry out the provisions of chapter 125 as amended by Acts of the Sixty-seventh General Assembly, chapter 74, subject to review in accordance with provisions of chapter 17A.

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

i. Submit to the governor and the general assembly an annual report covering the activities of the department.

805—1.4(67GA,Ch74) State advisory council. There is established within the department a state advisory council which shall be composed of nine members and which shall advise the director in administering chapter 125 as amended by Acts of the Sixty-seventh General Assembly. The governor shall appoint the members of the advisory council who shall serve at the pleasure of the governor.

1.4(1) Advisory capacity. The advisory council shall be entirely advisory in character and may not exercise administrative authority. The council shall assist the department in obtaining substate input regarding the department's substance abuse activities involving education, intervention, treatment, rehabilitation, training, research, planning, public information, legislation, and program development.

1.4(2) Responsible to the director. The council shall be responsible to the director and shall receive direction from the director in regards to its activities.

1.4(3) Composition. Members of the substance abuse advisory council shall be drawn from different geographical areas of the state, and shall provide representation for:

a. Nongovernmental organizations concerned directly or indirectly with substance abuse such as local citizen groups, employee groups, national groups, labor and management, and other provider, consumer, and consumer advocate groups.

b. Public agencies concerned directly or indirectly with substance abuse, such as local elected officials or representatives of health and mental health agencies, welfare agencies, and law enforcement agencies.

c. The minority, poverty, and major population groups which are significantly affected by the problems of substance abuse.

d. At least one representative of the state health co-ordinating council.

1.4(4) Compensation. Members of the council shall serve without compensation, but shall receive reimbursement for travel and other expenses actually incurred in the performance of their duties.

1.4(5) Terms of office. Advisory council members shall serve at the pleasure of the governor.

1.4(6) Vacancies. The council chairperson shall notify the governor of vacancies. The governor shall appoint members to fill vacancies.

1.4(7) Officers. The governor shall appoint a chairperson to the council. The vice chairperson shall be elected by the council. The director or a designee shall serve as the council's secretary and shall be responsible for keeping minutes of all meetings and disseminating minutes and other relevant information from the department to the council.

1.4(8) Committees. The chairperson of the council shall determine those committees, within the council, necessary to conduct the duties and responsibilities of the council. The chairperson of the council shall appoint committee chairpersons as necessary and shall terminate appointments as appropriate.

1.4(9) Meetings. Advisory council meetings are to be conducted as often as necessary, but no less than four times a year. Council meetings and committee meetings shall be called by the director as appropriate. Council meetings may be conducted at a central location convenient to council members.

a. The chairperson presides at each council meeting or in the chairperson's absence, the vice chairperson shall preside.

b. All meetings are open to the public in accordance with chapter 28A of the Code.

1.4(10) Duties. The director may request the advisory council to address special project activities as necessary. Specific duties of the council shall include, but not be limited to the following:

a. The development and implementation of the annual substance abuse plans required by the National Institute on Drug Abuse (NIDA) and the National Institute on Alcohol Abuse and Alcoholism (NIAAA).

b. The development and implementation of a substate planning process allowing for community input into the annual plans.

c. Reviewing and analyzing available data concerning special population groups in need of substance abuse services.

1.4(11) Meetings. The director shall give advance public notice of the time and location of council meetings. Written notification of meetings shall be sent by the council secretary to members at least twenty-one days prior to each regular meeting of the council. The council shall give no less than seven days advance public notice of the time and location of council and committee meetings to the news media. In case of special meetings, at least three days advance public notice of the time and location of the special council meeting shall be given to the news media.

1.4(12) Reports. The chairperson of the council shall prepare an annual report to the director by July 30 of each year concerning council activities and accomplishments for the preceding fiscal year.

a. Committee chairpersons are responsible for reporting committee activities at each council meeting.

b. The director shall report the activities of the council to the chairman.

805—1.5(67GA,Ch74) Area. Pursuant to section 125.6 of the Code as amended by Acts of the Sixty-seventh General Assembly, chapter 74, section 6, the state is divided into the following catchment regions:

Region I. Allamakee, Clayton, Fayette, Howard, and Winneshiek counties.

Region II. Cerro Gordo, Floyd, Franklin, Hancock, Kossuth, Mitchell, Winnebago, and Worth counties.

Region III. Buena Vista, Clay, Dickinson, Emmet, Lyon, O'Brien, Osceola, Palo Alto, and Sioux counties.

SUBSTANCE ABUSE (*cont'd*)

Region IV. Cherokee, Ida, Monona, Plymouth, and Woodbury counties.

Region V. Calhoun, Hamilton, Humboldt, Pocahontas, Webster, and Wright counties.

Region VI. Hardin, Marshall, Poweshiek, and Tama counties.

Region VII. Black Hawk, Bremer, Buchanan, Butler, Chickasaw, and Grundy counties.

Region VIII. Delaware, Dubuque and Jackson counties.

Region IX. Clinton, Muscatine and Scott counties.

Region X. Benton, Cedar, Iowa, Johnson, Jones, Linn, and Washington counties.

Region XI. Boone, Dallas, Jasper, Madison, Marion, Polk, Story, and Warren counties.

Region XII. Audubon, Carroll, Crawford, Grene, Guthrie, and Sac counties.

Region XIII. Cass, Fremont, Harrison, Mills, Montgomery, Page, Pottawattamie, and Shelby counties.

Region XIV. Adair, Adams, Taylor, Clarke, Decatur, Ringgold and Vinton counties.

Region XV. Appanoose, Davis, Jefferson, Keokuk, Lucas, Mahaska, Monroe, Van Buren, Wapello and Wayne counties.

Region XVI. Des Moines, Henry, Lee, and Louisa counties.

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 chapter 125, section 7 of the Code, as amended by the Sixty-seventh General Assembly, 1977 regular session, the Iowa department of substance abuse hereby gives notice of intended action to establish rules for petitioning the department to adopt, amend, or repeal any rule.

Interested persons may submit written data, views, suggestions, or arguments, or make oral presentations on the intended action by contacting the Iowa Department of Substance Abuse, Suite 230, Liberty Building, 418 Sixth Avenue, Des Moines, Iowa 50319 before 10:00 a.m., August 1, 1978.

These rules are identical to those published in IAC under the emergency provisions of chapter 17A.

CHAPTER 4
PROCEDURES

805—4.1(17A) Request for rule change. Any person may petition the department to adopt, amend, or repeal any rule. To be valid the petition shall:

1. Be addressed to the chairperson of the commission.
2. Be in writing.
3. State the name(s) of those requesting the change.
4. Set forth the new proposed rule, the rule as it would appear after the requested amendment, or the rules as it would appear subsequent to the requested deletions.
5. Describe specifically the reasons for the requested change.
6. Detail the statutory authority under which the new rule, if any, would exist.

SUBSTANCE ABUSE (cont'd)

4.1(1) Commission action. Within sixty days of the receipt by the commission of the proposed rules, the requested modification or the requested deletion, the commission shall either deny the request stating the reasons for the denial in writing or initiate rulemaking proceedings in accordance with chapter 17A of the Code.

4.1(2) Reserved.

805—4.2(17A) Declaratory decision. Any interested person may submit to the chairperson of the commission a petition regarding the application of a statute, rule, decision, order or other written statement of law or policy to a specific factual situation. The petition requesting the opinion shall contain the name(s) of the requesting person(s), the specific factual background of the question, the statute, rule, decision, order or other written statement of law or policy deemed applicable, and the reasons for the request. The commission shall render a written decision within thirty days unless the commission is unable to reach a decision on the facts as presented. Should the commission find the facts insufficient then no decision need be issued and the commission shall request that the factual situation be clarified by an amendment to the petition. Failure by a requesting party to amend the petition within fifteen days will cause the commission to dismiss the petition.

805—4.3(17A) Informal procedures. Parties to any factual controversy that could result in a contested case may meet informally for the purpose of settling the dispute. The parties may reach any decision they desire, subject only to the substantive requirements of the department.

The commission or a designee may be asked to suggest any course of action the commission deems appropriate, but any suggestions by the commission is not binding unless the parties voluntarily adopt it as their agreement.

805—4.4(17A) Notice of hearings for contested cases. The chairperson of the commission shall send notice of the hearing to all interested parties by certified mail 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. The notice shall include the time, the place and nature of the hearing and a reference to the particular sections of the statutes and rules involved.

a. Hearings shall be conducted in a manner pursuant to chapter 17A of the Code of Iowa, presided over by a hearing officer or the commission as a whole or a designee.

b. 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.

805—4.5(17A) Ex parte communications. The notice required pursuant to section 17A.4 of the Code, concerning ex parte communications in contested cases, shall include the name of the hearing officer, the name of the party to whom the communication will occur, the nature of the communication, the place of the communication and the time of the communication. The notice shall be in writing and shall be delivered either by personal service as in civil actions or by certified mail return receipt requested. The time of the communication must be at least three days subsequent to the service of the notice.

4.5(1) Hearing officer. Any individual who is assigned to hear a contested case who communicates, directly or indirectly, in connection with any issue of fact or law in that contested case with any party or the representative of any party to that contested case,

SUBSTANCE ABUSE (*cont'd*)

without giving the required notice and opportunity to be heard to all parties shall be required to submit the communication if written or a summary of the communication if oral for inclusion in the record of the proceedings.

Any party to a contested case or the representative of any party who communicates, directly or indirectly, in connection with any issue of fact or law in that contested case with any person assigned to hear that case without giving the required notice and opportunity to be heard to all parties shall be required to submit the communication if written or a summary of the communication if oral for inclusion in the record of the proceedings.

4.5(2) Sanctions—parties. Sanctions against the parties or their representatives who communicate with the hearing officer on any issue of fact or law in a contested case without giving notice and the opportunity to participate to all parties may include a decision against the party on the merits; censure, suspension, or revocation of the privilege to practice before the department; or whatever may be just and equitable.

4.5(3) Sanctions—hearing officer. Sanctions against the individual who was assigned to hear the case and participated in communications with any party or the representative of any party on any issue of fact or law in that contested case without giving notice and the opportunity to participate to all parties may include: Censure, suspension or dismissal from the department or whatever may be just and equitable.

805—4.6(17A) Decisions and orders—rehearing.

4.6(1) Proposed or final decision. A proposed or final decision or 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. Findings of the 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 department 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.

4.6(2) Rehearing. 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 department 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 agency grants the application within twenty days after its filing.

805—4.7(17A) Judicial review. Judicial review provisions shall be the exclusive means by which a person or party who is aggrieved or adversely affected by agency action may seek judicial review of such agency action pursuant to the judicial review provisions of chapter 17A of the Code of Iowa.

TRANSPORTATION, DEPARTMENT OF[820]

NOTICE OF INTENDED ACTION

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

On September 5, 1978, at their regularly scheduled meeting at the Department of Transportation Complex, 800 Lincoln Way, Ames, Iowa, the transportation commission shall consider for adoption the following administrative rules as described herein. Such action shall be in accord with the Iowa administrative procedures Act, chapter 17A of the Code, and department of transportation rules 820—(01,B) chapter 1 "Administrative Rules".

Comments and requests to make an oral presentation shall be addressed to the Department of Transportation, in care of the Office of Administrative Services, 800 Lincoln Way, Ames, Iowa 50010.

Written comments or written requests to make an oral presentation at the above specified commission meeting concerning these proposed rules may be accepted if received by the department of transportation on or before August 22, 1978.

Any person or agency as described in section 17A.2, subsections 1 and 6 of the Code, may submit written comments or requests to make an oral presentation. Such comments and requests shall clearly state:

1. The name, address and phone number of person or agency authoring the comment or request.
2. The title and number of the proposed rule as given in this notice which is the subject of the comment or request. (Comments pertaining to a specific section of a proposed rule shall reference that section by subrule, paragraph, subparagraph, and line as appropriate.)
3. With regard to requests to make an oral presentation, the general content shall be indicated.

Proposed rulemaking actions:

Pursuant to the authority of section 321.238 of the Code, rules 820—[07,E] chapter 21 entitled "Motor Vehicle Inspection" are hereby amended.

ITEM 1. Subrule 21.13(1) is amended to read as follows:

21.13(1) Uniform System. The Official Inspection Station Handbook for Motor Vehicle Inspection Stations dated January 1, 1975-1978 contains the inspection rules and standards for inspection stations and shall constitute the manual and specifications for a uniform system of motor vehicle inspections in this state.

See also Filed emergency, IAB 7/12/78

NURSING BOARD[590]

NOTICE OF PUBLIC INFORMATIONAL MEETINGS

Acts of the Sixty-seventh General Assembly, chapter 95, which became effective January 1, 1978, provides that the Iowa Board of Nursing require and promulgate rules for continuing education requirements as a condition to license renewal for registered nurses/licensed practical nurses. Said rules shall be filed with the Legislative Rules Review Committee on or before October 1, 1978.

For the purpose of obtaining input from the licensees, concerning the proposed rules and regulations for implementing mandatory continuing education, the Iowa Board of Nursing will conduct nine informational meetings throughout Iowa on the following specified dates:

Mason City—July 18, 1978—7:00 p.m.
North Iowa Area Community College
Beam Center—Beam Forum

Davenport—July 18, 1978—7:00 p.m.
Marycrest College Auditorium

Sioux City—July 18, 1978—7:00 p.m.
Western Iowa Tech Community College
Para Professional Building

Waterloo—July 19, 1978—7:00 p.m.
Hawkeye Institute of Technology Campus
Technical Arts Building—Building #8
Rooms 215 and 216
1501 East Orange Road

Cedar Rapids—July 19, 1978—7:00 p.m.
Kirkwood Community College
Iowa Hall—Iowa Room, 3rd Floor

Emmetsburg—July 26, 1978—7:00 p.m.
Iowa Lakes Community College
College Auditorium

Ottumwa—July 27, 1978—7:00 p.m.
Ottumwa Heights Auditorium

Council Bluffs—August 1, 1978—7:00 p.m.
Iowa Western Community College
Kanesville Center

Des Moines—August 2, 1978—7:00 p.m.
Henry Wallace State Building—Auditorium

Interested parties are urged to attend.

COMPLETED NOTICES OF INTENDED ACTION

Published in Iowa Administrative Code Supplements.

The following proposals of rulemaking by agencies published under "NOTICE OF INTENDED ACTION" have been adopted as final rules and filed with the Secretary of State, and are in effect as provided in sections 17A.4 and 17A.5 of the Code of Iowa. Also included herein are notices which have terminated under section 17A.4(1)"b" of the Code. The Notices may be readily located by information in the folio line at the top of each page.

You will find these Notices of Intended Action in your Supplement binder designated "NOTICES". In order to alleviate crowding in this binder, you may either discard or place elsewhere the following:

Agency	IAC Supplement Date	Folio Line Information
Accountancy, Board of[10]	12/28/77	Notice, Ex parte
Aging, Commission on[20]	10/5/77	Notice, 1.2, 5.6, p.1, 2
Agriculture[30]	3/22/78 1/25/78 3/8/78 12/28/77	Notice, 8.6, p.1, 2 Public Hearing, 16.150(2) Notice, 25.8 Notice, 55.47(1)
Appeal Board, State[60]	2/8/78	Notice, Chs 1, 3
Architectural Examiners[80]	11/30/78	Notice, 1.2, 2.1-2.4, p.1-3
Arts Council[100]	10/19/77	Notice, 2.1(5)"f"
Banking[140]	12/14/77 1/11/78	Notice, 4.5 Notice, 8.5(1), 8.6
Beer and Liquor[150]	11/16/77	Notice, Ch 11, p.1-4
Campaign Finance Disclosure[190]	10/5/77	Notice, 2.2, 2.3, 5.4
City Development Board[220]	1/11/78	Notice, Ch 1-4, p.1-13
Civil Rights[240]	4/5/78 1/11/78 12/14/77	Notice, Ch 1, 3, 6, p.1-3 [Terminated IAB 6/14/78] Notice, Chs 1, 3, 4, p.1-4 Notice, 3.6, 3.7, p.1, 2
Conservation[290]	8/24/77 3/8/78	Notice, 30.60 Notice, 45.2

(Cont'd)

Agency	IAC Supplement Date	Folio Line Information
Conservation[290] —continued	12/28/77 2/8/78	Notice, 60.4(3), p.1, 2 Notice, Ch 108, p.1, 2
Crime Commission[300]	3/22/78	Notice, 1.3, 2.2, 3.3
Egg Council[345]	11/2/77 1/11/78	Notice, Chs 1-4, p.1-13 Amended Notice, Chs 1-4
Employment Agency Licensing[350]	11/30/77	Notice, Chs 1-10, p.1-6
Employment Security[370]	4/5/78 4/5/78 4/5/78 4/5/78 4/5/78 2/8/78 4/5/78	Notice, 2.3, 2.9 Notice, Ch 3, p.1-10 Notice, Ch 4, p.1-8 Notice, 6.2(5)“a” Notice, 6.2(6), 6.2(7), 6.4(1), p.1, 2 Notice, 8.1(2)“f” Notice, Ch 10, p.1-5
Engineering Examiners[390]	3/22/78	Notice, 1.2(2), 1.2(3)“d”, p.1-4
Environmental Quality[400]	11/16/77 12/28/77 2/22/78 10/5/77	Notice, 1.2, 3.1, 4.5, p.1-3 Notice, 22.12(2) Notice, Chs 27-30, 33, p.1-11 Notice, Ch 41, p.1, 2
General Services[450]	12/14/77	Notice, Ch 2, p.1-8
Health[470]	12/14/77 12/14/77 12/14/77 12/14/77 12/14/77 12/14/77 12/14/77 4/5/78 11/16/77 2/8/78 12/28/77 11/30/77 12/28/77 3/8/78 11/30/77	Notice, Ch 57, p.1-7 Notice, Ch 58, p.1-10 Notice, Ch 59, p.1-10 Notice, Ch 60, p.1-2 Notice, Ch 61, p.1-5 Notice, Ch 63, p.1-7 Notice, Ch 64, p.1-13 Notice, Ch 138, p.1-4 Notice, 139.100-139.109, p.1-4 Notice, 141.25—141.34, p.1-4 Notice, 149.7(4) Notice, 152.100—152.109, p.1-4 Notice, 173.9 Notice, 200.1 Notice, Ch 201, p.1-15
Historical Department[490]	3/8/78 7/27/77 4/5/78	Notice, Chs 10, 11, 16-18, p.1-6 Notice, Ch 12, p.1-3 Notice, Ch 12.3, 12.4

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Agency	IAC Supplement Date	Folio Line Information
Housing Finance Authority[495]	11/30/77	Notice, Ch 3, p.1, 2
Insurance Commission[510]	12/14/77	Notice, Ch 9, p.1, 2
Judicial Nominating[525]	12/14/77	Notice, Ch 1, p.1-3
Labor[530]	2/8/78 10/5/78 1/25/78	Notice, Ch 4, p.1-3 Notice, 4.16(1) Notice, 6.9
Law Enforcement Academy[550]	4/19/78	Notice, Chs 5, 6, p.1-3
Merit Employment[570]	12/28/77 12/28/77	Notice, 14.2, 14.3, p.1-3 Notice, 14.8
Natural Resources[580]	3/8/78 4/19/78 3/8/78 4/5/78 3/8/78 4/5/78 12/28/77	Notice, 2.1(28)—2.1(34) Amended Notice, Chs 2, 5, p.1-8 Notice, Ch 3 Amended Notice, Ch 3, p.1-5 Notice, 5.2, 5.16, 5.29- 5.32, p.1-4 Notice, Amended, Ch 5 Notice, Ch 13, p.1-4
Nursing Board[590]	2/22/78 3/8/78 2/8/78	Notice, 3.3(3)“c” Notice, 4.3(3)“c” Notice, Ch 5
Professional Teaching Practices[640]	11/2/77	Notice, 3.2, Ch 4-5
Public Employment Relations[660]	12/28/77 12/28/77	Notice, 1.6(2), 2.20, p.1, 2 Notice, 6.4(20)
Public Instruction[670]	12/28/77	Notice, Ch 41, p.1-3
Public Safety[680]	2/22/78 1/11/78	Notice, 3.13(1)“a” Notice, 4.5(5)
Regents[720]	10/19/77 10/5/77 3/8/78	Notice, 3.39(10) Notice Terminated, 3.39(2), 3.39(15) Notice, 11.1(3), 11.1(4), 11.1(6), p.1, 2
Revenue[730]	12/14/78 3/22/78 3/22/78 3/22/78 2/22/78 11/30/77	Notice, Ch 7, p.1, 2 Notice, Chs 11, 12, 14-20, 26, 32, 34, p.1-16 Notice, 52.4(1) Notice, Chs 57-60, p.1-12 Notice, Ch 72, p.1-3 Notice, Chs 97-101, p.1-12

(Cont'd)

Agency	IAC Supplement Date	Folio Line Information
School Budget Review[740]	9/21/77	Notice, Ch 1, p.1-3
Secretary of State[750]	11/16/77	Notice, Ch 12
Social Services[770]	3/22/78	Notice, 1.5
	2/8/78	Notice, 7.1, 7.6
	10/19/77	Notice, Ch 7, p.1-3
	3/8/78	Economical Impact, Notice, 7.11
	1/25/78	Amended Notice, Ch 7, p.1
	2/8/78	Notice, 17.2, 18.2, 19.2, 20.2, 21.2
	11/30/77	Notice, 21.2
	3/22/78	Notice, 23.2, 23.3
	5/3/78	Notice Terminated, 23.2, 23.3
	3/22/78	Notice, Ch 24, p.1-5
	8/10/77	Notice, Ch 24, p.1-4
	2/8/78	Notice Terminated, Ch 24
	12/28/77	Notice, 41.1(5)
	9/7/77	Notice, 41.6, 41.7
	11/2/77	Notice Amended, 41.6, 41.7
	12/28/77	Notice, 44.1, 44.4
	2/8/78	Notice, 50.2, 50.4, p.1, 2
	2/8/78	Notice, 51.3(2)
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	11/30/77	Notice, Ch 135, p.1, 2
	3/22/78	Notice, 137.1, 137.8, 137.17
	8/10/77	Notice, 144.3
	11/30/77	Notice, 144.4
	2/8/78	Notice, 144.5, p.1-3
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Transportation[820]	2/22/78	Notice, [01,B], Ch 1, p.1, 2
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Transportation[820] —continued	10/5/77	Notice, [07,F], 13.1, 13.4, p.1-3
Veterinary Medical Examiners[842]	9/21/77	Notice, Chs 1 to 8, p.1-6
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CIVIL RIGHTS COMMISSION[240]

Pursuant to the authority of section 601A.5(10) of the Code of Iowa the Civil Rights Commission hereby amends chapter 1 of its administrative rules by adopting the following temporary rule pursuant to sections 17A.4(2) and 17A.5(2)“b” (1) and (2) of the Code of Iowa.

ITEM 1. Rule 1.15(601A) is amended to read as follows:

240—1.15(601A) Findings and order.

1.15(1) Recommended decision ~~and commission adoption~~. After a review of the transcript, the evidence, and the briefs, the hearing officer shall state in writing his or her findings of fact, conclusions of law, and order, then recommend the same to the commission for its adoption, modification, or rejection.

1.15(2) *Notification. Upon receipt of the hearing officer's recommended decision the commission shall forward a copy of the hearing officer's recommended decision to each of the parties. The commission shall include with the hearing officer's recommended decision notice of the date, time, and place of the meeting at which the commission shall review the recommended decision. The notice shall also advise the parties that if they desire to take exceptions to or appeal the recommended decision they must file the exceptions or appeal with the commission and that they may file an appeal brief or brief in support of exceptions as well. The appeal or exceptions and appeal brief or brief in support of exceptions must be filed with the commission no later than fifteen calendar days prior to the commission meeting at which the decision will be reviewed. The parties shall be afforded no less than fifteen calendar days between the date the hearing officer's recommended decision is mailed to the parties and the date the appeal or exceptions and appeal brief or brief in support of exceptions must be filed with the commission.*

For purposes of this subrule "file(d) with the commission" shall mean receipt of the appeal or exceptions and appeal brief or brief in support of exceptions (if any), by the commission at its office in Des Moines.

1.15(23) ~~Disqualification of investigating commissioner~~ *Commission review. The commission shall within sixty days of the date it receives the recommended decision of the hearing officer review the decision at a commission meeting. The commission shall consider all timely filed appeals, exceptions and briefs at the time it reviews the recommended decision. The commission may adopt, modify or reject the hearing officer's recommended decision or it may remand the case to the hearing officer for the taking of such additional evidence and the making of such further recommended findings of fact, conclusions of law, decision, and order as the commission deems necessary. Upon completing its review of the hearing officer's recommended decision the commission shall cause to have issued the appropriate order. The investigating commissioner shall not take part in the consideration or adoption of the recommended decision.*

1.15(34) If the commission fails to issue an order within sixty days from the date the administrative hearing officer submits his or her recommendations, the recommended findings and order shall become final.

[Filed 6/16/78]

The commission believes that the adoption of the above rule expands the rights presently afforded parties in a contested case and that the rule conforms to the contested case procedures of the Iowa Administrative Procedure Act. Therefore the commission finds that notice and public participation would be contrary to the public interest pursuant to section 17A.4(2).

The rule shall become effective on June 16, 1978, upon filing it with the Secretary of State and shall only be effective one hundred and eighty days thereafter.

Since the rule will be effective for only one hundred and eighty days, public notice and participation will be afforded through the adoption of a permanent rule concerning the commission's consideration of a hearing officer's recommended decision. In the interim, the commis-

sion believes the public interest and benefit in having explicit rules of procedure on this point outweigh the benefits of notice and public participation.

[Published 7/12/78]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement, 7/12/78.

TRANSPORTATION DEPARTMENT[820]

07 MOTOR VEHICLE DIVISION

Pursuant to the authority of section 321.238 of the Code, rules 820—[07,E] chapter 21 entitled "Motor Vehicle Inspection" are hereby amended.

ITEM 1. Rule 820—[07,E]21.3(321) is amended to read as follows:

820—[07,E]21.3(321) Application for certification as an inspection station. A business seeking approval as an official inspection station shall file an application to become an official inspection station Form No. MVI-1 and an inspection station application questionnaire Form No. MVI-2, with the Motor Vehicle Inspection Section, Department of Transportation, ~~523 East 12th Street, 5268 N. W. 2nd Avenue, Des Moines, Iowa 50319 50313.~~ Application forms can be obtained by submitting such a request to the above mentioned address.

[Filed 6/21/78]

This rule amendment shall become effective on June 26, 1978 upon filing with the secretary of state as provided in the Iowa Administrative Procedures Act, chapter 17A of the Code. This rule amendment shall be filed in reliance upon the provisions of 17A.4(2) and 17A.5(2)"b"(2) of the Code for the reasons as follows:

The department finds public participation in the rule amendment to be unnecessary in reliance upon subparagraph 820—[01,B]1.2(5)"b"(1) in that the amendment to this rule is nonsubstantive and constitutes a change to correct an address.

This amendment is considered to confer a benefit on the public in that persons corresponding with the motor vehicle inspection section of the department will not have their correspondence delayed through use of an incorrect address.

[Published 7/12/78]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement, 7/12/78.

07 MOTOR VEHICLE DIVISION

Pursuant to the authority of section 321.238 of the Code, rules 820—[07,E] chapter 21 entitled "Motor Vehicle Inspection" are hereby amended.

ITEM 1. Subrule 21.13(1) is amended to read as follows:

21.13(1) Uniform system. The Official Inspection Station Handbook for Motor Vehicle Inspection Stations dated January 1, ~~1975-1978~~ contains the inspection rules and standards for inspection stations and shall constitute the manual and specifications for a uniform system of motor vehicle inspections in this state.

[Filed emergency 6/23/78]

This rule amendment shall become effective on June 30, 1978 upon filing with the secretary of state as provided in the Iowa Administrative Procedure Act, chapter 17A of the Code. This rule amendment shall be effective for 180 days ending December 27, 1978 as provided in subsection 17A.4(2) of the Code.

This rule amendment shall be filed in reliance upon the provisions of 17A.4(2) and 17A.5(2) "b" (2) of the Code for the reasons as follows:

The department finds that it would be contrary to the public interest to delay implementation of this rule amendment by allowing the normal thirty-five day period for notice and public participation, in that the inspection handbook has been updated and reprinted in order to furnish all official inspection stations with new copies of the handbook and to clarify some of the procedures which have been misinterpreted in the past.

This amendment is considered to confer a benefit on the public in that inspection station personnel will possess a copy of the inspection handbook which clarifies procedures misinterpreted in the 1975 edition.

Notwithstanding the preceding paragraphs, this rule is also being adopted under the provisions of 17A.4(1) of the Code, and filed under the provisions of 17A.5(2) of the Code, in order to provide to the public the opportunity for input that is provided by the normal procedure and because the rule adopted under the emergency rulemaking provisions is effective for only 180 specified days.

[Published 7/12/78]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement, 7/12/78.

See also Notice, IAB 7/12/78.

CIVIL RIGHTS COMMISSION[240]

Pursuant to the authority of section 601A.5(10) of the Code of Iowa, Chapter 2, Employee Selection Procedures, of the Civil Rights Commission's administrative rules is hereby amended.

ITEM 1. Amend Chapter 2 by adding the following new rule:

240—2.14(601A) Remedial and/or affirmative action.

2.14(1) Policy statement. Employers and other persons subject to the Iowa Civil Rights Act (chapter 601A of the Code of Iowa) are required to maintain nondiscriminatory employment and personnel systems and therefore are obligated to comply with the statute without awaiting the action of any governmental agency. Thus, employers and other persons subject to the Act who, after a self-analysis, have concluded that there is a likelihood that they may be found in violation of the Act because of some aspect of their employment and personnel system, are required by the statute to take remedial and/or affirmative action to correct the situation. An employer or other person subject to the Act who has a reasonable basis for concluding that it might be held in violation of the Act and who take remedial and/or affirmative action reasonably calculated to avoid that result on the basis of such self-analysis does not thereby violate the Act with respect to any employee or applicant for employment who is denied an employment opportunity as a result of such action. The lawfulness of such remedial and/or affirmative action program is not dependent upon an admission, or a finding, or evidence sufficient to prove that the employer or other person subject to the Act taking such action has violated the Act.

2.14(2) Type of affirmative action covered. An employer or other person subject to Executive Order #15 who has adopted an Affirmative Action Program pursuant to and in conformity with Executive Order #15 and federal and state regulations does not violate the Act by reason of its adherence to its Affirmative Action Program. Furthermore, for purposes of demonstrating that an employer or other person has reasonably concluded that it might be held in violation of the Act and that the remedial and/or affirmative action it has taken is reasonably calculated to avoid that result, the employer or other person may rely on an analysis which has been conducted in order to comply with Revised Order 4 or related Orders issued by the Office of Federal Contract Compliance Programs under Executive Order 11246, as amended, or similar analysis required under other federal, state, and local laws prohibiting employment discrimination.

2.14(3) Use of goals and numerical remedies. The remedial and/or affirmative action programs contemplated by these rules, whether taken by private employers or governmental employers or other persons covered by the Act, include the use of race, color, creed, sex, age, religion, disability, and ethnic-conscious goals and timetables, ratios, or other numerical remedies intended to remedy the prior discrimination against or exclusion of protected classes or to ensure that the employer's practices presently operate in a nondiscriminatory manner. Employers or other persons subject to the Act must be attentive to the effect of their employment practices in light of past discrimination by others. *Griggs v. Duke Power*, 401 U.S. 424 (1971). Such numerical remedies must be reasonable under the facts and circumstances which include any discrimination to be remedied and the relevant work force. Benefits under such remedial and/or affirmative action programs need not be restricted to identifiable victims of past discrimination by the employer or other persons subject to the Act. Specific remedial and/or affirmative measures may include, but are not limited to, those described in the Equal Employment Opportunity Co-ordinating Council's "Policy Statement on Affirmative Action Programs for State and Local Government Agencies." (41 Federal Register 38814, September 13, 1976), which reads, in relevant part:

"2. Voluntary affirmative action to assure equal employment opportunity is appropriate at any stage of the employment process. The first step in the construction of any affirmative action plan should be an analysis of the employer's work force to determine whether percentages

of sex, race, or ethnic groups in individual job classifications are substantially similar to the percentages of those groups available in the work force in the relevant job market who possess the basic job related qualifications

“When substantial disparities are found through such analysis, each element of the overall selection process should be examined to determine which elements operate to exclude persons on the basis of sex, race, or ethnic group. Such elements include, but are not limited to, recruitment, testing, ranking, certification, interview, recommendations for selection, hiring, promotion, etc. The examination of each element of the selection process should at a minimum include a determination of its validity in predicting job performance.

“3. When an employer has reason to believe that its selection procedures have the exclusionary effect described in paragraph 2 above, it should initiate affirmative steps to remedy the situation. Such steps, which in design and execution may be race, color, sex or ethnic ‘conscious,’ include, but are not limited to, the following:

“The establishment of a long term goal and short range, interim goals and timetables for the specific job classifications, all of which should take into account the availability of basically qualified persons in the relevant job market;

“A recruitment program designed to attract qualified members of the group in question;

“A systematic effort to organize work and redesign jobs in ways that provide opportunities for persons lacking ‘journeyman’ level knowledge or skills to enter and, with appropriate training, to progress in a career field;

“Revamping selection instruments or procedures which have not yet been validated in order to reduce or eliminate exclusionary effects on particular groups in particular job classifications;

“The initiation of measures designed to assure that members of the affected group who are qualified to perform the job are included within the pool of persons from which the selecting official makes the selection;

“A systematic effort to provide career advancement training, both classroom and on-the-job, to employees locked into dead end jobs; and

“The establishment of a system for regularly monitoring the effectiveness of the particular affirmative action program, and procedures for making timely adjustments in this program where effectiveness is not demonstrated.”

2.14(4) Written opinions. If during the investigation of a charge an employer or other person asserts that the action complained of was taken pursuant to a program such as those described in these rules, the investigating official shall determine whether such program conformed to the requirements stated in these rules for such a program. If the investigating official so finds, he or she will set forth the facts on which the findings are based and will issue a no probable cause finding on the complaint. If such employer or other person also asserts that the action complained of was taken in good faith, in conformity with and in reliance upon these rules, the investigating official shall determine whether such assertion is true. If the investigating official so finds, he or she will set forth the facts on which this finding is based and include such finding with the other findings described in this section in the no probable cause finding.

2.14(5) Reliance. The foregoing principles shall apply where the challenged person’s action is taken pursuant to any attempt to comply with the anti-discrimination requirements of any other federal, state, or local government laws.

2.14(6) Limitations of standards. The specification of remedial and/or affirmative action in these rules is intended only to identify certain types of actions which an employer or other person may take consistent with the Act to comply voluntarily but does not attempt to provide standards for determining whether such attempts to eliminate discrimination against minorities and women have been successful. Whether, in any given case, the employer who takes such remedial and/or affirmative action will have done enough to remedy discrimination against those protected by the Act will be a question of fact in each case.

[Filed 6/16/78]

This amendment was published in a Notice of Intended Action published in the May 3, 1978, IAC Supplement. This amendment is substantially the same as that published in the May 3, 1978, Supplement.

This rule shall become effective August 16, 1978, which is thirty-five days after it has been filed with the Secretary of State and indexed and published in the Iowa Administrative Bulletin.

[Published 7/12/78]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement, 7/12/78.

HEALTH DEPARTMENT[470]

BOARD OF COSMETOLOGY EXAMINERS

The Board of Cosmetology Examiners, pursuant to the authority of Chapter 95, section 2, Acts of the Sixty-seventh General Assembly, adopts the following rules relating to continuing education.

CHAPTER 151 COSMETOLOGY CONTINUING EDUCATION

470—151.1(67GA,Ch95) Definitions. For the purpose of these rules, the following definitions shall apply:

151.1(1) "Board" means the board of examiners for cosmetology.

151.1(2) "Licensee" means any person licensed to practice cosmetology in the state of Iowa.

151.1(3) "Hour" of continuing education means a clock-hour spent after November 30, 1978 by a licensee in actual attendance at and completion of an approved continuing education activity.

151.1(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.

470—151.2(67GA,Ch95) Continuing education requirements.

151.2(1) Beginning December 1, 1978 each person licensed to practice cosmetology in this state shall complete during each compliance period (December 1 to November 1) a minimum of eight 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.

151.2(2) The continuing education compliance period shall extend from December 1 through November 1, 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 December 1 and expiring November 30.

151.2(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 151.4(67GA,Ch95).

151.2(4) It is the responsibility of each licensee to finance his or her costs of continuing education.

470—151.3(67GA,Ch95) Standards for approval. A continuing education activity shall be qualified for approval if the board determines that:

151.3(1) It constitutes an organized program of learning which contributes directly to the professional competency of the licensee; and

151.3(2) It pertains to subjects which integrally relate to the practice of cosmetology; and

151.3(3) It is conducted by individuals who hold an active cosmetology license and have special education, training and experience or by other persons who by reason of special education, training and experience said individuals would 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.

470—151.4(67GA,Ch95) Approval of sponsors, programs, and activities.

151.4(1) Accreditation of sponsors. An educational institution, i.e. cosmetology school, merged area school, university or organization 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 relating to cosmetology for the preceding two years, including approximate dates, subjects offered, total hours of instruction presented, and the names and qualifications of instructors. By November 1 of each year, commencing November 1, 1979 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.

151.4(2) Re-evaluation. 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.

151.4(3) Prior approval of activities. An organization 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.

151.4(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 the program.

470—151.5(67GA,Ch95) Hearings. In the event of denial, in whole or part, of any application for approval of a continuing education program or credit for continuing education activity, the applicant 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 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 or a tape recording of the hearing including exhibits to the board after the hearing with the proposed decision of the hearing officer. The board adopts the rules of the state department of health, chapter 173, for hearings.

470—151.6(67GA,Ch95) Report of licensee. Each licensee shall file with the license renewal application a certificate of attendance form furnished by the board signed by the educational institution or organization sponsoring the continuing education no later than November 1 of the year in which claimed continuing education hours were completed. The report shall be sent to the Iowa State Department of Health, Executive Secretary, Cosmetology Board, Lucas State Office Building, Des Moines, Iowa 50319.

470—151.7(67GA,Ch95) Licensed instructors. Licensed cosmetologists who are also licensed cosmetology instructors currently employed by a cosmetology school may use hours of attendance at the annual instructors' institute, prescribed by the board of cosmetology examiners, to fulfill continuing education requirements.

470—151.8(67GA,Ch95) Attendance record report. The educational institution 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 executive secretary of the cosmetology board upon completion of the educational activity, but in no case later than November 1 of the year in which continuing education activities took place. The report shall be sent to the Iowa State Department of Health, Executive Secretary, Cosmetology Board, Lucas State Office Building, Des Moines, Iowa 50319.

470—151.9(67GA,Ch95) Physical or mental disability or illness. The board may, in individual cases involving physical or mental 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 or mental 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—151.10(67GA,Ch95) 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 written application to the board. The application shall contain a statement that the applicant will not engage in the practice of cosmetology 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—151.11(67GA,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 cosmetology in the state of Iowa satisfy the following requirements for reinstatement:

151.11(1) Submit written application for reinstatement to the board upon forms provided by the board; and

151.11(2) Furnish in the application evidence of one of the following:

a. The full-time practice of cosmetology 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 eight 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 6/20/78]

Notice of intended action regarding these rules was printed in the IAC Supplement dated May 3, 1978, and the effective date of these rules is August 16, 1978. These rules were

modified from the original proposed rules. These rules implement section 2 of Chapter 95, Acts of the Sixty-seventh General Assembly.

[Published 7/12/78]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 7/12/78.

SPEECH PATHOLOGY AND AUDIOLOGY EXAMINERS BOARD

Pursuant to the authority of section 2 of chapter 95, Acts of the Sixty-seventh General Assembly, the board of examiners for speech pathology and audiology adopts the following new rules relating to continuing education.

CHAPTER 156 CONTINUING EDUCATION

470—156.1(67GA,Ch95) Definitions. For the purpose of these rules, the following definitions shall apply.

156.1(1) "Board" means the board of examiners for speech pathology and audiology.

156.1(2) "Licensee" means any person licensed to practice speech pathology or audiology or both in the state of Iowa.

156.1(3) "Hour" of continuing education means a clock-hour spent after August 31, 1978 by a licensee in actual attendance at and completion of an approved continuing education activity.

156.1(4) One "Continuing Education Unit (CEU)" is equivalent to ten clock hours of approved continuing education.

156.1(5) "Approved program or activity" means a continuing education program or activity meeting the standards set forth in these rules which has received approval by the board pursuant to these rules.

156.1(6) "Accredited sponsor" means a person or an organization sponsoring continuing education activities which has been approved by the board.

470—156.2(67GA,Ch95) Continuing education requirements.

156.2(1) Beginning September 1, 1978 each person licensed to practice speech pathology or audiology in this state shall during each continuing education compliance year:

- a. Complete a minimum of twenty clock hours or two CEU's of continuing education approved by the board; or
- b. Take and pass the licensing examination.

Compliance with the requirement of continuing education is a prerequisite for license renewal in each subsequent license renewal year (January 1-December 31). A person holding licenses in both areas must meet the requirements in each area.

156.2(2) The continuing education compliance year shall extend from September 1 to August 31, during which period attendance at approved continuing education programs or successful completion of the licensing examination may be used as evidence of fulfilling continuing education requirements for the subsequent license renewal year beginning January 1 and expiring December 31.

156.2(3) Hours of continuing education credit may be obtained by attending and participating in a continuing education activity which meets the requirements herein and is approved by the board pursuant to rule 470—156.3(67GA,Ch95).

156.2(4) A licensee who completes more than the required twenty hours of approved continuing education during any one continuing education compliance year may apply a max-

imum of twenty such hours toward the continuing education requirements for the next continuing education compliance year.

156.2(5) It is the responsibility of each licensee to finance his or her own costs of continuing education.

470—156.3(67GA,Ch95) Standards for accreditation of sponsors and approval of continuing education activities.

156.3(1) An organization, institution, agency or individual shall be qualified for approval as a sponsor of continuing education activities if the board determines that:

- a. The sponsor presents organized programs of learning; and
- b. The sponsor presents subject matters which integrally relate to the practice of speech pathology or audiology or both; and
- c. The sponsor's program activities contribute to the professional competency of the licensee; and
- d. The sponsor's program presenters are individuals who have education, training or experience by reason of which said individuals may be considered qualified to present the subject matter of the programs.

156.3(2) A continuing education activity shall be qualified for approval if the board determines that the activity being presented:

- a. Is an organized program of learning; and
- b. Pertains to subject matters which integrally relate to the practice of speech pathology or audiology or both; and
- c. Contributes to the professional competency of the licensee; and
- d. Is conducted by individuals who have education, training, or experience by reason of which said individuals may be considered qualified to present the subject matter of the program.

470—156.4(67GA,Ch95) Procedures for accreditation of sponsors and approval of continuing education activities.

156.4(1) Accreditation of sponsors.

a. An institution, organization, agency or individual desiring to be designated as an accredited sponsor of continuing education activities shall apply on a form provided by the board. If approved by the board, such institution, organization, agency or individual shall be designated as an accredited sponsor of continuing education activities, and the activities of such an approved sponsor which are relevant to speech pathology and audiology shall be deemed automatically approved for continuing education credit.

b. At the close of each continuing education compliance year, and not later than September 1 of each year, all accredited sponsors shall report to the board, on a form provided by the board, a summary of that year's continuing education activities.

c. The board may at any time re-evaluate an accredited sponsor. If after such re-evaluation, the board finds there is a basis for consideration of revocation of the accreditation of a 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.

156.4(2) Prior approval of continuing education activities. An organization, institution, agency or individual other than an accredited sponsor which desires approval of a continuing education activity prior to its presentation or a licensee who desires to establish accreditation of a continuing education 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, stating the type of learning activity, the subject matter, the names and qualifications of the instructors and the number of continuing education hours offered. The board shall approve or deny such application in writing within sixty days of receipt of such application.

156.4(3) Post approval of continuing education activities. A licensee seeking credit for attendance and participation in an educational activity which was not conducted by an accredited sponsor nor otherwise approved in advance by the board shall apply for approval to the board within thirty days after the completion of such activity, on a form provided by the board, stating the type of learning activity, the subject matter, the names and qualifications of the instructors and the number of continuing education credit hours earned. Within ninety days after receipt of such application the board shall advise the licensee in writing whether or not the activity is approved and the number of hours allowed therefor. A licensee not complying with the requirements of this subrule may be denied credit for such activity.

156.4(4) Review of programs. The board may monitor and review any continuing education program already approved by the board. Upon evidence of significant variation in the program presented from the program approved, the board may disapprove all or any part of the approved hours granted the program.

470—156.5(67GA,Ch95) Hearings. In the event of denial, in whole or part, of any application for approval of continuing education program or credit for continuing education activity, the applicant or licensee shall have the right to request a hearing. The request must be sent within twenty days after receipt of the notification of denial. The hearing shall be held within sixty days after receipt of the request for hearing. The hearing shall be conducted by the board or by a qualified hearing officer designated by the board. If the hearing is conducted by a hearing officer, the hearing officer shall submit a transcript or tape recording of the hearing including exhibits to the board after the hearing with the proposed decision of the hearing officer.

470—156.6(67GA,Ch95) Report of licensee. Each licensee shall file a signed report, on a form provided by the board, no later than October 1 of the year following the continuing education compliance year in which the continuing education hours were completed. The report shall include the following information: Title of continuing education activity, date(s), provider of activity, type of activity, name(s) of instructor(s) and continuing education hours earned. The licensee's signature upon this form shall be regarded as verification that the licensee did in fact attend and participate in the activities listed. A licensee who elects to take the licensing examination in lieu of earning continuing education credits shall have the results of the examination sent to the board by the agency administering the examination.

470—156.7(67GA,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. A written request for waiver or extension of time shall be submitted by the licensee and shall be accompanied by a verifying document signed by a physician licensed by the board of medical examiners. Waivers of the minimum educational requirements or extensions of time within which to fulfill the same 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 or extension has been granted continues beyond the period of the waiver or extension, the licensee must reapply. 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—156.8(67GA,Ch95) Exemptions for inactive practitioners. A licensee who is not engaged in practice in the state of Iowa, but who wishes to retain his or her license, may be granted a waiver of compliance with continuing education requirements. The licensee shall apply to the board on a form provided by the board. The application shall contain a statement that the licensee will not engage in the practice of speech pathology or audiology in Iowa without first complying with all regulations governing reinstatement after exemption.

470—156.9(67GA, Ch95) Reinstatement of inactive practitioners. Inactive practitioners who have been granted a waiver of compliance with these regulations shall, prior to engaging in the practice of speech pathology or audiology in the state of Iowa, satisfy the following requirements for reinstatement:

156.9(1) Submit written application for reinstatement on a form provided by the board.

156.9(2) Furnish, in addition to the application, evidence of one of the following:

a. The full-time practice of speech pathology or audiology in another state of the United States or 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 waiver of compliance shall have been in effect for such applicant; or

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

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

[Filed 6/23/78]

Notice of intended action was published in the IAC Supplement dated December 28, 1977. The proposed rules were modified and shall become effective August 16, 1978.

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